

2002/10/02 - PL. ÚS 5/02: LEGISLATIVE PROCESS

HEADNOTES

The legislature's aims, if they are not expressed in an appropriate form and scope in the legal norm (statute) itself, as the motives for the legislature's actions, have no influence on its content and validity (effectiveness) and can not be (independently) evaluated in connection with them; more precisely, exculpatory reasons for violation of procedural rules (principles), if such violation occurred during the legislative process, cannot be derived from the legislature's aims, regardless of whether defects in the statute determined ex post were caused by the legislature's inattentiveness during voting or its inadequate knowledge of the material connected with discussion of the bill.

A repeat vote, regardless of whether it is on an amending proposal or on a resolution to approve the bill as a whole, is thus limited by two conditions, namely a directly raised objection by a deputy and an affirmative decision by the Chamber of Deputies about it, and these conditions can only be applied to defects (errors) in the voting itself, that is, basically, to the technique of voting or determining its result, not, however, to the merits of the bill under discussion (substantive incorrectness).

The legislative process, in the phase in which a draft resolution is presented to the plenum of the Chamber of Deputies, which, by being voted on, is to approve a bill as a whole (§ 95 para. 3 al. 2 of Act no. 90/1995 Coll.), is only the conclusion of the decision making process, where a deputy no longer has any options other than to vote in favor or against (or not vote at all), because during the previous phases of the process he had sufficient time and opportunities to apply his proposals (express his political positions), for his vote, generally, but especially in this closing phase, to be an expression (consequence) of his own political decision; subsequently, in that process this decision, as a resulting whole (compromise) arises from the will of the majority expressed in a free vote (Art. 6 sentence 1 of Const. Act no. 1/1993 Coll.).

Therefore, a Chamber of Deputies resolution approving a bill, must be seen as a decision containing (in the given procedural phase) a verdict of final validity, whereby the legislative process in the Chamber of Deputies ends; the statutory requirement that the (Chamber of Deputies) approved bill be sent by the chairman of the Chamber of Deputies to the Senate without undue delay (§ 97 para. 1 of Act no. 90/1995 Coll.), has neither a substantive nor a time connection with the Chamber of Deputies decision making process itself, and actually, as an instruction of a technical nature, which is to avoid administrative delays between the (completed) legislative process in the Chamber of Deputies and the decision making powers of the Senate (§ 97 para. 2 to 4 of Act no. 90/1995 Coll.), it has no influence on the Chamber of Deputies decision making process itself, all the less so could it renew the process.

In the legislative process, the foremost requirement is that legal acts on which the state governed by the rule of law, and accordingly the life of citizens in it, rests, be stable, convincing and necessary; however, such acts and the attainment of the

necessary authority of legislative bodies can not be achieved otherwise than by respect for the rules (fundamentals of legislative activity), which, in any case, the Chamber of Deputies itself, as a significant bearer of the legislative power, provided by statute for its own activity.

CZECH REPUBLIC
CONSTITUTIONAL COURT
JUDGMENT
IN THE NAME OF THE REPUBLIC

The Plenum of the Constitutional Court decided, on 2 October 2002, in the matter of a petition from a group of senators to annul Act no. 501/2001 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations, Act no. 40/1964 Coll., the Civil Code, as amended by later regulations, Act no. 99/1963 Coll., the Civil Procedure Code, as amended by later regulations, Act no. 591/1992 Coll., on Securities, as amended by later regulations, Act no. 358/1992 Coll., on Notaries and their activities (the Notarial Procedure Code), as amended by later regulations, Act no. 370/2000 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations, Act no. 358/1992 Coll., on Notaries and their activities (the Notarial Procedure Code), as amended by later regulations, Act no. 15/1998 Coll., on the Securities Commission and amending and supplementing other Acts, as amended by Act no. 30/2000 Coll., Act no. 200/1990 Coll., on Administrative Infractions, as amended by later regulations, Act no. 99/1963 Coll., the Civil Procedure Code, as amended by later regulations, and Act no. 328/1991 Coll., on Bankruptcy and Settlement, as amended by later regulations, Act no. 219/2000 Coll., on the Property of the Czech Republic and Its Functioning in Legal Relationships, as amended by later regulations, and Act no. 455/1991 Coll., on Licensed Trades (the Trades Licensing Act), as amended by later regulations, as follows:

