

CONSTITUTIONAL COURT ACT

Act No. 4017, Aug. 5, 1988
Amended by Act No. 4408, Nov. 30, 1991
Act No. 4815, Dec. 22, 1994
Act No. 4963, Aug. 4, 1995
Act No. 5454, Dec. 13, 1997
Act No. 6622, Jan. 19, 2002
Act No. 6626, Jan. 26, 2002
Act No. 6861, Mar. 12, 2003
Act No. 7427, Mar. 31, 2005
Act No. 7622, Jul. 29, 2005
Act No. 8729, Dec. 21, 2007
Act No. 8893, Mar. 14, 2008
Act No. 9839, Dec. 29, 2009
Act No. 10278, May 4, 2010
Act No. 10546, Apr. 5, 2011
Act No. 11530, Dec. 11, 2012
Act No. 12597, May 20, 2014
Act No. 12897, Dec. 30, 2014
Act No. 15495, Mar. 20, 2018

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to set forth provisions necessary for the organization and operation of the Constitutional Court and its adjudication procedures.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 2 (Jurisdiction)

The Constitutional Court shall have jurisdiction over the following matters:

1. Constitutionality of statutes upon the request of the ordinary courts;
2. Impeachment;
3. Dissolution of a political party;
4. Competence dispute between State agencies, between a State agency and a local government, or between local governments;
5. Constitutional complaints.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 3 (Composition)

The Constitutional Court shall consist of nine Justices.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 4 (Independence of Justices)

Justices shall adjudicate independently, based on their conscience, in accordance with the Constitution and statutes.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 5 (Qualifications of Justices)

- (1) Justices shall be appointed from among those who have held any of the following positions for 15 years or more and who are 40 or older: *Provided*, That the periods of service of the person who has held two or more following positions shall be aggregated:
 1. A judge, prosecutor, or attorney;
 2. A person who is qualified as an attorney, and has been engaged in legal affairs in a State agency, a State-owned or public enterprise, a public institution under Article 4 of the Act on the Management of Public Institutions, or other corporations; or
 3. A person who is qualified as an attorney, and has held a position equal to or higher than assistant professor of law in an accredited college or university.
- (2) None of the following persons shall be appointed as a Justice:
 1. A person who is disqualified to serve as a public official under pertinent statutes and regulations;
 2. A person who has been sentenced to imprisonment without labor or a heavier punishment; or
 3. A person for whom five years have not yet passed since he or she was dismissed by impeachment.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 6 (Appointment of Justices)

- (1) Justices shall be appointed by the President. Among the Justices, three shall be elected by the National Assembly, and three shall be nominated by the Chief Justice of the Supreme Court.
- (2) Justices shall be appointed, elected, or nominated, following confirmation hearings of the National Assembly. In this event, the President shall request a confirmation hearing before he or she appoints the Justices (except the Justices elected by the National Assembly or nominated by the Chief Justice of the Supreme Court) and the Chief Justice of the Supreme Court shall request a confirmation hearing before he or she nominates the Justices.
- (3) Where the term of office of a Justice expires or a Justice approaches the retirement age, his or her successor shall be appointed by no later than the date on which the term of office expires or the Justice reaches his or her retirement age.
- (4) Where a vacancy occurs during the term of office of a Justice, his or her successor shall be appointed within 30 days from the date on which the vacancy occurs.
- (5) Notwithstanding paragraphs (3) and (4), where the term of office of a Justice elected by the National Assembly expires, he or she reaches the retirement age, or a vacancy occurs when the National Assembly is out of session or in recess, the National Assembly shall elect his or her successor within 30 days after the next session commences or the relevant session resumes.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 7 (Term of Office of Justices)

- (1) The term of office of Justices shall be six years and may be renewed.
- (2) The retirement age of a Justice shall be 70. *<Amended by Act No. 12897, Dec. 30, 2014>*
[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 8 (Guarantee of Justices' Status)

No Justice shall be removed from office against his or her own will unless he or she falls under any of the following cases:

1. Where an impeachment decision is rendered against him or her; or
2. Where he or she is sentenced to imprisonment without labor or a heavier punishment.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 9 (Prohibition of Justices' Participation in Politics)

No Justice shall join a political party or participate in politics.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 10 (Rulemaking Power)

- (1) The Constitutional Court may make rules of adjudication procedure, internal discipline, and management of general affairs, to the extent that those are not inconsistent with this Act and other statutes.
- (2) The Constitutional Court Rules shall be promulgated through publication in the Official Gazette.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 10-2 (Presentation of Opinions on Legislation)

Where the President of the Constitutional Court deems that any enactment or amendment of statutes relating to organization, personnel affairs, operation, adjudication procedure, and other functions of the Constitutional Court is required, he or she may present in writing opinions thereon to the National Assembly.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 11 (Expenses)

- (1) Expenses of the Constitutional Court shall be appropriated independently in the budget of the State.
- (2) Reserve funds shall be included in the expenses referred to in paragraph (1).

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

CHAPTER II ORGANIZATION

Article 12 (President of Constitutional Court)

- (1) The Constitutional Court shall have a president.
- (2) The President shall, with the consent of the National Assembly, appoint the President of the Constitutional Court from among the Justices.
- (3) The President of the Constitutional Court shall represent the Constitutional Court, take charge of the affairs of the Constitutional Court, and direct and supervise the public officials under his or her authority.
- (4) Where the position of the President of the Constitutional Court is vacant or the President of the Constitutional Court becomes unable to perform his or her duties due to any

unavoidable cause, other Justices, in the order prescribed by the Constitutional Court Rules, shall act on his or her behalf.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 13 Deleted. <by Act No. 4408, Nov. 30, 1991>

Article 14 (Prohibition of Concurrent Services)

No Justice shall hold concurrently any of the following offices or conduct any business for profit:

1. A member of the National Assembly or a local council;
2. A public official in the National Assembly, the Government, or the Court; or
3. An adviser, officer, or employee of a corporation, organization, etc.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 15 (Treatment of President of Constitutional Court)

The treatment and remuneration of the President of the Constitutional Court shall follow the practices for the Chief Justice of the Supreme Court, and the Justices of the Constitutional Court shall be public officials in political service and their treatment and remuneration shall follow the practices for the Justices of the Supreme Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 16 (Council of Justices)

- (1) The Council of Justices shall consist of all Justices, and the President of the Constitutional Court shall serve as the Chairperson.
- (2) Resolutions of the Council of Justices shall be adopted with the attendance of seven or more Justices and by the affirmative vote of a majority of the Justices present.
- (3) The Chairperson shall have a vote.
- (4) Resolutions on the following matters shall be adopted by the Council of Justices:
 1. Matters concerning the enactment, amendment of the Constitutional Court Rules and matters concerning the presentation of opinions on legislation pursuant to Article 10-2;
 2. Matters concerning a request for budget, expenditure of reserve funds, and settlement of accounts;
 3. Matters concerning the appointment or dismissal of the Secretary General, Deputy Secretary General, President of the Constitutional Research Institute, Rapporteur Judges, and public officials of Grade III or higher; and
 4. Matters deemed particularly important and presented by the President of the Constitutional Court for discussion in the Council of Justices.
- (5) Matters necessary for the operation of the Council of Justices shall be stipulated in the Constitutional Court Rules.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 17 (Department of Court Administration)

- (1) The Constitutional Court shall have the Department of Court Administration in order to manage its administrative affairs.
- (2) The Department of Court Administration shall have a Secretary General and a Deputy Secretary General.

