

Übersetzung durch das Bundesverfassungsgericht.

Translation provided by the Federal Constitutional Court

Stand: Geschäftsordnung des Bundesverfassungsgerichts vom 19. November 2014 (BGBl. 2015 I S. 286)

Version information: Rules of Procedure of the Federal Constitutional Court of 19 November 2014 (Federal Law Gazette 2015 I p. 286)

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## **Rules of Procedure of the Federal Constitutional Court**

Rules of Procedure of the Federal Constitutional Court of 19 November 2014 (Federal Law Gazette 2015 I p. 286)

By plenary decision of 19 November 2014, the Plenary of the Federal Constitutional Court has adopted the following Rules of Procedure.

Karlsruhe, 19 November 2014

The President of the Federal Constitutional Court

Prof. Dr. Andreas Voßkuhle

### **Part A**

#### **Provisions on the organisation and administration of the Federal Constitutional Court**

##### **§ 1**

- (1) The Plenary and the President shall work together in fulfilling the tasks of the Court.
- (2) The Plenary shall deliberate and decide on the budget of the Court, on all questions directly concerning the members of the Court, their status as well as their working conditions, and, as required, on general principles relating to the administration of the Court.
- (3) The President shall exercise the powers conferred upon him by law and execute the decisions of the Plenary on its behalf. He shall be in charge of the administration of the Court; he shall discuss questions of fundamental importance with the Plenary.

##### **§ 2**

- (1) The Plenary shall be convened by the President as required, but at least once in spring and in autumn.
- (2) The President shall convene the Plenary without delay if requested by the Vice-President, a committee or at least three Justices and if the intended subject of the meeting is stated.
- (3) Plenary meetings shall take place four days after the invitation at the earliest.
- (4) The Plenary shall have a quorum if two thirds of the Justices are present.
- (5) The agenda and, if necessary, the documents required for the meeting shall be enclosed with the invitation.
- (6) The President shall place any item that has been submitted no later than three days prior to the meeting on the agenda. The Plenary may, provided no objections are raised, add further items to the agenda. Items submitted by the President, Vice-President, a committee or at least three Justices cannot be removed from the agenda. The Plenary shall decide on the agenda at the start of its meeting.
- (7) The President shall chair the meetings. Minutes shall be taken of the course of the proceedings; they shall be sent to all Justices without delay.

##### **§ 3**

- (1) The Plenary shall set up the following standing committees:

- a) a Committee on the Rules of Procedure,
- b) a Protocol Committee,
- c) a Committee on Budgetary and Personnel Matters,
- d) a Library Committee.

Further committees may be set up as necessary.

(2) Members of the standing committees shall include two Justices from each Senate; the committees pursuant to subsection 1 letters a to c shall also include the President and the Vice-President.

(3) The Plenary shall appoint the committee members and their deputies for two judicial years.

(4) The President shall chair those committees of which he is a member. The other committees shall elect one of their members as chairperson.

(5) Any committee member may request a committee meeting if he or she indicates the intended subject of the meeting. The chairperson must convene the committee without delay.

(6) A committee shall have a quorum if more than half its members are present.

(7) The standing committees shall act on behalf of the Plenary, except when the Plenary, in individual cases, opts to deal with the matter itself or if a committee considers a plenary decision to be necessary. The Plenary may decide to bind a committee to its decisions in dealing with a matter. The Plenary may task standing committees with preparing individual matters for discussion and decision in the Plenary.

(8) The chairpersons shall report to the Plenary on their committees' activities at least once a year.

#### **§ 4**

Within the Court the President shall be deputised for by the Vice-President or, if the latter is unable to do so, by the longest-serving member of the Court present, or, in case of the same duration of service, by the eldest member of the Court present.

#### **§ 5**

(1) The President shall represent the Court in its external relations. If he is unable to do so, he shall be deputised for by the Vice-President or, if this is not possible, by the longest-serving member of the Court present; or, in case of the same duration of service, by the eldest member of the Court present.

