2005/07/14 - PL. ÚS 23/04: CHAMBER RESOLUTIONS

HEADNOTES

The correctness of the wording of the prepared resolution of a Chamber is confirmed by its Chairman's signature [§ 29 par. 1 let. i) of the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic]. However, we must distinguish between constitutional material, which is the nature of signatures of constitutional bodies on an enacted statute under Art. 51 of the Constitution of the CR, which concerns a component of the constitutionally prescribed legislative process, and the nature of the signature of the Chamber's Chairman on a Chamber resolution, which concerns a regulated issue. Because such a resolution is also a public law act, it is necessary for its correctness to be confirmed by the body's designated official to certify that the proposal was approved in accordance with the specified procedure according to constitutional regulations, the rules of procedure, and more detailed rules contained in the chamber's resolutions, and that it is an authentic resolution of the Chamber. Therefore, the signature of a Chamber's Chairman, as a signature of a public law act, has not only a declaratory function, but also an identifying and verifying function. The Chairman can not refuse to sign, just as he can not correct substantive mistakes and errors. Therefore, his signature does not have a confirming function. His task is, with the assistance of the Chamber's other bodies (reporters, verifiers) and the apparatus of the office of the Chamber, to ensure that the final expression of the Chamber's will was also formulated in accordance with the requirements for a statute in a democratic law-based state (to be certain, clear, organized, understandable, unambiguous, consistent, and linguistically and stylistically error-free).

It is not the task of the Constitutional Court to interpret the results of voting on individual amending proposals and their consequences for the outline of a draft act as a whole in connection with other provisions of the draft and legislative technical rules. Its role is to interpret the constitutional text in relation to statutes promulgated in the Collection of Laws. The manner in which a statute was passed and promulgated is subject to the review of the Constitutional Court only in the scope provided by the constitutional order (in particular, Art. 1, Art. 39 par. 1 a 2, Art. 41, Art. 44 to Art. 48, Art. 50 to Art. 52 of the Constitution of the CR). Therefore, the subject of the Constitutional Court's review is the approved text of a statute; the records from Chamber discussions serve as the main evidence in evaluating one component of the three aspects of evaluation, i.e. observance of the constitutionally prescribed manner of enacting a statute. The record fulfills an official function, whereas a shorthand transcript fulfills only an informative function.

The Constitutional Court's intervention in the autonomous area of Chamber resolutions would open wide discretion for the Constitutional Court to interpret in its decisions what the relevant Chamber of the Parliament of the Czech Republic actually resolved, without it yet having become part of the legal order. By doing so it would replace their autonomous decision making and simultaneously violate the principle of separation of powers. However, § 66 to 68 of the Act on the Constitutional Court indicate that the subject matter for review are legal regulations which are promulgated in a statutorily provided manner, not the resolutions of Chambers, which are yet to become such

regulations. The compentencies of individual constitutional bodies and constitutional officials, beginning with the verifiers in the Chambers and ending with the officials specified in Art. 51 of the Constitution of the CR, have been established in order to ensure consistency between the will of a Chamber and its resolution.

CZECH REPUBLIC

CONSTITUTINAL COURT

JUDGMENT

IN THE NAME OF THE CZECH REPUBLIC

The Plenum of the Constitutional Court composed of Stanislav Balík, František Duchoň, Vojen Güttler, Pavel Holländer, Ivana Janů, Jiří Mucha, Jan Musil, Jiří Nykodým, Pavel Rychetský, Miloslav Výborný, Eliška Wagnerová a Michaela Židlická decided on 14 July 2005 in the matter of a petition from a group of senators of the Senate of the Parliament of the Czech Republic, represented by JUDr. K. K., attorney, seeking the annulment of Act no. 361/2003 Coll., on the Service Relationship of Members of Security Forces, with the participation of the Chamber of Deputies of the Parliament of the Czech Republic and the Senate of the Parliament of the Czech Republic, as parties to the proceedings, as follows:

The petition is denied.

REASONING

I.

On 26 April 2004 the Constitutional Court received a petition under § 64 par. 1 let. b) of Act no. 182/1993 Coll., on the Constitutional Court (the "Act on the Constitutional Court"), in which a group of 26 senators of the Senate of the Parliament of the Czech Republic (the "petitioner"), represented by senator MUDr. K. T., turns to the Constitutional Court with a petition to annul Act no. 361/2003 Coll., on the Service Relationship of Members of Security Forces. It sees as unconstitutional circumstances consisting of the manner in which the draft of the Act was enacted.

The petitioner described how the draft of this Act was discussed and approved in both Chambers of the Parliament of the Czech Republic in the time from its submission to the Chamber of Deputies of the Parliament of the Czech Republic on 18 March 2003 until its final approval on 23 September 2003. Specifically, it stated that the draft was submitted by the government and distributed to the deputies as publication no. 256/0. In the first reading it was assigned to the to the Defense and Security Committee, which recommended that it be approved, as amended by 50 amending proposals (resolution no. 256/2). The draft, without amending proposals, was also discussed by the Committee for European Integration. In the reading at the 18th session of the Chamber of Deputies of the Parliament of the Czech Republic the deputies raised another 46 amending proposals. All the proposals were then assembled as publication no. 256/3. In the third reading, at the 18the session on 2 July 2003 deputy Langer raised a proposal for legislative-technical correction of his amending proposal identified as letter E4 in publication no. 256/3. No other proposals were made. The draft Act was subsequently approved, as amended by the amending proposals thus approved, by resolution no. 581.

The draft of the approved Act was delivered to the Senate of the Parliament of the Czech Republic on 17 July 2003. Based on committee recommendations which pointed to the inconsistency between the wording approved by the Chamber of Deputies and the wording submitted to the Senate of the Parliament of the Czech Republic, the Senate of the Parliament of the Czech Republic, at its 9th session on 7 August 2003 removed this draft from the session agenda. The Chairman of the Senate of the Parliament of the Czech Republic called on the Chairman of the Chamber of Deputies to send to the Senate of the Parliament of the Czech Republic for further discussion the wording of the draft Act that was actually approved by the Chamber of Deputies. The Senate of the Parliament of the Czech Republic received the draft Act again on 13 August 2003 with a new deadline to discuss it, which was to expire on 12 September 2003. In discussions of this draft, on 10 September 2003 some senators again pointed to the fact that even in the second submission the inconsistencies had not been removed. Concerned that the deadline for discussion would expire on 12 September 2003, the senators discussed the draft without asking for a new one to be delivered. Therefore, at its 10th session on 10 September 2003 the Senate of the Parliament of the Czech Republic returned the draft Act to the Chamber of Deputies with amending proposals (resolution no. 197) and added the accompanying resolution no. 198, in which the Senate of the Parliament of the Czech Republic states that the wording of the draft Act, even after the second delivery by the Chamber of Deputies on 13 August 2003, was not identical to the wording approved by the Chamber of Deputies. It was determined that out of 13 differences found, listed in the appendix to the draft, only one difference had been removed, in § 10 of the draft Act.