- (3) The Secretary General shall, under the direction of the President of the Constitutional Court, take charge of the affairs of the Department of Court Administration and direct and supervise the public officials under his or her authority.
- (4) The Secretary General may attend the National Assembly or the State Council and speak about the administration of the Constitutional Court.
- (5) The defendant in the administrative litigation challenging a disposition by the President of the Constitutional Court shall be the Secretary General.
- (6) The Deputy Secretary General shall assist the Secretary General, and where the Secretary General is unable to perform his or her duties due to any unavoidable cause, the Deputy Secretary General shall act on his or her behalf.
- (7) The Department of Court Administration shall have offices, bureaus and divisions.
- (8) The office chief shall be assigned to the office; the bureau chief, to the bureau; and the division chief, to the division. There may be directors or officers-in-charge under the Secretary General, the Deputy Secretary General, the office chief, or the bureau chief, for assisting in policy planning, establishment of plans, research, investigation, examination, evaluation, and public relations.
- (9) The organization and the scope of functions of the Department of Court Administration, the prescribed number of public officials assigned to the Department of Court Administration, and other necessary matters which are not prescribed in this Act, shall be stipulated in the Constitutional Court Rules.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 18 (Public Officials of Department of Court Administration)

- (1) The Secretary General shall be appointed as a public official in political service, and his or her remuneration shall be equal to that of a member of the State Council.
- (2) The Deputy Secretary General shall be appointed as a public official in political service, and his or her remuneration shall be equal to that of a Vice-Minister.
- (3) The office chiefs shall be appointed as State public officials of Grade I or II in general service; the bureau chiefs as State public officials of Grade II or III in general service; the directors and officers-in-charge as State public officials of Grade II through IV in general service; and the division chiefs as State public official of Grade III or IV in general service: *Provided*, That one officer-in-charge may be appointed as a State public official of the level equivalent to Grade III or IV in extraordinary civil service.
- (4) Public officials of the Department of Court Administration shall be appointed and dismissed by the President of the Constitutional Court: *Provided*, That the appointment and dismissal of public officials of Grade III or higher shall be subject to a resolution of the Council of Justices.
- (5) The President of the Constitutional Court may request other State agencies to dispatch public officials under their authority to the Constitutional Court in order to have them serve as public officials of the Department of Court Administration.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 19 (Rapporteur Judges)

- (1) The Constitutional Court shall have Rapporteur Judges, whose number is provided by the Constitutional Court Rules. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (2) Rapporteur Judges shall be State public officials in special service. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (3) Rapporteur Judges shall be engaged in investigation and research concerning the review and adjudication of cases under the order of the President of the Constitutional Court. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (4) Rapporteur Judges shall be appointed by the President of the Constitutional Court through a resolution of the Council of Justices from among the following persons: *<Amended by Act No. 10546, Apr. 5, 2011>*
 1. A person who is qualified as a judge, prosecutor, or attorney;
 2. A person who has been in a position equal to or higher than an assistant professor of law in an accredited college or university;
 3. A person who has been engaged in legal affairs for five or more years as a public official of Grade IV or higher in any of the State agencies, such as the National Assembly, the Government, or the Court;
 4. A person who has obtained a doctorate in law, and engaged in legal affairs for five or more years in the State agencies, such as the National Assembly, the Government, the Court, or the Constitutional Court; and
 5. A person who has obtained a doctorate in law, and engaged in legal affairs for five or more years in an accredited research institute, such as a college or university as stipulated by the Constitutional Court Rules.
- (5) Deleted. *<by Act No. 6861, Mar. 12, 2003>*
- (6) None of the following persons shall be appointed as a Rapporteur Judge: *<Amended by Act No. 10546, Apr. 5, 2011>*
 1. A person falling under any subparagraph of Article 33 of the State Public Officials Act;
 2. A person who has been sentenced to imprisonment without labor or a heavier punishment; and
 3. A person for whom five years have not elapsed since he or she was dismissed by impeachment.
- (7) The term of office of Rapporteur Judges shall be 10 years, which may be renewed, and their retirement age shall be 60. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (8) When any Rapporteur Judge comes to fall under any subparagraph of paragraph (6), the Rapporteur Judge shall be automatically discharged: *Provided*, That this shall not apply when he or she falls under subparagraph 5 of Article 33 of the State Public Officials Act. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (9) The President of the Constitutional Court may request other State agencies to dispatch public officials under their authority to the Constitutional Court in order to have them serve as Rapporteur Judges. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (10) The Deputy Secretary General may hold a concurrent position as a Rapporteur Judge. *<Amended by Act No. 10546, Apr. 5, 2011>*

(11) The President of the Constitutional Court may appoint Rapporteur Judges or assign them to hold a concurrent position, to perform duties other than investigation and research concerning the review and adjudication of cases. The number of Rapporteur Judges shall be prescribed by the Constitutional Court Rules, and his or her remuneration shall be equal to whichever is higher. <Amended by Act No. 10546, Apr. 5, 2011; Act No. 12897, Dec. 30, 2014>

Article 19-2 (Junior Rapporteur Judges)

- (1) Where any Rapporteur Judge is newly appointed, he or she shall be appointed as such Rapporteur Judge after he or she is appointed and serves as a Junior Rapporteur Judge for three years and his or her work performance is considered: *Provided*, That an appointment as a Junior Rapporteur Judge may be exempted or the service period may be reduced by taking into account his or her work experience, abilities, etc., as stipulated by the Constitutional Court Rules.
- (2) Junior Rapporteur Judges shall be appointed by the President of the Constitutional Court through a resolution of the Council of Justices.
- (3) Junior Rapporteur Judges shall be public officials in extraordinary civil service, and their remuneration and criteria for promotion shall follow the practices for the Rapporteur Judges.
- (4) Where the work performance of a Junior Rapporteur Judge is unsatisfactory, he or she may be dismissed through a resolution of the Council of Justices.
- (5) The service period of a Junior Rapporteur Judge shall be added to his or her service period as a Rapporteur Judge prescribed in this Act and other statutes and regulations.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 19-3 (Academic Advisers)

