

**CONSTITUTION OF THE CZECH REPUBLIC**  
of 16 December 1992<sup>1</sup>

The Czech National Council has enacted the following Constitutional Act:

**PREAMBLE**

We, the citizens of the Czech Republic in Bohemia, in Moravia, and in Silesia,  
At the time of the restoration of an independent Czech state,  
Faithful to all good traditions of the long-existing statehood of the lands of the  
Czech Crown, as well as of Czechoslovak statehood,  
Resolved to build, safeguard, and develop the Czech Republic in the spirit of  
the sanctity of human dignity and liberty,  
As the homeland of free citizens enjoying equal rights, conscious of their  
duties towards others and their responsibility towards the community,  
As a free and democratic state founded on respect for human rights and on the  
principles of civic society,  
As a part of the family of democracies in Europe and around the world,  
Resolved to guard and develop together the natural and cultural, material and  
spiritual wealth handed down to us,  
Resolved to abide by all proven principles of a state governed by the rule of  
law,  
Through our freely-elected representatives, do adopt this Constitution of the Czech  
Republic.

**CHAPTER ONE**  
**Fundamental Provisions**

**ARTICLE 1**

(1) The Czech Republic is a sovereign, unitary, and democratic state governed by the rule of law, founded on respect for the rights and freedoms of man and of citizens.

(2) The Czech Republic observes [shall observe] its obligations resulting from international law.<sup>2</sup>

**ARTICLE 2**

(1) All state authority emanates from the people; they exercise it through the legislative, executive, and judicial bodies.

(2) A constitutional act may designate the conditions under which the people may exercise state authority directly.

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<sup>1</sup> As amended by constitutional acts No. 347/1997 Sb., No. 3000/2000 Sb., No. 395/2001 Sb., and as supplemented by Constitutional Act of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic

<sup>2</sup> Amended by Article I, point 1 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which added a new second paragraph. It comes into effect on 1 June 2002.

(3) State authority is to serve all citizens and may be asserted only in cases, within the bounds, and in the manner provided for by law.

(4) All citizens may do that which is not prohibited by law; and nobody may be compelled to do that which is not imposed upon her by law.

### **ARTICLE 3**

The Charter of Fundamental Rights and Basic Freedoms forms a part of the constitutional order of the Czech Republic.

### **ARTICLE 4**

The fundamental rights and basic freedoms shall enjoy the protection of judicial bodies.

### **ARTICLE 5**

The political system is founded on the free and voluntary formation of and free competition among those political parties which respect the fundamental democratic principles and which renounce force as a means of promoting their interests.

### **ARTICLE 6**

Political decisions emerge from the will of the majority manifested in free voting. The decision-making of the majority shall take into consideration the interests of minorities.

### **ARTICLE 7**

The state shall concern itself with the prudent use of its natural resources and the protection of its natural wealth.

### **ARTICLE 8**

The right of autonomous territorial units to self-government is guaranteed.

### **ARTICLE 9**

(1) This Constitution may be supplemented or amended only by constitutional acts.

(2) Any changes in the essential requirements for a democratic state governed by the rule of law are impermissible.

(3) Legal norms may not be interpreted so as to authorize anyone to do away with or jeopardize the democratic foundations of the state.

## **ARTICLE 10**

Promulgated treaties, to the ratification of which Parliament has given its consent and by which the Czech Republic is bound, form a part of the legal order; if a treaty provides something other than that which a statute provides, the treaty shall apply.<sup>3</sup>

## **ARTICLE 10a<sup>4</sup>**

(1) Certain powers of Czech Republic authorities may be transferred by treaty to an international organization or institution.

(2) The ratification of a treaty under paragraph 1 requires the consent of Parliament, unless a constitutional act provides that the ratification requires the consent obtained in a referendum.

## **ARTICLE 10b<sup>5</sup>**

1) The government shall inform the Parliament, regularly and in advance, on issues connected to obligations flowing/resulting from the Czech Republic's membership in an international organization or institution.

2) The chambers of Parliament shall give their views on prepared decisions of such international organization or institution in the manner laid down in their standing orders.

3) A statute governing the principles of dealings and relations between both chambers, as well as externally, may entrust the exercise of the chambers' competence pursuant to paragraph 2 to a body common to both chambers.

## **ARTICLE 11**

The territory of the Czech Republic forms an indivisible whole, the borders of which may be altered only by constitutional act.

## **ARTICLE 12**

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<sup>3</sup>Amended by Article I, point 2 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 10 read as follows: "International treaties concerning human rights and fundamental freedoms which have been duly ratified and promulgated and by which the Czech Republic is bound are directly applicable and take precedence over statutes."

<sup>4</sup> Added by Article I, point 3 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002.

<sup>5</sup> Added by Article I, point 3 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002.

(1) The conditions under which citizenship of the Czech Republic is acquired and lost shall be provided for by statute.

(2) No person may be deprived of his citizenship against his will.

### **ARTICLE 13**

The capital city of the Czech Republic is Prague.

### **ARTICLE 14**

(1) The small and large state emblem, the state colors, the state flag, the flag of the President of the Republic, the state seal, and the national anthem are the state symbols of the Czech Republic.

(2) The state symbols and the use of them shall be governed by statute.

## **CHAPTER TWO Legislative Power**

### **ARTICLE 15**

(1) The legislative power of the Czech Republic is vested in the Parliament.

(2) The Parliament consists of two chambers, the Assembly of Deputies and the Senate.

### **ARTICLE 16**

(1) There shall be 200 Deputies in the Assembly of Deputies, who are elected to a four-year term.

(2) There shall be eighty-one Senators in the Senate, who are elected to a six-year term. Every second year elections for one-third of the Senators shall be held.

### **ARTICLE 17**

(1) Elections to both chambers shall be held during the period commencing thirty days prior to the expiration of each electoral term and ending on the day of its expiration.

(2) If the Assembly of Deputies is dissolved, the election to it shall be held within sixty days of the dissolution.

### **ARTICLE 18**

(1) Elections to the Assembly of Deputies shall be held by secret ballot on the basis of a universal, equal, and direct right to vote, according to the principle of proportional representation.

