

## **Act CLI of 2011 on the Constitutional Court**

The Parliament of Hungary, with a view to protecting democratic State governed by the rule of law, constitutional order and the rights guaranteed in the Fundamental Law and to safeguard the inner coherence of the legal system, and enforcing the principle of the division of powers – implementing the Fundamental Law, pursuant to Article 24 (5) thereof – has adopted the following Act on the regulation of the competence, organisation and operation of the Constitutional Court as the principal organ for the protection of the Fundamental Law:

### **Chapter I**

#### **General provisions, the legal status and organisation of the Constitutional Court**

##### *1. Interpretive Provisions*

**Section 1** For the purposes of this Act:

- a) concrete case: court proceedings affecting or deciding the rights or obligations, rightful interests or legal situation of a natural person, legal person or unincorporated organisation;
- b) judge: judge, or a court secretary if the provisions of an Act allow a court secretary to exercise the power of a single judge.

##### *2. The Legal Status of the Constitutional Court*

**Section 2** The Constitutional Court shall be the principal organ for the protection of the Fundamental Law.

**Section 3** The Constitutional Court shall be seated in Budapest.

**Section 4** The budget of the Constitutional Court shall have a separate chapter within the structure of the central budget. The Constitutional Court shall prepare its own budgetary proposal and report on the implementation of its budget, and the Government shall submit them to Parliament without changes as part of the bill on the central budget and the bill on the implementation of the budget, respectively. The budget of the Constitutional Court shall not be less than the budget allocated to the Constitutional Court in the central budget of the previous year.

##### *3. The Legal Status of Members of the Constitutional Court*

**Section 5** Members of the Constitutional Court shall be independent, subordinated only to the Fundamental Law and Acts.

**Section 6** (1) Any Hungarian citizen who has no criminal record and has the right to stand as a candidate in parliamentary elections shall be eligible to become a Member of the Constitutional Court, if they:

- a) have a law degree;
- b) have reached 45 years of age; and
- c) are theoretical lawyers of outstanding knowledge (university professor or doctor of the Hungarian Academy of Sciences) or have at least twenty years of professional work experience in the field of law.

(2) The professional work experience in the field of law referred to in paragraph (1) shall be from a position for which a law degree is required.

(3) The term of office of Members of the Constitutional Court shall be twelve years. Members of the Constitutional Court may not be re-elected.

(4) Having been a member of Government or a leading official in any political party or having held a leading state officials in the four years prior to election shall disqualify persons from becoming Members of the Constitutional Court.

**Section 7** (1) Members of the Constitutional Court shall be proposed by a Nominating Committee, made up of at least nine and at most fifteen members, appointed by the parliamentary fractions of the parties represented in the Parliament. The Committee shall contain at least one member from each of the parliamentary fractions.

(2) The candidates shall be heard by Parliament's standing committee dealing with constitutional matters.

**Section 8** (1) Members of the Constitutional Court shall be elected by Parliament after obtaining the opinion of its standing committee dealing with constitutional matters.

(2) If Parliament does not elect the candidates, the Nominating Committee shall make a new proposal during the same session of Parliament, but within fifteen days at the latest.

(3) Unless provided for otherwise by this Act, Parliament shall elect new Members of the Constitutional Court within 90 days prior to the expiry of the predecessor's term of office. Members of the Constitutional Court shall take office on the day following the expiry of the term of office of their predecessor, or, if elected after the expiry of their predecessor's term of office or if the mandate of their predecessor was extended, on the day stated in the decision on their election.

**Section 9** Members of the Constitutional Court shall take an oath in front of Parliament before taking office.

**Section 10** (1) The mandate of Members of the Constitutional Court shall be incompatible with any other position or mandate in state or local government administration, in society, or with any political or economic position, except for positions directly related to scientific activity or work in higher education, providing that such positions do not interfere with their work as Members of the Constitutional Court. Members of the Constitutional Court shall not pursue any gainful occupation, with the exception of scientific, educational, artistic, proof-reading, editorial and intellectual activities falling under intellectual property rights protection.

(2) If an incompatibility exists concerning the person elected as a Member of the Constitutional Court, the Member of the Court shall eliminate the incompatibility within ten days of taking office.

(3) If an incompatibility arises in connection with a Member of the Constitutional Court in the course of their activity, he or she shall immediately eliminate such conflict.

**Section 11** (1) Members of the Constitutional Court shall submit declarations of assets subject to the same content requirements as those of Members of the Parliament within thirty days of their election, and in every year further on by the 31<sup>st</sup> of January, and within thirty days after the expiry of their term of office.

(2) Members of the Constitutional Court shall attach the declarations of assets of their cohabitant spouses, companions or children (hereinafter referred to as 'family members'), subject to the same content requirements as those of Members of the Constitutional Court.

(3) The declarations of assets, with the exception of those of family members, shall be public, and the Secretary General shall publish their true and faithful copies on the website of the Office of the Constitutional Court without delay. Declarations of assets can be removed from the website one year after the termination of the mandate of the Member of the Constitutional Court in question.

(4) The Secretary General shall handle the declarations of assets. The Secretary General shall keep the declarations of assets of former Constitutional Court Members and their family members for one year after the expiry of term of office of the Member of the Constitutional Court.

**Section 12** In case of incompatibility as defined in Section 10, from the time of the adoption of the Constitutional Court decision declaring the incompatibility until it is eliminated, furthermore in case of omission of the obligation to submit declaration of assets as defined in

Section 11, until fulfilment of this obligation, the Member of the Constitutional Court concerned shall not exercise the competences deriving from his or her office and shall receive no salary or allowances.

**Section 13** (1) Members of the Constitutional Court, with the exception of the President of the Constitutional Court (hereinafter referred to as ‘the President’) shall be entitled to the same salary and allowances as government ministers, with the difference that their salary supplement for managerial responsibilities shall be one and a half times that of ministers.

(2) For the purposes of entitlement to social security benefits, Members of the Constitutional Court shall be considered insured employee in public service, and their salary shall be considered income from an activity other than self-employment, comprising part of the contribution base. The term of office of Members of the Constitutional Court shall be considered to be time spent in public service employment.

(3) Members of the Constitutional Court shall be entitled to forty working days of leave in each calendar year.

**Section 14** (1) Members of the Constitutional Court shall not be held accountable in court or by other authorities during or after their term of office for the activities carried out or statements of fact or opinion made while exercising the competences of the Constitutional Court as defined in the Fundamental Law and in this Act, and no proceedings shall be initiated against the Constitutional Court for such statements of fact or opinion in court or at other authorities. This exemption shall not cover abuse of information classified top secret or secret, libel, defamation and the civil law liability of Members of the Constitutional Court.

(2) The exemption defined in paragraph (1) shall cover defamation of a person exercising public power or a politician acting in public, and – if the Member of the Constitutional Court had no knowledge of the fact that the statement was fundamentally untrue – libel.

(3) Members of the Constitutional Court may be taken into custody only if caught in the act, and criminal proceedings or contravention proceedings may only be instituted or continued against them, and coercive measures of criminal proceedings may only be applied against them with the prior consent of the Constitutional Court.

(4) Prior to the filing of charges, the motion for the suspension of immunity shall be submitted to the President by the Prosecutor General, after the filing of charges or in cases with private prosecution, the motion shall be submitted by the court. The motion shall be submitted without delay if the Member of the Constitutional Court was caught in the act. In a case of contravention, the motion for the suspension of immunity shall be submitted by the Prosecutor General to the President on the basis of the request of the authority of contraventions.