(2) It shall be the responsibility of the President in consultation with the Vice-President to present the Court's views and to safeguard its interests vis-à-vis the Federal President, the Bundestag, the Bundesrat, the Federal Government, and their committees. They may be deputised for or supported by other Justices.

#### **§ 6**

The President shall exercise proprietary powers whose exercise may be delegated to others by presidential decree.

#### **§ 7**

(1) The members of the Court shall be kept informed of any important matter that affects the Court.

(2) In general, the Protocol Committee shall decide whether invitations received by the Court are accepted and who shall represent the Court on such occasions. The Protocol Committee must be informed if the President decides in its stead.

(3) The same shall apply accordingly to visits to the Court.

#### **§ 8**

The duration of service of a member of the Court shall be determined by the date on which they first took the oath as Justice of the Federal Constitutional Court. In the case of identical duration of service, their age shall be the determining factor.

#### **§ 9**

Insofar as legislation that applies accordingly to members of the Court assigns administrative decisions to the supervisor, supervising official or head of a public authority, such decisions shall be taken by the President.

#### **§ 10**

Official travel by Justices must be notified to the President who, by countersigning the application form, shows that he does not have any objection to the trip being treated as official. Notwithstanding the provision in the first sentence, the participation of Justices in specialist conferences in Germany qualifies as official travel.

#### **§ 11**

The Justices shall, in advance and in good time, notify the President and the presiding Justice of their Senate of holiday plans, illness and absences from Karlsruhe of more than a week's length. They shall deposit an address or other details to ensure that they can be contacted.

#### **§ 12**

(1) The Director and the head of the Judicial Administration Department shall assist the presiding Justices of the Senates in particular with conducting the respective Senate's business.

(2) They must be eligible to hold judicial office. In matters relating to the Senate, they shall take instructions exclusively from the presiding Justice.

#### **§ 13**

(1) The judicial clerks shall assist the Justices to whom they have been assigned with their official duties and shall be bound by their instructions.

(2) The Justices are entitled to select their own judicial clerks and to assess their work. The presiding Justices of the Senates may attach their own assessments.

#### **§ 14**

(1) The President shall allocate the administrative tasks. He may generally assign certain tasks to the Director to be conducted by the latter on his own.

(2) Administrative decisions that concern the members of the Court and are not simple tasks of administrative routine shall be taken by the President himself.

#### **§ 15**

(1) The Director shall act as head of administration on behalf of the President. Further details are regulated by a presidential decree.

(2) Preparatory discussions or negotiations conducted by members of the administration with representatives of legislative bodies or ministries must adhere to the guidelines laid down by the Plenary or one of its committees or, should no such guidelines exist, must be conducted according to the President's instructions.

#### **§ 16**

Incoming mail must be presented to the President and the Vice-President, unless they state otherwise. Whoever is appointed, by the President and the Vice-President, to assign mail relating to proceedings and mail to be processed in the General Register, has to be eligible to hold judicial office.

#### **§ 17**

(1) Official Court information shall be publicised by the Press Office.

(2) Official information appertaining to the Senates' work requires prior consent by the presiding Justice before it may be distributed to the media.

(3) The Press Office coordinates the Court's media relations.

#### **§ 18**

Archives shall be set up in the Court's library for collecting all material concerning the Court.

#### **§ 19**

Insofar as nothing to the contrary results from the Court's position as highest collegial constitutional organ, the Federal Constitutional Court Act and the Act on the Salaries of Members of the Federal Constitutional Court, from these Rules of Procedure or from special administrative regulations issued by the Court, the general administrative rules for Highest Federal Authorities shall apply.

