

# 2006/12/12 - I. ÚS 768/06: ELECTION JUDICIARY

## HEADNOTES

The election judiciary is based on the principle of protecting a mandate, and not every determined and proved violation of law necessarily leads to such serious consequences as the non-establishment of an elected representative body. Therefore, it is the obligation of an election court to review to what extent the violation of the law had or could have had an effect on the voting results, which must be understood not as a mechanical addition of the votes cast in one election district, but in relation to the purpose and aim of such voting, the decision to elect particular candidates and determine the order of substitutes. The “result” of voting in one election district, the number of votes cast, has no value in and of itself, but only when it is taken into account in determining the elected candidates (or determining the order of substitutes).

However, if an election court declares invalid voting or invalid elections on the basis of a qualified, i.e. sufficiently intensive violation of law, such a conclusion always necessarily means the non-election of a representative body (§ 54 par. 1 let. a) of the Act on Elections to Municipal Representative Bodies).

## CZECH REPUBLIC CONSTITUTIONAL COURT JUDGMENT

### IN THE NAME OF THE CZECH REPUBLIC

A Panel of the Constitutional Court, composed of its Chairman František Duchoň and judges Ivana Janů and Jiří Nykodým, decided on 12 December 2006 in the matter of a constitutional complaint from the petitioner Ing. O. P., represented by JUDr. J. T., attorney, against a decision by the Regional Court in Brno of 10 November 2006, ref. no. 30 Ca 203/2006-13, with the participation of the Regional Court in Brno as a party to the proceeding, and the Brno City Hall, the Office of the City District Brno - Královo Pole and M. D., represented by Mgr. P. B., attorney, as secondary parties to the proceedings, as follows:

I. The decision by the Regional Court in Brno of 11 November 2006, file no. 30 Ca 203/2006, in the part concerning voting in election district no. 113, city district Brno - Královo Pole, in elections to the Brno representative body, violated the petitioner's right guaranteed by Art. 21 par. 4 of the Charter of Fundamental Rights and Freedoms.

II. The decision by the Regional Court in Brno of 11 November 2006, file no. 30 Ca 203/2006, in the part concerning voting in elections to the Brno representative body, which took place on 20-21 October 2006 in election district no. 113 in the city district Brno - Královo Pole, district Brno - City, is annulled.

III. The remainder of the constitutional complaint is denied.

## REASONING

### I.

1. In his constitutional complaint, delivered to the Constitutional Court on 27 November 2006, the petitioner contests the resolution of the Regional Court in Brno (the “Regional Court”) of 10 November 2006, ref. no. 30 Ca 203/2006-13 (the “resolution”), which decided that voting in elections to the representative bodies in the city and city district that took place 20-21 October 2006 in the district of Brno - City, city district Brno - Královo Pole, election district no. 113, is invalid. The petitioner proposed that the Constitutional Court annul the entire resolution, or the parts concerning elections to the Brno representative body.

### II.

#### Recapitulation of Facts

2. A decision of the president of 13 July 2006, no. 369/2006 Coll., called elections on 20-21 October 2006 to the Senate of the Parliament of the Czech Republic, to municipal representative bodies and to representative bodies of city parts and city districts in statutory cities and to the Prague City Council and representative bodies of Prague city districts, under Art. 63 par. 1 let. f) and under Art. 17 par. 1 of the Constitution of the Czech Republic and § 1 par. 3 of Act no. 247/1995 Coll., on Elections to the Parliament of the Czech Republic and Amending and Supplementing Certain Other Acts, as amended by later regulations, under § 3 par. 1 of Act no. 491/2001 Coll., on Elections to Municipal Representative Bodies and Amending Certain Acts, as amended by later regulations, and under § 123 of Act no. 131/2000 Coll., on the Capital City of Prague, as amended by later regulations, and under § 3 par. 1 of Act no. 491/2001 Coll., on Elections to Municipal Representative Bodies and Amending Certain Acts, as amended by later regulations.

3. In accordance with § 47 of Act no. 491/2001 Coll., on Elections to Municipal Representative Bodies and Amending Certain Acts (the “Act on Elections to Municipal Representative Bodies”), on 22 October 2006 the registration office of the Brno City Hall posted election results on its official bulletin board by publishing the record of results of elections to the Brno representative body. Fifty-five members of the representative body were elected in the elections. The members of the Brno representative body acquired their mandates by election, i.e. by the end of voting (§ 55 par. 1, § 39 par. 1 of the Act on Elections to Municipal Representative Bodies). Under § 53 of the Act on Elections to Municipal Representative Bodies, on 6-7 November 2006 the registration office gave candidates confirmations of election. In accordance with the law, the current mayor of Brno, PhDr. Richard Svoboda, called a constituent assembly of the newly-elected council, which was held on 7 November 2006. There, all the elected representatives took their oath of office, and the representative body then, among other things, elected the mayor of Brno, his deputies, and other council members.

4. On 30 October 2006 the Regional Court in Brno received a proposal from Ms. M. D. (the secondary party) regarding “invalidity of voting and invalidity of the elections.” After being called up to do so by the Regional Court, the secondary party, in accordance with § 90 par. 1 of the Administrative Court Procedure Code, amended her proposal and proposed that the Regional Court rule that “voting in election district no. 113 for the Statutory City of Brno, city district Brno - Královo Pole, in elections to municipal representative bodies on 21 and 22 October 2006, is invalid.” On 10 November 2006 the Regional Court, in the contested resolution, file no. 30 Ca 2003/2006, decided that “voting in elections to the municipal representative body and city district representative body that took place on 20 October - 21 October 2006 in election district no. 113 in the city district Brno - Královo Pole, district Brno - City, is invalid.”

5. The essence of the petitioner’s arguments and the reasoning of the contested resolution is the fact that 93 voters in election district no. 113 in the city district Brno - Královo Pole were given, at the polling place, a voting envelope that did not have an official stamp. During the subsequent counting of votes, those 93 votes were deemed invalid by the district commission (§ 41 par. 2 let. d) of the Act on Elections to Municipal Representative Bodies). The Regional Court in Brno, after admitting as evidence the election documentation from election district no. 113 in the city district Brno - Královo Pole, and on the basis of a statement from the chairman of the district election commission, L. B., found that there was violation of § 31 par. 1 and § 33 par. 3 of the Act on Elections to Municipal Representative Bodies. According to the Regional Court, the violation of the cited statutory provisions “undoubtedly” affected the voting results, as the votes of 93 voters out of 363 were not counted. The Regional Court’s resolution went into legal effect on 10 November 2006.

### III.

#### The Content of the Constitutional Complaint

6. The petitioner ran for election to the Brno representative body on the candidate list of the Czech Social Democratic Party, was elected, and was issued a confirmation of election on 6 November 2006.

7. After recapitulation of the facts and the content of the contested resolution, the constitutional complaint states that the Regional Court’s resolution violated his fundamental rights enshrined in the Constitution of the Czech Republic (the “Constitution”) and in the Charter of Fundamental Rights and Freedoms (the “Charter”).

8. The petitioner considers the Regional Court’s conclusions to be incorrect. He concludes that the Act on Elections to Municipal Representative Bodies requires, as a fundamental prerequisite for filing a proposal to declare voting invalid, that the petitioner believe that provisions of the Act were violated in a manner which could affect the voting results (§ 60 par. 2 of the Act on Elections to Municipal Representative Bodies). Thus, the court must determine the scope (number) and intensity of violations of the law, and evaluate how relevant the consequences of any illegality found to exist are to the voting results. In other words, it must weigh

to what extent that violation actually affected or distorted the voting results.

9. According to the petitioner, this basic criterion for intervention in election matters by the judicial branch to be permissible is consistently required to be met by the settled case law of all courts of last resort, for all kinds of elections, i.e. communal elections, elections to regional representative bodies (§ 53 par. 2 to 4 of Act no. 130/2000 Coll. on Elections to Representative Bodies of Regions and Amending Certain Acts), to the Chamber of Deputies and to the Senate (§ 87 par. 3 to 5 of Act no. 247/1995 Coll., on Elections to the Parliament of the Czech Republic and Amending and Supplementing Certain Other Acts), and to the European Parliament (§ 57 par. 2 of Act no. 62/2003 Coll., on Elections to the European Parliament and Amending Certain Acts). The petitioner also refers in detail to a number of Constitutional Court judgments that already formulated the basic principles for judicial review of elections.

10. According to the petitioner, the Regional Court did not base the contested resolution on these viewpoints at all; it stated, purely on the basis of the record of the conduct and results of voting in election district no. 113, the secondary party's claim and the statement from the district election commission, that 93 voters out of 363, i.e. 25.6 % of the voters who received envelopes from the commission in that election district, did not receive an official envelope, and their votes were therefore not valid. By not respecting the duty to thoroughly review the fulfillment of statutory elements, the Regional Court is alleged to have erred to such a degree that the error can be described as intensive violation of the relevant constitutionally enshrined right.

11. The petitioner considers results of voting to the Brno representative body to be the results of voting for individual candidate lists and candidates determined by the procedure under § 45 of the Act, i.e. the results determined after adding the votes from all election districts. These data are then provided in the record of results of elections to the municipal representative body under § 46 par. 2 of the Act, i.e. data on the total number of voters who were given official envelopes (let. d), on the number of official envelopes handed in (let. e), on the total number of valid votes cast for each party (let. f) and on the number of valid votes cast for individual candidates (let. g). From these data, not only from data on voting in a single election district, the candidates elected to the representative body can be determined (let. h). The petitioner also states that the invalid votes of 93 voters in one election district must be compared with the total number of voters in all election districts who were given official envelopes for elections to the Brno representative body, and likewise with the total number of valid votes cast for each party and for individual candidates. This comparison indicates that the number of invalid votes resulting from violation of the law in election district no. 113 is a mere 0.0719% of the total number of voters who were given official envelopes and only 0.0722% of the number of official envelopes handed in. Thus, according to the petitioner, under no circumstances can one conclude that the overall results of voting to the Brno representative body could have been affected.

