

Issuer:	Riigikogu
Type:	act
In force from:	11.11.2012
In force until:	31.12.2013
Translation published:	30.10.2013

# 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

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

This Act provides the competence of the Supreme Court as the court of constitutional review, the procedure for having recourse to the court and rules of court procedure.

### § 2. Jurisdiction of Supreme Court

Pursuant to this Act, the Supreme Court shall:

- 1) adjudicate requests to verify the conformity of or refusal to issue a legislative act with the Constitution;
  - 2) adjudicate requests to verify the conformity of international agreements with the Constitution.
  - 2<sup>1</sup>) adjudicate requests for opinion on the interpretation of the Constitution in conjunction with the European Union law;
  - 3) adjudicate requests and complaints against resolutions of the *Riigikogu*;
  - 4) adjudicate complaints against resolutions of the Board of the *Riigikogu*;
  - 5) adjudicate complaints against resolutions of the President of the Republic;
  - 6) adjudicate requests 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.
  - 7) adjudicate requests to terminate the authority of a member of the *Riigikogu*;
  - 8) decide on the grant of consent to the Chairman of the *Riigikogu* acting as the President of the Republic to declare extraordinary elections to the *Riigikogu* or refuse to promulgate an Act;
- adjudicate requests to terminate the activities of a political party;  
adjudicate complaints and protests against decisions and acts of electoral committees.  
[RT I 2005, 68, 524 - entry into force 23.12.2005]

### § 3. Review of cases in Supreme Court

(1) The Constitutional Review Chamber (hereinafter *Chamber*) or the Supreme Court *en banc* shall adjudicate the cases which are placed within the competence of the Supreme Court by this Act.

(2) The Chamber shall review cases with a composition of the panel of five members. A complaint or protest against an act or decision of electoral committee shall be reviewed by the Chamber with a composition of the

panel of three members. If the Supreme Court verifies the conformity of or the refusal to issue a legislative act with the Constitution in the review of a complaint or protest against a decision or act of electoral committee, the case shall be reviewed with a composition of the panel of at least five members.

(2<sup>1</sup>) Requests for opinion on the interpretation of the Constitution in conjunction with the European Union law shall be reviewed by the Chamber with a composition of the panel of five to nine members.

(3) The Supreme Court *en banc* shall adjudicate the cases referred by the Constitutional Review Chamber if the Chamber deems it necessary to adjudicate the case in the Supreme Court *en banc*. The Supreme Court *en banc* shall adjudicate the cases referred by the Administrative Chamber, Civil Chamber or Criminal Chamber or Special Panel if the Chamber or Special Panel has reasonable doubts that a legislative act, refusal to issue thereof or an international agreement relevant to the adjudication of the case are not in conformity with the Constitution.

(4) Only the Supreme Court *en banc* shall adjudicate requests 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 authority of a member of the *Riigikogu* or to terminate the activities of a political party.

(5) The Supreme Court *en banc* shall review cases with a composition of the panel of at least eleven members. [RT I 2005, 68, 524 - entry into force 23.12.2005]

## **Chapter 2**

# **CONSTITUTIONAL REVIEW OF LEGISLATIVE ACTS**

### **§ 4. Commencement of proceedings**

(1) The Supreme Court shall verify the conformity of a legislative act, refusal to issue thereof or an international agreement with the Constitution on the basis of a reasoned request, court judgment or court ruling.

(2) The President of the Republic, the Chancellor of Justice, a local government council and the *Riigikogu* may submit requests to the Supreme Court.

(3) The court shall commence proceedings by forwarding the court decision or ruling to the Supreme Court. [RT I 2005, 68, 524 - entry into force 23.12.2005]

### **§ 5. Request of President of the Republic**

The President of the Republic may submit a request to the Supreme Court to declare a law passed by the *Riigikogu* and not promulgated by him or her to be in conflict with the Constitution if the *Riigikogu* passes it for the second time and without amending it after it is returned for a new debate and decision.

### **§ 6. Request of Chancellor of Justice**

(1) The Chancellor of Justice may submit a request to the Supreme Court:

- 1) to repeal legislative acts passed by bodies of legislative or executive power or a local government or a provision thereof which has entered into force;
- 2) to declare an Act which has been promulgated but which has not yet entered into force to be in conflict with the Constitution;
- 3) to declare legislative acts of bodies of executive power or a local government which has not entered into force to be in conflict with the Constitution;
- 4) to declare an international agreement which has been signed or a provision thereof to be in conflict with the Constitution;
- 5) to repeal a resolution of the *Riigikogu* concerning the submission of a draft Act or other national issue to a referendum if a draft Act, except a draft Act to amend the Constitution, or other national issue which is submitted to a referendum is in conflict with the Constitution or the *Riigikogu* has significantly violated the established procedure upon passage of the resolution to hold the referendum.

