Organic Law

SPECIAL ACT OF 6 JANUARY 1989 ON THE CONSTITUTIONAL COURT

Translation

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Provisions entering into force after that date are shown in a text box with grey background, preceded or not by the words “Future provision[s]”, as the case may be.

TITLE I: JURISDICTION OF THE CONSTITUTIONAL COURT

CHAPTER I: ACTIONS FOR ANNULMENT

Section I: Actions for Annulment

Art. 1. The Constitutional Court shall rule in the form of judgments on actions for full or partial annulment of a statute, decree or rule referred to in Article 134 of the Constitution for infringement of:

1° the rules that have been established by or in pursuance of the Constitution to determine the respective powers of the State, the Communities and the Regions; or

2° the articles of Title II, “The Belgians and their Rights”, and Articles 170, 172 and 191 of the Constitution.

3° Article 143, § 1, of the Constitution.[1]

Art. 2. The actions referred to in Article 1 shall be instituted:

1° by the Council of Ministers or by the Government of a Community or Region;

2° by any natural or legal person with a justifiable interest; or

3° by the presidents of the legislative assemblies at the request of two-thirds of their members.

The provisions of this Act that concern the Community or Regional governments shall apply to the Joint Board of the Common Community Commission and the Board of the French Community Commission.

Art. 3. § 1. Without prejudice to what is provided in paragraph 2 and Article 4, the actions for full or partial annulment of a statute, decree or rule referred to in Article 134 of the Constitution shall only be admissible insofar as they are instituted within six months after the publication of the statute, decree or rule referred to in Article 134 of the Constitution.

[1] Entry into force on 1 July 2014.

§ 2. Actions for full or partial annulment of a statute, decree or rule referred to in Article 134 of the Constitution by which a convention is ratified shall only be admissible insofar as they are instituted within sixty days after the publication of the statute, decree or rule referred to in Article 134 of the Constitution.

Art. 3*bis*. For actions for annulment of a decree or rule referred to in Article 134 of the Constitution, which are based on a breach of Articles 6, § 2, and 9, § 1, of the Special Act of 16 January 1989 on the financing of the communities and regions, the six-month period provided for by Article 3 shall only begin as soon as the assessment term stipulated in Article 359 of the Income Tax Code of 1992 has expired.

Art. 4. The Council of Ministers or the Government of a Community or Region shall have a new six-month period in which to institute an action for annulment of a statute, decree or rule referred to in Article 134 of the Constitution if:

1° an action is brought against a regulation covering the same subject and enacted by another legislative body than that which adopted the statute, decree or rule referred to in Article 134 of the Constitution. This period shall begin on the day after the date of publication of the notice referred to in Article 74;

2° the Court has annulled a regulation entirely or partially covering the same subject and enacted by another legislative body than that which adopted the statute, decree or rule referred to in Article 134 of the Constitution. This period shall begin on the day after the date of publication of the judgment in the *Moniteur belge*.

The Council of Ministers, the Government of a Community or Region, the presidents of the legislative assemblies at the request of two-thirds of their members, or any natural or legal person with a justifiable interest shall have a new six-month period in which to institute an action for annulment of a statute, decree or rule referred to in Article 134 of the Constitution, if the Court, ruling on a preliminary issue, has decided that this statute, decree or rule referred to in Article 134 of the Constitution infringes one of the rules or articles of the Constitution referred to in Article 1. This period shall begin on the day after the date of publication of the judgment in the *Moniteur belge*.

Art. 5. Actions for annulment shall be instituted before the Court by means of a petition which, as the case may be, is signed by the Prime Minister, by a member of the Government designated by that Government, by the president of a legislative assembly, or by a party with a justifiable interest or its lawyer.

Future provision[2]

Art. 5. Actions for annulment shall be instituted before the Court by means of a petition filed by the Prime Minister, by a member of the Government designated by that Government, by the president of a legislative assembly, or by a party with a justifiable interest or its lawyer.

Art. 6. The petition shall be dated and signed. It shall state the subject of the appeal and shall set out the facts and grounds.

Future provision[3]

Art. 6. The petition shall state the subject of the appeal and shall set out the facts and grounds.

Art. 7. The petitioning party shall attach to its petition a copy of the statute, decree or rule referred to in Article 134 of the Constitution against which the action for annulment is instituted, along with, where appropriate, the annexes thereto.

Where the action is instituted by the Council of Ministers, the Government of a Community or Region, or the president of a legislative assembly, the petitioning party shall also attach to its petition a certified true copy of its decision to institute the action for annulment.

[2] Amended Article 5, entering into force on the date to be determined by the King.
[3] Amended Article 6, entering into force on the date to be determined by the King.

Where a legal person institutes the action or intervenes in the proceedings, this party shall, on first request, submit proof of the decision to institute or continue the action or to intervene in the proceedings and, if its articles of association must be published in the Annexes to the *Moniteur belge*, a copy of this publication.

Art. 8. If the action is well-founded, the Constitutional Court shall entirely or partially annul the statute, decree or rule referred to in Article 134 of the Constitution against which the action was instituted.

If the Court entirely or partially annuls a decree or a rule referred to in Article 134 of the Constitution that was adopted in accordance with Article 92*bis*/1 of the Special Act of 8 August 1980 on institutional reform, it also annuls the corresponding provisions that appear in the decree or decrees or the rule or rules referred to in Article 134 of the Constitution that was (were) adopted at the same time.

Where the Court so deems necessary, it shall, by a general ruling, specify which effects of the nullified provisions are to be considered maintained or be provisionally maintained for the period appointed by the Court.

Section II: Effects of Annulment Judgments

Art. 9. § 1. The annulment judgments delivered by the Constitutional Court shall have final and binding effect as from their publication in the *Moniteur belge*.

§ 2. The judgments delivered by the Constitutional Court whereby actions for annulment are dismissed shall be binding on the courts with respect to the points of law settled by those judgments.

Art. 10. A final and conclusive judgment of a criminal court may be entirely or partially revoked by that court insofar as the judgment in question is based on a provision of a statute, decree or rule referred to in Article 134 of the Constitution which has been subsequently nullified by the Constitutional Court, or on a regulation implementing such statute, decree or rule referred to in Article 134 of the Constitution.

Art. 11. It shall be for the Public Prosecution Service to demand such revocation.

The right to demand the revocation shall also be vested in:

1° the convicted person;

2° the person with regard to whom a decision has been given ordering deferment of the pronouncement of the judgment;

3° in the event that the convicted person or, where appropriate, the person with regard to whom a decision has been given ordering deferment of the pronouncement of the judgment has deceased or has been declared incompetent or absent, in his spouse, his direct descendants or ascendants, his brothers and sisters;

4° the party who has been declared liable under civil law for the convicted person or, where appropriate, the person with regard to whom a decision has been given ordering deferment of the pronouncement of the judgment.

Art. 12. § 1. The case shall be brought before the competent court, either at the suit of the Public Prosecution Service, or by a petition stating the ground for revocation. On pain of nullity, the action shall be instituted within six months after publication of the judgment of the Constitutional Court in the *Moniteur belge*.

§ 2. After being seized of the case or of the petition, and in the event that the convicted person has died, is absent or has been declared incompetent, that court shall appoint a guardian for his defence, who shall represent him in the revocation proceedings.

§ 3. The Public Prosecution Service shall have the petition notified to all those who are party to the challenged decision. The notification shall comprise a summons to appear before the court that delivered the challenged decision, along with the text of Articles 10 to 12 of the present Act. The decision whereby a final ruling is given on the revocation shall be deemed to have been delivered in

adversarial proceedings with respect to the validly summoned party claiming damages, even if this party did not intervene in the action for revocation before the close of the proceedings.

§ 4. The case file on the basis of which the challenged decision was delivered shall be made available for inspection by the parties for a period of at least fifteen days.

§ 5. The court that has been seized of the case may, if the convicted person has been taken into custody in pursuance of the decision of which the revocation is being demanded, order that this person be provisionally released in accordance with the procedure specified in Article 27, § 3, of the Act of 20 July 1990 on pre-trial detention. If the grounds adduced seem valid and are such as to justify the requested revocation, that court may order the suspension of all measures for the execution or enforcement of the decision that is susceptible of revocation.

§ 6. The court may, at the request of one the persons referred to in Article 11, 1° to 4°, order that its revocation decision be published in abstract form in a newspaper which it designates.

§ 7. The costs of the proceedings shall be borne by the State.

Art. 13. § 1. Judgments delivered in criminal cases on the basis of a nullified statute, nullified decree or nullified rule referred to in Article 134 of the Constitution, or of a regulation implementing such statute, decree or rule referred to in Article 134 of the Constitution, as well as decisions to suspend the pronouncement of such judgments shall be reversed by the revocation within the limits in which this revocation was pronounced.

§ 2. If in the challenged decision only one sentence was passed in respect of several offences, of which at least one had been committed in breach of a provision that has not been nullified, the court, at the suit of the Public Prosecution Service and provided that the proceedings have not become barred by limitation, may either uphold the judgment in its entirety or reduce the sentence, or suspend the pronouncement of the judgment, or hand down a decision of acquittal.