(5) Any decision made on the suspension of immunity shall apply only to the case for which the motion has been submitted.

(6) Members of the Constitutional Court may not renounce their immunity – with the exception of proceedings for contravention. This right shall be respected by everyone.

(7) Members of the Constitutional Court shall report any violation of their immunity to the President without delay.

**Section 15** (1) Membership in the Constitutional Court shall terminate:

- a) upon reaching the age of 70 years, or
- b) upon the expiry of the term of office.

(2) Furthermore, membership in the Constitutional Court shall terminate:

- a) upon the Member's death,
- b) upon resignation,
- c) upon the declaration of the termination of the mandate due to incompatibility,
- d) if the Member becomes ineligible to stand for election to the Parliament,
- e) upon dismissal or

f) upon exclusion.

(3) If the term of office of a Member of the Constitutional Court is terminated by the application of paragraph (1), the new Member of the Constitutional Court shall be elected in accordance with the provisions laid out in Section 8 (1) to (3). If Parliament fails to elect a new Member to the Constitutional Court by the time-limit set forth in Section 8 (3), the mandate of the incumbent Member of the Constitutional Court shall be extended until the entry into office of their successor. If the mandate of several Constitutional Court Members is terminated at the same time and Parliament appoints fewer Members by the time-limit, then the mandate of the youngest Member shall be extended.

(4) If the mandate of a Member of the Constitutional Court is terminated by the application of paragraph (2), the new Member of the Constitutional Court shall be appointed by Parliament within sixty days of the termination of the mandate of the former Member.

(5) If the mandate of several Members of the Constitutional Court is terminated or extended in succession, Parliament shall first appoint the successor of the Member whose mandate was terminated or extended first, or would be terminated first.

**Section 16** (1) Members of the Constitutional Court shall communicate their resignation to the President of the Constitutional Court, and the President of the Constitutional Court shall communicate their resignation to the Speaker of Parliament. No statement of acceptance is required for the validity of the resignation. The resignation need not be reasoned, and the mandate shall terminate on the day of the submission of the resignation.

(2) Should a Member of the Constitutional Court fail to comply with the obligation set forth in Section 10 (2) to (3) by the time specified therein, the plenary session of the Constitutional Court shall issue a decision declaring incompatibility. If the cause for incompatibility is not eliminated within ten days of the session of the Constitutional Court declaring the incompatibility, the plenary session of the Constitutional Court shall issue a decision establishing the termination of the mandate of the Member of the Constitutional Court concerned.

(3) The mandate shall be terminated by dismissal if a Member of the Constitutional Court is unable to perform the duties deriving from their mandate for reasons that are not imputable to them.

(4) The mandate of a Member of the Constitutional Court may be terminated by exclusion if the Member:

a) fails to perform his or her duties for reasons imputable to him or her, or

b) has become unworthy of his or her office,

and is therefore excluded by a decision of the plenary session of the Constitutional Court.

(5) A Member of the Constitutional Court shall be excluded if he or she:

a) has intentionally committed publicly prosecuted crime according to a final court judgement,

b) has not participated in the work of the Constitutional Court for one year for reasons imputable to him or her, or

c) has intentionally failed to meet his or her obligation to make a declaration of assets or intentionally made a false declaration on important data or facts in his or her declaration of assets.

(6) In the application of Section 15 (1) a) to b) and Section 15 (2) a) to b), the termination of the mandate of the Member of the Constitutional Court shall be declared by the President, and announced at a plenary session. In the application of Section 15 (2) c) to f), the plenary session of the Constitutional Court shall make a decision, which shall be published in the Hungarian Official Gazette.

#### *4. The President and Vice President of the Constitutional Court*

**Section 17** (1) The President shall:

- a) coordinate the activities of the Constitutional Court and contribute to ensure uniform jurisprudence,
- b) convoke and preside over plenary sessions of the Constitutional Court,
- c) determine the scheduling and agenda of plenary sessions,
- d) determine the schedule of putting cases on the agenda of the Constitutional Court, including the fixing the dates for the hearing of cases,
- e) appoint the Member of the Constitutional Court to rapporteur,
- f) submit proposals on the composition of the panels, the presiding judges of the panels and the formation of provisional panels,
- g) represent the Constitutional Court before Parliament and other organs, as well as the general public,
- h) direct the Office of the Constitutional Court,
- i) make proposal to the plenary session on the person for Secretary General, appoint and dismiss the financial director,
- j) exercise employer's rights over the public servants and other employees working at the Office of the Constitutional Court,
- k) take the necessary measures in case of infringement of the immunity of the Members of the Constitutional Court,
- l) perform the tasks prescribed for him or her by the rules of procedure of the Constitutional Court.

(2) In respect of the Constitutional Court as a central budget chapter, the President shall be the head of the organ managing the chapter.

**Section 18** (1) The presidential mandate shall terminate:

- a) upon the termination of the President's membership in the Constitutional Court,
- b) upon resignation.

(2) The President shall notify the Speaker of Parliament of his or her resignation from the presidential mandate in writing. No statement of acceptance shall be required for the validity of the resignation. The resignation need not be reasoned, and the mandate shall terminate on the day of the submission of the resignation. Resignation from the presidential mandate shall not affect the membership of the President in the Constitutional Court.

**Section 19** (1) The President's salary shall be thirty-nine times the base salary of public servants.

(2) The President – when acting in his or her official capacity, as well as during private events – shall be entitled to personal protection pursuant to the legal regulation on the protection of protected persons and designated facilities.

(3) The President shall be entitled to the use of a presidential residence.

(4) The President – for personal and official purposes – shall be entitled to the use of two passenger cars.

(5) The President shall be entitled to mobile phone and Internet use, and to the use of the governmental communications network.

(6) The President – in accordance with the agreement between the healthcare-institution and the Office of the Constitutional Court – shall receive all medical treatments free of charge.

(7) The President and the President's spouse, companion, children, parents, grandchildren and children's spouses, when they are on holiday with the President, shall be entitled to use the government's central holiday complex for a fee. The fee shall comprise of the price of accommodation, meals and holiday services.

(8) During official visits abroad, the President shall be entitled to escort, a per diem in line with that of state leaders and a reimbursement of expenses.

(9) On travels abroad by scheduled airplane flight or train, the President shall be entitled to use first class or an equivalent travel class.

(10) When travelling abroad or returning from abroad, and when receiving or accompanying official foreign delegations, the President shall be entitled to use Government lounges at airports.

(11) In case of the President's death, the President's spouse or companion (hereinafter referred to as 'widow') – or, if there is no widow, the President's heir – shall receive, in accordance with the rules of the Civil Code, a one-time bulk payment equivalent to six times the President's monthly salary.

**Section 20** (1) The President shall be entitled to use a title referring to his or her presidential position after the termination of the mandate.

(2) Former Presidents of the Constitutional Court shall receive payments equivalent to their monthly salary for six months, categorized as income from an activity other than self-employment if they were in this position for a period of at least two years and their mandate was terminated due to the end of the term of office, the reaching of the age of 70 or dismissal, and for three months if their mandate was terminated due to resignation.

(3) If the President's mandate has terminated for any of the reasons listed in paragraph (2) after less than two years but more than one year in office, the President shall receive half of the payments indicated in paragraph (2).

(4) Former Presidents of the Constitutional Court – if their membership in the Constitutional Court has also terminated – shall be entitled to the use of a personal car for two more years after the termination of their mandate, for up to thirty thousand kilometres a year.

