

Issuer:	Riigikogu
Type:	act
In force from:	17.03.2019
In force until:	31.12.2019
Translation published:	08.04.2019

Constitutional Review Court Procedure Act

Passed 13.03.2002
RT I 2002, 29, 174
Entry into force 01.07.2002

Amended by the following acts

Passed	Published	Entry into force
18.12.2002	RT I 2003, 4, 22	23.01.2003
11.02.2003	RT I 2003, 24, 148	17.03.2003
28.06.2004	RT I 2004, 56, 405	25.07.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
08.12.2005	RT I 2005, 68, 524	23.12.2005
14.06.2007	RT I 2007, 44, 316	14.07.2007
22.04.2010	RT I 2010, 19, 101	01.06.2010
17.10.2012	RT I, 01.11.2012, 1	11.11.2012
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2020
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers replaced on the basis of subsection 107 ³ (4) of the Government of the Republic Act as of the wording in force on 1 July 2014.
13.04.2016	RT I, 06.05.2016, 1	01.01.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
20.02.2019	RT I, 07.03.2019, 1	17.03.2019

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of this Act

This Act provides for the jurisdiction of the Supreme Court as the court of constitutional review and lays down the rules concerning recourse to and procedure before that court.

§ 2. Jurisdiction of the Supreme Court

On the basis of this Act, the Supreme Court shall:

- 1) deal with petitions to verify the constitutionality of a legislative or regulatory act, or of omission to adopt such an act;
- 2) deal with petitions to verify the conformity of international agreements with the Constitution;
- 2¹) deal with petitions for an opinion on the interpretation of the Constitution in conjunction with the law of the European Union;
[RT I 2005, 68, 524 – entry into force 23.12.2005]
- 3) deal with petitions and complaints concerning a resolution of the *Riigikogu*;
- 4) deal with complaints against resolutions of the Board of the *Riigikogu*;
- 5) deal with complaints against resolutions of the President of the Republic;
- 6) deal with petitions to declare a member of the *Riigikogu*, the President of the Republic, the Chancellor of Justice or the Auditor General permanently incapable of performing their duties;
- 7) deal with petitions to terminate the mandate of a member of the *Riigikogu*;

8) decide on the grant of consent, to the President of the *Riigikogu* acting as the President of the Republic, to declare extraordinary elections of the *Riigikogu* or to refuse to promulgate an Act of the *Riigikogu*;
9) deal with petitions to terminate the activities of a political party;
10) deal with complaints and protests concerning the actions of a body that organizes an election or concerning the decisions or actions of an electoral committee.
[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

§ 3. Consideration of cases at the Supreme Court

(1) Cases which are placed within the jurisdiction of the Supreme Court by this Act shall be dealt with by the Constitutional Review Chamber (hereinafter, ‘the Chamber’) or the Supreme Court *en banc*.

(2) The Chamber shall consider cases as a panel of five members. A complaint or protest against the actions of a body that organizes an election or the actions or decision of an electoral committee shall be considered by the Chamber sitting as a panel of at least three members. If, in relation to considering the aforementioned complaint or protest, the Supreme Court additionally scrutinizes the constitutionality of a legislative or regulatory act or of an omission to adopt such an act, the case shall be considered by a panel of five members.
[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(2¹) Petitions for an opinion on the interpretation of the Constitution in conjunction with the law of the European Union shall be considered by the Chamber sitting as a panel of five to nine members.
[RT I 2005, 68, 524 – entry into force 23.12.2005]

(3) The Supreme Court *en banc* shall adjudicate any case referred to it by the Constitutional Review Chamber if that Chamber deems it necessary for the case to be adjudicated by the Court in that composition. The Court shall adjudicate any case referred to it by the Administrative Chamber, the Civil Chamber or the Criminal Chamber, or by the Special Panel, if that Chamber or the Special Panel has reason to believe that a legislative or regulatory act or omission to adopt such an act, or an international agreement which is relevant to the adjudication of the case, are contrary to the Constitution.

(4) Petitions to declare a member of the *Riigikogu*, the President of the Republic, the Chancellor of Justice or the Auditor General permanently incapable of performing his or her duties, to terminate the mandate of a member of the *Riigikogu* or to terminate the activities of a political party shall be dealt with exclusively by the Supreme Court *en banc*.

(5) The Supreme Court *en banc* shall consider cases by a panel of at least eleven members.

§ 3¹. Making of requests to the European Court of Human Rights

(1) In a case pending before the Supreme Court in which a party has the right, under Article 34 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, on completion of proceedings, to file an individual complaint with the European Court of Human Rights alleging a breach of their rights, the Supreme Court may, in accordance with Protocol No. 16 to the aforementioned Convention, request an advisory opinion of the European Court of Human Rights on a question of principle related to the interpretation or application of the rights and freedoms defined in that Convention or the Protocols to it.

(2) The request must state its reasons and describe the relevant legal and factual circumstances of the case pending before the Supreme Court.

(3) The Supreme Court may suspend its proceedings for the time that it takes for proceedings on the request to run their course. Suspension of proceedings at the Court shall not preclude making an application to the European Court of Human Rights for withdrawal of the request. The Supreme Court shall resume its proceedings when it receives an advisory opinion concerning the request, when it learns of the request having been denied or when it withdraws the request.

(4) An advisory opinion of the European Court of Human Rights is not binding on the Supreme Court.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017, § 3¹ applies from the day Protocol No. 16 to the European Convention for the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia.]

