

The Constitution of the Republic of Korea

대한민국 헌법



Constitutional Court of Korea

The Constitution of the Republic of Korea

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PREAMBLE

We, the people of Korea, proud of a resplendent history and traditions dating from time immemorial, upholding the cause of the Provisional Republic of Korea Government born of the March First Independence Movement of 1919 and the democratic ideals of the April Nineteenth Uprising of 1960 against injustice, having assumed the mission of democratic reform and peaceful unification of our homeland and having determined to consolidate national unity with justice, humanitarianism and brotherly love, and

To destroy all social vices and injustice, and

To afford equal opportunities to every person and provide for the fullest development of individual capabilities in all fields, including political, economic, social and cultural life by further strengthening the basic free and democratic order conducive to private initiative and public harmony, and

To help each person discharge those duties and responsibilities concomitant to freedoms and rights, and

To elevate the quality of life for all citizens and contribute to lasting world peace and the common prosperity of mankind and thereby to ensure security, liberty and happiness for ourselves and our posterity forever, Do hereby amend, through national referendum following a resolution by the National Assembly, the Constitution, ordained and established on the Twelfth Day of July anno Domini Nineteen hundred and forty-eight, and amended eight times subsequently.

Oct. 29, 1987

CHAPTER I. GENERAL PROVISIONS

Article 1

- (1) The Republic of Korea shall be a democratic republic.
- (2) The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.

Article 2

(1) Nationality in the Republic of Korea shall be prescribed by Act.

(2) It shall be the duty of the State to protect citizens residing abroad as prescribed by Act.

Article 3

The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.

Article 4

The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the principles of freedom and democracy.

Article 5

(1) The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.

(2) The Armed Forces shall be charged with the sacred mission of national security and the defense of the land and their political neutrality shall be maintained.

Article 6

(1) Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.

(2) The status of aliens shall be guaranteed as prescribed by international law and treaties.

Article 7

- (1) All public officials shall be servants of the entire people and shall be responsible for the people.
- (2) The status and political impartiality of public officials shall be guaranteed as prescribed by Act.

Article 8

- (1) The establishment of political parties shall be free, and the plural party system shall be guaranteed.
- (2) Political parties shall be democratic in their objectives, organization and activities, and shall have the necessary organizational arrangements for the people to participate in the formation of the political will.
- (3) Political parties shall enjoy the protection of the State and may be provided with operational funds by the State under the conditions as prescribed by Act.
- (4) If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring an action against it in the Constitutional Court for its dissolution, and the political party shall be dissolved in accordance with the decision of the Constitutional Court.

Article 9

The State shall strive to sustain and develop the cultural heritage and to enhance national culture.

CHAPTER II. RIGHTS AND DUTIES OF CITIZENS

Article 10

All citizens shall be assured of human dignity and worth and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

Article 11

(1) All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status.

(2) No privileged caste shall be recognized or ever established in any form.

(3) The awarding of decorations or distinctions of honor in any form shall be effective only for recipients, and no privileges shall ensue therefrom.

Article 12

(1) All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated except as provided by Act. No person shall be punished, placed under preventive restrictions or subject to involuntary labor except as provided by Act and through lawful procedures.

(2) No citizens shall be tortured or be compelled to testify against himself in criminal cases.

(3) Warrants issued by a judge through due procedures upon the request of a prosecutor shall be presented

in case of arrest, detention, seizure or search: *Provided*, That in a case where a criminal suspect is an apprehended *flagrante delicto*, or where there is danger that a person suspected of committing a crime punishable by imprisonment of three years or more may escape or destroy evidence, investigative authorities may request an *ex post facto* warrant.

(4) Any person who is arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as prescribed by Act.

(5) No person shall be arrested or detained without being informed of the reason therefor and of his right to assistance of counsel. The family, etc., as designated by Act, of a person arrested or detained shall be notified without delay of the reason for and the time and place of the arrest or detention.

(6) Any person who is arrested or detained, shall have the right to request the court to review the legality of the arrest or detention.

(7) In a case where a confession is deemed to have been made against a defendant's will due to torture, violence, intimidation, unduly prolonged arrest, deceit or etc., or in a case where a confession is the only evidence against a defendant in a formal trial, such a confession shall not be admitted as evidence of guilt, nor shall a defendant be punished by reason of such a confession.

Article 13

(1) No citizen shall be prosecuted for an act which does not constitute a crime under the Act in force at the time it was committed, nor shall he be placed in double jeopardy.

(2) No restrictions shall be imposed upon the political rights of any citizen, nor shall any person be deprived of property rights by means of retroactive legislation.

(3) No citizen shall suffer unfavorable treatment on account of an act not of his own doing but committed by a relative.

Article 14

All citizens shall enjoy freedom of residence and the right to move at will.

Article 15

All citizens shall enjoy freedom of occupation.

Article 16

All citizens shall be free from intrusion into their place of residence. In case of search or seizure in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

Article 17

The privacy of no citizen shall be infringed.

Article 18

The privacy of correspondence of no citizen shall be infringed.

Article 19

All citizens shall enjoy freedom of conscience.

Article 20

- (1) All citizens shall enjoy freedom of religion.
- (2) No state religion shall be recognized, and religion and state shall be separated.

Article 21

- (1) All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.
- (2) Licensing or censorship of speech and the press, and licensing of assembly and association shall not be permitted.
- (3) The standards of news service and broadcast facilities and matters necessary to ensure the functions of newspapers shall be determined by Act.
- (4) Neither speech nor the press shall violate the honor or rights of other persons nor undermine public morals or social ethics. Should speech or the press violate the honor or rights of other persons, claims may be made for the damage resulting therefrom.

Article 22

- (1) All citizens shall enjoy freedom of learning and the arts.
- (2) The rights of authors, inventors, scientists, engineers and artists shall be protected by Act.