(5) Former presidents of the Constitutional Court – if their membership in the Constitutional Court has also terminated – shall be entitled to a secretariat with two employees for two more years after the termination of their mandate.

(6) Former Presidents of the Constitutional Court shall not be entitled to the allowances listed in this Section until they submit the declarations of assets required after the termination of their mandate.

(7) Former Presidents of the Constitutional Court shall not be entitled to the allowances listed in this Section if their mandate was terminated pursuant to Section 15 (2) c) or f).

**Section 21** (1) The President shall be assisted in his or her work by a Vice President.

(2) The Vice President shall be elected by the plenary session of the Constitutional Court from among the Members of the Constitutional Court on the proposal of the President.

(3) The mandate of the Vice President shall terminate:

- a) upon the entry into office of a new President,
- b) upon the termination of their Membership in the Constitutional Court, or
- c) upon resignation.

(4) The Vice President shall notify the President of their resignation from the post of Vice President in writing. No statement of acceptance shall be required for the validity of the resignation. The resignation need not be justified, and the mandate shall terminate on the day of the submission of the resignation. Resignation from the position of Vice President shall not affect the membership of the Vice President in the Constitutional Court.

(5) When the President is prevented from acting, the Vice President shall substitute the President and exercise the President's powers, and carry out all tasks entrusted to them by the President. If the mandate of the President has terminated, the President's powers shall be taken over by the Vice President, or, if the Vice President is also prevented from acting, the competences laid down in Section 17 (1) b) to f) shall be exercised by the oldest Member of the Constitutional Court by age.

##### *5. The Organisation of the Office of the Constitutional Court*

**Section 22** (1) The organ in charge of managing the Constitutional Court's administrative tasks shall be the Office of the Constitutional Court, which shall handle organisational-operational tasks, case administration and tasks related to the preparation of decisions.

(2) The Office of the Constitutional Court shall be directed by the Secretary General. The Secretary General shall be elected by the plenary session on the President's proposal.

(3) The Secretary General shall work under the direction of the President.

(4) The Secretary General shall participate in the preparation of decisions of the Constitutional Court in accordance with the rules laid down in this Act and the Constitutional Court's rules of procedure.

(5) The President, apart from the criteria listed in the Act on the Legal Status of Public Servants, may require the public servants who work at the Office of the Constitutional Court to have further educational qualifications, certifications or practical experience.

(6) The rules of the organisation and operation of the Office of the Constitutional Court shall be laid down in the Organisational and Operational Rules of the Constitutional Court.

## Chapter II

### Procedures Falling within the Tasks and Competences of the Constitutional Court; Legal Consequences

#### *6. Ex ante Review of Conformity with the Fundamental Law (Preliminary Norm Control)*

**Section 23** (1) Based on a petition containing an explicit request submitted by an authorised person pursuant to Article 6 (2) and (4) of the Fundamental Law, the Constitutional Court shall, in accordance with Article 24 (2) a) of the Fundamental Law, examine for conformity with the Fundamental Law the provisions of adopted but not yet promulgated Acts referred to in the petition.

(2) Based on the petition, the President shall ensure that the case is put on the agenda at an appropriate time considering the time-limit set by an Act.

(3) The Constitutional Court's competence referred to in paragraph (1) shall extend to the preliminary review of the conformity of certain provisions of international treaties with the Fundamental Law.

(4) Before the acknowledgement of the binding force of an international treaty by the President of the Republic, the President of the Republic, or in case the international treaty is promulgated by a Government decree, before the acknowledgement of the binding force of that treaty, the Government may request the Constitutional Court to carry out a preliminary review of the conformity of the international treaty or of its provisions with the Fundamental Law.

#### *7. Ex Post Review of Conformity with the Fundamental Law (Posterior Norm Control)*

**Section 24** (1) The Constitutional Court shall, in accordance with Article 24 (2) e) of the Fundamental Law, review the conformity of legal regulations with the Fundamental Law.

(2) The Constitutional Court shall review the conformity of legal regulations with the Fundamental Law on the petition of the Commissioner for Fundamental Rights containing an explicit request if, in the opinion of the Commissioner for Fundamental Rights, the legal regulation is contrary to the Fundamental Law.

(3) No ex post facto review proceedings shall take place if the petition is aimed at the examination of a legal regulation or a provision thereof that has already been reviewed on its merits by the Constitutional Court, and the petitioner requests the declaration of the violation of the Fundamental Law based on the same provision or principle (value) of the Fundamental Law and the same constitutional context that has already been reviewed (res judicata), unless

the circumstances have fundamentally changed since the previous decision by the Constitutional Court.

#### *8. Judicial Initiative for Norm Control in Concrete Cases*

**Section 25** If a judge, in the course of the adjudication of a concrete case in progress, is bound to apply a legal regulation that he or she perceives to be contrary to the Fundamental Law, or which has already been declared to be contrary to the Fundamental Law by the Constitutional Court, the judge shall suspend the judicial proceedings and, in accordance with Article 24 (2) b) of the Fundamental Law, submit a petition for declaring that the legal regulation or a provision thereof is contrary to the Fundamental Law, and/or the exclusion of the application of the legal regulation contrary to the Fundamental Law.

#### *9. Constitutional Complaint*

**Section 26** (1) In accordance with Article 24 (2) c) of the Fundamental Law, person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if, due to the application of a legal regulation contrary to the Fundamental Law in their judicial proceedings

- a) their rights enshrined in the Fundamental Law were violated, and
- b) the possibilities for legal remedy have already been exhausted or no possibility for legal remedy is available.

(2) By way of derogation from paragraph (1), Constitutional Court proceedings may also be initiated by exception if

- a) due to the application of a legal provision contrary to the Fundamental Law, or when such legal provision becomes effective, rights were violated directly, without a judicial decision, and
- b) there is no procedure for legal remedy designed to repair the violation of rights, or the petitioner has already exhausted the possibilities for remedy.

(3) The Prosecutor General may request the Constitutional Court to examine the conformity with the Fundamental Law of legal regulations applied in concrete cases tried with the participation of a prosecutor with regard to the violation of rights laid down in the Fundamental Law, if the person concerned is unable to defend his or her rights personally or if the violation of rights affects a larger group of people.

**Section 27** In accordance with Article 24 (2) d) of the Fundamental Law, persons or organisations affected by judicial decisions contrary to the Fundamental law may submit a constitutional complaint to the Constitutional Court if the decision made regarding the merits of the case or other decision terminating the judicial proceedings

- a) violates their rights laid down in the Fundamental Law, and
- b) the possibilities for legal remedy have already been exhausted by the petitioner or no possibility for legal remedy is available for him or her.

**Section 28** (1) In proceedings aimed at the review of a judicial decision defined in Section 27, the Constitutional Court may also carry out the examination of the conformity of the legal regulation with the Fundamental Law as described in Section 26.

(2) In proceedings initiated pursuant to Section 26, the Constitutional Court may also examine the constitutionality of a judicial decision.

**Section 29** The Constitutional Court shall admit constitutional complaints if a conflict with the Fundamental Law significantly affects the judicial decision, or the case raises constitutional law issues of fundamental importance.

**Section 30** (1) Constitutional complaints may be submitted in writing, within sixty days of receipt of the contested decision, and, in cases defined in Section 26 (2), within one hundred



and eighty days of the entry into force of the legal regulation contrary to the Fundamental Law.

(2) If the decision is not communicated, the time-limit for submitting constitutional complaints shall be sixty days from the date of becoming aware of the decision or from the date of the violation of rights guaranteed by the Fundamental Law.