(2) Elections to the Senate shall be held by secret ballot on the basis of a universal, equal, and direct right to vote, according to the principle of majority rule.

(3) Each citizen of the Czech Republic who has attained the age of eighteen has the right to vote.

## **ARTICLE 19**

(1) Any citizen of the Czech Republic who has the right to vote and has attained the age of twenty-one is eligible for election to the Assembly of Deputies.

(2) Any citizen of the Czech Republic who has the right to vote and has attained the age of forty is eligible for election to the Senate.

(3) Deputies and Senators gain their mandate by their election.

## **ARTICLE 20**

Further conditions upon the exercise of the right to vote, the organization of elections, and the extent of judicial oversight over them shall be provided for by statute.

## **ARTICLE 21**

No person may be at the same time a member of both chambers of Parliament.

## **ARTICLE 22**

(1) The office of a Deputy or Senator is incompatible with holding the office of the President of the Republic, the office of a judge, and with other offices to be designated by statute.

(2) A Deputy or Senator's mandate shall lapse on the day she assumes the office of President of the Republic, the office of a judge, or other offices incompatible with the office of Deputy or Senator.

## **ARTICLE 23**

(1) Representatives shall take the oath of office at the first meeting of the Assembly of Deputies which they attend.

(2) Senators shall take the oath of office at the first meeting of the Senate which they attend.

(3) Deputies and Senators shall take the following oath of office: "I pledge loyalty to the Czech Republic. I pledge that I will uphold its Constitution and laws. I

pledge on my honor that I will carry out my mandate in the interest of all the people, to the best of my knowledge and conscience."

#### **ARTICLE 24**

Deputies and Senators may resign their seat by a declaration made in person at a meeting of the chamber of which they are a member. Should serious circumstances prevent them from so doing, they shall submit their resignation in the manner provided for by statute.

#### **ARTICLE 25**

A Deputy or Senator's mandate shall lapse:

- (a) upon his refusal to take the oath of office or upon taking the oath with reservations,
- (b) upon the expiration of the electoral term,
- (c) when he resigns his seat,
- (d) upon his loss of eligibility to hold office,
- (e) for Deputies, upon the dissolution of the Assembly of Deputies,
- (f) when an incompatibility of offices under Article 22 arises.

#### **ARTICLE 26**

Deputies and Senators shall perform their duties personally in accordance with their oath of office; in addition, they shall not be bound by anyone's instruction.

#### **ARTICLE 27**

(1) There shall be no legal recourse against Deputies or Senators for their votes in the Assembly of Deputies or Senate respectively, or in the bodies thereof.

(2) Deputies and Senators may not be criminally prosecuted for speeches in the Assembly of Deputies or the Senate respectively, or in the bodies thereof. Deputies and Senators are subject only to the disciplinary authority of the chamber of which they are a member.

(3) In respect of administrative offenses, Deputies and Senators are subject only to the disciplinary authority of the chamber of which they are a member, unless a statute provides otherwise.

(4) Deputies and Senators may not be criminally prosecuted except with the consent of the chamber of which they are a member. If that chamber withholds its consent, such criminal prosecution shall be forever foreclosed.

(5) Deputies and Senators may be arrested only if they are apprehended while committing a criminal act or immediately thereafter. The arresting authority must immediately announce such an arrest to the chairperson of the chamber of which the detainee is a member; if, within twenty-four hours of the arrest, the chairperson of the chamber does not give her consent to hand the detainee over to a court, the arresting

authority is obliged to release him. At the very next meeting of that chamber, it shall make the definitive decision as to whether he may be prosecuted.

## **ARTICLE 28**

Deputies and Senators have the right to refuse to give evidence as to facts about which they learned in connection with the performance of their duties, and this privilege continues in effect even after they cease to be a Deputy or Senator.

## **ARTICLE 29**

(1) The Assembly of Deputies elects and recalls its Chairperson and Vice-Chairpersons.

(2) The Senate elects and recalls its Chairperson and Vice-Chairpersons.

## **ARTICLE 30**

(1) For investigations into matters of public interest, the Assembly of Deputies may create investigating commissions if at least one-fifth of the Deputies so propose.

(2) The proceedings before commissions shall be governed by statute.

## **ARTICLE 31**

(1) Each chamber shall establish committees and commissions as its bodies.

(2) The activities of committees and commissions shall be governed by statute.

## **ARTICLE 32**

A Deputy or a Senator who is a member of the government may not serve as the Chairperson or a Vice-Chairperson of the Assembly of Deputies or the Senate or as a member of a parliamentary committee, investigating commission, or commission.

## **ARTICLE 33**

(1) If the Assembly of Deputies is dissolved, the Senate shall be empowered to adopt legislative measures concerning matters which cannot be delayed and which would otherwise require the adoption of a statute.

(2) The Senate is not authorized, however, to adopt legislative measures concerning the Constitution, the state budget, the final state accounting, an electoral law, or international treaties under Article 10.<sup>6</sup>

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<sup>6</sup> See ARTICLE 11 of **CONSTITUTIONAL ACT** of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic, Appendix B.

(3) Only the government may submit proposals for such legislative measures to the Senate.<sup>7</sup>

(4) Legislative measures of the Senate shall be signed by the Chairperson of the Senate, the President of the Republic, and the Prime Minister; they shall be promulgated in the same manner as statutes.

(5) Legislative measures of the Senate must be ratified by the Assembly of Deputies at its first meeting. Should the Assembly of Deputies not ratify them, they shall cease to be in force.

#### **ARTICLE 34**

(1) The chambers shall hold standing sessions. The President of the Republic shall convene sessions of the Assembly of Deputies, so that they may be opened no later than thirty days after an election. If she fails to do so, the Assembly of Deputies shall convene on the thirtieth day after the election.

(2) Sessions of a chamber may be adjourned by resolution. The total number of days in a year for which a session may be adjourned shall not exceed one hundred and twenty.

(3) While a session is adjourned, the Chairperson of the Assembly of Deputies or the Senate may summon their respective chambers to a meeting before the date designated therefor. They shall always do so should the President of the Republic, the government, or at least one-fifth of that chamber's members so request.