Article 23

- (1) The right of property of all citizens shall be guaranteed. The contents and limitations thereof shall be determined by Act.
- (2) The exercise of property rights shall conform to the public welfare.

(3) Expropriation, use or restriction of private property from public necessity and compensation therefor shall be governed by Act: *Provided*, That in such a case, just compensation shall be paid.

Article 24

All citizens shall have the right to vote under the conditions as prescribed by Act.

Article 25

All citizens shall have the right to hold public office under the conditions as prescribed by Act.

Article 26

(1) All citizens shall have the right to petition in writing to any governmental agency under the conditions as prescribed by Act.

(2) The State shall be obligated to examine all such petitions.

Article 27

(1) All citizens shall have the right to trial in conformity with the Act by judges qualified under the Constitution and the Act.

(2) Citizens who are not on active military service or employees of the military forces shall not be tried by a court martial within the territory of the Republic of Korea, except in case of crimes as prescribed by Act involving important classified military information, sentinels, sentry posts, the supply of harmful food and beverages, prisoners of war and military articles and facilities and in the case of the proclamation of

extraordinary martial law.

(3) All citizens shall have the right to a speedy trial. The accused shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary.

(4) The accused shall be presumed innocent until a judgment of guilt has been pronounced.

(5) A victim of a crime shall be entitled to make a statement during the proceedings of the trial of the case involved as under the conditions prescribed by Act.

Article 28

In a case where a criminal suspect or an accused person who has been placed under detention is not indicted as provided by Act or is acquitted by a court, he shall be entitled to claim just compensation from the State under the conditions as prescribed by Act.

Article 29

(1) In case a person has sustained damages by an unlawful act committed by a public official in the course of official duties, he may claim just compensation from the State or public organization under the conditions as prescribed by Act. In this case, the public official concerned shall not be immune from liabilities.

(2) In case a person on active military service or an employee of the military forces, a police official or others as prescribed by Act sustains damages in connection with the performance of official duties such as combat action, drill and so forth, he

shall not be entitled to a claim against the State or public organization on the grounds of unlawful acts committed by public officials in the course of official duties, but shall be entitled only to compensations as prescribed by Act.

Article 30

Citizens who have suffered bodily injury or death due to criminal acts of others may receive aid from the State under the conditions as prescribed by Act.

Article 31

(1) All citizens shall have an equal right to an education corresponding to their abilities.

(2) All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by Act.

(3) Compulsory education shall be free of charge.

(4) Independence, professionalism and political impartiality of education and the autonomy of institutions of higher learning shall be guaranteed under the conditions as prescribed by Act.

(5) The State shall promote lifelong education.

(6) Fundamental matters pertaining to the educational system, including in-school and lifelong education, administration, finance, and the status of teachers shall be determined by Act.

Article 32

(1) All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through

social and economic means and shall enforce a minimum wage system under the conditions as prescribed by Act.

(2) All citizens shall have the duty to work. The State shall prescribe by Act the extent and conditions of the duty to work in conformity with democratic principles.

(3) Standards of working conditions shall be determined by Act in such a way as to guarantee human dignity.

(4) Special protection shall be accorded to working women, and they shall not be subjected to unjust discrimination in terms of employment, wages and working conditions.

(5) Special protection shall be accorded to working children.

(6) The opportunity to work shall be accorded preferentially, under the conditions as prescribed by Act, to those who have given distinguished service to the State, wounded veterans and policemen, and members of the bereaved families of military servicemen and policemen killed in action.

Article 33

(1) To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action.

(2) Only those public officials who are designated by Act, shall have the right to association, collective bargaining and collective action.

(3) The right to collective action of workers employed by important defense industries may be either restricted or denied under the conditions as prescribed by Act.

Article 34

(1) All citizens shall be entitled to a life worthy of human beings.

(2) The State shall have the duty to endeavor to promote social security and welfare.

(3) The State shall endeavor to promote the welfare and rights of women.

(4) The State shall have the duty to implement policies for enhancing the welfare of senior citizens and the young.

(5) Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age or other reasons shall be protected by the State under the conditions as prescribed by Act.

(6) The State shall endeavor to prevent disasters and to protect citizens from harm therefrom.

Article 35

(1) All citizens shall have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.

(2) The substance of the environmental right shall be determined by Act.

(3) The State shall endeavor to ensure comfortable housing for all citizens through housing development policies and the like.

Article 36

- (1) Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall do everything in its power to achieve that goal.
- (2) The State shall endeavor to protect motherhood.
- (3) The health of all citizens shall be protected by the State.

Article 37

- (1) Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.
- (2) The freedoms and rights of citizens may be restricted by Act only when necessary for national security, the maintenance of law and order or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom or right shall be violated.

Article 38

All citizens shall have the duty to pay taxes under the conditions as prescribed by Act.

Article 39

- (1) All citizens shall have the duty of national defense under the conditions as prescribed by Act.
- (2) No citizen shall be treated unfavorably on account of the fulfillment of his obligation of military service.

CHAPTER III. THE NATIONAL ASSEMBLY

Article 40

The legislative power shall be vested in the National Assembly.

Article 41

(1) The National Assembly shall be composed of members elected by universal, equal, direct and secret ballot by the citizens.

(2) The number of members of the National Assembly shall be determined by Act, but the number shall not be less than 200.

(3) The constituencies of members of the National Assembly, proportional representation and other matters pertaining to National Assembly elections shall be determined by Act.

Article 42

The term of office of members of the National Assembly shall be four years.

Article 43

Members of the National Assembly shall not concurrently hold any other office prescribed by Act.

Article 44

(1) During the sessions of the National Assembly, no member of the National Assembly shall be arrested or detained without the consent of the National Assembly except in case of *flagrante delicto*.

(2) In case of apprehension or detention of a member

of the National Assembly prior to the opening of a session, such member shall be released during the session upon the request of the National Assembly, except in case of *flagrante delicto*.