The Chamber of Deputies voted on the draft again at its 20th session on 23 September 2003; it did not approve the draft in the version of the amending proposals from the Senate of the Parliament of the Czech Republic, and approved the wording, which had been submitted to the Senate of the Parliament of the Czech Republic on 13 August 2003, not the wording originally submitted to the Senate. The president signed the Act on 13 October 2003, although evidently, according to the petitioner, he could not have known about the defects in the foregoing process, where the Chamber of Deputies arbitrarily

amended the draft, and thus he could have been de facto mistaken. Therefore, the legislative process was burdened by a defect, was irregular, and the procedure by which the Act was passed shows unconstitutional defects.

The petitioner pointed out the following as decisive facts:

1. The constitutional foundations for the process of enacting statutes are provided by the Constitution of the CR in Art. 41 to Art. 52, and in this case the decisive provision is Art. 45, which provides that the Chamber of Deputies of the Parliament of the Czech Republic shall submit a draft act which it has approved to the Senate of the Parliament of the Czech Republic. The petitioner pointed to Constitutional Court judgment promulgated as no. 476/2002 Coll., under which the authority of the Chamber of Deputies of the Parliament of the Czech Republic is exhausted by passing a resolution which approves a draft act, and the draft can not be amended outside the scope of that decision;

2. The Chamber of Deputies of the Parliament of the Czech Republic approved the draft act in question in a wording which, in thirteen places, was not identical to the wording which the Chamber of Deputies of the Parliament of the Czech Republic submitted to the Senate of the Parliament of the Czech Republic. Thus, this was not a draft act under Art. 45 of the Constitution of the CR, and it simultaneously violated Art. 46 of the Constitution of the CR, which governs the position of the Senate of the Parliament of the Czech Republic in approving a draft act;

3. According to the petitioner, this procedure affects the constitutional principles of separation of powers within the legislative power under Art. 45 to 48 of the Constitution of the CR and representative democracy under Art. 2 par. 1 of the Constitution of the CR;

4. This also violates the principle of a law-based state under Art. 1 of the Constitution of the CR and Art. 2 of the Charter of Fundamental Rights and Freedoms (the “Charter”). According to the petitioner, the deviation by the Chamber of Deputies of the Parliament of the Czech Republic from the constitutionally provided legislative process here establishes elements of arbitrariness and the impossibility of supervising the exercise of power, if the opportunity to correct it by the Constitutional Court’s review did not exist. In this regard the petitioner again pointed to judgment no. 476/2002 Coll., which emphasized the requirement of a procedurally flawless process, including a distinct moment when the decision-making process in the Chamber of Deputies of the Parliament of the Czech Republic ends, which is supposed to prevent potential usurpation of power which does not belong to the Chamber of Deputies of the Parliament of the Czech Republic.

The petitioner stated that analysis of the importance and effects of the total of 13 affected provisions is beyond the framework of the petition. In its opinion, the violation of constitutionality burdens the Act as a whole, and therefore it can not be applied only to those provisions. Moreover, annulling only one of these provisions could not renew the text

as really approved. Nonetheless, in its filing of 11 November 2004 the petitioner supplemented its petition with a statement from its legal representative, whereby it responded to the statement from the Senate of the Parliament of the Czech Republic (see below). In it, the petitioner disagrees with the manner in which the statement from the Senate of the Parliament of the Czech Republic evaluates the changes implemented under points 2), 6) to 9), 11), and 13), and demonstrates that the statement that the legislative-technical editing of the Act did not change the draft either in terms of content or legally must appear very deceptive and unacceptable. Likewise, it does not agree with the opinion that was marginally expressed in the position statement from the Senate of the Parliament of the Czech Republic, i.e. that the decisive element for a valid petition to annul a statute is presenting the inconsistency of the statute's content with the constitutional order, and only within that review can it also be determined (derivatively) whether a statute was issued in a constitutionally prescribed manner.

Therefore, the petitioner, with reference to violation of Art. 45, Art. 46 to Art. 48 and Art. 50 of the Constitution of the CR in the process of approving the draft act, stated that the legislative process was violated, which is inconsistent with Art. 2 par. 1 of the Constitution of the CR and Art. 2 par. of the Charter. Therefore, the approved Act conflicts with the constitutional order of the CR under Art. 87 par. 1 let. a) of the Constitution of the CR. Because the draft Act was not passed within the bounds of constitutionally provided jurisdiction and in a constitutionally prescribed manner (§ 68 of the Act on the Constitutional Court), the petitioner proposed that it be annulled.

II.

After receiving the petition, the Constitutional Court concluded that it meets the conditions for proceedings before the Constitutional Court. It found no grounds for stopping proceedings under § 67 of the Act on the Constitutional Court or to reject the petition under § 43 of that Act. Although the contested Act has been amended in the interim by Acts no. 186/2004 Coll., no. 436/2004 Coll., no. 586/2004 Coll. and no. 626/2004 Coll., in view of the content of the petition and the nature of the claimed defects, that could not affect continuing review of the petition. The petition was filed by an authorized petitioner under § 64 par. 1 let. b) of the Act on the Constitutional Court. Therefore, the Constitutional Court, pursuant to § 69 par. 1 of the Act on the Constitutional Court, called on the Chamber of Deputies of the Parliament of the Czech Republic and the Senate of the Parliament of the Czech Republic, as parties to the proceedings, to provide position statements in response to the petition. In addition, in view of the fact that the President acted in error when signing the Act, he was also asked for a position statement.

The statement on behalf of the Senate of the Parliament of the Czech Republic was provided by its then-Chairman, doc. JUDr. P. P., who stated, regarding the issue of permissibility of legislative-technical editing of draft acts, or the permissibility of a certain extent of such editing, that these issues were addressed by debate in the Senate of the

Parliament of the Czech Republic when discussing the draft Act on the Service Relationship of Members of Security Forces (Senate publication no. 135) at the 10th session of its 4th term of office on 10 September 2003. During debate, the opinion was expressed that the criticized changes to the draft Act, which the petitioner lists in its filing with the Constitutional Court as nos. 2 to 13, are permissible legislative-technical editing of the draft. This opinion was then in a certain sense reflected in the majority decision of the Senate of the Parliament of the Czech Republic, in which the Chamber accepted the draft Act, when, on 10 September 2003, it passed resolution no. 197, whereby it returned the draft Act to the Chamber of Deputies of the Parliament of the Czech Republic with amending proposals, which, however, were not related to the items at issue, nos. 2 to 13. During debate in the Senate of the Parliament of the Czech Republic there were also strongly expressed opinions doubting the legitimacy of certain kinds of legislative-technical changes. These doubts of the Senate of the Parliament of the Czech Republic were reflected in the resolution passed by the Chamber, resolution no. 198 of 10 September 2003, which points out that the wordings are not identical.