(2) The Chancellor of Justice shall submit the request specified in clause (1) 5) within 14 days as of receipt of the respective resolution of the *Riigikogu*. [RT I 2005, 68, 524 - entry into force 23.12.2005]

### **§ 7. Request of local government council**

A local government council may submit a request to the Supreme Court 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 a minister which has not yet entered into force to be in conflict with the Constitution or to repeal an Act which has entered into force, a regulation of the Government of the Republic or a minister or a provision thereof if it is in conflict with constitutional guarantees of the local government.

## **§ 7<sup>1</sup>. Request of Riigikogu**

The *Riigikogu* may submit a request for opinion to the Supreme Court on interpretation of the Constitution in conjunction with the European Union law if the interpretation of the Constitution is of critical importance in the passing of a draft Act which is necessary for the fulfilment of the obligations of the Member State of the European Union.

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

## **§ 8. Requirements for requests**

(1) A request shall be reasoned and set out the provisions or principles of the Constitution which the contested legislative act, international agreement or resolution of the *Riigikogu* is not in compliance with.

(1<sup>1</sup>) A request of the *Riigikogu* for opinion on the interpretation of the Constitution in conjunction with the European Union law shall state the reasons why the body submitting the request deems it necessary to ask the opinion of the Supreme Court. The request shall contain references to the corresponding part or provision of the draft Act 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 a request shall sign the request and append the text or relevant excerpts of the contested legislative act, international agreement or resolution of the *Riigikogu* and other documents which constitute the basis for the request.

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

## **§ 9. Constitutional review on basis of court judgment or court ruling**

(1) If a court of first instance or a court of appeal has not applied, upon adjudication of a case, any relevant legislative act or international agreement and declared it to be in conflict with the Constitution or if a court of first instance or a court of appeal has declared, upon adjudication of a case, the refusal to issue a legislative act to be in conflict with the Constitution, it shall forward the respective judgment or court ruling to the Supreme Court.

(2) A court shall append, in the conclusion of the judgment or court ruling which is forwarded to the Supreme Court, the text of the legislative act or international agreement which is declared to be in conflict with the Constitution or relevant excerpts thereof.

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

## **§ 10. Participants in proceedings**

(1) Participants in the proceedings are:

- 1) the body which passed or issued the contested legislative act;
- 1<sup>1</sup>) the body which refused to pass or issue the legislative act;
- 2) the Government of the Republic in the case of contestation of an international agreement;
- 3) the participants in the proceedings of a court action in the proceedings commenced on the basis of a court judgment or court ruling;
- 4) the local government council upon submission of a request by a local government council;
- 4<sup>1</sup>) the *Riigikogu* upon submission of a request by the *Riigikogu*;
- 5) the Legal Chancellor;
- 6) the Minister of Justice;
- 7) a minister representing the Government of the Republic.

(2) In the constitutional review proceedings of a legislative act, the Supreme Court shall ask the opinion of the participants in the proceedings concerning the constitutionality of the contested act. The Supreme Court shall grant the participants in the proceedings specified in clauses (1) 1), 1<sup>1</sup>) and 3) a possibility to present an additional opinion or explanation concerning the opinions given to the Supreme Court.

(3) If necessary, the Supreme Court shall require an explanation concerning a legislative act or international agreement or a provision thereof from the body which passed or issued the legislative act, refused to pass or issue the legislative act or entered into the international agreement.

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

## **§ 11. Elimination of deficiencies and return of request or court decision without review**

(1) If a request does not conform with the requirements of law, the Supreme Court shall designate a time limit to the person submitting the request for elimination of the deficiencies. If the person submitting the request fails to eliminate the deficiencies within the designated time limit, the Supreme Court shall return the request without review.

(2) A request shall be returned to the person submitting the request without review if the review does not fall within the competence of the Supreme Court.

(3) A court judgment or court ruling shall be returned without review if it is not reasoned or if the court has not declared in the conclusion of the court decision or ruling the legislative act or a provision thereof or the refusal to issue the legislative act to be in conflict with the Constitution.  
[RT I 2004, 56, 405 - entry into force 25.07.2004]

## **§ 12. Suspension of enforcement of legislative act or international agreement**

The Supreme Court may, on the basis of a reasoned request of a participant in the proceedings or on its own initiative, suspend with good reason the enforcement of a contested legislative act or a provision thereof or the enforcement of an international agreement until entry into force of the judgment of the Supreme Court.