12. Thus, the petitioner does not agree with the Regional Court's statement that the Act on Elections was violated "in a manner which undoubtedly affected the results of voting," and points to the text of § 54 par. 1 let. a) and § 60 of the Act

on Elections to Municipal Representative Bodies. He concludes that a formalistic interpretation of these provisions could lead to extreme conclusions. However, in a democratic state governed by the rule of law it is surely not possible to interpret a statute in such an absurd manner, permitting, in essence, any elections to be easily obstructed.

13. The Ministry of the Interior and a court must follow constitutional instructions, i.e. the interpretation of legal norms can not remove or endanger the foundations of the democratic state (Art. 9 par. 3 of the Constitution), and the statutory framework for political rights, and the way it is interpreted and applied, must protect the free competition of political forces in a democratic society (Art. 22 of the Charter).

14. According to the petitioner, in its resolution the Regional Court said nothing about the existence or non-existence of the representative body (the mandates of the representative), or did not question that the representatives elected in elections to the Brno representative body acquired their mandates by election under § 55 par. 1 of the Act on Elections to Municipal Representative Bodies. The court's resolution thus creates a situation of legal uncertainty. In the petitioner's opinion, the Regional Court committed the same procedural error when it recognized only the district election commission as a party (defendant). Under § 90 par. 2 of Act no. 150/2002 Coll., The Administrative Court Procedure Code, as amended by later regulations, the parties to proceedings on a petition to declare elections invalid, declare voting invalid, or declare the election of a particular candidate invalid, always include, in addition to the petitioner, the election body in question and the person whose election to office is being contested. The petitioner considers those parties to be the Office of the city district Brno - Královo Pole (for elections to the representative body of the city district) and the Brno city hall (for elections to the Brno representative body).

15. As regards the requirements for his active standing, the petitioner states that his election was not expressly contested by the proposal submitted to the Regional Court, but the Regional Court, by concluding that the violation of the law undoubtedly affected the resulting numbers of votes for individual candidates, admitted, without anything further, that declaring the voting invalid, and the consequent repeat voting, can affect whether the petitioner actually remains in office. Nevertheless, the Regional Court did not consider the petitioner to be a party to the proceedings.

16. In this case, the petitioner considers particularly relevant the will of the simple majority of voters who cast their valid votes for the candidate lists of the political parties, or for individual candidates, in the elections to the Brno representative body on 20 and 21 October 2006, and thus decided its composition, decided to elect the basic representative body of local self-government, for a four-year term (Art. 102 par. 2 of the Constitution). As citizens, the elected candidates - representatives - have a right to equal conditions for access to elected and other public offices (Art. 21 par. 4 of the Charter), or the right to uninterrupted exercise of office during the specified time period which arises from that right (see judgment file no. Pl. US 30/95). The representatives freely elected to represent the citizens of their municipality thereby also exercise their right to take part in

the administration of public affairs. (Art. 21 par. 1 of the Charter).

17. In conclusion, the petitioner summarizes that a court may intervene in the election process only under conditions provided by law, while respecting constitutional safeguards. Therefore, a decision whereby a general court finds justified a petition to declare voting invalid can be taken only if the result connected with the decision, i.e. the non-election of a representative body (§ 54 par. 1 of the Act) can be justified in light of preserving the will of the majority of voters, which was expressed in a manner free of legal defects. Otherwise, the court decision is not only unlawful, but, above all, inconsistent with the constitutionally enshrined principles of a democratic, law-based state and with fundamental, constitutionally guaranteed rights.

18. The petitioner refers to a number of provisions of the Constitution and the Charter, which he considers relevant to review of the constitutionality of the contested decision:

Article 2 par. 2 of the Charter reads:

State authority may be asserted only in cases and within the bounds provided for by law and only in the manner prescribed by law.

Article 21 of the Charter reads:

(1) Citizens have the right to participate in the administration of public affairs either directly or through the free election of their representatives.

(2) Elections must be held within terms not exceeding the regular electoral terms provided for by law.

(3) The right to vote is universal and equal, and shall be exercised by secret ballot. The conditions for exercising the right to vote shall be provided for by law.

(4) Citizens shall have access, on an equal basis, to any elective and other public office.

Article 22 of the Charter reads:

Any statutory provisions relating to political rights and freedoms, as well as the interpretation and application of them, shall make possible and protect the free competition among political forces in a democratic society.

Article 2 par. 3 of the Constitution reads:

State authority is to serve all citizens and may be asserted only in cases, within the bounds, and in the manner provided for by law.

Article 9 par. 3 of the Constitution reads:

Legal norms may not be interpreted so as to authorize anyone to do away with or jeopardize the democratic foundations of the state.

Article 102 of the Constitution reads:

(1) Members of representative bodies shall be elected by secret ballot on the basis of a universal, equal, and direct right to vote.

(2) Representative bodies shall have a four-year electoral term. The circumstances under which new elections for representative bodies shall be called prior to the expiration of an electoral term shall be designated by statute.

19. Given the interest in rapidly removing doubts about the validity of individual acts by public authorities in Brno, the petitioner proposed priority treatment of the matter under § 39 of Act no. 182/1993 Coll., on the Constitutional Court, as amended by later regulations (the “the Act on the Constitutional Court”).

#### IV.

#### Proceedings before the Constitutional Court

20. The constitutional complaint was delivered on 27 November 2006. On 4 December 2006, the Constitutional Court requested from the Regional Court in Brno file no. 30 Ca 203/2006, to which election documentation from election district no. 113 in the city district Brno - Královo Pole was attached, and also asked the Regional Court for a response to the constitutional complaint. On 6 December 2006 the secondary parties to the proceeding were also asked for responses to the constitutional complaint.

21. In its response to the constitutional complaint, the Regional Court in Brno, as a party to this proceeding, stated that the Act on Elections to Municipal Representative Bodies connects the conduct and results of voting with voting in an election district, and the results of voting is not the same thing as the results of elections. Insofar as a proposal to declare voting invalid was filed in this matter, and the Regional Court was bound by this proposal, the issue for review was whether the law was violated in a manner that could affect the results of voting in the election district, which had been questioned by the proposal.

22. In contrast, according to the Regional Court, the issue for review was not the determination and evaluation of violation of the law in a manner that could affect the results of the elections, because this was not a proposal under § 60 par. 3 of the Act on Elections to Municipal Representative Bodies. According to the Regional Court, it follows from this that the issue for review by the court was not the question of whether the proposal to declare voting invalid would lead to a result under § 54 par. 1 of the Act on Elections to Municipal Representative Bodies (failure to elect a representative body). The evidence showed that, as a result of violation of § 33 par. 3 of the Act on Elections to Municipal Representative Bodies “the votes of 25.6% of voters who took part in the elections were invalidated.” In the Regional Court’s opinion, § 60 par. 2 of the Act on Elections to Municipal Representative Bodies protects “the value of voting in an election district, as a prerequisite for the real and true result of that voting.”

23. In its written response to the constitutional complaint, the secondary party, the Office of the city district Brno - Královo Pole, recapitulates the tasks that it fulfills as the election authority in organizing and ensuring the conduct of elections. Because it believes this matter concerns evaluation of the gravity of violation of the law during voting, it defers to the authority of the district election commission.

24. The secondary party, the Brno City Hall, responded briefly to the constitutional complaint to the effect that it “confirms the facts stated in the constitutional complaint.” It enclosed with its response a notarized copy of the report from the

Czech Statistical Office, from which it concludes that the 93 invalid envelopes in election district no. 113 could not have affected the results of elections to the Brno representative body.

25. The secondary party to the proceeding, M. D., through her representative, responded to the petition in writing to the effect that she agreed with the constitutional complaint in the part that concludes that the election defects are relative. At the same time, the secondary party agrees with the conclusions of the Regional Court in Brno that if one-fourth of votes in the relevant election district was invalid for obvious reasons, there is a substantial violation of law as regards the elections to the representative body of the city district Brno - Královo Pole. As regards the elections to the representative body of the city of Brno, she acknowledges that the contested resolution lacks in-depth arguments. However, she emphasizes the substantial error by the election body, which caused the violation of the constitutionally guaranteed right to vote. The secondary party also objects that the relevant court can not be expected to examine the ballot papers that were deemed invalid more closely. In her opinion it is important that the invalidity of a vote caused by an error by the election authority is of a completely different nature than invalidity of a vote for other reasons. In conclusion, the secondary party emphasizes that she was led to submit the proposal to declare elections valid in an effort to point out the violation of the law and an effort to prevent any manipulation with the voting results by the district election commission. She is also dissatisfied with the extreme media attention paid to the matter and the possible results of the contested decision, which she was not fully aware of at the time she filed the proposal.