Article 45

No member of the National Assembly shall be held responsible outside the National Assembly for opinions officially expressed or votes cast in the Assembly.

Article 46

(1) Members of the National Assembly shall have the duty to maintain high standards of integrity.

(2) Members of the National Assembly shall give preference to national interests and shall perform their duties in accordance with conscience.

(3) Members of the National Assembly shall not acquire, through abuse of their positions, rights and interests in property or positions, or assist other persons to acquire the same, by means of contracts with or dispositions by the State, public organizations or industries.

Article 47

(1) A regular session of the National Assembly shall be convened once every year under the conditions as prescribed by Act, and extraordinary sessions of the National Assembly shall be convened upon the request of the President or one fourth or more of the total members.

(2) The period of regular sessions shall not exceed

a hundred days, and that of extraordinary sessions, thirty days.

(3) If the President requests the convening of an extraordinary session, the period of the session and the reasons for the request shall be clearly specified.

Article 48

The National Assembly shall elect one Speaker and two Vice-Speakers.

Article 49

Except as otherwise provided for in the Constitution or in Act, the attendance of a majority of the total members, and the concurrent vote of a majority of the members present, shall be necessary for decisions of the National Assembly. In case of a tie vote, the matter shall be regarded as rejected.

Article 50

(1) Sessions of the National Assembly shall be open to the public: *Provided*, That when it is decided so by a majority of the members present, or when the Speaker deems it necessary to do so for the sake of national security, they may be closed to the public.

(2) The public disclosure of the proceedings of sessions which were not open to the public shall be determined by Act.

Article 51

Bills and other matters submitted to the National Assembly for deliberation shall not be abandoned on the ground that they were not acted upon during the

session in which they were introduced, except in a case where the term of the members of the National Assembly has expired.

Article 52

Bills may be introduced by members of the National Assembly or by the Executive.

Article 53

(1) Each bill passed by the National Assembly shall be sent to the Executive, and the President shall promulgate it within fifteen days.

(2) In case of objection to the bill, the President may, within the period referred to in paragraph (1), return it to the National Assembly with written explanation of his objection, and request it be reconsidered. The President may do the same during adjournment of the National Assembly.

(3) The President shall not request the National Assembly to reconsider the bill in part, or with proposed amendments.

(4) In case there is a request for reconsideration of a bill, the National Assembly shall reconsider it, and if the National Assembly repasses the bill in the original form with the attendance of more than one half of the total members, and with a concurrent vote of two thirds or more of the members present, it shall become Act.

(5) If the President does not promulgate the bill, or does not request the National Assembly to reconsider it within the period referred to in paragraph (1), it

shall become Act.

(6) The President shall promulgate without delay the Act as finalized under paragraphs (4) and (5). If the President does not promulgate an Act within five days after it has become Act under paragraph (5), or after it has been returned to the Executive under paragraph (4), the Speaker shall promulgate it.

(7) Except as provided otherwise, an Act shall take effect twenty days after the date of promulgation.

Article 54

(1) The National Assembly shall deliberate and decide upon the national budget bill.

(2) The Executive shall formulate the budget bill for each fiscal year and submit it to the National Assembly within ninety days before the beginning of a fiscal year. The National Assembly shall decide upon it within thirty days before the beginning of the fiscal year.

(3) If the budget bill is not passed by the beginning of the fiscal year, the Executive may, in conformity with the budget of the previous fiscal year, disburse funds for the following purposes until the budget bill is passed by the National Assembly:

1. The maintenance and operation of agencies and facilities established by the Constitution or Act;
2. Execution of the obligatory expenditures as prescribed by Act; and
3. Continuation of projects previously approved in the budget.

Article 55

(1) In a case where it is necessary to make continuing disbursements for a period longer than one fiscal year, the Executive shall obtain the approval of the National Assembly for a specified period of time.

(2) A reserve fund shall be approved by the National Assembly in total. The disbursement of the reserve fund shall be approved during the next session of the National Assembly.

Article 56

When it is necessary to amend the budget, the Executive may formulate a supplementary revised budget bill and submit it to the National Assembly.

Article 57

The National Assembly shall, without the consent of the Executive, neither increase the sum of any item of expenditure nor create any new items of expenditure in the budget submitted by the Executive.

Article 58

When the Executive plans to issue national bonds or to conclude contracts which may incur financial obligations on the State outside the budget, it shall have the prior concurrence of the National Assembly.

Article 59

Types and rates of taxes shall be determined by Act.

Article 60

(1) The National Assembly shall have the right to consent to the conclusion and ratification of

treaties pertaining to mutual assistance or mutual security; treaties concerning important international organizations; treaties of friendship, trade and navigation; treaties pertaining to any restriction in sovereignty; peace treaties; treaties which will burden the State or people with an important financial obligation; or treaties related to legislative matters.

(2) The National Assembly shall also have the right to consent to the declaration of war, the dispatch of armed forces to foreign states, or the stationing of alien forces in the territory of the Republic of Korea.

Article 61

(1) The National Assembly may inspect affairs of state or investigate specific matters of state affairs, and may demand the production of documents directly related thereto, the appearance of a witness in person and the furnishing of testimony or statements of opinion.

(2) The procedures and other necessary matters concerning the inspection and investigation of state administration shall be determined by Act.

Article 62

(1) The Prime Minister, members of the State Council or government delegates may attend meetings of the National Assembly or its committees and report on the state administration or deliver opinions and answer questions.

(2) When requested by the National Assembly or its committees, the Prime Minister, members of the

State Council or government delegates shall attend any meeting of the National Assembly and answer questions. If the Prime Minister or State Council members are requested to attend, the Prime Minister or State Council members may have State Council members or government delegates attend any meeting of the National Assembly and answer questions.

Article 63

(1) The National Assembly may pass a recommendation for the removal of the Prime Minister or a State Council member from office.

(2) A recommendation for removal as referred to in paragraph (1) may be introduced by one third or more of the total members of the National Assembly, and shall be passed with the concurrent vote of a majority of the total members of the National Assembly.