## **§ 13. Time limits for adjudicating cases**

(1) The Court shall adjudicate cases within a reasonable period of time but not a longer period of time than 4 months after the receipt of a request submitted in compliance with the requirements.

(2) The Court shall adjudicate the request specified in clause 6 (1) 5) not later than within two months after the receipt of the request submitted in compliance with the requirements.

## **§ 14. Limits of adjudication of case**

(1) In the adjudication of cases, the Supreme Court is not bound by the reasons of the request, court judgment or court ruling.

(2) In the adjudication of cases on the basis of a court judgment or court ruling, the Supreme Court may repeal a legislative act, an international agreement or a provision thereof or the refusal to issue a legislative act which is relevant to the adjudication of the case or declare them to be in conflict with the Constitution. The Supreme Court shall not adjudicate legal disputes which are subject to adjudication pursuant to the provisions of court procedure applied in administrative, civil, criminal or administrative offence cases.

(3) A case referred by the Chamber of the Supreme Court or Special Panel by a ruling pursuant to the respective procedural law shall be adjudicated by the Supreme Court *en banc* in all relevant issues and the procedural law relevant to the case and this Act shall be concurrently applied.  
[RT I 2004, 56, 405 - entry into force 25.07.2004]

## **§ 15. Authority of Supreme Court**

(1) In the adjudication of cases, the Supreme Court may:

- 1) declare a legislative act which has not yet entered into force to be in conflict with the Constitution;
- 2) declare a legislative act which has entered into force or a provision thereof to be in conflict with the Constitution and repeal it;
- 2<sup>1</sup>) declare the refusal to issue a legislative act to be in conflict with the Constitution;
- 3) declare an international agreement which has entered into force or has not yet entered into force or a provision thereof to be in conflict with the Constitution;
- 4) repeal the resolution of the *Riigikogu* concerning submission of a draft Act or other national issue to a referendum;
- 5) declare that the contested legislative act, the refusal to issue a legislative act or the contested international agreement was in conflict with the Constitution at the time of submission of the request;
- 5<sup>1</sup>) give its opinion on the interpretation of the Constitution in conjunction with the European Union law;
- 6) dismiss the request.

(2) If a legislative act, which has not entered into force is declared to be in conflict with the Constitution, the Act shall not enter into force.

(3) If an international agreement or a provision thereof is declared to be in conflict with the Constitution the body which entered into the agreement is required to withdraw from it, if possible, or commence denunciation of the international agreement or amendment thereof in a manner which would ensure its conformity with the Constitution. An international agreement which is in conflict with the Constitution shall not be applied nationally.

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

# **Chapter 3**

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

## § 16. Complaint against resolutions of *Riigikogu*

A person who finds that his or her rights have been violated by a resolution of the *Riigikogu* may submit a request to the Supreme Court to repeal the resolution of the *Riigikogu*.

## § 17. Complaint against resolutions of Board of *Riigikogu*

A Member, alternate member or faction of the *Riigikogu* which finds that the rights thereof have been violated by a resolution of the *Riigikogu* specified in clause 13 (2) 2), 3) or 4) of the *Riigikogu* Rules of Procedure and Internal Rules Act or in § 13 or 14 of the Status of Member of *Riigikogu* Act may submit a request to the Supreme Court to repeal the resolution of the *Riigikogu*.  
[RT I 2007, 44, 316 - entry into force 14.07.2007]

## § 18. Complaint against decisions of President of Republic

A person who finds that his or her rights have been violated by a decision of the President of the Republic on the appointment to or release from office of an official may submit a request to the Supreme Court to repeal the decision of the President of the Republic.

## § 19. Time limit for filing complaints

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

## § 20. Substantive and formal requirements for complaints

(1) A complaint shall be filed with a good reason and set out the following:

- 1) information concerning the person submitting the complaint;
- 2) information concerning the contested resolution or decision;
- 3) a clearly expressed request;
- 4) the manner in which the contested resolution or decision violates the rights of the complainant;

(2) A complaint shall be signed by the complainant and the text of the contested resolution and other documents which constitute the basis for the complaint shall be appended thereto.

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

## § 20<sup>1</sup>. Elimination of deficiencies and return of complaint without review

(1) If a complaint fails to meet the requirements provided for in subsections 20 (1) and (2) and has deficiencies which can be eliminated, the Supreme Court shall designate a time limit for the complainant for the elimination of the deficiencies. If the complainant fails to eliminate the deficiencies within the designated time limit, the Supreme Court shall return the complaint to the complainant by a ruling.

(2) A complaint shall be returned to the complainant without review if the review of the complaint does not fall within the competence of the Supreme Court.