26. The petitioner made use of the opportunity to submit a written answer to the response of the Regional Court. In particular, he disputed the opinion of the Regional Court in Brno that the prior proceeding reviewed only “the value of voting in the election district.” On the contrary, the petitioner believes that the “voting results” under § 60 par. 3 of the Act on Elections to Municipal Representative Bodies, must always be considered to be the overall results of voting to the elected body under § 46 par. 2 let. d) to g) of the Act on Elections to Municipal Representative Bodies. The voting results in an election district have no value in and of themselves, but only in context with the voting results in other districts. The petitioner also points to § 54 par. 1 of the Act on Elections to Municipal Representative Bodies, where the proposal to declare voting invalid and the proposal to declare elections invalid were presented as alternatives. He similarly disputes the Regional Court’s other claims regarding the steps followed when inspecting voting, and closes by stating that the Regional Court insists on formal application of the law without addressing the petitioner’s objections.

27. The Constitutional Court decided to grant the petitioner’s proposal to proceed under § 39 of the Act on the Constitutional Court and reviewed the constitutional complaint as a priority matter on the most expedited basis.

28. On the basis of a summons to a hearing, which was delivered to the parties and secondary parties to the proceeding on 6 December 2006, the Regional Court in Brno, the Brno City Hall, and the Office of the city district Brno - Královo Pole sent



written responses excusing themselves from the hearing.

29. In the hearing ordered for 12 December 2006 the parties did not present any new proposals to submit evidence, and referred to their written position statements.

## V.

### Presentation of Evidence before the Constitutional Court

30. The Constitutional Court's file includes documentary evidence attached to the constitutional complaint. This primarily:

- The record of the results of elections to the representative body of Brno, district Brno - City, held on 20 and 21 October 2006. This is marked "Posted on: 22 October 2006, taken down on: 7 November 2006." It contains the first and last names of the elected members of the representative body and the first and last names of the substitutes and their order.
- Certification of election as a member of the representative body of Brno issued on 6 November 2006 by the Brno City Hall to Ing. O. P., born 14 June 1970, permanent address Pod Hájkem 2, Brno.
- The record of the constituent assembly of the Representative Body of Brno held on 7 November 2006.

31. The Constitutional Court also admitted as evidence the file of the Regional Court in Brno, file no. 30 Ca 203/2006, which includes the following documentary evidence:

- "Proposal to declare invalid voting and invalid elections," dated 30 October 2006, delivered to the Regional Court on 31 October 2006, signed by the secondary party M. D.
- The summons from the Regional Court to the secondary party of 1 November 2006 to identify a party to the proceeding and state what the secondary party seeks.
- "Supplement to the Proposal for Court Review in Accordance with the Court Summons," dated 3 November 2006, delivered by the applicant to the Regional Court on 6 November 2006, with the proposal: "Voting in election district no. 113 for the Statutory City of Brno, city district Brno - Královo Pole for elections to the representative bodies of the municipalities on 21 and 22 October 2006 is invalid."
- The report from the chairman of election commission no. 113 in the city district Brno - Královo Pole, Mr. Ladislav Bobčík, of 9 November 2006.
- Regional Court in Brno Resolution of 10 November 2006, file no. 30 Ca 203/2006.

32. The Constitutional Court also admitted as evidence election documentation from election district no. 113 in the city district Brno - Královo Pole. That includes, among other things, a transcript of the voting results in election district no. 113, a record of the conduct and results of voting in election district no. 113, and an extract from the voter lists for election district 113. The election documentation from district no. 113 also includes a sheaf of counted valid ballot papers for elections of the representative body of the city district Brno - Královo Pole, a sheaf of counted valid ballot papers for elections to the representative body of Brno, a sheaf of used envelopes with an official stamp, a sheaf of 93 used envelopes without an official stamp, with ballot papers enclosed, and the supporting counting

materials.

33. From the 93 envelopes without an official stamp, which therefore contained votes marked as invalid, the Constitutional Court determined the following data:

A) Number of votes also invalid for other reasons 4

B) Number of votes for entire political parties

1 Folklore and Society	0
2 Moravians	0
3 Together for Brno	0
4 Czech Social Democratic Party	17
5 Democratic Socialist Party	0
6 Equal Opportunity Party	0
7 National Unity	1
8 Czech Crown (the Monarchist Party of the Czech Lands, Moravia and Silesia)	0
9 Civic Democratic Party	31
10 Czech National Socialist Party	0
11 Communist Party of the Czech Lands and Moravia	5
12 Green Party	9
13 Christian and Democratic Union - Czechoslovak People's Party	3
14 Brno 2006 - Team of Jiří Zlatuška	8
15 Conservative Party	0
16 Independent Democrats (chairman V. Železný)	0

C) Number of votes for individual candidates (without adding the votes listed under B)

Candidate Order Candidate

list no.	Last name, first name	Titles
1	Folklore and Society 1 Privarčák Jan	Ing. 1
1	Folklore and Society 2 Dzurja Vladimír	Ing. 1
1	Folklore and Society 3 Lejsek Miroslav	Dr. Bc. 1
1	Folklore and Society 8 Káňa Lubomír	Ing. 1
1	Folklore and Society 10 Černý Vladimír	Ing. 1
1	Folklore and Society 15 Šimšová Hana	Ing. 1
1	Folklore and Society 22 Nápravník Stanislav	Ing. 1
2	Moravians 2 Bičan Petr	1
2	Moravians 4 Hála Pavel	MUDr. 1
2	Moravians 7 Konečný Ladislav	Ing. 1
2	Moravians 19 Keprt Robert	Mgr. 1
2	Moravians 20 Kulčák Ludvík	prof. Ing. 1
2	Moravians 21 Korvas František	PhDr. 1
2	Moravians 24 Matonoha Pavel	doc. MUDr. CSc. 2
2	Moravians 26 Novotný Vladimír	1
2	Moravians 36 Peprníková Dana	1
2	Moravians 39 Černocký Marek	Ing. 1
3	Together for Brno 4 Kolář Miroslav	Ing. 1
3	Together for Brno 6 Havlík Jan	1
3	Together for Brno 8 Žáková Leona	Mgr. 2
3	Together for Brno 10 Kocmánek Jan	Ing. 1

3	Together for Brno	13	Hodická Kateřina	Mgr. et Mgr.	1
3	Together for Brno	21	Audy Marcel	Mgr.	1
3	Together for Brno	28	Netušil David	Mgr.	1
3	Together for Brno	31	Havelka Leo	MUDr.	1
4	Czech Social Dem. Party	1	Onderka Roman		4
4	Czech Social Dem. Party	2	Žďárský Vlastimil	MVDr.	2
4	Czech Social Dem. Party	3	Oliva Jiří	JUDr.	3
4	Czech Social Dem. Party	4	Macek Ladislav		2
4	Czech Social Dem. Party	5	Novotný Jiří		1
4	Czech Social Dem. Party	6	Humpolíček Miloslav	Bc.	2
4	Czech Social Dem. Party	7	Dušová Naděžda		1
4	Czech Social Dem. Party	8	Pospíšil Oliver	Ing.	2
4	Czech Social Dem. Party	9	Tůmová Zdeňka	Mgr.	2
4	Czech Social Dem. Party	10	Burda Josef	Ing.	2
4	Czech Social Dem. Party	11	Sázavský Pavel		1
4	Czech Social Dem. Party	12	Haluza Josef	Mgr.	2
4	Czech Social Dem. Party	13	Jakubec Aleš		2
4	Czech Social Dem. Party	14	Kinzel Ivan		1
4	Czech Social Dem. Party	15	Brouček Zdeněk	Ing.	1
4	Czech Social Dem. Party	16	Kačírková Petra	PhDr.	2
4	Czech Social Dem. Party	17	Vrána Martin		1
4	Czech Social Dem. Party	18	Schmid Radim	Mgr.	2
4	Czech Social Dem. Party	19	Lefner Jiří	Ing.	1
4	Czech Social Dem. Party	20	Slepička Tomáš		2
4	Czech Social Dem. Party	21	Kohout Milan	Ing.	1
4	Czech Social Dem. Party	22	Wildmannová Mirka	Ing. Ph.D.	2
4	Czech Social Dem. Party	23	Pešová Marie	PaedDr. CSc.	2
4	Czech Social Dem. Party	24	Kojecký Radovan	Ing.	1
4	Czech Social Dem. Party	25	Mašek Ivan	doc. Ing. CSc.	2
4	Czech Social Dem. Party	26	Sláma Zdeněk		1
4	Czech Social Dem. Party	27	Fertigová Ivona		1
4	Czech Social Dem. Party	28	Čermák Martin	Mgr.	1
4	Czech Social Dem. Party	29	Buchtela Jiří		2
4	Czech Social Dem. Party	30	Sklenák Roman	Mgr.	2
4	Czech Social Dem. Party	31	Zdubová Marie		1
4	Czech Social Dem. Party	32	Šafařík Petr		1
4	Czech Social Dem. Party	33	Greňo Pavel		1
4	Czech Social Dem. Party	34	Novotný Jaromír	Mgr.	1
4	Czech Social Dem. Party	35	Šrůtek Jan	Ing.	2
4	Czech Social Dem. Party	36	Komárková Dalila	JUDr.	2
4	Czech Social Dem. Party	37	Kouřilová Jarmila		2
4	Czech Social Dem. Party	38	Pospíchal Lubor		2
4	Czech Social Dem. Party	39	Souralová Marie		1
4	Czech Social Dem. Party	40	Pospíšil Karel	Mgr. Bc.	1
4	Czech Social Dem. Party	41	Laška Vlastimil		1
4	Czech Social Dem. Party	42	Haklová Iveta		1
4	Czech Social Dem. Party	43	Adamec Petr		1
4	Czech Social Dem. Party	44	Toman Bedřich		1
4	Czech Social Dem. Party	45	Lepka Karel	RNDr. Ph.D.	1
4	Czech Social Dem. Party	46	Stoklásek Václav		2