The position statement also says that it is necessary to agree with the petitioner that the passed draft Act can no longer be amended. Of course, the draft must be distinguished from the subsequent legislative-technical editing of the text of the Act. That is no longer creation of a statute, it does not create, change or annul anything, but merely edits the draft according to the will of the legislature. Typically, these are changes which arise logically from the approved amending proposals, where not implementing them in the appropriate provisions of the draft act would interfere with the unity of the amendment intended by the legislature. In other words, legislative-technical editing can not be used to substantively or legal change the draft act in the least, because that is reserved solely to the amending proposals of the legislature (making law). Moreover, legislative-technical editing is supposed to contribute only to removing formal defects in the draft act and to the clarity of its organization.

The Act on the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic covers legislative-technical edits caused by the deputies in the third reading. Editing in the third reading is generally used for correction only in certain cases of very simple texts. It is practically unimaginable that the outlines of statutes which are attacked by tens, and not infrequently hundreds, of amending proposals, would be left without final legislative-technical editing after the Chamber approved the draft act. It is impossible to predict which amending proposal will be accepted in the end, and so new variations for the organization of the entire text are created “on the run.” Nevertheless, even this editing can not rule out omissions, errors, etc., because it is human activity. In this regard, the Chairman of the Senate of the Parliament of the Czech Republic stated that the absolute necessity of conducting legislative-technical editing has been recognized in Czechoslovak and Czech legislative practice since at least the nineteen nineties, and is now a firmly accepted custom. If the final legislative-technical editing were removed, it would be necessary to substantially change the rules of the legislative process (making of laws) in the area of presenting amending proposals in the Chambers of the Parliament of the Czech Republic, including a thorough implementation of the principle of reflecting a submitted amending proposal in other provisions of the draft act and the rules for voting

on them.

The answer to whether there was deviation from the bounds of legislative-technical editing, and thus a content or legal change in the draft Act as opposed to the form approved by the Chamber of Deputies of the Parliament of the Czech Republic, must be sought in specific analysis of the 13 presented cases, the amended provisions of the draft Act in question. Therefore, the Senate described the characteristics of these changes in the text of the government draft Act (Chamber of Deputies publication no. 256), as the petitioner identified them as nos. 1 to 13. In this regard, the position statement said the following in response to the individual differences identified by the petitioner:

Re point 1. Replacement of the words “less than” by the words “more than” was an impermissible change. Bodies of the Chamber of Deputies of the Parliament of the Czech Republic corrected the text in the newly submitted draft Act.

Re point 2. This was a change caused by approval of amending proposal A5 (paragraph 2 was deleted in § 7). This change made the alternative “referent or chief referent” and “chief referent or assistant” in § 26 par. 3 pointless and confusing, because change A5 removed an idiosyncrasy in which the lowest service rank of “referent” was reserved only for the Fire Brigade, while for other security forces the scale began with the rank “chief referent.”

Re point 3. Amending proposal G5 added to the alternative items of paragraph 5 in § 42 a new item, which is quite undoubtedly another alternative (the context does not allow another selection) and therefore the conjunction “or” was moved from its position between the first and second items to a position between the second and third items.

Re point 4. The conditions for providing service leave specified in § 69 par. 4 were not, unlike conditions for other kinds of leave, sufficiently understandably attached to the reasons for leave under § 68. Adding the words “under § 68 par. 5 let. d)” made the text fully understandable.

Re point 5. The government version of § 95 par. 4 used a reference to a specific provision of another legal regulation, which is considered a legislative-technical error. Under the settled rules of practical legislation (including, among other things, under Art. 45 of the Legislative Rules of he Government) the content of the regulation is described, with a reference to the special legal regulation and a citation in a footnote. This change was made correctly.

Re point 6. the phrase “director of the security force” was correct use (reflection) of a legislative abbreviation introduced in § 1 par. 2 into all the subsequent provisions of the Act. The legislative-technical error was corrected.

Re point 7. The reason for shortening the reference “under § 54 par. 2 and 3” to “under § 54 par. 2” was evident. Paragraph 3 contained only a general definition of overtime service, although the reference is aimed at only a particular reason for overtime service.

Re point 8. The provision of § 131 (§ 127) refers to provisions governing those components of the remuneration of the director of a security service, which are set by his supervisor. Deleting the reference to § 114 was justified, because it sets a “fixed” basic rate for every service remuneration, which is given by law, i.e. without the possibility of it being affected (changing the amount) by the supervisor. Deleting the reference to § 114 from § 131 (§ 127) was a legislative-technical change to prevent confusing redundancy.

Re point 9. The change in the wording of the heading was probably not a necessary change. The changed heading states the same facts in different words. However, this change obviously has no effect on the substantive or legal aspect of the regulation.

Re point 10. Paragraph 7 of § 138 (§ 134) contained an assurance that the regulation of entitlement to compensation in kind did not apply to the director of the Security Information Service, because his compensation in kind is regulated by a special Act, i.e. Act no. 236/1995 Coll., on the Remuneration and Other Benefits Connected with Performance of the Position of Representatives of State Authority and Certain State Bodies and Judges, which, in chapter six, regulates the remuneration and compensation in kind of the director of the Security Information Service. If we look at part twenty four of Act no. 362/2003 Coll., on Amendment of Acts Related with the Passage of the Act on the Service Relationship of Members of Security Forces, we will find that the effective date for § 138 (§ 134), with paragraph 7 removed, is the same as the effective date for the repeal of chapter six of Act no. 236/1995 Coll. This legislative-technical change was the result of the parallel expression of the legislature’s intent.

Re point 11. The provision of § 153 (§ 149) par. 1 provides an entitlement to compensation of travel expenses, if a service member is transferred for various reasons to a different workplace. One of the reasons was stated by reference to § 27. By reading this provision, we find that it concerns the transfer of a director of an intelligence service within the same workplace. The edit removed the inconsistency between the two provisions.

Re point 12. The obviously erroneous reference to § 157 (§153), i.e. common provisions, was replaced by a correct reference to § 153 (§ 149), i.e. the conditions for entitlement to reimbursement of travel expenses. The legislative-technical error was removed.