Chapter 2 CONSTITUTIONAL REVIEW OF LEGISLATIVE OR REGULATORY ACTS

§ 4. Initiation of proceedings

(1) The Supreme Court shall verify the constitutionality of a legislative or regulatory act or of an omission to issue such an act, or of an international agreement on the basis of a substantiated petition, court judgment or court order.

(2) The petition may be filed with the the Supreme Court by the President of the Republic, the Chancellor of Justice, the council of a local authority or the *Riigikogu*.

(3) The courts shall initiate the proceedings by transmitting the relevant judgment or order to the Supreme Court.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 5. Petition by the President of the Republic

If, for the second time and without any amendment, the *Riigikogu* passes an Act which the President of the Republic has refused to promulgate and returned to the *Riigikogu* for a new debate and decision, the President may file a petition with the Supreme Court to declare the Act to be contrary to the Constitution.

§ 6. Petition by the Chancellor of Justice

(1) The Chancellor of Justice may file with the Supreme Court a petition:

- 1) to invalidate a legislative or regulatory act or certain provisions of such an act which has entered into force and which has been adopted by the legislative or executive branch of government or by a body of a local authority;
- 2) to declare an Act which has been promulgated but which has not yet entered into force to be contrary to the Constitution;
- 3) to declare a regulatory act which has been adopted by the legislative branch of government or by a body of a local authority and which has not entered into force to be contrary to the Constitution;
- 4) to declare an international agreement which has been signed or a provision of such an agreement to be contrary to the Constitution;
- 5) to annul a resolution of the *Riigikogu* concerning the submission of a legislative bill or other national issue to a referendum if that bill, with the exception of bills to amend the Constitution, or issue is contrary to the Constitution or if the *Riigikogu* materially violated the established rules of procedure when adopting the resolution.

(2) The Chancellor of Justice shall file the petition provided for in clause 5 of subsection 1 of this section within 14 days from receiving the corresponding resolution of the *Riigikogu*.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 7. Petition by the council of a local authority

The council of a local authority may file with the Supreme Court a petition to declare an Act which has been promulgated but which has not yet entered into force, or a regulation of the Government of the Republic or of a minister, which has not yet entered into force, to be contrary to the Constitution, or a petition to invalidate an Act which has entered into force, a regulation of the Government of the Republic or a minister or a provision of such an Act or such a regulation, if it is contrary to the constitutional guarantees of local government.

§ 7¹. Petition by the *Riigikogu*

The *Riigikogu* may file a petition with the Supreme Court for an opinion on interpreting the Constitution in conjunction with the law of the European Union if the interpretation of the Constitution is of decisive importance for the passing of a legislative bill which is necessary for fulfilling Estonia's obligations as a Member State of the European Union.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 8. Requirements for petitions

(1) A petition shall be substantiated and shall set out the provisions or principles of the Constitution which the contested legislative or regulatory act, international agreement or resolution of the *Riigikogu* is contrary to.

(1¹) A petition by the *Riigikogu* for an opinion on interpreting the Constitution in conjunction with the law of the European Union shall state the reasons why the body submitting the petition deems it necessary to request the opinion of the Supreme Court. The petition shall make reference to the relevant part or provision of the legislative bill and to the provisions or principles of the Constitution concerning the interpretation of which the opinion of the Supreme Court is requested.

(2) The body submitting the petition shall sign the petition and append to it the text or relevant excerpts of the contested legislative or regulatory act, international agreement or resolution of the *Riigikogu* as well as other documents on which it is based.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 9. Constitutional review on the basis of court judgment or court order

(1) If the courts of first or second instance, when adjudicating a case, have set aside any legislative or regulatory act or international agreement relevant in the case and declared that act or agreement to be contrary to the Constitution or if those courts, when adjudicating the case, have declared the omission to adopt a legislative or regulatory act to be contrary to the Constitution, they shall transmit the corresponding judgment or order to the Supreme Court.

(2) The courts shall append, to the judgment or order which is transmitted to the Supreme Court, the text or the relevant excerpts of the legislative or regulatory act or international agreement which the operative part of that judgment or order declares to be contrary to the Constitution.

[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 10. Parties to proceedings

(1) The parties to proceedings are:

- 1) the body which adopted or issued the contested legislative or regulatory act;
- 1¹) the body which omitted to adopt or issue the legislative or regulatory act;
- 2) the Government of the Republic, if an international agreement is contested;
- 3) in proceedings initiated on the basis of a court judgment or order, the parties to the corresponding litigation;
- 4) the council of the local authority, in the case of petitions filed by the council of a local authority;
- 4¹) the *Riigikogu*, in the case of petitions filed by that body;
- 5) the Chancellor of Justice;
- 6) the minister responsible for the area;
- 7) the minister representing the Government of the Republic.

(2) Under the procedure for constitutional review of a legislative or regulatory act, the Supreme Court shall ask the parties to proceedings to submit their opinions concerning the constitutionality of the contested act. The Court shall grant the parties listed in clauses (1) 1), 1¹) and 3) of subsection 1 of this section the possibility to submit a further opinion or explanation concerning the opinions submitted to it.