Article 64

(1) The National Assembly may establish the rules of its proceedings and internal regulations: *Provided*, That they are not in conflict with Act.

(2) The National Assembly may review the qualifications of its members and may take disciplinary actions against its members.

(3) The concurrent vote of two thirds or more of the total members of the National Assembly shall be required for the expulsion of any member.

(4) No action shall be brought to court with regard to decisions taken under paragraphs (2) and (3).

Article 65

(1) In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, Justices of the Constitutional Court, judges, members of the National Election Commission, the Chairman and members of the Board of Audit and Inspection, and other public officials designated by Act have violated the Constitution or other Acts in the performance of official duties, the National Assembly may pass motions for their impeachment.

(2) A motion for impeachment prescribed in paragraph (1) may be proposed by one third or more of the total members of the National Assembly, and shall require a concurrent vote of a majority of the total members of the National Assembly for passage: *Provided*, That a motion for the impeachment of the President shall be proposed by a majority of the total members of the National Assembly and approved by two thirds or more of the total members of the National Assembly.

(3) Any person against whom a motion for impeachment has been passed shall be suspended from exercising his power until the impeachment has been adjudicated.

(4) A decision on impeachment shall not extend further than removal from public office: *Provided*, That it shall not exempt the person impeached from civil or criminal liability.

CHAPTER IV. THE EXECUTIVE

SECTION 1. The President

Article 66

- (1) The President shall be the Head of State and represent the State vis-a-vis foreign states.
- (2) The President shall have the responsibility and duty to safeguard the independence, territorial integrity and continuity of the State and the Constitution.
- (3) The President shall have the duty to pursue sincerely the peaceful unification of the homeland.
- (4) Executive power shall be vested in the Executive Branch headed by the President.

Article 67

- (1) The President shall be elected by universal, equal, direct and secret ballot by the people.
- (2) In case two or more persons receive the same largest number of votes in the election as referred to in paragraph (1), the person who receives the largest number of votes in an open session of the National Assembly attended by a majority of the total members of the National Assembly shall be elected.
- (3) If and when there is only one presidential candidate, he shall not be elected President unless he receives at least one third of the total eligible votes.
- (4) Citizens who are eligible for election to the National Assembly, and who have reached the age of forty years or more on the date of the presidential

election, shall be eligible to be elected to the presidency.

(5) Matters pertaining to presidential elections shall be determined by Act.

Article 68

(1) The successor to the incumbent President shall be elected seventy to forty days before his term expires.

(2) In case a vacancy occurs in the office of the President or the President-elect dies, or is disqualified by a court ruling or for any other reason, a successor shall be elected within sixty days.

Article 69

The President, at the time of his inauguration, shall take the following oath: "I do solemnly swear before the people that I will faithfully execute the duties of the President by observing the Constitution, defending the State, pursuing the peaceful unification of the homeland, promoting the freedom and welfare of the people and endeavoring to develop national culture."

Article 70

The term of office of the President shall be five years, and the President shall not be reelected.

Article 71

If the office of the presidency is vacant or the President is unable to perform his duties for any reason, the Prime Minister or the members of the State Council in the order of priority as determined by Act shall act for him.

Article 72

The President may submit important policies relating to diplomacy, national defense, unification and other matters relating to the national destiny to a national referendum if he deems it necessary.

Article 73

The President shall conclude and ratify treaties; accredit, receive or dispatch diplomatic envoys; and declare war and conclude peace.

Article 74

(1) The President shall be Commander - in - Chief of the Armed Forces under the conditions as prescribed by the Constitution and Act.

(2) The organization and formation of the Armed Forces shall be determined by Act.

Article 75

The President may issue presidential decrees concerning matters delegated to him by Act with the scope specifically defined and also matters necessary to enforce Acts.

Article 76

(1) In time of internal turmoil, external menace, natural calamity or a grave financial or economic crisis, the President may take in respect to them the minimum necessary financial and economic actions or issue orders having the effect of Act, only when it is required to take urgent measures for the maintenance of national security or public peace and

order, and there is no time to await the convocation of the National Assembly.

(2) In case of major hostilities affecting national security, the President may issue orders having the effect of Act, only when it is required to preserve the integrity of the nation, and it is impossible to convene the National Assembly.

(3) In case actions are taken or orders are issued under paragraphs (1) and (2), the President shall promptly notify it to the National Assembly and obtain its approval.

(4) In case no approval is obtained, the actions or orders shall lose effect forthwith. In such case, the Acts which were amended or abolished by the orders in question shall automatically regain their original effect at the moment the orders fail to obtain approval.

(5) The President shall, without delay, put on public notice developments under paragraphs (3) and (4).

Article 77

(1) When it is required to cope with a military necessity or to maintain the public safety and order by mobilization of the military forces in time of war, armed conflict or similar national emergency, the President may proclaim martial law under the conditions as prescribed by Act.

(2) Martial law shall be of two types: extraordinary martial law and precautionary martial law.

(3) Under extraordinary martial law, special measures may be taken with respect to the necessity for

warrants, freedom of speech, the press, assembly and association, or the powers of the Executive and the Judiciary under the conditions as prescribed by Act.

(4) When the President has proclaimed martial law, he shall notify it to the National Assembly without delay.

(5) When the National Assembly requests the lifting of martial law with the concurrent vote of a majority of the total members of the National Assembly, the President shall comply.

Article 78

The President shall appoint and dismiss public officials under the conditions as prescribed by the Constitution and Act.

Article 79

(1) The President may grant amnesty, commutation and restoration of rights under the conditions as prescribed by Act.

(2) The President shall receive the consent of the National Assembly in granting a general amnesty.

(3) Matters pertaining to amnesty, commutation and restoration of rights shall be determined by Act.

Article 80

The President shall award decorations and other honors under the conditions as prescribed by Act.