Re point 13. The appendix to the Act here is only a passive review of the requirements (brief information on the requirements) of various tariff classes. There is no doubt that the requirements themselves are provided in § 7. Thus, the change of the appendix in the part for the eighth tariff class – a bachelor’s degree for the chief commissioner – merely reflected the change established by amending proposal G1 in § 7 par. 1 let. h), that means

a bachelor's degree for the chief commission in the 8th tariff class. The change was the result of a determining amending proposal by the legislature.

Based on the analysis of the abovementioned 13 cases of changes, the Chairman of the Senate of the Parliament of the Czech Republic concludes that one can distinguish, on the one hand, a change which causes a substantive or legal change in the draft Act (the case in no. 1), which must clearly be rejected as impermissible, and, on the other hand, permissible legislative-technical changes (all the other cases), which can be further divided into two subgroups according to the reason for the editing. First, there are changes that are a rational consequence of an approved amending proposal (the cases in nos. 2, 3, 10 and 13). These are in a certain sense forced, they ensure harmony between the amending proposal and the environment into which it is to be inserted. These changes are the most typical kind of legislative-technical change. Second, there are unforced changes, implemented by the editors to improve the legislative-technical level of the text of the statute, such as minor changes to remove obvious mistakes, inconsistencies and redundancies, and changes made to improve the understandability of the text (the cases in nos. 4 to 9, 11 and 12). Although these too are changes which do not change the substantive or legal condition of the draft Act, the degree of initiative taken in this kind of change can vary, so their use is problematic in a certain sense. The use of editorial legislative-technical changes is more an exception in final editing practice, and is limited to blatant cases of error.

As regards the objection of repeated submission of the draft act, the statement says that the position of the Senate of the Parliament of the Czech Republic on these issues can be deduced from some of its acts, conduct, or from the behavior of its bodies. After the Chamber of Deputies of the Parliament of the Czech Republic submitted the draft Act to the Senate of the Parliament of the Czech Republic on 17 July 2003, the constitutional 30-day deadline for discussing the draft began to run, and was to expire on 18 August 2003. The Senate of the Parliament of the Czech Republic removed the submitted draft Act (Senate publication no. 135) from the agenda of its 9th session on 7 August 2003, i.e. 11 days before the deadline expired. The Chairman of the Chamber of Deputies of the Parliament of the Czech Republic found that in the case of § 10 par. 2 the submitted text of the draft Act contained an unjustified substitution of the words "less than 5 years" for the words "more than 5 years," and sent the corrected wording to the Senate of the Parliament of the Czech Republic on 13 August 2003 (i.e. before the expiration of the deadline for discussion which ran from the date of the first submission) with the assumption on both sides that this new submission eliminated the effects of the previous submission, and the 30-day deadline began to run anew. By its subsequent conduct, the Senate of the Parliament of the Czech Republic undoubtedly accepted the new submission, as it discussed the newly submitted draft Act by the deadline of 12 September 2003 and returned it with amending proposals (see resolution no. 197 of 10 September 2003 at the 10th session of the Senate of the Parliament of the Czech Republic). Likewise, the Chamber of Deputies of the Parliament of the Czech Republic, in its further legislative process relating to the returned draft Act, accepted the cited manner of amendment with the newly running 30-day deadline, when on 23 September 2003, at its 20th session, it duly

passed a resolution concerning the draft (resolution no. 645).

The Senate of the Parliament of the Czech Republic removed the draft Act from the session agenda with the knowledge that if the Chamber of Deputies of the Parliament of the Czech Republic (its Chairman) did not accept the possibility of sending the approved wording, the deadline for discussion of the draft Act by the Senate of the Parliament of the Czech Republic would expire. The Senate of the Parliament of the Czech Republic did not take any step which could give the impression that it was exercising powers not established by the Constitution. The subsequent agreement of both Chambers on removing errors was legitimized by the aim of preserving the original intent of the legislature. Debate in the Senate of the Parliament of the Czech Republic on the matter at its 10th session on 10 September 2003 was limited to stating the idea that the as-yet lacking statute on contacts between the two chambers was supplemented by parliamentary practice (precedent-setting conduct of the Chambers), which can be supported by an older resolution of the Senate of the Parliament of the Czech Republic, no. 316 of 5 April 2000. In it, the Senate of the Parliament of the Czech Republic interpretatively ensures that when an authorized text of a draft act is submitted by the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic the 30-day deadline under Art. 46 par. 1 of the Constitution of the CR begins to run anew, and the Constitutional deadline for previous versions is not taken into account. In addition, the Senate of the Parliament of the Czech Republic states in this resolution that only a draft act submitted to the Senate of the Parliament of the Czech Republic by the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic can be considered a draft act that the Chamber of Deputies of the Parliament of the Czech Republic approved under Art. 45 of the Constitution of the CR. By this resolution the Senate of the Parliament of the Czech Republic rejected previous attempts to handle certain corrections to a submitted draft act at the level of departments of the Office of the Chamber of Deputies of the Parliament of the Czech Republic.

Under § 29 par. 1 let. i) and § 68 par. 2 of the Act on the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic, by signing a draft act the Chairman answers for the fact that a submitted draft act is consistent with the will of the Chamber. In this regard the Chairman of the Senate of the Parliament of the Czech Republic pointed to the nature and function of the signature of the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic at the end of the approved draft Act. He emphasized the presumption that this action is correct, and the mutual respect for the position of both chambers in the legislative process. The Senate of the Parliament of the Czech Republic does not have the authority to review whether the process which the draft Act went through in the Chamber of Deputies of the Parliament of the Czech Republic is free of defects. If the Chamber of Deputies of the Parliament of the Czech Republic made an error, it is up to the Senate of the Parliament of the Czech Republic, to give it an opportunity to correct it. In its opinion, the legislative-technical editing of the draft Act on the Service Relationship of Members of Security Forces did not change the draft either in terms of content or legally, compared to the wording which was approved by the Chamber of Deputies of the Parliament of the Czech Republic, and which, with the exception of the provision later corrected, it submitted to the Senate of the

Parliament of the Czech Republic. The editing was apparently done with the level of intensity that has been in long-term use and has been observed long-term in parliamentary legislative practice. Likewise the repeated (corrected) submission of the draft Act did not violate the constitutional arrangement of balancing the legislative power or any other constitutional values and procedures, because it was done with de facto agreement by the bodies of both chambers of Parliament, which the Senate of the Parliament of the Czech Republic and the Chamber of Deputies of the Parliament of the Czech Republic later fully accepted. In the conclusion of the statement the Chairman of the Senate of the Parliament of the Czech Republic said that the petition to annul the Act in question does not appear justified, but it is solely up to the Constitutional Court to evaluate whether the Act is inconsistent with the constitutional order. Finally, peripherally, he added that the decisive element for a petition to annul a statute to be valid is the inconsistency of the statute's content with the constitutional order, and only within that review can it also be determined (derivatively) whether a statute was issued in a constitutionally prescribed manner.