(3) Where this is necessary, the Supreme Court shall require the body which adopted or issued the legislative or regulatory act or which concluded the international agreement, or which omitted to adopt or issue such an act or conclude such an agreement, to provide an explanation concerning that act or agreement or a provision of thereof.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 11. Curing of defects and return of petition or court decision without it having been considered

(1) If a petition does not conform to the requirements of the law, the Supreme Court shall set a time limit to the body who filed that petition to cure the defects. If the body fails to cure the defects within the set time limit, the Supreme Court shall return the petition without having considered it.

(2) The petition shall be returned to the body who submitted it without that petition having been considered if consideration of the petition does not fall within the jurisdiction of the Supreme Court.

(3) A court judgment or court order shall be returned without it having been considered if it is not substantiated or if, in the operative part of the judgment or order, the court has not declared a legislative or regulatory act or a provision of such an act, or omission to adopt a legislative or regulatory act, to be contrary to the Constitution.

[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 12. Suspension of entry into force of a legislative or regulatory act or of an international agreement

The Supreme Court may, on the basis of a substantiated request by a party to the proceedings or on its own initiative, for valid reasons and until the judgment it enters in the case becomes final, suspend the entry into force of a contested legislative or regulatory act or a provision of such an act, or the procedures required for the entry into force in respect of Estonia of an international agreement.

§ 13. Time limits for resolution of cases

(1) The Court shall resolve cases within a reasonable time, which may not be longer than four months from receiving a petition filed in compliance with the requirements.

(2) The Court shall resolve the petition listed in clause 6 (1) 5) not later than within two months from receiving such a petition, submitted in compliance with the requirements.

§ 14. Limitations on resolution of cases

(1) When resolving the case, the Supreme Court is not bound by the substantiation of the petition, court judgment or court order.

(2) When resolving a case initiated by a judgment or order, the Supreme Court may invalidate, or declare to be contrary to the Constitution, a legislative or regulatory act, an international agreement or a provision of such an agreement, or omission to adopt a legislative or regulatory act, which is relevant to the case. At the same time, the Supreme Court shall not deal with legal disputes which are to be dealt with under the provisions of court procedure applicable in administrative, civil, criminal or administrative offence cases.

(3) A case referred to the Supreme Court *en banc* by order of a Chamber of the Supreme Court or of the Special Panel under the relevant code of procedure shall be resolved by the Supreme Court *en banc* with respect to all issues that are relevant to the case, applying the code of procedure corresponding to the type of the case in conjunction with this Act.

[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 15. Powers of the Supreme Court

(1) When resolving a case, the Supreme Court may:

1) declare a legislative or regulatory act which has not yet entered into force to be contrary to the Constitution;
2) declare a legislative or regulatory act which has entered into force, or a provision of such an act, to be contrary to the Constitution and invalidate that act or provision;

2¹) declare the omission to issue a legislative or regulatory act to be contrary to the Constitution;

3) declare an international agreement which has entered into force or which has not yet entered into force, or a provision of such an agreement, to be contrary to the Constitution;

4) annul a resolution of the *Riigikogu* concerning submission of a legislative bill or a national issue to a referendum;

5) declare that the contested legislative or regulatory act, the omission to adopt a such an act, or the contested international agreement was contrary to the Constitution at the time the corresponding petition was filed;

5¹) give its opinion on the interpretation of the Constitution in conjunction with the law of the European Union;

6) deny the petition.

(2) If a legislative or regulatory act which is not yet in force is declared to be contrary to the Constitution, that act shall not enter into force.

(3) If an international agreement or a provision of such an agreement is declared to be contrary to the Constitution, the body which concluded the agreement is required to withdraw from it, if possible, or initiate the procedure for denunciation of that agreement, or for its modification such as to ensure its conformity with the Constitution. An international agreement which is contrary to the Constitution shall not be applied domestically.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

Chapter 3

COMPLAINTS AGAINST RESOLUTIONS OF THE RIIGIKOGU, THE BOARD OF THE RIIGIKOGU AND THE PRESIDENT OF THE REPUBLIC

§ 16. Complaints against resolutions of *Riigikogu*

Any person who finds that their rights have been infringed by a resolution of the *Riigikogu* may file a petition with the Supreme Court to annul that resolution.

§ 17. Complaints against resolutions of the Board of the *Riigikogu*

Any member, alternate member or faction of the *Riigikogu* who finds that their rights have been infringed by a resolution of the *Riigikogu* listed in clauses 13 (2) 2), 2¹), 3) or 4) of the *Riigikogu* Rules of Procedure and Internal Rules Act or in sections 13 or 14 of the Status of Members of the *Riigikogu* Act may file a petition with the Supreme Court to annul that resolution.

[RT I, 07.03.2019, 1 – entry into force 17.03.2019]

§ 18. Complaints against resolutions of the President of the Republic

Any person who finds that their rights have been infringed by a resolution of the President of the Republic on the appointment to or release from office of an official may file a petition with the Supreme Court to annul that resolution.

§ 19. Time limit for the filing of complaints

A complaint against a resolution of the *Riigikogu*, the Board of the *Riigikogu* or the President of the Republic may be filed with the Supreme Court within 10 days following the entry into force of that resolution.

§ 20. Requirements for the substance and form of complaints

(1) A complaint shall include its substantiation and shall set out the following:

- 1) particulars of the person filing the complaint;
- 2) particulars of the contested resolution;
- 3) a clearly expressed request;
- 4) how the contested resolution infringes the complainant's rights.