(4) Sessions of the Assembly of Deputies conclude upon the expiration of the electoral term or by its dissolution.

#### **ARTICLE 35**

(1) The President of the Republic may dissolve the Assembly of Deputies if:

- a) the Assembly of Deputies does not adopt a resolution of confidence in a newly appointed government, the Prime Minister of which was appointed by the President of the Republic on the basis of a proposal of the Chairperson of the Assembly of Deputies;
- b) the Assembly of Deputies fails, within three months, to reach decision on a governmental bill with the consideration of which the government has joined the issue of confidence.
- c) a session of the Assembly of Deputies has been adjourned for a longer period than is permissible.
- d) for a period of more than three months, the Assembly of Deputies has not formed a quorum, even though its session has not been adjourned and it has, during this period, been repeatedly summoned to a meeting.

(2) The Assembly of Deputies may not be dissolved during the three-month period preceding the expiration of its electoral term.

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<sup>7</sup> See ARTICLE 11 of **CONSTITUTIONAL ACT** of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic, Appendix B.



## ARTICLE 36

Sessions of the chambers shall be open to the public. The public may be excluded only under conditions provided for in a statute.

## ARTICLE 37

(1) The Chairperson of the Assembly of Deputies convenes joint meetings of the chambers.

(2) Joint meetings of the chambers shall be conducted in accordance with the standing orders of the Assembly of Deputies.

## ARTICLE 38

(1) Members of the government have the right to attend the meetings of either chamber, their committees, or commissions. They shall be given the opportunity to speak whenever they request.

(2) Members of the government are obliged to appear in person at a meeting of the Assembly of Deputies, if it so resolves. The same applies to meetings of committees, commissions, or investigating commissions, in which case, however, a member of the government may have a deputy or another member of the government appear in his stead if his personal participation has not been explicitly demanded.

## ARTICLE 39

(1) One-third of the members of each chamber constitutes a quorum.

(2) Unless this Constitution provides otherwise, the consent of a simple majority of the Deputies or Senators present is required for the adoption of a resolution in either chamber.

(3) The consent of an absolute majority of all Deputies and an absolute majority of all Senators is required in order to the adoption of a resolution declaring a state of war or a resolution granting consent to sending the armed forces of the Czech Republic outside the territory of the Czech Republic or the stationing of the armed forces of other states within the territory of the Czech Republic, as well as with the adoption of a resolution concerning the Czech Republic's participation in defensive systems of an international organization of which the Czech Republic is a member.<sup>8</sup>

(4) The consent of three-fifths of all Deputies and three-fifths of all Senators present is required for the adoption of a constitutional act or for giving consent to the ratification of international treaties referred to in Article 10a para. 1.<sup>9</sup>

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<sup>8</sup> The passage following the words, "granting consent", was amended by Article I, point 1, of Constitutional Act No. 300/2000 Sb. of 9 August 2000, which came into effect on 1 December 2000. The original passage in Article 39 para. 3 read as follows: "to the stationing of foreign troops in the Czech Republic."

<sup>9</sup> Amended by Article I, point 4 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 39 para. 4 read as follows: "The consent of three-fifths of all Deputies and three-fifths of all Senators present is required in order to adopt a constitutional act or to approve an international treaty under Article 10."

## **ARTICLE 40**

In order to adopt an electoral law, a law concerning the principles of dealings and relations of both chambers, both between themselves and externally, or a law enacting the standing orders for the Senate, both the Assembly of Deputies and the Senate must approve it.

## **ARTICLE 41**

- (1) Bills shall be introduced in the Assembly of Deputies.
- (2) Bills may be introduced by Deputies, groups of Deputies, the Senate, the government, or representative bodies of higher self-governing regions.

## **ARTICLE 42**

- (1) Bills on the state budget and the final state accounting shall be introduced by the government.
- (2) These bills shall be debated at a public meeting, and only the Assembly of Deputies may adopt resolutions concerning them.

## **ARTICLE 43<sup>10</sup>**

(1) Parliament shall decide on the declaration of a state of war, if the Czech Republic is attacked, or if such is necessary for the fulfilment of its international treaty obligations on collective self-defense against aggression.

(2) The Parliament shall decide on the the Czech Republic's participation in defensive systems of an international organization of which the Czech Republic is a member.

(3) The Parliament gives its consent to

- a) the sending the armed forces of the Czech Republic outside the territory of the Czech Republic;
- b) the stationing of the armed forces of other states within the territory of the Czech Republic,

unless such decisions are reserved to the government.

(4) The government may decide to send the armed forces of the Czech Republic outside the territory of the Czech Republic and to allow the stationing of the armed forces of other states within the territory of the Czech Republic for no longer than 60 days, in matters concerning the

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<sup>10</sup> Amended by Article I, point 2, of Constitutional Act No. 300/2000 Sb. of 9 August 2000, which came into effect on 1 December 2000. The original Article 43 read as follows:

(1) The Parliament may declare a state of war only if the Czech Republic has been attacked or if it must do so to fulfill its obligations under an international treaty for collective self-defense against aggression.

(2) The armed forces may be sent outside the territory of the Czech Republic only with the approval of both chambers.

the fulfilment of obligations pursuant to international treaties on collective self-defense against aggression,

participation in peace-keeping operations pursuant to the decision of an international organization, of which the Czech Republic is a member, if the receiving state consents;

participation in rescue operations in cases of natural catastrophe, industrial or ecological accidents.

(5) The government shall also decide:

a) on the transfer of the armed forces of other states across the territory of the Czech Republic and on their overflight over the territory of the Czech Republic.

b) on the participation of the armed forces of the Czech Republic in military exercises outside the territory of the Czech Republic and on the participation of the armed forces of other states in military exercises within the territory of the Czech Republic.

(6) Without delay the government shall inform both chambers of Parliament concerning any decisions it makes pursuant to paras. 4 and 5. The Parliament may annul the government's decisions; in order to annul such decisions of the government, the disapproving resolution of one of the chambers, adopted by an absolute majority of all its members, shall suffice.

#### **ARTICLE 44**

(1) The government has the right to express its views on all bills.

(2) If the government does not express its views on a bill within thirty days of the delivery thereof, it shall be presumed to have positive views.