In the statement from the Chamber of Deputies of the Parliament of the Czech Republic its Chairman, PhDr. L. Z., also pointed to the discussion of the draft of Act no. 361/2003 Coll. He emphasized that, in addition to observing the specified competence and constitutionally prescribed manner of passing a statute, it is necessary to take care that statutes also be understandable, unambiguous, and internally and externally consistent. This fact is all the more significant because, under the Constitution of the CR, detailed discussion of a draft act is supposed to take place primarily in the Chamber of Deputies of the Parliament of the Czech Republic, and the Senate of the Parliament of the Czech Republic does not need to consider certain draft acts at all, or if the Chamber of Deputies of the Parliament of the Czech Republic insists on its wording after the act is returned. Therefore the Chamber of Deputies of the Parliament of the Czech Republic must send the Senate basically "finished" statutes which also meet legislative-technical requirements. Of course, legislative-technical changes must not affect the substantive content of a statute, and may only remove certain instances of technical imprecision, contribute to meeting the purpose of the statute, because otherwise, in practice, insurmountable problems of interpretation could arise. These changes are performed by deputies who are committee rapporteurs in cooperation with a statute's proponent and the legislative department of the Office of the Chamber of Deputies of the Parliament of the Czech Republic, primarily during the 2nd reading of the draft. Changes of a legislative-technical nature can also be proposed in the 3rd reading. Even in this procedure one can not catch absolutely all changes, because a significant part may not be evident until the results of voting on individual amending proposals at the close of the 3rd reading. However, if such changes could affect the substantive content of the text, the text, together with these defects, is submitted to the Senate of the Parliament of the Czech Republic. In this regard the Chairman stated that the Chamber of Deputies of the Parliament of the Czech Republic, in an attempt to clarify these procedures, passed resolution no. 656 of 26 September 2003, which regulates the process of these changes and defines their scope. The Chamber of Deputies of the Parliament of the Czech Republic is aware of the conflict between the requirement to issue statutes without technical shortcomings and the requirement to issue statutes which precisely express its will. In the interests of resolving this conflict, it also passed an amendment to the Rules of Order of the Chamber of Deputies of the Parliament

of the Czech Republic, which, as of 1 September 2004 extended the period between the 2nd and 3rd readings from 24 hours to 72 hours.

As regards the problem itself, the statement says that all the cases of changes objected to involved only legislative-technical changes, including the change of the text of § 10 par. 2 of the draft Act. Therefore, precisely in the interest of preventing any subsequent doubts, the provision in question was changed and the draft was again sent to the Senate of the Parliament of the Czech Republic for new discussion. The Senate of the Parliament of the Czech Republic accepted this re-sent draft as eligible for discussion, and in fact discussed it. Therefore, the purpose of the accompanying resolution is somewhat unclear. The Chairman of the Chamber of Deputies of the Parliament of the Czech Republic emphasized that after a draft act is returned to the Chamber of Deputies of the Parliament of the Czech Republic with amending proposals from the Senate of the Parliament of the Czech Republic, the deputies are always given, in a Chamber of Deputies publication, the wording which was sent to the Senate of the Parliament of the Czech Republic for discussion (here, publication no. 256/4). Thus, if the Senate of the Parliament of the Czech Republic really discussed the submitted corrected wording of the draft Act with all the relevant changes, and then all deputies received this wording and decided that they would keep that wording, in his opinion, all the relevant changes were accepted by the Chamber of Deputies of the Parliament of the Czech Republic and recognized as justified, and implemented in accordance with the established procedure. The constitutionality of this was subsequently confirmed by the President and the Prime Minister. The Senate of the Parliament of the Czech Republic is competent to remove any substantive (content) defects in an approved statute. However, in the case of technical changes which have no effect on the substantive side of the statute and are determined before the draft act is sent to the Senate of the Parliament of the Czech Republic, these are changes implemented in accordance with constitutionally provided jurisdiction and in a constitutionally prescribed manner for passing statutes. He also pointed to the fact that by signing a statute or an accompanying letter he verifies and confirms that the legislative process took place in a constitutionally prescribed manner. Substantive changes can be made only until the final voting, which eliminates any arbitrariness. Technical changes are made before signing, and by signing, the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic de facto approves them and includes them in the text of the statute. Finally the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic stated that at the time of the statement the Act was not yet in effect, but could de facto already establish a number of relationships. Therefore the petition to annul it should also be evaluated in terms of the relationship between the alleged violation of constitutional procedure and possible interference in these relationships. However, it is up to the Constitutional Court to evaluate the petition and issue an appropriate judgment.

At the request of the Constitutional Court the president also responded to the petition; he stated that he did not believe that error on his part could have played a role when he signed the Act. He did not then, nor does he now, find any reason why he should have returned the Act to the Chamber of Deputies of the Parliament of the Czech Republic. The text of the Act was submitted to him by the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic under § 107 of its rules of procedure. He considers the

signature of the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic, pursuant to the Constitution of the CR and the rules of procedure, to be proof of the fact that he has been presented with the text of an approved statute.

III.

Under § 68 par. 2 of the Act on the Constitutional Court the Constitutional Court evaluates the content of statutes in terms of their consistency with constitutional acts, and determines whether they were passed and issued within the bounds of constitutionally provided jurisdiction and in a constitutionally prescribed manner. In the present case, out of these three elements, doubt is cast on observance of the constitutionally prescribed manner of passing and issuing Act no. 361/2003 Coll., on the Service Relationship of Members of Security Forces. The Chamber of Deputies of the Parliament of the Czech Republic passed this statute by voting on the draft again at its 20th session on 23 September 2003, having previously not approved the draft as amended by amending proposals from the Senate of the Parliament of the Czech Republic, and it passed the original wording submitted to the Senate of the Parliament of the Czech Republic by the Chamber of Deputies of the Parliament of the Czech Republic on 13 August 2003. The act was signed by the appropriate constitutional officials and was duly promulgated in part no. 121 of the Collection of Laws, which was distributed on 31 October 2003; the date of its entry into effect was changed by Act no. 626/2004 Coll. to be 1 January 2006.

