2010/02/23 - III. ÚS 1206/09: SHARED CUSTODY

HEADNOTES

The entrusting a child to an upbringing solely with one of the parents must not be an expression of a concession to the mutual rivalry of the parents, this being focused solely on a "struggle over the child", and possibly mean motives on the part of one of the parents for harrowing the other through their own child. The courts may and should utilise the means provided to them by the Family Act [for example, the provisions of § 43 paragraph 1, clause a), and § 44], by which they can admonish one of the parents who, be it purposely or negligently, obstructs the public interest in the proper upbringing and development of the personality of the child (partially expressed, for example, in the provisions of § 26 paragraph 3 of the Family Act).

When the courts supported their decisions by the statements or disapproval of the mother, and such disapproval was in fact the only obstacle to a verdict on a shared upbringing for the minor (as an optimal option completely satisfying the child's interests, as declared by the expert), then the courts must submit the same to examination and make it a subject of evidence, this even without proposal to such effect. Disapproval of the mother concerning shared custody may only be relevant when it is founded on reasons which are capable of intense negative infringement of the interests of the child.

The court does not need to examine such evidence, when disapproval of the parent is merely based on clearly irrational or non-reviewable reasons. If such irrational or non-reviewable reasons are concerned, or if it is proven within the proceedings that such disapproval is based on reasons which provably do not have any negative impact on the interests of the child, courts cannot found a decision, through which they do not grant the petition for entrusting the child to shared (common) custody, on such a disapproval.

The point is that any opposite course of action is in conflict with the fundamental right of the other parent to a fair trial pursuant to Article 36 of the Charter, and also an infringement of their fundamental right to raise and care for their child according to Article 32 paragraph 4 of the Charter, but also of the fundamental right of the child to an upbringing and care from their parents pursuant to the same article of the Charter.

CZECH REPUBLIC
CONSTITUTIONAL COURT
JUDGMENT

IN THE NAME OF THE REPUBLIC

Without an oral hearing and in the absence of the parties, a Panel of the Constitutional Court, consisting of Chairman Vladimír Kůrka, Justice Jiří Mucha and Justice Rapporteur Pavel Rychetský, adjudicated the matter of a constitutional complaint filed by M. Š., legally represented by JUDr. Lenka Faltýnová, an attorney at law with a registered office at Nám. Míru 143, 344 01 Domažlice, against a judgment of the Regional Court in Pilsen, ref. No. 10 Co 63/2009-173, dated 2 March 2009, whereby a judgment of the District Court in Domažlice, ref. No. 13 Nc 287/2008-128, dated 8 December 2008, was partly confirmed and partly altered; with the participation of the Regional Court in Pilsen as a party to the proceedings, and R. Š. S., legally represented by Mgr. Julie Filipová, an attorney at law with a registered office at Nádražní 73, 346 01 Horšovský Týn, minor Jana Š. (not the child's real name), legally represented by a guardian, the Municipal Office in Domažlice, the department of social and legal protection of children, with a registered office at U Nemocnice 579, 344 01 Domažlice, as secondary parties to the proceedings, as follows:

I. Verdicts I and II of the judgment of the Regional Court in Pilsen, ref. No. 10 Co 63/2009-173, dated 2 March 2009, shall be annulled.

II. The remaining parts of the constitutional complaint shall be dismissed.

REASONING

I.

1. A constitutional complaint against the decision specified above was delivered, through a petition received on 11 May 2009 in electronic form (via fax machine) and later as a filing in printed form of the same wording via the operator of postal services, to the Constitutional Court within the deadline prescribed by the provisions of § 72 paragraph 3 of Act No. 182/1993 Coll. on the Constitutional Court, as amended by later regulations (hereinafter referred to only as the "Act on the Constitutional Court"), complying with the formal requirements [provisions of § 30 paragraph 1, § 34, § 72 paragraph 1, clause a), paragraph 3, paragraph 6, § 75 paragraph 1 of the Act on the Constitutional Court].