- (1) The Constitutional Court may have Academic Advisers. Academic Advisers shall be engaged in professional investigation and research concerning the review and adjudication of cases.
- (2) Academic Advisers shall be appointed to serve for a fixed period not exceeding three years.
- (3) Academic Advisers shall be appointed as a public official of a level equivalent to Grade II or III in extraordinary civil service or as a public official in a fixed term position as prescribed by Article 26-5 of the State Public Officials Act, and the service regulations, qualifications, etc. for them shall be stipulated in the Constitutional Court Rules. <Amended by Act No. 11530, Dec. 11, 2012>

[This Article Newly Inserted by Act No. 8729, Dec. 21, 2007]

Article 19-4 (Constitutional Research Institute)

- (1) The Constitutional Research Institute shall be established in the Constitutional Court for the purpose of carrying out the research on the constitutional law and constitutional adjudication and education for Rapporteur Judges, public officials of the Department of Court Administration and others.
- (2) The Constitutional Research Institute shall consist of 40 persons or fewer, including one president, and the heads of departments and teams, research officers, and researchers shall be appointed under the president's authority. <Amended by Act No. 12897, Dec. 30, 2014>
- (3) The President of the Constitutional Court shall nominate a Rapporteur Judge or appoint a

State public official of Grade I in general service to the position of the President of the Constitutional Research Institute, following a resolution adopted by the Council of Justices.

<Newly Inserted by Act No. 12897, Dec. 30, 2014>

- (4) A Rapporteur Judge or public official of Grade II or III in general service shall be appointed as head of a department, a Rapporteur Judge or public official of Grade III or IV in general service shall be appointed as head of a team, and a Rapporteur Judge or public official in general service shall be appointed as a research officer or researcher. *<Amended by Act No. 12897, Dec. 30, 2014>*
- (5) The President of the Constitutional Court shall appoint a research officer or researcher, of his or her volition or upon the request of the President of the Constitutional Research Institute, from among the following persons: *<Newly Inserted by Act No. 12897, Dec. 30, 2014>*
 1. A Rapporteur Judge;
 2. A person qualified as an attorney (including qualified foreign attorneys);
 3. A person who has obtained a bachelor's or master's degree and whose performance or experience meets the qualifications prescribed by the Constitutional Court Rules; or
 4. A person who has obtained a doctorate.
- (6) Other necessary matters concerning the organization and operation of the Constitutional Research Institute shall be prescribed by the Constitutional Court Rules. *<Newly Inserted by Act No. 12897, Dec. 30, 2014>*

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 20 (Aide Office of President of Constitutional Court)

- (1) The Constitutional Court shall have the Aide Office of the President of the Constitutional Court.
- (2) A Chief Aide shall be assigned to the Aide Office of the President of the Constitutional Court, shall be appointed as a State public official of Grade I in extraordinary civil service, and shall take charge of confidential affairs under the direction of the President of the Constitutional Court.
- (3) Other than those prescribed in paragraph (2), matters necessary for the organization and operation of the Aide Office of the President of the Constitutional Court shall be prescribed by the Constitutional Court Rules.
- (4) The Constitutional Court shall have the aides of the Justices.
- (5) The aides of the Justices shall be appointed as State public officials of Grade IV in general service or State public officials of the level equivalent to Grade IV in extraordinary civil service and shall take charge of confidential affairs under the direction of the Justices.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 21 (Clerks and Courtroom Guards)

- (1) Clerks and courtroom guards shall be assigned to the Constitutional Court.
- (2) The President of the Constitutional Court shall designate clerks and courtroom guards from among the personnel of the Department of Court Administration.
- (3) Clerks shall take charge of the affairs concerning the preparation, safekeeping or service of

documents related to cases under the direction of the presiding Justice.

- (4) Courtroom guards shall maintain order in the courtroom and execute other affairs directed by the presiding Justice.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

CHAPTER III GENERAL PROCEDURE OF ADJUDICATION

Article 22 (Full Bench)

- (1) Except as otherwise provided in this Act, the adjudication of the Constitutional Court shall be assigned to the Full Bench composed of all the Justices.
- (2) The presiding Justice of the Full Bench shall be the President of the Constitutional Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 23 (Quorum for Adjudication)

- (1) The Full Bench shall review a case by and with the attendance of seven or more Justices.
- (2) The Full Bench shall make a decision on a case by the majority vote of Justices participating in the final review: Provided, That a vote of six or more Justices is required in any of the following cases:
1. Where it decides to rule a statute unconstitutional, sustain impeachment, dissolve a political party, or uphold a constitutional complaint; and
 2. Where it overrules the Constitutional Court's precedent on interpretation and application of the Constitution or statutes.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 24 (Exclusion, Recusal, and Self-Disqualification)

- (1) In any of the following cases, the Justice shall be excluded from the execution of the Justice's services:
1. Where the Justice is a party or is or was the spouse of a party to the case;
 2. Where the Justice is or was a relative of a party to the case;
 3. Where the Justice testifies or gives an expert opinion on the case;
 4. Where the Justice is or was the counsel of a party to the case; or
 5. Where the Justice was involved in the case by reason of his or her duties or profession outside of the Constitutional Court.
- (2) The Full Bench may, ex officio or on a motion of a party, make a decision to exclude a Justice.
- (3) Where there is a circumstance in which it is difficult to expect the impartiality of a Justice, a party may move to recuse the Justice: Provided, That this shall not apply when the party has appeared and argued on the merits during oral arguments.
- (4) A party may not move to recuse two or more Justices for the same case.
- (5) Where there exists a cause referred to in paragraph (1) or (3), the Justice may disqualify himself or herself with the permission of the presiding Justice.
- (6) Articles 44, 45, 46 (1) and (2) and 48 of the Civil Procedure Act shall apply mutatis mutandis to the adjudication on the motion of a party to exclude or recuse a Justice.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 25 (Representative or Counsel)

- (1) In any proceeding where the Government is a party (including an intervenor; hereinafter the same shall apply), the Minister of Justice shall represent the Government.
- (2) In any proceeding where a State agency or local government is a party, the State agency or local government may select an attorney or its employee who is qualified as an attorney as a counsel and have him or her pursue the proceeding.
- (3) In any proceeding where a private person is a party, such person shall not request adjudication or pursue the proceeding unless he or she is represented by a counsel who is an attorney: Provided, That this shall not apply where such person is qualified as an attorney.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 26 (Method of Request for Adjudication)