(3) The Constitutional Court may also rule on constitutional complaints that were submitted after the time-limit due to the submitter's inability to submit the complaint due to a circumstance beyond his or her control, providing that the petitioner submits an application for extension along with the complaint within fifteen days of the termination of the obstacle. The facts supporting the application for extension shall be substantiated by the petitioner in the application.

(4) No Constitutional Court proceedings may be initiated one hundred and eighty days after the communication of the decision, the violation of the right guaranteed by the Fundamental Law, and, in cases defined in Section 26 (2), the entry into force of the legal regulation that is contrary to the Fundamental Law.

(5) The Constitutional Court shall decide on constitutional complaints within reasonable time.

**Section 31** (1) If the Constitutional Court has already ruled on the conformity of an applied legal regulation or a provision thereof with the Fundamental Law based on a constitutional complaint or judicial initiative, no constitutional complaint or judicial initiative aimed to declare a conflict with the Fundamental Law may be admitted regarding the same legal regulation or provision thereof and the same right guaranteed by the Fundamental Law, with reference to the same constitutional law context – unless the circumstances have changed fundamentally in the meantime.

(2) If the Constitutional Court has already ruled on the conformity of a judicial decision with the Fundamental Law based on a constitutional complaint, no Constitutional Court proceedings may be initiated by the complainant affected in the same case with reference to the same legal regulation or the same provision thereof and the same right guaranteed by the Fundamental Law and the same constitutional law context.

#### *10. Examination of Conflicts with International Treaties*

**Section 32** (1) Pursuant to Article 24 (2) f) of the Fundamental Law, the Constitutional Court shall examine legal regulations on request or ex officio in the course of any of its proceedings.

(2) The proceedings may be requested by one quarter of Members of Parliament, the Government, the President of the Curia, the Prosecutor General or the Commissioner for Fundamental Rights. Judges shall suspend judicial proceedings and initiate Constitutional Court proceedings if, in the course of the adjudication of a concrete case, they are bound to apply a legal regulation that they perceive to be contrary to an international treaty.

#### *11. Examination of Parliamentary Resolution Related to Ordering Referendum*

**Section 33** (1) Parliamentary resolutions ordering a referendum or dismissing the ordering of a referendum to be obligatorily ordered shall be reviewed by the Constitutional Court with regard to conformity with the Fundamental Law and legality on the petition of anyone. The petition shall arrive within fifteen days of the publication of Parliament's resolution.

(2) In the procedure described in paragraph (1), the Constitutional Court shall only carry out an examination regarding the merits of the resolution if, between the authentication of the signature-collecting sheets and the ordering of the referendum, the circumstances changed to a significant degree in a manner that may significantly affect the decision, and if said changes could not be taken into account by the National Election Committee or the Curia when making a decision on the authentication of the question or the decision on the review thereof.

(3) The Constitutional Court shall not examine the merits of such petitions in which the petitioner refers to constitutional concerns regarding the content of the question or the authentication.

*12. Opinion on the Dissolution of a Local Representative Body Operating Contrary to the Fundamental Law*

**Section 34** On the Government's motion, the Constitutional Court shall express an opinion in principle on whether the operation of representative bodies of local governments and nationality self-governments is contrary to the Fundamental Law.

*12/A. Opinion on the Withdrawal of the Acknowledgment of a Church Operating Contrary to the Fundamental Law*

**Section 34/A** On the Government's petition, the Constitutional Court shall express an opinion in principle on whether the operation of a acknowledged Church based on the Act on the Freedom of Religion and Conscience and on Legal Status of Churches, Confessions and Religious Communities, is contrary to the Fundamental Law.

*13. Removal of the President of the Republic from Office*

**Section 35** (1) In accordance with Article 13 of the Fundamental Law, the Constitutional Court shall act in proceedings aimed at the removal of the President of the Republic from office on the basis of motions reasoned in details by parliamentary resolution referring to the wilful violation of the Fundamental Law or any Act in connection with the exercise of the President's official functions or intentionally committing a criminal offence.

(2) The Constitutional Court shall examine the legality of the motion and initiation of the impeachment proceedings. If the impeachment proceedings fail to meet the criteria laid down in Article 13 (2) or Article 13 (3) of the Fundamental Law, the Constitutional Court shall terminate the proceedings without an examination of the merits of the case.

(3) The Constitutional Court shall conduct the proceedings out of turn.

(4) In case of an examination of the merits of the case in the course of the impeachment proceedings, considering the nature of the violation under examination, the Constitutional Court may use means of evidence in accordance with the provisions of the Act on Criminal Procedure and the Act on Civil Procedure, apart from those mentioned in Section 57. The Constitutional Court shall hear the President of the Republic.

(5) When exercising its competence specified in this Section, the Constitutional Court shall make a decision with the agreement of two thirds of the plenary session members present.

*14. Resolving Conflicts of Competence*

**Section 36** (1) If – with the exception of courts and public administration authorities – a conflict of competence arises between state organs or between a state organ and local government organs, the organs in question may request the Constitutional Court to resolve the conflict of competence based on the interpretation of the Fundamental Law.

(2) The Constitutional Court shall determine which organ has competence in the dispute and appoint the organ obliged to proceed.

*15. Examination of Local Government Decrees, Normative Decisions and Orders, and Decisions on the Uniform Application of the Law*

**Section 37** (1) When exercising its competence defined in Sections 24 to 26, the Constitutional Court shall only examine the conformity of local government decrees with the Fundamental Law if the purpose of the examination is the determination of conformity with

the Fundamental Law exclusively, without consideration of whether the decree is contrary to other legal provisions.

(2) In the course of posterior norm control, in the course of norm control in concrete cases on judicial initiative, on the basis of constitutional complaints and in the course of examinations of conformity with international treaties, the Constitutional Court shall review conformity with the Fundamental Law or international treaties of normative decisions and orders and of decisions on the uniform application of the law as specified in Article 25 (3) of the Fundamental Law. The rules on the norm control of legal provisions shall be applied to the petitioners, the proceedings and the legal consequences.

#### *16. Interpretation of the Fundamental Law*

**Section 38** (1) On the petition of Parliament or its standing committee, the President of the Republic or the Government, the Constitutional Court shall provide an interpretation of the provisions of the Fundamental Law regarding a certain constitutional issue, provided that the interpretation can be directly deduced from the Fundamental Law.

(2) If the certain constitutional issue arises in connection with the legal status, operation, tasks or competences of a state organ, the Constitutional Court shall carry out the interpretation of the provisions of the Fundamental Law pursuant to paragraph (1) if the constitutional issue makes the operation, the execution of tasks and the exercise of competences in accordance with the Fundamental Law impossible, or if the uncertainty of interpretation is endangering legal certainty.

#### *17. Legal Consequences of the Decisions of the Constitutional Court*

**Section 39** (1) Unless provided for otherwise by this Act, the decisions of the Constitutional Court are binding on everyone.

(2) There shall be no remedy against the decisions of the Constitutional Court.

(3) The Constitutional Court shall establish itself the applicable legal consequences within the framework of the Fundamental Law and of this Act.

**Section 40** (1) The Act may not be promulgated if the Constitutional Court declares that the provision or provisions of an Act examined within the framework of proceedings specified in Section 23.

(2) If the Constitutional Court declares again the unconstitutionality of the provision or provisions of an Act within the framework of proceedings conducted in accordance with Article 6 (8) of the Fundamental Law, it shall call upon the Parliament to perform its legislative task in accordance with the Fundamental Law.

