

**Law on the Federal Constitutional Court  
(Federal Constitutional Court Act [BVerfGG])**

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*Translation by the Federal Constitutional Court*

**Part I  
Constitution and Jurisdiction  
of the Federal Constitutional Court**

**§ 1**

- (1) The Federal Constitutional Court shall be a federal court of justice, unaffiliated with, and independent of, all other constitutional organs.
- (2) The seat of the Federal Constitutional Court shall be Karlsruhe.
- (3) The Federal Constitutional Court shall establish rules of procedure, which shall be adopted by the Plenary.

**§ 2**

- (1) The Federal Constitutional Court shall consist of two Senates.
- (2) Eight Justices shall be elected to each Senate.
- (3) Three Justices of each Senate shall be elected from among the judges of the Supreme Federal Courts. Only judges who have served at least three years with one of the Supreme Federal Courts should be elected.

**§ 3**

- (1) The Justices must be 40 years of age, be eligible for election to the *Bundestag*, and must have stated in writing that they are willing to become a member of the Federal Constitutional Court.
- (2) They must be eligible for judicial office pursuant to the German Judiciary Act or must have acquired, on or before 3 October 1990, the qualification of a *Diplomjurist* in the territory named in Art. 3 of the Unification Treaty and must be allowed, pursuant to the Unification Treaty, to work in a regulated legal profession.
- (3) They may not be members of the *Bundestag*, the *Bundesrat*, the Federal Government, or of any of the corresponding organs of a *Land*. Upon their appointment they shall cease to be members of such organs.
- (4) The office of a Justice shall preclude any other professional occupation save that of a professor of law at a German university. The judicial office at the Federal Constitutional Court shall take precedence over service as a professor.

**§ 4**

- (1) The term of office of the Justices shall be twelve years, notwithstanding the age of retirement.
- (2) Immediate or subsequent re-election of Justices shall not be permissible.

(3) A Justice shall reach retirement age at the end of the month in which he or she turns 68 years of age.

(4) Upon expiration of their terms of office, the Justices shall continue to fulfil their functions until a successor is appointed.

## § 5

(1) One half of each Senate's Justices shall be elected by the *Bundestag*, the other half by the *Bundesrat*. Of those Justices to be selected from among the judges of the Supreme Federal Courts, one shall be elected by one of the electoral organs and two by the other; of the remaining Justices, three shall be elected by one organ and two by the other.

(2) The Justices shall be elected no earlier than three months before the expiration of their predecessors' terms of office or, if the *Bundestag* is dissolved at the time, within one month of the first meeting of the *Bundestag*.

(3) If a Justice leaves office prematurely, the successor shall within one month be elected by the same federal organ that elected the Justice who left office.

## § 6

(1) The Justices who are to be elected by the *Bundestag* shall without prior debate be elected by secret ballot and upon a proposal by the Electoral Committee pursuant to section 2. To be elected, a Justice must obtain a two-thirds majority of the votes cast and at least a majority among the members of the *Bundestag*.

(2) The *Bundestag* shall, pursuant to the principles of proportional representation, elect an Electoral Committee for the Justices of the Federal Constitutional Court which consists of twelve members of the *Bundestag*. Each parliamentary group may propose a list of candidates for the Committee. The number of candidates elected from each list shall be calculated from the total number of votes cast for each list pursuant to the d'Hondt method. The members shall be elected in the order in which their names appear on the list. A member of the Electoral Committee who leaves office or is unable to perform his or her functions shall be replaced by the member who was proposed next on the same list.

(3) The eldest member of the Electoral Committee shall without delay call a meeting of the Electoral Committee, subject to a one week notification period, and shall chair the meeting, which shall continue until proposals for all Justices to be elected have been passed.

(4) The members of the Electoral Committee are obliged to maintain confidentiality concerning the candidates' personal circumstances which become known to them as a result of their work in the Committee, as well as about the Committee's discussions on this issue and the casting of votes.

(5) A proposal shall require at least eight votes in the Electoral Committee to pass.

## § 7

The Justices who are to be elected by the *Bundesrat* shall be elected by two thirds of the votes of the *Bundesrat*.

## § 7a

(1) If, within two months of the expiration of a Justice's term of office or his or her early departure from office, no successor has been elected pursuant to § 6, the eldest member of the Electoral Committee shall without delay request the Federal Constitutional Court to propose candidates for election.

(2) The Plenary of the Federal Constitutional Court shall decide with a simple majority whom to propose as a candidate. If only one Justice is to be elected, the Federal Constitutional Court shall propose three candidates; if several Justices are to be elected simultaneously, the Federal Constitutional Court shall propose twice as many candidates as Justices are to be elected. § 16 sec. 2 shall apply accordingly.

(3) If the Justice is to be elected by the *Bundesrat*, sections 1 and 2 shall apply with the stipulation that the tasks of the Electoral Committee's eldest member shall be executed by the President of the *Bundesrat* or the President's deputy.

(4) The electoral organ's right to elect a candidate not proposed by the Federal Constitutional Court shall not be affected.

## § 8

(1) The Federal Ministry of Justice and Consumer Protection shall compile a list of all federal judges who meet the requirements of § 3 secs.1 and 2.

(2) The Federal Ministry of Justice and Consumer Protection shall keep another list in which it shall enter all candidates who were proposed by a *Bundestag* parliamentary group, the Federal Government or a *Land* government for the office of a Federal Constitutional Court Justice, and who meet the requirements of § 3 secs.1 and 2.

(3) The lists shall be continually updated; at least one week before an election, they shall be forwarded to the Presidents of the *Bundestag* and *Bundesrat*.

## § 9

(1) The *Bundestag* and the *Bundesrat* shall alternately elect the President and the Vice-President of the Federal Constitutional Court. The Vice-President shall be elected from the Senate of which the President is not a member.

(2) In the first election, the *Bundestag* shall elect the President and the *Bundesrat* the Vice-President.

(3) §§ 6 and 7 shall apply accordingly.

## § 10

The Federal President shall appoint the elected Justices.

## § 11

(1) On assuming office, the Justices of the Federal Constitutional Court shall take the following oath before the Federal President:

"I swear that I shall, as an impartial judge, at all times faithfully observe the Basic Law of the Federal Republic of Germany, and that I shall faithfully perform my judicial duties towards everyone. So help me God."

If the oath is taken by a female Justice, the words "*als gerechter Richter*" (as an impartial judge) are replaced by the words "*als gerechte Richterin*".

(2) If a Justice adheres to a religious denomination whose members are permitted by law to use a different form of affirmation, the Justice may do so.

(3) The oath may be taken without the religious affirmation.

## § 12

The Justices of the Federal Constitutional Court may at any time request to be discharged from office. The discharge shall be declared by the Federal President.

## § 13

The Federal Constitutional Court shall decide

1. on the forfeiture of fundamental rights (Art. 18 of the Basic Law),
2. on the unconstitutionality of political parties (Art. 21 sec. 2 of the Basic Law),
3. on complaints against decisions of the *Bundestag* relating to the validity of an election or to the acquisition or loss of a seat in the *Bundestag* (Art. 41 sec. 2 of the Basic Law),
- 3a. on complaints by groups of individuals regarding their non-recognition as a political party for an election to the *Bundestag* (Art. 93 sec. 1 no. 4c of the Basic Law),
4. on the impeachment of the Federal President by the *Bundestag* or the *Bundesrat* (Art. 61 of the Basic Law),
5. on the interpretation of the Basic Law in the event of disputes concerning the extent of the rights and obligations of one of the highest federal organs or of other parties who have been vested with own rights by the Basic Law or by the rules of procedure of one of the highest federal organs (Art. 93 sec. 1 no. 1 of the Basic Law),
6. in case of disagreements or doubts regarding the formal or substantive compatibility of federal or *Land* law with the Basic Law, or the compatibility of *Land* law with other federal law, upon request by the Federal Government, a *Land* government, or one quarter of the members of the *Bundestag* (Art. 93 sec. 1 no. 2 of the Basic Law),
- 6a. in case of disagreements over whether a law complies with the requirements of Art. 72 sec. 2 of the Basic Law, upon request by the *Bundesrat*, a *Land* government or a *Land* parliament (Art. 93 sec. 1 no. 2a of the Basic Law),
- 6b. on the question of whether in the case referred to in Art. 72 sec. 4 of the Basic Law, a federal regulation pursuant to Art. 72 sec. 2 is no longer necessary, or whether in the cases referred to in Art. 125a sec. 2 sentence 1 of the Basic Law, a law could no longer be passed as federal law, upon request by the *Bundesrat*, a *Land* government or a *Land* parliament (Art. 93 sec. 2 of the Basic Law),
7. in case of disagreements over the rights and obligations of the Federation and the *Laender*, particularly with regard to the implementation of federal law by the *Laender* and the exercise of federal supervision (Art. 93 sec.1 no. 3 and Art. 84 sec. 4 sentence 2 of the Basic Law),
8. in other public-law disputes between the Federation and the *Laender*, between different *Laender*, or within a *Land*, unless there is recourse to other courts (Art. 93 sec. 1 no. 4 of the Basic Law),
- 8a. on constitutional complaints (Art. 93 sec. 1 nos. 4a and 4b of the Basic Law),
9. on the impeachment of federal and *Land* judges (Art. 98 secs. 2 and 5 of the Basic Law),
10. on constitutional disputes within a *Land* if the decision is assigned to the Federal Constitutional Court by *Land* legislation (Art. 99 of the Basic Law),
11. on the compatibility of a federal or *Land* statute with the Basic Law, or the compatibility of a *Land* statute or other *Land* law with a federal statute, at the request of a court (Art. 100 sec. 1 of the Basic Law),

