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CODE OF CONSTITUTIONAL PROCEDURE
OF BOLIVIA

CODE OF CONSTITUTIONAL PROCEDURE

PART I

GENERAL PROVISIONS, SPECIAL POWERS OF THE PLURINATIONAL CONSTITUTIONAL COURT, DECISIONS, EFFECTS AND EXECUTION

CHAPTER ONE GENERAL PROVISIONS

ARTICLE 1. (PURPOSE). The purpose of this Code is to regulate constitutional proceedings before the Plurinational Constitutional Court and proceedings in constitutional defence actions before competent courts.

ARTICLE 2. (INTERPRETATION OF THE CONSTITUTION). In addition to the requirements laid down in Article 6 of the Law on the Plurinational Constitutional Court, judges, in their work of interpreting the Constitution:

1. Shall apply the literal meaning of the constitutional text and, in case of doubt, shall preferably use as the criterion for interpretation the drafter's intent as evidenced by documents and decisions.
2. In all cases, shall give preference to that interpretation which favours the effective application of human rights and is most favourable to the person.
3. In the alternative, shall apply the systematic interpretation of the Constitution, and the interpretation for the purposes established in the constitutional principles.
4. Shall interpret the rights recognised in the Constitution in accordance with the international human rights treaties and conventions ratified by the country, where their provisions are more favourable. In the event that these treaties proclaim rights not provided for in the Constitution, they shall be considered as part of the constitutional order.

ARTICLE 3. (PROCEDURAL PRINCIPLES OF CONSTITUTIONAL JUSTICE). The judges of the Plurinational Constitutional Court, and lower courts and judges when dispensing constitutional justice, shall be governed by the following principles :

1. **DIRECTION OF PROCEEDINGS:** They shall direct the interventions of the parties and take any necessary corrective measures.
2. **PROPRIO MOTU ACTION:** The various procedural steps shall be taken without any need for an application by the parties.
3. **EXPEDITIOUSNESS:** In deciding cases they shall avoid delays in proceedings.
4. **LACK OF FORMALISM:** Only those formalities strictly necessary for the purposes of the proceedings may be required.
5. **CONCENTRATION:** In constitutional proceedings, as much procedural activity as possible should be concentrated in as few acts as possible.

6. **SUBSTANTIATION:** Judgments shall be based on reasonable grounds and arguments.
7. **EFFECTIVE COMPREHENSION:** In all decisions, the factual and legal grounds and the arguments set forth must be comprehensible to the parties involved in the proceedings and the public at large.

ARTICLE 4. (PRESUMPTION OF CONSTITUTIONALITY). In accordance with the provisions of Article 5 of the Law on the Plurinational Constitutional Court, any rule of the organs of the state at all levels shall be presumed constitutional until such time as the Plurinational Constitutional Court rules and declares it unconstitutional.

CHAPTER TWO

SPECIAL POWERS OF THE PLURINATIONAL CONSTITUTIONAL COURT AND DUTY OF CO-OPERATION AND COLLABORATION OF PUBLIC AND PRIVATE BODIES, INSTITUTIONS AND PERSONS

ARTICLE 5. (DUTY OF CO-OPERATION AND COLLABORATION). In accordance with the provisions of Article 9 of the Law on the Plurinational Constitutional Court, public bodies and institutions and public or private physical or legal persons shall provide the Plurinational Constitutional Court, within the time-limits set by it, with:

1. Any co-operation or collaboration which is urgently and unavoidably required.
2. Any document which is necessary to decide a constitutional case.

ARTICLE 6. (JOINDER OF PROCEEDINGS). The Plurinational Constitutional Court may, of its own motion or on application by a party, order the joinder of related proceedings, provided this measure does not cause unnecessary delays in the hearing and determination of cases.

ARTICLE 7. (SUPPLEMENTARY OR EXPERT EVIDENCE).