1. Act no. 501/2001 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations, Act no. 40/1964 Coll., the Civil Code, as amended by later regulations, Act no. 99/1963 Coll., the Civil Procedure Code, as amended by later regulations, Act no. 591/1992 Coll., on Securities, as amended by later regulations, Act no. 358/1992 Coll., on Notaries and their activities (the Notarial Procedure Code), as amended by later regulations, Act no. 370/2000 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations, Act no. 358/1992 Coll., on Notaries and their activities (the Notarial Procedure Code), as amended by later regulations, Act no. 15/1998 Coll., on the Securities Commission and amending and supplementing other Acts, as amended by Act no. 30/2000 Coll., Act no. 200/1990 Coll., on Administrative Infractions, as amended by later regulations, Act no. 99/1963 Coll., the Civil Procedure Code, as amended by later regulations, and Act no. 328/1991

Coll., on Bankruptcy and Settlement, as amended by later regulations, Act no. 219/2000 Coll., on the Property of the Czech Republic and Its Functioning in Legal Relationships, as amended by later regulations, and Act no. 455/1991 Coll., on Licensed Trades (the Trades Licensing Act), as amended by later regulations, are annulled as of 31 March, 2003.

2. The petition to annul § 183b para. 3 let. a) of Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations, is denied.

REASONING

I.

The group of 22 senators, as an entitled petitioner [§ 64 para. 1 let. b) of Act no. 182/1993 Coll., as amended by later regulations] proposed the annulment of Act no. 501/2001 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations etc.; according to the reasoning of the petition the procedure by which the contested Act was passed shows unconstitutional defects, because, after it was approved as document 824 at the 39th session of the Chamber of Deputies, in the second reading, with the passed amending proposal from deputy Pilip [to the formulation of § 183b para. 3 let. a)] and subsequently passed in the third reading with the passed amending proposal (by resolution no. 1828) on 31 October, 2001, in the next session, at the extraordinary 42nd session of the Chamber of Deputies, the passing resolution was “revoked,” and then - after deletion of deputy Pilip’s amending proposal - the amended bill was newly approved on 15 November, 2001 (by resolution no. 1859), and with this resolution, in the “corrected” (revoked) version, it was given to the Senate.

The Senate of the Parliament of the CR reacted to this procedure, which is unconstitutional according to the petitioners, at its eleventh session, on 22 November, 2001, by stating that the bill, (and the resolution passing it), submitted by the Chamber of Deputies as document no. 150 is not a “bill under Art. 45 of the Constitution of the CR” and for that reason did not consider it further.

According to the petitioners, the procedure chosen by the Chamber of Deputies was justified by an alleged attempt “to prevent serious economic damage which could occur (due to error by the Chamber of Deputies)”; however, the petitioners believe that such a procedure, however explained, is “in conflict with the law.” In the adjudicated matter, this was the “revocation of a final and substantive resolution of the Chamber of Deputies,” by which a bill was (definitively) passed, and, in the version thus passed, was supposed to be given to the Senate, as the resolution passing it became “perfected in the moment of the approval vote, which was not directly cast doubt upon.”

With reference to the principle of political decision making according to which a substantive decision by an ad hoc established majority, passed in a particular situation protects this (potentially variable) majority, and in particular with reference to Art. 6 (in connection with Art. 39 para. 1 and 2) and also to Art. 47 para. 1 and 3 and Art. 50 para. 2 of the Constitution of the CR, and after analysis of the possibilities under which the Chamber of Deputies may, within the limits of constitutional intentions and statutory safeguards, return to a passed act (in a new vote), the petitioners concluded that the Chamber of Deputies, by the criticized procedure, violated the “relevant non-amendability of the passed statute”; thus, by passing the contested statute the Chamber of Deputies found itself in conflict with the constitutional order of the republic. Seeking, first of all, annulment of the entire Act no. 501/2001 Coll., the petitioners, in an alternative request, proposed, for one thing, annulment of the Act’s § 183b para. 3 let. a), and for another, annulment of other amended provisions, which they identified precisely in the proposed verdict and whose unconstitutionality, regardless of the unconstitutional manner in which they were passed, they derived (without further explanation) from Art. 4 and Art. 11 of the Charter of Fundamental Rights and Freedoms, or Art. 1 para. 1 of the Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms and Art. 26 of the International Covenant on Civil and Political Rights.