(3) If the Constitutional Court, within the framework of the procedure specified in Section 23, declares that a provision of an international treaty is contrary to the Fundamental Law, the binding force of the international treaty shall not be recognised until the States or other legal entities of international law having the right to conclude treaties under international law eliminate such conflict with the Fundamental Law or until Hungary, by making a reservation – if making a reservation is permitted by the international treaty – or by way of another legal instrument recognised in international law eliminates the conflict between the international treaty and the Fundamental Law.

**Section 41** (1) If the Constitutional Court, within the framework of proceedings specified in Sections 24 to 26 declares that any legal regulation in force or any provision thereof is contrary to the Fundamental Law, it shall annul the legal regulation or provision in whole or in part.

(2) Paragraph (1) shall be applied subject to the exceptions and conditions set forth in Article 37 (4) of the Fundamental Law.

(3) The Constitutional Court may declare that a repealed legal regulation is contrary to the Fundamental Law, should the given legal regulation still be applicable in a concrete case.

(4) The Constitutional Court, in its competence specified in Section 33, shall uphold Parliament's resolution or, annulling Parliament's resolution, shall call upon Parliament to adopt a new resolution.

**Section 42** (1) If the Constitutional Court declares that such a legal regulation is contrary to an international treaty which, according to the Fundamental Law, shall not be in conflict with the legal regulation promulgating the international treaty, it shall – in whole or in part – annul the legal regulation that is contrary to the international treaty.

(2) If the Constitutional Court declares that such a legal regulation is contrary to an international treaty which, according to the Fundamental Law, shall not be in conflict with the legal regulation promulgating the international treaty, it shall – in consideration of the circumstances and setting a time-limit – invite the Government or the law-maker to take the necessary measures to resolve the conflict within the time-limit set.

**Section 43** (1) If the Constitutional Court, in the course of its proceedings specified in Section 27 and on the basis of a constitutional complaint, declares that a judicial decision is contrary to the Fundamental Law, it shall annul the decision.

(2) Provisions of Acts that contain regulations of court proceedings shall be applied to the procedural legal consequences of the Constitutional Court's decision that annuls the judicial decision.

(3) In court proceedings that must be conducted as a consequence of the annulment of a judicial decision by the Constitutional Court, as to the constitutional issue the decision of the Constitutional Court shall be followed.

(4) The Constitutional Court, when annulling a judicial decision, may also annul judicial decisions or the decisions of other authorities which were reviewed by the given decision.

**Section 44** (1) The Constitutional Court's decisions on the annulment of a legal regulation, on the temporary suspension of a legal regulation's entry into force, on the examination of Parliament's resolution related to ordering referenda, on the removal from office of the President of the Republic and on its decision on the interpretation of the Fundamental Law shall be published in the Hungarian Official Gazette. The Constitutional Court may order the publication of its other decisions in the Hungarian Official Gazette.

(2) The decisions of the Constitutional Court shall be accessible for all in digital format on the website of the Office of the Constitutional Court, without identification, without restrictions and free of charge. For the publication of the decisions, the provisions on the publicity of judicial decisions of the Act on the Organisation and Administration of Courts shall be applied, as appropriate.

**Section 45** (1) The annulled legal regulation or provision thereof shall cease to have effect on the day after the publication of the Constitutional Court's decision on annulment in the Hungarian Official Gazette and shall not be applicable from that day; a legal regulation which has been promulgated, but has not yet entered into force shall not enter into force.

(2) If the Constitutional Court annuls a legal regulation applied in a concrete case at judicial initiative or on the basis of a constitutional complaint, the annulled legal regulation shall not be applied in the case that lead to the proceedings of the Constitutional Court.

(3) Apart from the case set forth in paragraph (6), the annulment of the legal regulation does not affect the legal relations originating on the day or before the decision was published and the rights and obligations resulting therefrom.

(4) The Constitutional Court may depart from paragraphs (1) to (3) when deciding on the repeal of a legal regulation contrary to the Fundamental Law or on the inapplicability of the annulled legal regulation in general, or in concrete cases, if this is justified by the protection

of the Fundamental Law, by the interest of legal certainty or by a particularly important interest of the entity initiating the proceedings.

(5) The annulment of the legal regulation shall not affect those judicial decisions that are based on the annulled legal regulation and cannot be or are not reviewed in Constitutional Court proceedings, except if it is provided for otherwise by the Constitutional Court in its decision on annulment.

(6) The Constitutional Court shall order the review of the criminal proceedings or contravention proceedings concluded with a final decision based on a legal regulation which is contrary to the Fundamental Law, if the annulment of the applied legal regulation or provision therein would result in the reduction or waiver of the punishment or measure or in the exemption from or limitation of criminal or contravention liability.

(7) In the course of a review specified in paragraph (6), the rules provided for by the Act on Criminal Procedure and by the Act on Contravention Procedure shall be applied.

**Section 46** (1) If the Constitutional Court, in its proceedings conducted in the exercise of its competences, declares an omission on the part of the law-maker that results in violating the Fundamental Law, it shall call upon the organ that committed the omission to perform its task and set a time-limit for that.

(2) The following shall be considered as omission of the law-maker's tasks:

a) the law-maker fails to perform a task deriving from an international treaty,

b) a legal regulation was not adopted in spite of the fact that the law-maker's task derives from explicit authorisation by a legal regulation, or

c) the essential content of the legal regulation that can be derived from the Fundamental Law is incomplete.

(3) The Constitutional Court, in its proceedings conducted in the exercise of its competences, may establish in its decision those constitutional requirements which originate from the regulation of the Fundamental Law and which enforce the constitutional requirements of the Fundamental Law with which the application of the examined legal regulation or the legal regulation applicable in court proceedings must comply.

### **Chapter III**

#### **The Rules of Operation of the Constitutional Court and Rules of Procedure**

##### *18. Decision-making Organs of the Constitutional Court*

**Section 47** (1) The Constitutional Court shall make its decisions in plenary sessions, in panels or acting as a single judge. Unless provided for otherwise by this Act, the proceedings of the Constitutional Court shall not be public.

(2) The plenary session shall be the principal organ of the Constitutional Court.

(3) The panels and the single judges shall pass their decisions acting within the competence of the Constitutional Court.

**Section 48** (1) The plenary session of the Constitutional Court shall consist of all Members of the Constitutional Court.

(2) Members of the Constitutional Court shall take part in plenary sessions of the Constitutional Court with the right to consult and the right to vote.

(3) The Secretary General shall take part in plenary sessions *ex officio*; other persons invited by the President may also attend.

(4) The plenary session shall have a quorum if attended by at least two thirds of the Members of the Constitutional Court, including the President or, if the President is prevented, the Vice President.

(5) Unless provided for otherwise by this Act, the plenary session shall pass its decisions by open ballot, by a majority of votes and without abstention. The Members of the Constitutional

Court shall be obliged to take part in the decision-making. In case of an equality of votes, the President shall have the casting vote.

(6) In personal matters specified in Section 50 (2) d) to e), the plenary session shall pass its decisions by secret ballot. In personal matters specified in Section 50 (2) d), the Member concerned shall not vote.

**Section 49** (1) At the proposal of the President the plenary session shall pass decisions on the number and composition of panels and on the person of the presiding judges of the panels. The composition of the panels and the presiding judges of the panels shall change in every three years and in every year, respectively.

(2) A panel may be set up as a temporary panel or as a standing panel.