- (1) The request for an adjudication of the Constitutional Court shall be made by submitting to the Constitutional Court a written request as prescribed for each type of proceedings: Provided, That in an adjudication on the constitutionality of statutes, it shall be substituted by a written request of the ordinary court, and in an adjudication on impeachment, by an authentic copy of the impeachment resolution of the National Assembly.
- (2) Evidentiary documents or reference materials may be appended to the written request.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 27 (Service of Written Request)

- (1) The Constitutional Court shall, upon receiving a written request, serve without delay a certified copy thereof on the respondent agency or respondent (hereinafter referred to as "respondent").
- (2) In case of a request for an adjudication on the constitutionality of statutes, a certified copy of the written request shall be served on the Minister of Justice and the parties to the original case.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 28 (Correction of Request for Adjudication)

- (1) Where the presiding Justice determines that a request for adjudication fails to meet its requirements but may satisfy them by correction, the Justice shall require that the request be corrected within a fixed reasonable time.
- (2) Article 27 (1) shall be applicable mutatis mutandis to a written correction as referred to in paragraph (1).
- (3) Where a correction is made under paragraph (1), the corrected request shall be deemed to have been submitted at the time the initial request was made.
- (4) The period for correction as referred to in paragraph (1) shall not be counted in the period of adjudication under Article 38.
- (5) The presiding Justice may, if deemed necessary, authorize one of the Justices to require the correction under paragraph (1).

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 29 (Submission of Written Answer)

- (1) The respondent may, upon receiving a written request or correction, submit a written answer

to the Constitutional Court.

- (2) The written answer shall state answers in response to the purport of the claim and the reasons for the request for adjudication.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 30 (Method of Review)

- (1) The adjudication on impeachment, dissolution of a political party, or competence dispute shall be conducted through oral arguments.
- (2) The adjudication on the constitutionality of statutes or constitutional complaint shall be conducted through written review: Provided, That, if it is deemed necessary, the Full Bench may hold oral arguments, and hear the statements of parties, interested persons, and persons for reference.
- (3) When the Full Bench holds oral arguments, it shall fix the date and summon parties and relevant persons.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 31 (Examination of Evidence)

- (1) Where the Full Bench deems it necessary for the review of a case, it may, ex officio or on a motion of a party, examine evidence as follows:
 1. To examine the party or witness;
 2. To demand presentation of documents, books, articles, and other evidentiary materials which are possessed by the parties or relevant persons, and to place them in custody;
 3. To order a person of special knowledge and experience to give an expert opinion; and
 4. To verify the nature or condition of relevant goods, persons, places, and other things.
- (2) The presiding Justice may, if deemed necessary, designate one of the Justices to examine evidence under paragraph (1).

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 32 (Demand for Submission of Materials)

The Full Bench may, by a ruling, make inquiries concerning facts necessary for the adjudication to other State agencies or public organizations, or demand them to send records or submit materials: *Provided*, That it shall not make such demand for sending records on a case for which a trial, prosecution, or criminal investigation is under way.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 33 (Place of Adjudication)

The oral arguments and the pronouncement of the final decision shall be made in the courtroom: Provided, That where the President of the Constitutional Court deems it necessary, the oral arguments and the pronouncement of the final decision may be made in a place outside of the courtroom.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 34 (Opening of Adjudication to Public)

- (1) The oral arguments and the pronouncement of the decision shall be open to the public: *Provided*, That any written review and the Conference of Justices shall not be open to the public.

(2) The proviso of Article 57 (1) and Article 57 (2) and (3) of the Court Organization Act shall apply mutatis mutandis to the proceedings of the Constitutional Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 35 (Authority to Preside over Proceedings and Control Courtroom)

(1) The presiding Justice shall keep order in the courtroom and preside over oral arguments and the Conference of Justices.

(2) Articles 58 through 63 of the Court Organization Act shall apply mutatis mutandis to the maintenance of order and the use of language in the courtroom of the Constitutional Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 36 (Final Decision)

(1) When the Full Bench finishes the review, it shall make a final decision.

(2) Upon making a final decision, a written decision stating the following matters shall be prepared, signed, and sealed by all the Justices participating in the adjudication:

1. Number and title of the case;
2. Information on the parties and persons who pursue the proceeding for them or their counsels;
3. Holding;
4. Reasoning; and
5. Date of decision.

(3) Any Justice who participates in adjudication shall express his or her opinion on the written decision.

(4) When a final decision is pronounced, the clerk shall prepare without delay an authentic copy of the written decision and serve it on the parties.

(5) The final decision shall be made public through publication in the Official Gazette or other means stipulated in the Constitutional Court Rules.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 37 (Expenses for Adjudication)

(1) The expenses for adjudication by the Constitutional Court shall be borne by the State: *Provided*, That the expenses for the examination of evidence upon request of a party may be borne by the party as prescribed in the Constitutional Court Rules.

(2) The Constitutional Court may order a person requesting an adjudication on a constitutional complaint to pay a deposit money as prescribed in the Constitutional Court Rules.

(3) The Constitutional Court may order a transfer of all or part of the deposit money to the National Treasury as prescribed in the Constitutional Court Rules, in any of the following cases:

1. Where a request for adjudication on constitutional complaint is dismissed without prejudice;
or
2. Where a request for adjudication on constitutional complaint is dismissed with prejudice, and such request is deemed to be an abuse of a right.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 38 (Time Limit of Adjudication)

The Constitutional Court shall pronounce the final decision within 180 days after it receives the case for adjudication: Provided, That if the attendance of seven Justices is impossible due to vacancies of Justices, the period of vacancy shall not be counted in the period of adjudication.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 39 (Res Judicata)

The Constitutional Court shall not adjudicate again on the same case on which a prior adjudication has already been made.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 39-2 (Perusal and Copying of Case Records)

(1) Anyone may apply for the perusal and copying of the records of a finally decided case, for the purpose of rights relief, academic research, or public interest: Provided, That the President of the Constitutional Court may restrict the perusal and copying of the case records in any of the following cases:

1. Where the oral argument was closed to the public;
 2. Where it is deemed that national security, good morals, public order, or public welfare may be substantially infringed by the disclosure of the case records; or
 3. Where it is deemed that the reputation of the relevant persons, privacy, or trade secrets (referring to the trade secret defined in subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act), safety of life and body, or the tranquility of life may be substantially infringed by the disclosure of the case records.
- (2) Where the perusal or copying of the case records is restricted pursuant to the proviso of paragraph (1), the President of the Constitutional Court shall notify the reasons thereof to its applicant.
- (3) Any necessary matters in relation to the perusal or copying of the case records under paragraph (1) shall be provided by the Constitutional Court Rules.
- (4) No person who perused or copied the case records shall, by using the knowledge acquired, engage in an act of infringing upon public order or good morals, damaging the reputation of the relevant persons, or disturbing the tranquility of their lives.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 40 (Provisions Applicable Mutatis Mutandis)