- I. The Plurinational Constitutional Court may, if it deems necessary and where appropriate, order the production of supplementary or expert evidence in the case of proceedings involving the indigenous and peasant nations and peoples, and shall set a time-limit for the production of such evidence.
- II. At the hearing, the Plurinational Constitutional Court shall hear the parties, the Public Prosecutor's Office and the Office of the State Prosecutor General and may, where appropriate, put any questions it considers necessary. The hearing shall end without any pronouncement on the merits of the case.

ARTICLE 8. (PUBLIC HEARINGS). Before delivering a decision, the Plurinational Constitutional Court may, of its own motion or on application by a party, set a public hearing so that the parties and the Public Prosecutor's Office can explain and argue their claims in the constitutional proceedings. The presence of the Office of the State Prosecutor General shall be mandatory where the defence of state interests is involved.

ARTICLE 9. (INTERIM MEASURES). The Plurinational Constitutional Court may, of its own motion or on application by a party, through the Admissibility Committee, order any interim measures it considers necessary.

CHAPTER THREE

DECISIONS OF THE PLURINATIONAL CONSTITUTIONAL COURT, EFFECTS AND EXECUTION

ARTICLE 10. (DECISIONS). The Plurinational Constitutional Court shall issue the following decisions :

1. **CONSTITUTIONAL JUDGMENTS.** These decide actions, applications and appeals, and constitutional defence actions brought before it for review.
2. **CONSTITUTIONAL DECLARATIONS.** These are adopted in cases where the Plurinational Constitutional Court is asked to conduct a prior review or to give an opinion.
3. **CONSTITUTIONAL ORDERS.** These are admission or rejection, withdrawal, revocation, enforcement and other decisions issued in the course of proceedings.

ARTICLE 11. (OBLIGATION TO GIVE A DECISION). The judges of the Plurinational Constitutional Court may not be excused from delivering a judgment in the cases submitted to them on grounds of insufficiency, absence or obscurity of a rule.

ARTICLE 12. (SERVICE OR NOTIFICATION). Constitutional judgments, declarations and orders shall be notified by means of a notice in the Court's process service office.

Without prejudice to the preceding paragraph, the Plurinational Constitutional Court shall inform the parties on the day of notification, by means of an email sent to their personal account, of the contents of constitutional judgments, declarations and orders.

ARTICLE 13. (CLARIFICATION, AMENDMENT AND ADDITIONS).

- I. Parties may, within 48 hours of notification of the decision, request clarification of obscure concepts, correction of drafting errors or rectification of omissions without this affecting the substance of the judgment delivered.
- II. The Plurinational Constitutional Court may, of its own motion, within 24 hours of notification of the decision, clarify, amend or add to it, without this affecting the substance of the judgment delivered.

ARTICLE 14. (JUDGMENTS CONSTITUTING RES JUDICATA). A judgment declaring a legal rule unconstitutional shall not give rise to the revision of judgments constituting res judicata or to the revision of decisions made while the rule was presumed constitutional.

ARTICLE 15. (BINDING FORCE OF JUDGMENTS AND THEIR VALUE AS PRECEDENT). Without prejudice to the provisions of Article 8 of the Law on the Plurinational Constitutional Court:

1. Judgments, declarations and orders of the Plurinational Constitutional Court are binding on the parties to constitutional proceedings.
2. The legal grounds of judgments delivered by the Plurinational Constitutional Court constitute precedents and are binding on the organs of the state, legislative, executive and judicial.

ARTICLE 16. (EXECUTION). The Plurinational Constitutional Court shall determine in its decisions who shall be responsible for their execution and resolve any incident arising in the course of their execution.

ARTICLE 17. (ENFORCEMENT OF DECISIONS).

- I. The Plurinational Constitutional Court shall take the necessary steps to ensure compliance with its decisions. For this purpose, it may request the assistance of the forces of law and order or temporarily suspend from their duties any officials who fail to comply with its decisions.
- II. It may also impose pecuniary sanctions on authorities or individual or collective persons who fail to comply with its decisions, without prejudice to any civil or criminal liability to which this may give rise.