2. In this constitutional complaint, the complainant (the father) contested the above-specified decision, objecting that in spite of the fact that both parents possess commendable parenting skills for the child's upbringing and acceptable conditions for a shared upbringing, the court of justice entrusted the minor to an upbringing by the mother; that the court has not justified its decision properly;

that the court proceeded from documentary evidence (a report by PhDr. A. H.) the origination of which was initiated solely by the mother and the complainant was not provided with an opportunity to question the author of this evidence; that the complainant's proposed evidence was not accepted by the court; and eventually that the court did not take into consideration the conclusions of expert opinion which recommended shared custody as the optimum option, and did not examine in detail the "ill-motivated and obstinate" disapproval of the mother of shared custody, when the court proceeded only from the general rule that "from childbirth, the fixation of the child to the woman-mother is more natural, which gives no chance to fathers to take care in person of their children"; thereby, the father's fundamental rights and freedoms under Article 2 paragraph 2, Article 3 paragraph 1, Article 4 paragraph 3, Article 32 paragraph 4, and Article 36 paragraph 1 of the Charter of Fundamental Rights and Basic Freedoms (hereinafter referred to only as the "Charter"), and Article 90 of the Constitution, as well as Article 18 paragraph 1 of the Convention on the Rights of the Child, and Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms, were allegedly infringed.

II.

3. The Constitutional Court has requested the relevant file from which it is evident that on 30 May 2008, the mother proposed that a preliminary injunction be issued, on the basis of which she required that the minor be entrusted to an upbringing by her for the period of time after the divorce, and she left the shared household. The court has not granted her petition. Within the proceedings ordered to be held before a court of first instance on the merits of the case [on the regulation of conditions (upbringing and maintenance) towards the minor for the period of time after the divorce] it was revealed that the father requested a shared upbringing, while the mother requested that the minor be entrusted to an upbringing solely by her, when the conditions of visitations of the father with the minor would be determined. She expressed disapproval of shared custody in the following words (page No. 16): "… I cannot imagine, after the time I spent with my daughter on maternity leave, that I would not see her for a whole seven days. Nobody can imagine how I feel when I am waiting for my daughter to come back. I just keep looking and waiting to see the car. To me it seems such a very long period of time. As for the father. If he feels it the same way, well I don't know, I cannot tell what his feelings are." The father, in line with the statement by the mother specified in the petition for the issue of the preliminary injunction, declared that the present crisis was caused by ownership of two houses, when each spouse owns a house and they are not able to agree as to which they will live in together. The mother has not even accepted the suggestion of the father that they would sell both houses and build another (a third one). The father confirmed that lack of agreement on this issue resulted in the cooling of emotions in the relationship; however, he did not want the situation to be solved through divorce. The father requested that the minor be entrusted to a shared upbringing or, in eventum, to an upbringing solely by him, in which case the visitations of the mother and the minor would be determined to the same scope as was proposed by the mother with respect to himself.

4. The court sought out expert opinion in the field of psychology; from this it was evident that both parents have a sound and positive relationship with the child. Both the father and mother grew up in environments similar in terms of upbringing, and analogous personality traits were found to dominate their personality profiles; the preconditions of the personality and intellectual abilities of both parents provide them both with very good preconditions for bringing up the child, literally they "favour shared custody for the minor". The minor is richly emotionally stimulated by both parents and has a deep emotional bond to them. Currently, application of shared custody is hindered by the disapproval of the mother and the early age of the child. Shared custody, according to said expert opinion, seems to be the optimal solution from the time the minor starts attending nursery school.

5. In the course of the proceedings, the mother, without the foreknowledge and presence of the father, took the minor for a psychological examination, upon which PhDr. A. H. developed a report in which she, among other points, recorded a statement of the mother and, without providing closer details, declared that "… yet it is the mother to whom Jana (not her real name) is more emotionally bound, who gives Jana a feeling of safety and certainty, who takes care of her very well and to a high standard", and recommended "frequent but only brief visitations for the child with her father, without staying overnight, until the situation is adapted and child stabilised." The father protested against this course of action and these conclusions, and asked that, should it be necessary, expert opinion be developed on which the parties could comment and possibly ask questions of the expert.