### **Part B**

## **Supplementary procedural provisions**

### **Title 1**

#### **General procedure**

#### **§ 20**

(1) Before the start of a judicial year, each Senate shall decide, with effect from the start of that judicial year, on the principles on how cases are assigned to the Justices, including the presiding Justices, as reporting Justices. Deviations from these principles shall be permissible during the judicial year only if they become necessary due to excessive workloads or Justices being unable to perform their functions for an extended period.

(2) The presiding Justice shall determine the reporting Justice for a given case. In doubt, the relevant members of the Senate will be given the opportunity to submit statements. In general, disagreements are resolved by the Senate. If a matter is particularly important, the presiding Justice may, with the Senate's consent, appoint a co-reporting Justice.

#### **§ 21**

(1) The Senates shall determine the weekdays on which they regularly meet for deliberations. Extraordinary meetings are subject to a decision by the Senate; in urgent cases the presiding Justice may convene an extraordinary meeting.

(2) The presiding Justice shall decide on the agenda in consultation with the Senate. The agenda shall reach the members of the Senate at least ten days before the meeting.

#### **§ 22**

(1) Decisions pursuant to §§ 24 and 81a of the Federal Constitutional Court Act may be taken without service of the application or request; the same applies when admission of a constitutional complaint is refused (§§ 93a, 93b of the Federal Constitutional Court Act).

(2) The application shall be served by the presiding Justice (§ 23(2) of the Federal Constitutional Court Act) at the suggestion of the reporting Justice.

(3) Furthering the course of the proceedings, in particular issuing appropriate decrees, is the responsibility of the reporting Justice, in consultation with the presiding Justice where required.

(4) Requests to Supreme Federal Courts or Supreme Laender Courts (§ 82(4) of the Federal Constitutional Court Act) shall be ordered by the presiding Justice of the Senate at the suggestion of the reporting Justice or of the Senate. Corresponding requests may also be ordered in cases other than those involving a specific judicial review of statutes (§ 13 no. 11 of the Federal Constitutional Court Act).

(5) At the suggestion of the reporting Justice or by decision of the Senate, the presiding Justice shall request persons with special knowledge of a specific subject to provide expert opinions on an issue material to the decision.

(6) All measures pertaining to the proceedings shall be recorded in the files.

### **§ 23**

(1) For every case to be decided by the Senate the reporting Justice shall provide a written opinion. At the same time, the members of the Senate shall also receive the reference files containing all documents relevant to the proceedings and to the decision. In simple cases a draft decision with reasons may be provided instead of an opinion.

(2) There shall be a period of at least ten days between the distribution of the opinion and deliberations or the oral hearing.

### **§ 24**

(1) The Senate shall decide whether to hold an oral hearing. It may issue rules supplementing § 17a of the Federal Constitutional Court Act concerning oral hearings and the pronouncement of judgments.

(2) In general, the structure of an oral hearing should be based on the outline that has been approved by the Senate and forwarded to the parties to the proceedings in good time prior to the oral hearing.

(3) The audio recording of the oral hearing (§ 25a second sentence of the Federal Constitutional Court Act) shall be made available only at the Court and only to the members of the Court and to the parties to the proceedings. Copying or privately transmitting audio recordings is not permissible.

(4) The parties to the proceedings may receive copies of transcripts produced for the Court.

(5) Transcripts of statements may be approved for publication or analysis in an academic publication or a documentation of the hearings if this is justified as striking a fair balance between the public interest in publication, the concerns of the parties involved and of the authors of the statements. Should personal data be included in the transcripts, the provisions of the Federal Data Protection Act on transfer for research purposes shall apply.

(6) Before granting access to a statement contained in a transcript, its author shall be given an opportunity to confirm the accuracy of the transcript; he or she may also propose stylistic changes, as long as the content remains unchanged. The decision on approving changes shall rest with the presiding Justice of the Senate. Objections raised by the author that do not result in a change of the transcript shall be recorded in the files. Hearing the author may be dispensed with if this would require disproportionate effort.

(7) At the beginning of oral hearings, the provision of § 25a of the Federal Constitutional Court Act shall be brought to the attention of those present.