ARTICLE 18. (REFERRAL TO THE OFFICE OF THE STATE PROSECUTOR GENERAL OR THE PUBLIC PROSECUTOR'S OFFICE). For the purposes of any subsequent civil or criminal proceedings arising from non-compliance with its decisions, the Plurinational Constitutional Court may refer the case-file respectively to the Office of the State Prosecutor General, if appropriate, or the Public Prosecutor's Office.

ARTICLE 19. (PUBLICATION). Constitutional judgments and declarations shall be published in the Constitutional Gazette, whose periodicity shall be monthly. The Plurinational Constitutional Court shall make known these decisions through electronic media for information purposes only.

CHAPTER FOUR

COMMON RULES IN ACTIONS FOR UNCONSTITUTIONALITY, DISPUTES AS TO JURISDICTION, REQUESTS FOR REVIEW AND APPEALS

ARTICLE 20. (REQUIREMENTS).

- I. In actions for unconstitutionality, disputes as to jurisdiction, requests for review and appeals, the following information must be provided :
 1. Name and address of the person bringing the action, application, request for review or appeal, or of his/her legal representative, accompanied in the latter case by documentation proving his/her legal capacity. An email address must also be provided.

2. Name and address of the person against whom the action, application, request for review or appeal is directed, or of his/her legal representative.
 3. A statement of the facts where appropriate.
 4. Identification of the constitutional and other rules under consideration, with a clear statement of the reasons why the impugned rule is considered to be contrary to the Political Constitution of the State.
 5. Where appropriate, an application for interim measures.
 6. The petition.
- II. Actions for unconstitutionality, disputes as to jurisdiction, requests for review and appeals shall require the assistance of a lawyer.

ARTICLE 21. (TIME-LIMITS AND NOTIFICATIONS).

- I. The time-limits set for bringing actions for unconstitutionality, disputes as to jurisdiction, requests for review and appeals shall be firm. In proceedings before the Plurinational Constitutional Court, working days shall mean Monday to Friday. Time-limits shall be calculated starting from the day following notification of the decision.
- II. When an action or appeal is submitted to the Plurinational Constitutional Court outside the time-limits set in this Code, it shall be rejected by the Admissibility Committee. That decision may be challenged, in which case it shall be reviewed by the same committee with no further possibility of appeal.
- III. The institutions for the protection of society and the state shall be notified of the setting of hearings provided for in this Code, with 48 hours' notice.

ARTICLE 22. (SUBMISSION OF AN ACTION, APPLICATION, REQUEST FOR REVIEW OR APPEAL AND FORMAL REQUIREMENTS).

- I. When an action, application, request for review or appeal is submitted to the Plurinational Constitutional Court, it shall be registered and referred to the Admissibility Committee within a period of 24 hours.
- II. Within 24 hours of receiving the case-file, the Admissibility Committee shall note any failure to comply with the requirements laid down in Article 20 of this Code, which may be rectified within a period of 5 working days. If not, the action, application, request for review or appeal shall be deemed not to have been submitted.

ARTICLE 23. (PROCEEDINGS IN THE ADMISSIBILITY COMMITTEE). Once it has verified compliance with the requirements and any shortcomings noted in the document submitted have been rectified, the Admissibility Committee shall, within a period of 24 hours, initiate the prosecution of the case in accordance with the procedure laid down in this Code.

ARTICLE 24. (CONTENTS OF THE DECISION). A constitutional judgment or declaration shall contain:

1. The title and date of the decision
2. The number of the case
3. The identity of the person bringing the action, application, request for review or appeal, and of his/her legal representative, if any
4. The identity of the authority, body or person against which/whom the action, application or appeal was brought
5. A recital of the facts
6. A recital of the previous procedural steps
7. The legal grounds and arguments on which the decision is based
8. The decision and how it is to be enforced