(3) The government is entitled to require that the Assembly of Deputies conclude debate on a government-sponsored bill within three months of its submission, provided that the government joins with it a request for a vote of confidence.<sup>11</sup>

#### **ARTICLE 45**

The Assembly of Deputies shall submit bills which it has approved to the Senate without undue delay.

#### **ARTICLE 46**

(1) The Senate shall debate bills and take action on them within thirty days of their submission.<sup>12</sup>

(2) The Senate shall either adopt bills, reject them, return them to the Assembly of Deputies with proposed amendments, or declare its intention not to deal with them.

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<sup>11</sup> See ARTICLE 8 para. 2 of **CONSTITUTIONAL ACT** of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic, Appendix B, which provides that in some emergency situations the government may request action on a bill within 72 hours.

<sup>12</sup> See ARTICLE 8 para. 2 of **CONSTITUTIONAL ACT** of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic, Appendix B, which provides, in some emergency situations, for action within 24 hours.

(3) If the Senate does not declare its intention within the time period permitted by paragraph 1, it shall be deemed to have adopted a bill.

#### **ARTICLE 47**

(1) If the Senate rejects a bill, the Assembly of Deputies shall vote on it again. The bill is adopted if it is approved by an absolute majority of all Deputies.

(2) If the Senate returns a bill to the Assembly of Deputies with proposed amendments, the Assembly of Deputies shall vote on the version of the bill approved by the Senate. The bill is adopted by its resolution.

(3) If the Assembly of Deputies does not approve the version of the bill adopted by the Senate, it shall vote again on the version it submitted to the Senate. The bill is adopted if it is approved by an absolute majority of all Deputies.

(4) The Assembly of Deputies may not propose amendments in the course of debate on a bill that has been rejected or returned to it.

#### **ARTICLE 48**

If the Senate declares its intent not to deal with a bill, it shall be adopted by that declaration.

#### **ARTICLE 49**

The consent of both chambers of Parliament is required for the ratification of international treaties:

- a) affecting the rights or duties of persons;
- b) of alliance, peace, or other political nature;
- c) by which the Czech Republic becomes a member of an international organization;
- d) of a general economic nature;
- e) concerning additional matters, the regulation of which is reserved to statute.<sup>13</sup>

#### **ARTICLE 50**

(1) With the exception of constitutional acts, the President of the Republic has the right to return adopted acts, with a statement of her reasons, within fifteen days of the day they were submitted to her.<sup>14</sup>

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<sup>13</sup>Amended by Article I, point 5 of **CONSTITUTIONAL ACT** of 18 October 2001, No. 395/2001 Sb., which comes into effect on 1 June 2002. The original Article 49 read as follows:

(1) International treaties which require Parliament's consent shall be approved in the same way as ordinary bills.

(2) Parliament's consent is required for treaties concerning human rights and fundamental freedoms, political treaties, and economic treaties of a general character, as well as for treaties which require an implementing law.

(2) The Assembly of Deputies shall vote again on returned acts. Proposed amendments are not permitted. If the Assembly of Deputies reaffirms its approval of the act by an absolute majority of all Deputies, the act shall be promulgated. Otherwise the act shall be deemed not to have been adopted.

#### **ARTICLE 51**

Statutes that have been adopted shall be signed by the Chairperson of the Assembly of Deputies, the President of the Republic, and the Prime Minister.

#### **ARTICLE 52<sup>15</sup>**

- 1) In order for a statute to be valid, it must be promulgated.
- 2) The manner in which statutes and treaties are to be promulgated shall be provided for by statute.

#### **ARTICLE 53**

- (1) Each Deputy has the right to interpellate the government or members of it concerning matters within their competence.
- (2) Interpellated members of the government shall respond to an interpellation within thirty days of its submission.

### **CHAPTER THREE Executive Power**

#### **THE PRESIDENT OF THE REPUBLIC**

#### **ARTICLE 54**

- (1) The President of the Republic is the head of state.
- (2) The Parliament shall elect the President of the Republic at a joint meeting of both chambers.
- (3) The President of the Republic shall not be answerable at law for the performance of his duties.

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<sup>14</sup> See ARTICLE 8 para. 3 of **CONSTITUTIONAL ACT** of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic, Appendix B, which provides that, in some emergency situations, the President has no right of veto over ordinary legislation.

<sup>15</sup> Amended by Article I, point 6 of Constitutional Act No. 395/2001 Sb. of 18 October 2001. The original Article 52 read as follows: "In order for acts to enter into force, they must be promulgated. The manner in which they are to be promulgated shall be provided for by statute. The same applies to international treaties approved by Parliament."

## **ARTICLE 55**

The President of the Republic assumes her office upon taking the oath of office. The President of the Republic's term of office lasts for five years and begins on the day she takes the oath of office.

## **ARTICLE 56**

The election shall be held during the final thirty days of the term of office of the incumbent President of the Republic. If the office of the President of the Republic becomes vacant, the election shall be held within thirty days of it becoming vacant.

## **ARTICLE 57**

- (1) Any citizen eligible for election to the Senate may be elected President.
- (2) No person may be elected President more than twice in succession.

## **ARTICLE 58**

(1) A group of at least ten Deputies or ten Senators is entitled to nominate a candidate.

(2) The candidate who receives an absolute majority of the votes of all Deputies and an absolute majority of the votes of all Senators is elected President of the Republic.

(3) Should none of the candidates receive an absolute majority of the votes of all Deputies and all Senators, a second round of the election shall be held within fourteen days of the first.

(4) The candidate who received the highest number of votes in the Chamber of Deputies and the candidate who received the highest number of votes in the Senate shall advance into the second round.

(5) If more than one candidate receive the same highest number of votes, either in the Assembly of Deputies or in the Senate, the votes cast for them in both chambers shall be added together. The candidate who receives the highest number of votes calculated in this manner shall advance into the second round.

(6) The candidate who receives an absolute majority of the votes of Deputies present and an absolute majority of the votes of Senators present shall be elected.

(7) If no candidate is elected President of the Republic in the second round of the election either, within fourteen days thereof, a third round of the election shall be held, in which the candidate from the second round who receives an absolute majority of the votes of the Deputies and Senators present shall be elected.