According to the petitioner, the fundamental issue in the present matter is the manner in which the draft was changed after the end of the legislative process in the Chamber of Deputies of the Parliament of the Czech Republic after the 3rd reading at the 18th session held on 2 July 2003. In this regard, the Constitutional Court, after evaluating this question, concluded that the petition is not justified. It was guided by the following considerations.

As regards the situation which arose in August and September 2003, it must be pointed out that this is not analogous to the case of the amendment to the Commercial Code, which the Constitutional Court addressed in judgment no. 476/2002 Coll. and to which the petitioner refers in this regard. In 2001 there was an impermissible second voting in the Chamber of Deputies of the Parliament of the Czech Republic, whereas in the present matter voting took place only once, correctly and validly. The problem of inconsistencies and errors lies in the fact that the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic was to have confirmed, with his signature, the authenticity of the text, which, however, does not correspond to what the Chamber of Deputies approved, in the petitioner’s opinion. In contrast, in the case of the amendment to the Commercial Code by Act no. 501/2002 Coll. there was unity of opinion on what the Chamber of Deputies approved; the dispute was in whether it could have approved it. In the case of inconsistencies between the submitted draft Act which the Chamber of Deputies of the Parliament of the Czech Republic approved and the record of its discussion (amending proposals, voting on them) there is a different situation, which can not be resolved on the

basis of principles such as vote acquis or ne bis in idem.

Therefore, the Constitutional Court states that it is competent to decide on the annulment of statutes or individual provisions of them if they are inconsistent with the constitutional order. In doing so, it is required to be guided by the constitutional order and the statute which, under Art. 88 par. 1 of the Constitution of the CR regulates the rules of proceedings before the Constitutional Court. The Act on the Constitutional Court requires the Constitutional Court, when reviewing the constitutionality of statutes, to evaluate their content from the point of view of their consistency with constitutional acts, and to determine whether they were passed and issued within the bounds of constitutionally provided jurisdiction and in a constitutionally prescribed manner. In the present case the petitioner does not cast doubt on the content of Act no. 361/2003 Coll., or it claims that evaluation of the content of the Act would not lead to removing the defects connected to its enactment. It criticizes the process itself of passing the draft Act, on the grounds that it violated Art. 45, Art. 46 to Art. 48 and Art. 50 of the Constitution of the CR, which it also considers to be violation of Art. 2 par. 1 of the Constitution of the CR and Art. 2 par. 2 of the Charter.

The Constitutional Court did not agree with these objections of unconstitutionality. First, it is necessary to state that in the Czech Republic the process of enacting statutes is entrusted to a single body of the legislative power, the Parliament, which consists of two chambers. However, the enactment of a statute is a multi-layered and complicated process, which is only partly regulated by constitutional regulations. A significant role is also played here by other regulations of regulatory law, which are, on the one hand, norms contained in statutes on the rules of procedure of the chambers of the Parliament of the Czech Republic, and, on the other hand, resolutions by which the chambers of the Parliament of the Czech Republic, within the framework of statutes, regulate their internal relationships and more detailed rules of procedure for their plenary assemblies and their bodies. It can not be overlooked that a considerable portion of our parliamentary law has not yet been regulated. A statute has not been passed which, under Art. 40 of the Constitution of the CR, is supposed to specify the starting points of the rules of procedure of the chambers, and, in particular, the rules for contacts between them, as well as their conduct vis-à-vis the public. Therefore, a significant portion of the relationship between the chambers consists of parliamentary customs, interpretative resolutions, any informal agreements between their representatives, through which the chambers have been defining their relationship from 1996 until the present. However, for the Constitutional Court the binding criteria for evaluation in the present case are only the constitutionally defined rules for the legislative process. It did not, however, find that they had been violated.

Act no. 361/2003 Coll., on the Service Relationship of Members of Security Forces is an “ordinary” statute, which does not fall under the reservation of approval by both chambers of Parliament under Art. 40 of the Constitution of the CR. Therefore, for it to be duly enacted, it was necessary to observe all the rules of the legislative process, as defined by Art. 39 par. 1 and 2, Art. 41, Art. 44 to Art. 48, and art. 50 to Art. 52 of the Constitution of

the CR. These rules must be interpreted in the spirit of the fundamental provisions of the Constitution of the CR, in particular Art. 1 par. 1, under which the Czech Republic is a democratic, law-based state, which, under Art. 1 par. 2 observes the obligations arising to it from international law. The Constitutional Court did not find violation of the rules for submitting a draft act, as the exercise of the government's right of legislative initiative (Art. 41 par. 2), in relation to the Chamber of Deputies of the Parliament of the Czech Republic (Art. 41 par. 1). The Chamber of Deputies of the Parliament of the Czech Republic approved the draft Act in accordance with Art. 39 par. 1 in the presence of 178 deputies, by the required majority of 130 present deputies (Art. 39 par. 2). It submitted the approved draft Act without undue delay, pursuant to Art. 45, to the Senate of the Parliament of the Czech Republic, and did the same in response to its request to send an error-free text. The Senate of the Parliament of the Czech Republic discussed the received text of the draft Act within the specified deadline of 30 days (Art. 46 par. 1), specifically by 10 September 2003, so in the present case there was no need to consider the nature of that deadline and the measuring of it. The Senate of the Parliament of the Czech Republic approved the received draft with the knowledge that it was the re-sent draft Act. It voted on this draft under Art. 46 par. 2, and returned it to the Chamber of Deputies of the Parliament of the Czech Republic under Art. 47 par. 2 with amending proposals, which were approved, while observing Art. 39 par. 1, with the presence of the required one third of senators (specifically, 73 senators were present); 51 senators were in favor, i.e. the majority required by Art. 39 par. 2. The Chamber of Deputies of the Parliament of the Czech Republic discussed the returned draft Act again. The representative of the Senate of the Parliament of the Czech Republic, senator F. K., stated that, thanks to the cooperation of the leadership of the Chamber of Deputies of the Parliament of the Czech Republic, the publication was exchanged, and could be discussed with full validity at the next session of the Senate of the Parliament of the Czech Republic (shorthand transcript of the 20th session of the Chamber of Deputies of the Parliament of the Czech Republic. IV. election term, p. 60). The Chamber of Deputies of the Parliament of the Czech Republic voted on this draft by the deadline prescribed by its rules of procedure, and in a process pursuant to Art. 47 par. 2 did not approve the draft Act in the wording approved by the Senate of the Parliament of the Czech Republic, because the required majority out of 182 deputies present did not vote in favor of it; only 79 of the deputies present voted in favor. Subsequently, pursuant to Art. 47 par. 3, with a total of 108 out of 183 voting, i.e. a simple majority of all its members, it approved the draft Act in the wording in which the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic sent it to the Senate of the Parliament of the Czech Republic on 13 August 2003, at its request. The thus-approved Act was signed by the appropriate constitutional officials under Art. 51 and duly promulgated in the Collection of Laws in accordance with Art. 52 of the Constitution of the CR.