(3) A complaint shall be returned to the complainant without review if the contested resolution or decision cannot violate the rights of the complainant and the complaint is therefore clearly unfounded.

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

## § 21. Participants in proceedings

(1) A complainant and the body which made the resolution or decision are the participants in the proceedings in the review of a complaint in the Supreme Court.

(2) In the review of a complaint against a resolution or decision on appointment to or release from office of an official, the person who was appointed to office shall also be a participant in the proceedings. In the review of a complaint against a resolution or decision on the assumption of office by an alternate member instead of the member of the *Riigikogu*, the alternate member who assumed office instead of the member of the *Riigikogu* shall also be a participant in the proceedings.

## **§ 22. Time limits for adjudication of cases**

The Court shall adjudicate a complaint against a resolution of the *Riigikogu*, the Board of the *Riigikogu* or the President of the Republic immediately after the receipt of the complaint in compliance with the requirements.

## **§ 23. Resumption of proceedings**

(1) If the Court has reasonable doubts in the review of a complaint against a resolution of the *Riigikogu*, the Board of the *Riigikogu* or the President of the Republic that the relevant legislative act, refusal to issue thereof or the international agreement is not in conformity with the Constitution, the Court shall resume the proceedings by a ruling and involve the persons specified in subsection 10 (1) in the review of the case as participants in the proceedings.

(2) Upon resumption of proceedings, the Court shall adjudicate a complaint specified in subsection (1) by verifying concurrently the conformity of the relevant legislative act, the refusal to issue a legislative act or the international agreement with the Constitution within the time limit indicated in subsection 13 (1) after the proceedings have been resumed.

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

## **§ 24. Authority of Supreme Court**

(1) In the adjudication of cases, the Supreme Court may:

- 1) repeal a resolution of the *Riigikogu*, the Board of the *Riigikogu* or the President of the Republic or a part thereof.
- 2) dismiss the complaint;

(2) A resolution of the *Riigikogu* or the President of the Republic on the release from office of the complainant may be declared unlawful by the Supreme Court without repealing thereof. In such case, the Supreme Court may order payment of a fair monetary compensation to the complainant.

(3) If the Supreme Court verifies the conformity of a legislative act or an international agreement with the Constitution in the adjudication of a case, the Court may make the decision specified in subsection 15 (1) in the adjudication of the issue.

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

# **Chapter 4 DECLARING OF OFFICIALS PERMANENTLY UNABLE TO PERFORM THEIR DUTIES, TERMINATING AUTHORITY OF MEMBERS OF RIIGIKOGU AND GRANTING OF CONSENT TO CHAIRMAN OF RIIGIKOGU ACTING AS PRESIDENT OF REPUBLIC**

## **§ 25. Request to declare officials permanently unable to perform their duties**

(1) A request to declare the Chancellor of Justice or the Auditor General permanently unable to perform his or her duties shall be submitted to the Supreme Court by the President of the Republic.

(2) A request to declare a member of the *Riigikogu* permanently unable to perform his or her duties shall be submitted to the Supreme Court by the Board of the *Riigikogu*.

(3) A request to declare the President of the Republic permanently unable to perform his or her duties shall be submitted to the Supreme Court by the Chancellor of Justice.

(4) A request to declare an official permanently unable to perform his or her duties shall be reasoned and, if possible, documents certifying his or her permanent inability to perform his or her duties shall be appended thereto.

## **§ 26. Request to terminate authority of members of *Riigikogu***

(1) The Board of the *Riigikogu* shall submit a request to the Supreme Court to terminate the authority of a member of the *Riigikogu* who does not comply with the requirements provided for in the Constitution or the *Riigikogu* Election Act or who refuses to take the oath of office.

(2) A request shall be reasoned.

## **§ 27. Request to grant consent to Chairman of *Riigikogu* acting as President of Republic**

(1) The Chairman of the *Riigikogu* acting as the President of the Republic may submit a request to the Supreme Court to grant consent to declare extraordinary elections to the *Riigikogu* or refuse to promulgate an Act.

(2) A request to grant consent to declare extraordinary elections shall set out the reason why the extraordinary elections are prescribed by the Constitution or urgently needed in the situation which has developed.

(3) A request to grant consent to refuse to promulgate an Act shall set out the reasons why the Act may be in conflict with the Constitution or which essential social values are disregarded in the Act.

## **§ 28. Participants in proceedings**

(1) The person submitting a request and, if possible, the person with respect to whom declaration of permanent inability to perform his or her duties is requested are the participants in the Supreme Court proceedings in the review of the request specified in § 25.

(2) The person submitting a request and the member of the *Riigikogu* concerning whom the termination of authority is requested are the participants in the proceedings in the review of the request specified in § 26 in the Supreme Court.