(8) If no candidate is elected President of the Republic even in the third round, new elections shall be held.

## **ARTICLE 59**

(1) The Chairman of the Assembly of Deputies shall administer the oath of office to the President-elect at a joint meeting of both chambers.

(2) The President-elect shall take the following oath of office: "I pledge loyalty to the Czech Republic. I pledge to uphold its Constitution and laws. I pledge on my honor to carry out my duties in the interest of all the people, to the best of my knowledge and conscience."

#### **ARTICLE 60**

If the President-elect refuses to take the oath of office or takes it with reservations, he shall be deemed not to have been elected.

#### **ARTICLE 61**

The President of the Republic may resign her office by submitting her resignation to the Chairperson of the Assembly of Deputies.

#### **ARTICLE 62**

The President of the Republic:

- a) appoints and recalls the Prime Minister and other members of the government and accepts their resignations, recalls the government and accepts its resignation;
- b) convenes sessions of the Assembly of Deputies;
- c) may dissolve the Assembly of Deputies;
- d) shall entrust the government whose resignation he has accepted, or which he has recalled, with the temporary performance of its duties until a new government is appointed;
- e) shall appoint Justices of the Constitutional Court, its Chairperson and Vice-Chairpersons;
- f) shall appoint from among judges the Chairperson and Vice-Chairpersons of the Supreme Court;
- g) may grant pardons or commute sentences imposed by courts, order that a criminal proceeding not be instituted or, if it has been instituted, that it be discontinued, and order that a criminal record be expunged;
- h) has the right to return to Parliament acts it has adopted, with the exception of constitutional acts;
- i) shall sign statutes;
- j) shall appoint the President and Vice-President of the Supreme Auditing Office;
- k) shall appoint members of the Banking Council of the Czech National Bank.

#### **ARTICLE 63**

(1) In addition, the President of the Republic:

- a) represents the state externally;

- b) negotiates and ratifies international treaties; she may delegate the negotiation of international treaties to the government or, with its consent, to individual members thereof;
- c) is the supreme commander of the armed forces;<sup>16</sup>
- d) receives heads of diplomatic missions;
- e) accredits and recalls heads of diplomatic missions;
- f) calls elections to the Assembly of Deputies and the Senate;
- g) commissions and promotes generals;
- h) may grant and award state honors, unless she has empowered some other body to do so;
- i) appoints judges;
- j) has the right to issue amnesties.

(2) The President of the Republic also possesses powers which are not explicitly enumerated in constitutional acts if a statute so provides.

(3) In order to be valid, decisions of the President of the Republic issued pursuant to paragraphs 1 and 2 require the countersignature of the Prime Minister or a member of the government designated by him.

(4) The government is responsible for the decisions of the President of the Republic that require the countersignature of the Prime Minister or a member of the government designated by him.

#### **ARTICLE 64**

(1) The President of the Republic has the right to take part in the meetings of both chambers of Parliament, as well as those of their committees and commissions. He shall be given the opportunity to speak whenever he requests.

(2) The President of the Republic has the right to take part in the meetings of the government, to request reports from the government or its members, and to discuss with the government or its members issues that fall within their competence.

#### **ARTICLE 65**

(1) The President of the Republic may not be taken into detention, criminally prosecuted, nor prosecuted for misdemeanors or other administrative offenses.

(2) The President of the Republic may be prosecuted for high treason before the Constitutional Court on the basis of a charge brought by the Senate. The only penalty that may be imposed is the loss of the Presidency and of further eligibility for the office.

(3) The President of the Republic may never be criminally prosecuted for criminal acts committed during the period she held the office of the Presidency.

#### **ARTICLE 66**

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<sup>16</sup> This power appears to have been significantly curtailed by ARTICLE 9 of **CONSTITUTIONAL ACT** of 22 April 1998, No. 110/1998 Sb., on the Security of the Czech Republic, Appendix B.



If the office of the Presidency becomes vacant and before a new President of the Republic has been elected or has taken the oath of office, likewise if the President of the Republic is, for serious reasons, incapable of performing his duties. and if the Assembly of Deputies and the Senate adopt a resolution to this effect, the performance of the presidential duties under Article 63, paragraph 1, letters a), b), c), d), e), h), i), j) and Article 63, paragraph 2 shall devolve upon the Prime Minister. In any period in which the Prime Minister is performing the above-specified presidential duties, the performance of the duties under Article 62, letters a), b), c), d), e), and k) shall devolve upon the Chairperson of the Assembly of Deputies; if the office of the Presidency becomes vacant during a period in which the Assembly of Deputies is dissolved, the performance of these functions shall devolve upon the Chairperson of the Senate.

## THE GOVERNMENT

### ARTICLE 67

- (1) The government is the highest body of executive power.
- (2) The government consists of the Prime Minister, Deputy Prime Ministers, and ministers.

### ARTICLE 68

- (1) The government is responsible to the Assembly of Deputies.
- (2) The President of the Republic shall appoint the Prime Minister and, on the basis of her proposal, the other members of the government and entrust them with the management of the ministries or other offices.
- (3) Within thirty days of its appointment, the government shall go before the Assembly of Deputies and ask it for a vote of confidence.
- (4) If the newly appointed government does not receive a vote of confidence from the Assembly of Deputies, the process in paragraphs 2 and 3 shall be repeated. If the government appointed on this second attempt does not receive a vote of confidence from the Assembly of Deputies either, the President of the Republic shall appoint the Prime Minister on the basis of a proposal by the Chairperson of the Assembly of Deputies.
- (5) In other cases, on the basis of the Prime Minister's proposal, the President of the Republic shall appoint and recall other members of the government and entrust them with the management of the ministries or other offices.

### ARTICLE 69

- (1) The President of the Republic shall administer the oath of office to the members of the government.

(2) The members of the government shall take the following oath of office: „I pledge loyalty to the Czech Republic. I pledge that I will uphold its Constitution and laws and bring them to life. I pledge on my honor that I will conscientiously carry out my duties and not abuse my position.”

#### **ARTICLE 70**

Members of the government may not engage in activities which are by their nature incompatible with the performance of a minister’s duties. Detailed provisions shall be set down in a statute.