§ 3. If the offences that led to the revoked judgment remain punishable by virtue of provisions that become applicable again as a result of the annulment, the court that heard the action for revocation may, at the suit of the Public Prosecution Service and provided that the proceedings have not become barred by limitation, pass new sentences without however this resulting in an increase in penalties.

§ 4. The court shall order the repayment of any wrongfully collected fine, plus the legal interest accruing from the date of collection. Article 28 of the Act of 13 March 1973 on compensation for wrongful pre-trial detention shall also apply to convicted persons who have been wrongfully taken into custody in pursuance of the revoked judgment.

§ 5. If, as a result of the revocation, the court is no longer competent to rule on the civil action, it shall refer the case to the competent court. Articles 660 to 663 of the Judicial Code and Article 16, §§ 1 and 2, of the present Act shall also apply to such referral.

Art. 14. Decisions to confine suspects and accused persons who are in a state of insanity, mental disturbance or mental deficiency, which have been delivered by virtue of the Act on the protection of society against abnormal persons or habitual criminals may be revoked in accordance with Articles 10 to 13.

Art. 15. Notwithstanding Article 1082, second paragraph, of the Judicial Code, a second appeal to the Supreme Court may be brought if this relies exclusively upon the annulment by the Constitutional Court of the provision of a statute, decree or rule referred to in Article 134 of the Constitution which constituted the basis of the challenged decision, or of a regulation implementing such statute, decree or rule.

Art. 16. § 1. A final and conclusive judgment of a civil court may be entirely or partially revoked at the suit of the persons who were party to, or were duly summoned to appear in, those proceedings, insofar as the judgment in question is based on a provision of a statute, decree or rule referred to in Article 134 of the Constitution which has been subsequently nullified by the Constitutional Court, or on a regulation implementing such statute, decree or rule.

§ 2. The court may, within the limits of the revocation, pronounce a new judgment based on a different

ground or on a different legal definition of an offence or an act substantiating the challenged decision.

§ 3. The action for revocation shall be brought before the court that delivered the challenged decision; such action shall, on pain of nullity, be initiated by a summons setting out the grounds and notified to all parties involved in the challenged decision.

§ 4. On pain of nullity, the action shall be instituted within six months after publication of the judgment of the Constitutional Court in the *Moniteur belge*.

Art. 17. A judgment of the Council of State may be entirely or partially revoked, insofar as it is based on a provision of a statute, decree or rule referred to in Article 134 of the Constitution which has been subsequently nullified by the Constitutional Court, or on a regulation implementing such statute, decree or rule.

The time limit for appeals shall be six months from the date of publication of the judgment of the Constitutional Court in the *Moniteur belge*.

Art. 18. Notwithstanding the expiry of the time limits set by the laws and special regulations, administrative or judicial appeals, as the case may be, may still be lodged against acts and regulations of the various administrative bodies as well as against decisions of other courts of law than those referred to in Article 16 of the present Act, insofar as those decisions are based on a provision of a statute, decree or rule referred to in Article 134 of the Constitution which has been subsequently nullified by the Constitutional Court, or on a regulation implementing such statute, decree or rule, within six months after publication of the judgment of the Constitutional Court in the *Moniteur belge*.

Section III: Suspension

Art. 19. At the suit of the petitioning party, the Court may, by a duly reasoned decision, entirely or partially suspend the statute, decree or rule referred to in Article 134 of the Constitution against which an action for annulment has been brought.

Art. 20. Without prejudice to Article 16*ter* of the Special Act of 8 August 1980 on institutional reform and Article 5*ter* of the Special Act of 12 January 1989 on the Brussels institutions, suspension may only be decided in the following cases:

1° if valid grounds are adduced and on condition that the immediate implementation of the statute, decree or rule referred to in Article 134 of the Constitution against which the appeal has been brought is liable to cause serious detriment which is difficult to remedy;

2° if an appeal has been lodged against a rule which is identical or similar to a rule already nullified by the Constitutional Court and which has been adopted by the same legislative body.

Art. 21. The suspension shall be demanded in the petition for annulment or in a separate document signed in accordance with Article 5, attached to the petition or submitted in the course of the proceedings.

Notwithstanding Article 3, petitions for suspension shall only be admissible if they are filed within three months after publication of the statute, decree or rule referred to in Article 134 of the Constitution.

Art. 22. Without prejudice to Article 16*ter* of the Special Act of 8 August 1980 on institutional reform and Article 5*ter* of the Special Act of 12 January 1989 on the Brussels institutions, the action referred to in Article 20, 1°, shall contain a statement of the facts showing that the immediate implementation of the challenged rule is liable to cause serious detriment which is difficult to remedy.

If the action is instituted by a separate document, it shall be dated and signed and shall specify the rule against which the action for annulment is being instituted.

Art. 23. Without prejudice to Articles 70 to 73, the Court shall rule on the action without delay in a duly reasoned judgment after hearing the parties.

Art. 24. The judgment ordering the suspension shall be formulated in Dutch, French and German. At

the request of the registrar of the Court, the judgment shall be published in its entirety or in abstract form in the *Moniteur belge*.

The judgment shall be effective from the date of publication.

Art. 25. The Court shall deliver its judgment on the main action within three months after pronouncement of the judgment ordering the suspension. This time limit cannot be extended.

If no judgment is delivered on the main action within that time limit, the suspension shall immediately cease to have effect.

Section IV: Actions for annulment of decisions of the Campaign Finance Review Committee on expenditure for the elections of the House of Representatives

Art. 25*bis*. The Court shall rule by way of judgments on actions for annulment, on the ground of infringement of procedural requirements which are essential or breach of which leads to nullity, or of abuse or misuse of powers, brought against decisions of the Review Committee referred to in Article 14/1 of the Act of 4 July 1989 on the limitation and control of election expenses for the elections of the House of Representatives, the financing and open accounting of political parties.

For the investigation of such actions, the Court has the powers vested in it by Article 26, §§ 1 and 1*bis*.

Art. 25*ter*. The actions referred to in Article 25*bis* shall be instituted by the elected candidate against whom the Review Committee has pronounced a penalty decision.

Such actions shall only be admissible insofar as they are instituted within thirty days after notification of the decision of the Review Committee. The limitation period for the actions referred to in the present article shall only begin if the notification of the penalty decision by the Review Committee specifies the existence of said action for annulment and the formalities and time limits to be observed. If this condition is not fulfilled, the limitation period shall begin four months after the person concerned has been notified of the decision of the Review Committee.

Art. 25*quater*. Actions for annulment shall be instituted before the Court by means of a petition signed by the elected candidate referred to in Article 25*ter* or by his lawyer.

The petition shall be dated and signed. It shall state the subject of the appeal and shall set out the facts and grounds.

Without prejudice to Articles 70 to 73, the Court shall rule on the action for annulment within three months after its submission, in a duly reasoned judgment after hearing the parties.

Art. 25*quinquies*. The petitioning party shall attach to its petition a copy of the decision of the Review Committee referred to in Article 14/1 of the Act of 4 July 1989 on the limitation and control of election expenses for the elections of the House of Representatives, the financing and open accounting of political parties, against which the action for annulment is instituted, along with, where appropriate, the annexes thereto.

The registrar shall notify the petition to the president of the House of Representatives. Within ten days after receipt of the notification sent by the registrar, the president of the House of Representatives shall send the case file that led to the challenged decision to the Court.

Within thirty days after receipt of the notification sent by the registrar, the Review Committee may make a written submission to the Court. Any written submission that has not been filed within that time limit shall be barred from the proceedings. The registrar shall send a copy of the written submission to the petitioning party, who shall have fifteen days from the date of receipt in which to send a statement of reply to the registry. Those time limits may be shortened or extended by a duly reasoned order of the president.

Art. 25*sexies*. If the action is well-founded, the Court shall annul the decision of the Review Committee against which the action was instituted.

The registrar shall notify the judgments to the parties and to the president of the House of Representatives.

Art. 25*septies*. Articles 74, 76, 78, 80, 85 to 89*bis* and 113 shall not apply to actions for annulment of

decisions of the Review Committee. If, however, the Court is requested to make use of its powers in accordance with Article 26, the Council of Ministers shall be notified thereof by the registrar. In that case, the Council of Ministers shall have fifteen days in which to make a written submission to the Court.

Article 90 shall apply to actions for annulment referred to in Article 25*bis*, provided that the time limit stipulated in Article 89 is replaced by the time limit of fifteen days provided for in Article 25*quinquies*, third paragraph, and which may be shortened or extended as the case may be.

CHAPTER II: PRELIMINARY ISSUES

Art. 26. § 1. The Constitutional Court shall, by way of preliminary ruling, settle in the form of judgments issues relating to:

1° infringement by a statute, decree or rule referred to in Article 134 of the Constitution of the rules that have been established by or in pursuance of the Constitution to determine the respective powers of the State, the Communities and the Regions;

2° without prejudice to 1°, any conflict between decrees or between rules referred to in Article 134 of the Constitution that are enacted by different legislative bodies and insofar as the conflict has arisen from their respective scope of action;

3° infringement by a statute, decree or rule referred to in Article 134 of the Constitution of the articles of Title II, “The Belgians and their Rights”, and Articles 170, 172 and 191 of the Constitution.