(3) The person submitting a request, the National Electoral Committee and the *Riigikogu* are the participants in the proceedings upon making a decision concerning the grant of consent of the Supreme Court to declare extraordinary elections to the *Riigikogu*.

(4) The person submitting a request is the participant in the proceedings upon making a decision concerning the grant of consent of the Supreme Court to refuse to promulgate an Act.

(5) The Chancellor of Justice may participate with the right to give an opinion in the proceedings of granting consent to the *Riigikogu* to declare extraordinary elections or to refuse to promulgate an Act.

## **§ 29. Time limits for adjudication of cases**

The Court shall adjudicate cases immediately after the receipt of a request submitted in compliance with the requirements.

## **§ 30. Resumption of proceedings**

(1) If the Court has reasonable doubts in the review of a request to declare an official permanently incapable of performing his or her duties or to terminate the authority of a member of the *Riigikogu* that the relevant legislative act, refusal to issue a legislative act or the international agreement is not in conformity with the Constitution, the Court shall resume the proceedings by a ruling and involve the persons specified in subsection 10 (1) in the review of the case as participants in the proceedings.

(2) Upon resumption of proceedings, the Court shall adjudicate the request specified in subsection (1) by verifying concurrently the conformity of the relevant legislative act, refusal to issue a legislative act or the relevant international agreement with the Constitution within the time limit indicated in subsection 13 (1) after the proceedings have been resumed.

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

## **§ 31. Authority of Supreme Court**

(1) In the adjudication of cases, the Supreme Court may:

- 1) dismiss the request;
- 2) 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;
- 3) terminate the authority of a member of the *Riigikogu*;
- 4) grant consent to the Chairman of the *Riigikogu* acting as the President of the Republic to declare extraordinary elections to the *Riigikogu*;
- 5) grant consent to the Chairman of the *Riigikogu* acting as the President of the Republic to refuse to promulgate an Act.

(2) If the Supreme Court verifies the conformity of a legislative act or an international agreement with the Constitution in the adjudication of a case, the Court may make the decision specified in subsection 15 (1) in the adjudication of the issue.

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

## **Chapter 5**

# **TERMINATION OF ACTIVITIES OF POLITICAL PARTY**

### **§ 32. Request to terminate activities of political party**

(1) The Government of the Republic may submit a request with the Supreme Court to terminate the activities of a political party which activities or aims are directed at changing the constitutional order of Estonia by force.

(2) A request to terminate the activities of a political party shall be reasoned and the documents which constitute the basis for the request shall be appended thereto.

### **§ 33. Participants in proceedings**

(1) The Government of the Republic and the political party concerning which the termination of activities is requested are participants in the proceedings in the review in the Supreme Court of a request to terminate the activities of a political party.

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

### **§ 34. Time limits for adjudication of cases**

(1) The Court shall adjudicate a request to terminate the activities of a political party immediately after the receipt of a request submitted in compliance with the requirements.

### **§ 35. Resumption of proceedings**

(1) If the Court has reasonable doubts in the review of a request to terminate the activities of a political party that the relevant legislative act, refusal to issue a legislative act or an international agreement is not in conformity with the Constitution, the Court shall resume the proceedings by a ruling and involve in the review of the case the persons specified in subsection 10 (1) as participants in the proceedings.

(2) Upon resumption of proceedings, the Court shall adjudicate the request specified in subsection (1) by verifying concurrently the conformity of the relevant legislative act, refusal to issue a legislative act or the relevant international agreement with the Constitution within the time limit indicated in subsection 13 (1) after the proceedings have been resumed.

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

### **§ 36. Authority of Supreme Court**

(1) In the adjudication of cases, the Supreme Court may:

- 1) decide to terminate the activities of a political party;
- 2) dismiss the request.

(2) The Court shall send the decision on the termination of the activities of a political party immediately to the county court of the location of the political party for execution and the county court shall appoint the liquidators of the political party and perform other acts prescribed by law for the deletion of the political party from the non-profit associations and foundations register.

(3) If the Supreme Court verifies the conformity of a legislative act or an international agreement with the Constitution in the adjudication of a case, the Court may make the decision specified in subsection 15 (1) in the adjudication of the issue.

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

## **Chapter 6**

# **COMPLAINTS AND PROTESTS AGAINST DECISIONS AND ACTS OF ELECTORAL COMMITTEES**

### **§ 37. Complaints against decisions or acts of electoral committees**

(1) A political party, election coalition or person who finds that the rights thereof have been violated by a decision of or measure taken by an electoral committee may submit a request to the Supreme Court to repeal the decision of the electoral committee or declare the measure taken by the electoral committee unlawful or declare the voting results in the polling division, electoral district, rural municipality, city, county or state or declare the electronic voting results invalid in full or in part.