When called upon by the Constitutional Court, the Chamber of Deputies and the Senate, as parties to the proceedings, submitted position statements on the petition from the group of Senators, under § 69 of Act no. 182/1993 Coll., as amended by later regulations. In view of the nature of the matter, a position statement was also requested from the government, under § 48 para. 2 of Act no. 182/1993 Coll., as amended by later regulations.

II.

Based on written materials (Chamber of Deputies documents and stenographic records of the 39th and 42nd sessions of the Chamber of Deputies) which were submitted to the Constitutional Court upon its request by the Office of the Chamber of Deputies, it is evident that

1) concerning the 39th session of the Chamber of Deputies:

a) the act under review was discussed at the initiative of a group of deputies, and, as Chamber of Deputies document no. 824, was sent for discussion to the economic and constitutional law committees, and was discussed at the same time by the budget committee, on its own initiative; according to those who proposed the act, it concerned a “technical amendment, the core of which consisted of removing technical legislative errors,”

b) a number of amending proposals to the original bill (Chamber of Deputies documents 824/2 - 5) were discussed both in the abovementioned committees, and in detailed debate during the second reading in the full Chamber of Deputies; some of them were passed by vote of the Chamber of Deputies and some were rejected,

c) in the course of the third reading, deputy Pilip raised an objection concerning the alleged “non-votability” of his amending proposal, passed in the second reading [this was a change to § 183b para. 3 let. a)], this was passed as an “acceptance of a technical change,” and his amending proposal, raised previously in the second reading, was passed by a vote (number 531; out of 177 present, 97 in favor, 12 against),

d) the resolution by which the Chamber of Deputies “expressed approval of Chamber of Deputies document 824 as amended by amending proposals,” was passed under number 1828 by the necessary majority (vote number 532; out of 177 present, 159 in favor, 2 against); during voting and directly afterwards none of the deputies raised an objection against the conduct or result of the voting (§ 76 para. 5 and 6 of Act no. 90/1995 Coll.);

2) concerning the 40th session of the Chamber of Deputies, held on 15 November, 2001, the stenographic record indicates that:

a) this session of the Chamber of Deputies was called by the chairman under § 51 para. 4 of the rules of order, at the request of 41 deputies, and its conduct was subject to the regime for the legislative process in a state of legislative emergency (§ 99 of Act no. 90/1995 Coll.), which was declared for the period from 14 to 21 November, 2001; after debate the Chamber decided by a vote (no. 4; out of 161 present, 110 in favor, 48 against), that this regime would continue during this session (§ 99 para. 4 of Act no. 90/1995 Coll.),

b) the second point for discussion on the agenda was the proposal from the social democratic deputies to revoke Chamber of Deputies resolution no. 1828 of 31 October 2001,

c) the proposal was justified by a representative of the proponents - briefly summarized - on the grounds that the vote about deputy Pilip’s “non-votable” amending proposal (to § 183b) for one thing, “within the process of approving individual amending proposals, violated the rules of order of the Chamber of Deputies,” and for another - with regard to all the circumstances under which voting on this proposal occurred - the Chamber of Deputies was sufficiently confused in its discussions that “it is evident that it quite clearly did not know which proposal it was voting on,” whereupon:

d) after discussion, the Chamber of Deputies, by vote

aa) (number 11; out of 108 present, 84 in favor, 16 against) revoked its resolution no. 1828 of 31 October 2001, in which it agreed with the proposal from a group of deputies to issue the adjudicated Act,

bb) (number 15; out of 110 present, no one in favor, 98 against), did not pass deputy Pilip’s amending proposal (to § 183b) and then

cc) (number 16; out of 105 present, 92 in favor, 4 against) passed (as number 1859) a resolution in which it “approved a proposal from a group of deputies to issue an act which amends Act no. 513 of 1991 Coll., the Commercial Code, as amended by later regulations etc., according to Chamber of Deputies document 824, as amended by the approved amending proposals,” and

dd) in this newly passed version gave the bill to the Senate for further proceedings; because the Senate did not address the substance of the Act, after the prescribed period expired (§ 97 para. 2 of Act no. 90/1995 Coll.) the chairman of the Chamber of Deputies submitted it to the president for signature (§ 98 para. 1 of Act no. 90/1995 Coll.).