11a. on the question of whether a decision by the *Bundestag* to institute a committee of inquiry is compatible with the Basic Law, upon referral pursuant to § 36 sec. 2 of the Committees of Inquiry Act,

12. in case of doubt whether a rule of public international law is part of federal law and whether it directly creates rights and obligations for individuals, at the request of the court (Art. 100 sec. 2 of the Basic Law),

13. if the constitutional court of a *Land*, in interpreting the Basic Law, intends to deviate from a decision of the Federal Constitutional Court or the constitutional court of another *Land*, at the request of that constitutional court (Art. 100 sec. 3 of the Basic Law),

14. in case of disagreements whether law continues to be valid as federal law (Art. 126 of the Basic Law),

15. such other cases that are assigned to it by federal law (Art. 93 sec. 3 of the Basic Law).

#### § 14

(1) The First Senate of the Federal Constitutional Court shall be competent for judicial review proceedings (§ 13 nos. 6 and 11) in which the main issue is a provision's alleged incompatibility with fundamental rights or with the rights under Arts. 33, 101, 103, and 104 of the Basic Law; it shall also be competent for constitutional complaints, with the exception of constitutional complaints pursuant to § 91 and those concerning electoral law. The same applies if a *Land* government files an application for judicial review (§ 13 no. 6) pursuant to sentence 1, together with an application pursuant to § 13 nos. 6a or 6b.

(2) The Second Senate of the Federal Constitutional Court shall be competent in the cases referred to in § 13 nos. 1 to 5, 6a to 9, 11a, 12, and 14, as well as for judicial review proceedings and constitutional complaints not assigned to the First Senate.

(3) In the cases referred to in § 13 nos. 10 and 13, the competence of the Senates shall be governed by the provisions of sections 1 and 2.

(4) The Plenary of the Federal Constitutional Court may, effective from the beginning of the next judicial year, regulate the Senates' competences in a way that deviates from sections 1 to 3 if this becomes imperative due to a not merely temporary work overload in one of the Senates. This regulation shall also apply to pending proceedings in which an oral hearing or deliberations have not yet taken place. The respective order shall be published in the Federal Law Gazette.

(5) Cases in which it is unclear which Senate is competent shall be decided by a committee consisting of the President, the Vice-President and four Justices, of which each Senate shall appoint two for the duration of a judicial year. In the event of a tied vote, the presiding Justice shall have a casting vote.

#### § 15

(1) The President and the Vice-President of the Federal Constitutional Court shall preside over their respective Senates. Their deputies shall be the most senior Justice of those present in the respective Senate, or in case of the same seniority the eldest Justice.

(2) Each Senate shall have a quorum if at least six Justices are present. If, in a particularly urgent case, a Senate does not have a quorum, the presiding Justice shall order a drawing of lots to designate Justices of the other Senate as substitutes until the quorum is reached. The presiding Justices of the Senates cannot be designated as substitutes. Further details shall be governed by the rules of procedure.

(3) Once deliberations on a case have begun, no other Justices may join. If the Senate loses quorum, the deliberations must begin anew after substitute Justices have joined the Senate.

(4) In proceedings pursuant to § 13 nos. 1, 2, 4, and 9, a two-thirds majority among the members of the Senate is required for any decision to the disadvantage of the respondent. Unless the law provides otherwise, all other cases shall be decided by a majority of the Senate members who participated in the decision. In the event of a tied vote, the Court cannot establish a violation of the Basic Law or other federal law.

#### **§ 15a**

(1) The Senates shall appoint several Chambers for the duration of one judicial year. Each Chamber shall consist of three Justices. The composition of a Chamber should not remain unchanged for more than three years.

(2) Before each judicial year, the Senate shall, for the duration of that year, decide the following issues: the division of proceedings pursuant to § 80 and of constitutional complaints pursuant to §§ 90 and 91 among the reporting Justices; the number and composition of the Chambers; as well as their substitute members.

#### **§ 16**

(1) Should a Senate intend to deviate in a point of law from the legal view contained in a decision by the other Senate, the matter shall be decided by the Plenary of the Federal Constitutional Court.

(2) The Plenary shall have a quorum if two thirds of the Justices of each Senate are present.

### **Part II Constitutional Court Procedure First Section. General Procedural Regulations**

#### **§ 17**

Unless this Act provides otherwise, with regard to admission of the public, police powers in court, the language of the court, deliberations, and the casting of votes, Titles 14 to 16 of the Courts Constitution Act shall apply accordingly.

#### **§ 17a**

(1) In deviation from § 169 sentence 2 of the Courts Constitution Act, TV and radio broadcasts as well as filming and sound recording for public presentation or for the publication of its contents shall be permissible

1. during oral hearings, until the Court has established that the parties are present,
2. during public pronouncements of decisions.

(2) In order to protect legitimate interests of the parties or of third parties, and to ensure the proper course of proceedings, the Federal Constitutional Court may completely or partially prohibit making or transmitting recordings pursuant to section 1, or may subject them to conditions.

#### **§ 18**

(1) A Justice of the Federal Constitutional Court shall be debarred from exercising his or her duties if the Justice

1. is a party to the case or is or was married to a party, is or was living in a civil partnership with one of the parties, is related to one of the parties by blood or marriage in the direct line, by blood up to the third degree or by marriage up to the second degree in the collateral line, or

2. has already been involved in the same case due to the Justice's office or profession.

(2) A Justice who has an interest in the outcome of the proceedings because of his or her marital status, profession, descent, membership in a political party, or because of a similarly general consideration, shall not be regarded as a party to the case.

(3) Involvement for the purposes of section 1 no. 2 shall not include

1. participating in the legislative procedure,

2. expressing a scholarly opinion on a point of law that may be relevant to the case.

## § 19

(1) If a Justice of the Federal Constitutional Court is challenged on grounds of possible bias, the Court shall decide in that Justice's absence; if the votes are tied, the presiding Justice shall have a casting vote.

(2) The reasons for the challenge shall be stated. The challenged Justice shall express him- or herself on the challenge. A challenge shall not be considered if made after the beginning of the oral hearing.

(3) If a Justice who has not been challenged recuses him- or herself, section 1 shall apply accordingly.

(4) If the Federal Constitutional Court has declared a challenge or recusal to be well-founded, lots shall be drawn to select a Justice from the other Senate as a substitute. The presiding Justices of the Senates cannot be designated as substitutes. Further details shall be set out in the rules of procedure.

## § 20

The parties shall have access to the files.

## § 21

If a group of individuals initiates the proceedings, or if proceedings are initiated against such a group, the Federal Constitutional Court may order that the group exercise its rights, especially its right to attend hearings, by appointing one or more representatives.

## § 22

(1) At any stage of the proceedings, the parties may be represented by an attorney or a professor of law who is eligible to hold judicial office, and who teaches at a state or state-recognised institution of higher education of a member state of the European Union, another member state of the European Economic Area, or Switzerland; in the oral hearing before the Federal Constitutional Court, the parties must be represented in this manner. Legislative bodies and those parts of them that their rules of procedure or the Constitution have endowed with own rights may also be represented by their members. The Federation, the *Laender* and their constitutional organs may also be represented by their civil servants, provided that they are eligible to hold judicial office or are qualified for higher administrative service by having passed the required state examinations. The Federal Constitutional Court may also permit another person to act as adviser to a party.