It is indisputable from the foregoing that the constitutionally specified rules of the legislative process were observed. The submitted documents concerning the constitutional level of the adjudicated matter indicate that both chambers agreed on the subject matter they were dealing with. The fact that the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic, within his regulatory authorization, granted the request from the Chairman of the Senate of the Parliament of the Czech Republic and sent the Senate of the Parliament of the Czech Republic a new text of the draft Act, thus opening a

new 30-day period for the Senate of the Parliament of the Czech Republic to discuss it, can not be considered to be a violation of the constitutional rules for the legislative process. The Chairman of the Senate of the Parliament of the Czech Republic presented the majority opinion of the Senate of the Parliament of the Czech Republic, expressed in voting no. 21 at the 9th session of the Senate of the Parliament of the Czech Republic on 7 August 2003. The fact that a group of 26 senators now considers that process to be unconstitutional is unjustified. The Senate of the Parliament of the Czech Republic expresses its will by voting under the conditions in Art. 39 par. 1 and 2 of the Constitution of the CR. The counterpart of the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic is the Chairman of the Senate of the Parliament of the Czech Republic, who presents the majority opinion of the Senate of the Parliament of the Czech Republic, not the opinion of a subsequently formed minority group of senators. The position of a majority obtained in each of the chambers and the identical subject matter of the voting, in the form of the draft Act on the Service Relationship of Members of Security Forces are therefore, for the Constitutional Court, undisputed. The decisive factor for the Constitutional Court's evaluation is the resolution of the Senate of the Parliament of the Czech Republic of 10 September 2003 no. 197, not the resolution in which the Senate of the Parliament of the Czech Republic states that the submitted wording of the draft Act is not identical to the wording approved by the Chamber of Deputies of the Parliament of the Czech Republic. This resolution, regardless of its ambiguity, has no effect on the validity of resolution no. 197, in which the Senate of the Parliament of the Czech Republic returned the draft Act in the wording of the approved amending proposals.

The Constitutional Court emphasizes the principle of autonomy in the chambers' decision making. Within the legislative process each chamber makes its decisions independently, and it is up to it what procedure it chooses for editorial work, for purposes of meeting technical legislative requirements. It is a matter for the rules of procedure and other rules (§ 1 par. 2 and § 71 the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic, § 1 par. 2 of the Rules of Procedure of the Senate of the Parliament of the Czech Republic), what means a chamber chooses for review of its resolutions (objections to the Chairman, verifiers, deadlines, etc.). It is not within the competence of the other chamber to review or even amend the resolutions of the first from that viewpoint. Therefore, the Senate of the Parliament of the Czech Republic must respect the acts of the Chamber of Deputies of the Parliament of the Czech Republic, which were duly prepared and signed by its Chairman, as required by the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic in § 29 par. 1 let. f), g), h) and i) and§ 68 par. 2 (approval of a record within 15 days), and duly submitted by the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic (not only the apparatus) to the Senate of the Parliament of the Czech Republic. Of course, the Senate has a number of possibilities for how to proceed, as regards the content, if it does not agree with the resolution of the Chamber of Deputies of the Parliament of the Czech Republic. Analogously, the Chamber of Deputies of the Parliament of the Czech Republic has constitutionally specified possibilities for how to handle a resolution on a draft act which the Senate of the Parliament of the Czech Republic returns to it. Even it, however, can not perform legislative-technical editing of the changes which the Senate of the Parliament of the Czech Republic makes in a draft Act which it returns, through the official route of its Chairman. That could be regulated by the statute anticipated by Art. 40 of the

Constitution of the CR. As yet, however, that statute has not been passed, and in practice disputed issues are resolved through parliamentary customs, which the chambers have created since 1996.

The correctness of the wording of the prepared resolution of a chamber is confirmed by its Chairman's signature. However, we must distinguish between constitutional material, which is the nature of signatures of constitutional bodies on an enacted statute under Art. 51 of the Constitution of the CR, which concerns a component of the constitutionally prescribed legislative process, and the nature of the signature of the chamber's Chairman on a chamber resolution, which concerns a regulated issue. Because such a resolution is also a public law act, it is necessary for its correctness to be confirmed by the body's designated official to certify that the proposal was approved in accordance with the specified procedure according to constitutional regulations, the rules of procedure, and more detailed rules contained in the chamber's resolutions, and that it is an authentic resolution of the chamber. Therefore, his signature, as a signature of a public law act, has not only a declaratory function, but also an identifying and verifying function in relation to that public law act. The Chairman can not refuse to sign (he does not have a suspending right), just as he can not correct substantive mistakes and errors which the chamber committed during voting. In final voting to approve a draft act even the Chamber of Deputies of the Parliament of the Czech Republic itself can not do this through new voting (see judgment no. 476/2002 Coll.). Therefore, his signature does not have a confirming function, as it might appear from the statement from the Chamber of Deputies of the Parliament of the Czech Republic. His task is, with the assistance of the chamber's other bodies (reporters, verifiers) and the apparatus of the office of the chamber, to ensure that the final expression of the chamber's will was also formulated in accordance with the requirements for a statute in a democratic law-based state (to be certain, clear, organized, understandable, unambiguous, consistent, and linguistically and stylistically error-free). For this purpose the Chairman also has a traditional instrument of regulatory law, the record which is created on the basis of § 68 par. 1 and 2 of the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic and § 86 par. 1 and 2 of the Rules of Procedure of the Senate of the Parliament of the Czech Republic. The record fulfills an official function, whereas a shorthand transcript fulfills only an informative function. After 15 days a record is the authentic record of the session, and verifies everything contained in it and in its appendices. Questioning it is an internal matter for the chamber in question, unless provided otherwise. As already stated, nothing else has been provided in that regard, and the so-called "contact" statute has not yet been enacted.

In this case it was acknowledged that the change to § 10 par. 2 of the draft Act was a substantive change, not merely a legislative-technical edit, and therefore the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic submitted the new wording of the approved draft Act to the Senate of the Parliament of the Czech Republic. This procedure, initiated by the Senate of the Parliament of the Czech Republic, was also subsequently accepted by the Senate of the Parliament of the Czech Republic and it discussed the thus-submitted draft Act on the merits. Likewise, this draft Act was accepted without reservations in new discussion in the Chamber of Deputies of the Parliament of the

Czech Republic. It is not a matter for these proceedings to evaluate the process in the event that the Chairman of the Chamber of Deputies of the Parliament of the Czech Republic does not comply with the request from the Senate of the Parliament of the Czech Republic, because the present matter does not concern such a situation. Likewise it was not necessary to consider the question indicated by the Chairman of the Senate of the Parliament of the Czech Republic in his statement, i.e. whether it would be necessary, if the petition were granted, to annul the entire Act or only those provisions affected by the inconsistency between the approved and submitted texts.