- (1) Except as otherwise provided in this Act, statutes and regulations relating to civil litigation shall apply mutatis mutandis to the procedure for adjudication of the Constitutional Court as long as it is not contrary to the nature of constitutional adjudication: Provided, however, That statutes and regulations relating to criminal litigation shall apply mutatis mutandis to the adjudication on impeachment, and those of the Administrative Litigation Act to the adjudication on competence dispute and constitutional complaint.
- (2) In case referred to in the latter part of paragraph (1), if the statutes and regulations relating to the criminal litigation or the Administrative Litigation Act conflict with those relating to the civil litigation, the statutes and regulations relating to civil litigation shall not apply mutatis mutandis.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

CHAPTER IV SPECIAL ADJUDICATION PROCEDURES

SECTION 1 Adjudication on Constitutionality of Statutes

Article 41 (Request for Adjudication on Constitutionality of Statutes)

- (1) If the constitutionality of a statute is precondition of the judgment of a case, the ordinary court which takes charge of the case (including the military court; hereinafter the same shall apply) shall request adjudication on the constitutionality of the statute to the Constitutional Court, ex officio or by its decision upon a motion of a party.
- (2) The motion of the party as referred to in paragraph (1) shall be in writing, stating matters as referred to in subparagraphs 2 through 4 of Article 43.
- (3) Article 254 of the Civil Procedure Act shall apply mutatis mutandis to the examination of written motions referred to in paragraph (2).
- (4) No appeal shall be made against a decision on the request for adjudication on the constitutionality of statutes.
- (5) When an ordinary court other than the Supreme Court makes such request referred to in paragraph (1), it shall do so through the Supreme Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 42 (Suspension of Proceedings)

- (1) When an ordinary court requests adjudication on the constitutionality of a statute to the Constitutional Court, the proceedings in the original case shall be suspended until the Constitutional Court makes a decision on the constitutionality of the statute: *Provided*, That if the ordinary court finds it urgent, the proceedings other than the final judgment may be proceeded.
- (2) The period in which a proceeding is suspended under the main sentence of paragraph (1) shall not be included in calculating the detention period as prescribed in Article 92 (1) and (2) of the Criminal Procedure Act and Article 132 (1) and (2) of the Military Court Act and the period of judgment under Article 199 of the Civil Procedure Act.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 43 (Matters to Be Stated in Written Request)

When an ordinary court requests adjudication on the constitutionality of a statute to the Constitutional Court, the ordinary court's written request shall include the following matters:

1. Information on the requesting court;
2. Information on the case and the parties;
3. The statute or any provision of the statute which is interpreted as unconstitutional;
4. Reasons for which the statute is interpreted as unconstitutional; and
5. Other necessary matters.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 44 (Opinion of Parties)

The parties to the original case and the Minister of Justice may submit to the Constitutional Court a written opinion on the issue of whether or not a statute is constitutional.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 45 (Decision of Unconstitutionality)

When the Constitutional Court decides on the constitutionality of a statute, the decision shall be made only for the statute or a provision of the statute for which a review is requested: Provided, That if the Court finds that a decision of unconstitutionality on a provision would render the entire statute unenforceable, it may decide the statute unconstitutional as a whole.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 46 (Service of Written Decision)

The Constitutional Court shall serve an authentic copy of the written decision on the requesting court within 14 days from the day of decision. In this case, if the requesting court is not the Supreme Court, it shall be served through the Supreme Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 47 (Effect of Decision of Unconstitutionality)

- (1) Any decision that a statute is unconstitutional shall bind ordinary courts, other State agencies, and local governments.
- (2) Any statute or provision thereof decided as unconstitutional shall lose its effect from the date on which the decision is made. *<Amended by Act No. 12597, May 20, 2014>*
- (3) Notwithstanding paragraph (2), any statute or provision thereof relating to criminal punishment shall lose its effect retroactively: Provided, That where a decision of constitutionality has previously been made in a case to which any such statute or provision thereof applies, such statute or provision thereof shall lose its effect from the day following the date on which the decision was made. *<Newly Inserted by Act No. 12597, May 20, 2014>*
- (4) In cases referred to in paragraph (3), a retrial may be requested with respect to a conviction based on the statute or provision thereof decided as unconstitutional. *<Amended by Act No. 12597, May 20, 2014>*
- (5) The Criminal Procedure Act shall apply mutatis mutandis to the retrial referred to in paragraph (4). *<Amended by Act No. 12597, May 20, 2014>*

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

SECTION 2 Adjudication on Impeachment

Article 48 (Institution of Impeachment)

Where a public official who falls under any of the following violates the Constitution or statutes in the course of execution of his or her duties, the National Assembly may adopt a resolution on the institution of impeachment as prescribed in the Constitution and the National Assembly Act:

1. The President, Prime Minister, Members of the State Council, or Ministers;
2. Justices of the Constitutional Court, judges, or Commissioners of the National Election Commission;
3. The Chairperson and Commissioners of the Board of Audit and Inspection; or
4. Other public officials prescribed by relevant statutes.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 49 (Impeachment Commissioner)

- (1) For the adjudication on impeachment, the Chairperson of the Legislation and Justice Committee of the National Assembly shall be the impeachment commissioner.
- (2) The impeachment commissioner shall request adjudication by presenting to the Constitutional Court an authentic copy of the written impeachment resolution and may examine the respondent in the oral argument.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 50 (Suspension of Exercise of Power)

No person against whom a resolution of institution of impeachment is passed shall exercise his or her power until the Constitutional Court makes a decision thereon.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 51 (Suspension of Adjudication Proceedings)

Where a criminal proceeding is under way for the same cause as in the request for impeachment against the respondent, the Full Bench may suspend the adjudication proceedings.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 52 (Non-Attendance of Party)

- (1) If a party fails to attend on the date for oral argument, a new date for oral argument shall be fixed.
- (2) If a party fails to attend on the refixed date for oral argument, the adjudication can be carried out without his or her attendance.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 53 (Decision)

- (1) Where a request for an impeachment is well-grounded, the Constitutional Court shall pronounce a decision that the respondent shall be removed from the relevant public office.
- (2) If the respondent has already been removed from the relevant public office before the pronouncement of the decision, the Constitutional Court shall dismiss the request for adjudication with prejudice.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 54 (Effect of Decision)