(2) The powers of attorney shall be granted in writing. They must relate expressly to the proceedings at hand.

(3) If an authorised representative has been duly appointed, all notifications by the Court shall be addressed to him or her.

### **§ 23**

(1) Applications which initiate proceedings shall be submitted to the Federal Constitutional Court in writing. They must be substantiated and must list the necessary evidence.

(2) The presiding Justice or, in case of a decision pursuant to § 93c, the reporting Justice, shall without delay serve the following parties with the application, requesting that they submit a statement on the matter within a period specified by him or her: the respondent, other parties to the case, and third parties that have been given the opportunity to submit a statement pursuant to § 27a.

(3) The presiding or reporting Justice may order any party to submit, within a period specified by him or her, the necessary number of copies of the briefs and of the challenged decisions for the Court and the other parties.

### **§ 24**

Inadmissible or clearly unfounded applications may be dismissed by unanimous order of the Court. No further reasons for this order need to be stated if the applicant was previously made aware of the concerns regarding the admissibility or the question whether the application is well-founded.

### **§ 25**

(1) In the absence of provisions to the contrary, the Federal Constitutional Court shall decide on the basis of oral hearings, unless all parties expressly waive them.

(2) Decisions based on oral hearings shall be issued as judgments; decisions rendered without oral hearings as orders.

(3) Decisions on part of an action and interim decisions shall be permitted.

(4) The decisions of the Federal Constitutional Court shall be issued "in the name of the people."

### **§ 25a**

Written minutes shall be taken of oral hearings. The hearings shall also be recorded on tape; further details shall be set out in the rules of procedure.

### **§ 26**

(1) The Federal Constitutional Court shall take the evidence necessary to establish the truth. Outside of oral hearings, it may assign this task to a member of the Court, or may ask another court to do so with regard to specific facts and individuals.

(2) If so decided by a two-thirds majority of the members of the Court, the Court may refrain from requesting or using documents if their use would endanger national security.

### **§ 27**

All courts and administrative authorities shall provide the Federal Constitutional Court with legal and inter-administrative assistance. If the Federal Constitutional Court asks for the files of initial proceedings, they shall be submitted directly to the Court.

### **§ 27a**

The Federal Constitutional Court may give expert third parties the opportunity to submit statements.

### **§ 28**

(1) With regard to the examination of witnesses and experts, the provisions of the Code of Criminal Procedure shall apply in the cases referred to in § 13 nos. 1, 2, 4, and 9; in all other cases, the provisions of the Code of Civil Procedure shall apply.

(2) If a witness or expert may only be examined with the consent of a superior authority, such consent may only be refused if this is necessary for the welfare of the Federation or a *Land*. The witness or expert may not plead an obligation to maintain secrecy if the Federal Constitutional Court with a two-thirds majority of its members declares that the refusal to grant permission to testify is unfounded.

### **§ 29**

The parties shall be notified of all evidentiary hearings and may attend them. They may ask the witnesses and experts questions. If a question is objected to, the Court shall decide.

### **§ 30**

(1) The Federal Constitutional Court shall decide in secret deliberations at its own discretion and according to its conviction that results from the proceedings and the evidence taken. The decision shall be put in writing, shall give reasons, and shall be signed by the participating Justices. If an oral hearing has been held, the decision as well as the main reasons for it shall be publicly pronounced. The date of pronouncement may be announced during the oral hearing or may be set after deliberations; in the latter case, it shall be notified to the parties without delay. No more than three months should lie between the end of the oral hearing and the pronouncement of the decision. The date may be altered by an order of the Federal Constitutional Court.

(2) If, during deliberations, a Justice expressed a differing view on the decision or its reasoning, the Justice may set forth these views in a separate opinion; the separate opinion shall be annexed to the decision. The Senates may disclose in their decisions the proportions of votes. Further details shall be set out in the rules of procedure.

(3) All decisions shall be notified to the parties.

### **§ 31**

(1) The decisions of the Federal Constitutional Court shall be binding upon federal and *Land* constitutional organs as well as on all courts and administrative authorities.

(2) In the cases referred to in § 13 nos. 6, 6a, 11, 12, and 14, the decision of the Federal Constitutional Court shall have the force of law. This shall also apply in the cases referred to in § 13 no. 8a if the Federal Constitutional Court declares a law to be compatible or incompatible with the Basic Law or if it voids the law. If a law is declared to be compatible or incompatible with the Basic Law or other federal law, or if it is voided, the relevant operative part of the decision shall be published in the Federal Law Gazette by the Federal Ministry of Justice and Consumer Protection. This shall apply accordingly to the operative part of the decision in the cases referred to in § 13 nos. 12 and 14.

### **§ 32**

(1) In a dispute, the Federal Constitutional Court may provisionally decide a matter by way of a preliminary injunction if this is urgently required to avert severe disadvantage, prevent imminent violence, or for other important reasons in the interest of the common good.

(2) The preliminary injunction may be issued without an oral hearing. In particularly urgent cases, the Federal Constitutional Court may refrain from giving the parties to the principal proceedings, the parties entitled to join, or the parties entitled to submit statements the opportunity to submit statements.

(3) A protest may be lodged if the preliminary injunction is issued or refused by an order of the Court. This shall not apply to the complainant in constitutional complaint proceedings. The Federal Constitutional Court shall decide on the protest after an oral hearing. The hearing shall be held within two weeks of receiving the reasons for the protest.

(4) A protest against a preliminary injunction shall not have suspensive effect. The Federal Constitutional Court may stay the execution of the preliminary injunction.

(5) The Federal Constitutional Court may announce its decision on the preliminary injunction or on the protest without giving reasons. In this case, the reasons shall be separately notified to the parties involved.

(6) The preliminary injunction shall cease to have effect after six months. It may be renewed with a two-thirds majority of the votes.

(7) If a Senate does not have a quorum, a preliminary injunction may be issued in particularly urgent cases if at least three Justices are present and the decision is taken unanimously. The preliminary injunction shall cease to have effect after one month. If it is confirmed by the Senate, it shall cease to have effect six months after the date of issue.

### **§ 33**

(1) The Federal Constitutional Court may suspend proceedings until a case pending before another court is concluded, if the findings or the decision of that court might be of relevance to its own decision.

(2) The Federal Constitutional Court may base its decision on the findings of facts of a final judgment rendered in a case in which the truth was to be established *ex officio*.

### **§ 34**

(1) The proceedings before the Federal Constitutional Court shall be free of charge.

(2) The Federal Constitutional Court may charge a fee of up to EUR 2,600 if lodging the constitutional complaint or the complaint pursuant to Art. 41 sec. 2 of the Basic Law is abusive, or if an application for a preliminary injunction (§ 32) is made in an abusive way.

(3) § 59 sec. 1 of the Federal Budget Code shall apply accordingly to the collection of the fee.

### **§ 34a**

(1) If an application for the forfeiture of fundamental rights (§ 13 no. 1) or the impeachment of the Federal President (§ 13 no. 4) or a judge (§ 13 no. 9) proves to be unfounded, the respondent or the accused shall be reimbursed the necessary expenses, including the costs of the defence.

(2) If a constitutional complaint proves to be well-founded, the complainant shall be reimbursed for the necessary expenses, either completely or in part.

(3) In all other cases, the Federal Constitutional Court may order the full or partial reimbursement of expenses.

## § 35

The Federal Constitutional Court's decision may specify who is to execute it; in individual cases, it may also specify the method of execution.

### **Second Section. Access to Files Outside of Proceedings**

#### § 35a

Applications for information from or access to files of the Federal Constitutional Court that are filed outside of proceedings and that concern personal data shall be governed by the Federal Data Protection Act unless the provisions set out below stipulate otherwise.

#### § 35b

(1) Information from or access to files of the Federal Constitutional Court may be provided to:

1. public entities, to the extent necessary for the administration of justice, or if the requirements set out in § 14 sec. 2 no. 4, and nos. 6 to 9 of the Federal Data Protection Act are met,

2. individuals and other non-public entities, to the extent that they can prove a legitimate interest; information from and access to files shall be denied if the party concerned has a legitimate interest in the information not being released. § 16 sec. 3 of the Federal Data Protection Act shall not apply; each release of information as well as each case of access to the files shall be recorded in the files. Information from or access to files may also be provided to the extent that the party concerned has consented.