[RT I, 01.11.2012, 1 - entry into force 11.11.2012]



(2) A person who finds that his or her rights have been violated by a decision of or measure taken by an electoral committee relating to the election of the President of the Republic or the Board of the *Riigikogumay* submit a request to the Supreme Court to repeal the decision of the electoral committee or declare the measure taken by the electoral committee unlawful or declare the voting results in the election of the President of the Republic or the President and Vice-Presidents of the *Riigikogun* invalid.

### **§ 38. Time limits for filing complaints**

(1) A complaint against a resolution of or measure taken by an electoral committee may be filed with the Supreme Court after adjudication of the case in the National Electoral Committee. The complaint shall be filed with the Supreme Court through the National Electoral Committee within three days as of the decision or measure of the National Electoral Committee being communicated or performed.

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

### **§ 39. Substantive and formal requirements for complaints**

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

- 1) information concerning the person submitting the complaint;
- 2) information concerning the contested decision or the description of the contested measure;
- 3) clearly expressed request of the person submitting the complaint;
- 4) reasons for the complaint;
- 5) in which manner the contested decision or measure violates the rights of the person submitting the complaint;

(2) A complaint shall be signed by the person submitting the complaint and a copy of the contested decision and other documents which constitute the basis for the complaint shall be appended thereto.

(3) If a complaint does not meet the requirements provided for in subsections (1) and (2) and has deficiencies which can be eliminated, the Supreme Court shall designate a time limit for the person submitting the complaint for the elimination of the deficiencies.

### **§ 40. Return of complaint without review**

(1) A complaint shall be returned without review if:

- 1) the review of the complaint does not fall within the competence of the Supreme Court;
- 2) the complaint was not filed through the National Electoral Committee;
- 3) the person submitting the complaint has failed to eliminate the deficiencies in the complaint within the designated time limit;

(2) If the person submitting a complaint has allowed the time limit for submitting the complaint to expire with good reason, the Supreme Court shall restore the time limit on the basis of his or her reasoned request.

### **§ 41. Protest of National Electoral Committee**

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

(2) A protest shall be reasoned and the documents which constitute the basis for the protest shall be appended thereto.

### **§ 42. Participants in proceedings**

(1) The person submitting a protest and the National Electoral Committee are participants in the proceedings in the review of the protest in the Supreme Court.

(2) In addition to the persons specified in subsection (1) of this section, the person whose mandate may be invalidated shall be a party to the proceedings upon the review of a complaint against a decision on registration of members and alternate members of the *Riigikogumay* or the European Parliament or distribution of additional mandates and against a decision on registration of members and alternate members of a local government council or distribution of additional mandates.

(3) The National Electoral Committee and the person whose mandate may be invalidated are participants in the proceedings in the review of a protest.

[RT I 2003, 4, 22 - entry into force 23.01.2003]

#### **§ 43. Suspension of decision of National Electoral Committee**

Upon receipt of a complaint relating 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 of the new President of the Republic until adjudication of the complaint.

#### **§ 44. Time limits for adjudication of cases**

(1) The Court shall adjudicate a complaint against a decision of or measure taken by an electoral committee immediately but not later than within seven working days after the receipt of the complaint in compliance with the requirements.

(2) In the event of joining complaints in one proceeding, the case shall be adjudicated immediately but not later than within seven working days after the ruling on the last joining is made.

(3) The Supreme Court *en banc* shall adjudicate the case immediately but not later than within seven working days after the case is referred to the Supreme Court *en banc*.

(4) The Court shall adjudicate a protest against a decision of a rural municipality or city electoral committee immediately after the receipt of the protest submitted in compliance with the requirements.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 45. Resumption of proceedings**

(1) If the Court has reasonable doubts in the review of a complaint or protest against a decision of or measure taken by electoral committee that the relevant legislative act, refusal to issue a legislative act or an international agreement is not in conformity with the Constitution, the Court shall resume the proceedings by a ruling and involve the persons specified in subsection 10 (1) in the review of the case as participants in the proceedings.

(2) If a complaint or protest against a decision of or measure taken by an electoral committee was reviewed with a composition of the panel of less than five members, the necessary number of judges shall be involved in the proceedings and the case shall be reviewed with a composition of the panel of at least five members.