- (1) The decision of impeachment shall not exempt the respondent from his or her civil or criminal liability.
- (2) Any person who is removed from the public office by the decision of impeachment shall not be a public official until five years have passed from the date on which the decision is pronounced.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

SECTION 3 Adjudication on Dissolution of Political Party

Article 55 (Request for Adjudication on Dissolution of Political Party)

If the objectives or activities of a political party are contrary to the basic order of democracy, the Government, upon a deliberation of the State Council, may request an adjudication on dissolution of the political party to the Constitutional Court.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 56 (Matters to Be Stated in Written Request)

The written request for adjudication on dissolution of a political party shall include the following matters:

1. Information on political party requested to be dissolved;
2. Reasons for the request.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 57 (Provisional Disposition)

Upon receipt of a request for adjudication on dissolution of a political party, the Constitutional Court may, ex officio or on a motion of the requesting party, make a decision to suspend the activities of the respondent until the pronouncement of the final decision.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 58 (Notification of Request)

- (1) When an adjudication on dissolution of a political party is requested, a decision on the provisional disposition is rendered, and such adjudication is concluded, the President of the Constitutional Court shall notify the facts to the National Assembly and the National Election Commission.
- (2) The written decision ordering the dissolution of a political party shall also be served on the National Assembly, the Government, and the National Election Commission as well as the respondent.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 59 (Effect of Decision)

When a decision ordering the dissolution of a political party is pronounced, the political party shall be dissolved.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 60 (Execution of Decision)

The decision of the Constitutional Court ordering the dissolution of a political party shall be executed by the National Election Commission in accordance with the Political Parties Act.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

SECTION 4 Adjudication on Competence Dispute

Article 61 (Grounds for Request)

- (1) When any controversy on the existence or the scope of competence arises between State agencies, between a State agency and a local government, or between local governments, a State agency or a local government concerned may request an adjudication on competence dispute to the Constitutional Court.
- (2) The request for adjudication referred to in paragraph (1) may be allowed only when a disposition or omission by the respondent infringes on or is in obvious danger of infringing upon the claimant's competence granted by the Constitution or statutes.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 62 (Classification of Adjudication on Competence Dispute)

- (1) The adjudication on competence dispute shall be classified as follows: *<Amended by Act No. 15495, Mar. 20, 2018>*
 1. Adjudication on competence dispute between State agencies: Adjudication on competence

dispute between the National Assembly, the Government, the Court and the National Election Commission.

2. Adjudication on competence dispute between a State agency and a local government:
 - (a) Adjudication on competence dispute between the Government and the Special Metropolitan City, a Metropolitan City, the Special Self-Governing City, a *Do* or the Special Self-Governing Province; and
 - (b) Adjudication on competence dispute between the Government and a *Si/Gun* or a *Gu* which is a local government (hereinafter referred to as "autonomous Gu").
 3. Adjudication on competence dispute between local governments:
 - (a) Adjudication on competence dispute between the Special Metropolitan City, a Metropolitan City, the Special Self-Governing City, a *Do*, or the Special Self-Governing Province;
 - (b) Adjudication on competence dispute between a *Si/Gun* or an autonomous *Gu*; and
 - (c) Adjudication on competence dispute between the Special Metropolitan City, a Metropolitan City, the Special Self-Governing City, a *Do* or the Special Self-Governing Province and a *Si/Gun* or an autonomous *Gu*.
- (2) Where a competence dispute relates to the affairs of a local government concerning education, science or art under Article 2 of the Local Education Autonomy Act, the superintendent of education shall be the party referred to in paragraph (1) 2 and 3.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 63 (Time Limit for Request)

- (1) The adjudication on competence dispute shall be requested within 60 days after the existence of the cause is known, and within 180 days after the cause occurs.
- (2) The period as referred to in paragraph (1) shall be peremptory.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 64 (Matters to Be Stated in Written Request)

The written request for adjudication on competence dispute shall include the following matters:

1. Information on the claimant or the institution whereto the claimant belongs, and the person who pursues the proceeding or counsel;
2. Information on the respondent;
3. Disposition or omission by the respondent, which is the subject to adjudication;
4. Reasons for the request; and
5. Other necessary matters.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 65 (Provisional Disposition)

Upon receipt of a request for adjudication on competence dispute, the Constitutional Court may, ex officio or on a motion of the claimant, make a decision to suspend the effect of a disposition taken by the respondent which is subject to the adjudication until the pronouncement of the final decision.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 66 (Decision)

- (1) The Constitutional Court shall decide as to whether or to what extent a State agency or a

local government has the jurisdiction, which is subject to adjudication.

- (2) In the case as referred to in paragraph (1), the Constitutional Court may revoke or confirm the invalidity of the respondent's disposition that infringed the jurisdiction at issue, and when the Constitutional Court approves request against an omission, the respondent shall take a disposition pursuant to the purport of decision.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 67 (Effect of Decision)

- (1) The decision on competence dispute by the Constitutional Court shall bind all State agencies and local governments.
- (2) The decision to revoke a disposition by a State agency or a local government shall not alter the effect which has already been given to the person toward whom the disposition is directed.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

SECTION 5 Adjudication on Constitutional Complaint

Article 68 (Grounds for Request)

- (1) Any person whose fundamental rights guaranteed by the Constitution is infringed due to exercise or non-exercise of the governmental power, excluding judgment of the courts, may request adjudication on a constitutional complaint with the Constitutional Court: *Provided*, That if any remedial process is provided by other statutes, no one may request adjudication on a constitutional complaint without having exhausted all such processes.
- (2) If the motion made under Article 41 (1) for adjudication on the constitutionality of statutes is denied, the party may request adjudication on a constitutional complaint with the Constitutional Court. In this case, the party shall be precluded from filing a motion again to request adjudication on the constitutionality of statutes for the same ground in the proceedings of the original case.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 69 (Time Limit for Filing Complaint)

- (1) The adjudication on a constitutional complaint under Article 68 (1) shall be requested within 90 days after the existence of the cause is known, and within one year after the cause occurs: *Provided*, That adjudication on a constitutional complaint which is requested after exhausting remedial processes provided by other statutes, shall be requested within 30 days after the final decision in the processes is notified.
- (2) The adjudication on a constitutional complaint under Article 68 (2) shall be requested within 30 days after a denial of a motion to request adjudication on the constitutionality of the statute is notified.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 70 (Court-Appointed Counsel)

- (1) If a person who intends to request adjudication on a constitutional complaint has no financial resources to appoint an attorney as his or her counsel, he or she may move the Constitutional Court to appoint a court-appointed counsel. In this case, time limit for requesting adjudication on a complaint as prescribed in Article 69 shall run from the date

on which such motion is filed.