4	Czech Social Dem. Party	47	Vaniček Hugo	Ing.	1
4	Czech Social Dem. Party	48	Kolajová Božena		1
4	Czech Social Dem. Party	49	Imrišová Ivana	Ing.	3
4	Czech Social Dem. Party	50	Semrád Petr	Bc.	1
4	Czech Social Dem. Party	51	Ambrož Robin		1
4	Czech Social Dem. Party	52	Hrstková Olga	Bc.	1
4	Czech Social Dem. Party	53	Šalplachtová Martina		1
4	Czech Social Dem. Party	54	Kloc Antonín		1
9	Civic Democratic Party	1	Hledík Karel		4
9	Civic Democratic Party	2	Blažek Pavel	JUDr. Ph.D.	3
9	Civic Democratic Party	3	Hošek Miroslav	Ing.	1
9	Civic Democratic Party	4	Janištin Jiří	Mgr.	2
9	Civic Democratic Party	5	Venclík Leo	Ing.	2
9	Civic Democratic Party	6	Kerndl Robert	JUDr.	2
9	Civic Democratic Party	7	Prchal Martin	Ing.	1
9	Civic Democratic Party	8	Michalík Stanislav	Ing.	2
9	Civic Democratic Party	9	Kvapil Aleš	Mgr.	1
9	Civic Democratic Party	10	Pelán René		5
9	Civic Democratic Party	11	Chládek Michal	Bc.	1
9	Civic Democratic Party	12	Vavrouch Radomír		1
9	Civic Democratic Party	13	Vaňková Markéta	JUDr.	2
9	Civic Democratic Party	14	Bohuňovská Jana		1
9	Civic Democratic Party	15	Paulczyński Petr	Ing.	1
9	Civic Democratic Party	16	Jankůj Pavel	Ing.	1
9	Civic Democratic Party	17	Štáštka Libor	Mgr.	1
9	Civic Democratic Party	18	Hladík Jiří	Ing.	1
9	Civic Democratic Party	19	Fabiánek Roman	PaedDr.	2
9	Civic Democratic Party	20	Kala Oldřich	Ing.	1
9	Civic Democratic Party	21	Hos Jiří		1
9	Civic Democratic Party	22	Pohanková Šárka	Mgr.	2
9	Civic Democratic Party	23	Mokrý Zdeněk	Mgr.	2
9	Civic Democratic Party	24	Vašina Roman	Ing.	2
9	Civic Democratic Party	25	Zorník Jiří		1
9	Civic Democratic Party	26	Svoboda Ivan	Ing.	1
9	Civic Democratic Party	27	Kočí Jan		1
9	Civic Democratic Party	28	Krásný Vladan		1
9	Civic Democratic Party	29	Vižďa František	doc. RNDr. Ph.D.	1
9	Civic Democratic Party	30	Zemanová Jana	Mgr.	1
9	Civic Democratic Party	31	Charvát Jiří	Ing.	1
9	Civic Democratic Party	32	Malinová Michaela	Mgr.	1
9	Civic Democratic Party	33	Harnach Gustav		1
9	Civic Democratic Party	34	Paděrová Marie	Bc.	1
9	Civic Democratic Party	35	Šik Evžen		1
9	Civic Democratic Party	36	Pazderová Andrea	Ing.	3
9	Civic Democratic Party	37	Fousová Ludmila		1
9	Civic Democratic Party	38	Černý Roman	Bc.	2
9	Civic Democratic Party	39	Filípek František		1
9	Civic Democratic Party	40	Karásek Jan	Ing.	3
9	Civic Democratic Party	41	Kupčíková Milana	Mgr.	1
9	Civic Democratic Party	42	Dočekal Petr	Ing.	2

9	Civic Democratic Party	43	Chalupa Lubomír	Ing.	1
9	Civic Democratic Party	44	Jursa Miroslav	Ing.	1
9	Civic Democratic Party	45	Machala Tomáš		1
9	Civic Democratic Party	46	Dostál Radoslav	JUDr.	1
9	Civic Democratic Party	47	Žemlička Petr		1
10	Czech National Socialist Party	10	Kropáček Jiří		1
10	Czech National Socialist Party	20	Endlicher Martin		1
10	Czech National Socialist Party	25	Concepcion Santos Veronika		1
10	Czech National Socialist Party	27	Kučera Ondřej		1
10	Czech National Socialist Party	39	Musilová Irena		1
11	Comm. Party - Cz & Moravia	1	Březa Pavel	Ing.	1
11	Comm. Party - Cz & Moravia	2	Sýkorová Helena	JUDr.	1
11	Comm. Party - Cz & Moravia	4	Borecký Daniel	RNDr. CSc.	1
11	Comm. Party - Cz & Moravia	7	Klein Vítězslav	Ing.	1
11	Comm. Party - Cz & Moravia	8	Dávid Tibor		1
11	Comm. Party - Cz & Moravia	9	Blahutová Hana	Ing.	1
11	Comm. Party - Cz & Moravia	19	Pazdera David		1
11	Comm. Party - Cz & Moravia	20	Franek Aleš	PhDr.	1
11	Comm. Party - Cz & Moravia	21	Tomsa Vladimír		1
11	Comm. Party - Cz & Moravia	22	Kopřiva Zdeněk	Ing.	1
11	Comm. Party - Cz & Moravia	23	Škultéty Alexander	Ing.	1
11	Comm. Party - Cz & Moravia	29	Horáková Kateřina		1
11	Comm. Party - Cz & Moravia	31	Votroubková Zuzana		1
11	Comm. Party - Cz & Moravia	33	Všetečka Petr	JUDr.	1
11	Comm. Party - Cz & Moravia	34	Stavjařová Gabriela		2
11	Comm. Party - Cz & Moravia	36	Matyáš Zdeněk	Ing.	1
11	Comm. Party - Cz & Moravia	45	Morávek Přemysl		1
11	Comm. Party - Cz & Moravia	49	Dvořák Karel	PhDr.	1
12	Green Party	1	Drápalová Jana	Ing.	5
12	Green Party	2	Ander Martin	Mgr. Ph.D.	3
12	Green Party	3	Dubská Kateřina	PhDr.	2
12	Green Party	4	Vlašín Mojmír	RNDr.	4
12	Green Party	5	Flamiková Jasna	Mgr.	2
12	Green Party	6	Bartůšek David	Ing.	3
12	Green Party	7	Slavíková Eva	Mgr.	1
12	Green Party	8	Hollan Jan	RNDr.	2
12	Green Party	9	Jelínková Věra	MUDr.	1
12	Green Party	10	Rokos Miroslav	RNDr.	1
12	Green Party	11	Pálková Jana		2
12	Green Party	12	Marša Igor	Ing.	1
12	Green Party	13	Matoušková Petra	Ing. arch.	3
12	Green Party	14	Svitavský Marek		1
12	Green Party	15	Galle Zuzana	Ing.	1
12	Green Party	16	Klíč Miroslav	RNDr.	1
12	Green Party	17	Pavoničová Marie	RNDr.	1
12	Green Party	18	Pospíšil Lubomil	doc.RNDr.CSc.	2
12	Green Party	19	Fajnorová Ivana		1
12	Green Party	20	Havlín Miloslav		1
12	Green Party	21	Gaillyová Yvonna	RNDr.	2
12	Green Party	22	Ondřík Ivan	Bc.	1

12	Green Party	23	Blatná Milada	Bc.	2
12	Green Party	24	Vašíček Jiří		1
12	Green Party	25	Pellantová Jitka	RNDr.	2
12	Green Party	26	Chrastil Sylvestr	doc.Mgr.Dr.	1
12	Green Party	27	Matějčíková Jarmila		1
12	Green Party	28	Jiaxis Anastásios		1
12	Green Party	29	Herbrychová Andrea	Mgr.	2
12	Green Party	30	Otruba Ivar	Prof. Ing.	1
12	Green Party	31	Fialová Hladíková Hana		1
12	Green Party	32	Buček Antonín	doc. Ing. CSc.	1
12	Green Party	33	Matějková Jiřin	Mgr.	1
12	Green Party	34	Máchal Aleš		1
12	Green Party	35	Holcnerová Hana		1
12	Green Party	36	Dvořák Vilém		1
12	Green Party	37	Scavino Barbara		1
12	Green Party	38	Patrik Miroslav	RNDr.	1
12	Green Party	39	Bártová Stanislava		1
12	Green Party	40	Libus Jan		1
12	Green Party	41	Zabloudilová Věra		1
12	Green Party	42	Zlámal Aleš	RNDr.	2
12	Green Party	43	Kubová Dana		1
12	Green Party	44	Švamberk Jaroslav	JUDr. Ing.	1
12	Green Party	45	Stávková Kateřina		1
12	Green Party	46	Veselý David	Ing.	1
12	Green Party	47	Slámová Galina	Mgr.	1
12	Green Party	48	Baltus Jan		1
12	Green Party	49	Ceklová Marta		1
12	Green Party	50	Robeš Martin		1
12	Green Party	52	Pazdírek Jan	PhDr.	1
13	CDU - Cz. People's Party	1	Javorová Barbora	RNDr.	4
13	CDU - Cz. People's Party	2	Rychnovský Daniel	MUDr.	4
13	CDU - Cz. People's Party	3	Holík Jan	Ing.	3
13	CDU - Cz. People's Party	4	Suchý Jaroslav	Mgr.	3
13	CDU - Cz. People's Party	5	Beran Vít	Ing.	2
13	CDU - Cz. People's Party	6	Veselý Josef	Ing.	2
13	CDU - Cz. People's Party	7	Macek David	Mgr. MA	3
13	CDU - Cz. People's Party	8	Crha Antonín		2
13	CDU - Cz. People's Party	9	Stehlíková Marie		2
13	CDU - Cz. People's Party	10	Hořava Pavel	Bc.	2
13	CDU - Cz. People's Party	11	Mihola Jiří	Mgr.	3
13	CDU - Cz. People's Party	12	Hruška Petr	PhDr. MBA	3
13	CDU - Cz. People's Party	13	Dvořák Miroslav	Ing. CSc.	2
13	CDU - Cz. People's Party	14	Břicháček Vlastimil		2
13	CDU - Cz. People's Party	15	Vích Zdeněk	Ing. CSc.	2
13	CDU - Cz. People's Party	16	König Jan		2
13	CDU - Cz. People's Party	17	Kratochvil Karel		2
13	CDU - Cz. People's Party	18	Janko Petr	Ing.	2
13	CDU - Cz. People's Party	19	Sládková Elena	Ing. arch.	2
13	CDU - Cz. People's Party	20	Dobeš Augustin		2
13	CDU - Cz. People's Party	21	Navrátil Jiří	Ing.	2

