



CONSTITUTIONAL COURT OF THE CZECH REPUBLIC



The Grand Council Room, which serves for receiving important visits and as a representative meeting room



ROLE OF THE CONSTITUTIONAL COURT

The main task of the Constitutional Court is to **protect constitutionality and fundamental human rights and freedoms**. Despite being termed a court, it operates outside the general court system.

Among its most visible competences are to **review the constitutionality of laws and the constitutionality and legality of other legal regulations**. It also decides on **constitutional complaints** against final decisions or other interference by public authorities with constitutionally guaranteed rights and freedoms.

The Court cannot initiate proceedings on its own initiative. **It acts solely upon petitions** from complainants (petitioners).

JUSTICES OF THE CONSTITUTIONAL COURT

A citizen of good standing of the Czech Republic is eligible for appointment as a Justice of the Constitutional Court provided that she or he is **at least 40 years of age**, has a **university education in the law**, and has been **active in a legal profession for at least ten years**.

The office of Justice of the Constitutional Court cannot be held by the President of the Republic, a member of Parliament, a person holding another office in public administration, or one holding any other paid office or gainful activity (other than a scientific, teaching, or artistic pursuit). Moreover, a Justice of the Constitutional Court may not be a member of any political party or movement.

The **Justices of the Constitutional Court are appointed by the President of the Republic with consent of the Senate** of the Parliament of the Czech Republic. They assume their duties upon taking the oath of office administered by the President of the Republic.

The **President and two Vice-Presidents** of the Constitutional Court are also named by the President of the Republic, who chooses them from among the Justices of the Constitutional Court and needs no further approval from any other body for their appointment.

The Constitutional Court is composed of fifteen Justices. Their term of office is ten years.

Cases are decided by **three-member panels** or by the **Plenum** (full bench). A Justice Rapporteur assigned to each case may decide, as a single judge, to dismiss certain petitions if they do not satisfy legal requirements.



HISTORY OF CONSTITUTIONAL ADJUDICATION IN THE CZECH REPUBLIC

The roots of constitutional adjudication on Czech soil trace back to just after formation of the Czechoslovak Republic. A specialized judicial body, the world's first to bear the name "Constitutional Court," was established by the Constitution of 1920. Its primary role was to review the constitutionality of laws. While the Czechoslovak Constitutional Court's impact on the legal and political landscape was minimal, its significance is better appreciated in the historical legacy that its successors have built upon since the fall of totalitarianism in 1989.

For reasons that were quite clear at the time, the post-1948 and 1960 constitutions did not envisage a constitutional court. A rather peculiar situation arose after the country was federalized in 1968, because the constitutional law of the Czechoslovak federation envisioned a federal constitutional court as well as constitutional courts for each of the two national republics. Nevertheless, these courts were never established.


It was only after collapse of the communist regime that a genuinely operating Constitutional Court of the Czech and Slovak Federative Republic was established pursuant to the Federal Constitutional Act of February 1991. Though short-lived, this body reviewed more than one thousand cases, laying a foundation for the work of the Constitutional Court of the now independent Czech Republic, which began its activities on 15 July 1993.

ABOUT THE SEAT OF THE CONSTITUTIONAL COURT

Since its establishment in 1993, the Constitutional Court has been seated in a building that was constructed in the years **1875–1878** for the purposes of the **Moravian Land Diet (Moravian Parliament)**. It was designed in Neo-Renaissance style by the renowned Viennese architects Robert Raschka and Anton Hefft. It is one of the most extraordinary and important buildings on Brno's ring road. It is significant for its history, architecture, and the institution that has been housed there for over thirty years.



The Assembly Hall, where the judgments of the Plenum of the Constitutional Court are pronounced and public oral hearings are held.



A court room, where the judgments of the Constitutional Court panels are pronounced

DECIDING ON CONSTITUTIONAL COMPLAINTS

In individual cases, the Constitutional Court issues two basic types of decisions: **judgments** and **resolutions**.

If the Constitutional Court finds grounds **to review the merits of a case**, it decides **by a judgment**. In such case, it will decide upon the merits while addressing the individual objections and evaluating them. By such a ruling, the Court may **uphold** the complaint (in whole or in part) or **reject** it.

If the Constitutional Court upholds the complaint, it shall in most cases **annul the contested decisions** (or do so in part). If it rejects the complaint, it shall state the reasons for its verdict. Whether upholding or rejecting a complaint, the **conclusions of the judgments are relevant** also for future decisions of the Constitutional Court in similar cases.

In case the Constitutional Court concludes that a **petition** to initiate proceedings should be **dismissed**, it shall decide by **resolution**. A constitutional complaint is dismissed for being manifestly unfounded or for procedural or formal reasons.

DECIDING ON PETITIONS TO ANNUL LAWS AND REGULATIONS

If the Constitutional Court finds that a law (or a part thereof) is **unconstitutional**, it will decide by a **judgment on its annulment**. The law will cease to be valid as of the date determined by the Constitutional Court in its judgment. The Constitutional Court is therefore sometimes referred to as a “negative legislator”.

With regard to **other legal regulations**, the Constitutional Court examines whether they are in conflict with the constitutional order or law. If it finds such a conflict, it will annul such regulation (in whole or in part).

Decisions of the Constitutional Court are **final** and cannot be appealed. Enforceable decisions of the Constitutional Court are **binding on all authorities and persons**.



CONSTITUTIONAL COURT IN NUMBERS

Approximately **3,500 to 4,000 cases** are filed with the Constitutional Court **each year**, of which around **200** are decided **by judgment** and the remainder by resolution.

Each Justice receives an average **260 constitutional complaints per year**. For this reason, the Justice has available to him or her **legal assistants** (other lawyers) with whom he or she consults on cases. The Justice instructs them to prepare documentation and draft certain passages of future decisions.

On average, the Justices of the Constitutional Court uphold only 5% of the petitions upon which they rule. This does not mean, however, that they do not rigorously and responsibly protect human rights.

Indeed, the Constitutional Court quite rarely intervenes in the decisions of the general courts and other public authorities. This is nevertheless good news for the Czech judiciary and other decision-making bodies. That is because **in about 95% of cases**, there is **no need to interfere with the decisions** made because the fundamental human rights and freedoms of the parties have been respected. On the other hand, those 5% of cases in which the ruling is in favour of the petitioner only underlines the **necessity and importance of the Constitutional Court's existence**. The Constitutional Court is thus a kind of **"emergency brake"** to prevent violations of constitutionality and of fundamental rights.

WHEN AND HOW CAN A PERSON TURN TO THE CONSTITUTIONAL COURT?

Anyone who believes that a decision of a court or other public authority has infringed upon one of her or his fundamental rights and who has exhausted all available legal remedies has the possibility to lodge a constitutional complaint. The complaint must be prepared by an **attorney** and must be filed **within two months of the delivery of the last decision**. It may be delivered to the Constitutional Court in person at the registry office, via data box, or by post.



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