6. The court of first instance, through judgment ref. No. 13 Nc 287/2008-128, dated 8 December 2008, decided that the minor, for the period of time following the divorce, should be entrusted to the mother's upbringing, determined that the father should be obliged to contribute to the maintenance of the minor, and determined that the scope of time for visitations with the minor should be from Wednesday 9:00 a.m. to Friday 4:00 p.m. during odd weeks, and from Friday 4:00 p.m. to Sunday 4:00 p.m. during even weeks. The court, in a detailed reasoning, accentuated the necessity of substantial visitations for the minor with her father, and, therefore, extended the recommendations of the expert concerning contacts between the father and the minor. At the same time the court stated that the relationship between the parents was strained, and they were not able to come to an agreement concerning the regulation of the child's upbringing, maintenance or the parenting schedule.

7. The mother filed an appeal against the judgment, in which she disputed the scope of visitations between the father and the minor, and the verdict whereby the amount of alimony was determined. Furthermore, she reproached the court that the same had not dealt well with the report by PhDr. A. H., since "… it is apparent that the court did not take this report into account in any way …", and, in addition to an increase in alimony, she proposed that the court determine a more limited parenting schedule for the father, i.e. only each even week from Friday 4:00 p.m. to Sunday 4:00 p.m.

8. Also the father appealed against the judgment and claimed that the court should have dealt more with the attitude of the mother, and should not have dismissed the proposal for the development of expert opinion. In conclusion the father

proposed that the minor should be entrusted to his care and, in connection with the same, that other verdicts depending on this verdict should be altered, in concreto that it be established that the mother is not obliged to contribute to the maintenance of the minor, and that a parenting schedule be established for her to the same scope as was determined for the father.

9. During proceedings before the court of appeal, other documentary evidence, in particular the report by PhDr. A. H., were presented by reading the same. Furthermore, the mother denied what she had stated in the petition for the issue of a preliminary injunction, i.e. that the cause of marital discord was the lack of agreement on co-existence in one of the houses built. As for the issue of shared custody, she declared her conviction that the minor was not ready to be separated from the mother. Furthermore, she stated that she had ceased to trust her husband, she did not intend to change her standpoint applied in the appeal, and that she would consider taking a co-operative approach towards contacts between the father and the minor only within the confines of recommendations by PhDr. A. H., i.e. "… the mother really does not support a shared upbringing".

10. The father declared that he acknowledged the whole burdensome situation which they both, as parents, caused to their child, and that he felt ashamed to some extent for this; he still loved the mother, and he repeated that he was not interested in getting divorced. At the same time he complained about the situation of being de facto forced to submit himself to a schedule which has been established by the mother, who thus has limited his contact with the minor.

11. The court of appeal confirmed the judgment in verdicts whereby the child is entrusted to the mother's upbringing and the scope of contact between the father and the child is determined, and changed the verdict concerning the amount of alimony. In the reasoning for the decision, the court summarised the facts of the case ascertained, and emphasised that generally, from a developmental point of view, with respect to the age of the child, fixation to the mother is stronger; otherwise, the minor loves both parents, the father's environment is not unknown to the child as she lived there until leaving the shared household; the court concluded that the psychological condition of the minor, also according to the reports by PhDr. A. H., has stabilised.

12. On 20 May 2009, the judgment of the District Court in Domažlice, ref. No. 5 C 161/2008-17, dated 22 April 2009, became legally effective, whereby the marriage of the father and mother was divorced and wherein, at the conclusion of the reasoning, the court states: "The parties' own child cannot save the marriage without the mutual will of the parties, and that is why the relationship of the parties must be seen as fractured and without a future, since in this case, the desire of the respondent to preserve the marriage clashes with a lack of will for the same by the petitioner."

13. In the conclusion of the file, a proposal by the father concerning the determination of visitations with his minor daughter during the summer holidays, Christmas and Easter holidays, and winter time is appended.

III.

14. The Constitutional Court appointed a guardian for the minor and requested the party to the proceedings and the secondary parties to the proceedings to submit their opinions concerning the constitutional complaint.

15. The Regional Court in Pilsen, in its filing dated 5 June 2009, referred to its decision and mentioned that "The interest of the child, which is that both parents participate in her upbringing, with respect to her emotional relationship with them and to the parenting skills of the parents, was expressed through the scope of the visitations determined for the father with the minor (4 days a week with her mother, 3 days with her father)." The Court did not propose as to how the constitutional complaint should be adjudicated, and approved of dispensation of an oral hearing.