(2) The complaint shall be signed by the complainant and shall include, in an annex, the text of the contested resolution and any other documents on which the complaint is based.

[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 20¹. Curing of defects and return of the complaint without it having been considered

(1) If the complaint fails to meet the requirements provided in subsections 20 (1) and (2) and has defects which can be cured, the Supreme Court shall set a time limit for the complainant to cure those defects. If the complainant fails to cure the defects within the set time limit, the Court shall, by order, return the complaint to the complainant without it having been considered.

(2) The complaint shall be returned to the complainant if consideration of the complaint does not fall within the jurisdiction of the Supreme Court.

(3) The complaint shall be returned to the complainant if the contested resolution cannot infringe the rights of the complainant and the complaint is therefore manifestly unfounded.

[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 21. Parties to proceedings

(1) The parties to proceedings before the Supreme Court in relation to considering a complaint are the complainant and the body which made the resolution complained against.

(2) When considering a complaint against a resolution on appointment to or release from office of an official, the person who was appointed to office shall also be a party to the proceedings. When considering a complaint against a resolution concerning the assumption of a mandate to the *Riigikogu* by an alternate member in the stead of a member of that body, the alternate member who assumed the mandate in the stead of a member shall also be a party to the proceedings.

§ 22. Time limit for resolution of cases

The Court shall, without delay, resolve any complaint which complies with the requirements and which is made against a resolution of the *Riigikogu*, of the Board of the *Riigikogu* or the President of the Republic.

§ 23. Recommencement of proceedings

(1) If the Court, when considering a complaint against a resolution of the *Riigikogu*, of the Board of the *Riigikogu* or the President of the Republic, has reason to believe that the legislative or regulatory act relevant to the case, or the omission to issue such an act, or an international agreement relevant to the case, may be contrary to the Constitution, the Court shall, by order, recommence the proceedings and join the persons listed in subsection (1) of section 10 to consideration of the case as parties to proceedings.

(2) Having recommenced the proceedings, the Court shall adjudicate the complaints mentioned in subsection (1) of this section at the same time that it completes, within the time limit indicated in subsection (1) of section 13, computed from the recommencement of proceedings, its scrutiny of the constitutionality of the relevant legislative or regulatory act or the omission to adopt such an act, or of the relevant international agreement.

[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 24. Powers of the Supreme Court

(1) When dealing with the case, the Supreme Court may:

- 1) annul the resolution of the *Riigikogu*, the Board of the *Riigikogu* or the President of the Republic or any part of that resolution;
- 2) deny the complaint.

(2) The Supreme Court may declare the resolution of the *Riigikogu* or the President of the Republic on release of the complainant from office unlawful without annulling it. In such a case, the Court may award fair monetary compensation to the complainant.

(3) If the Supreme Court, in relation to dealing with the case, also scrutinises the constitutionality of a legislative or regulatory act or of an international agreement, the Court may, when resolving that matter, make one of the orders set out in subsection (1) of section 15 of this Act.
[RT I 2004, 56, 405 – entry into force 25.07.2004]

Chapter 4

DECLARING AN OFFICIAL PERMANENTLY INCAPABLE OF PERFORMING THEIR DUTIES, TERMINATING THE MANDATE OF A MEMBER OF THE RIIGIKOGU AND GRANTING CONSENT TO THE PRESIDENT OF THE RIIGIKOGU ACTING AS PRESIDENT OF THE REPUBLIC

§ 25. Petitions to declare an official permanently incapable of performing their duties

- (1) A petition to declare the Chancellor of Justice or the Auditor General permanently incapable of performing their duties shall be filed with the Supreme Court by the President of the Republic.
- (2) A petition to declare a member of the *Riigikogu* permanently incapable of performing their duties shall be submitted to the Supreme Court by the Board of the *Riigikogu*.
- (3) A petition to declare the President of the Republic permanently incapable of performing their duties shall be submitted to the Supreme Court by the Chancellor of Justice.
- (4) A petition to declare an official permanently incapable of performing their duties shall be substantiated and, if possible, documents certifying the official's permanent incapacity to perform their duties shall be appended to the petition.

§ 26. Petition to terminate the mandate of a member of the *Riigikogu*

- (1) The Board of the *Riigikogu* shall file a petition with the Supreme Court to terminate the mandate of any member of the *Riigikogu* who does not comply with the requirements provided in the Constitution or the *Riigikogu* Election Act, or who refuses to take the oath of office.
- (2) The petition must be substantiated.

§ 27. Petition to grant consent to the President of *Riigikogu* acting as President of Republic

- (1) The President of the *Riigikogu* acting as President of the Republic may file a petition with the Supreme Court for consent to declare extraordinary elections to the *Riigikogu* or to refuse to promulgate an Act of the *Riigikogu*.
- (2) The petition for consent to declare extraordinary elections must include a statement of the reasons why extraordinary elections are prescribed under the Constitution or why they are urgently needed in the situation that has developed.
- (3) The petition for consent to refusal to promulgate an Act of the *Riigikogu* must set out the reasons why the Act may be contrary to the Constitution or which essential social values it disregards.

§ 28. Parties to proceedings

- (1) The parties to proceedings before the Supreme Court when considering the petitions listed in section 25 are the person who filed the petition and, if possible, the person with respect to whom a declaration of permanent incapacity to perform their duties is sought.
- (2) The parties to proceedings before the Supreme Court when considering the petition mentioned in section 26 are the person who filed the petition and the member of the *Riigikogu* whose mandate the petition seeks to terminate.
- (3) The parties to proceedings before the Supreme Court in relation to deciding on the grant of consent by the Court to declare extraordinary elections to the *Riigikogu* are the person who filed the petition, the National Electoral Committee and the *Riigikogu*.