4° infringement by a statute, decree or rule referred to in Article 134 of the Constitution of article 143, § 1, of the Constitution.[4]

§ 1*bis*. From the scope of this article shall be excluded the statutes, decrees and rules referred to in Article 134 of the Constitution which ratify a treaty establishing the European Union or the Convention of 4 November 1950 for the protection of human rights and fundamental freedoms or an Additional Protocol to this Convention.

§ 2. Where a question relating to that matter is raised before a court of law, said court shall request the Constitutional Court to give a ruling on that question.

The court of law, however, is not obliged to do so:

1° if the case cannot be heard by the court in question for reasons of lack of jurisdiction or inadmissibility of the case, unless those reasons are derived from rules in respect of which the request is made to refer a question for a preliminary ruling;

2° if the Constitutional Court has already ruled on a question or appeal on an identical subject.

The court of law whose decision is open to appeal, opposition, appeal to the Supreme Court or action for annulment before the Council of State, shall not be obliged to do so if the statute, decree or rule referred to in Article 134 of the Constitution evidently does not infringe a rule or article of the Constitution referred to in §1 or if the court of law believes that the reply to the preliminary question is not essential to be able to pass judgment.

§ 3. Unless there is serious doubt about the compatibility of a statute, decree or rule referred to in Article 134 of the Constitution with one of the rules or articles of the Constitution referred to in §1 and if no question or appeal on the same subject is pending before the Constitutional Court, a court of law shall not be obliged to refer a question for a preliminary ruling, both in the event that the action is urgent and the judgment on the action is merely of a temporary nature, and in the event that the proceedings are concerned with judging the necessity of keeping a suspect in pre-trial detention.

§ 4. Where it is invoked before a court of law that a statute, decree or rule referred to in Article 134 of the Constitution infringes a fundamental right which is guaranteed in an entirely or partly similar manner

[4] Entry into force on 1 July 2014.

by a provision of Title II of the Constitution and by a provision of European or international law, said court of law shall first refer the question of compatibility with the provision of Title II of the Constitution to the Constitutional Court for a preliminary ruling. Where only the infringement of the provision of European or international law is invoked before the court of law, said court of law shall, even ex officio, investigate whether Title II of the Constitution contains an entirely or partly similar provision. These obligations shall not prejudice the right of the court of law, at the same time or at a later date, to refer a question to the Court of Justice of the European Union for a preliminary ruling.

Notwithstanding the first paragraph, the obligation to refer a preliminary question to the Constitutional Court shall not apply:

1° in the cases referred to in paragraphs 2 and 3;

2° if the court of law finds that the provision of Title II of the Constitution has manifestly not been infringed;

3° if the court of law finds that it appears from a judgment delivered by an international court of law that the provision of European or international law has manifestly been infringed;

4° if the court of law finds that it appears from a judgment delivered by the Constitutional Court that the provision of Title II of the Constitution has manifestly been infringed.

Art. 27. § 1. Preliminary questions shall be referred to the Constitutional Court by communication of a certified true copy of the referral decision signed by the president and registrar of the court of law.

§ 2. The referral decision shall state the provisions of the statute, decree or rule referred to in Article 134 of the Constitution in respect of which the question is referred; where appropriate, it shall also specify which articles of the Constitution or of the special laws are relevant in that respect. The Constitutional Court, however, may reformulate the preliminary question referred.

Art. 28. The court of law which posed the preliminary question and any other court of law passing judgment in the same case shall comply with the ruling given by the Constitutional Court in the settlement of the dispute in connection with which the questions referred to in Article 26 were posed.

Art. 29. § 1. No legal remedy shall lie against a decision of a court of law insofar as it refers a question to the Constitutional Court for a preliminary ruling.

§ 2. Any decision whereby a court of law refuses to refer a question for a preliminary ruling shall state the reason for the refusal. No separate legal remedy shall lie against the decision of a court of law that refuses to refer such a question.

Art. 30. A decision to refer a question to the Constitutional Court for a preliminary ruling shall have the effect of suspending the proceedings and the time limits for proceedings and limitation periods from the date of that decision until the date on which the ruling of the Constitutional Court is notified to the court of law that posed the preliminary question. A copy of the ruling shall be sent to the parties.

The court of law may, however, even ex officio, take the necessary provisional measures to ensure protection of the rights that are granted by European Union law.

CHAPTER III: COMMON PROVISIONS

Art. 30*bis*. For the purposes of Articles 1 and 26, § 1, rules referred to in 1° of these two provisions shall mean the consultation, involvement, provision of information, opinions, unanimous opinions, agreements, common agreements and proposals referred to in the Special Act of 8 August 1980 on institutional reform, except for the cooperation agreements referred to in Article 92*bis* of the aforementioned Act, as well as in the Special Act of 16 January 1989 on the financing of the Communities and Regions or in any other statute adopted in pursuance of Articles 39, 127, § 1, 128, §

1, 129, § 1, 130, § 1, 135, 136, 137, 140, 166, 175, 176 and 177 of the Constitution.

FUTURE PROVISIONS[5]

CHAPTER IV: REVIEW OF REFERENDUMS

Art. 30*ter*. The Constitutional Court shall rule by way of decisions on all regional referendums, prior to the organization thereof, by examining whether the statutes, decrees or rules referred to in Article 1 as well as the conditions and specific rules set out by or in pursuance of Article 39*bis* of the Constitution have been complied with.

The petition shall be submitted by the President of the Regional Parliament. This petition shall be dated and signed. It shall state the subject of the referendum by indicating the competence of the regional authority it falls under, and shall contain the formulation of the question that will be put, the name of the initiator of the referendum or, if there are several initiators, the name of their representative, the comments, if any, formulated by the President of the Regional Parliament, and the administrative file. This administrative file shall be sent together with a list of documents it contains.

The Constitutional Court shall rule on the petition within sixty days after submission thereof.

If the referendum fails to comply with any one of the statutes, decrees, conditions or specific rules referred to in Article 1, or if the matter is not referred to the Constitutional Court first, the referendum shall not be held. The referendum cannot be held as long as the Court has not given its ruling.

CHAPTER V: PROTECTION OF PRIVACY

Art. 30*quater*. At every stage of the judicial procedure, and even after the judgment has been pronounced, the president may, ex officio or at the simple request of a party or of a third party with a justifiable interest, decide that references identifying them directly shall, at the earliest convenience, be omitted from any publication which the Court may issue, or has issued, in pursuance of this special Act or on its own initiative.

TITLE II: ORGANIZATION OF THE CONSTITUTIONAL COURT

CHAPTER I: JUDGES OF THE CONSTITUTIONAL COURT

Art. 31. The Constitutional Court shall be composed of twelve judges: six Dutch-speaking judges, who form the Dutch language group of the Court, and six French-speaking judges, who form the French language group of the Court.

The title of Dutch-speaking judge or of French-speaking judge of the Constitutional Court shall, for the judges referred to in Article 34, § 1, 1°, be determined by the language of their degree, and for the judges referred to in Article 34, § 1, 2°, by the parliamentary language group to which they last belonged.

Art. 32. The judges shall be appointed for life by the King from a list of two candidates, nominated alternately by the House of Representatives and by the Senate. The list of candidates shall be adopted by a two-thirds majority vote of the members present.

Nominations shall take place at least fifteen days after publication of the vacancy in the *Moniteur belge*. This publication shall take place at the earliest three months prior to the vacancy occurring.

All nominations shall be published in the *Moniteur belge*; no appointment shall take place earlier than fifteen days after this publication.

Art. 33. The Dutch-speaking and French-speaking judges of the Constitutional Court shall elect a Dutch-speaking and French-speaking president from their respective language groups.

[5] Entry into force on 1 July 2014

Art. 34. § 1. To be appointed judge at the Constitutional Court, candidates shall be at least forty years of age and shall satisfy one of the following conditions:

1° having held, in Belgium, for at least five years the office of:

a) Justice, Attorney-General, First Advocate-General or Advocate-General at the Supreme Court; or

b) Member of the Council of State or Auditor-General, Assistant Auditor-General, First Auditor or First Legal Secretary at the Council of State; or

c) Legal Secretary at the Constitutional Court; or

d) Professor or Associate Professor of Law at a Belgian university;

2° having been for at least five years a member of the Senate, the House of Representatives or a Community or Regional Parliament

§ 2. The Court shall number among its Dutch-speaking and French-speaking judges respectively as many judges who satisfy the conditions stipulated in § 1, 1°, as judges who satisfy the condition stipulated in § 1, 2°.

Among the judges who satisfy the conditions stipulated in § 1, 1°, at least one judge shall satisfy the condition referred to under a) or the condition referred to under b), at least one judge shall satisfy the condition referred to under c), and at least one judge shall satisfy the condition stipulated under d).