13	CDU - Cz. People's Party	22	Svobodová Kateřina	2
13	CDU - Cz. People's Party	23	Nekuda Rostislav	PhDr. 2
13	CDU - Cz. People's Party	24	Doležalová Monika	Mgr. 3
13	CDU - Cz. People's Party	25	Slavík Jiří	Ing. 2
13	CDU - Cz. People's Party	26	Hladký Petr	3
13	CDU - Cz. People's Party	27	Ševčík Jan	Ing. 2
13	CDU - Cz. People's Party	28	Št'asta Petr	2
13	CDU - Cz. People's Party	29	Prchal Jiří	3
13	CDU - Cz. People's Party	30	Kolář Petr	Ing. 2
13	CDU - Cz. People's Party	31	Kuklínek Jiří	Ing. 2
13	CDU - Cz. People's Party	32	Kobza Vít	2
13	CDU - Cz. People's Party	33	Gardáš Oldřich	2
13	CDU - Cz. People's Party	34	Ryšavý Šimon	2
13	CDU - Cz. People's Party	35	Válek Vlastimil	Prof.MUDr.CSc. 2
13	CDU - Cz. People's Party	36	Stehlíková Marie	Ing. 2
13	CDU - Cz. People's Party	37	Kyselák Martin	Ing. 2
13	CDU - Cz. People's Party	38	Weinberger Vojtěch	MUDr. 2
13	CDU - Cz. People's Party	39	Vašková Pavla	2
13	CDU - Cz. People's Party	40	Dvořáček Jiří	Mgr. 2
13	CDU - Cz. People's Party	41	Sadecký Jan	Ing. MBA 2
13	CDU - Cz. People's Party	42	Suchý Jaroslav	2
13	CDU - Cz. People's Party	43	Hrabě František	Prof.Ing. CSc. 1
13	CDU - Cz. People's Party	44	Liptáková Klára	Ing. 1
13	CDU - Cz. People's Party	45	Grublová Milana	MUDr. 1
13	CDU - Cz. People's Party	46	Bořecký Josef	1
13	CDU - Cz. People's Party	47	Dumbrovská Michaela	JUDr. 1
13	CDU - Cz. People's Party	48	Kostelka Božetěch	1
13	CDU - Cz. People's Party	49	Doležal Petr	Ing. 1
13	CDU - Cz. People's Party	50	Caha Jan	Mgr. 1
13	CDU - Cz. People's Party	51	Koláčný Ivan	RNDr. 1
13	CDU - Cz. People's Party	52	Hošek Ivo	Ing. 1
13	CDU - Cz. People's Party	53	Sedláčková Ludmila	1
14	BRNO2006-Team of J.Zlatuška	1	Zlatuška Jiří	prof. RNDr. CSc. 6
14	BRNO2006-Team of J.Zlatuška	2	Belcredi Jiřina	PhDr. 3
14	BRNO2006-Team of J.Zlatuška	3	Spousta Jiří	doc. RNDr. Ph.D 3
14	BRNO2006-Team of J.Zlatuška	4	Hamerský Milan	Mgr. 3
14	BRNO2006-Team of J.Zlatuška	5	Zogatová Lenka	4
14	BRNO2006-Team of J.Zlatuška	6	Vaněk Jiří	PhDr. 2
14	BRNO2006-Team of J.Zlatuška	7	Grepl Jan	Ing. 2
14	BRNO2006-Team of J.Zlatuška	8	Buchta Jaroslav	Ing. 3
14	BRNO2006-Team of J.Zlatuška	9	Němec Jiří	doc. PhDr. Ph.D. 3
14	BRNO2006-Team of J.Zlatuška	10	Honzík Jan M.	prof. Ing. CSc. 2
14	BRNO2006-Team of J.Zlatuška	11	Dub Petr	prof. RNDr.CSc. 2
14	BRNO2006-Team of J.Zlatuška	12	Brázdová Zuzana	prof.MUDr.DrSc. 2
14	BRNO2006-Team of J.Zlatuška	13	Kolář Jozef	doc. RNDr. CSc. 2
14	BRNO2006-Team of J.Zlatuška	14	Nemkyová Radmila	Mgr. 2
14	BRNO2006-Team of J.Zlatuška	15	Ventruba Pavel	prof.MUDr.DrSc. 3
14	BRNO2006-Team of J.Zlatuška	16	Ján Martin	Mgr. 4
14	BRNO2006-Team of J.Zlatuška	17	Mizerová Alena	PhDr. 2
14	BRNO2006-Team of J.Zlatuška	18	Schmidt Eduard	prof.RNDr.CSc. 2

14	BRNO2006-Team of J.Zlatuška	19	Pištěláková Zdenka	MUDr.	2
14	BRNO2006-Team of J.Zlatuška	20	Sekot Aleš	Doc. Dr. CSc.	2
14	BRNO2006-Team of J.Zlatuška	21	Putnová Jana		2
14	BRNO2006-Team of J.Zlatuška	22	Simeonov Simeon	doc. Ing. CSc.	2
14	BRNO2006-Team of J.Zlatuška	23	Šaléová Vendula	Mgr.	3
14	BRNO2006-Team of J.Zlatuška	24	Potůček Milan		2
14	BRNO2006-Team of J.Zlatuška	25	Štarha Jiří	MUDr. Ph.D.	2
14	BRNO2006-Team of J.Zlatuška	26	Belzová Jana	Mgr.	2
14	BRNO2006-Team of J.Zlatuška	27	Fux Karel		2
14	BRNO2006-Team of J.Zlatuška	28	Varmužová Hana	Mgr.	2
14	BRNO2006-Team of J.Zlatuška	29	Rosecký Čeněk	Mgr.	2
14	BRNO2006-Team of J.Zlatuška	30	Jančářová Drahomíra	MUDr.	2
14	BRNO2006-Team of J.Zlatuška	31	Švejda Miroslav		2
14	BRNO2006-Team of J.Zlatuška	32	Václavíčková Michaela	MUDr.	2
14	BRNO2006-Team of J.Zlatuška	33	Jelínek Ota	Mgr.	2
14	BRNO2006-Team of J.Zlatuška	34	Sochorová Věra	MUDr.	2
14	BRNO2006-Team of J.Zlatuška	35	Honek Milan	Ing.	3
14	BRNO2006-Team of J.Zlatuška	36	Jelínková Šárka		2
14	BRNO2006-Team of J.Zlatuška	37	Klement Miloš	Ing. arch.	2
14	BRNO2006-Team of J.Zlatuška	38	Jákl Petr	Ing. Ph.D.	2
14	BRNO2006-Team of J.Zlatuška	39	Líbalová Iveta		2
14	BRNO2006-Team of J.Zlatuška	40	Kosec Miroslav	Ing.	2
14	BRNO2006-Team of J.Zlatuška	41	Turečková Lenka	Mgr.	2
14	BRNO2006-Team of J.Zlatuška	42	Nevím Vladimír		2
14	BRNO2006-Team of J.Zlatuška	43	Němečková Jana		2
14	BRNO2006-Team of J.Zlatuška	44	Divácký Roman		2
14	BRNO2006-Team of J.Zlatuška	45	Svobodová Lenka	Ing.	2
14	BRNO2006-Team of J.Zlatuška	46	Tihelková Monika		2
14	BRNO2006-Team of J.Zlatuška	47	Janíčková Blanka		2
14	BRNO2006-Team of J.Zlatuška	48	Rous Roman	Ing.	3
14	BRNO2006-Team of J.Zlatuška	49	Drápelová Zuzana	Bc.	3
14	BRNO2006-Team of J.Zlatuška	50	Pekárek Radim	Mgr.	3
14	BRNO2006-Team of J.Zlatuška	51	Zapletal Tomáš		3
14	BRNO2006-Team of J.Zlatuška	52	Valošek Petr		3
14	BRNO2006-Team of J.Zlatuška	53	Zajíček Roman		2
14	BRNO2006-Team of J.Zlatuška	54	Póč Zdeněk		2
14	BRNO2006-Team of J.Zlatuška	55	Klusáček Dalibor	Mgr.	1
16	INDEP. DEM. S (chair.V.Železný)	2	Rettegy Radoš		1
16	INDEP. DEM. S (chair.V.Železný)	3	Unzeitig Vít	doc. MUDr. CSc.	1

The other candidates did not receive any votes.

