

Constitutional Court of the Czech Republic

I. Justice System

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

According to the Constitution, the Justices of the Constitutional Court are appointed by the President of the Republic with the consent of the Senate of the Parliament of the Czech Republic (hereinafter "Senate"). The President of the Republic selects a candidate whose name is then sent to the Senate with a request to express its consent to his/her appointment as a Justice of the Constitutional Court. Consent to the appointment is given if a simple majority of senators present vote in favour.

If the Senate grants consent, the President appoints the candidate as a Justice of the Constitutional Court, and the candidate thereby becomes a Justice of the Constitutional Court. The Justice's appointment becomes effective upon taking the oath of office prescribed by the Constitution and administered by the President of the Republic. It is an indispensable condition to assuming the office that an appointed Justice of the Constitutional Court take the oath of office prescribed by the Constitution and administered by the President. If they do not take the oath, or do so with reservations, the candidate does not become a Justice of the Constitutional Court.

The President and two Vice-Presidents of the Constitutional Court are also named by the President of the Republic, who chooses them from among the Justices of the Constitutional Court and does not need approval from any other body for their appointment.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

The term of office of Justice of the Constitutional Court is ten years; however, the Constitution allows for repeated appointment and does not specify any upper age limit.

A citizen of the Czech Republic is eligible for appointment as a Justice of the Constitutional Court provided that (s)he has reached at least 40 years of age, has an university degree in law and has been active in a legal profession for at least ten years. The office of Justice of the Constitutional Court is incompatible with the office of President of the Republic, member of Parliament or other office in public administration or any other paid office or profitable activity (other than scientific, teaching or artistic one). Moreover, a Justice of the Constitutional Court may not be member of any political party or political movement.

The Constitutional Court and its Justices have immunity ensuring their independence. A Justice of the Constitutional Court cannot be criminally prosecuted without the approval of the Senate and may be arrested only if caught committing a crime or immediately afterwards. If the Senate denies approval, criminal prosecution is impossible for the duration of office of the given Justice of the Constitutional Court.

A Justice of the Constitutional Court cannot be removed from the office; only in the case of a serious disciplinary offence or in a situation where a Justice performs duties or activities incompatible with the office of Justice of the Constitutional Court, or if a Justice breaches the prohibition of membership in a political party or political movement, or fails to participate in dealings of the Constitutional Court for a period exceeding one year, the Plenum of the Constitutional Court may decide on termination of his/her office in a special disciplinary proceedings. The tenure of Justice of the Constitutional Court terminates automatically in the event that a Justice is convicted of an intentional criminal offence or if she/he decides to resign.

Allocation of cases in courts

Cases submitted to the Constitutional Court are assigned to the Justice-Rapporteur according to the valid work schedule. The allocation is controlled by the computer according to the specified formula.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

A Justice of the Constitutional Court cannot be removed from the office; only in the case of a serious disciplinary offence or in a situation where a Justice performs duties or activities incompatible with the office of Justice of the Constitutional Court, or if a Justice breaches the prohibition of membership in a political party or political movement, or fails to participate in dealings of the Constitutional Court for a period exceeding one year, the Plenum of the Constitutional Court may decide on termination of his/her office in a special disciplinary proceedings. The tenure of Justice of the Constitutional Court terminates automatically in the event that a Justice is convicted of an intentional criminal offence or if she/he decides to resign.

B. Quality of justice

Accessibility of courts (e.g. court/legal fees, legal aid, language)

Costs of proceedings before the Constitutional Court (e.g. cash expenses, foregone income, attorney's fees), that a party or secondary party incurs are generally paid by the party or secondary party. However, the Constitutional Court may, in exceptional cases, and based on the results of the proceeding (i.e. based on success in the matter) require a party or secondary party to a proceeding to fully or partly compensate another party or secondary party for its costs.

Costs incurred by presentation of evidence to the Constitutional Court and interpreting costs are paid by the Constitutional Court.

The Constitutional Court may grant the complainant compensation of attorney's fees, under the following conditions:

- 1. the complainant's personal and property situation justifies it (in particular, if the complainant does not have sufficient funds to pay an attorney),*
- 2. the constitutional complaint was not rejected, and*
- 3. the complainant expressly requests this before the first hearing.*

If a complainant asks for compensation of attorney's fees, he must of course prove that his personal and property situation justifies it. If the Constitutional Court grants the request, the complainant's attorney's fees are borne fully or partly by the state, i.e. the Constitutional Court. However, if it is later determined that the complainant's personal and property situation did not justify this, the Constitutional Court may review its decision and reverse it, including retroactively.

Resources of the judiciary (human/financial/material)

The budget of the Constitutional Court is a particular (separate) chapter of the state budget. The state budget is approved by the Chamber of Deputies (lower chamber) of the Parliament of the Czech Republic.

C. Efficiency of the justice system

Length of proceedings

The law does not give the Constitutional Court a deadline for a decision. The usual time for a decision varies according to the complexity of the matter, approximately from two months to two years. Cases that take longer than three years from submission to decide are an exception, and almost always involve a public law dispute, for example between individual state authorities.

The average time for a decision made by the three-member panel of justices is 5-6 months. The average time for a decision made by the plenum (whole bench) is 11-12 months.

II. Anti-Corruption Framework

B. Prevention

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

In 2021 The Constitutional Court set up an internal notification system, under which it will be able to receive notifications of breaches of Union law by employees and contractors. It took this step in accordance with Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

In connection with the introduction of the system, among other things, a special appointment was made to establish a position that is to receive and process notifications.