(3) Temporary panels may be set up at the proposal of the President, with the decision of the plenary session, in order to adjudicate petitions specified therein, if out of turn proceedings have been ordered, to reduce the workload.

(4) If the panel consists of at least five members, it shall pass decisions by a majority of votes. If the panel consists of less than five members, it shall pass decisions unanimously.

(5) Persons invited on occasion by the Member of the Constitutional Court presiding the panel may attend the sittings of the panel.

(6) Issues on the agenda of the panel shall be submitted for decision-making to the plenary session, if

a) in the matter examined on the merits by the panel the Act must be annulled, or

b) the conditions specified in Section 50 (2) f) are met, and

ba) the majority of the members of the panel initiates it,

bb) the President orders it, or

bc) five Members of the Constitutional Court who are not members of the given panel initiate it.

(7) The number of panels, the number of the members of each panel, and the detailed regulations of their quorum and operation shall be set forth by the Rules of Procedure of the Constitutional Court.

**Section 50** (1) The panel may conduct proceedings in all cases that are not assigned to the plenary session's competence by this Act or by the Constitutional Court's Rules of Procedure.

(2) The Constitutional Court shall decide in plenary session

a) within the framework of the procedures specified in Sections 23, 35 and 38,

b) on the annulment of an Act that is contrary to the Fundamental Law or to an international treaty, and on the annulment of an Act in a case examined on the merits by the panel,

c) on the adoption of the Rules of Procedure and the Organisational and Operational Regulations of the Constitutional Court,

d) on

da) the suspension of the immunity of a Member of the Constitutional Court,

db) on the declaration of incompatibility of a Member of the Constitutional Court, and, based on such incompatibility, on the establishment of the termination of his or her membership,

dc) on the release of a Member of the Constitutional Court from mandate and on his or her exclusion from the Constitutional Court,

e) on the election of the Vice President and the Secretary General, and

f) in all cases where a decision of the plenary session is required by the social or constitutional importance or complexity of the case, by upholding the unity of constitutional jurisprudence or by other important reason.

(3) The President may order a petition to be adjudicated by the plenary session at his or her own initiative or shall order a motion to be adjudicated by the plenary session at the proposal of five Members of the Constitutional Court, or on the basis on Section 49 (6).

### *19. Initiating the Proceedings*

**Section 51** (1) The Constitutional Court shall proceed based on the petition of entities authorised to submit such in accordance with the Fundamental Law and with this Act.

(2) In the course of constitutional complaint proceedings, legal representation shall be mandatory. The right to represent shall be certified.

(3) Lawyers (law firms) or representatives of rights defender social organisations who have passed the bar examination may act as legal representatives. The legal advisor of a legal person or of other economic organisations shall enjoy a lawyer's legal status. A person who has passed the bar examination may act in their own case without a legal representative.

**Section 52** (1) The petition shall contain an explicit request. A petition is explicit if it clearly indicates

a) the provision of an Act that establishes the competence of the Constitutional Court to adjudicate the petition, and establishes that the entity has the right to submit petitions,

b) the reasons for initiating the proceedings and – in case of a constitutional complaint – the substance of the violation of the right guaranteed by the Fundamental Law,

c) with the exception of the procedure specified in Section 38, the provision of a legal regulation or the judicial decision to be examined by the Constitutional Court; in case of making a petition for the proceedings specified in Section 33, the decision of the Parliament; in case of initiating the proceedings specified in Sections 34 to 36, the operation, behaviour or exercise of competences that are contrary to the Fundamental Law,

d) the provisions of the Fundamental Law or of an international treaty that are violated,

e) a reasoning that specifies why the contested legal regulation, the provision thereof, the judicial decision or – in case of initiating the proceedings specified in Section 33 – the resolution of the Parliament is contrary to the specified provision of the Fundamental Law or the international treaty, and – in case of initiating the procedure specified in Sections 34 to 36 – a detailed explanation of the request set forth in the petition, as well as

f) an explicit request for the annulment of the legal regulation, the provision thereof or the judicial decision, and for the content of the Constitutional Court's decision.

(2) The examination conducted by the Constitutional Court shall be exclusively limited to the specified constitutional request. This provision does not affect the competence of the Constitutional Court with regard to declarations that are specified in Sections 28 (1), 32 (1), 38 (1), 46 (1) and 46 (3) and may be performed *ex officio*.

(3) The Constitutional Court may examine and annul other provisions of the legal regulation specified in the petition if the contents of these provisions are closely related to each other and if failure to examine and annul the given provisions would entail infringement of legal certainty.

(4) The petitioner shall be obliged to certify the existence of the preconditions of the proceedings.

(5) The motion shall include the name and address or seat of the petitioner, and – if the petitioner is a public law official – his or her office; in constitutional complaint proceedings, the petitioner shall make a declaration on the processing of his or her personal data.

(6) The documents that certify the contents of the petition shall be submitted to the Constitutional Court as attachments to the petition.

**Section 53** (1) Written petitions for initiating proceedings shall be filed directly with the Constitutional Court. The Constitutional Court shall immediately inform the President of the Republic and the National Election Committee about the receipt of a petition on the examination of a Parliament's resolution related to ordering a referendum.

(2) By way of derogation from paragraph (1), petitions for constitutional complaint – with the exception of Section 26 (2) – shall be submitted to the court of the first instance and addressed to the Constitutional Court.

- (3) The court shall forward the constitutional complaint to the Constitutional Court.
- (4) The court may suspend the execution of the decision contested in the constitutional complaint until the Constitutional Court's proceedings are concluded.
- (5) The petitioner may repeatedly submit a petition with the same content only if the underlying grounds of the previous petition had changed significantly.
- (6) With the exception of constitutional complaints, petitions submitted to the Constitutional Court shall not be withdrawn.

**Section 54** (1) The proceedings of the Constitutional Court are free of charge. The petitioner shall bear his or her own costs incurred in the course of the Constitutional Court proceedings.

(2) The panel of the Constitutional Court or the single judge – acting in accordance with Section 55 (5) – may impose a procedural fine on the petitioner and may order him or her to pay the extra costs if the petitioner exercises the right to petition in an abusive manner; similar measures may be taken against those petitioner or other persons participating in the proceedings whose wilful conduct delays or hinders the termination of the Constitutional Court proceedings.

(3) The amount of procedural fine may be between HUF 20,000 and HUF 500,000; the person on whom the fine is imposed shall be obliged to pay the fine until the date specified in the order of the Constitutional Court. When determining the amount of the procedural fine, the gravity and the consequences of the act that resulted in the imposition of the fine shall be taken into consideration.

(4) Another panel of the Constitutional Court – appointed by the President – may change the decision on the procedural fine and on costs defined in paragraph (2) if the person on whom the penalty is imposed applies for it or, ex officio for reasons meriting particular consideration.

#### *20. The Preparation of the Proceedings and the Preliminary Examination of the Admissibility of Petitions*

**Section 55** (1) The Secretary General shall prepare the proceedings of the Constitutional Court as specified in this Act and in the Rules of Procedure of the Constitutional Court.

(2) First, the Secretary General shall examine whether the petition is suitable for initiating Constitutional Court proceedings and meets the requirements on the format and content of such a petition specified in this Act, and whether there are obstacles to the proceedings.

(3) If the motion does not meet the requirements on the format and content of such a motion specified in this Act, the Secretary General shall call upon the petitioner to submit a duly completed petition, which the petitioner shall be obliged to do within 30 days. If the petitioner fails to submit a duly completed petition within the time-limit or submits it unduly again, the petition shall not be examined on the merits.