### **§ 25**

Only Justices participating in a case may be present during the deliberations.

### **§ 26**

(1) Any Justice who has participated in the decision may, until it is pronounced or drawn up in writing to be served, demand that the deliberations be continued if he or she intends to change his or her vote; any Justice may request that the deliberations be continued if he or she wishes to present aspects not discussed previously or if a separate opinion gives cause to do so.

(2) Decisions that are not taken on the basis of oral hearings shall be given the date on which they were finally taken.

### **§ 27**

The Senate shall decide on the course of deliberations. Should the case raise several legal issues, votes shall, as a rule, be taken on each issue in turn before determining the operative part of the judgment.

### **§ 28**

(1) The Justices who participated in a decision shall be listed in the caption by name, in order of duration of service, after the presiding Justice.

(2) Should a Justice who participated in a decision be prevented from signing, this fact is to be certified by the presiding Justice.

### **§ 29**

Decisions to be published in the Federal Law Gazette shall be sent by the Director to the responsible Federal Ministry. Should the decision not be published in the Federal Law Gazette three months after pronouncement or service thereof, the Director shall inform the presiding Justice and the reporting Justice of this fact.

### **§ 30**

If the decision is announced to the representative of a constitutional organ taking part in proceedings, it shall also be sent directly to that organ.

### **§ 31**

(1) The decisions of the Plenary pursuant to Article 16(1) of the Federal Constitutional Court Act and of the Senates shall be published in a collection of decisions of the Federal Constitutional Court, authorised by the Court itself. The collection shall be published by the Justices under their own responsibility.

(2) The Plenary or the Senate may exclude a decision from publication in the collection. This decision shall be recorded on file.

(3) If a chamber decision pursuant to §§ 81a, 93b or 93c of the Federal Constitutional Court Act is, in exceptional cases, of particular interest to the public, the Senate may, at the Chamber's suggestion, have it published in the collection.

(4) The names of the Justices who took part in the decision shall also be published in the collection.

(5) Names of persons, associations and places shall in principle be abbreviated to the initial letter on publication.

(6) Any surplus resulting from publishing the authorised collection of Federal Constitutional Court decisions shall be used for the purposes of an association of members of the Federal Constitutional Court or for charitable purposes.

### **§ 32**

(1) Official information on decisions that have been issued must be approved by both the reporting Justice of the Senate and the presiding Justice and cannot be published until it can be assumed that the decision has been received by the parties to the proceedings.

(2) The same shall apply to chamber decisions accordingly.

### **§ 33**

The Federal Constitutional Court shall have a Documentation Office. It records and documents decisions of the Federal Constitutional Court and other important material. The members of the Court participate in choosing and analysing the documents concerned. The latter are stored in a publicly accessible database encompassing such material as provided by the supreme federal courts and the Federal Patent Court. The Documentation Office is also responsible for archiving decisions of the Federal Constitutional Court and for making them available on the internet.

### **§ 34**

Drafts of judgments, orders and decrees, respective preparatory documents, and documents relating to voting in deliberations do not form part of the case file. They are to be kept in a separate envelope with the files. Without prejudice to § 35b(5) second sentence of the Federal Constitutional Court Act, they are not subject to access to records.

### **§ 35**

(1) The presiding Justice, in consultation with the reporting Justice, shall decide on access to the files. In cases pursuant to § 63(2) letter c, the President shall decide. Access to files concerning proceedings in the General Register according to § 63(1) is decided upon by those responsible under § 65.

(2) After proceedings have been concluded, parties to the proceedings (§ 20 of the Federal Constitutional Court Act) may be granted access to the files under an application of § 35b(1) first and second sentence of the Federal Constitutional Court Act.

(3) The provisions of the Federal Data Protection Act regarding the transfer of personal data shall apply.