§ 3. A candidate nominated on the basis of the condition stipulated in § 1, 1°, cannot be nominated on the basis of the condition stipulated in § 1, 2°.

A candidate nominated on the basis of the condition stipulated in § 1, 2°, cannot be nominated on the basis of the condition stipulated in § 1, 1°.

§ 4. At least one judge of the Court, belonging to the judges who satisfy the conditions referred to in § 1, 1°, shall furnish proof of an adequate knowledge of German. The King shall determine the manner in which proof of knowledge of German shall be furnished.

§ 5. The Court shall be composed of judges of both genders, both as regards the judges referred to in § 1, 1°, and those referred to in § 1, 2°.

The Court shall consist of at least one-third of judges of each gender.[6]

CHAPTER II: LEGAL SECRETARIES

Art. 35. The Constitutional Court shall be assisted by maximum twenty-four legal secretaries, half of whom Dutch-speaking and the other half French-speaking, according to the language of their degree, and who shall have furnished proof of an adequate knowledge of the second national language before an examination board composed by the Managing Director of the Selection and Recruitment Office of the Federal Government.

At least one Dutch-speaking and one French-speaking legal secretary shall furnish proof of an adequate knowledge of German before an examination board composed by the Managing Director of the Selection and Recruitment Office of the Federal Government.

Art. 36. To be appointed legal secretary, candidates shall be at least twenty-five years of age and shall hold a degree of Doctor or Licentiate of Law.

[6] New second paragraph entering into force on the day the Court consists of at least one-third of judges of each gender. Unti that date, the King will appoint a judge of the least represented gender if the two previous appointments did not increase the number of judges of that gender (Art. 38 of the Special Act of 4 April 2014).

Appointments shall only be possible if there is a vacancy and at least fifteen days after publication of the vacancy in the *Moniteur belge*. This publication shall take place at the earliest three months prior to the vacancy occurring.

Art. 37. With a view to their appointment, candidates shall be ranked on the basis of an open competition of which the Court shall determine the conditions and appoint the examination board.

Half of the examination board shall consist of judges of the Court and the other half of persons from outside the Court, with due regard for linguistic parity.

The results of the exams shall remain valid for three years.

The open competition shall, with respect to its effects, be equated with the open competitions which in the government services and the public utility institutions give access to the post of administrative secretary-lawyer.

Art. 38. The legal secretaries shall be appointed by the Court for an internship of three years according to their ranking on the basis of the open competition referred to in Article 37.

After those three years, the appointment shall be definitive, unless the Court decides otherwise during the third year of internship.

Art. 39. The office of legal secretary at the Constitutional Court shall be equated with the judicial offices with respect to the appointment conditions stipulated in Articles 70 and 71 of the laws on the Council of State, as coordinated on 12 January 1973, and in Articles 187 et seq. of the Judicial Code.

The years worked as legal secretary at the Constitutional Court shall be taken into consideration for the purpose of determining the length of service in any administrative or judicial post or in a post with the Council of State or the Constitutional Court which the legal secretaries might subsequently hold.

CHAPTER III: REGISTRARS

Art. 40. § 1. The King shall appoint two registrars from two lists of two candidates each, one nominated by the Dutch linguistic group and the other by the French linguistic group at the Constitutional Court.

Article 32, second and third paragraph, shall apply to these nominations.

§ 2. The linguistic group of a registrar shall be determined by the linguistic group of the Constitutional Court by which he was nominated.

Art. 41. To qualify for appointment as registrar with the Constitutional Court, candidates shall:

1° be thirty years of age;

2° have passed one of the following competitions:

a) the open competition for legal secretary at the Constitutional Court;

b) the open competition for legal secretary at the Supreme Court;

c) the open competition for assistant auditor or assistant legal secretary at the Council of State;

d) the professional competence examination required by Article 259*bis* of the Judicial Code;

e) the open competition for admission to judicial internship referred to in Article 259*quater* of the Judicial Code;

f) the competition for recruitment grade Level 1, qualification “lawyer”, for the services of the federal government, the Communities and the Regions, and for the public utility institutions that depend

thereon, and for the services of the Constitutional Court;

g) the competition for the recruitment grade of attaché, qualification “lawyer”, for the Legislative Assemblies and for the Community and Regional parliaments;

3° have at least two years of relevant practical experience.

Furthermore, Dutch-speaking candidates shall furnish proof of knowledge of French, and French-speaking candidates shall furnish proof of knowledge of Dutch, by passing one of the exams stipulated in Articles 43*quinquies* and 53, § 6, of the Act of 15 June 1935 on the use of languages in judicial matters, in Article 43, §3, third paragraph, of the laws on the use of languages in administrative matters, as coordinated on 18 July 1966, and in Article 73, § 2, fifth paragraph, of the laws on the Council of State, as coordinated on 12 January 1973.

CHAPTER IV: ADMINISTRATIVE STAFF

Art. 42. The Constitutional Court shall have its own staff. The Court shall determine the organizational hierarchy and linguistic framework of the staff, with due regard for linguistic parity at each level; the Court shall appoint and dismiss the members of its staff.

The King shall approve the organizational hierarchy and linguistic framework referred to in the first paragraph.

Unless the Court decides otherwise, as required for the proper functioning of its services and established in a set of rules approved by Royal Decree, the staff shall be subject to the legal and statutory rules that apply to permanently appointed public servants of the Kingdom.

Art. 43. The Constitutional Court shall decide on the duties, reasons for non-attendance, replacements, absences, leave and holiday arrangements of the members of the administrative staff.

The Court may delegate all or part of these powers to a staff committee, composed of the two presidents, two judges from the Dutch language group and two judges from the French language group, appointed by the Court for a renewable term of four years.

CHAPTER V: INCOMPATIBILITIES

Art. 44. The offices of judge, legal secretary and registrar shall be incompatible with the judicial offices, with the exercise of a public office won by election, with any public function or position of a political or administrative nature, with the office of notary public or bailiff, with the profession of lawyer, with a military position, and with the office of minister of a recognized religion.

The King, on the favourable and duly reasoned recommendation of the Constitutional Court, may depart from the first paragraph in the following cases:

1° position of professor or teacher, tutor, lecturer or assistant at an institution for higher education, insofar as this position is exercised for no more than five hours per week and for no more than two half days per week;

2° position of member of an examination board;

3° membership of an advisory commission, board or committee, insofar as the number of remunerated assignments or posts remains limited to two, and the total remuneration does not exceed one-tenth of the annual gross salary of the principal office at the Constitutional Court.

Art. 45. The presidents, judges, legal secretaries and registrars shall not be called upon for any other public service, except in the cases provided for by law.

Art. 46. The presidents, judges, legal secretaries and registrars shall be prohibited from:

1° conducting the defence, verbally or in writing, of the interested parties or giving them advice;

2° acting as arbitrators for remuneration;

3° either personally or through an intermediary, carrying out a professional activity, engaging in trade, acting as agents, taking part in the management, administration or supervision of companies or industrial or commercial establishments.

Art. 47. Relatives or in-laws up to the third degree of kinship shall not at the same time be president or judge and legal secretary, unless the King has lifted this restriction.

Art. 48. § 1. Article 44, first paragraph, and Article 46, 1° and 2°, shall likewise apply to members of the administrative staff of the Constitutional Court.

§ 2. Exceptions may be allowed by the Court in the cases where the provisions applicable to public officials allow these officials or their spouses to engage in certain supplementary activities.

CHAPTER VI: DISCIPLINARY RULES

Art. 49. Presidents and judges who have infringed the dignity of their office or have fallen short of the obligations of their position may be removed or suspended from their office by a judgment pronounced by the Constitutional Court.

Art. 50. § 1. Legal secretaries and registrars who are neglectful in the discharge of their duty shall be cautioned and reprimanded by the president, and suspended or dismissed by the Constitutional Court. Suspension shall involve a withholding of salary with all that this implies in terms of pension entitlements and subsequent salary increases.

§ 2. None of these penalties shall be imposed without the person concerned first having been heard or duly summoned.

§ 3. If they are being prosecuted for crimes or offences, or if disciplinary action has been taken against them, legal secretaries and registrars may, if the interest of the service so requires, be suspended from their duties by the Constitutional Court by way of internal measure for as long as the prosecution proceedings last and until a final decision has been rendered.

Suspension by way of internal measure shall be ordered for a period of one month and may subsequently be extended month by month until a final decision has been rendered. The Constitutional Court shall be empowered to decide that such suspension shall involve a provisional, full or partial withholding of salary for the duration of the penalty period or for part of the penalty period.

CHAPTER VII: MISCELLANEOUS PROVISIONS

Art. 51. § 1. The president and the judges shall take the oath before the King as required by Article 2 of the Decree of 20 July 1831.

§ 2. The legal secretaries and registrars shall take said oath before the president.

§ 3. They shall take the oath within a month from the day on which their appointment was notified to them, failing which they may be replaced.

§ 4. The oath may be taken in Dutch or in French according to whether the person concerned is Dutch-speaking or French-speaking.