16. The secondary party, R. Š. S., in her statement dated 3 December 2009, specified that she did not align herself with the opinion of the complainant, since the court of appeal had made its decision under a situation when "the facts of the case were ascertained, and the parenting skills of both parents and, mainly, the emotional relations of the minor to the complainant and secondary party were clarified." She repeated that she had not agreed and did not agree with the minor being placed in shared custody, but in this she was guided "solely and merely by the interests of the minor (…)", and expressed a belief that "(…) the minor would not handle mentally the pattern of being raised through shared custody, and her further development would be principally disturbed". According to her statement, shared custody "is preconditioned also by mutual communication between the parents and the ability to find accord, which is something the parents of the minor are not able to do, which is also shown by the evidence presented." The interest of the mother in the healthy physical and mental development of the minor should not be held against the mother, or taken as an infringement of the constitutionally guaranteed fundamental rights and freedoms of the complainant or the minor. She considered the parenting schedule as established to be so extensive that it "provides the father with vast scope for contact with the minor and, in particular, for participating in her upbringing." In her opinion, the complainant "does not intend to respect the rights of the minor, in particular the right to healthy mental and physical development, when he is not able to accept the psychological condition of the minor as has existed for a considerable time, and her emotional fixation to the mother". In the conclusion, she proposed that the Constitutional Court deliver a judgment whereby the Constitutional Court would completely dismiss the constitutional complaint; she also expressed her approval of dispensing with an oral hearing.

17. The secondary party, minor Jana Š., through her guardian, the Municipal Office in Domažlice, the department for social and legal protection of children, in a filing dated 2 February 2010, pointed out that they were not submitting any opinion concerning the constitutional complaint, since "it is a procedural matter". The statement of the guardian consisted merely of a report on the circumstances in which it is stated that both the father and mother had managed an improvement in mutual communication, but their disagreement concerning shared custody still

lasted. Within the conclusion, approval of dispensing with an oral hearing was granted.

18. The statements by the party to the proceedings and the secondary parties to the proceedings were sent to the complainant so he could reply. In his filing dated 15 February 2010 he repeated that he insisted on the constitutional complaint and repeated the decisive circumstances specified already in the petition for initiation of proceedings. He accentuated that both the court of appeal and the expert agreed that a shared upbringing would be the most suitable option for the minor, and yet this manner of upbringing was, in relation to the father, only imperfectly replaced with the given scope of contact with the minor. By this, parental rights are allegedly inadmissibly restricted, because, as a result of the judicial decision, the mother has the minor in her care, during a period of 14 days, for 10 days, while the father gets only 4 days and 7 hours. The complainant concluded that, with respect to all the circumstances on the part of both parents and their respective environments, a shared upbringing is in the interest of the minor, when such a method of upbringing would provide the child with a better share of paternal as well as maternal love and establish a precondition for her balanced mental and physical development. Approval of dispensation of an oral hearing was granted.

IV.

19. Pursuant to Article 83 of the Constitution of the Czech Republic (hereinafter referred to only as the "Constitution"), the Constitutional Court is a judicial body for protection of constitutionality, and exercises these powers, inter alia, by making decisions, pursuant to Article 87 paragraph 1, clause d) of the Constitution, over constitutional complaints against final decisions or other encroachments by public authorities infringing constitutionally guaranteed fundamental rights and basic freedoms [cf. also the provisions of § 72 paragraph 1, clause a) of the Act on the Constitutional Court]. The Constitutional Court is not a part of the system of ordinary courts and is not called upon to undertake appellate reviews of their decisions; if a constitutional complaint is aimed against a decision of ordinary courts, it is therefore in itself not important whether its substantive erroneousness is claimed. The powers of the Constitutional Court are given exclusively with respect to the review of decisions from the viewpoint of compliance with principles of constitutional law; that is whether the constitutionally guaranteed rights of the parties were not aggrieved in proceedings (and subsequently by a decision issued in such proceedings), whether proceedings were administered in line with these principles, and whether such proceedings as a whole may be considered fair.