(4) Besides the case specified in paragraph (3), the petition shall not be adjudicated on the merits if

- a) the petitioner fails to observe the time-limit of the submission of a petition specified by an Act or, despite the call-up to him or her, fails to justify the omission,
- b) the entity was manifestly unauthorised to submit such a petition,
- c) the adjudication of the petition manifestly does not fall within the competence of the Constitutional Court,
- d) the document submitted does not qualify as a petition, or
- e) the petition is manifestly unfounded.

(5) The decision of the Constitutional Court to reject a petition without examining its merits shall be taken – at the proposal of the Secretary General – by a single judge of the Constitutional Court.



**Section 56** (1) The Constitutional Court shall decide on the admission of a constitutional complaint acting in the panel determined in its Rules of Procedure.

(2) The panel shall examine in its discretionary power the content-related requirements of the admissibility of a constitutional complaint – in particular the concernment pursuant to Sections 26 to 27, the exhaustion of legal remedies and the conditions specified in Sections 29 to 31.

(3) In case of the rejection of admission, the panel shall pass an order that contains a short reasoning specifying the ground for rejection.

(4) The admitted constitutional complaint shall be submitted by the rapporteur for an examination on the merits to the standing panel, specified by the Rules of Procedure of the Constitutional Court, that adjudicates the case.

#### *21. General Rules of Proceedings*

**Section 57** (1) The Constitutional Court shall take decisions on the merit of the petitions on the basis of the documents at its disposal.

(2) The Constitutional Court may order the personal hearing of the petitioner or a third party, or may invite them to make a declaration. The Constitutional Court may invite organs and authorities concerned in the motion, and courts, authorities, other public organs, institutions of the European Union or international organs that must be contacted for the adjudication of the petition to make a declaration, send documents or give an opinion.

(3) With regard to concrete cases, the Constitutional Court may contact the court that proceeded in the case in order to send the files of the case.

(4) Persons invited for a personal hearing shall be obliged to attend.

(5) Organs, authorities and courts invited to make declarations or requested to send documents shall be obliged to cooperate.

(6) If the decision on the violation of a fundamental right requires the clarification of a specialised issue, the Constitutional Court shall convocate an expert in the proceedings, as an exceptional measure. The detailed rules of taking evidence by the expert shall be specified in the Rules of Procedure of the Constitutional Court.

(7) Public hearing shall be held if hearing specified in paragraph (2) is ordered, on the basis of the decision of the presiding judge of panel or – in case of plenary session proceedings – of the President, at the request of the petitioner or the adverse party participating in the court proceedings that serve as a basis of the Constitutional Court proceedings (hereinafter referred to as 'adverse party').

(8) The petitioner and the adverse party shall have the right to have access to the documents drawn up in the course of the proceedings.

(9) With respect to the means of taking evidence specified in paragraphs (2) to (6) and with respect to paragraph (8), the provisions of the Code of Civil Procedure shall be applied, as appropriate.

(10) Unless provided for otherwise by this Act, other methods or means of taking evidence may not be used in the proceedings of the Constitutional Court.

**Section 58** (1) If in the course of the examination of the petition on the merits, the rapporteur Member of the Constitutional Court establishes that the petition needs to be supplemented, he or she may call upon – setting a time-limit – the petitioner to submit a duly completed petition. In case of failure to comply with that time-limit, the Constitutional Court shall decide on the basis of the information at its disposal.

(2) The rapporteur Member of the Constitutional Court in the interest of joint examination and adjudication, may order to join those cases pending before him or her whose subject-matter is interrelated.

(3) If, in the interest of deciding the case, the rapporteur Member of the Constitutional Court considers it appropriate, he or she may order that certain contested issues shall be examined on the merits and adjudicated separately.

**Section 59** If it turns out that a case has become manifestly no longer pertinent, the Constitutional Court – as specified in its Rules of Procedure – may exceptionally terminate the proceedings.

**Section 60** The Constitutional Court may exceptionally suspend its proceedings until the termination of proceedings in progress before a court, an authority, other state organ, an institution of the European Union or an international organ, if the decision by the Constitutional Court on the merits of a case depends on the decision on an issue that is dealt with within the framework of proceedings before such organs, and if such suspension is justified by legal certainty, a particularly important interest of the petitioner or any other particularly important reason.

**Section 61** (1) The Constitutional Court, in the course of its proceedings, shall exceptionally call upon the court to suspend the execution of the contested decision, if it is justified

a) with regard to the expectable length of the Constitutional Court proceedings or to the expectable decision,

b) in order to avoid serious and irreparable damage or disadvantage, or

c) for any other important reason,

and the court did not suspend the execution of the decision on the basis of Section 53 (4).

(2) If, within its competence specified in Section (24), in the course of the examination of a legal regulation or a provision therein that has been promulgated but has not entered into force yet, the Constitutional Court considers it probable that said legal regulation or provision thereof is contrary to the Fundamental Law, it may exceptionally suspend the entry into force of the legal regulation or provision thereof specified in the petition, provided that the avoidance of serious and irreparable damage or disadvantage or the protection of the Fundamental Law or of legal certainty necessitates immediate measures.

(3) The suspension specified in paragraph (2) shall terminate when the Constitutional Court passes a decision on the merits. If the Constitutional Court does not annul the legal regulation or the provision thereof, in its decision it shall set the date of the entry into force of the legal regulation or the provision thereof. The date of entry into force shall be set as follows: the period between the promulgation of the legal regulation and the decision of the Constitutional Court on the merits shall be added to the date set in the legal regulation as entry into force of the legal regulation or the provision thereof.

(4) If the Constitutional Court does not pass a decision on the extension of the measure, the decision of suspension shall cease to have effect after one hundred and eighty days. The Constitutional Court, in its decision on suspension, sets the date of entry into force of the legal regulation or the provision thereof if the decision on suspension expires. The date of entry into force shall be set as follows: the period that would elapse between the promulgation of the legal regulation and the repeal of the decision on suspension shall be added to the date set in the legal regulation as entry into force of the legal regulation or the provision thereof.

**Section 62** (1) That Member of the Constitutional Court who is a relative of the petitioner or of the petitioner's legal representative, or participated in the court proceedings under adjudication either as a party or in any other way, as a judge in the making of a judicial decision, shall not participate in the adjudication of the constitutional complaint.

(2) That Member of the Constitutional Court, who is personally and directly concerned in the matter under adjudication and thus cannot be expected to pass an impartial, objective and unbiased decision on the case, shall not participate in the adjudication of the petition.

(3) Members of the Constitutional Court shall report to the President immediately if there is any ground for their exclusion.

(4) In the course of the constitutional complaint proceedings – after the admission of the petition until the Constitutional Court passes a decision – the petitioner may initiate the exclusion of a Member of the panel in a written reasoned application, if an unbiased decision cannot be expected from that Member.

(5) The objection requesting the exclusion submitted by the petition shall be shown to the Member of the Constitutional Court concerned for the purpose of making a declaration. If the Member of the Constitutional Court consents to his or her exclusion, he or she shall not participate in the proceedings. If there is no such consent, another panel of the Constitutional Court or the plenary session shall pass a decision on the issue of exclusion. The submitter of the motion and the Member of the Constitutional Court concerned shall be informed of the order on exclusion.

## *22. Decisions of the Constitutional Court*

**Section 63** (1) The Constitutional Court shall pass decisions on the merit of cases and on the temporary measures specified in Section 61 (2), and shall pass orders on all other issues that come up in the course of the proceedings.