(2) Access to files shall only be granted if reasons are given to establish that merely disclosing information would be insufficient for the public entity that made the request (sec. 1 no. 1) to fulfil its tasks, or that the legitimate interests of the individual or other non-public entity that made the request (section 1 no. 2) would not be satisfied, or if providing information would require an unreasonable effort.

(3) Information from files that were requested by the Court but not made part of the case file may only be disclosed if the party requesting the files is able to demonstrate the consent of the entity whose files are at issue; the same applies to access to such files.

(4) The files of the Federal Constitutional Court shall not be forwarded. They may, however, be forwarded to public entities if access to the files may be granted pursuant to section 2 or if, due to special circumstances, an individual is to be permitted to access the files at that public entity.

(5) Access to files of the Federal Constitutional Court that are kept at or by the Federal Archives as temporarily archived documents shall be governed by the archive laws beginning 30 years after the conclusion of the proceedings. After 60 years, these laws shall apply to drafts of judgments, orders and decrees as well as to preparatory works, and to documents relating to the casting of votes. The Federal Constitutional Court shall retain the right to claim transferred documents which are kept at the Federal Archives with preferential access and at any time if required for internal or procedural purposes. Upon request and for this purpose, they are to be sent to it immediately.

(6) Files on Chamber decisions that are not intended for publication, including drafts of decisions and decrees, as well as preparatory works, and documents relating to the casting of votes, may be destroyed 30 years after the last decision in the matter if the Federal Archives consents.

(7) Files on matters that have been recorded in the General Register and have not been transferred to the Register of Proceedings may be destroyed five years after the last decision in the matter if the Federal Archives consents.

### **§ 35c**

The Federal Constitutional Court may use personal data filed in a case before the Court for subsequent proceedings.

## **Part III**

### **Specific Types of Proceedings**

#### **First Section. Procedure in the Cases Referred to in § 13 no. 1**

#### **[Forfeiture of Fundamental Rights]**

### **§ 36**

The *Bundestag*, the Federal Government, or the government of a *Land* may request a decision pursuant to Art. 18 sentence 2 of the Basic Law.

### **§ 37**

The Federal Constitutional Court shall give the respondent the opportunity to submit a statement within a specified period, after which it shall decide whether the application must be rejected as inadmissible or as insufficiently substantiated, or whether it must conduct proceedings.

### **§ 38**

(1) After receiving the application, the Federal Constitutional Court may order a seizure or search pursuant to the provisions of the Code of Criminal Procedure.

(2) The Federal Constitutional Court may order a preparatory investigation to prepare the oral hearing. The preparatory investigation shall be conducted by a Justice of the Senate that is not responsible for the principal proceedings.

### **§ 39**

(1) If the application proves to be well-founded, the Federal Constitutional Court shall declare which fundamental rights the respondent has forfeited. It may limit the forfeiture to a specific period of time, the minimum being one year. It may also impose upon the respondent restrictions of clearly specified type and duration, provided that they do not adversely affect fundamental rights other than those which the respondent forfeited. To this extent, administrative authorities shall not require any further legal basis for action against the respondent.

(2) The Federal Constitutional Court may, for the duration of the forfeiture of fundamental rights, deny the respondent the right to vote, the right to stand for election, and the capacity to hold public office and may, in the case of legal persons, order that they be dissolved.

### **§ 40**

If the forfeiture is of unlimited duration or has been declared for a period of more than one year, and if two years have passed since the declaration of the forfeiture, the Federal Constitutional Court may, upon request of the former applicant or respondent, cancel the forfeiture completely or in part, or reduce its duration. The request may be repeated if one year has passed since the last decision by the Federal Constitutional Court.

#### § 41

After the Federal Constitutional Court has decided an application on the merits, a second application against the same respondent may only be filed if it is based on new facts.

#### § 42

(deleted)

### **Second Section. Procedure in the Cases Referred to in § 13 no. 2 [Prohibition of Political Parties]**

#### § 43

(1) The *Bundestag*, the *Bundesrat*, or the Federal Government may apply for a decision on whether a political party is unconstitutional (Art. 21 sec. 2 of the Basic Law).

(2) A *Land* government may file an application only against such political parties whose organisational extent is limited to that *Land's* territory.

#### § 44

The representation of the political party shall be determined by the relevant legal provisions, or, in their absence, by the party's bylaws. If the persons entitled to represent the party cannot be determined or do not exist, or if they have changed after the Federal Constitutional Court received the application, the last persons to actually manage the political party's affairs during its activity that led to the application shall be regarded as entitled to represent it.

#### § 45

The Federal Constitutional Court shall give the person entitled to represent the party (§ 44) the opportunity to submit a statement within a specified period, after which it shall decide whether the application must be rejected as inadmissible or as insufficiently substantiated, or whether it must conduct proceedings.

#### § 46

(1) If the application proves to be well-founded, the Federal Constitutional Court shall declare that the political party is unconstitutional.

(2) The declaration may be limited to a legally or organisationally independent section of a political party.

(3) The declaration shall be accompanied by the dissolution of the political party or of its independent section, as well as by the prohibition of establishing substitute organisations. In this case, the Federal Constitutional Court may also declare that the property of the political party or its independent section be confiscated in favour of the Federation or the *Land* to be used for public benefit.

#### § 47

§§ 38 and 41 shall apply accordingly.

**Third Section. Procedure in the Cases Referred to in § 13 no. 3  
[Scrutiny of Elections]**

**§ 48**

(1) Complaints against *Bundestag* decisions concerning the validity of elections, the violation of rights during elections or their preparation, to the degree that they are subject to electoral scrutiny pursuant to Art. 41 of the Basic Law, or against decisions concerning the loss of a seat in the *Bundestag*, may be lodged with the Federal Constitutional Court within two months of the *Bundestag* decision by the representative whose seat is disputed, by an individual or group of individuals who are entitled to vote and whose objections the *Bundestag* rejected, by a parliamentary group, or by a minority in the *Bundestag* that comprises at least one tenth of the statutory number of representatives; reasons for the complaint must be given within this period of time.

(2) The Federal Constitutional Court may refrain from conducting an oral hearing if it would not expedite the proceedings.

(3) If the examination of a complaint by an individual or a group of individuals who are entitled to vote shows a violation of their rights, the Federal Constitutional Court shall state this violation, unless it declares the election invalid.

**Fourth Section. Procedure in the Cases Referred to in § 13 no. 4  
[Impeachment of the Federal President]**

**§ 49**

(1) Impeachment proceedings against the Federal President for intentional violations of the Basic Law or other federal law shall be initiated by submitting a motion for impeachment to the Federal Constitutional Court.

(2) Following a decision by one of the two legislative bodies (Art. 61 sec. 1 of the Basic Law), the president of the entity in question shall prepare the motion for impeachment and send it to the Federal Constitutional Court within one month.

(3) The motion for impeachment must specify the act or omission for which impeachment proceedings are initiated, the evidence as well as the provision of the Constitution or law that allegedly was violated. It must state that the decision to initiate impeachment proceedings was taken by a two-thirds majority among of the statutory number of members of the *Bundestag*, or by two thirds of the votes of the *Bundesrat*.

**§ 50**

Impeachment proceedings may only be initiated within three months after the circumstances on which they are based became known to the entity having legal ability to file an application.

**§ 51**

The initiation and conduct of impeachment proceedings shall not be affected by the resignation of the Federal President, by him or her otherwise leaving office, by the dissolution of the *Bundestag*, or by the end of the legislative period.

## § 52

(1) Until the pronouncement of a judgment, the motion for impeachment may be withdrawn by a decision of the entity that filed the application. This decision must be approved of by the majority of the statutory number of members of the *Bundestag*, or the majority of the votes in the *Bundesrat*.

(2) The president of the entity that filed the application shall withdraw the motion for impeachment by sending a copy of the decision to the Federal Constitutional Court.

(3) The withdrawal of the motion for impeachment shall not take effect if the Federal President objects to it within one month.

## § 53

Following the initiation of impeachment proceedings, the Federal Constitutional Court may issue a preliminary injunction stating that the Federal President is precluded from exercising his or her duties.