- (2) When the Constitutional Court deems it necessary for the public interest, it may appoint a court-appointed counsel notwithstanding paragraph (1).
- (3) The Constitutional Court shall, upon receiving a motion under paragraph (1) or in the case of paragraph (2), appoint a court-appointed counsel from among attorneys as prescribed by the Constitutional Court Rules: *Provided*, That it need not appoint a court-appointed counsel in cases where the said request for adjudication is obviously unlawful or groundless or deemed to be an abuse of rights.
- (4) When the Constitutional Court makes a decision not to appoint a court-appointed counsel, it shall notify the movant without delay. In this case, the period from the day the motion was made to the day the notification is served shall not be counted in the period for filing a complaint as prescribed in Article 69.
- (5) A court-appointed counsel who has been appointed under paragraph (3) shall submit a written request for adjudication stating the matters as referred to in Article 71 to the Constitutional Court, within 60 days from the date of his or her appointment.
- (6) A court-appointed counsel who has been appointed under paragraph (3) shall be paid his or her remuneration from the National Treasury, as prescribed by the Constitutional Court Rules.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 71 (Matters to Be Stated in Written Request)

- (1) The written request for adjudication on constitutional complaint under Article 68 (1) shall include the following matters:
 1. Information on the complainant and his or her counsel;
 2. Infringed rights;
 3. Exercise or non-exercise of governmental power by which the infringement of the right is caused;
 4. Reasons for the request; and
 5. Other necessary matters.
- (2) Article 43 shall apply *mutatis mutandis* to matters to be stated in the written request for adjudication on a constitutional complaint under Article 68 (2). In this case, "information on the requesting court" in subparagraph 1 of Article 43 shall be considered as "information on the complainant and his or her counsel."
- (3) The document attesting the appointment of a counsel or a written notification of appointment of the court-appointed counsel shall be appended to the written request for adjudication on a constitutional complaint.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 72 (Prior Review)

- (1) The President of the Constitutional Court may establish the Panels each of which consists of three Justices in the Constitutional Court and have the Panels conduct a prior review of a constitutional complaint. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (2) Deleted. *<by Act No. 4408, Nov. 30, 1991>*

- (3) In any of the following cases, the Panel shall dismiss a constitutional complaint without prejudice in a unanimous decision: *<Amended by Act No. 10546, Apr. 5, 2011>*
1. Where the adjudication on a constitutional complaint is requested, without having exhausted all the remedial processes provided by other statutes, or against the judgment of an ordinary court;
 2. Where the adjudication on a constitutional complaint is requested after expiration of the time limit prescribed in Article 69;
 3. Where the adjudication on a constitutional complaint is requested without a counsel under Article 25; or
 4. Where the request for adjudication on a constitutional complaint is unlawful and the unlawfulness can not be corrected.
- (4) Where a Panel can not reach a unanimous decision of dismissal without prejudice referred to in paragraph (3), it shall transfer the constitutional complaint to the Full Bench by a decision. When a dismissal without prejudice is not decided within 30 days after filing a constitutional complaint, it shall be deemed that a decision to transfer it to the Full Bench (hereinafter referred to as “decision to transfer to the Full Bench”) is made. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (5) Articles 28, 31, 32 and 35 shall apply mutatis mutandis to the review by the Panels. *<Amended by Act No. 10546, Apr. 5, 2011>*
- (6) Matters necessary for the composition and operation of the Panels shall be provided by the Constitutional Court Rules. *<Amended by Act No. 10546, Apr. 5, 2011>*

Article 73 (Notification of Dismissal without Prejudice or Decision to Transfer to Full Bench)

- (1) When a Panel dismisses a constitutional complaint without prejudice or decides to transfer it to the Full Bench, it shall notify it to the complainant or his or her counsel and the respondent within 14 days from the date of decision. The same shall also apply to the case provided in the latter part of Article 72 (4).
- (2) When a constitutional complaint is transferred to the Full Bench under Article 72 (4), the President of the Constitutional Court shall notify it without delay to the following persons:
 1. The Minister of Justice; and
 2. A party to the original case who is not the complainant, in case of an adjudication on constitutional complaint under Article 68 (2).

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 74 (Submission of Opinions by Interested Agencies)

- (1) State agencies or public organizations who have interests in an adjudication on a constitutional complaint, and the Minister of Justice may submit to the Constitutional Court a written opinion on the adjudication.
- (2) Where a constitutional complaint prescribed in Article 68 (2) is transferred to the Full Bench, Articles 27 (2) and 44 shall apply mutatis mutandis.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 75 (Decision of Upholding)

- (1) A decision to uphold a constitutional complaint shall bind all the State agencies and the

local governments.

- (2) In upholding a constitutional complaint under Article 68 (1), the infringed fundamental rights and the exercise or non-exercise of governmental power by which the infringement has been caused, shall be specified in the holding of the decision.
- (3) In the case referred to in paragraph (2), the Constitutional Court may nullify the exercise of governmental power which infringes fundamental rights or confirm that the non-exercise thereof is unconstitutional.
- (4) When the Constitutional Court makes a decision to uphold a constitutional complaint against the non-exercise of governmental power, the respondent shall take a new disposition pursuant to the purport of the decision.
- (5) In the case referred to in paragraph (2), when the Constitutional Court deems that the exercise or non-exercise of governmental power is caused by unconstitutional statutes or provisions thereof, it may declare in the decision of upholding that the statutes or provisions are unconstitutional.
- (6) In cases referred to in paragraph (5) and where a constitutional complaint prescribed in Article 68 (2) is upheld, Articles 45 and 47 shall apply *mutatis mutandis*.
- (7) Where a constitutional complaint prescribed in Article 68 (2) is upheld and when the court's case related to the instant constitutional complaint has already been decided by final judgment, the party may request a retrial of the case before the court.
- (8) In the retrial referred to in paragraph (7), the Criminal Procedure Act shall apply *mutatis mutandis* to criminal cases, and the Civil Procedure Act to other cases.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

CHAPTER V ADJUDICATION PROCEEDINGS THROUGH ELECTRONIC DATA PROCESSING SYSTEM

Article 76 (Receipt of Electronic Documents)

- (1) A party or relevant persons in each adjudication procedure may submit a request or other required documents as provided in this Act in electronic documents (referring to information prepared and transmitted, received, or stored in electronic form through devices capable of data processing, such as computers; hereinafter the same shall apply) via the electronic data processing system (referring to electronic devices capable of processing information required for preparation, submission, and service of electronic documents required for proceedings of adjudication; hereinafter the same shall apply) designated and operated by the Constitutional Court by using the information and communications networks.
- (2) Any electronic document submitted pursuant to paragraph (1) takes the same effect as the written documents submitted in accordance with this Act.
- (3) Any electronic document submitted via the electronic data processing system shall be deemed to have been received upon being recorded electronically in the electronic data processing system.
- (4) Where any electronic document is received pursuant to paragraph (3), the Constitutional Court shall immediately notify the party or relevant persons of such receipt by an electronic

method as provided in the Constitutional Court Rules.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