### **§ 36**

Decisions by the Federal Constitutional Court must be anonymised before being passed on to authorities, courts or private third parties. Further details shall be laid down in an order by the President.

### **§ 37**

(1) The Court's files relating to Senate decisions, including the documents mentioned in § 34, may be sent to the Federal Archives after ten years.

(2) Destruction of files relating to proceedings and of documents mentioned in § 34 is permissible only after thirty years. Files relating to proceedings and documents mentioned in § 34 shall be exempt from destruction if they pertain to decisions that have been chosen for publication by the Court.

## **Title 2**

### **Procedure in cases of substitution pursuant to § 15(2) second sentence and § 19(4) of the Federal Constitutional Court Act**

### **§ 38**

(1) In the cases mentioned in § 15(2) second sentence and § 19(4) first sentence of the Federal Constitutional Court Act, the presiding Justice of the Senate in which substitution is required shall request lots to be drawn.

(2) The presiding Justice of the other Senate shall carry out the draw. The Justices of both Senates are to be informed of the time of the draw at which a registrar of the Court Registry shall be present. Minutes of the draw shall be added to the files on the proceedings. The result of the draw shall be communicated to all members of the Court.

(3) § 15(1) second sentence of the Federal Constitutional Court Act shall apply accordingly to the request for and implementation of the draw.

## **Title 3**

### **Procedure in the chambers pursuant to §§ 81a and 93b to 93d of the Federal Constitutional Court Act**

### **§ 39**

The President and the Vice-President shall chair the Chambers to which they belong; in the other Chambers the presiding Justice shall be the longest-serving Justice, age deciding in the case of equal duration of service.

### **§ 40**

(1) Within the scope of their competence, the Chambers shall decide – usually on the basis of a written opinion – in the proceedings that are assigned to one of their members as reporting Justice. Should a Justice be a member of several Chambers, the Senate shall determine, in its decision pursuant to § 15a(2) of the Federal Constitutional Court Act, on how to distribute his or her proceedings to the Chambers.

(2) Should no unanimous vote be reached by the Chamber, the Senate shall also decide in cases pursuant to § 93d(2) of the Federal Constitutional Court Act.

(3) If the Chamber refuses to admit a constitutional complaint for decision, any applications made in this matter for temporary injunctions shall become invalid.

### **§ 41**

The reporting Justice may, prior to the Chamber's decision on inadmissibility of a judicial review of a statute or non-admission of a constitutional complaint (§§ 81a, 93b of the Federal

Constitutional Court Act), request statements from parties entitled to make statements (§ 82 in conjunction with §§ 77 and 94 of the Federal Constitutional Court Act) or from third parties, and may make requests to the courts referred to in § 82(4) of the Federal Constitutional Court Act.

#### **§ 42**

If, in proceedings on a constitutional complaint that was not admitted, files had been requested from the court against whose decision the complaint was directed, that court must be sent a copy of the decision on non-admission when the files are returned. The same shall apply if a constitutional organ or an authority, upon request, has made a statement on the complaint, or if the complaint was directed against the decision of a supreme federal court.

#### **Title 4**

#### **Procedure in the committee pursuant to § 14(5) of the Federal Constitutional Court Act**

#### **§ 43**

The committee established pursuant to § 14(5) of the Federal Constitutional Court Act shall consist of two Justices and two deputies elected from each Senate for one judicial year. The President shall be deputised for by the Vice-President; should the latter be unable to attend, the deputy shall be the longest-serving Justice on the committee, age deciding in the case of equal duration of service.

#### **§ 44**

- (1) The presiding Justices of the two Senates shall be informed of all incoming cases that fall within the jurisdiction of the respective Senate. At the same time, they shall be made aware of doubts that may exist with regard to the Senate's jurisdiction. The presiding Justice shall, if necessary, initiate a discussion on the matter in his or her Senate.
- 2) A case may be transferred to the other Senate if the presiding and reporting Justices of both Senates agree to the transfer.
- (3) Any member of the Court may request a meeting of the committee. The committee shall be convened without delay, usually within fourteen days. This does not apply if the Senate has already begun deliberations on the matter.