Thus, we can summarize and conclude that the adjudicated statute went through three phases in the legislative process in the Chamber of Deputies; in the first phase it was (after amending proposals were settled) passed by resolution no. 1828 of 31 October 2001, in the second it was revoked on 15 November 2001, and subsequently (after the previously passed amending proposal from deputy Pilip was rejected in a new vote) it was again, as a whole, approved by resolution no. 1859 of 15 November 2001, and that new version (with the deletion of the text of deputy Pilip's amending proposal to § 183b) was given to the Senate and later to the president of the republic for signature; it was published in the Collection of Laws in part 180 under no. 501 with the date of distribution of the Collection being 31 December 2001.

III.

The opinion of a considerable majority of the Chamber of Deputies is that, although the Chamber of Deputies approved the adjudicated statute in its closing vote on 31 October 2001, the legislative process itself was not ended thereby, because the statute thus passed by the Chamber of Deputies was not given to the Senate before the day when the 42nd session was held, nor was it given to the president of the republic for signature, and because "after discussion the proposal for revoking the Chamber of Deputies resolution which approved the bill" (more precisely due to the non-amendability of a resolution passing a bill), neither the Constitution nor a legal regulation of lesser legal force (Act no. 90/1995 Coll., on the Rules of Order of the Chamber of Deputies) sets a binding deadline, the road to revoking the passing resolution and newly discussing the statute is open."

In contrast, the petitioners, relying on the principle of "relative non-amendability of an (already validly passed) statute," with reference to Art. 6 in connection with Art. 39 para. 1 and 2, Art. 47 para. 1 and 3 and Art. 50 para. 2 of the Constitution of the CR, consider the proceedings of the Chamber of Deputies contested by them to be unconstitutional.

Given these completely opposing positions, it was up to the Plenum of the Constitutional court to evaluate and decide whether:

- a) one can derive from the existing constitutional order, or from the area of ordinary law (Act no. 90/1995 Coll.) a time or substantive deadline beyond which a decision already passed by the Chamber of Deputies, whereby a bill was approved after a final (closing) vote, can not be changed, or whether after revoking a resolution passing a statute the legislative process concerning it can continue and a previously passed statute can be discussed again and accepted in a new (corrected) version
- b) if there is such a boundary, what is its significance in terms of protection of constitutionality and what consequences arise from exceeding it, in other words, whether

the adjudicated Act no. 501/2001 Coll., which amends the Commercial Code, as amended by later regulations etc., was passed in a constitutionally prescribed manner.

In the Constitutional Court's opinion, due to their very nature, all the previously mentioned claims of the Chamber of Deputies aimed at clarifying the circumstances under which the adjudicated revocation occurred, or aimed at the reasons which led the Chamber of Deputies to the revocation, are excluded from the thus delineated topic for decision because they are claims which are not decisive from the viewpoint of evaluating the merits of the matter. In any case, both the statements of the Chamber of Deputies and the arguments of the government are directed exclusively at questions connected with the rules of order of the Chamber of Deputies, and because in both cases they completely ignore the conditions of the constitutionally prescribed process for passing laws (§ 68 para. 2 of Act no. 182/1993 Coll., as amended by later regulations), they are statements without practical significance.

The legislature's aims, if they are not expressed in an appropriate form and scope in the legal norm (statute) itself, as the motives for the legislature's actions, have no influence on its content and validity (effectiveness) and can not be (independently) evaluated in connection with them; more precisely, exculpatory reasons for violation of procedural rules (principles), if such violation occurred during the legislative process, cannot be derived from the legislature's aims, regardless of whether defects in the statute determined ex post were caused by the legislature's inattentiveness during voting or its inadequate knowledge of the material connected with discussion of the bill.

Therefore, these circumstances remained outside the Constitutional Court's focus, just as it consciously omitted questions connected with the claimed error of the deputies, reasons for possibly excusing that error and so on, because the claimed illogic of the amending proposal [from deputy Pilip to § 183b)], which was passed in the original vote by the plenum of the Chamber of Deputies, and which subsequently became the apparent reason for revoking the final resolution to approve the discussed statute, after which this amending proposal was rejected in a new vote and deleted from the final, newly approved text of the statute.