34. On the basis of the foregoing determinations, the Constitutional Court also requested from the Czech Statistical Office a model calculation of the hypothetical voting results in the elections to the representative body of Brno, adding the votes that had been delivered in envelopes without official stamps and marked as invalid in election district no. 113 in the city district Brno - Královo Pole.

35. The Czech Statistical Office delivered to the Constitutional Court a report in which it gave a negative answer to the Constitutional Court's question whether including the votes delivered in the 93 envelopes without official stamps could



have affected

- 1) the distribution of mandates among the individual political parties, or
- 2) individual candidates,
- 3) the order of awarding mandates, or
- 4) the order of substitutes.

36. The Constitutional Court's file includes a complete processing of the model results of elections to the representative body of Brno after adding in the votes from the 83 envelopes without official stamps from election district no. 113, city district Brno - Královo Pole. By comparing the announced results of elections to the representative body of Brno and the model result after adding in the 93 invalid votes from envelopes without official stamps from election district no. 113, city district Brno - Královo Pole, the Constitutional Court determined that the distribution of mandates among the individual political parties, individual candidates, the order of awarding mandates and the order of substitutes is the same in both cases.

## VI.

### Active Standing of the Petitioner, Parties and Secondary Parties to the Proceeding

37. First, the Constitutional Court points out that although the matter being discussed concerns elections and the election judiciary, the petitioner's complaint is a constitutional complaint under Art. 87 par. 1 let. d) of the Constitution (§ 72 et seq. of the Act on the Constitutional Court), not an appeal intended for review of election results under Art. 87 par. 1 let. e) of the Constitution (§ 85 et seq. of the Act on the Constitutional Court), which applies only to the election of a deputy or senator. The purpose of a constitutional complaint is protection from intervention by a public body into the constitutionally guaranteed fundamental rights and freedoms of individuals or legal entities. These kinds of proceedings are different from each other both in the substance of the issue reviewed by the Constitutional Court and in procedural conditions such as the deadline for filing a petition, the petitioner's active standing, definition of the circle of parties to the proceedings and secondary parties to the proceedings, etc.

38. On the other hand, in the presently adjudicated constitutional complaint the different purposes of both kinds of proceedings are not a barrier to the use of the Constitutional Court's general legal conclusions, which it expressed in its earlier case law purely on the subject of elections.

39. Under § 72 par. 1 let. a) of the Act on the Constitutional Court, a constitutional complaint can be filed by anyone who claims that a legally effective decision in a proceeding in which he was a party, a measure or other intervention taken by a public authority violated his constitutionally guaranteed fundamental right or freedom.

40. In the proceedings before the Regional Court in Brno, the petitioner was not formally treated as a party to the proceedings, who are, under § 90 par. 2 of Act no. 150/2005 Coll., the Administrative Court Procedure Code, as amended by later regulations, the applicant, the relevant election authority, and the person whose

election to office was contested. In proceedings under § 90 par. 1 of the Administrative Court Procedure Code to declare voting invalid the mandate of a particular elected representative (petitioner) is not directly cast in doubt. The Constitutional Court has already concluded in its previous case law that such a fact nonetheless can not be a reason for the Constitutional Court not to consider the petitioner to have active standing in proceedings on a constitutional complaint, because the contested decision strongly affects his rights, if it concerns the question of election or non-election of the representative body of Brno. According to the Constitutional Court's findings, the petitioner was in the 8th slot on the candidate list of the Czech Social Democratic Party for elections to the representative body of Brno which took place on 20-21 October 2006, for which party the petitioner was elected to the representative body of Brno (cf. the public available results of elections to municipal representative bodies of 20 October - 21 October 2006, available, e.g. at <http://www.volby.cz>; attached to the file is a notarized confirmation of election as a member of the representative body of Brno, issued by the Brno City Hall to the petitioner on 6 November 2006). It is evident from the foregoing that the petitioner has active standing to file a constitutional complaint against the contested resolution of the Regional Court in Brno to the extent that the court declared voting invalid in election district no. 313, city district Brno - Královo Pole, district Brno - City, in elections to the representative body of Brno.

41. In the same verdict the Regional Court in Brno also declared invalid the voting in election district no. 313, city district Brno - Královo Pole, district Brno - City, in elections to the representative body of city district Brno - Královo Pole. According to the Constitutional Court's findings (cf. the election results and lists of candidates to the representative body of the city district Brno - Královo Pole, available, e.g. at <http://www.volby.cz>) the petitioner was not on any of the candidate lists of political parties who took part in elections in that election district. Therefore, it is also not evident, and the petitioner does not further develop his arguments in this regard, which of his constitutionally guaranteed rights was affected by the decision of the Regional Court in Brno declaring voting invalid in election district no. 313, city district Brno - Královo Pole, district Brno - City, in elections to the representative body of city district Brno - Královo Pole. Based on the cited analysis, the Constitutional Court states that insofar as the constitutional complaint is aimed, as the proposed verdict indicates, against the resolution of the Regional Court in Brno of 10 November 2006, file no. 30 Ca 2003/2006, including the part of the verdict which concerns elections to the representative body of the city district Brno - Královo Pole, the petitioner does not have active standing. Therefore, that part of the constitutional complaint had to be denied under § 43 par. 1 let. c) of the Act on the Constitutional Court, because the petition was filed by an evidently unauthorized person.

42. Under § 76 par. 1 of the Act on the Constitutional Court, a party to the proceedings is the public authority against whose intervention the petition is directed; in the presently adjudicated matter that is the Regional Court in Brno, whose jurisdiction is established by § 61 of the Act on Elections to Municipal Representative Bodies.

43. The Act on the Constitutional Court, § 76 par. 2 identifies as secondary parties to a proceeding on a constitutional complaint the other parties to the previous proceedings, from which the contested decision arose.

44. The provision of § 90 par. 2 of the Administrative Court Procedure Code identifies as a party to proceedings to declare voting or elections invalid (or declare the election of a candidate invalid), in addition to the petitioner and the person whose election to office is contested, the “relevant election authority.”

45. The list of election authorities in the process of elections to municipal representative bodies is specified in § 6 of the Act on Elections to Municipal Representative Bodies. Under that Act, election authorities are, among others: e) the authorized municipal office, in the capital city of Prague that is Prague City Hall; in the cities Brno, Ostrava and Plzeň it is the city halls of those cities (the “authorized municipal office”),

f) the municipal office in municipalities where the municipal council has established at least 2 departments of the municipal office, and in municipalities in which the municipal office is authorized, in the capital city of Prague the office of the city district in which the city district council has established at least 2 departments, and in the cities Brno, Ostrava and Plzeň the city district office or city section (the “municipal office in municipalities where at least 2 departments have been established”),

i) the election district election commission.

46. Although the resolution of the Regional Court in Brno identifies the District Election commission in election district no. 113 in the city district Brno - Královo Pole, district Brno - City, as a party to the proceedings (the “opponent”), apparently in view of its inclusion in the list in § 6 let. i) of the Act on Elections to Municipal Representative Bodies, the Constitutional Court does not consider the District Election commission in election district no. 113 in the city district Brno - Královo Pole, district Brno - City, to be a secondary party to the proceedings, because it is clearly not the “relevant election authority” meant in § 90 par. 2 of the Administrative Court Procedure Code. This interpretation is supported by the relatively narrowly defined time of existence of district election commissions, whose activity ceases on the fifteenth day after election results are announced, or the fifteenth day after the results of repeat voting are published (cf. § 52 par. 1, par. 2 of the Act on Elections to Municipal Representative Bodies), and the statutorily defined one-time purpose, which is ensuring order in the election room, arranging and overseeing the conduct of voting, counting votes and prepare a report on the conduct and results of voting and delivering election documentation to the safekeeping of the district office. The activity of district election commissions thus corresponds to its lay membership, which represents an elements of democratic control over basic election acts. Moreover, it is clear from the name of this body that it functions within the limits of an election district, i.e. always only in one of the units which form the election area of a municipality whose entire representative body is, however, affected by a declaration of invalid voting, even if only in one election district.

47. In view of the statutory division of authority in the preparation, organization, and inspection of elections (§ 6 - § 19 of the Act on Elections to Municipal

Representative Bodies), the Constitutional Court considers the competent (permanent) election authorities in elections to the representative bodies of the city district Brno - Královo Pole and the representative body of Brno to be the Office of the City District Brno - Královo Pole and Brno City Hall, whom it therefore treats as secondary parties to the constitutional complaint proceeding.

48. Under § 76 par. 2 of the Act on the Constitutional Court, M. D., whose proposal under § 60 par. 2 of the Act on Elections to Municipal Representative Bodies initiated the proceedings before the Regional Court in Brno, is also a secondary party.

## VII.

### Definition of the Adjudicated Issue

49. In the constitutional complaint, the petitioner presents two basic groups of objections. On the one hand it criticizes the Regional Court in Brno for procedural error in determining the circle of parties to the proceedings; on the other hand it has fundamental material objections to the verdict and the reasoning with which the Regional Court in Brno supported its conclusion on the invalidity of “voting in elections to the representative body of the city and the city district which took place on 20 October - 21 October 2006 in election district no. 113 in the city district Brno - Královo Pole, district Brno - City.”