## § 54

(1) The Federal Constitutional Court may order a preparatory investigation to prepare the oral hearing; it must issue the order if the representative of the entity initiating impeachment proceedings or the Federal President files an application to this end.

(2) The preparatory investigation shall be conducted by a Justice of the Senate that is not responsible for the principal proceedings.

## § 55

(1) The Federal Constitutional Court shall decide on the basis of an oral hearing.

(2) The Federal President shall be summoned to the oral hearing. The Federal President shall be informed in the summons that the hearing will take place in his or her absence should the Federal President remain absent without excuse or leave early without sufficient reason.

(3) During the oral hearing, the representative of the entity that filed the application shall first read out the motion for impeachment.

(4) Afterwards, the Federal President shall be given the opportunity to submit a statement on the impeachment.

(5) Thereupon, evidence shall be taken.

(6) Ultimately, the representative of the entity that initiated the impeachment proceedings shall present that entity's motion, and the Federal President shall present his or her defence. The Federal President shall have the last word.

## § 56

(1) The Federal Constitutional Court shall declare in its judgment whether the Federal President is guilty of intentionally violating the Basic Law or a specific federal law.

(2) In the event of a conviction, the Federal Constitutional Court may declare that the Federal President has forfeited his or her office. Such forfeiture shall take effect with the pronouncement of the judgment.

## § 57

A copy of the judgment, including the reasons, shall be sent to the *Bundestag*, the *Bundesrat*, and the Federal Government.

### **Fifth Section. Procedure in the Cases Referred to in § 13 no. 9 [Impeachment of Judges]**

## § 58

(1) If the *Bundestag* files a motion for the impeachment of a federal judge pursuant to Art. 98 sec. 2 of the Basic Law, §§ 49 to 55 with the exception of § 49 sec. 3 sentence 2, § 50, and § 52 sec. 1 sentence 2, shall apply accordingly.

(2) If the federal judge is accused of violating a law in his or her official capacity, the *Bundestag* shall not decide before a final decision has been taken in the judicial proceedings or, if formal disciplinary proceedings have been initiated for the same violation, until these proceedings are commenced. The motion for impeachment shall only be admissible within six months of the final completion of the judicial proceedings in which the federal judge was claimed to have committed the violation.

(3) Apart from the cases stated in section 2, a motion for impeachment pursuant to section 1 shall only be admissible within two years of the violation.

(4) A person commissioned by the *Bundestag* shall argue the motion for impeachment before the Federal Constitutional Court.

## § 59

(1) The Federal Constitutional Court shall order one of the measures stipulated in Art. 98 sec. 2 of the Basic Law, or acquittal.

(2) If the Federal Constitutional Court orders removal from office, the forfeiture of office shall take effect with the pronouncement of the judgment.

(3) If it is ordered that the federal judge be transferred to another office or retired, this order shall be carried out by the authority that is competent for the removal.

(4) A copy of the judgment, including the reasons, shall be sent to the Federal President, the *Bundestag*, and the Federal Government.

## § 60

As long as proceedings are pending before the Federal Constitutional Court, disciplinary proceedings pending before a disciplinary court that are based on the same facts shall be suspended. If the Federal Constitutional Court orders removal from office, transfer to another office, or retirement, the disciplinary proceedings shall be discontinued; otherwise, they shall be continued.

## § 61

(1) A case shall only be reopened on behalf of the convicted judge, and only upon his or her application or, after the decease of the convicted judge, upon application by his or her spouse, civil partner, or descendant, and under the conditions listed in §§ 359 and 364 of the Code of Criminal Procedure. The application must state the legal reasons for reopening the case as well as the supporting evidence. The application to reopen the case shall not suspend the effect of the judgment.

(2) The Federal Constitutional Court shall decide on the admissibility of the application without an oral hearing. §§ 368, 369 secs. 1, 2, and 4, as well as § 370 and § 371 secs. 1 to 3 of the Code of Criminal Procedure shall apply accordingly.

(3) The new principal proceedings shall either uphold the previous judgment, or order a more lenient measure or acquittal.

## § 62

In so far as *Land* constitutional law which continues to apply pursuant to Art. 98 sec. 5 sentence 2 of the Basic Law does not provide otherwise, the provisions contained in this section shall also apply if the law of a *Land* contains a regulation for *Land* judges which corresponds to Art. 98 sec. 2 of the Basic Law.

## Sixth Section. Procedure in the Cases Referred to in § 13 no. 5 [Disputes Between Constitutional Organs]

## § 63

Applicants and respondents may only be: the Federal President, the *Bundestag*, the *Bundesrat*, the Federal Government, and such parts of these organs that are vested with own rights pursuant to the Basic Law or the rules of procedure of the *Bundestag* and *Bundesrat*.

## § 64

(1) The application shall only be admissible if the applicant asserts that an act or omission of the respondent violated or directly threatened the rights and obligations awarded to the applicant or to the applicant's organ by the Basic Law.

(2) The application shall state the provision of the Basic Law which was violated by the respondent's contested act or omission.

(3) The application must be filed within six months after the applicant gained knowledge of the contested act or omission.

(4) If the time limit expired before this act entered into force, the application may be filed within three months after the act's entry into force.

## § 65

(1) The applicant and the respondent may be joined at any stage of the proceedings by other parties having legal ability to file an application and mentioned in § 63, if the decision is also relevant for delimiting their competences.

(2) The Federal Constitutional Court shall notify the Federal President, the *Bundestag*, the *Bundesrat*, and the Federal Government of the initiation of proceedings.

## § 66

The Federal Constitutional Court may join pending proceedings and separate joined ones.

#### § 66a

The Federal Constitutional Court may decide without an oral hearing in proceedings pursuant to § 13 no. 5 in conjunction with § 2 sec. 3 of the Committees of Inquiry Act, as well as in proceedings pursuant to § 18 sec. 3 of the Committees of Inquiry Act, also in conjunction with §§ 19 and 23 sec. 2 of the Committees of Inquiry Act. The same applies to applications pursuant to § 14 of the Act on Parliamentary Oversight of Intelligence Activities by the Federal Government in conjunction with § 63.

#### § 67

The Federal Constitutional Court shall declare in its decision whether the respondent's contested act or omission violates a provision of the Basic Law. It shall specify the exact provision. In the operative part of the decision, the Federal Constitutional Court may at the same time decide on a point of law that is essential for interpreting the provision of the Basic Law on which the declaration referred to in sentence 1 depends.

### **Seventh Section. Procedure in the Cases Referred to in § 13 no. 7 [Disputes Between the Federation and the *Laender*]**

#### § 68

Applicants and respondents may only be: for the Federation, the Federal Government; for a *Land*, the *Land* Government.

#### § 69

§§ 64 to 67 shall apply accordingly.

#### § 70

Decisions of the *Bundesrat* pursuant to Art. 84 sec. 4 sentence 1 of the Basic Law may only be challenged within one month.

### **Eighth Section. Procedure in the Cases Referred to in § 13 no. 8 [Other Public-Law Disputes Between the Federation and the *Laender*, among *Laender*, or within one *Land*]**

#### § 71

(1) Applicants and respondents may only be:

1. in public-law disputes between the Federation and the *Laender* pursuant to Art. 93 sec. 1 no. 4 of the Basic Law: the Federal Government and the *Land* governments;
2. in public-law disputes among *Laender* pursuant to Art. 93 sec. 1 no. 4 of the Basic Law: the *Land* governments;
3. in public-law disputes within a *Land* pursuant to Art. 93 sec. 1 no. 4 of the Basic Law: the highest organs of the *Land* and those parts of these organs that are vested with own rights by the organ's rules of procedure or by the *Land* constitution, if their rights or competences are directly affected by the dispute.

(2) § 64 sec. 3 shall apply accordingly.

## § 72

(1) The Federal Constitutional Court may declare in its decision:

1. an act to be permissible or impermissible;
2. the respondent to be obliged to desist from an act, to reverse it, to execute it, or to tolerate it;
3. the obligation to grant a benefit.

(2) In the proceedings pursuant to § 71 sec. 1 no. 3, the Federal Constitutional Court shall declare whether the respondent's contested act or omission violates a provision of the *Land* constitution. § 67 sentences 2 and 3 shall apply accordingly.