IV.

Although the legislative process, as governed by the Act on the Rules of Order of the Chamber of Deputies (Act no. 90/1995 Coll.), is not built on the principle of the infallibility of the legislators, nevertheless, in various (theoretically) possible variations of the mechanism of repeated voting and reasons for it, the currently valid law specifies conditions so that it reserves to each deputy the right, during a vote or directly afterwards, that is, after the chairman of the session has, in the prescribed manner, announced the results of the vote and announced that a resolution was passed (§ 76 para. 1 of Act no. 90/1995 Coll.), to raise an objection, either to the course of the voting or the result (ditto para. 5), and only if the objection thus raised is accepted by the plenum of the Chamber of Deputies (without revocation of the previous vote) is it possible to repeat the vote, not, however, to return to a bill in new discussion.

A repeat vote, regardless of whether it is on an amending proposal or on a resolution to approve the bill as a whole, is thus limited by two conditions, namely a directly raised objection by a deputy and an affirmative decision by the Chamber of Deputies about it. Moreover, due to their nature, these conditions can only be applied to defects (errors) in the voting itself, that is, basically, to the technique of voting or determining its result, not, however, to the merits of the bill under discussion (substantive incorrectness). Other mechanisms are constitutionally prescribed for removing these errors (Art. 47 para. 2, Art. 47 para. 1 and 3 and Art. 50 para. 2 of Const. Act no. 1/1993 Coll., as amended by later regulations); through these mechanisms the Chamber of Deputies, but under different procedural conditions, can return a previously approved bill, and discuss it again - in connection with reservations from the Senate or with its amending proposals or with reservations from the president of the republic - and decide on them by a repeat vote. In that case, however, this is not a procedure initiated by the Chamber of Deputies' own decision, but one which is the procedural result of the lack of approval of another party in the legislative process with the bill as passed by the Chamber of Deputies, and, as that party's constitutionally defined power, it requires the Chamber of Deputies to conduct a new vote (new discussion within the intentions of the disagreement expressed). In relation to the approved bill, however, the power of the Chamber of Deputies itself, as is indicated by its rules of order and ultimately also from the nature of the legislative process as a decision making process in general, is exhausted by the passage of a resolution in which it approved a bill, that is, a - procedurally - uncontested announcement of the results of a vote by the chairman of the session.

The legislative process, in the phase in which a draft resolution is presented to the plenum of the Chamber of Deputies, which, by being voted on, is to approve a bill as a whole (§ 95 para. 3 al. 2 of Act no. 90/1995 Coll.), is only the conclusion of the decision making process, where a deputy no longer has any options other than to vote in favor or against (or not vote at all), because during the previous phases of the process he had sufficient time and opportunities to apply his proposals (express his political positions), for his vote, generally, but especially in this closing phase, to be an expression (consequence) of his own political decision; subsequently, in that process this decision, as a resulting whole (compromise) arises from the will of the majority expressed in a free vote (Art. 6 sentence 1 of Const. Act no. 1/1993 Coll.).

Therefore, a Chamber of Deputies resolution approving a bill, must be seen as a decision containing (in the given procedural phase) a verdict of final validity, whereby the legislative process in the Chamber of Deputies ends; the statutory requirement that the (Chamber of Deputies) approved bill be sent by the chairman of the Chamber of Deputies to the Senate without undue delay (§ 97 para. 1 of Act no. 90/1995 Coll.), has neither a substantive nor a time connection with the Chamber of Deputies decision making process itself, and actually, as an instruction of a technical nature, which is to avoid administrative delays between the (completed) legislative process in the Chamber of Deputies and the decision making powers of the Senate (§ 97 para. 2 to 4 of Act no. 90/1995 Coll.), it has no influence on the Chamber of Deputies decision making process itself, all the less so could it renew the process.

For the reasons thus laid out, the Constitutional Court concluded that the question posed in III let. a) must be answered in the affirmative: it can be derived, both from the constitutional order of the Czech republic, and from ordinary law (Act no. 90/1995 Coll.), and from the nature of the matter, that an uncontested announcement of the results of a vote on a resolution, in which the Chamber of Deputies expressed approval with a bill as a whole, is a material and time limit, beyond which revocation of this resolution and subsequent new discussion of the bill revoked are not permissible, also because - apart from the reasons already laid out - in this subsequent new discussion of the adjudicated act the conditions of a proper legislative process were not fulfilled; stated more precisely and completely, this process was completely absent from the constitutional safeguards.