(4) The party to proceedings before the Supreme Court in relation to deciding on the grant of consent by the Court to refusal to promulgate an Act of the *Riigikogu* is the person who filed the petition.

(5) The Chancellor of Justice may participate, with the right to give an opinion, in proceedings concerning the grant of consent to declare extraordinary elections to the *Riigikogu* and in proceedings concerning the grant of consent to refusal to promulgate an Act of the *Riigikogu*.

§ 29. Time limit for resolution of cases

When it receives a petition filed in compliance with the requirements, the Court shall resolve the case without delay.

§ 30. Recommencement of proceedings

(1) If the Court, when considering a petition to declare an official permanently incapable of performing his or her duties or to terminate the mandate of a member of the *Riigikogu*, has reason to believe that the legislative or regulatory act relevant to the case or the omission to issue such an act, or an international agreement relevant to the case, may be contrary to the Constitution, the Court shall, by order, recommence the proceedings and join the persons listed in subsection (1) of section 10 to consideration of the case as parties to proceedings.

(2) Having recommenced the proceedings, the Court shall resolve the petitions mentioned in subsection (1) of this section at the same time that it completes, within the time limit indicated in subsection (1) of section 13, computed from the recommencement of proceedings, its scrutiny of the constitutionality of the relevant legislative or regulatory act or the omission to issue such an act, or of the relevant international agreement.
[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 31. Powers of the Supreme Court

(1) When dealing with the case, the Supreme Court may:

- 1) deny the petition;
- 2) declare a member of the *Riigikogu*, the President of the Republic, the Chancellor of Justice or the Auditor General permanently incapable of performing their duties;
- 3) terminate the mandate of a member of the *Riigikogu*;
- 4) grant consent to the President of the *Riigikogu* acting as the President of the Republic to declare extraordinary elections to the *Riigikogu*;
- 5) grant consent to the President of the *Riigikogu* acting as the President of the Republic to refuse to promulgate an Act of the *Riigikogu*.

(2) If the Supreme Court, in relation to dealing with the case, also scrutinises the constitutionality of a legislative or regulatory act or of an international agreement, the Court may, when resolving that matter, make one of the orders set out in subsection (1) of section 15 of this Act.
[RT I 2004, 56, 405 – entry into force 25.07.2004]

Chapter 5

TERMINATION OF ACTIVITIES OF A POLITICAL PARTY

§ 32. Petition to terminate the activities of a political party

(1) The Government of the Republic may file a petition with the Supreme Court to terminate the activities of a political party whose actions or aims demonstrate an intention to change the constitutional order of Estonia by force.

(2) The petition to terminate the activities of a political party shall be substantiated and shall include, as an annex, the documents on which that petition is based.

§ 33. Parties to proceedings

(1) The parties to proceedings before the Supreme Court when considering a petition to terminate the activities of a political party are the Government of the Republic and the political party whose activities the petition seeks to terminate.

(2) The Chancellor of Justice may participate, with the right to give an opinion, in proceedings concerning termination of the activities of a political party.

§ 34. Time limit for resolution of cases

When receiving a petition which seeks to terminate the activities of a political party and which is submitted in compliance with the requirements, the Court resolves that petition without delay.

§ 35. Recommencement of proceedings

(1) If the Court, when considering a petition to terminate the activities of a political party, has reason to believe that the legislative or regulatory act relevant to the case or the omission to adopt such an act, or an international agreement relevant to the case, may be contrary to the Constitution, the Court shall, by order, recommence the proceedings and join the persons listed in subsection (1) of section 10 to consideration of the case as parties to proceedings.

(2) Having recommenced the proceedings, the Court shall resolve the petition mentioned in subsection (1) of this section at the same time that it completes, within the time limit indicated in subsection (1) of section 13, computed from the recommencement of proceedings, its scrutiny of the constitutionality of the relevant legislative or regulatory act or the omission to issue such an act, or of the relevant international agreement.
[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 36. Powers of the Supreme Court

(1) When dealing with the case, the Supreme Court may:
1) decide to terminate the activities of the political party;
2) deny the petition.

(2) The Court shall, without delay, transmit a judgment concerning termination of the activities of the political party for execution to that party's home district court, which shall appoint the liquidators of the party and perform other actions prescribed by law for removing the political party from the register of non-profit associations and foundations.

(3) If the Supreme Court, in relation to dealing with the case, also scrutinises the constitutionality of a legislative or regulatory act or of an international agreement, the Court may, when resolving that matter, make one of the orders set out in subsection (1) of section 15 of this Act.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

Chapter 6

COMPLAINTS AND PROTESTS AGAINST ACTIONS OF BODIES ORGANIZING ELECTIONS OR DECISIONS OR ACTIONS OF ELECTORAL COMMITTEES

[RT I, 06.05.2016, 1 - entry into force 01.01.2017]

§ 37. Complaints against the actions of bodies organizing elections or the decisions or actions of electoral committees

[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(1) A political party, election coalition or person who finds that their rights have been infringed by an action of a body that organized the election or by the decision or action of an electoral committee may file a petition with the Supreme Court to annul the decision of the electoral committee or declare unlawful the action taken by the electoral committee, and to declare invalid the voting results recorded in a polling station, electoral district, rural municipality, city, county or in the national territory, or the results of electronic voting, in their entirety or in part.