### **Ninth Section. Procedure in the Cases Referred to in § 13 no. 10 [Constitutional Disputes Within a *Land*]**

## § 73

(1) Only the highest organs of a *Land* and those parts of these organs that are vested with own rights by the organ's rules of procedure or by the *Land* constitution may be parties to a constitutional dispute within a *Land*.

(2) § 64 sec. 3 shall apply accordingly in so far as *Land* law does not provide otherwise.

## § 74

If *Land* law does not stipulate possible contents and effects of the Federal Constitutional Court's decision, § 72 sec. 2 shall apply accordingly.

## § 75

Concerning the proceedings, the general provisions of Part II of this Act shall apply accordingly.

### **Tenth Section. Procedure in the Cases Referred to in § 13 nos. 6 and 6a [Abstract Judicial Review of Statutes]**

## § 76

(1) Applications pursuant to Art. 93 sec. 1 no. 2 of the Basic Law that are filed by the Federal Government, a *Land* government, or one quarter of the *Bundestag* members shall only be admissible if the applicant considers federal or *Land* law to be

1. void due to being formally or substantively incompatible with the Basic Law or other federal law, or
2. valid even though a court, an administrative authority, or a federal or *Land* organ did not apply the law because it deemed it to be incompatible with the Basic Law or other federal law.

(2) Applications pursuant to Art. 93 sec. 1 no. 2a of the Basic Law by the *Bundesrat*, a *Land* government or a *Land* parliament shall only be admissible if the applicant considers a federal law to be void for failing to meet the requirements of Art. 72 sec. 2 of the Basic Law; the application may also be based on the applicant's opinion that the federal law is void because it fails to meet the requirements of Art. 75 sec. 2 of the Basic Law.

## § 77

The Federal Constitutional Court shall give the following entities the opportunity to submit statements within a specified period:

1. in the cases referred to in § 76 sec. 1, the *Bundestag*, the *Bundesrat*, and the Federal Government; in case of disagreements concerning the validity of federal law also to the *Land* governments; and in case of disagreements over the validity of *Land* law, to the parliament and government of the *Land* in which the law was promulgated;

2. in the cases referred to in § 76 sec. 2, the *Bundestag*, the *Bundesrat*, the Federal Government, and the parliaments and governments or the *Laender*.

## § 78

If the Federal Constitutional Court comes to the conclusion that federal law is incompatible with the Basic Law, or that *Land* law is incompatible with the Basic Law or other federal law, it shall void the law. If further provisions of the same law are incompatible with the Basic Law or other federal law for the same reasons, the Federal Constitutional Court may void them as well.

## § 79

(1) A case that was based on a law that was declared to be incompatible with the Basic Law or was voided pursuant to § 78, or that was based on an interpretation of a law that the Federal Constitutional Court declared to be incompatible with the Basic Law may be reopened pursuant to the provision of the Code of Criminal Procedure to challenge a final conviction.

(2) In all other cases, but subject to § 95 sec. 2 or to specific statutory provisions, non-appealable decisions based on a law that was voided pursuant to § 78 shall remain unaffected. The execution of such a decision is not permissible. Where compulsory execution is governed by the provisions of the Code of Civil Procedure, § 767 of the Code of Civil Procedure shall apply accordingly. Claims arising from unjust enrichment shall not be permissible.

### **Eleventh Section. Procedure in the Cases Referred to in § 13 nos. 11 and 11a [Judicial Review of Statutes; Judicial Review of Decisions to Institute a Committee of Inquiry]**

## § 80

(1) If the requirements of Art. 100 sec. 1 of the Basic Law are met, a court shall directly request a decision by the Federal Constitutional Court.

(2) The court must indicate in which respect its decision depends on the validity of the legal provision in question, and which superior legal provision that provision is incompatible with. It shall also submit its files.

(3) The request of the court shall be independent of a party to the proceedings claiming that the legal provision is void.

## § 81

The Federal Constitutional Court shall decide solely on the relevant point of law.

### § 81a

The Chamber may, by unanimous order, declare a request pursuant to § 80 to be inadmissible. The decision shall pertain to the Senate if the request is made by a *Land* constitutional court or by a Supreme Federal Court.

### § 82

(1) §§ 77 to 79 shall apply accordingly.

(2) The constitutional organs named in § 77 may join the proceedings at any stage.

(3) The Federal Constitutional Court shall also give the parties to the initial proceedings the opportunity to submit a statement; it shall summon them to the oral hearing and give the floor to their authorised representatives.

(4) The Federal Constitutional Court may inquire with Supreme Federal Courts or with highest *Land* courts how and on the basis of which considerations they have hitherto interpreted the Basic Law regarding the question in dispute, whether and how they have applied the contested legal provision in their past decisions, and which related points of law are awaiting their decision. It may also ask them to explain their considerations on a point of law that is essential for the decision. The Federal Constitutional Court shall notify the parties entitled to submit statements of such statements.

### § 82a

(1) Subject to the provisions of sections 2 and 3, §§ 80 to 82 shall apply accordingly to an examination referred to the Court pursuant to § 36 sec. 2 of the Committees of Inquiry Act of whether a decision by the German *Bundestag* to institute a committee of inquiry is compatible with the Basic Law.

(2) Statements may be submitted by the *Bundestag* and the qualified minority pursuant to Art. 44 sec. 1 of the Basic Law, on whose application the decision to institute the committee of inquiry is based. Furthermore, the Federal Constitutional Court may give the Federal Government, the *Bundesrat*, the *Land* governments, the qualified minority pursuant to § 18 sec. 3 of the Committees of Inquiry Act, as well as individuals, as far as they are affected by the decision to institute the committee of inquiry, the opportunity to submit statements.

(3) The Constitutional Court may decide without an oral hearing.

## **Twelfth Section. Procedure in the Cases Referred to in § 13 no. 12 [Judicial Review of Public International Law]**

### § 83

(1) In the cases referred to in Art. 100 sec. 2 of the Basic Law, the Federal Constitutional Court shall declare in its decision whether the rule of public international law in question is part of federal law, and whether it directly confers rights and obligations on individuals.

(2) Prior to this, the Federal Constitutional Court shall give the *Bundestag*, the *Bundesrat*, and the Federal Government the opportunity to submit a statement within a specified period. They may join the proceedings at any time.

### § 84

§§ 80 and 82 sec. 3 shall apply accordingly.

**Thirteenth Section. Procedure in the Cases Referred to in § 13 no. 13  
[Referral by a *Land* Constitutional Court]**

**§ 85**

(1) If a decision of the Federal Constitutional Court must be obtained pursuant to Art. 100 sec. 3 sentence 1 of the Basic Law, the *Land* Constitutional Court shall submit its files to the Federal Constitutional Court and state its legal view.

(2) The Federal Constitutional Court shall give the *Bundesrat*, the Federal Government and, if it intends to deviate from a decision by the constitutional court of a *Land*, that court the opportunity to submit a statement within a specified period.

(3) The Federal Constitutional Court shall decide solely on the relevant point of law.

**Fourteenth Section. Procedure in the Cases Referred to in § 13 no. 14  
[Continued Validity of Law as Federal Law]**

**§ 86**

(1) The *Bundestag*, the *Bundesrat*, as well as the Federal and *Land* governments have legal ability to file an application.

(2) If there is a dispute before a court as to whether a law continues to apply as federal law, and this finding is essential for the court's decision, that court shall apply § 80 accordingly and request a decision by the Federal Constitutional Court .

**§ 87**

(1) Applications by the *Bundesrat*, the Federal Government, or by a *Land* government shall only be admissible if the Federal Constitutional Court's decision is essential for the legality of an already executed or immediately forthcoming act by a federal organ, a federal authority, or of a *Land* organ or authority.

(2) The application must show that the requirement of section 1 is met.

**§ 88**

§ 82 shall apply accordingly.

**§ 89**

The Federal Constitutional Court shall declare whether all or part of the law shall continue to apply as federal law in the entire or in a certain part of the federal territory.

**Fifteenth Section. Procedure in the Cases Referred to in § 13 no. 8a  
[Constitutional Complaint]**

**§ 90**

(1) Any individual claiming a violation of one of his or her fundamental rights or of one of his or her rights under Art. 20 sec. 4, Arts. 33, 38, 101, 103, and 104 of the Basic Law by public authority may lodge a constitutional complaint with the Federal Constitutional Court.