50. In defining the adjudicated issue, the Constitutional Court weighed several determinative aspects of the case. The nature of a constitutional complaint as an instrument for protecting an individual’s fundamental rights and freedoms from interference by the public authorities and the overall concept of the constitutional judiciary in the Czech Republic entrusts to the Constitutional Court, as regards the contested decisions, only a cassation, or annulling, authority. The remedy of a constitutionally defective situation is generally within the competence of the body whose decision was annulled by a Constitutional Court judgment. However, returning the matter to the election court for a new decision prolongs the overall period when legal uncertainty exists, and always postpones the final decision. Even in cases where the Constitutional Court rules on the basis of an individual constitutional complaint, it can not overlook the full context, if it is the process of elections as a fundamental element of representative democracy. Thus, the procedure and decision taken by the Constitutional Court must respect not only the petitioner’s interest in protection of his subjective fundamental rights, but also the wider interest in the protection of other elements of a democratic, law-based state.

51. In contrast to this, an appeal in matters of election of a deputy or senator (§ 85 et seq. of the Act on the Constitutional Court) purposely places the Constitutional Court in the position of a court of the second instance in the election judiciary, and consists of ensuring the protection of fundamental provisions of the constitutional order, which give rise to the principle that the people are the source of all state power, and, among other things, in that role participate in forming it through free and democratic elections.

52. Although the Act on the Constitutional Court does not provide a deadline for decision on a constitutional complaint, the Constitutional Court could not overlook the specific circumstances of the election situation that arose through the decision of the Regional Court in Brno. In view of the fact that repeat elections were called in election district no. 113 in the city district Brno - Královo Pole for 16 December 2006 (Notice of the Ministry of the Interior Calling for Repeat Voting in Elections to Municipal Representative Bodies no. 521/2006 Coll.), the Constitutional Court considered it essential to rule on the constitutional complaint in the period before these elections were held, in accordance with the petitioner's proposal for priority handling of the matter under § 39 of the Act on the Constitutional Court. The essential fact remains that what is at stake here is not only the petitioner's fundamental rights, but the confidence of the voters in the effectiveness of all phases of the election process, including judicial review of elections and the trustworthiness of election results, i.e. a certain objective element of review by the Constitutional Court. If the Constitutional Court were to decide on the merits of the constitutional complaint only after the results of the repeat elections in election district no. 113 in the city district Brno - Královo Pole were announced, it would necessarily introduce chaos into the matter, and doubts about the meaning of such a decision for the petitioner and its effects.

53. However, because the Act on the Constitutional Court does not give a constitutional complaint suspensory effect (§ 79 par. 1 of the Act on the Constitutional Court), as the petitioner did not ask for a suspension of executability of the contested decision, and repeat elections can take place even before the sixty-day deadline to submit a constitutional complaint expires (§ 72 par. 3 of the Act on the Constitutional Court), a situation can arise where the attempt to speed up the decision-making process places demands on the flexibility of the parties to the proceedings during procedural communication with the Constitutional Court with relatively short deadlines. However, the unusual demands placed on the Constitutional Court for a speedy decision understandably do not, and can not, under any circumstances affect the quality and persuasiveness of the decision, especially in a question as serious as elections to the representative bodies of self-governing municipalities.

54. Out of the number of procedural and substantive objects that the petitioner submitted to the Constitutional Court in the constitutional complaint, the key one appears to be evaluated in what manner (based on what deliberations) the Regional Court in Brno concluded that voting was invalid in election district no. 313, city district Brno - Královo Pole, whereby it cast in doubt the petitioner's mandate and his constitutionally guaranteed right arising from Art. 21 par. 4 of the Charter. Addressing this question significantly exceeds the petitioner's individual interests, and is important for a number of other legal relationships of the relevant representative body, in contrast to other objects, consisting of procedural and formal errors by the court, concerning, e.g. the petitioner's right to a fair trial.

55. As a rule, the Constitutional Court, in its decision making, after determining that a contested provision is unconstitutional on the basis of one objection, does not then in the reasoning of its decision consider the other objections. In the presently adjudicated matter, the Constitutional Court concluded that the constitutional complaint is justified in the part where the petitioner demonstrated

his active standing.

## VIII. Evaluation of the Issue

56. It is evident in this matter that although a constitutional complaint is primarily intended to protect an individual's subjective constitutionally guaranteed rights, it is appropriate to recapitulate some of the Constitutional Court's previous conclusions in matters of election review that affect the adjudicated issue and to which the petitioner also partly refers.

57. In its judgment file no. Pl. US 30/95 the Constitutional Court stated its opinion that "elections to municipal representative bodies involve not only the rights of voters and political parties, but also the rights of candidates for membership in the representative bodies and the rights of elected candidates, which arise from the right to seek elected office under equal conditions and, if elected, to perform these offices without impediments."

58. The Constitutional Court considered a certain intensity of violation of the law for declaring a candidate's election invalid in judgment file no. I. US 526/98, where it stated that "generally, the issue should not be exclusively whether the Election Act was violated objectively or subjectively, but the circumstances of the particular case and the intensity of violation of the law must be taken into account. Thus, we can not generally say that every violation of the law (if it is claimed) leads to elections being invalid, or that violation of the Election Act may not ever be penalized by declaring elections invalid."

59. In judgment file no. Pl. US 73/04 the Constitutional Court emphasized that "in procedural regulation of the election judiciary and the process in such proceedings there is thus a rebuttable presumption that election results correspond to the intent of the voters. It is the obligation of the person who claims that there has been error in the elections to submit evidence to rebut that presumption. Our election judiciary does not recognize absolute defects in the election process (so-called absolute confusion in election proceedings), i.e. such violation of a constitutional election regulation as would result in automatic annulment of elections, the election of a candidate, or voting. In this regard, all possible defects and errors must be considered relative, and their significance must be weighed by their effect on the results of elections to a representative body as such or the results of election of a particular candidate, or the results of voting, according to the proportionality principle. The proceedings are thus based on the constitutional principle of protecting a decision that emerge from the will of the majority manifested through free decision-making while respecting the rights of the minority (Art. 6 of the Constitution), as the Constitutional Court has said in a different context in judgment file no. Pl. US 5/02 (in *The Constitutional Court Of the Czech Republic: Collection of Decisions. Volume no. 28. judgment no. 117. p. 25. - no. 476/2002*). The framework for verifying elections is in the alternative based on an assumption of an objective causal relationship between the flaw in elections and the composition of the representative body, or at least a possible causal connection (the principle of potential causation in the election judiciary). ... From

that we must conclude that the judicial branch may change the decision of the voters, as a sovereign, only in exceptional cases, where the flaws in the election process caused, or demonstrably could have caused, the voters to decide differently and a different candidate to be elected. However, the essential thing is that annulment of elections can not be taken as punishment for violation of election regulations, but as a means to ensure the legitimacy of the elected body.”

60. Finally, in judgment file no. II. US 53/06 the Constitutional Court confirmed that “Article 21 par. 4 of the Charter does not apply only to the approach to a public office in the sense of the creation of the office, but also includes the right to perform it without interference, including the right to protection from illegal removal from office. Participation in public affairs, which is the point of the entire Article 21, is not exhausted merely by attaining an office, but logically continues during the entire period of holding that office. Thus, if this Charter article seeks to enable citizens to administer public matters, the person performing an office must also be endowed with protection from state arbitrariness that could prevent him from performing the public office. The very right to access to public office would have no meaning if it did not include protection in the course of performing the office.”

61. The basic legal regulation governing the preparation, conduct and judicial review of elections to municipal representative bodies is Act no. 491/2001 Coll., on Elections to Municipal Representative Bodies, as amended by later regulations. The key provision governing judicial review of the validity of voting and validity of elections is § 60:

§ 60

(1) Every person registered to vote in the election district where a member of a municipal body was elected, as well as every political party whose candidate list was registered for elections to that representative body (the “petitioner”) may seek court protection by filing a proposal to declare voting invalid, declare elections election, or declare the election of a candidate invalid. The proposal must be filed no later than 10 days after the results of elections to municipal representative bodies are announced by the State Election Commission.

(2) A petitioner may file a proposal to declare voting invalid if he believes that the provisions of this Act were violated in a manner that could affect the voting results.

(3) A petitioner may file a proposal to declare elections invalid if he believes that the provisions of this Act were violated in a manner that could affect the election results.

(4) A petitioner may file a proposal to declare the election of a candidate invalid if he believes that the provisions of this Act were violated in a manner that could affect the results of election of that candidate.

62. The consequences of a decision finding voting or an election invalid are specified in § 54 par. 1, let. a), par. 2:

§ 54

Supplemental elections, repeat elections, and repeat voting

(1) A municipal representative body shall not be elected if  
a) a court finds a proposal to declare voting or elections invalid to be justified (§ 60),

b) elections were not held due to reasons § 23 par. 8,  
c) the district election commission did not deliver a record of the conduct and results of voting under § 43 par. 2.

(2) If a municipal representative body was not elected, as described in paragraph 1 let. a), the Minister of the Interior will announce repeat elections or repeat voting within 30 days after being given notice of the court resolution.

63. The general procedural regulation for proceedings to declare voting invalid is Act no. 150/2002 Coll., the Administrative Court Procedure Code, as amended by later regulations, specifically § 90:

§ 90

Invalidity of elections and voting

(1) Under conditions specified by special statutes, a citizen, political party or independent candidate or association of independent candidates and an association of political parties or political movements and independent candidates may file a proposal seeking a court decision declaring invalid elections invalid, voting, or election of a candidate.

(2) The parties to the proceeding are the petitioner, the relevant election body, and the person whose election is contested.

(3) The court shall decide by resolution, within twenty days after receiving the proposal. A hearing need not be ordered.