#### **ARTICLE 71**

The government may submit to the Assembly of Deputies a request for a vote of confidence.

#### **ARTICLE 72**

(1) The Assembly of Deputies may adopt a resolution of no confidence in the government.

(2) The Assembly of Deputies may debate a proposed resolution of no confidence in the government only if it has been submitted in writing by at least fifty Deputies. To adopt the resolution, an absolute majority of all Deputies must give their consent.

#### **ARTICLE 73**

(1) The Prime Minister submits his resignation to the President of the Republic. Other members of the government submit their resignations to the President of the Republic through the Prime Minister.

(2) The government shall submit its resignation if the Assembly of Deputies rejects its request for a vote of confidence, or if it adopts a resolution of no confidence. The government shall always submit its resignation after the constituent meeting of a newly elected Assembly of Deputies.

(3) If the government submits its resignation in accordance with paragraph 2, the President of the Republic shall accept it.

#### **ARTICLE 74**

The President of the Republic shall recall members of the government if the Prime Minister so proposes.

## **ARTICLE 75**

The President of the Republic shall recall a government that has not submitted its resignation, even though it was obliged to do so.

## **ARTICLE 76**

- (1) The government shall make decisions as a body.
- (2) In order for the government to adopt a resolution, the consent of an absolute majority of all its members is necessary.

## **ARTICLE 77**

- (1) The Prime Minister shall organize the government's activities, preside over its meetings, act in its name, and perform other duties entrusted to him by this Constitution or by other laws.
- (2) A Deputy Prime Minister or another member of the government so commissioned may act in place of the Prime Minister.

## **ARTICLE 78**

In order to implement statutes, and while remaining within the bounds thereof, the government is authorized to issue orders. Such orders shall be signed by the Prime Minister and the competent member of the government.

## **ARTICLE 79**

- (1) The ministries and other administrative offices may be established, and their powers provided for, only by statute.
- (2) The legal relations of state employees within the ministries and other administrative offices shall be laid down in a statute.
- (3) If they are so empowered by statute, the ministries, other administrative offices, and bodies of territorial self-governing units may issue regulations on the basis of and within the bounds of that statute.

## **ARTICLE 80**

- (1) The State Attorney's Office shall issue and argue public indictments in criminal proceedings; it shall perform other functions as well if a statute so provides.
- (2) The status and powers of the State Attorney's Office shall be provided for by statute.

**CHAPTER FOUR**  
**Judicial Power**

**ARTICLE 81**

The judicial power shall be exercised in the name of the Republic by independent courts.

**ARTICLE 82**

(1) Judges shall be independent in the performance of their duties. Nobody may threaten their impartiality.

(2) Judges may not be removed or transferred to another court against their will; exceptions resulting especially from disciplinary responsibility shall be laid down in a statute.

(3) The office of a judge is incompatible with that of the President of the Republic, a Member of Parliament, as well as with any other function in public administration; a statute shall specify which further activities are incompatible with the discharge of judicial duties.

**THE CONSTITUTIONAL COURT**

**ARTICLE 83**

The Constitutional Court is the judicial body responsible for the protection of constitutionality.

**ARTICLE 84**

(1) The Constitutional Court shall be composed of fifteen Justices appointed for a period of ten years.

(2) The Justices of the Constitutional Court shall be appointed by the President of the Republic with the consent of the Senate.

(3) Any citizen who has a character beyond reproach, is eligible for election to the Senate, has a university legal education, and has been active in the legal profession for a minimum of ten years, may be appointed a Justice of the Constitutional Court.

**ARTICLE 85**

(1) A Justice of the Constitutional Court assumes her duties upon taking the oath of office administered by the President of the Republic.

(2) A Justice of the Constitutional Court shall take the following oath of office: "I pledge upon my honor and conscience that I will protect the inviolability of natural human rights and of the rights of citizens, adhere to constitutional acts, and make decisions according to my best convictions, independently and impartially.

(3) Should a Justice refuse to take the oath of office or should he take it with reservations, he shall be deemed not to have been appointed.

## ARTICLE 86

(1) A Justice of the Constitutional Court may be criminally prosecuted only with the consent of the Senate. If the Senate withholds its consent, such criminal prosecution shall be forever foreclosed.

(2) A Justice of the Constitutional Court may be arrested only if he has been apprehended while committing a criminal act or immediately thereafter. The arresting authority must immediately inform the Chairperson of the Senate of the arrest; if, within twenty-four hours of the arrest, the Chairperson of the Senate does not give her consent to hand the detained Justice over to a court, the arresting authority is obliged to release him. At the very next meeting of the Senate, it shall make the definitive decision as to whether he may be criminally prosecuted.

(3) A Justice of the Constitutional Court has the right to refuse to give evidence as to facts about which she learned in connection with the performance of her duties, and this privilege continues in effect even after she has ceased to be a Justice of the Constitutional Court.

## ARTICLE 87

(1) The Constitutional Court has jurisdiction:

a) to annul statutes or individual provisions thereof if they are inconsistent with the constitutional order;<sup>17</sup>

b) to annul other legal enactments or individual provisions thereof if they are inconsistent with the constitutional order, a statute;<sup>18</sup>

c) over constitutional complaints by the representative body of a self-governing region against an unlawful encroachment by the state;

d) over constitutional complaints against final decisions or other actions by public authorities infringing constitutionally guaranteed fundamental rights and basic freedoms;

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<sup>17</sup> Amended by Article I, point 7 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 87 para.1, lit. a) read as follows: "to annul statutes or individual provisions thereof if they are inconsistent with a constitutional act or an international treaty under Article 10;"

<sup>18</sup> Amended by Article I, point 7 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 87 para. 1, lit. b) read as follows: "to annul other legal enactments or individual provisions thereof if they are inconsistent with a constitutional act, a statute, or an international treaty under Article 10;"

e) over remedial actions from decisions concerning the certification of the election of a Deputy or Senator;

f) to resolve doubts concerning a Deputy or Senator's loss of eligibility to hold office or the incompatibility under Article 25 of some other position or activity with holding the office of Deputy or Senator;

g) over a constitutional charge brought by the Senate against the President of the Republic pursuant to Article 65, paragraph 2;

h) to decide on a petition by the President of the Republic seeking the revocation of a joint resolution of the Assembly of Deputies and the Senate pursuant to Article 66;

i) to decide on the measures necessary to implement a decision of an international tribunal which is binding on the Czech Republic, in the event that it cannot be otherwise implemented;

j) to determine whether a decision to dissolve a political party or other decisions relating to the activities of a political party is in conformity with constitutional acts or other laws;

k) to decide jurisdictional disputes between state bodies and bodies of self-governing regions, unless that power is given by statute to another body.

l) over remedial actions from a decision of the President of the Republic declining to call a referendum on the Czech Republic's accession to the European Union;

m) to determine whether the manner in which a referendum on the Czech Republic's accession to the European Union was held is in harmony with the Constitutional Act on the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof.