20. When the complainant contested the verdicts of judgments of the ordinary courts in relation to entrusting the minor to an upbringing by the mother, the task of the Constitutional Court is primarily to evaluate whether the ordinary courts through such decisions violated any fundamental rights and basic freedoms of the complainant. Such violation could occur in particular by the courts excessively failing to respect the very provisions of a common enactment, in this case in particular the provisions of § 26 paragraph 2 and § 50 paragraph 1 of Act No. 94/1963 Coll. on Family, as amended by later regulations. Besides, as the Constitutional Court has adjudicated on several occasions, it is, as a matter of

principle, up to the ordinary court to evaluate the conditions of entrusting a child to an upbringing by one or the other parent. Therefore, in assessing the constitutional complaint submitted, it is necessary to deal first with the issue whether the ordinary courts, when deciding on the regulation of the exercise of parental responsibility and determination of contact with the child, respected the contents and meaning of the relevant statutory provisions.

21. It was unambiguously proven in proceedings before courts that entrusting the child to shared custody is in the best interest of the child and appears to be optimal for her; the obstacle was merely the tender age of the child and disapproval of the mother. The obstacle of such youth of the minor was to be removed at the time when the child could start attending nursery school; prior to such time, the expert did not recommend shared custody for the reason of the tender age of the child. The obstacle of the child's youth was therefore removed as soon as she completed the third year of her life; that was at the time of proceedings before the court of appeal.

22. The remaining and thus final obstacle to a shared upbringing was the alleged disapproval of the mother, which, however, was substantiated only sporadically, and frequently represented solely the interests of the mother, not the child. Yet, the courts inclined to the proposal of the mother and entrusted the minor to an upbringing solely by her. As is inferred from the reasoning, they did so because they did not find conditions suitable for a shared upbringing.

23. Shared upbringing particularly requires from the parents tolerance, shared will and the ability to communicate and co-operate together (and especially not to involve the child in their mutual problems). However, the court must not dismiss this form of upbringing once one of the parents pro forma disagrees with this manner of upbringing. If such disapproval is merely obstructive, not substantiated by anything and lacking relevance in relation to the upbringing of the child, the court may not justify its decision through such disapproval. Therefore, in the Constitutional Court's opinion, a crucial issue has arisen in this case, that is, why the mother is not willing to co-operate and communicate, and why she is lacking the willingness and maturity to participate in the child's upbringing with the father, and to co-operate with him, in the best interest of their young daughter.

24. The Constitutional Court emphasises that entrusting a child to an upbringing solely with one of the parents must not be an expression of a concession to the mutual rivalry of the parents, this being focused solely on a "struggle over the child", and possibly mean motives on the part of one of the parents for harrowing the other through their own child. The courts may and should utilise the means provided to them by the Family Act [for example, the provisions of § 43 paragraph 1, clause a), and § 44], by which they can admonish one of the parents who, be it purposely or negligently, obstructs the public interest in the proper upbringing and development of the personality of the child (partially expressed, for example, in the provisions of § 26 paragraph 3 of the Family Act).

25. The Convention on the Rights of the Child, adopted on 20 November 1989 in New York, promulgated through Notification by the Federal Ministry of Foreign Affairs of the Czech and Slovak Federative Republic No. 104/1991 Coll., in Article 3

paragraph 1, determines that “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Bodies of states are addressees also of Article 18 paragraph 1, which declares that “States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.”

26. Also the Charter, in Article 32 paragraph 1, in connection with paragraph 4, determines that parenthood and the family are under the protection of the law, and it is the parents’ right to care for and raise their children; children have the right to an upbringing and care from their parents. Parental rights may be limited and minor children may be removed from their parents’ custody against the latter’s will only by the decision of a court on the basis of the law.

27. The provisions of § 26 paragraph 4 of the Family Act impose on the court that the same, when making a decision on entrusting a child to an upbringing by the child’s parents, pursues first of all the best interest of the child with respect to their personality, in particular their aptitudes, abilities and developmental possibilities, and with respect to the living conditions of the parents. The court must see there is respect for the right of the child to care by both parents, the maintenance of regular personal contact with the parents and the right of the other parent, to whom the child is not entrusted, to regular information concerning the child. The court should also take into account the emotional bonds and background of the child, and the parenting skills and responsibilities of the parent, the stability of the future environment for such an upbringing, the ability of the parent to find agreement concerning the upbringing of the child with the other parent, the emotional bonds of the child to their siblings, grandparents and other relatives, as well as financial security from the parent, including housing conditions.