V.

If the Chamber of Deputies, under circumstances mentioned previously, moreover after a period of some time and at a different session, addressed revocation of its own resolution (of 31 October, number 1828), in which it approved the draft of the adjudicated statute, and in this newly opened legislative process again discussed the previously approved bill and then passed a different version of it, it burdened the legislative process concerning the bill with a defect which, from the viewpoint of procedural integrity, cannot be ignored.

In a number of its judgments concerning the review of decision making by public bodies, the Constitutional Court repeatedly laid out principles based on which - from the viewpoint of the elements of a state based on the rule of law, among other things - respect for procedural rules is essential; in brief: the settled decision making practice of the Constitutional Court concluded that only in a procedurally flawless process (a constitutional proceedings) can a legal and constitutional result (decision) be achieved, and therefore increased attention must be paid to the procedural integrity of the decision making process (proceedings) and it must be provided considerable protection.

If these principles related to the constitutionality of proceedings before public bodies and to decision issued in them (to the specified procedure under Art. 36 para. 1 of the Charter of Fundamental Rights and Freedoms), there are no reasonable grounds to diverge from these principles in matters of review of the legislative process and statutes (legal norms) passed in them, because, although the legislative decision making process differs to a certain degree from decision making processes in proceedings before other public bodies - and in that sense it can be understood as a decision making process *sui generis* - the guiding principles of decision making in which a final result is reached are, in both cases, identical. Moreover, one can not lose sight of the fact that the consequences arising from legislative acts are, due to their society-wide effect, certainly more significant than in cases of individual (defective) decisions by other public bodies. Thus, in the legislative process, the foremost requirement is that legal acts on which the state governed by the rule of law, and accordingly the life of citizens in it, rests, be stable, convincing and necessary; however, such acts and the attainment of the necessary authority of legislative bodies can not be achieved otherwise than by respect for the rules (fundamentals of legislative activity), which, in any case, the Chamber of Deputies itself, as a significant bearer of the legislative power, provided by statute for its own activity.

Taking that into account, as well as the reasons which were already laid out in this judgment's reasoning, the requirement in the rules of order, aimed at the chairman of the Chamber of Deputies, namely, that a bill which the Chamber of Deputies has approved be sent to the Senate without delay (§ 97 para. 1 of Act no. 90/1995 Coll.), or the question of whether and to what extent that requirement was met in the adjudicated matter, is, in terms of the protection of constitutionality (Art. 83 of Const. Act no. 1/1993 Coll.), not decisive in the matter at hand; likewise the reasons which the Chamber of Deputies cites to support the claimed permissibility of its revocation will not hold up. Although - unlike in the previous constitutions (of the Czechoslovak state) - the content of the rules of order of the Chamber of Deputies is not constitutionally delineated, there are no reasonable grounds to doubt that the basic principles for the actions of legislative assemblies, and also the principles for contact between both chambers (and with the government) and externally may not exceed the constitutional framework at all. Likewise the claim that the adjudicated matter concerned a significantly complicated bill and that in the closing phase of the legislative process (in the third reading) the Chamber of Deputies was so confused that it "quite clearly did not know which bill it was voting on," is, from the aspect of procedural integrity of the decision making process, of no significance whatsoever.

The complexity of the materials which the Chamber of Deputies discusses, the number or variety of amending and other proposals which are raised concerning a bill in the course of discussions, can not, either by themselves or in connection with an ex post attempt "to correct an error and prevent serious economic damage," justify violation of a constitutionally protected procedure in the legislative process and the principles already laid out.