(2) If legal recourse to other courts exists, the constitutional complaint may only be lodged after all remedies have been exhausted. However, the Federal Constitutional Court may decide on a constitutional complaint that was lodged before all remedies were exhausted if the complaint is of general relevance or if prior recourse to other courts were to the complainant's severe and unavoidable disadvantage.

(3) The right to lodge a constitutional complaint with a *Land* constitutional court pursuant to the provisions of the *Land* constitution shall remain unaffected.

**§ 91**

Municipalities and associations of municipalities may lodge constitutional complaints claiming that federal or *Land* law violates Art. 28 of the Basic Law. A constitutional complaint may not be lodged with the Federal Constitutional Court if *Land* law permits the complainant to lodge a complaint against the violation of the right to self-government with the *Land* constitutional court.

**§ 91a**

(deleted)

**§ 92**

The reasons for the complaint shall specify the right that was allegedly violated, as well as the act or omission of the organ or authority by which the complainant claims to have been harmed.

**§ 93**

(1) The constitutional complaint shall be lodged and substantiated within one month. This time period shall begin with the service or informal notification of the complete decision if, pursuant to the relevant procedural provisions, the decision must be served or notified *ex officio*. In other instances, the time period shall begin with the decision being pronounced or, if pronouncement is not required, with it being otherwise communicated to the complainant; if the complainant does not receive a copy of the complete decision, the time period pursuant to sentence 1 shall be suspended by the complainant's request, either in writing or by making a statement recorded at the court office, for a copy of the complete decision. The suspension shall continue until the court has issued the complainant the complete decision, or until it has been served *ex officio* or by a party to the proceedings.

(2) If complainants were unable to comply with this time limit through no fault of their own, they shall, upon application, be granted reinstatement into their former procedural position. The application shall be filed within two weeks of the cause for their non-compliance ending. The request shall be substantiated in the application itself or during the proceedings. The omitted legal act shall be carried out within this period; complainants who do so may be granted reinstatement without a formal request. Applications made later than one year after the expiry of the time period are inadmissible. Errors by the complainants' authorised representatives shall be considered to be those of the complainants.

(3) If the constitutional complaint challenges a law or another sovereign act against which legal recourse is not possible, the constitutional complaint may only be lodged within one year of the law entering into force or the sovereign act being issued.

(4) Constitutional complaints against laws that entered into force before 1 April 1951 may be lodged until 1 April 1952.

#### **§ 93a**

(1) A constitutional complaint shall be subject to admission for decision.

(2) It shall be admitted

a) in so far as it has general constitutional significance,

b) if it is appropriate in order to enforce the rights referred to in § 90 sec. 1; this may also be the case if the complainant would suffer a particularly severe disadvantage if the Court refused to decide on the complaint.

#### **§ 93b**

The Chamber may refuse to admit a constitutional complaint, or may admit it for decision in the cases referred to in § 93c. In all other cases, the decision on admission shall pertain to the Senate.

#### **§ 93c**

(1) If the requirements of § 93a sec. 2 letter b are met, and if the constitutional issue determining the outcome of the constitutional complaint has already been decided by the Federal Constitutional Court, the Chamber may grant the constitutional complaint if it is clearly well-founded. The order of the Chamber shall be considered equal to a decision by the Senate. A decision that, with the effect of § 31 sec. 2, declares a law to be incompatible with the Basic Law or with other federal law, or to be void, shall be reserved to the Senate.

(2) § 94 secs. 2 to 3 and § 95 secs. 1 to 2 shall apply to the proceedings.

#### **§ 93d**

(1) Decisions pursuant to § 93b and § 93c shall be issued without an oral hearing. They cannot be appealed. Refusal to admit the constitutional complaint for decision does not require reasons.

(2) As long and in so far as the Senate has not decided whether to admit the constitutional complaint for decision, the Chamber may issue all decisions involving the constitutional complaint proceedings. Preliminary injunctions that completely or partly suspend the application of a law may only be issued by the Senate; § 32 sec. 7 shall remain unaffected. The Senate shall also decide in the cases referred to in § 32 sec. 3.

(3) The Chamber's decisions shall be adopted by unanimous vote. Admission by the Senate is granted if at least three Justices agree.

#### **§ 94**

(1) The Federal Constitutional Court shall give the federal or *Land* constitutional organ whose act or omission is challenged by the constitutional complaint the opportunity to submit a statement within a specified period of time.

(2) If the act or omission was committed by a minister or by a federal or *Land* authority, the competent minister shall be given the opportunity to submit a statement.

(3) If the constitutional complaint challenges a court decision, the Federal Constitutional Court shall also give the party in whose favour the decision was taken the opportunity to submit a statement.

(4) If the constitutional complaint directly or indirectly challenges a law, § 77 shall apply accordingly.

(5) The constitutional organs named in sections 1, 2, and 4 may join the proceedings. The Federal Constitutional Court may refrain from conducting an oral hearing if a hearing is unlikely to advance the proceedings, and if the constitutional organs that are entitled to submit statements and that have joined the proceedings waive their right to an oral hearing.

#### **§ 95**

(1) If the Court grants a constitutional complaint, the decision shall declare which provision of the Basic Law was violated and by which act or omission. The Federal Constitutional Court may simultaneously declare that any repetition of the contested act or omission would violate the Basic Law.

(2) If the Court grants a constitutional complaint that challenges a decision, the Federal Constitutional Court shall reverse the decision; in the cases referred to in § 90 sec. 2 sentence 1, it shall remand the matter to a competent court.

(3) If the Court grants a constitutional complaint that challenges a law, that law shall be voided. The same shall apply if the Court grants a constitutional complaint pursuant to section 2 because the reversed decision was based on an unconstitutional law. § 79 shall apply accordingly.

#### **§ 95a**

(deleted)

### **Sixteenth Section. Procedure in the Cases Referred to in § 13 no. 6b [Examination of the Necessity of a Federal Regulation]**

#### **§ 96**

(1) Applications pursuant to Art. 93 sec. 2 sentence 1 of the Basic Law need to show that the requirement of Art. 93 sec. 2 sentence 3 of the Basic Law is met.

(2) The Federal Constitutional Court shall give the other entities having legal ability to file an application, as well as the *Bundestag* and the Federal Government, the opportunity to submit a statement within a specified period.

(3) Parties entitled to submit statements pursuant to section 2 may join the proceedings at any stage.

### **Seventeenth Section. Procedure in the Cases Referred to in § 13 no. 3a**

#### **§ 96a**

(1) Complaints may be lodged by associations and political parties that were refused the recognition as political parties that are authorised to nominate candidates pursuant to § 18 sec. 4 of the Federal Elections Act.

(2) Complaints shall be lodged and substantiated within four days after the decision is announced in the session of the Federal Electoral Committee pursuant to § 18 sec. 4 of the Federal Elections Act.

(3) § 32 shall not apply.

#### **§ 96b**

The Federal Electoral Committee shall be given the opportunity to submit a statement.

#### **§ 96c**

The Federal Constitutional Court may decide without an oral hearing.

#### **§ 96d**

The Federal Constitutional Court may announce its decision without reasons. In this case, the reasons must be notified separately to the complainant and to the Federal Electoral Committee.

#### **§ 97**

(deleted)

### **Part IV Formal Complaint Against Judicial Delay**

#### **§ 97a**

(1) A party to proceedings before the Federal Constitutional Court, or to proceedings that were suspended in order to await a decision by the Federal Constitutional Court, who suffers a disadvantage due to excessive duration of the proceedings before the Federal Constitutional Court shall receive adequate compensation. Adequate duration of proceedings shall be established on a case-by-case basis, taking into account the Federal Constitutional Court's tasks and position.

(2) A non-pecuniary disadvantage is assumed to exist if a case before the Federal Constitutional Court takes an excessively long time. Compensation for such a disadvantage may only be claimed if the circumstances of the individual case do not permit a different kind of redress, such as in particular a declaration that the duration of proceedings was excessive. Compensation pursuant to sentence 2 shall be EUR 1,200 for each year of delay. If, in individual cases, the amount pursuant to sentence 3 appears unreasonable, the Federal Constitutional Court may set a higher or lower amount.

#### **§ 97b**

(1) A decision on compensation and reparation requires a formal complaint against judicial delay with the Federal Constitutional Court (*Verzoegerungsbeschwerde*). The *Verzoegerungsbeschwerde* shall only be admissible if the complainant previously filed a formal objection to the judicial delay (*Verzoegerungsruege*) with the Federal Constitutional Court. The *Verzoegerungsruege* must be submitted in writing, explaining why the proceedings are considered to be excessively long. It is admissible no earlier than twelve months after the initial proceedings were brought before the Federal Constitutional Court. A decision on the *Verzoegerungsruege* is not necessary for the admissibility of a *Verzoegerungsbeschwerde*.