Article 81

The President may attend and address the National Assembly or express his views by written message.

Article 82

The acts of the President under law shall be executed in writing, and such documents shall be countersigned by the Prime Minister and the members of the State Council concerned. The same shall apply to military affairs.

Article 83

The President shall not concurrently hold the office of Prime Minister, a member of the State Council, the head of any Executive Ministry, nor other public or private posts as prescribed by Act.

Article 84

The President shall not be charged with a criminal offense during his tenure of office except for insurrection or treason.

Article 85

Matters pertaining to the status and courteous treatment of former Presidents shall be determined by Act.

SECTION 2. The Executive Branch

Sub-Section 1. The Prime Minister and Members of the State Council

Article 86

- (1) The Prime Minister shall be appointed by the President with the consent of the National Assembly.
- (2) The Prime Minister shall assist the President and

shall direct the Executive Ministries under order of the President.

(3) No member of the military shall be appointed Prime Minister unless he is retired from active duty.

Article 87

(1) The members of the State Council shall be appointed by the President on the recommendation of the Prime Minister.

(2) The members of the State Council shall assist the President in the conduct of State affairs and, as constituents of the State Council, shall deliberate on State affairs.

(3) The Prime Minister may recommend to the President the removal of a member of the State Council from office.

(4) No member of the military shall be appointed a member of the State Council unless he is retired from active duty.

Sub-Section 2. The State Council

Article 88

(1) The State Council shall deliberate on important policies that fall within the power of the Executive.

(2) The State Council shall be composed of the President, the Prime Minister, and other members whose number shall be no more than thirty and no less than fifteen.

(3) The President shall be the chairman of the State

Council, and the Prime Minister shall be the Vice-Chairman.

Article 89

The following matters shall be referred to the State Council for deliberation:

1. Basic plans for state affairs, and general policies of the Executive;
2. Declaration of war, conclusion of peace and other important matters pertaining to foreign policy;
3. Draft amendments to the Constitution, proposals for national referendums, pro-posed treaties, legislative bills, and proposed presidential decrees;
4. Budgets, settlement of accounts, basic plans for disposal of state properties, contracts incurring financial obligation on the State, and other important financial matters;
5. Emergency orders and emergency financial and economic actions or orders by the President, and declaration and termination of martial law;
6. Important military affairs;
7. Requests for convening an extraordinary session of the National Assembly;
8. Awarding of honors;
9. Granting of amnesty, commutation and restoration of rights;
10. Demarcation of jurisdiction between Executive Ministries;

11. Basic plans concerning delegation or allocation of powers within the Executive;
12. Evaluation and analysis of the administration of State affairs;
13. Formulation and coordination of important policies of each Executive Ministry;
14. Action for the dissolution of a political party;
15. Examination of petitions pertaining to executive policies submitted or referred to the Executive;
16. Appointment of the Prosecutor General, the Chairman of the Joint Chiefs of Staff, the Chief of Staff of each armed service, the presidents of national universities, ambassadors, and such other public officials and managers of important State-run enterprises as designated by Act; and
17. Other matters presented by the President, the Prime Minister or a member of the State Council.

Article 90

- (1) An Advisory Council of Elder Statesmen, composed of elder statesmen, may be established to advise the President on important affairs of State.
- (2) The immediate former President shall become the Chairman of the Advisory Council of Elder Statesmen: *Provided*, That if there is no immediate former President, the President shall appoint the Chairman.
- (3) The organization, function and other necessary matters pertaining to the Advisory Council of Elder Statesmen shall be determined by Act.

Article 91

(1) A National Security Council shall be established to advise the President on the formulation of foreign, military and domestic policies related to national security prior to their deliberation by the State Council.

(2) The meetings of the National Security Council shall be presided over by the President.

(3) The organization, function and other necessary matters pertaining to the National Security Council shall be determined by Act.

Article 92

(1) An Advisory Council on Democratic and Peaceful Unification may be established to advise the President on the formulation of peaceful unification policy.

(2) The organization, function and other necessary matters pertaining to the Advisory Council on Democratic and Peaceful Unification shall be determined by Act.

Article 93

(1) A National Economic Advisory Council may be established to advise the President on the formulation of important policies for developing the national economy.

(2) The organization, function and other necessary matters pertaining to the National Economic Advisory Council shall be determined by Act.

Sub-Section 3. The Executive Ministries

Article 94

Heads of Executive Ministries shall be appointed by the President from among members of the State Council on the recommendation of the Prime Minister.

Article 95

The Prime Minister or the head of each Executive Ministry may, under the powers delegated by Act or Presidential Decree, or *ex officio*, issue ordinances of the Prime Minister or the Executive Ministry concerning matters that are within their jurisdiction.

Article 96

The establishment, organization and function of each Executive Ministry shall be determined by Act.

Sub-Section 4. The Board of Audit and Inspection

Article 97

The Board of Audit and Inspection shall be established under the direct jurisdiction of the President to inspect and examine the settlement of the revenues and expenditures of the State, the accounts of the State and other organizations specified by Act and the job performances of the executive agencies and public officials.

Article 98

(1) The Board of Audit and Inspection shall be composed of no less than five and no more than

eleven members, including the Chairman.

(2) The Chairman of the Board shall be appointed by the President with the consent of the National Assembly. The term of office of the Chairman shall be four years, and he may be reappointed only once.

(3) The members of the Board shall be appointed by the President on the recommendation of the Chairman. The term of office of the members shall be four years, and they may be reappointed only once.

Article 99

The Board of Audit and Inspection shall inspect the closing of accounts of revenues and expenditures each year, and report the results to the President and the National Assembly in the following year.

Article 100

The organization and function of the Board of Audit and Inspection, the qualifications of its members, the range of the public officials subject to inspection and other necessary matters shall be determined by Act.

CHAPTER V. THE COURTS

Article 101

(1) Judicial power shall be vested in courts composed of judges.