Art. 52. The King shall determine the regalia which office-bearers of the Constitutional Court shall wear at court sessions and official ceremonies.

He shall also establish the rules of precedence and honours.

Art. 53. The King shall establish a concordance service at the Constitutional Court.

TITLE III: OPERATION OF THE CONSTITUTIONAL COURT

Art. 54. The presidency of the Constitutional Court shall be assumed by each president for a one-year term on a rotary basis.

This term shall commence on September the first of each year.

Art. 55. Without prejudice to Article 56, the Constitutional Court shall hold its sessions, deliberate and pass judgment by benches of seven judges: three Dutch-speaking judges, three French-speaking judges and the president or, in his absence, the most senior judge appointed or, where appropriate, the most senior judge in age of the same linguistic group.

Of the seven judges referred to in the first paragraph, at least two judges shall satisfy the conditions stipulated in Article 34, § 1, 1°, and at least two judges shall satisfy the condition stipulated in Article 34, § 1, 2°.

Where a case has to be heard in a language which is not the language of the linguistic group to which he belongs, the president shall delegate his powers to the other president or, in his absence, to the earliest appointed judge or, where appropriate, to the most senior judge in age of the other linguistic group.

All decisions shall be adopted by a majority vote of the members.

Art. 56. The Constitutional Court shall meet in full session in order to take the necessary decisions in pursuance of Articles 37, 38, 42, 43, 44, 49, 50, 100 and 122.

Whenever he so deems necessary, either of the two presidents may submit a case to the Constitutional Court in full session. The presidents shall be obliged to do so when two of the seven judges who make up the bench in accordance with Article 55 so request.

At least ten judges, and in any case as many Dutch-speaking and French-speaking judges, shall be present for the full Court to rule. If the latter condition is not met, the most recently appointed judge or, where appropriate, the most junior judge in age belonging to the most numerous linguistic group shall abstain from voting on any decision.

If the Court rules in full session, the president shall have a casting vote in the event of a tie. If the president is absent or unable to attend, he shall be replaced by the earliest appointed judge or, where appropriate, by the most senior judge in age of the same linguistic group.

Art. 57. Article 258 of the Penal Code on the refusal of the court to exercise its powers shall also apply to the judges of the Constitutional Court.

Art. 58. Each year on 1 September the presidents shall, for the purposes of the service, draw up a list of the judges in their linguistic group.

Art. 59. The presidents shall sit in all cases.

For each case the president in office shall appoint the members of the bench in accordance with the following rules. On his list he shall put:

- for the first case, the first, second and third names;

- for the second case, the fourth, fifth and first names, and so on.

On the list of the other president he shall put:

- for the first case, the first and second names;

- for the second case, the third and fourth names;

- for the third case, the fifth and first names, and so on.

The order of the cases shall be that determined in Article 67.

Art. 60. If a judge who is not a president is absent or unable to attend, he shall be replaced by the judge who, appointed by virtue of the same provision, next comes after him on the list or, if he is the last one on the list, by the first judge on the list.

Art. 60*bis*. The presidents and judges who are due to retire on account of their age shall remain in office for the cases which they have tried and which were taken into deliberation before the date of their retirement and which have not yet resulted in a ruling, unless the president in office exempts them from doing so at their request.

The term of office shall not be extended for more than six months.

For the purposes of Article 56, first paragraph, the presidents and judges who are due to retire on account of their age shall remain in office until such time as their successor has taken the oath.

Art. 61. The Court shall be assisted by the registrar whose language shall be that of the investigation.

TITLE IV: USE OF LANGUAGES

CHAPTER I: USE OF LANGUAGES BEFORE THE CONSTITUTIONAL COURT

Art. 62. Cases shall be instituted before the Constitutional Court in Dutch, French or German.

In documents and statements:

1° the Council of Ministers shall use Dutch or French, according to the rules set out in Article 17, § 1, of the laws on the use of languages in administrative matters, as coordinated on 18 July 1966;

2° the Governments shall use their administrative language;

3° the courts of law shall use the language or languages in which they are to pronounce their judgments;

4° the presidents of the Legislative Chambers, the President of the Brussels-Capital Parliament and the President of the joint assembly of the Common Community Commission shall use Dutch and French;

5° the President of the Flemish Parliament shall use Dutch, the President of the Parliament of the German-speaking Community shall use German, and the Presidents of the Parliament of the French-speaking Community, the Walloon Parliament and the Assembly of the French Community Commission shall use French;

6° the persons with a justifiable interest shall use the language of their choice, unless they are subject to the laws on the use of languages in administrative matters, in which case they shall use the language which they are required to use by the laws on the use of languages in administrative matters, as coordinated on 18 July 1966;

7° elected candidates instituting an action for annulment against a decision of the Review Committee shall use the language in which they took the oath;

8° the Review Committee shall use the language of the petitioner in an action for annulment of one of its decisions.

The Court shall ex officio declare null and void any documents and statements of the Council of Ministers, the Governments, the Presidents of the legislative assemblies and of the persons subject to the laws on the use of languages in administrative matters that are not addressed to the Court in the language imposed by the second paragraph.

Art. 63. § 1. Subject to what is provided for in §§ 2 and 3, the investigation of the case shall be conducted in the language of the document with which the case is brought before the Court.

§ 2. If the case has been submitted in German or simultaneously in Dutch and in French, the Court shall decide whether the investigation shall be conducted in Dutch or in French.

§ 3. Without prejudice to what is provided in § 2, the investigation of the case shall be conducted in the language of the linguistic area where the petitioner has his domicile if the petition was submitted by a person with a justifiable interest who has his domicile in a municipality or group of municipalities where the law neither requires nor allows the use of another language than that of the linguistic area where they are located.

Joint cases shall be heard in the language of the case that was first brought before the Court.

§ 4. All documents to be used by the Court shall be translated into Dutch or into French as the case may be.

Art. 64. All verbal statements made at the hearings shall be made in Dutch, French or German with simultaneous translation.

Art. 65. The judgments of the Court shall be drafted and pronounced in Dutch and in French. They shall be published in the *Moniteur belge* in the manner stipulated in Article 114, together with a German translation.

The judgments shall be pronounced by the presidents in Dutch and in French.

They shall also be pronounced and published in German in the case of rulings delivered on actions for annulment or if the case was brought before the Court in German.

CHAPTER II: USE OF LANGUAGES IN THE SERVICES OF THE CONSTITUTIONAL COURT

Art. 66. The administrative activities of the Constitutional Court and the organization of the services shall be subject to the provisions of the laws on the use of languages in administrative matters, which apply to the services whose scope of activity covers the whole country.

TITLE V: PROCEDURE BEFORE THE CONSTITUTIONAL COURT

CHAPTER I: ENTRY ON THE CAUSE LIST AND APPOINTMENT OF THE JUDGES-RAPPORTEURS

Art. 67. The registrar shall enter the cases on the cause list of the Court in their order of receipt.

Art. 68. For each case, the judges-rapporteurs shall be the judges who are mentioned first on the lists referred to in Article 59.

The duty of the judges-rapporteurs shall be to handle the cases and to report on them at the hearings.

CHAPTER II: PRELIMINARY PROCEDURE

Art. 69. There shall be a restricted chamber, composed of the president and the two judges-rapporteurs.

Art. 70. Immediately upon receipt of an action for annulment or a referral decision, the judges-rapporteurs shall examine whether upon investigation of the petition or the referral decision it is clear that the action or the preliminary question is manifestly inadmissible or unfounded, that the action or

preliminary question manifestly falls outside the jurisdiction of the Constitutional Court, or that the case can be settled with a judgment delivered after a preliminary procedure.

Art. 71. If the action for annulment or the preliminary question is manifestly inadmissible or manifestly falls outside the jurisdiction of the Court, the judges-rapporteurs shall report on this to the president within a maximum term of thirty days after receipt of the petition or the referral decision; if the challenged rule is also the subject of an action for suspension, this term shall be reduced to maximum fifteen days.

The conclusions of the judges-rapporteurs shall be notified to the parties by the registrar within the time limit stipulated in the first paragraph. The parties shall have fifteen days from the date of receipt of the notification to submit a written statement of justification.

The restricted chamber may then decide by a unanimous vote to settle the case without any further judicial procedure by a judgment dismissing the action or the question or establishing that the Court has no jurisdiction to try the case.

If the proposal to deliver a judgment of inadmissibility or lack of jurisdiction is not adopted, the restricted chamber shall establish this by order.

Art. 72. If the judges-rapporteurs consider that the action for annulment is manifestly unfounded, the preliminary question evidently calls for a negative reply, or the case, owing to its very nature or the relatively straightforward nature of the issues raised therein, can be settled with a judgment delivered after a preliminary procedure, they shall report on this to the Court within a maximum term of thirty days after receipt of the petition or the referral decision; if the challenged rule is also the subject of an action for suspension, this term shall be reduced to maximum fifteen days.