64. As the Constitutional Court's interpretation of the statutory framework of election review indicates, the election judiciary is based on the principle of protecting a mandate, and not every determined and proved violation of law necessarily leads to such serious consequences as the non-establishment of an elected representative body. However, if an election court declares invalid voting or invalid elections on the basis of a qualified, i.e. sufficiently intensive violation of law, such a conclusion always necessarily means the non-election of a representative body (§ 54 par. 1 let. a) of the Act on Elections to Municipal Representative Bodies).

65. Insofar as the Regional Court in Brno argues that it found only voting invalid, not the elections, and simultaneously distances its decision making from the effects of § 54 par. 1 of the Act on Elections to Municipal Representative Bodies (the position statement from the Regional Court in Brno, p. 1 bottom, can be interpreted to that effect), the Constitutional Court points out that such an interpretation is an impermissibly formalistic interpretation that does not take into account the further consequences which arise regardless of whether the election court took them into account in its deliberations. The purpose of elections, consisting of the choice (election) of members of a representative body, can not be ignored in the decision making of an election court.

66. Space for the deliberations of an election court opens in the evaluation of whether voting or the wider electoral process were or were not valid, in view of the nature and intensity of the violation of law; however, it can not in the next step evaluate whether its verdict declaring voting invalid does or does not have the consequence of non-election of a representative body. That consequence arises by law, because if the entire process of elections was not completed, or if it was re-



opened, we can not predict the result of it.

67. Therefore, it is the obligation of an election court to review to what extent the violation of the law had or could have had an effect on the voting results, which must be understood not as a mechanical addition of the votes cast in one election district, but in relation to the purpose and aim of such voting, the decision to elect particular candidates and determine the order of substitutes. The “result” of voting in one election district, the number of votes cast, has no value in and of itself, but only when it is taken into account in determining the elected candidates (or determining the order of substitutes). A voter also does not enter the voting room with the primary aim of formally influencing the numerical totals of votes in his district, but with the intent of using his vote to express his will to elect particular candidates to the representative body through the system of organization of elections, of which the election districts are a component.

68. The decision by the Regional Court in Brno of 30 November 2006, file no. 30 Ca 203/2006, indicates that “the proposal is justified,” because, to summarize, the election documentation, in accordance with the data written down in the record on the conduct and results of voting in the election district contains 93 envelopes with ballot papers, and these envelopes do not bear an official stamp. A total of 93 voters out of 363 (i.e. 25.6%) did not receive official envelopes, and their votes became invalid under § 41 par. 2 let. d) of the Act on Elections to Municipal Representative Bodies. This happened as a result of violation of the law, and it is evident that this affected “the results of voting, i.e. the resulting number of votes for individual political parties and individual candidates.”

69. The Regional Court in Brno thus contented itself with stating that there was a violation of the law that manifested itself in the numbers of votes for individual political parties and individual candidates. However, it did not add any deliberations about whether that violation of the law actually had, or could have had an effect on the election of the representative body, and if so, what, although it caused such a serious consequence by its decision. In this regard, the verdict declaring voting invalid (causing the election of the representative body to be invalid) thus completely lacks logical justification. The Regional Court in Brno thus completely abandoned the principle of protecting an acquired mandate because it did not take its arguments far enough to answer the question of whether the violation of the law did or did not have an effect on a particular mandate or mandates.

70. The Constitutional Court points out that it is not correct to conclude that if there is found to be a certain number of invalid votes, for whatever reason, there is then automatically an unfavorable consequence, that is that the voting is invalid and the representative body is not elected. Thus, if it is proved that a certain number of votes are invalid, even if through error by the election authority, that does not necessarily always mean that voting in the election district must be repeated.

71. Because the Regional Court in Brno in a quite fundamental way did not observe a constitutional interpretation of the provisions of the election statute and did not protect the election result from democratic elections, it exceeded the limits

provided to the state power, including the judicial branch, by Article 2 par. 3 of the Constitution (“State authority is to serve all citizens and may be asserted only in cases, within the bounds, and in the manner provided for by law.”) a Article 2 par. 2 of the Charter (“State authority may be asserted only in cases, within the bounds, and in the manner provided for by law.”).

72. The Constitutional Court’s task was to evaluate whether the violation of law, as a result of which 93 votes were not counted, affected or could have affected the voting result in the election district, and whether the voting result thus affected in the district (could affect or) affected the election of the representative bodies (the petitioner). Thus, it was, in view of the election aspect of the adjudicated constitutional complaint, to perform an election review in the framework of the proposal submitted in the prior proceeding to the election court. The central reason for this extraordinary procedure, which is otherwise used in proceedings under § 85 et seq. of the Act on the Constitutional Court, after finding that the Regional Court fundamentally failed to live up to its role in the election judiciary, was the need to give a convincing decision in the matter before repeat elections were held, because delay could bring the matter into the abovementioned negative state of legal uncertainty into the matter in a very wide context.

73. According to the Constitutional Court’s findings, the election documentation in election district no. 113 in the city district Brno - Královo Pole, contains 93 envelopes with ballot papers for elections to the representative body of Brno and the representative body of the city district Brno - Královo Pole. In accordance with the record of the conduct and results of voting in the election district, these envelopes do not contain an official stamp, so they are not official envelopes. The evidence presented shows no doubt about the number of unofficial envelopes issued by the district election commission and that they are the same as the unofficial envelopes that subsequently contained invalid votes.

74. The Constitutional Court reached its answer to the issue by comparing the official announced results of voting to the representative body of Brno on 20-21 October 2006 with a model result of the same elections after adding in the hypothetically valid votes from the envelopes without an official stamp (see point V. of this judgment). Based on a report from the Czech Statistical Office, the Constitutional Court thus concluded that the modeled addition of the hypothetically valid votes from the 93 envelopes without an official stamp from election district no. 113, city district Brno - Královo Pole to the officially announced election results has no effect on

- the allocation of mandates between individual political parties and individual candidates
- the order in which the mandate was awarded to candidates, or the order of substitutes.

75. From that, the Constitutional Court concludes that the violation of law in § 31 par. 1 and § 33 par. 3 of the Act on Elections to Municipal Representative Bodies, found by the Regional Court in Brno, changed the number of valid votes cast in election district no. 313 in the city district Brno - Královo Pole. However, that violation of the law did not reach an intensity that could justify declaring the voting invalid (§ 60 par. 2 of the Act on Elections to Municipal Representative

Bodies) and thus mean the non-election of the representative body (§ 54 par. 1 let. a of the Act on Elections to Municipal Representative Bodies).

76. If the law is violated during voting in elections, but the actual result of the elections quite demonstrably expresses the will of the voters to elect particular candidates, just as if the violation had not happened, there is no reason to cast doubt upon the arising mandates or to hold repeat voting. Therefore, in this regard there is also no reason to doubt the full legitimacy of the Brno representative body. A contrary conclusion in the adjudicated matter would be extremely disproportional in relation to the nature of the violation of law and the interest in protecting an election result arising from democratic elections, and would also be impermissibly intervention by the judicial branch into the election process.

77. In view of the fact that this conclusion of violation of the petitioner's right to equal access to election and other public offices and staying in them under Art. 21 par. 4 of the Charter in and of itself fully suffices for annulling the contested decision in the specified scope, the Constitutional Court, in view of the need for a timely decision in the matter, did not consider the petitioner's other objections. Thus, the Constitutional Court partly found for the petitioner (§ 82 par. 1 of the Act on the Constitutional Court), stated which constitutionally guaranteed right or freedom and which provisions of constitutional statutes were violated (§ 82 par. 2 let. a) of the Act on the Constitutional Court) and annulled the contested decision by a public authority in the defined scope, i.e. in the part concerning elections to the representative body of Brno [§ 82 par. 3 let. a) of the Act on the Constitutional Court].

78. As regards, the rest, in view of the lack of active standing of the petitioner, whose fundamental rights could not have been affected by the elections to the representative body of the city district Brno - Královo Pole being cast in doubt (point VI. of the judgment), the Constitutional Court denied the constitutional complaint under § 43 par. 1 let. c) of the Act on the Constitutional Court, because the petition was filed by a clearly unauthorized person.

79. The Constitutional Court points out that in proceedings on a constitutional complaint it does not have the statutory possibility of applying § 91 par. 3 of the Act on the Constitutional Court, under which, when a judgment is announced concerning a remedy in matter of election of a deputy or senator, the decisions of other bodies that are contrary to the announced judgment cease to be valid.

80. At the same time, however, the Constitutional Court emphasizes that annulling the specified part of the contested decision has an undoubted influence on the effects of decisions by public authorities which are connected to the contested decision, in the part annulled by the Constitutional Court. Under Art. 89 par. 2 of the Constitution the executable decisions of the Constitutional Court are binding on all entities and persons.

81. At the present time there is another proceedings before the Constitutional Court on a proposal that also concerns voting in elections to the representative body of Brno and the representative body of the city district Brno - Královo Pole on 20-21 October 2006, which evidently will not be decided before the announced

date for repeat voting. Therefore, the Constitutional Court also points out the possible state of legal uncertainty that could appear, if the repeat voting takes place before this second decision by the Constitutional Court. It is up to the judgment of the minister of the interior whether an dhow to re-evaluate his decision to announce repeat voting in election district no. 113 in the city district Brno - Královo Pole (Notification no. 521/2006 Coll.) in relation to voting in elections to the representative body of the city district Brno - Královo Pole, which remains unaffected by this judgment.

**Instruction: Decisions of the Constitutional Court can not be appealed.**

Brno, 12 December 2006