(2) The courts shall be composed of the Supreme Court, which is the highest court of the State, and other courts at specified levels.

(3) Qualifications for judges shall be determined by Act.

Article 102

(1) Departments may be established in the Supreme Court.

(2) There shall be Supreme Court Justices at the Supreme Court: *Provided*, That judges other than Supreme Court Justices may be assigned to the Supreme Court under the conditions as prescribed by Act.

(3) The organization of the Supreme Court and lower courts shall be determined by Act.

Article 103

Judges shall rule independently according to their conscience and in conformity with the Constitution and Act.

Article 104

(1) The Chief Justice of the Supreme Court shall be appointed by the President with the consent of the National Assembly.

(2) The Supreme Court Justices shall be appointed by the President on the recommendation of the Chief Justice and with the consent of the National Assembly.

(3) Judges other than the Chief Justice and the Supreme Court Justices shall be appointed by the Chief Justice with the consent of the Conference of Supreme Court Justices.

Article 105

(1) The term of office of the Chief Justice shall be six

years and he shall not be reappointed.

(2) The term of office of the Justices of the Supreme Court shall be six years and they may be reappointed as prescribed by Act.

(3) The term of office of judges other than the Chief Justice and Justices of the Supreme Court shall be ten years, and they may be reappointed under the conditions as prescribed by Act.

(4) The retirement age of judges shall be determined by Act.

Article 106

(1) No judge shall be removed from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment, nor shall he be suspended from office, have his salary reduced or suffer any other unfavorable treatment except by disciplinary action.

(2) In the event a judge is unable to discharge his official duties because of serious mental or physical impairment, he may be retired from office under the conditions as prescribed by Act.

Article 107

(1) When the constitutionality of a law is at issue in a trial, the court shall request a decision of the Constitutional Court, and shall judge according to the decision thereof.

(2) The Supreme Court shall have the power to make a final review of the constitutionality or legality of administrative decrees, regulations or actions, when

their constitutionality or legality is at issue in a trial.

(3) Administrative appeals may be conducted as a procedure prior to a judicial trial. The procedure of administrative appeals shall be determined by Act and shall be in conformity with the principles of judicial procedures.

Article 108

The Supreme Court may establish, within the scope of Act, regulations pertaining to judicial proceedings and internal discipline and regulations on administrative matters of the court.

Article 109

Trials and decisions of the courts shall be open to the public: *Provided*, That when there is a danger that such trials may undermine the national security or disturb public safety and order, or be harmful to public morals, trials may be closed to the public by court decision.

Article 110

(1) Courts-martial may be established as special courts to exercise jurisdiction over military trials.

(2) The Supreme Court shall have the final appellate jurisdiction over courts-martial.

(3) The organization and authority of courtsmartial, and the qualifications of their judges shall be determined by Act.

(4) Military trials under an extraordinary martial law may not be appealed in case of crimes of soldiers

and employees of the military; military espionage; and crimes as defined by Act in regard to sentinels, sentry posts, supply of harmful foods and beverages, and prisoners of war, except in the case of a death sentence.

CHAPTER VI. THE CONSTITUTIONAL COURT

Article 111

(1) The Constitutional Court shall have jurisdiction over the following matters:

1. The constitutionality of a law upon the request of the courts;
2. Impeachment;
3. Dissolution of a political party;
4. Competence disputes between State agencies, between State agencies and local governments, and between local governments; and
5. Constitutional complaint as prescribed by Act.

(2) The Constitutional Court shall be composed of nine Justices qualified to be court judges, and they shall be appointed by the President.

(3) Among the Justices referred to in paragraph (2), three shall be appointed from persons selected by the National Assembly, and three appointed from persons nominated by the Chief Justice of the Supreme Court.

(4) The president of the Constitutional Court shall be appointed by the President from among the Justices

with the consent of the National Assembly.

Article 112

(1) The term of office of the Justices of the Constitutional Court shall be six years and they may be reappointed under the conditions as prescribed by Act.

(2) The Justices of the Constitutional Court shall not join any political party, nor shall they participate in political activities.

(3) No Justice of the Constitutional Court shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment.

Article 113

(1) When the Constitutional Court makes a decision of the unconstitutionality of a law, a decision of impeachment, a decision of dissolution of a political party or an affirmative decision regarding the constitutional complaint, the concurrence of six Justices or more shall be required.

(2) The Constitutional Court may establish regulations relating to its proceedings and internal discipline and regulations on administrative matters within the limits of Act.

(3) The organization, function and other necessary matters of the Constitutional Court shall be determined by Act.

CHAPTER VII. ELECTION MANAGEMENT

Article 114

(1) Election commissions shall be established for the purpose of fair management of elections and national referenda, and dealing with administrative affairs concerning political parties.

(2) The National Election Commission shall be composed of three members appointed by the President, three members selected by the National Assembly, and three members designated by the Chief Justice of the Supreme Court. The Chairman of the Commission shall be elected from among the members.

(3) The term of office of the members of the Commission shall be six years.

(4) The members of the Commission shall not join political parties, nor shall they participate in political activities.

(5) No member of the Commission shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment.

(6) The National Election Commission may establish, within the limit of Acts and decrees, regulations relating to the management of elections, national referenda, and administrative affairs concerning political parties and may also establish regulations relating to internal discipline that are compatible with Act.

(7) The organization, function and other necessary

matters of the election commissions at each level shall be determined by Act.

Article 115

(1) Election commissions at each level may issue necessary instructions to administrative agencies concerned with respect to administrative affairs pertaining to elections and national referenda such as the preparation of the pollbooks.

(2) Administrative agencies concerned, upon receipt of such instructions, shall comply.

Article 116

(1) Election campaigns shall be conducted under the management of the election commissions at each level within the limit set by Act. Equal opportunity shall be guaranteed.

(2) Except as otherwise prescribed by Act, expenditures for elections shall not be imposed on political parties or candidates.