#### **§ 45**

The President shall appoint two reporting Justices from among the members of the committee, one belonging to each Senate. The reporting Justices may issue a written opinion on the matter of jurisdiction, either jointly or separately prior to the meeting.

#### **§ 46**

The committee's decisions shall be recorded by the chairperson in a file note. No reasons shall be given. The decisions shall be communicated to all members of the Court and added to the files on the proceedings.

#### **Title 5**

#### **Procedure in the plenary pursuant to § 16 of the Federal Constitutional Court Act**

#### **§ 47**

- (1) If a Senate intends to deviate in a point of law from the legal view contained in a decision by the other Senate or the Plenary, it shall refer the matter to the Plenary by Senate decision.
- (2) The matter shall not be referred to the Plenary if the Senate, from whose decision the other Senate intends to deviate, states, upon enquiry, that it will not maintain its legal view.

#### **§ 48**



- (1) The presiding Justices of the Senates shall each appoint a reporting Justice to prepare the decision of the Plenary. The latter shall each submit an opinion at least ten days before the plenary meeting.
- (2) The plenary decision shall be issued with reasons. It shall be treated in the same way as decisions by the Senates.

#### **Title 6**

#### **Procedure in the plenary pursuant to § 105 of the Federal Constitutional Court Act**

##### **§ 49**

- (1) The application to initiate proceedings pursuant to § 105(1) of the Federal Constitutional Court Act shall be made by at least six members of the Court; in the case of § 105(1) no. 1 it can also be made jointly by the President and the Vice-President.
- (2) The application, along with its reasons, shall be sent to all members of the Court in a confidential form, receipt of which must be acknowledged by signature.

##### **§ 50**

The Justice against whom the application is directed shall be given the opportunity to submit a written statement and to state his or her case orally before the Plenary.

##### **§ 51**

The decision to initiate proceedings requires the approval of at least eight Justices. The Plenary shall deliberate and decide in the absence of the Justice involved. No reasons shall be given for the decision; it shall be signed by the participating Justices and subsequently disclosed to the Justice concerned.

##### **§ 52**

Following initiation of proceedings, the Plenary shall appoint an investigating Justice from among its members. He or she shall hear the Justice concerned and shall carry out the necessary investigations; he or she shall summon the Justice concerned to evidentiary hearings. He or she shall inform the Plenary, in writing and in the oral hearings, of the results of the investigation; the report shall conclude with a proposal for a decision. The investigating Justice shall be debarred from participating in the deliberations and in the decision-making.

##### **§ 53**

The oral hearing shall take place *in camera*. Upon application by the Justice concerned, the public may, however, be admitted.

##### **§ 54**

- (1) The proceedings on an application pursuant to § 105(1) of the Federal Constitutional Court Act shall be discontinued if the Justice against whom the application is directed has been dismissed pursuant to § 12 of the Federal Constitutional Court Act or if he or she retires due to the expiry of his or her term of office or upon his or her own request (§ 98(1) and (2) no. 2 of the Federal Constitutional Court Act).
- (2) Proceedings shall also be discontinued if the application is withdrawn prior to a decision pursuant to § 105(4) of the Federal Constitutional Court Act, except when the Plenary decides to initiate or continue it.

#### **Title 7**

#### **Procedure for filing a separate opinion pursuant to § 30(2) of the Federal Constitutional Court Act**

##### **§ 55**

- (1) The separate opinion in which a Justice states his or her deviating opinion on the decision or its reasoning as already expressed during the deliberations must be submitted to

the presiding Justice of the Senate within three weeks of the decision being finalised. The Senate may extend this time-limit.

(2) Anyone intending to submit a separate opinion shall inform the Senate thereof as soon as the state of the deliberations permits.