Article 77 (Electronic Signature)

- (1) Any party or relevant person shall affix his or her electronic signature on the electronic documents submitted to the Constitutional Court for authentication as prescribed in the Constitutional Court Rules.
- (2) A Justice or clerk, where preparing electronic documents related to the case subject to adjudication, shall affix an administrative electronic signature as provided in subparagraph 6 of Article 2 of the Electronic Government Act (hereinafter referred to as “administrative electronic signature”).
- (3) Any electronic signature under paragraph (1) and administrative electronic signature under paragraph (2) shall be considered a signature, a signature and seal, or affixation of a signature and seal prescribed by statutes and regulations on procedures of adjudication of the Constitutional Court.

[This Article Newly Inserted by Act No. 9839, Dec. 29, 2009]

Article 78 (Electronic Service)

- (1) The Constitutional Court may serve a copy of the decision or any document pursuant to this Act on the parties or relevant persons by using the electronic data processing system and its associated information and communications network: *Provided*, That the same shall not apply if the parties or relevant persons do not consent thereto.
- (2) The Constitutional Court shall record and register the documents to be served on the parties or relevant persons, such as the copy of decisions, in the electronic data processing system, and notify such parties or relevant persons, by an electronic method, of the registration thereof as prescribed in the Constitutional Court Rules.
- (3) Service of documents using the electronic data processing system pursuant to paragraph (1) takes the same effect as the service of the written documents.
- (4) In case of paragraph (2), when any person who is to receive a document confirms a registered electronic document as prescribed by the Constitutional Court Rules, such document shall be deemed to have been served: *Provided*, That when the person does not confirm such record within two weeks from the date of notification, such document shall be deemed to have been served on the following day after two weeks from the date of notification.
- (5) Notwithstanding paragraph (1), where electronic service is impossible due to a disrupted situation in the electronic data processing system or other reasons prescribed in the Constitutional Court Rule, the documents concerned may be served pursuant to the Civil Procedure Act.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

CHAPTER VI PENALTY PROVISIONS

Article 79 (Penalty Provisions)

Any of the following persons shall be punished by an imprisonment with labor for not more than one year or by a fine not exceeding one million won:

1. A person who is summoned or commissioned as a witness, expert witness, interpreter or translator by the Constitutional Court but fails to attend without any justifiable reason;
2. A person who is demanded or ordered to submit articles of evidence by the Constitutional Court but fails to submit them without any justifiable reason; or
3. A person who refuses, interferes with, or evades an investigation or examination of the Constitutional Court without any justifiable reason.

[This Article Wholly Amended by Act No. 10546, Apr. 5, 2011]

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on September 1, 1988: *Provided*, That the appointment of the president, full-time Justices and Justices of the Constitutional Court under this Act, and the preparation for the enforcement of this Act may be done before this Act enters into force.

Article 2 (Repealed Act)

The Constitutional Committee Act (Act No. 2530) shall hereby be repealed.

Article 3 (Transitional Measures concerning Pending Cases)

Cases pending in the Constitutional Committee at the time when this Act enters into force, shall be transferred to the Constitutional Court. In this case, it shall not affect the effect of adjudication already in force.

Article 4 (Transitional Measures concerning Matters That Occurred)

This Act shall also apply to matters that occurred before this Act enters into force: *Provided*, That it shall not prejudice the effect in force under the Constitutional Committee Act before the enforcement of this Act.

Article 5 (Transitional Measures concerning Previous Personnel)

Public officials in the Secretariat of the Constitutional Committee at the time this Act enters into force, shall be considered to be appointed as those in the Department of Court Administration of the Constitutional Court.

Article 6 (Transitional Measures concerning Budget)

The budget managed by the Constitutional Committee at the time when this Act enters into force, shall be considered to be under the control of the Constitutional Court.

Article 7 (Succession of Rights and Duties)

Rights and duties which the Constitutional Committee has at the time this Act enters into force, shall be succeeded to by the Constitutional Court.

Article 8 Omitted.

ADDENDA <Act No. 4408, Nov. 30, 1991>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures)

Full-time Justices and Justices who are not full-time Justices, at the time this Act enters into force, shall be considered Justices appointed under this Act, and their term shall be calculated

from the time of their appointment before this Act enters into force.

Article 3 Omitted.

ADDENDUM <Act No. 4815, Dec. 22, 1994>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 4963, Aug. 4, 1995>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <Act No. 6622, Jan. 19, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 and 3 Omitted.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 6861, Mar. 12, 2003>

- (1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.
- (2) (Transitional Measures) Any Rapporteur Judge or Junior Rapporteur Judge who is a public official in general service or extraordinary civil service at the time this Act enters into force, shall be deemed to have been appointed under this Act as a Rapporteur Judge who is a State public official in special service and a Junior Rapporteur Judge who is a State public official in extraordinary civil service, respectively: *Provided*, That the periods of his or her service as a Rapporteur Judge and a Junior Rapporteur Judge prior to the enforcement of this Act shall be counted in the tenure of service as the a Rapporteur Judge and a Junior Rapporteur Judge as referred to in this Act and other statutes and regulations, and the period of his or her service as a Grade IV public official in a State agency shall be regarded as a period of service as a Junior Rapporteur Judge at the time of defining the salary class.
- (3) Omitted.

ADDENDA <Act No. 7427, Mar. 31, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 7622, Jul. 29, 2005>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 8729, Dec. 21, 2007>

This Act shall enter into force on January 1, 2008.

ADDENDUM <Act No. 8893, Mar. 14, 2008>

This Act shall enter into force three months after the date of its promulgation.

ADDENDUM <Act No. 9839, Dec. 29, 2009>

This Act shall enter into force on March 1, 2010: *Provided*, That the amended provisions of Article 28 (5) shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 10278, May 4, 2010>

This Act shall enter into force on the date of its promulgation: *Provided*, That the amended provisions of Article 19-4 shall enter into force six months after the date of its promulgation.

ADDENDUM <Act No. 10546, Apr. 5, 2011>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 11530, Dec. 11, 2012>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 12597, May 20, 2014>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 12897, Dec. 30, 2014>

This Act shall enter into force six months after the date of its promulgation: *Provided*, That the amended provisions of Article 7 (2) shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 15495, Mar. 20, 2018>

This Act shall enter into force on the date of its promulgation.