CHAPTER VIII. LOCAL AUTONOMY

Article 117

(1) Local governments shall deal with administrative matters pertaining to the welfare of local residents, manage properties, and may enact provisions relating to local autonomy, within the limit of Acts and subordinate statutes.

(2) The types of local governments shall be

determined by Act.

Article 118

(1) A local government shall have a council.

(2) The organization and powers of local councils, and the election of members; election procedures for heads of local governments; and other matters pertaining to the organization and operation of local governments shall be determined by Act.

CHAPTER IX. THE ECONOMY

Article 119

(1) The economic order of the Republic of Korea shall be based on a respect for the freedom and creative initiative of enterprises and individuals in economic affairs.

(2) The State may regulate and coordinate economic affairs in order to maintain the balanced growth and stability of the national economy, to ensure proper distribution of income, to prevent the domination of the market and the abuse of economic power and to democratize the economy through harmony among the economic agents.

Article 120

(1) Licenses to exploit, develop or utilize minerals and all other important underground resources, marine resources, water power, and natural powers available for economic use may be granted for a period of time

under the conditions as prescribed by Act.

(2) The land and natural resources shall be protected by the State, and the State shall establish a plan necessary for their balanced development and utilization.

Article 121

(1) The State shall endeavor to realize the land-to-the-tillers principle with respect to agricultural land. Tenant farming shall be prohibited.

(2) The leasing of agricultural land and the consignment management of agricultural land to increase agricultural productivity and to ensure the rational utilization of agricultural land or due to unavoidable circumstances, shall be recognized under the conditions as prescribed by Act.

Article 122

The State may impose, under the conditions as prescribed by Act, restrictions or obligations necessary for the efficient and balanced utilization, development and preservation of the land of the nation that is the basis for the productive activities and daily lives of all citizens.

Article 123

(1) The State shall establish and implement a plan to comprehensively develop and support the farm and fishing communities in order to protect and foster agriculture and fisheries.

(2) The State shall have the duty to foster regional economies to ensure the balanced development of all regions.

(3) The State shall protect and foster small and medium enterprises.

(4) In order to protect the interests of farmers and fishermen, the State shall endeavor to stabilize the prices of agricultural and fishery products by maintaining an equilibrium between the demand and supply of such products and improving their marketing and distribution systems.

(5) The State shall foster organizations founded on the spirit of self-help among farmers, fishermen and businessmen engaged in small and medium industry and shall guarantee their independent activities and development.

Article 124

The State shall guarantee the consumer protection movement intended to encourage sound consumption activities and improvement in the quality of products under the conditions as prescribed by Act.

Article 125

The State shall foster foreign trade, and may regulate and coordinate it.

Article 126

Private enterprises shall not be nationalized nor transferred to ownership by a local government, nor shall their management be controlled or administered by the State, except in cases as prescribed by Act to meet urgent necessities of national defense or the national economy.

Article 127

(1) The State shall strive to develop the national economy by developing science and technology, information and human resources and encouraging innovation.

(2) The State shall establish a system of national standards.

(3) The President may establish advisory organizations necessary to achieve the purpose referred to in paragraph (1).

CHAPTER X. AMENDMENTS TO THE CONSTITUTION

Article 128

(1) A proposal to amend the Constitution shall be introduced either by a majority of the total members of the National Assembly or by the President.

(2) Amendments to the Constitution for the extension of the term of office of the President or for a change allowing for the reelection of the President shall not be effective for the President in office at the time of the proposal for such amendments to the Constitution.

Article 129

Proposed amendments to the Constitution shall be put before the public by the President for twenty days or more.

Article 130

(1) The National Assembly shall decide upon the proposed amendments within sixty days of the public announcement, and passage by the National Assembly shall require the concurrent vote of two thirds or more of the total members of the National Assembly.

(2) The proposed amendments to the Constitution shall be submitted to a national referendum not later than thirty days after passage by the National Assembly, and shall be determined by more than one half of all votes cast by more than one half of voters eligible to vote in elections for members of the National Assembly.

(3) When the proposed amendments to the Constitution receive the concurrence prescribed in paragraph (2), the amendments to the Constitution shall be finalized, and the President shall promulgate it without delay.

ADDENDA

Article 1

This Constitution shall enter into force on the twenty-fifth day of February, anno Domini Nineteen hundred and eighty-eight: *Provided*, That the enactment or amendment of Acts necessary to implement this Constitution, the elections of the President and the National Assembly under this Constitution and other

preparations to implement this Constitution may be carried out prior to the entry into force of this Constitution.

Article 2

(1) The first presidential election under this Constitution shall be held not later than forty days before this Constitution enters into force.

(2) The term of office of the first President under this Constitution shall commence on the date of its enforcement.

Article 3

(1) The first elections of the National Assembly under this Constitution shall be held within six months from the promulgation of this Constitution. The term of office of the members of the first National Assembly elected under this Constitution shall commence on the date of the first convening of the National Assembly under this Constitution.

(2) The term of office of the members of the National Assembly incumbent at the time this Constitution is promulgated shall terminate the day prior to the first convening of the National Assembly under paragraph (1).

Article 4

(1) Public officials and officers of enterprises appointed by the Government, who are in office at the time of the enforcement of this Constitution, shall be considered as having been appointed under

this Constitution: *Provided*, That public officials whose election procedures or appointing authorities are changed under this Constitution, the Chief Justice of the Supreme Court and the Chairman of the Board of Audit and Inspection shall remain in office until such time as their successors are chosen under this Constitution, and their terms of office shall terminate the day before the installation of their successors.

(2) Judges attached to the Supreme Court who are not the Chief Justice or Justices of the Supreme Court and who are in office at the time of the enforcement of this Constitution shall be considered as having been appointed under this Constitution notwithstanding the proviso of paragraph (1).