(2) The Constitutional Court shall further have jurisdiction to decide concerning the conformity of a treaty under Article 10a or Article 49 with the constitutional order, prior to its ratification. A treaty may not be ratified prior to the Constitutional Court giving judgment.<sup>19</sup>

(3) An statute may provide that, in place of the Constitutional Court, the Supreme Administrative Court shall have jurisdiction:

a) to annul legal enactments other than statutes or individual provisions thereof if they are inconsistent with a statute;

b) to decide jurisdictional disputes between state bodies and bodies of self-governing regions, unless that power is given by statute to another body.

## **ARTICLE 88**

(1) A statute shall specify who shall be entitled to submit a petition instituting a proceeding before the Constitutional Court, and under what conditions, and shall lay down other rules for proceedings before the Constitutional Court.

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<sup>19</sup> A new para. 2 of Article 87 added by Article I, point 8 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 87 para. 2 remained and was renumbered as Article 87 para. 3.

(2) In making their decisions, the Justices of the Constitutional Court are bound only by the constitutional order and the statute under paragraph 1.<sup>20</sup>

## **ARTICLE 89**

(1) Decisions of the Constitutional Court are enforceable as soon as they are announced in the manner provided for by statute, unless the Constitutional Court decides otherwise concerning enforcement.

(2) Enforceable decisions of the Constitutional Court are binding on all authorities and persons.

(3) Decisions of the Constitutional Court which declare, pursuant to Article 87 para. 2, that a treaty is not in conformity with the constitutional order, prevent the ratification of the treaty until such time as the non-conformity is removed.<sup>21</sup>

## **COURTS**

### **ARTICLE 90**

Courts are called upon above all to provide protection of rights in the legally prescribed manner. Only a court may decide upon guilt and determine the punishment for a criminal offense.

### **ARTICLE 91**

(1) The court system comprises the Supreme Court, the Supreme Administrative Court, superior, regional, and district courts. They may be given a different denomination by statute.

(2) The jurisdiction and organization of the courts shall be provided for by statute.

### **ARTICLE 92**

The Supreme Court is the highest judicial body in matters that fall within the jurisdiction of courts, with the exception of matters that come under the jurisdiction of the Constitutional Court or the Supreme Administrative Court.

### **ARTICLE 93**

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<sup>20</sup> Amended by Article I, point 9 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 88 para. 2 read as follows: "In making their decisions, the Justices of the Constitutional Court are bound only by constitutional acts, international treaties under Article 10, and the statute under paragraph 1."

<sup>21</sup> A new para. 3 of Article 89 was added by Article I, point 10 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002.

(1) Judges are appointed to their office for an unlimited term by the President of the Republic. They assume their duties upon taking the oath of office.

(2) Any citizen who has a character beyond reproach and a university legal education may be appointed a judge. Further qualifications and procedures shall be provided for by statute.

#### **ARTICLE 94**

(1) A statute shall specify which cases shall be heard by a panel of judges, as well as the composition thereof. All other cases shall be heard by individual judges.

(2) A statute may specify in which matters and in what manner other citizens shall participate alongside judges in a court's decision-making.

#### **ARTICLE 95<sup>22</sup>**

(1) In making their decisions, judges are bound by statutes and treaties which form a part of the legal order; they are authorized to judge whether enactments other than statutes are in conformity with statutes or with such treaties.

(2) Should a court come to the conclusion that a statute which should be applied in the resolution of a matter is inconsistent/in conflict with the constitutional order, it shall submit the matter to the Constitutional Court.

#### **ARTICLE 96**

(1) All parties to a proceeding have equal rights before the court.

(2) Proceedings before courts shall be oral and public; exceptions to this principle shall be provided for by statute. Judgments shall always be pronounced publicly.

### **CHAPTER FIVE The Supreme Auditing Office**

#### **ARTICLE 97**

(1) The Supreme Auditing Office shall be an independent body. It shall perform audits on the management of state property and the implementation of the state budget.

(2) The President of the Republic appoints the President and Vice-President of the Supreme Auditing Office based on the nomination of the Assembly of Deputies.

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<sup>22</sup> Amended by Article I, point 11 of Constitutional Act No. 395/2001 Sb. of 18 October 2001, which comes into effect on 1 June 2002. The original Article 95 read as follows:

(1) In making their decisions, judges are bound by statutes; they are authorized to judge whether enactments other than statutes are in conformity with statutes.

(2) Should a court come to the conclusion that a statute which should be applied in the resolution of a matter is inconsistent with a constitutional act, it shall submit the matter to the Constitutional Court.



(3) The legal status, powers, and organizational structure of the Office, as well as more detailed provisions, shall be set down in a statute.

## **CHAPTER SIX** **The Czech National Bank**

### **ARTICLE 98**

(1) The Czech National Bank shall be the state central bank. Its primary purpose shall be to maintain price stability; interventions into its affairs shall be permissible only on the basis of statute.<sup>23</sup>

(2) The Bank's status and powers, as well as more detailed provisions, shall be set down in a statute.

## **CHAPTER SEVEN** **Territorial Self-Government**

### **ARTICLE 99<sup>24</sup>**

The Czech Republic is subdivided into municipalities, which are the basic territorial self-governing units, and into regions, which are the higher territorial self-governing units.