(3) If the separate opinion is submitted with regard to a judgment, the presiding Justice shall announce this fact during the decision's pronouncement. The Justice concerned may then state the main points of the separate opinion.

(4) The decision and the separate opinion shall be publicised together.

(5) The separate opinion shall be annexed to the decision published in the collection of decisions of the Federal Constitutional Court and shall bear the name of the Justice concerned.

(6) The above provisions shall apply accordingly to separate opinions on decisions of the Plenary.

### **Title 8**

#### **Procedure in the plenary pursuant to § 7a of the Federal Constitutional Court Act**

##### **§ 56**

Any member of the Court may suggest candidates for the Plenary's proposal pursuant to § 7a of the Federal Constitutional Court Act. These suggestions must be submitted, with reasons, no later than one week before the meeting of the Plenary; the suggestion must state whether the candidate agrees to being nominated in the Plenary. If all members of the Court present agree, the deadline for suggesting candidates may be waived.

##### **§ 57**

(1) There shall be a secret ballot on the candidates after the debate. The quorum shall be governed by § 7a(2) third sentence in conjunction with § 16(2) of the Federal Constitutional Court Act.

(2) The first round of voting shall take place using voting slips on which the candidates are listed in alphabetical order. Each Justice has as many votes as there are candidates. The Justices who receive at least the majority of the votes cast, in the order resulting from the number of votes, shall be elected.

(3) Should the first round of voting be partly or completely unsuccessful, the candidates shall be elected in special rounds using voting slips on which those entitled to vote shall write one name only. This procedure shall be repeated until one candidate receives the majority of the votes cast; in each round the candidate who receives the least votes shall be excluded.

##### **§ 58**

(1) If the election pursuant to § 57 does not result in a sufficient number of candidates to be proposed, the remaining positions to be filled shall be voted on in a second election. This election is to take place two calendar weeks after the end of the first election. New candidates may be nominated or former candidates re-nominated; the deadline pursuant to § 56 second sentence shall be reduced to three days. The Plenary may decide to only use the voting method referred to in § 57(3) in the new election.

(2) If, in the case of subsection 1 first sentence candidates for the new election are suggested during the Plenary meeting itself, the members of the Court present can unanimously decide to immediately hold the second election. Should only candidates be nominated that already had been suggested for the first election, that decision may be taken by a two-thirds majority of the members of the Court present.

### **Title 9**

#### **Procedure in the complaints chamber pursuant to § 97c of the Federal Constitutional Court Act**

##### **§ 59**

(1) Each year, the Plenary shall appoint the members of the Complaints Chamber for a two-year term of office: one Justice from each Senate and one deputy each. Immediate re-election is not permissible. The President and the Vice-President cannot be members of the Complaints Chamber.

(2) For the Complaints Chamber's first term, starting in 2012, the Plenary shall appoint one Justice from each Senate for three years each. The same shall apply to the members of the Court designated as deputies.

#### **§ 60**

If a member of the Chamber is debarred from being involved in the proceedings pursuant to § 97c(2) of the Federal Constitutional Court Act or is unable to perform his or her functions due to other reasons, the Justice shall be deputised for by the member of the Court designated by the Plenary to serve as that Justice's deputy. Should this Justice also be unable to perform his or her functions, the longest-serving member of the Senate to which the member of the Chamber belongs shall deputise for him or her. The same shall apply for the remaining term of office if a member of the Complaints Chamber leaves the Court.

#### **§ 61**

The Complaints Chamber shall be chaired by its longest-serving member.

#### **§ 62**

(1) In general, a statement pursuant to § 97d(1) of the Federal Constitutional Court Act shall only be submitted upon request of the reporting Justice of the Complaints Chamber. He or she may request the files of the initial proceedings if access to the records is not precluded by § 34.

(2) The presiding Justice of the Complaints Chamber, with the consent of the Chamber's reporting Justice, shall decide whether the parties to the proceedings may access the files.