(3) Upon resumption of proceedings, the Court shall adjudicate the complaint or protest specified in subsection (1) concurrently with verifying the conformity with the Constitution of the relevant legislative act, refusal to issue a legislative act or the international agreement within a reasonable period of time but not later than within two weeks after the proceedings have been resumed.  
[RT I 2004, 56, 405 - entry into force 25.07.2004]

#### **§ 46. Authority of Supreme Court**

(1) In the adjudication of cases, the Supreme Court may:  
1) repeal a decision of an electoral committee, declare a measure taken by an electoral committee unlawful and require that the electoral committee make a new decision or take a new measure;  
2) to dismiss the complaint or protest.

(2) The Supreme Court may declare the voting results in a polling division, electoral district, rural municipality, city, county, state or in the election of the President of the Republic or the Board of the Riigikogu invalid or declare the electronic voting results invalid in full or in part if the violation of law affected or may have affected the voting results to a significant extent.  
[RT I, 01.11.2012, 1 - entry into force 11.11.2012]

(3) If a complaint or protest filed against a decision on the registration of members and alternate members of the *Riigikogu* or the European Parliament or a decision on distribution of additional mandates or against a decision on the registration of members and alternate members of a local government council or a decision on distribution of additional mandates is satisfied, the Supreme Court shall invalidate the mandate.

(4) If the Supreme Court verifies the conformity of a legislative act or an international agreement with the Constitution in the adjudication of a case, the Court may make the decision specified in subsection 15 (1) in the adjudication of the issue.  
[RT I 2004, 56, 405 - entry into force 25.07.2004]

## **Chapter 7 REVIEW OF CASES**

#### **§ 47. Language of judicial proceedings**

(1) The language of judicial proceedings is Estonian.

(2) Documents in foreign languages shall be submitted to courts translated into Estonian by a sworn translator.

#### **§ 48. Calculation of time limits and representation in Court**

- (1) Time limits are calculated pursuant to the provisions of civil procedure.
- (2) The provisions of civil procedure apply to representation.
- (3) Upon filing a request, complaint or protest through a representative, the representative shall sign it and append to the request, complaint or protest the document certifying his or her authority.

#### **§ 49. Rights and obligations of participants in proceedings**

- (1) Participants in the proceedings have the right to know the composition of the panel of the Court hearing the case, obtain copies of documents presented to the Court, submit requests to the Court, give statements to the Court, submit evidence, contest requests submitted by other participants in the proceedings and receive certified copies of court decisions prepared as separate documents. Participants in the proceedings also have other procedural rights prescribed by this Act.
- (2) Participants in the proceedings are required to exercise their procedural rights in good faith.
- (3) Participants in the proceedings are required to justify their statements or objections by corresponding evidence. If submission of evidence is impossible, the reasons why the evidence cannot be submitted shall be indicated and the Court shall be informed of the location of the evidence. At the request of the Court, participants in the proceedings are required to submit additional documents and information to the Court within the time limit set by the Court.

#### **§ 50. Evidence**

- (1) Evidence in the constitutional review proceedings is all the evidence which is admissible in civil proceedings.
- (2) Evidence shall be submitted by participants in the proceedings. The Court may propose to the participants in the proceedings that they submit additional evidence within the time limit set by the Court or collect evidence, summon new witnesses or order expert assessment to also verify the information submitted in a request, complaint or protest on their own initiative.
- (3) Safeguarding of evidence, summoning of witnesses to hearings and hearing of witnesses shall be conducted pursuant to the provisions of civil procedure.

#### **§ 51. Methods of reviewing cases**

- (1) In general, a case is reviewed in written proceedings.
- (2) A case shall be reviewed in oral proceedings if this is deemed necessary by the composition of the panel of the court which reviews the case. The Court shall determine oral proceedings at the request of a participant in the proceedings or on own initiative.
- (3) Requests 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 shall be reviewed in oral proceedings.
- (4) Requests for opinion on the interpretation of the Constitution in conjunction with the European Union law shall be reviewed in written proceedings.  
[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 concurrently conducted and which are adjudicated pursuant to this Act if the Court deems it necessary in the interests of the adjudication of the case.

#### **§ 53. Access to oral proceedings**

- (1) Review of cases in oral proceedings shall be public.
- (2) The Court may declare that proceedings or a part thereof be held in camera if this is necessary in order to maintain a state or business secret, to protect morals or the private and family life of people, or if the interests of a minor, a victim or justice so require.

(3) The Court may remove from the courtroom, after they have been warned, persons who violate order in a court hearing and thereby hinder the discussion of the case.

(4) People who are present in the courtroom may make audio-recordings of hearings and take written notes on the spot without disturbing the hearing.

(5) A permission of the Court is required for filming, photographing and radio and television broadcasting.