It has already been mentioned that in a parliamentary democracy political decisions arise from the will of the majority, expressed in a free vote; conditions which, under the safeguards expressly stated by the Constitution, ensure the constitutional legitimacy and the legality of a decision, and which form the relevant majority during the legislative process, are, of course, diverse, and virtually always not only attach to the material which is the subject of discussion and subsequent decision, but are themselves influenced, in the creation of a majority ad hoc, by the given time, or the circumstances which arise from it. The majorities thus established relevant to making a decision (approving a bill), of course are (may be) variable, not infrequently so much so, that over time, in the cited situation they can (could) lose their numerical relevance and become a minority, which would, however, be exposed to the danger of reversal of a previously accepted decision. The protection of majorities thus created, more precisely their previously accepted decision, is therefore necessary not only in terms of the stability of legal acts, but, as the result of agreement reached at a given time (a compromise of political will), are also one of the guarantees of constitutionality which prevents arbitrariness in decision making, arbitrariness for which, naturally, there is no room. In other words: the fact that an approved bill has not yet been sent to the Senate by the chairman of the Chamber of Deputies does not create grounds for the Chamber of Deputies to renew the already completed decision making process on the bill and return to it in new decision making on the merits. Therefore, the moment when the decision making process in a given phase of the legislative process irreversibly ended by the making of a decision is sufficiently significant, not only for the legality of the decision made, but also for its stability, that the limit set by it can not be constitutionally crossed, and as such, in its essence is supposed to

prevent the potential danger of usurpation of a power which does not belong to the Chamber of Deputies. The opposing majority opinion of the Chamber of Deputies is erroneous also because, in a state governed by the rule of law, "State authority is to serve all citizens and may be asserted only in cases, within the bounds, and in the manner provided for by law." (Art. 2 para. 3 of Const. Act no. 1/1993 Coll., as amended by later regulations); thus, not every wish of a parliamentary body, but only such as respects the law, whether constitutional or ordinary (its rules of order) and is based on its limitations, can become law.

Therefore, the Constitutional Court concluded that the second question posed above under III let. b) must also be answered in the affirmative: exceeding the bounds of non-amendability of an accepted decision (a resolution which approved the statute under discussion) and the principles laid out above is a violation of the constitutionality of the legislative process; therefore, the adjudicated Act no. 501/2001 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations etc., was not passed by the Chamber of Deputies in a constitutionally prescribed manner.

This conclusion, in and of itself, makes redundant review of the constitutionality of the adjudicated statute's individual provisions, which the petitioners identify as unconstitutional in their alternative request, and therefore it was not necessary to review them as individual matters.

VI.

In its deliberations, the Constitutional Court did not ignore the position statement of the government which, although it is not a party to these proceedings, according to the statement provided as requested, believes that because of possible considerable problems, for example in the capital markets, and because of error in the conduct of a critical session of the Chamber of Deputies, in which the adjudicated statute was first passed, "it would be appropriate to tolerate even a relatively problematic revocation, especially if it occurred in the interest of creating an opportunity for the deputies to consciously express their will. Although the government's reminder must be taken with all seriousness, and although there is no doubt that the amendment of the Commercial Code brings a number of desirable changes, these facts can not outweigh the fundamental postulate of constitutionality, that is, that laws be passed by the legislative bodies of Parliament in a constitutionally prescribed manner (Art. 1, Art. 2 para. 3, Art. 45 of Const. Act no. 1/1993 Coll., as amended by later regulations).

Because the disputed issues in § 183b para. 3 let. a) of the adjudicated statute, against which the petitioners' substantive reservations are primarily aimed, can not be separated from the other material, as the Chamber of Deputies, by resolution of 15 November 2001 (no. 1859) revoked its previous resolution of 31 October 2001 (no. 1828), which approved this statute as a whole, there was no alternative but to annul Act no. 501/2001 Coll., which amends Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations etc., for not having being passed in a constitutionally prescribed manner, in view of the circumstances described by the government, as of the day evident from the

verdict of this judgment (§ 70 para. 1 of Act no. 182/1993 Coll., as amended by later regulations).

The negative verdict concerning the petition to annul § 183b para. 3 let. a) of Act no. 513/1991 Coll., the Commercial Code, as amended by later regulations, is supported by the fact that a formally and substantively identical petition was filed with the Constitutional Court on 13 December 2001 and is being considered independently under file no. Pl. ÚS 38/01; thus, that verdict is justified by the obstacle of lis pendens (§ 35 para. 2 of Act no. 182/1993 Coll., as amended by later regulations).

Notice: Decisions of the Constitutional Court can not be appealed (§ 54 para. 2 of Act no. 182/1993 Coll., as amended by later regulations).

Brno, 2 October 2002