[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(2) Any person who finds that their rights have been infringed by a decision or action taken by the electoral committee in relation to the election of the President of the Republic or of the Board of the *Riigikogu* may file a petition with the Supreme Court to annul that decision or declare unlawful the action taken by the electoral committee or declare the voting results recorded in the election of the President of the Republic or of the President and Vice Presidents of the *Riigikogu* invalid.

§ 38. Time limit for the filing of complaints

(1) A complaint against an action of the elections manager or the decision or action of the electoral committee may be filed with the Supreme Court after the matter has been dealt with by the National Electoral Committee. The complaint shall be filed with the Supreme Court through the National Electoral Committee within three days following communication of the decision or performance of the action by that Committee.

[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(2) The National Electoral Committee shall forward the complaint to the Supreme Court together with its written explanations not later than on the following business day.

§ 39. Requirements for the substance and form of complaints

(1) A complaint shall be filed in writing and shall set out the following:

- 1) particulars of the person filing the complaint;
- 2) particulars of the contested decision or a description of the contested action;
- 3) the complainant's clearly expressed request;
- 4) the substantiation of the complaint;
- 5) how the contested decision or action infringes the complainant's rights.

(2) The complaint shall be signed by the complainant and shall include, in an annex, a copy of the contested decision and any other documents on which the complaint is based.

(3) If the complaint does not meet the requirements provided in subsections (1) and (2) and shows curable defects, the Supreme Court shall set a time limit to the person who filed the complaint to cure those defects.

§ 40. Return of complaint without it having been considered

(1) The complaint shall be returned without it having been considered, if:

- 1) consideration of the complaint does not fall within the jurisdiction of the Supreme Court;
- 2) the complaint was not filed through the National Electoral Committee;
- 3) the person who filed the complaint has not cured the defects of the complaint within the set time limit.

(2) If the person who filed the complaint has allowed the time limit for filing to expire for valid reasons, the Supreme Court shall reinstate that time limit on the basis of a substantiated request by that person.

§ 41. Protest by the National Electoral Committee

(1) The National Electoral Committee shall file a protest with the Supreme Court to annul the decision of the electoral committee of a rural municipality or city by which a person was registered as a member of the council of the corresponding local authority if it has become evident that that member does not meet the requirements of the Local Government Council Election Act.

(2) The protest must be substantiated and must include, in an annex, the documents on which it is based.

§ 42. Parties to proceedings

(1) The parties to proceedings before the Supreme Court when considering the complaint are the person who submitted that complaint and the National Electoral Committee.

(2) In addition to the persons mentioned in subsection (1) of this section, when considering a complaint against a decision on the registration of members or alternate members of the *Riigikogu* or of the European Parliament, or on the distribution of supplementary mandates, as well as against a decision on the registration of members or alternate members of a local authority council or on the distribution of supplementary mandates, the person whose mandate may be invalidated shall also be a party to proceedings.

(3) When considering a protest, the parties to proceedings before the Supreme Court are the National Electoral Committee and the person whose mandate may be invalidated.
[RT I 2003, 4, 22 – entry into force 23.01.2003]

§ 43. Suspension of decision of the National Electoral Committee

When it receives a complaint related to the election of the President of the Republic, the Supreme Court has the right to postpone the election or suspend the assumption of office by the President elect until that complaint is resolved.

§ 44. Time limits for resolution of cases

(1) When receiving a complaint submitted in compliance with the requirements against an action of the body that organized an election or against a decision or action of an electoral committee, the Court resolves that complaint without delay but not later than within seven business days from receiving it.

[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(2) In the event of a joinder of complaints into a single set of proceedings, the case shall be resolved without delay but not later than within seven business days from the making of the order effecting the last joinder.

(3) The Supreme Court *en banc* shall resolve the case without delay but not later than within seven business days from the case being referred to that composition of the Court.

(4) When receiving a protest submitted in compliance with the requirements against a decision of the electoral committee of a rural municipality or city, the Court resolves that protest without delay.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 45. Recommencement of proceedings

(1) If the Court, when considering a complaint or protest against an action of a body that organized an election or against a decision or action of the electoral committee, has reason to believe that the legislative or regulatory act relevant to the case or the omission to adopt such an act, or an international agreement relevant to the case, may be contrary to the Constitution, the Court shall, by order, recommence the proceedings and join the persons listed in subsection (1) of section 10 to consideration of the case as parties to proceedings.
[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(2) If the complaint or protest against an action of a body that organized an election or against a decision or action of the electoral committee was considered by a panel of less than five members, the necessary number of judges shall be joined to the proceedings and the case shall be considered by a panel of five members.
[RT I, 06.05.2016, 1 – entry into force 01.01.2017]

(3) Having recommenced the proceedings, the Court shall resolve the complaint or protest mentioned in subsection (1) of this section at the same time that it completes, within reasonable time, but not later than within two weeks following the recommencement of proceedings, its scrutiny of the constitutionality of the relevant legislative or regulatory act or the omission to issue such an act, or of the relevant international agreement.
[RT I 2004, 56, 405 – entry into force 25.07.2004]

§ 46. Powers of the Supreme Court

(1) When dealing with a case, the Supreme Court may:
1) annul the decision of the electoral committee, declare the action of the body that organized the election, or of the electoral committee, unlawful and require the electoral committee to make a new decision or undertake the action anew, or require the body that organized the election to undertake the action anew;
[RT I, 06.05.2016, 1 – entry into force 01.01.2017]
2) deny the complaint or protest.