(2) With the exception of the order supplemented with a short reasoning – specified in Section 56 (3) – the Constitutional Court shall be obliged to give detailed reasoning for its decisions.

**Section 64** The Constitutional Court shall reject the petition in an order, if in the course of the examination on the merits it establishes

a) its lack of competence,

b) that the petitioner does not have the right to submit the petition,

c) the failure to submit a duly completed petition or to make any other declaration, which makes impossible the adjudication of the case, or the repeated submission of an incomplete petition that has already been given back for the purpose of submitting it duly,

d) that the content of the petition does not meet the conditions laid down in an Act,

e) the repeal of the provision of the legal regulation under examination – with the exception of the procedures specified in Sections 25 to 27, or

f) that the conditions specified in Sections 24 (3) or 31 are met.

**Section 65** The Constitutional Court shall pass a decision on the merits to adjudicate the petition, and decide about those issues that necessarily come up in the course of the proceedings.

**Section 66** (1) Decisions of the Constitutional Court shall be communicated by service to the petitioner, to the court that forwarded the constitutional complaint and to those persons concerned whose notification the Court deems necessary.

(2) If a Member of the Constitutional Court who opposed the decision in the course of the voting does not agree with the decision of the Constitutional Court, he or she shall have the right to attach his or her dissenting opinion – along with a written reasoning – to the decision.

(3) A Member of the Constitutional Court who agrees with the merits of the decision shall have the right to attach his or her reasons in the form of a concurring opinion if they differ from those of the majority.

(4) The Constitutional Court may order that its decision be announced in public.

## *23. Miscellaneous Provisions*

**Section 67** The provisions of the Code of Civil Procedure shall be applied, as appropriate, in the proceedings of the Constitutional Court in regard of the use of mother tongue.

**Section 68** Within the framework of the procedures specified in Sections 23 to 24 and 32 to 33, the Constitutional Court shall publish the petitions submitted to it in electronic format, accessible for all without need for identification and without restrictions. Within the

framework of the procedures specified in Sections 25 to 27, the Constitutional Court shall publish the petitions if the petitioners consent to it.

*Chapter IV*  
***Closing Provisions***

**Section 69** (1) This Act shall enter into force on 1 January 2012.

(2) This Act shall be considered a cardinal Act pursuant to Article 24 (5) of the Fundamental Law.

(3)

a)

b)

c)

d)

e)

(4)

(5) This Act shall not affect the mandate of the Members of the Constitutional Court in office at the time of the entry into force of this Act, with the exception that the provisions of Section 5 and Sections 10 to 16 shall be applicable to their mandate. Members of the Constitutional Court who are in office at the time of the entry into force of this Act or who were in office before the entry into force of this Act, who were elected by Parliament for a term of nine years and were not re-elected, may be re-elected once after the entry into force of this Act.

(6) This Act shall not affect the mandate of the President of the Constitutional Court in office at the time of the entry into force of this Act, with the exception that Sections 18 to 20 shall be applicable to his mandate. The President of the Constitutional Court in office at the time of the entry into force of this Act may be re-elected once as President of the Constitutional Court after the entry into force of this Act.

(7) This Act shall not affect the mandate of the Vice President of the Constitutional Court in office at the time of the entry into force of this Act, with the exception that Section 21 (3) shall be applicable to his mandate.

(8) This Act shall not affect the mandate of the Secretary General of the Constitutional Court in office at the time of the entry into force of this Act, nor the mandate of the public servants employed at the Office of the Constitutional Court at the time of the entry into force of this Act.

(9) The provisions of this Act shall not affect the allowances determined for former Presidents who were in office before the entry into force of this Act based on previous legal regulations, with the stipulation that former Presidents who were in office before the entry into force of this Act shall only be entitled to the allowances described in Section 25 (1) and Section 22 (1) of Act XXXIX of 2000 on the salary and allowances of the President of the Republic, the Prime Minister, the Speaker of Parliament, the President of the Constitutional Court and the President of the Supreme Court if they reached the general retirement age and requested the allowances before the entry into force of this Act.

**Section 70** (1) The detailed rules of the procedures followed by the Constitutional Court shall be laid down in the Rules of Procedure of the Constitutional Court.

(2) The plenary session of the Constitutional Court shall release a Resolution of the Plenary Session of the Constitutional Court that has a character of a guideline in order to ensure the uniform interpretation of the Act on the Constitutional Court and the Rules of Procedure, and to develop uniform jurisprudence of the Constitutional Court. The Resolution of the Plenary Session shall be published in the Hungarian Official Gazette.

**Section 71** (1) Upon the entry into force of this Act all ongoing proceedings shall extinguish that, with regard to their content, are aimed at the ex post review of constitutionality of legal regulation as defined in Section 24 (1), and that were not submitted by those petitioners specified in Article 24 (2) e) of the Fundamental Law.

(2) The entry into force of this Act shall extinguish all ongoing proceedings regarding the rectification of unconstitutionality by omission, if the petition was not submitted by those petitioners specified in Article 24 (2) e) of the Fundamental Law.

(3) Persons who submitted petitions which were extinguished in accordance with paragraphs (1) and (2) – if the requirements specified in Section 26 of the Act are met – may submit new petitions to the Constitutional Court until 31 March 2012 containing constitutional concerns related to the legal regulation cited in the unadjudicated petition, with the same content as the unadjudicated petition, if the constitutional rights violation specified therein is contrary to the Fundamental Law.

(4) For the petitions specified in paragraph (3) the provisions of Section 30 (1) to (2) and (4) shall not apply; other than that, the provisions of this Act shall be applied to petitions.

(5) After 30 June 2012, no further petitions as specified in paragraph (3) may be submitted.

(6) Petitions as specified in paragraph (3) shall refer to the previously submitted petition that was the basis of the extinguished proceedings by citing data suitable for the identification of the petition.

**Section 72** (1) By way of derogation from the provisions of Section 71, in accordance with Article 25 (2) c) of the Fundamental Law, petitions submitted before the entry into force of this Act by government offices from the Capital or a county or its legal predecessor aimed at the review of a local government decree within the framework of the ex post examination of the constitutionality of legal regulations stating that a local government decree is contrary to another legal regulation shall be transferred to the courts.

(2) If a petition pursuant to paragraph (1) states the unconstitutionality of the local government decree exclusively, without mentioning conflicts with any other legal regulation at the same time, the Constitutional Court's proceedings shall follow Section 71.

**Section 73** (1) In other cases pending before the Constitutional Court and not regulated in Sections 71 and 72, the Constitutional Court proceedings shall be completed in accordance with the provisions of this Act if the case can be examined in the context of the provisions of the Fundamental Law and the petitioner has the right to submit the petition based on the provisions of this Act.

(2) In accordance with Article 25 (2) c) of the Fundamental Law, petitions submitted by judges before the entry into force of this Act shall be transferred to the courts if they are aimed at the examination of a local government decree within the framework of the examination of the constitutionality of legal regulations to be applied in a case in progress before the judge in question, and if they state that a local government decree is contrary to another legal regulation.

**Section 74** Constitutional complaint proceedings as defined in Sections 26 and 27 may also be initiated regarding proceedings that are ongoing at the time of the entry into force of this Act.

**Section 75** Where this Act mentions normative decisions and orders these shall be taken to also mean other legal means of state administration, and where it mentions Acts, these shall be taken to also mean Law-Decrees.

**Dr. Pál Schmitt**

President of the Republic

**László Kövér**

Speaker of Parliament