### **ARTICLE 100**

(1) Territorial self-governing units are territorial communities of citizens with the right to self-government. A statute shall specify the cases when they shall be administrative districts.

(2) Municipalities shall always form part of a higher self-governing region.

(3) Higher self-governing regions may be created or dissolved only by a constitutional act.<sup>25</sup>

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<sup>23</sup> Amended by Article I of Constitutional Act No. 448/2001 Sb. of 27 November 2001, which entered into force on 1 January 2002. The original Article 98 read as follows: "The Czech National Bank shall be the state central bank. Its primary purpose shall be to maintain the stability of the currency; interventions into its affairs shall be permissible only on the basis of statute."

<sup>24</sup> 1. Pursuant to ARTICLE 4 para. 1 of **CONSTITUTIONAL ACT** of 3 December 1997, No. 347/1997 Sb., on the Creation of Higher Territorial Self-Governing Units and on Amendments to Constitutional Act of the Czech National Council, No. 1/1993 Sb., the Constitution of the Czech Republic, ARTICLE 99 was amended as of 1 January 2000. See Appendix A. The original text read as follows:

"The Czech Republic is subdivided into municipalities, which are the basic territorial self-governing units. Lands or regions shall be the higher territorial self-governing units."

<sup>25</sup> ARTICLE 2 of **CONSTITUTIONAL ACT** of 3 December 1997, No. 347/1997 Sb., on the Creation of Higher Territorial Self-Governing Units and on Amendments to Constitutional Act of the Czech National Council, No. 1/1993 Sb., the Constitution of the Czech Republic appears slightly to modify ARTICLE 100 para. 1 of the Constitution of the Czech Republic by providing, as of 1 January 2000: "The borders of the higher territorial self-governing units may be changed only by statute."

### **ARTICLE 101**

(1) Municipalities shall be independently administered by their representative body.

(2) Higher self-governing regions shall be independently administered by their representative body.

(3) Territorial self-governing units are public law corporations which may own property and manage their affairs on the basis of their own budget.

(4) The state may intervene in the affairs of territorial self-governing units only if such is required for the protection of law and only in the manner provided for by statute.

### **ARTICLE 102**

(1) Members of representative bodies shall be elected by secret ballot on the basis of a universal, equal, and direct right to vote.

(2) Representative bodies shall have a four-year electoral term. The circumstances under which new elections for representative bodies shall be called prior to the expiration of an electoral term shall be designated by statute.

### **ARTICLE 103** **[Repealed]<sup>26</sup>**

### **ARTICLE 104**

(1) The powers of representative bodies shall be provided for only by statute.

(2) Representative bodies of municipalities shall have jurisdiction in matters of self-government, to the extent such matters are not entrusted by statute to the representative bodies of higher self-governing regions.

(3) Representative bodies may, within the limits of their jurisdiction, issue generally binding ordinances.

### **ARTICLE 105**

The exercise of state administration may be delegated to self-governing bodies only if such is provided for by statute.

## **CHAPTER EIGHT**

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<sup>26</sup>Pursuant to ARTICLE 4 para. 2 of **CONSTITUTIONAL ACT** of 3 December 1997, No. 347/1997 Sb., on the Creation of Higher Territorial Self-Governing Units and on Amendments to Constitutional Act of the Czech National Council, No. 1/1993 Sb., the Constitution of the Czech Republic, **ARTICLE 103** of the Constitution of the Czech Republic was repealed as of 1 January 2000. The original text read as follows:

"The names of higher self governing regions shall be chosen by their respective bodies."

## **Transitional And Final Provisions**

### **ARTICLE 106**

(1) On the day this Constitution enters into force, the Czech National Council shall become the Assembly of Deputies, the electoral term of which shall conclude on the sixth of June 1996.

(2) Until such time as the Senate is elected in accordance with this Constitution, the Senate's duties shall be carried out by the Provisional Senate. The Provisional Senate shall be established in the manner provided for by a constitutional act. Until that act enters into force, the Assembly of Deputies shall perform the duties of the Senate.

(3) So long as it is performing the duties of the Senate pursuant to paragraph 2, the Assembly of Deputies may not be dissolved.

(4) Until statutes enacting the standing orders for both chambers are adopted, each chamber shall proceed in accordance with the standing orders of the Czech National Council.

### **ARTICLE 107**

(1) The statute on elections to the Senate shall indicate, for the first Senate election, the manner of determining which third of those Senators shall have a term of office lasting two years and which third of those Senators shall have a term of office lasting four years.

(2) The President of the Republic shall convene the session of the Senate so that it opens no later than thirty days after the election; if he does not do so, the Senate shall convene thirty days after the election.

### **ARTICLE 108**

The government of the Czech Republic, appointed after the elections in 1992 and performing its duties on the day this Constitution enters into force, is deemed to be a government appointed pursuant to this Constitution.

### **ARTICLE 109**

Until such time as the State Attorney's Office is established, its duties shall be performed by the Office of the Procuracy of the Czech Republic.

### **ARTICLE 110**

Until the thirty-first of December 1993, military courts shall also form a system of courts.

## **ARTICLE 111**

Judges of all courts of the Czech Republic holding office on the day this Constitution enters into force are deemed to be judges appointed pursuant to the Constitution of the Czech Republic.

## **ARTICLE 112**

(1) The constitutional order of the Czech Republic is made up of this Constitution, the Charter of Fundamental Rights and Basic Freedoms, constitutional acts adopted pursuant to this Constitution, and those constitutional acts of the National Assembly of the Czechoslovak Republic, the Federal Assembly of the Czechoslovak Socialist Republic, and the Czech National Council defining the state borders of the Czech Republic, as well as constitutional acts of the Czech National Council adopted after the sixth of June 1992.

(2) The Constitution hitherto in force, the Constitutional Act concerning the Czechoslovak Federation, constitutional acts which amended and supplemented them, and Constitutional Act of the Czech National Council No. 67/1990 Sb., on the State Symbols of the Czech Republic, are hereby repealed.

(3) Other constitutional acts in force in the territory of the Czech Republic on the day this Constitution comes into effect shall be of a force equal to a statute.

## **ARTICLE 113**

This Constitution shall enter into force on the first of January 1993.