(2) Where the infringement of law at issue affected or may have affected voting results to a material extent, the Supreme Court may declare invalid the voting results recorded in a polling station, electoral district, rural municipality, city, county, the national territory, or in the election of the President of the Republic or of the Board of the *Riigikogu*, or declare invalid the results of electronic voting, in their entirety or in part.
[RT I, 01.11.2012, 1 – entry into force 11.11.2012]

(3) If the Supreme Court grants a complaint or protest filed against a decision on the registration of members and alternate members of the *Riigikogu* or of the European Parliament and on the distribution of supplementary mandates, or against a decision on the registration of members and alternate members of a local authority council and on the distribution of supplementary mandate, the Court shall invalidate the mandate at issue.

(4) If the Supreme Court, in relation to dealing with the case, also scrutinises the constitutionality of a legislative or regulatory act or of an international agreement, the Court may, when resolving that matter, make one of the orders set out in subsection (1) of section 15 of this Act.
[RT I 2004, 56, 405 – entry into force 25.07.2004]

Chapter 7 CONSIDERATION OF CASES

§ 47. Language of proceedings before the Court

(1) The language of proceedings before the Court is Estonian.

(2) Documents in a foreign language shall be submitted to the court together with translations into Estonian made by a sworn translator or translations into Estonian certified by a notary.
[RT I, 23.12.2013, 1 – entry into force 01.01.2014]

(3) Translation into English or French of a request to be submitted under section 3¹ of this Act and translation into Estonian of the decision of the European Court of Human Rights received with regard to that request shall be arranged by the Supreme Court at the expense of the state.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017, subsection 3 shall be applied starting the day that Protocol No. 16 to the European Convention for the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia.]

§ 48. Computation of time limits and representation at the Court

- (1) Time limits are computed as provided in the rules of civil procedure.
- (2) Representation is governed by the provisions of civil procedure.
- (3) Where a petition, complaint or protest is filed by a representative, the representative shall sign it and annex to it the document certifying their authority.

§ 49. Rights and obligations of parties to proceedings

- (1) Parties to proceedings have the right to know the composition of the court panel hearing their case, to receive copies of documents filed with the Court, to submit requests to the Court, to provide explanations to the Court, to submit evidence, to object to requests submitted by other parties and to receive certified copies of any decisions which the Court makes in the case and which are drawn up as a separate document. Parties to proceedings also have other procedural rights as prescribed by this Act.
- (2) Parties to proceedings are required to exercise their procedural rights in good faith.
- (3) Parties to proceedings are required to present relevant evidence to support their assertions or objections. If submission of the evidence is not possible, the reasons why the evidence cannot be submitted must be indicated and the Court must be notified of the location of the evidence. When the Court so requires, parties to proceedings are obligated to submit additional documents and information to the Court within the time limit set by the Court.

§ 50. Evidence

- (1) Any evidence allowed under civil procedure is admissible in constitutional review proceedings before the Court.
- (2) Evidence shall be submitted by parties to proceedings. The Court may suggest that, within the time limit it has set, the parties submit additional evidence or, on its own initiative, collect evidence, summon new witnesses or order expert assessment to verify the information submitted in the petition, complaint or protest.
- (3) The preservation of evidence, the summoning of witnesses to sittings and the hearing of witnesses shall be conducted in accordance with the provisions of civil procedure.

§ 51. Manner of consideration of cases

- (1) In general, the case is considered by written procedure.
- (2) The case is considered by oral procedure if this is deemed necessary by the panel which deals with the case. The Court directs the case to be considered by oral procedure at the request of a party to proceedings or on its own initiative.
- (3) Petitions to declare a member of the *Riigikogu*, the President of the Republic, the Chancellor of Justice or the Auditor General permanently incapable of performing their duties shall be considered by oral procedure.
- (4) Petitions for an opinion on the interpretation of the Constitution in conjunction with the law of the European Union shall be considered by written procedure.
[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 52. Joinder of cases

The Supreme Court may join similar cases in which proceedings are conducted concurrently and which are dealt with under this Act if the Court deems it necessary in the interests of the resolution of those cases.

§ 53. Publicity of oral procedure

- (1) Consideration of cases by oral procedure is open to the public.
- (2) The Court may declare proceedings or a part of these to be *in camera* proceedings if this is necessary in order to keep a state or business secret, to protect public morals or the private and family life of individuals, or if this is required in the interests of a minor or victim, or in the interests of justice.
- (3) The Court may, after having issued a corresponding warning, remove from the courtroom anyone who disturbs the order and thereby interferes with the hearing of the case.
- (4) People who are present in the courtroom may make audio recordings of the sitting from, and take written notes in, their seats provided this does not disturb the sitting.

(5) Any filming, photographing, taking of video footage and making of radio or television broadcasts requires permission from the Court.

§ 54. Procedure at judicial hearing

(1) The consideration of a petition, complaint or protest by oral procedure shall be conducted at first hand. The Court shall hear the submissions of the parties to proceedings, the testimony of witnesses or the opinion of specialists and examine the documents filed with the Court.