The conclusions of the judges-rapporteurs shall be notified to the parties by the registrar within the time limit stipulated in the first paragraph. If the judges-rapporteurs suggest in their conclusions that the Court deliver a judgment establishing that the rules referred to in Articles 1 and 26 have been infringed, this shall be notified to the parties referred to in Article 76 together with the action for annulment or the decision containing the preliminary question. The parties shall have fifteen days from the date of receipt of the notification to submit a written statement of justification.

The Court may then decide that the case should be settled without any further judicial procedure by a judgment declaring the action well-founded or unfounded, or giving a positive or negative reply to the question, as the case may be.

If the proposal to deliver a judgment after a preliminary procedure is not adopted, the Court shall establish this by order.

Art. 73. The judgments referred to in Articles 71, third paragraph, and 72, third paragraph, shall be notified to the parties.

CHAPTER III: PUBLICATION AND NOTIFICATION OF THE ACTIONS AND PRELIMINARY QUESTIONS

Art. 74. If Articles 71 and 72 have not been applied, or after inspection of the order referred to in Article 71, fourth paragraph, or of the order referred to in Article 72, fourth paragraph, the registrar shall arrange for a notice to be published in the *Moniteur belge* in Dutch, French and German, in which the initiator and the subject of the action for annulment or the preliminary question are indicated.

The petition for annulment shall be available for consultation at the Court registry for a period of thirty days from the date of publication referred to in the first paragraph.

The procedure shall be continued in accordance with the provisions set out below.

Art. 75. The Court may appoint a lawyer ex officio. This appointment shall be considered null and void if the party concerned chooses its own legal adviser.

The King shall determine the manner in which legal aid shall be provided.

Art. 76. § 1. The registrar shall notify actions for annulment instituted by the Council of Ministers to the governments of the Communities and Regions and to the presidents of the legislative assemblies.

§ 2. The registrar shall notify actions for annulment instituted by the government of a Community or Region to the Council of Ministers, to the other governments, and to the presidents of the legislative assemblies.

§ 3. The registrar shall notify actions for annulment instituted by the president of a legislative assembly to the Council of Ministers, to the governments of the Communities and Regions, and to the presidents of the other legislative assemblies.

§ 4. The registrar shall notify actions for annulment instituted by an individual interested party to the Council of Ministers, to the governments of the Communities and Regions, and to the presidents of the legislative assemblies.

Art. 77. The registrar shall notify referral decisions to the Council of Ministers, to the governments of the Communities and Regions, to the presidents of the legislative assemblies, and to the parties in the lawsuit before the court of law that took the referral decision..

Art. 78. Where one and the same provision is the subject of an action for annulment and of an earlier referral decision, the registrar shall notify the action for annulment to the parties in the lawsuit before the court of law that referred the preliminary question. The notification shall specify the time limit within which the parties may submit a written statement in accordance with Article 85.

Subject to the application of Article 100, the Court shall first rule on the action for annulment.

Future provisions[7]

CHAPTER III*BIS*: ELECTRONIC PROCEDURE

Art. 78*bis*. § 1. The Court shall make an electronic platform available for all communication that is required for the purposes of the actions before the Constitutional Court, more particularly for the submission of petitions, the communication of procedural documents, and for sending notifications, statements and summonses.

The King shall determine the manner of operation of the platform, including the conditions regarding the management and security of the platform. This involves, among other things, the parties who have access thereto, the registration procedure, detailed rules regarding the use, the authentication of users, and the format and signing of documents. As regards the parties who have access to the platform, the King may, on pain of inadmissibility, make the use of the platform mandatory for certain categories of parties, or stipulate that certain categories of parties may only register on the platform after the conditions of registration have been determined by the King.

In particular, the platform shall satisfy the following conditions:

1° it must be possible to accurately determine the dates and times of sending and delivery of procedural documents, notifications and statements;

2° it must be possible to accurately verify the identity of the parties involved in the summons, notification or statement;

3° all exchanges over the platform must be secured against changes by means of appropriate technical and cryptographic protection measures;

4° the confidentiality of all data exchanged over the platform must be guaranteed.

[7] New Chapter III*bis* and Article 78*bis*, entering into force on the date to be determined by the King.

§ 2. All data validly and electronically communicated over the platform shall, until proof to the contrary is provided, have the same probative value as if they had been communicated in a paper-based format.

§ 3. Unless proof to the contrary is provided, the data that have been validly and electronically communicated over the platform shall be effective, and shall be deemed to have been delivered to the addressee, at the time when they become available for consultation on the platform.

§ 4. Where communication of data over the platform is not possible as a result of force majeure, in particular due to malfunction of the platform, those data may be communicated on paper at the latest on the day following the expiry of the time limit stipulated for communications on paper, either by registered mail with recorded delivery, or by filing at the registry of the Court, and may be kept and consulted in that format.

CHAPTER IV: INVESTIGATION

Art. 79. The investigation shall be conducted in writing.

Art. 80. The notifications made to the Council of Ministers shall be addressed to the office of the Prime Minister.

The notifications made to the governments of the Communities and Regions shall be addressed to the president of the Government.

The notifications made to the presidents of the legislative assemblies shall be addressed to the registry of the legislative assembly. .

Art. 81. Any party who is not a public authority shall indicate in the petition or written submission its domicile or registered office in Belgium or the domicile which it elects in Belgium.

Failing such indication, the registry shall not be obliged to send any notification, and the legal proceedings shall be deemed to be conducted on an adversarial basis.

The registry shall send all notifications to the registered office or domicile as indicated, even if the party has deceased.

Future provision[8]

Art. 81. Any party who is not a public authority and has not registered on the platform shall indicate in the petition or written submission its domicile or registered office in Belgium or the domicile or registered office which it elects in Belgium.

Failing such indication of domicile or registered office and registration on the platform, the registry shall not be obliged to send any notification, and the legal proceedings shall be deemed to be conducted on an adversarial basis.

The registry shall send all notifications to:

1° the electronic address of a party who is registered on the platform;

2° for persons who are not registered on the platform, the domicile or registered office as indicated, even if the party has deceased.

Art. 82. All documents of the proceedings shall be sent to the Court by registered mail.

All documents, notifications or summonses by the Court shall be sent by registered mail with recorded delivery.

[8] New Article 81, entering into force on the date to be determined by the King.

The time limits available to the parties shall commence on the date of receipt of the letter. If the addressee refuses delivery of the letter, the time limit shall commence on the date of refusal.

The postmark date shall have probative force as far as both the forwarding and receipt or refusal of correspondence are concerned.

Future provision[9]

Art. 82. Parties who are registered on the platform shall send all procedural documents to the Court over the platform. Parties who are not registered on the platform shall send all procedural documents to the Court by registered mail.

All documents, notifications or summonses by the Court shall be sent over the platform to parties who are registered on the platform, or by registered mail with recorded delivery to parties who are not registered on the platform.

The petitions or written submissions shall be signed and dated if they are sent to the Court by registered mail.

In the case of registered mail, the time limit available to the parties shall commence on the day after receipt of the letter or of the notification that the letter is available for collection if the letter could not be delivered personally to the addressee or his authorized representative. If the addressee refuses delivery of the letter, the time limit shall commence on the day after the refusal.

In the case of communication over the platform, the time limit shall commence on the day that the documents, notifications and summonses in question are available for consultation over the platform.

Those dates shall have probative force as far as both the forwarding and receipt or refusal of correspondence are concerned.

Art. 83. (repealed)

Art. 84. The petitions and written submissions addressed to the Court shall contain a list of the documents that are supplied as evidence.

Each case file shall be sent together with a list of the documents that make up the case file.

Art. 85. Within 45 days after receipt of the notifications sent by the registrar by virtue of Articles 76, 77 and 78, the Council of Ministers, the Governments, the presidents of the legislative assemblies and the persons to whom said notifications are addressed may make a written submission to the Court.

Where the case involves an action for annulment, those submissions may contain new grounds. After that, the parties shall no longer be able to adduce new grounds.

Art. 86. Any written submissions as referred to in Articles 71, second paragraph, 72, second paragraph, 85, 87 and 89, which have not been filed within the time limit stipulated by the present Act shall be barred from the proceedings.

Art. 87. § 1. When the Constitutional Court, by way of preliminary ruling, decides on questions as referred to in Article 26, any party declaring a justifiable interest may make a written submission to the Court within thirty days after the publication stipulated in Article 74. Consequently, said party shall be deemed to be party to the proceedings.

§ 2. When the Constitutional Court decides on actions for annulment as referred to in Article 1, any party declaring a justifiable interest may address its comments to the Court in a written submission within thirty days after the publication stipulated in Article 74. Consequently, said party shall be deemed

[9] New Article 82, entering into force on the date to be determined by the King.

to be party to the proceedings.

Art. 88. Any party who in pursuance of Articles 85 and 87 makes a written submission to the Court shall be obliged to enclose with its submission the case file in its possession.

Art. 89. § 1. When the Court, by way of preliminary ruling, decides on questions as referred to in Article 26, the registrar shall send a copy of the written submissions received to the other parties who have filed a written submission. Those parties shall have thirty days from the date of receipt in which to send a statement of reply to the registry. After the expiry of this time limit, the registrar shall send a copy of the statements of reply received to the parties who have filed a written submission.