(3) Those provisions of this Constitution which prescribe the terms of office of public officials or which restrict the number of terms that public officials may serve, shall take effect upon the dates of the first elections or the first appointments of such public officials under this Constitution.

Article 5

Acts, decrees, ordinances and treaties in force at the time this Constitution enters into force, shall remain valid unless they are contrary to this Constitution.

Article 6

Those organizations existing at the time of the enforcement of this Constitution which have been performing the functions falling within the authority of new organizations to be created under this

Constitution, shall continue to exist and perform such functions until such time as the new organizations are created under this Constitution.

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
Act No. 17469, jun. 9, 2020
Act No. 18836, Feb. 3, 2022

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 on Apr. 5, 2011]

Article 3 (Composition)

The Constitutional Court shall consist of nine Justices.
[This Article Wholly Amended on 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 on 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, and attorney-at-law;
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: *⟨Amended on Jun. 9, 2020⟩*

1. A person who is disqualified to serve as a public official under other statutes and regulations;
2. A person who has been sentenced to imprisonment without labor or heavier punishment;
3. A person for whom five years have not passed since he or she was dismissed by impeachment;
4. A member of a political party under Article 22 of the Political Parties Act, or a person for whom three years have not passed after his/her status as member of a political party was lost;
5. A person for whom five years have not passed from the date of registration as a candidate (including prospective candidates) for an election under Article 2 of the Public Official Election Act; or

6. A person for whom three years have not passed from the date of serving as a consultant or advisor for a candidate to win presidential election under Article 2 of the Public Official Election Act.

(3) Detailed scope of persons who serve as consultants or advisors under paragraph (2) 6 shall be prescribed by the Constitutional Court Rules. *(Amended on Jun. 9, 2020)*

[This Article Wholly Amended on 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 on 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 on Dec. 30, 2014⟩

[This Article Wholly Amended on 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 on 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 on 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 on 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 on 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 on 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 on Apr. 5, 2011]

Article 13 Deleted. (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 members or local-council members;
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 on 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 on 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 by the Council of Justices shall be adopted with attendance exceeding two-thirds of all the Justices and by the affirmative vote of a majority of the Justices present. 〈Amended on Feb. 3, 2022〉

(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 on 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 on 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 on 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 on Apr. 5, 2011⟩*

(2) Rapporteur Judges shall be State public officials in special service. *⟨Amended on 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 on 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 on Apr. 5, 2011⟩*

1. A person who is qualified as a judge, public prosecutor, or attorney-at-law;
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. *⟨Mar. 12, 2003⟩*

(6) None of the following persons shall be appointed as a Rapporteur Judge: *⟨Amended on 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 impeachment decision.

(7) The term of office of Rapporteur Judges shall be 10 years, which may be renewed, and their retirement age shall be 60. *⟨Amended on 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 on 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 on Apr. 5, 2011⟩*

(10) The Deputy Secretary General may hold a concurrent position as a Rapporteur Judge. *⟨Amended on 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 on Apr. 5, 2011; Dec. 30, 2014)*

[Title Amended on Apr. 5, 2011]

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 on 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 on Dec. 11, 2012)*

[This Article Newly Inserted on 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 on 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 on 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 on 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 on Dec. 30, 2014⟩*

1. A Rapporteur Judge;
2. A person qualified as an attorney (including those who are qualified as 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 doctor's degree.

(6) Other necessary matters concerning the

organization and operation of the Constitutional Research Institute shall be prescribed by the Constitutional Court Rules. *(Newly Inserted on Dec. 30, 2014)*

[This Article Wholly Amended on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on May 20, 2014⟩*

(5) The Criminal Procedure Act shall apply *mutatis mutandis* to the retrial referred to in paragraph (4). *⟨Amended on May 20, 2014⟩*

[This Article Wholly Amended on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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 on 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; and
2. Reasons for the request.

[This Article Wholly Amended on 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 on 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 on 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 on 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 on 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 on Apr. 5, 2011]

Article 62 (Classification of Adjudication on Competence Dispute)

(1) The adjudication on competence dispute shall be classified as follows: *(Amended on 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 on Apr. 5, 2011]

Article 63 (Time Limit for Filing 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 on 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 where to 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 on 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 on 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 on 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 on Apr. 5, 2011]

SECTION 5. Adjudication on Constitutional Complaint

Article 68 (Grounds for Request)

(1) Any person whose fundamental rights guaranteed by the Constitution are 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 on Apr. 5, 2011]

[Limited Unconstitutional, 2016 Heonma 33, Apr. 28, 2016, the Constitutional Court Act (as amended by Act No. 10546 on April 5, 2011) Article 68 (1) In the main clause of the article, the “except for court trials” is a violation of the Constitution as long as it is interpreted as including a trial that violates the basic rights of the people by applying a statute determined by the Constitutional Court as unconstitutional.]

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 on 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 on 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 on 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 on Apr. 5, 2011⟩*

(2) Deleted. *⟨Nov. 30, 1991⟩*

(3) In any of the following cases, the Panel shall dismiss a constitutional complaint without prejudice in a unanimous decision: *⟨Amended on 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 on Apr. 5, 2011⟩*

(5) Articles 28, 31, 32 and 35 shall apply mutatis mutandis to the review by the Panels. *(Amended on Apr. 5, 2011)*

(6) Matters necessary for the composition and operation of the Panels shall be provided by the Constitutional Court Rules. *(Amended on Apr. 5, 2011)*

[Title Amended on 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 on 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 on 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 on 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 on 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 on 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 the 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 one week from the date of notification of the registration, such document shall be deemed to have been served on the date following one week after the date of said notification. <Amended on Feb. 3, 2022>

(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 on 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 on Apr. 5, 2011]

ADDENDA *(Act No. 18836, Feb. 3, 2022)*

Article 1 (Enforcement Date)

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

Article 2 (Applicability)

The amended provisions of Article 78 (4) shall begin to apply to cases in connection with which written requests are received after this Act enters into force.

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