As regards the problem of the 13 changes made in the text of the approved draft Act on the Service Relationship of Members of Security Forces, from the Constitutional Court's viewpoint this is a question which must be analyzed in the spirit of a democratic law-based state established in Art. 1 par. 1 of the Constitution of the CR. This principle gives rise to the general requirement for legal rules of conduct to be clear, understandable, certain, and consistent, as provided by the requirements for the final legislative-technical editing of the text of a draft act, and the requirement to respect the competence of individual constitutional bodies within the legislative process. In this regard our regulatory law does not treat these problems of legislative practice in a fully adequate manner (see § 112 par. 1 of the Rules of Procedure of the German Parliament, under which, if typographical errors and other obvious mistakes are found after final voting, before a draft act is submitted to the German Council, the Chairman of the German parliament, together with the guaranteeing committee, may make corrections). In this regard the Constitutional Court notes that as part of the review of constitutionality of a statute it is also required to consider the observance of a constitutionally prescribed manner of passing and issuing the statute. However, the idea that the Constitutional Court would begin to review records of sessions and evaluate the place of the apparatus of chambers, their verifiers, reporters and Chairman, and what the chamber actually resolved, in the same scope in which it regularly evaluates the observance of requirements for a quorum and majority under Art. 39 of the Constitution of the CR, is de constitutione lata unacceptable, and would be difficult to implement; it would go beyond the jurisdiction of the Constitutional Court under Art. 87 of the Constitution of the CR and would mean interference in the separation of powers which the petitioner otherwise refers to. Such changes are made in practically every draft act in both chambers of the Parliament of the Czech Republic, and the Constitutional Court could be exposed to a number of petitions in which it would address issues which by their nature fall into someone else's competence, and which are otherwise in the whole world a routine matter for the legislative departments of parliaments under the supervision of the officials of the chambers (further, see Filip, J.: Poznámky k problematice oprav nesrovnalostí v usneseních sněmoven. [Notes on the Issue of Correcting Inconsistencies in Parliamentary Resolutions] Časopis pro právní vědu a praxi [Journal of Legal Science and Practice], year. 2003, no. 4). This is a matter which the Constitution of the CR expressly entrusts to a decision which can be achieved only by consent of both chambers by approving a statute on the rules for their contacts. It is a matter for regulatory law to ensure that the inspection of approved resolutions any legislative-technical editing will be performed by the party that has a mandate to do so based on election. A different procedure would be inconsistent with the requirements of the constitutionally prescribed manner for enacting a statute under § 68 par. 2 of the Act on the Constitutional Court, and in such a case it would be the task of the Constitutional

Court to review any objections regardless of whether it was simultaneously objected that a statute's content was inconsistent with the constitutional order. We must emphasize that this would have to happen on the basis of a record of the chamber's session (§ 68 par. 2 of the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic, § 86 par. 2 of the Rules of Procedure of the Senate of the Parliament of the Czech Republic), not only on the basis of a shorthand transcript. The present matter, however, does not involve such a case, as no conflict was found between the will of the Chamber of Deputies of the Parliament of the Czech Republic and its result.

At the same time, we can not overlook the more substantial aspect of this matter. The Constitutional Court's intervention in the autonomous area of chamber resolutions would open wide discretion for the Constitutional Court to interpret in its decisions what the relevant chamber of the Parliament of the Czech Republic actually resolved, without it yet having become part of the legal order. By doing so it would replace their autonomous decision making and simultaneously violate the principle of separation of powers. As a result, there would be not only a danger that the Constitutional Court would be come a "third chamber" of the Parliament of the Czech Republic, but also a danger that it would start to assume the tasks of the officials and legislative apparatus of both chambers. However, § 66 to 68 of the Act on the Constitutional Court indicate that the subject matter for review are legal regulations which are promulgated in a statutorily provided manner, not the resolutions of chambers, which are yet to become such regulations. The compentencies of individual constitutional bodies and constitutional officials, beginning with the verifiers in the chambers and ending with the officials specified in Art. 51 of the Constitution of the CR, have been established in order to ensure consistency between the will of a chamber and its resolution. It is not the task of the Constitutional Court to interpret the results of voting on individual amending proposals and their consequences for the outline of a draft act as a whole in connection with other provisions of the draft and legislative technical rules. Its role is to interpret the constitutional text in relation to statutes promulgated in the Collection of Laws. The manner in which a statute was passed and promulgated is subject to the review of the Constitutional Court only in the scope provided by the constitutional order, which was described in detail above. Therefore, the subject of the Constitutional Court's review is the approved text of a statute; the records from chamber discussions serve as the main evidence in evaluating one component of the three aspects of evaluation, i.e. observance of the constitutionally prescribed manner of enacting a statute.

In this case, it was important for the Constitutional Court that the Senate of the Parliament of the Czech Republic, through its Chairman, requested a new submission of the draft Act, that it concluded that the new wording can be discussed, discussed it, and returned it with amending proposals. The Chamber of Deputies of the Parliament of the Czech Republic voted on the same wording of the Act, also considered it eligible for voting, and passed it in the original form sent to the Senate of the Parliament of the Czech Republic. The petitioner's dissenting opinion was thus already refuted in the place appropriate for it – the voting of both chambers. The Constitutional Court thus agreed with the opinions contained in the statements from both chambers as parties to the proceedings, and with the president, who was asked for a position statement in this

regard, in view of his role in the legislative process.

During a hearing, the petitioner's legal representative submitted to the Constitutional Court a publication of the Chamber of Deputies of the Parliament of the Czech Republic, no. 1002 of 2005, containing an alleged new government proposal for further amendment of Act no. 361/2003 Coll., which, according to the petitioner, supports its arguments in favor of the Constitutional Court annulling this Act. After evaluating this document, the Constitutional Court states that, in light of the reasons for its decision already discussed in detail, this is an irrelevant document, incapable of changing anything about its decision of the need to deny the petitioner's complaint.

In view of the foregoing conclusions, the Constitutional Court did not find the petition for annulment of Act no. 361/2003 Coll., on the Service Relationship of Members of Security Forces to be justified. Therefore, it denied it pursuant to § 82 par. 1 of the Act on the Constitutional Court.

Notice: Decisions of the Constitutional Court can not be appealed.

Brno, 14 July 2005