(2) Parties to proceedings who are not proficient in Estonian may, through a translator who has sworn the corresponding oath, make speak before the Court in their native language or in another language in which they are proficient.

(3) When the case is considered by oral procedure, in addition to what is provided in subsection 49 (1), parties to proceedings have the right to participate in court sittings, as well as in the inspection and examination of evidence, and to put questions to other parties, to witnesses and to experts.

§ 55. Minutes of the sitting

(1) Minutes shall be taken of the course of the sitting and of the submissions made at the sitting to the extent the Court considers this necessary.

(2) Until the conclusion of the sitting, parties to proceedings may also present written submissions to the clerk present at the sitting, to be annexed to the minutes of the sitting. The other parties have the right to peruse such submissions.

§ 56. Termination of proceedings in the case

(1) Proceedings shall be terminated if the cause of the petition, complaint or protest ceases to be present before conclusion of consideration of the case, or if the request, complaint or protest is discontinued.

(2) Proceedings initiated by the Court, the President of the Republic or the President of the *Riigikogu* acting as the President of the Republic shall not be terminated if the cause for the case ceases to be present and the President of the Republic or the President of the *Riigikogu* acting as the President of the Republic may not withdraw the petition they have submitted to the Supreme Court.

§ 57. Judgment of the Court

(1) The Court shall resolve the case by judgment, with the exception of cases mentioned in subsection 59¹(1).

(2) The judgment shall be adopted by a simple majority vote observing the confidentiality of deliberations. Judges shall resolve any differences that arise in the process of deciding the case by a vote. No judge has the right to abstain from voting or remain undecided. The presiding judge shall vote last. In the case of an equal division of votes, the vote of the presiding judge shall be decisive.

(3) The judgment shall be substantiated.

(4) The judgment shall be signed by all members of the panel that made it.

(5) A judge who disagrees with the judgment or its stated reasons has the right to append a dissenting opinion to the judgment. Several judges may append a joint dissenting opinion. The dissenting opinion shall be filed by the time the judgment is pronounced and it shall be signed by the judges who share that opinion.

(6) The parties to proceedings shall be issued with a copy of the judgment.
[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 58. Pronouncement and effective date of the judgment

(1) The judgment shall be pronounced publicly.

(2) The judgment becomes effective when it is pronounced.

(3) The Court has the right to postpone the effective date of the judgment provided for in clause 15 (1) 2) for up to six months. The reasons for postponement must be stated.

§ 59. Explanation of judgment

At the request of a party to proceedings, the Supreme Court may, by order, provide an explanation of its judgment.

§ 59¹. Opinion

(1) The Court shall resolve petitions for opinion on the interpretation of the Constitution in conjunction with the law of the European Union by adopting such an opinion.

(2) The opinion shall be adopted by a simple majority vote observing the confidentiality of deliberations. Judges shall resolve any differences arising during the process of adopting the opinion by a vote. No judge has the right to abstain from voting or remain undecided. The presiding judge shall vote last. In the case of an equal division of votes, the vote of the presiding judge shall be decisive.

(3) The opinion shall be substantiated.

(4) The opinion shall be signed by the all members of the panel that adopted it.

(5) A judge who disagrees with the opinion or its stated reasons has the right to append their dissenting opinion to the opinion of the Court. Several judges may append a joint dissenting opinion. The dissenting opinion must be filed by the time the opinion of the Court is pronounced and it shall be signed by the judges who share that opinion.

(6) The parties to proceedings shall be issued with a copy of the opinion of the Court.

(7) The opinion shall be pronounced publicly.

[RT I 2005, 68, 524 – entry into force 23.12.2005]

§ 60. Court order

The Supreme Court shall decide procedural issues by an order.

§ 61. Correction of errors

(1) After making the decision in a case, the Supreme Court has the right, on its own initiative or at the request of a party to proceedings, to correct any spelling mistakes, shortcomings in phrasing or obvious formal inaccuracies.

(2) The Supreme Court shall call in, and correct or replace, any copies of the decision that were issued and that contain the error.

§ 62. Publication of decisions

Substantiated decisions and orders of the Supreme Court in the cases resolved under this Act shall be published on the website of the Court. Decisions that contain a ruling concerning the constitutionality of legislative acts published in the *Riigi Teataja* shall be published in the *Riigi Teataja*.

[RT I 2010, 19, 101 – entry into force 01.06.2010]

§ 63. Court costs

(1) Any costs specific to the case shall be covered from the state budget.

(2) The costs of the joinder to proceedings of specialists joined to those proceedings by the Court shall be covered from the state budget under the same conditions as experts' fees under civil procedure.

Chapter 8 IMPLEMENTATION OF THIS ACT

§ 64. Dealing with pending cases

The cases which are pending before the Supreme Court at the time of entry into force of this Act and which are being dealt with under the Constitutional Review Court Procedure Act hitherto in force shall be dealt with in accordance with the procedural law in force before the entry into force of this Act.

§ 64¹. Procedure under Protocol No. 16 to the European Convention for the Protection of Human Rights and Fundamental Freedoms

Section 3¹ and subsection 47(3) of this Act shall be implemented as of the day Protocol No. 16 to the European Convention for the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia.

[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

§ 65.–§ 76.[Omitted from this text.]

§ 77. Entry into force of this Act

This Act enters into force on 1 July 2002.