§ 2. When the Court decides on actions for annulment as referred to in Article 1, the registrar shall, upon expiry of the time limits referred to in Articles 85 and 87, send a copy of the written submissions received to the petitioning party, who shall have thirty days from the date of receipt in which to send a statement of reply to the registry. After the expiry of this time limit, the registrar shall send a copy of the statement of reply filed by the petitioning party as well as a copy of the written submissions filed by the other parties to each party who has filed a written submission. The addressees of such notification shall have thirty days from the date of receipt in which to send a statement of rejoinder to the registry. After the expiry of this time limit, the registrar shall send a copy of the statements of rejoinder received to the petitioning party and to the other parties who filed a written submission.

Art. 89*bis*. The time limits stipulated in Articles 85, 87 and 89 may be shortened or extended by a duly reasoned order of the president.

Where a time limit stipulated in Article 87 is shortened or extended in accordance with the first paragraph, the registrar shall mention this in the notification referred to in Article 74, first paragraph.

Art. 90. After the expiry of the time limits stipulated in Article 89, the Court shall decide, after having heard the judges-rapporteurs, whether or not the case is ready for hearing and whether a hearing will take place.

The order whereby it is decided that the case is ready for hearing shall specify the date of the hearing and shall state the grounds that apparently need to be investigated ex officio and the questions which the parties are requested to answer, either in a supplementary submission to be filed within the time limit stipulated in the order, or verbally at the hearing.

The order whereby it is decided that the case is not ready for hearing shall set forth the actions that need to be accomplished by the judges-rapporteurs or by the registrars, and shall state, where appropriate, the grounds that apparently need to be investigated ex officio and the questions which the parties are requested to answer, in a supplementary submission to be filed within the time limit stipulated in the order. Once those actions have been accomplished, the Court shall proceed in accordance with the first and second paragraphs.

The orders shall be notified to the parties. If no hearing has been set, each party may file a petition to be heard. This petition shall be filed within seven days after the order referred to in the second paragraph has been notified.

Art. 91. The Court shall have the most extensive powers of inquiry and investigation.

It may, more particularly:

1° conduct direct correspondence with the Prime Minister, the presidents of the legislative assemblies and of the Governments, and any other public authority;

2° hear the parties on an adversarial basis and instruct those parties and any public authority to submit all documents and information connected with the case;

3° hear any person it deems useful to hear;

4° assess the situation on site;

5° appoint experts.

It may, by special order, delegate to the judges-rapporteurs the powers of inquiry and investigation of its choice.

Art. 92. The Court can decide that the persons referred to in Article 91, 3° be heard under oath after the parties and their lawyers have been summoned.

In that case, they shall take the following oath:

"Ik zweer in eer en geweten dat ik de gehele waarheid en niets dan de waarheid zal zeggen",

or

"Je jure en honneur et conscience de dire toute la vérité, rien que la vérité",

or

"Ich schwöre auf Ehre und Gewissen, die ganze Wahrheit und nur die Wahrheit zu sagen".

("I swear in honour and conscience to tell the whole truth and nothing but the truth") All persons summoned shall be obliged to appear and to obey the summons. Any person who refuses to appear, to take the oath or to give evidence shall be liable for a penalty of twenty-six to one hundred francs.

Failure to appear or refusal to give evidence shall be reported; this report shall be sent to the District Attorney of the judicial district where the person was due to be heard.

The provisions of the Penal Code concerning false testimony in civil cases and the influencing of witnesses shall also apply to the investigation procedure provided in the present article.

The report of the examination shall be signed by the president or by the judges of the Court who conducted the examination, by the registrar and by the persons heard.

Art. 93. In case of an official visit to the spot, the parties and their lawyers shall be summoned.

Art. 94. The Court shall decide by order the terms of reference of the experts it appoints, as well as the time limit for the submission of their report. The registrar shall notify this order to the experts and to the parties.

Articles 966 to 970 of the Judicial Code shall also apply to the experts appointed by the Court.

Within eight days after the notification referred to in the first paragraph, the experts shall notify each party by registered letter of the place, date and time at which they shall commence their proceedings. This notification shall take place by registered mail, or over the platform for the parties who are registered on the platform.[10]

The necessary documents shall be supplied to the experts. The parties may make any recommendations and demands as they see fit. Mention of this shall be made in the report, of which the preliminary details shall be notified to the parties.

Unless they are unable to do so, which circumstance shall be recorded by the registrar when the report is filed, the report shall be signed by all experts. The signature of the experts shall be preceded by the following oath:

"Ik zweer dat ik in eer en geweten, nauwgezet en eerlijk, mijn opdracht heb vervuld",

[10] The entry into force of the second sentence of the third paragraph on the date to be determined by the King will simultaneously entail the cancellation of the words "by registered letter" in the first sentence.

or

"Je jure que j'ai rempli ma mission en honneur et conscience, avec exactitude et probité",

or

"Ich schwöre, dass ich den mir erteilten Auftrag auf Ehre und Gewissen, genau und ehrlich erfüllt habe".

(“I swear in honour and conscience that I have carried out my assignment meticulously and honestly”)

The original of the report shall be filed at the registry. The parties shall be notified thereof by the registrar.

The Court may, for serious reasons and in a duly reasoned decision, terminate the assignment of the experts and arrange for them to be replaced after having heard them. The registrar shall notify this decision to the experts and the parties.

Art. 94*bis*

. § 1. If a preliminary question is referred to the Court by the Council of State by virtue of Article 6, § 1, VIII, 5º, of the Special Act of 8 August 1980 on institutional reform, the registrar shall give notice of the referral decision in accordance with Article 77.

§ 2. Within ten days after receipt of the notification, the Council of Ministers, the Governments, the presidents of the legislative assemblies and the addressees of those notifications may file a written submission with the Court.

§ 3. Upon expiry of the time limit referred to in §2, the Court shall decide, after having heard the judges-rapporteurs, whether or not the case is ready for hearing. The order whereby it is decided that the case is ready for hearing shall specify the date of the hearing. This order shall be notified to the parties at least three days before the date of the hearing. During the period between the notification of the order and the date set for the hearing, the parties may consult the case file at the registry.

CHAPTER V: INCIDENTS

Section I: Plea of forgery

Art. 95. If a party pleads that a submitted document is a forgery, the party who submitted the document shall be requested by the Court to declare forthwith whether said party persists in its intention to make use of that document.

If the party fails to act on this request or declares that it does not wish to make use of the document, the document shall be rejected.

If the party declares that it wishes to make use of the document and this document is essential to the resolution of the dispute, the Court shall suspend the lawsuit until the competent court of law has ruled on the forgery. Said court of law shall give priority to this issue over all other cases. If the dispute has not been brought before any court of law, the Court shall rule on the probative force of the document.

If judgment can be passed without the allegedly forged document having to be taken into consideration, the legal proceedings shall be continued.

Section II: Resumption of legal proceedings

Art. 96. If a person with a justifiable interest who has brought an action for annulment or one of the parties referred to in Article 87 dies before the close of the proceedings, the legal proceedings shall be continued without there being any ground for resumption of the lawsuit.

Art. 97. If one of the parties to a lawsuit before a court of law that has referred a preliminary question

dies before the close of the proceedings after having become a party before the Court, the legal proceedings before the Court shall be suspended.

The proceedings shall be resumed when the court of law that referred the preliminary question notifies the Court of the resumption of the lawsuit.

Section III: Withdrawal from proceedings

Art. 98. The petitioning parties may withdraw their action for annulment.

To the notification of this decision which the Council of Ministers and the Community and Regional Governments shall address to the Court, they shall attach a certified true copy of their withdrawal decision.

If there are grounds for doing so, the Court shall allow the withdrawal, having heard the other parties.

Art. 99. Such withdrawal, accepted or allowed by the court of law that referred a preliminary question, shall put an end to the legal proceedings before the Court.

The court of law shall send a certified true copy of its decision to the Court.

Section IV: Joining of cases

Art. 100. The Constitutional Court in full session may join actions for annulment or preliminary questions relating to one and the same regulation to be ruled on in one and the same judgment. In this circumstance, the cases will be investigated by the bench that was seized of the first case.

The registrar shall notify the parties of the decision to join cases.

Where two or more cases are joined, the judges-rapporteurs shall be those who in accordance with Article 68 were appointed to the case of which the Court was first seized.

Section V: Recusal and excusal

Art. 101. The judges of the Court may be recused for the reasons which according to Articles 828 and 830 of the Judicial Code give cause for recusal.

The fact that a judge of the Court has taken part in the formulation of a statute, decree or rule referred to in Article 134 of the Constitution which is the subject of an action for annulment or a referral decision shall not in itself constitute a ground for recusal.

Any judge of the Court who is aware of the existence of a ground for recusal against him shall notify the Court thereof, which shall decide whether he should abstain from the case.

Art. 102. Any party who intends to recuse a judge shall do so as soon as it has knowledge of the ground for recusal.