#### **§ 54. Procedure for court hearing**

(1) The review of a request, complaint or protest in oral proceedings shall be conducted directly. The Court shall hear the opinions of the participants in the proceedings, testimony of witnesses or the opinion of a specialist and examine the documents submitted to the Court.

(2) The participants in the proceedings who are not proficient in Estonian may speak through an sworn translator in their native language or another language in which they are proficient.

(3) In the review of a case in oral proceedings the participant in the proceedings has the right in addition to the provisions of subsection 49 (1) to participate in court hearings, inspection and examination of evidence and submit questions to other participants in the proceedings, witnesses and experts.

#### **§ 55. Minutes of hearing**

(1) Minutes shall be taken of the course of the hearing and the opinions expressed to the extent the Court considers necessary.

(2) Before the closure of a hearing, participants in the proceedings may also submit their written pleadings to the clerk of the court hearing for appending thereof to the minutes of the hearing. Other participants in the proceedings have the right to examine these.

#### **§ 56. Termination of proceedings in cases**

(1) Proceedings shall be terminated if the grounds for a request, complaint or protest cease to exist before the end of the review of the case, and in the case of discontinuance of the request, complaint or protest.

(2) Proceedings commenced 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 basis for the case ceases to exist and the President of the Republic or the President of the *Riigikogu* acting as the President of the Republic cannot withdraw a request submitted to the Supreme Court.

#### **§ 57. Court judgment**

(1) The Court shall adjudicate cases by a judgment, except in the case set out in subsection 59<sup>1</sup>(1).

(2) A judgment shall be adopted by a simple majority vote while safeguarding confidentiality of deliberations. Judges shall resolve all disagreements in 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 govern.

(3) A judgment shall be reasoned.

(4) A judgment shall be signed by the full composition of the panel of the court.

(5) A judge who disagrees with the judgment or the reasons therefor has the right to append a dissenting opinion to the judgment. The dissenting opinion may be shared. The dissenting opinion shall be submitted by the time of pronouncement of the judgment and it shall be signed by all the judges who have a dissenting opinion.

(6) A copy of the judgement shall be given to participants in the proceedings.  
[RT I 2005, 68, 524 - entry into force 23.12.2005]

#### **§ 58. Pronouncement and entry into force of judgment**

(1) A judgment shall be pronounced publicly.

(2) A judgment shall enter into force upon pronouncement.

(3) The Court has the right to postpone the entry into force of a judgment specified in clause 15 (1) 2) for up to six months. The postponement of the entry into force of a judgment shall be reasoned.

### **§ 59. Interpretation of judgment**

At the request of a participant in the proceedings, the Supreme Court may interpret a judgment by a ruling.

### **§ 59<sup>1</sup>. Opinion**

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

(2) An opinion shall be adopted by a simple majority vote while safeguarding confidentiality of deliberations. Judges shall resolve all disagreements arising during the adopting of an 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 govern.

(3) An opinion shall be reasoned.

(4) An opinion shall be signed by the full composition of the panel of the Court.

(5) A judge who disagrees with the opinion or the reasons therefor has the right to append a dissenting opinion to the opinion. The dissenting opinion may be shared. The dissenting opinion must be submitted by the time of pronouncement of the opinion and it shall be signed by all the judges who have a dissenting opinion.

(6) A copy of the opinion shall be given to participants in the proceedings.

(7) An opinion shall be pronounced publicly.

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

### **§ 60. Court ruling**

The Supreme Court shall decide procedural issues by a ruling.

### **§ 61. Correction of errors**

(1) After making the decision, the Supreme Court has the right to correct spelling mistakes, wording deficiencies or obvious formal inaccuracies on its own initiative or at the request of a participant in the proceedings.

(2) The Supreme Court shall demand the return of copies which were issued and contained mistakes and correct or replace these.

### **§ 62. Publication of decisions**

Reasoned decisions and rulings of the Supreme Court in the cases adjudicated pursuant to this Act shall be published on the website of the Supreme Court. Decisions including a judgment 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. Costs**

(1) The costs of reviewing a case shall be covered from the state budget.

(2) The costs of involving specialists involved in the proceedings by the Court shall be covered from the state budget under the same conditions as experts' fees in civil proceedings.

## **Chapter 8 IMPLEMENTATION OF ACT**

### **§ 64. Adjudication of cases in which proceedings are conducted**

The cases which are being adjudicated in the proceedings of the Supreme Court at the entry into force of this Act and which are adjudicated pursuant to the Constitutional Review Court Procedure Act (RT I 1993, 25, 435) shall be adjudicated pursuant to the former procedural law.

§ 65.–§ 76.[Omitted from this text.]

**§ 77. Entry into force of Act**

This Act enters into force on 1 July 2002.