(2) The *Verzoegerungsbeschwerde* may be lodged no earlier than six months after lodging a *Verzoegerungsruege*; if the Federal Constitutional Court issued a decision, or the proceedings have otherwise been concluded, the *Verzoegerungsbeschwerde* must be lodged within three months. It

must be in writing and, at the same time, be substantiated. Pending a final decision on the *Verzoegerungsbeschwerde*, the claim cannot be transferred.

#### **§ 97c**

(1) A Complaints Chamber, for which the Plenary shall appoints two Justices from each Senate, shall decide on the *Verzoegerungsbeschwerde*. The regular term of office shall be two years.

(2) Should the reporting Justice of the contested proceedings be a member of the Complaints Chamber, this Justice shall be debarred from involvement in the complaints proceedings.

(3) Further details, in particular regarding the appointment of a presiding Justice, the continuous succession of departing members of the Chamber, and rules on substitution within the Chamber, shall be set out in the rules of procedure.

#### **§ 97d**

(1) The reporting Justice of the contested proceedings should submit his or her statement within one month of receiving the reasons for the *Verzoegerungsbeschwerde*.

(2) The Complaints Chamber shall decide by majority. In the event of a tied vote, the *Verzoegerungsbeschwerde* shall be rejected. The Complaints Chamber shall decide without an oral hearing. The Complaints Chamber is not required to give reasons for its order on the *Verzoegerungsbeschwerde*.

(3) The decision cannot be appealed.

#### **§ 97e**

§§ 97a to 97d shall also apply to proceedings that were pending on 3 December 2011, as well as to completed proceedings whose duration is the subject of a complaint with the European Court of Human Rights on 3 December 2011, or which could yet become the subject of such a complaint. § 97b sec. 1 sentences 2 to 5 do not apply to completed proceedings pursuant to sentence 1; § 97b sec. 2 applies with the stipulation that the *Verzoegerungsbeschwerde* may be lodged immediately and needs to be lodged by 3 March 2012 at the latest.

### **Part V Final Provisions**

#### **§ 98**

(1) Justices of the Federal Constitutional Court shall retire upon expiration of their term of office (§ 4 secs. 1, 3, and 4).

(2) Justices of the Federal Constitutional Court shall be retired in the event of permanent incapacity for office.

(3) Justice of the Federal Constitutional Court shall be retired upon request without proof of unfitness for office if they have held the post of Justice of the Federal Constitutional Court for at least six years and if they

1. have reached the age of 65 or

2. are severely disabled pursuant to § 2 sec. 2 of the Ninth Book of the Code of Social Law, and have reached the age of 60.

(4) In the cases referred to in section 3, § 4 sec. 4 shall apply accordingly.

(5) Retired Justices shall receive a pension. The pension shall be calculated on the basis of the last remuneration that the Justice was entitled to pursuant to the Act on the Remuneration of Members of the Federal Constitutional Court. Pensions for surviving dependents shall be calculated accordingly.

(6) § 70 of the Civil Servants' Benefits Act shall apply accordingly.

#### **§ 99**

(deleted)

#### **§ 100**

(1) Should the term of office of a Justice of the Federal Constitutional Court end pursuant to § 12, the Justice shall, provided he or she has held the position for at least two years, receive transitional payments for one year that are equal to his or her remuneration pursuant to the Act on the Remuneration of Members of the Federal Constitutional Court. This does not apply in the case of retirement pursuant to § 98.

(2) The surviving dependents of a former Justice of the Federal Constitutional Court who received transitional payments at the time of his or her death shall receive death benefits as well as, for the remaining period of transitional payments, widows' and orphans' payments; death benefits as well as widows' and orphans' payments shall be calculated on the basis of the transitional payments.

#### **§ 101**

(1) Subject to § 70 of the German Judiciary Act, judges or civil servants who have been elected as Justices of the Federal Constitutional Court shall cease to exercise the functions of their previous offices upon their appointment. The rights and obligations from their status as civil servants or judges shall be suspended for the duration of their office as Justices of the Federal Constitutional Court. The right to curative treatment of civil servants or judges who were injured in an accident shall remain unaffected.

(2) When the office as Justice at the Federal Constitutional Court ends, the civil servants or judges shall, if no other office is assigned to them, retire from their positions as civil servants or judges and receive the pension they would have received in their former offices including their time of service as Justices of the Federal Constitutional Court. In the case of non-federal civil servants or judges, the Federation shall reimburse their employer for the pensions and surviving dependents' pensions.

(3) Sections 1 and 2 shall not apply to professors of law at a German institution of higher education, who are civil servants. Their obligations as professors shall generally be suspended for the duration of their offices as Justices at the Federal Constitutional Court. Two-thirds of their remuneration as professors shall be credited against their remuneration as Justices of the Federal Constitutional Court. The Federation shall reimburse the professor's employer for their actual expenditures arising from his or her replacement up to the amount credited.

#### **§ 102**

(1) If former Justices of the Federal Constitutional Court have a right to a pension pursuant to § 101, this right shall be suspended for the period during which they have a right to a pension or to transitional payments pursuant to §§ 98 or 100, up to the amount of this remuneration.

(2) If former Justices of the Federal Constitutional Court who receive transitional payments pursuant to § 100 are assigned another office in the civil service, the income from that office shall be credited against the transitional payments.

(3) If former Justices of the Federal Constitutional Court receive remuneration, emeritus payments or a pension from an employment as professor that began prior to or during the term of office as Justice of the Federal Constitutional Court, the pension or transitional payments from their office as Justice shall be suspended in so far as their total exceeds the remuneration for the office as professor plus the exempt amount pursuant to § 101 sec. 3 sentence 3; in addition to emeritus payments or to pensions from an employment as professor, the pension or transitional payments from their term of office as Justice shall be granted up to the amount of a pension calculated on the basis of the entire time of service relevant for pension purposes and the remuneration, plus the exempt amount pursuant to § 101 sec. 3 sentence 3.

(4) Sections 1 to 3 shall apply accordingly to surviving dependents. § 54 sec. 3 and sec. 4 sentence 2 of the Civil Servants' Pensions Act shall apply accordingly.

### **§ 103**

Unless §§ 98 to 102 provide otherwise, the regulations on benefits and health insurance subsidies for federal judges shall apply to Justices of the Federal Constitutional Court; periods of service that are beneficial to exercising the function of a Justice of the Federal Constitutional Court are periods within the meaning of § 11 sec. 1 no. 3 letter a of the Civil Servants' Pensions Act. Decisions on benefits shall be taken by the President of the Federal Constitutional Court.

### **§ 104**

(1) If an attorney is appointed as Justice of the Federal Constitutional Court, his or her rights arising from the admission to the Bar shall be suspended for the duration of the term of office.

(2) If a notary public is appointed as Justice of the Federal Constitutional Court, § 101 sec. 1 sentence 2 shall apply accordingly.

### **§ 105**

(1) The Federal Constitutional Court may authorise the Federal President to

1. retire a Justice of the Federal Constitutional Court because of permanent incapacity for office;
2. remove a Justice of the Federal Constitutional Court from office if the Justice has been convicted by a final judgment for committing a dishonourable act or sentenced to more than six months' imprisonment, or if the Justice has committed such a grave breach of duty that it is impossible for him or her to remain in office.

(2) The Plenary of the Federal Constitutional Court shall decide on the initiation of proceedings pursuant to section 1.

(3) The General Procedural Regulations and § 54 sec. 1 and § 55 secs. 1, 2, and 4 to 6 shall apply accordingly.

(4) Authorisation pursuant to section 1 shall require the consent of two thirds of the Court's members.

(5) After proceedings have been initiated pursuant to section 2, the Plenary of the Federal Constitutional Court may temporarily remove the Justice from office. The same shall apply if main criminal proceedings have been instituted against the Justice. The Justice's temporary removal from office shall require the consent of two thirds of the Court's members.

(6) Upon removal from office pursuant to section 1 no. 2, the Justice shall lose all rights arising from the office.

**§ 106**

(entry into force)

**§ 107**

(deleted)