### **Title 10**

#### **General Register of the Federal Constitutional Court**

#### **§ 63**

(1) Submissions to the Federal Constitutional Court that neither concern administrative matters of the Court nor are formally admissible under the provisions of the Federal Constitutional Court Act shall be recorded in the General Register and treated as matters of judicial administration. In particular, these shall include:

- a) inquiries on jurisprudence of the Federal Constitutional Court and on proceedings that are pending or have been concluded,
- b) submissions containing neither a specific request nor the assertion of a claim falling within the jurisdiction of the Federal Constitutional Court.

(2) The following may also be registered in the General Register:

- a) constitutional complaints whose admission for decision (§ 93a of the Federal Constitutional Court Act) is out of the question, since they are clearly inadmissible or, with due regard to the jurisprudence of the Federal Constitutional Court, clearly have no prospect of success,
- b) other applications to institute proceedings that are clearly inadmissible,
- c) proceedings for which the jurisdiction of either Senate cannot be immediately determined.

#### **§ 64**

(1) The decision on whether a matter is to be recorded in the General Register shall be taken by the presiding Justice of the relevant Senate. The presiding Justices may generally

delegate the power of decision to those members of staff appointed to assign mail pursuant to § 16.

(2) A matter that has been recorded in the General Register pursuant to § 63(2) letter a, shall be transferred to the Register of Proceedings if the submitter, on being informed of the legal situation, requests a judicial decision.

(3) If a matter is to be transferred from the General Register to the Register of Proceedings, it must be sent to the desk officer of the General Register.

(4) The files of the proceedings registered in the General Register that have not been transferred to the Register of Proceedings shall be destroyed according to § 35b(7) of the Federal Constitutional Court Act five years after the last decision in the matter. The matters submitted prior to the entry into force of this provision shall, in principle, be destroyed ten years after their receipt.

#### **§ 65**

The General Register shall act via the head of the Judicial Administration Department on behalf of the Court. He or she shall be assisted by desk officers of the General Register who are authorised to sign and who have to be eligible to hold judicial office.

### **Title 11 Final provisions**

#### **§ 66**

For the purposes of the present Rules of Procedure, members of the Court shall include Justices who continue to fulfil their functions after expiration of their term of office (§ 4(4) of the Federal Constitutional Court Act).

#### **§ 67**

During oral hearings the Justices shall wear a gown and cap.

#### **§ 68**

The judicial year of the Federal Constitutional Court shall be the calendar year.

#### **§ 69**

(1) Data on the work of the Federal Constitutional Court shall be collected for statistical purposes.

(2) The Court's workload shall be recorded in monthly statistics and, at the end of the judicial year, in annual statistics.

#### **§ 70**

Notwithstanding § 19, the Court building shall fly flags during oral hearings, the pronouncement of judgments, and on the President's special order.

#### **§ 71**

(1) Any Justice may apply for an amendment to these Rules of Procedure. The application must be made in writing, and must contain the wording of the proposed amendment as well as the reasons for the proposal.

(2) The decision by the Plenary may be taken no earlier than one month after the application was filed.

(3) During a state of defence (Articles 115a(1), 115g of the Basic Law), these Rules of Procedure may be amended by a majority of the Justices present, should this be necessary to maintain the Court's working order.

(4) Should a female President, Vice-President or Director assume office, the sex-specific terms of the Rules of Procedure shall be changed accordingly.

#### **§ 72**

These Rules of Procedure shall be published in the Federal Law Gazette.

#### **§ 73**

These Rules of Procedure shall enter into force on the day after their publication; at the same time, the Rules of Procedure of the Federal Constitutional Court of 15 December 1986 (Federal Law Gazette I p. 2529), last amended by Article 1 of the Publication Amending the Rules of Procedure of the Federal Constitutional Court of 7 January 2002 (Federal Law Gazette I p. 1171), shall expire.