28. As for compliance with the Convention on the Rights of the Child, the above-quoted provisions did not attract the proper attention of the courts. The ordinary courts did not sufficiently focus on evidence, or allowed the mere statement of the mother to influence the decision on the case’s merits, without the reasons for such a statement being subjected to the test of the capability to infringe the child’s interest, and, therefore, the courts were not able to ascertain which of the parents facilitates greater latitude for an upbringing by the other parent in the best interest of the child (provided that both are interested in her upbringing and are eligible for the same). Indubitably, the main interest of the child is that the child is under the care of both parents, and if this is not possible, then under the care of the parent possessing better preconditions for the provision of such care, who, inter alia, acknowledges the role and importance of the other parent in the life of the child, and is also convinced that the other person is a good parent too. In the case under consideration, the ordinary courts did not pay sufficient attention to the statements of the mother and did not ascertain reasons for which the mother of the minor is not willing to co-operate with the father of the child in a shared

upbringing, even though he declared such willingness before the court of first instance as well as the court of appeal.

29. When the courts supported their decisions by the statements or disapproval of the mother, and such disapproval was in fact the only obstacle to a verdict on a shared upbringing for the minor (as an optimal option completely satisfying the child's interests, as declared by the expert), then the courts must submit the same to examination and make it a subject of evidence, this even without proposal to such effect. Disapproval of the mother concerning shared custody may only be relevant when it is founded on reasons which are capable of intense negative infringement of the interests of the child. The court does not need to examine such evidence, when disapproval of the parent is merely based on clearly irrational or non-reviewable reasons. If such irrational or non-reviewable reasons are concerned, or if it is proven within the proceedings that such disapproval is based on reasons which provably do not have any negative impact on the interests of the child, courts cannot found a decision, through which they do not grant the petition for entrusting the child to shared (common) custody, on such a disapproval. The point is that any opposite course of action is in conflict with the fundamental right of the other parent to a fair trial pursuant to Article 36 of the Charter, and also an infringement of their fundamental right to raise and care for their child according to Article 32 paragraph 4 of the Charter, but also of the fundamental right of the child to an upbringing and care from their parents pursuant to the same article of the Charter.

30. Under this condition, when the child was entrusted to an upbringing with the mother, it is necessary to reproach, from the viewpoint of constitutional law, the ordinary courts for the lapses specified above. The decision was not supported by relevant factual findings on one hand and factual and legal conclusions derived from the same on the other. However, with respect to other points, it must be stated and highlighted that the courts very accurately reflected the material circumstances which took place during the judicial proceedings, and so made it possible for the Constitutional Court to be able to create its own faithful and realistic portrait of the conduct of both parents in this case.

V.

31. Beyond rationis decidendi, as obiter dictum, in connection with decision making on the case in question, the Constitutional Court refers to the fact (similarly as at the time when the Supreme Administrative Court, as foreseen by the Constitution, did not exist – see in particular Judgments in cases file Nos. IV. ÚS 136/97, III. ÚS 142/98, III. ÚS 206/98, III. ÚS 187/98) that the Constitutional Court is forced, in cases under § 237 paragraph 2, clause b) of the Civil Procedure Code, to undertake, in necessary cases, correction of legal opinions, which would, however, otherwise pertain to the Supreme Court. The present "system" of proceedings on an appeal on a point of law acknowledges neither a means of correction of a judicial decision nor a means of unifying case law on the issues in question other than a constitutional complaint, which is undoubtedly an undesirable situation and one which does not correspond to the principles of execution of justice in a law-based state.

32. The Constitutional Court states that the Regional Court in Pilsen has violated, pursuant to the above-specified provisions of the Charter of Fundamental Rights and Basic Freedoms, the Convention on the Protection of Human Rights and Fundamental Freedoms, and the Convention on the Rights of the Child, the fundamental right of the complainant to a fair trial and the right to bring up and care for a child.

33. The Constitutional Court, therefore, concludes that it grants the constitutional complaint, pursuant to Article 87 paragraph 1, clause d) of the Constitution, this for the reasons specified above, and therefore, according to the provisions of § 82 paragraph 3, clause a) of the Act on the Constitutional Court, decided by its Judgment in such a manner as specified in the verdict.

Note: Appeal against a decision of the Constitutional Court is not admissible.