Recusal shall be requested in a duly reasoned petition addressed to the Court.

After the recusing party and the recused judge have been heard, the recusal shall be decided on without delay.

The recused judge shall be replaced by another judge, as provided for in Article 55, first paragraph, Article 56 and Article 60, as the case may be.

CHAPTER VI: HEARING

Art. 103. The parties who have filed a petition or a written submission, their representatives and their

lawyers shall be notified fifteen days in advance of the date of the hearing.

Along with the notification of the date of the hearing, the report of the judges-rapporteurs shall be communicated to the parties involved.

During the period specified in the first paragraph, the parties may consult the case file at the registry.

Art. 104. The hearings of the Court shall be open to the public, unless this should constitute a threat to public order or decency; in that case, this shall be so declared by the Court in a duly reasoned ruling..

Art. 105. Those who attend the hearing shall do so with head uncovered, respectfully and in silence.

Anything which the president may order with a view to maintaining order in the courtroom shall be strictly and promptly complied with.

The same instruction shall be observed in the places where the judges of the Court perform the duties of their office.

Art. 106. At the hearing, the judge-rapporteur who belongs to the group whose language is that of the investigation shall sum up the circumstances of the case and shall state the points of law which the Court must resolve.

The judge-rapporteur belonging to the other linguistic group may, where appropriate, deliver a supplementary report.

Where appropriate, the Court shall hear the persons whom it has decided to hear, along with the experts.

Only the parties who have filed a petition or a written submission and their lawyers shall be admitted to the proceedings; they may only make verbal comments.

The president shall subsequently close the proceedings and take the case into deliberation.

CHAPTER VII: REOPENING OF THE PROCEEDINGS

Art. 107. The Court may ex officio order the reopening of the proceedings. The Court is obliged to do so before it can allow a plea or an argument concerning which the parties had been unable to explain themselves.

The Court shall set the time limits within which the parties may submit a final written statement.

CHAPTER VIII: JUDGMENTS

Art. 108. The deliberations of the Court shall be held in secret.

Art. 109. Without prejudice to Article 25, Article 25*quater*, third paragraph, and Article 6, § 1, VIII, 5°, of the Special Act of 8 August 1980 on institutional reform, judgments shall be delivered within six months after institution of the action for annulment or after receipt of the referral decision.

However, if after expiry of that time limit the case is not yet ready for a hearing, the Court may by a duly reasoned decision extend this period for the time required. This extension may be renewed if necessary, without the length of such extensions totalling more than six months.

Art. 110. Unless the president decides to pronounce the judgment in open court, its publication on the website of the Court shall count as pronouncement.

Art. 111. The judgment shall contain the grounds and the operative part. It shall state:

1° the name of each of the parties and, where appropriate, the names and titles of the persons

representing them and their lawyers;

2° the provisions concerning the use of languages that have been applied;

3° the written submissions filed by the parties, and the fact that the parties and their lawyers were present at the hearing;

4° the date of signature of the judgment and the names of the judges who deliberated on it.

Art. 112. The judgments shall be signed by the president and the registrar.

Art. 113. The judgments shall be notified by the registrar to:

1° (repealed);

2° (repealed);

3° the parties;

4° the court of law that referred the preliminary question.

They shall be notified electronically to:

1° the Prime Minister and the presidents of the Governments;

2° the presidents of the Legislative Chambers, the Flemish Parliament, the Parliament of the French-speaking Community, the Walloon Parliament, the Parliament of the German-speaking Community, and the Legislative Assemblies of the Brussels-Capital Region.

Art. 114. The judgments shall be published on the initiative of the registrar on the website of the Court, as well as in their entirety or in abstract form in the *Moniteur belge*. The abstract shall contain the grounds and the operative part of the judgments.

Art. 115. The judgments shall be enforceable by operation of law.

Art. 116. Judgments of the Court are final and conclusive and not open to appeal.

Art. 117. § 1. Subject to Article 118, the Court may, either ex officio or at the request of one of the parties, arrange for any clerical or computational errors or obvious inaccuracies to be rectified within two weeks after notification of the judgment.

§ 2. The registrar shall give the parties due prior notice thereof; the parties may submit written comments within a time limit to be set by the president.

§ 3. The Court shall decide in chambers.

§ 4. The original of the order instructing the emendation shall be attached to the original of the emended judgment. Reference to this order shall be made in the margin of the original of the emended judgment.

Art. 118. At the suit of the parties to an action for annulment or of the court of law that referred a preliminary question, the Court shall furnish an interpretation of the judgment. Actions for interpretation shall be instituted in accordance with Article 5 or Article 27, as the case may be. It shall be communicated to all parties in the lawsuit.

For the rest, the proceedings prescribed for actions for annulment or for preliminary questions shall apply.

The original of the interpretive ruling shall be attached to the interpreted judgment. Reference to the

interpretive ruling shall be made in the margin of the interpreted judgment.

Future provisions[11]

CHAPTER VIII*BIS*: REVIEW PROCEDURE FOR REFERENDUMS

Art. 118*bis*. Articles 67, 78*bis*[12], 79, 80 to 82, 91, first paragraph, second paragraph, 1° to 4°, and third paragraph, 92, 93, 95, 101, 102, 108 and 119, shall apply to the review procedure for referendums.

Articles 110 to 117 shall apply, provided that the word “judgment” is replaced each time by the word “decision”.

Article 68 shall apply, provided that the words “at the hearings” in the second paragraph are deleted.

Article 98 shall apply, provided that the words “and their petition” are added after the words “action for annulment” in the first paragraph.

Art. 118*ter*. The registrar shall immediately notify the petitions to the Council of Ministers, the Community and Regional Governments, the presidents of the legislative assemblies other than the one that initiated the petition, and the initiator of the referendum.

Art. 118*quater*. Within ten days after receipt of the notifications sent by the registrar by virtue of Article 118*ter*, the Council of Ministers, the Community and Regional Governments, the presidents of the legislative assemblies other than the one that initiated the petition, and the initiator of the referendum may make a written submission to the Court. The submission shall contain a list of the documents that are supplied as evidence.

Of each petition or written submission, the signatory shall attach ten certified true copies. The signatory may still be ordered to submit additional copies.

Any written submissions that have not been filed within the time limit stipulated in the first paragraph shall be barred from the proceedings.

CHAPTER IX: GENERAL PROVISIONS

Art. 119. The date of an instrument that marks the start of a particular time limit shall not be included in that time limit.

The expiry date shall be included in the time limit.

If that day is a Saturday, Sunday or public holiday, that expiry date shall be moved to the next working day.

Art. 120. The time limits shall run against minors, persons who have been declared incapable, and other incompetent persons. The Court, however, may exempt these persons from lapse if it is certain that their representation was not assured prior to the expiry of the time limits.

Art. 121. The registry shall be open every day, except on Saturdays, Sundays and public holidays.

The King shall determine the opening hours.

Art. 122. The Court shall adopt its standing orders. It shall attend to the publication thereof in the *Moniteur belge*.

TITLE VI: FINAL PROVISIONS

[11] Entry into force on 1 July 2014
[12] Addition of the word “78*bis*” on the date to be determined by the King.

Art. 123. § 1. The funds that are necessary for the operation of the Constitutional Court shall be appropriated in the Allocations budget.

§ 2. The Royal Decrees on the Constitutional Court shall be deliberated in the Council of Ministers.

TITLE VII: TRANSITIONAL PROVISIONS

Art. 124. (repealed)

Art. 124*bis* (see Art. 30*bis*)

Art. 125. The appointment of the legal secretaries recruited by the Court of Arbitration on the basis of the Act of 28 June 1983 on the organization, jurisdiction and operation of the Court of Arbitration shall become final.

Art. 126. The provision of Article 41, first paragraph, on holding a degree of Doctor or Licentiate of Law shall not apply to registrars in office on the effective date of the present Act.

Art. 127. The following shall be repealed:

1° in the Judicial Code:

a) in Article 1082, second paragraph, amended by the Act of 10 May 1985, the words “unless the second appeal relies exclusively upon the annulment by the Court of Arbitration of the provision of a statute or decree which formed the basis of the challenged decision”;

b) Title VIII of Volume III and Article 1147*bis*, inserted by the Act of 10 May 1985;

2° Article 31*bis* of the laws on the Council of State, coordinated on 12 January 1973, inserted by the Act of 10 May 1985;

3° the Act of 28 June 1983 on the organization, jurisdiction and operation of the Court of Arbitration, as amended by the Act of 31 December 1983, with the exception of Articles 31 to 34 and 112;

4° Article 5 of the Act of 2 February 1984 on the salaries of the members, legal secretaries and registrars of the Court of Arbitration, their nomination and appointment, and acts of defamation and violence against members of this Court; 5° the Act of 10 May 1985 on the effects of the annulment judgments delivered by the Court of Arbitration

Art. 128. Article 34, § 5 shall become effective at the latest from the third appointment following the entry into force of the Special Act of 9 March 2003 amending the Special Act of 6 January 1989 on the Court of Arbitration.

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