**PART II
CONSTITUTIONAL DEFENCE ACTIONS**

**CHAPTER ONE
COMMON RULES OF PROCEDURE IN CONSTITUTIONAL DEFENCE ACTIONS**

**SECTION I
PROCEDURE BEFORE COURTS**

ARTICLE 25. (GENERAL RULES). In proceedings before courts hearing constitutional defence actions, the following provisions shall apply:

1. The action shall be brought in writing, except in the case of a habeas corpus action, which may be brought orally.
2. The court, on application by the plaintiff, shall assign a public defender to him/her if he/she is not assisted by a private lawyer. In habeas corpus actions, the plaintiff shall not require the assistance of a lawyer.
3. Where necessary, the court shall guarantee the presence of interpreters.
4. The case file shall be in writing and shall consist of:
 - a) The memorial or a document setting out the oral claim in the case of a habeas corpus action.
 - b) The admissibility decision and any procedural orders issued.
 - c) The relevant notifications.
 - d) The submissions in response to the complaint.
 - e) Documents containing evidence.
 - f) The record of the hearing.
 - g) The decision by the court in the constitutional defence action.
5. The time-limits set for constitutional defence actions shall be firm. For these purposes, working days and hours shall mean Monday to Friday, excluding public holidays, from 8 am to 12 noon and from 2 pm to 6 pm. In the case of habeas corpus actions, time-limits shall be calculated in calendar days and hours elapsed.
6. Notice shall be served personally or by delivery of documents.

7. Constitutional defence actions whose subject-matter, purpose and recital of facts are the same as in a previous action shall not be admissible.
8. The Public Prosecutor, the Ombudsman and the State Prosecutor General shall participate, within the limits of their jurisdiction, in actions for constitutional protection.
9. No action for unconstitutionality shall be allowed in constitutional defence actions.

ARTICLE 26. (APPEARANCE OF THIRD PARTIES). Any physical or legal person who can prove a legitimate interest in a constitutional defence action may appear before the court, which, if it deems necessary, shall allow his/her/its submissions in court.

ARTICLE 27. (JURISDICTION OF COURTS).

- I. A habeas corpus action may be brought before any competent court. Other constitutional defence actions shall be brought before any of the following courts:
 1. In the department capitals, before the duty division of the departmental courts of justice or the relevant public court.
 2. Outside the department capitals, before the public courts or mixed (civil-criminal) public courts.
- II. The competent court shall be that of the place where the violation of rights occurred. If the place has no court, jurisdiction shall lie with the court to which the party has access for reasons of geographical proximity or better transport conditions. If the violation was committed outside the plaintiff's place of residence, he/she may bring the action, if he/she considers it appropriate, before the court with jurisdiction for his/her place of residence.

ARTICLE 28. (REQUIREMENTS FOR THE ACTION). The action must contain at least the following:

1. The name and address of the person bringing the action or his/her legal representative, accompanied in the latter case by documents proving his/her legal capacity. In the case of third persons having a legitimate interest, they must prove the alleged interest. An email address must also be given.
2. The name and address of the person against whom the action is directed, or details enabling him/her to be identified, and, if it is known, the place where notice may be served on him/her.
3. Details of the lawyer representing the person bringing the action or, where applicable, the request to be assisted by a public defender.
4. A recital of the facts.
5. Identification of the rights or guarantees alleged to have been violated.
6. Where appropriate, an application for interim measures.
7. The evidence in his/her possession or an indication of the place where it may be found.

8. The petition.

ARTICLE 29. (INTERIM MEASURES).

- I. When deciding on the admissibility of the action, the court may order, of its own motion or on application by a party, the interim measures necessary to prevent any restriction, suppression or threat of restriction of a constitutional right or guarantee which, in its opinion, may create an irreparable situation.
- II. Should the action be declared unfounded, any interim measures ordered shall be void.

ARTICLE 30. (PROCEDURE). In habeas corpus, constitutional protection, privacy, enforcement and public-interest actions, the following procedure shall apply:

1. On the day on which the action is brought, the court shall set a day and time for a public hearing within the time-limits set for each type of action in this Code. It shall also order that notice be served on the defendant in person or by delivery of documents and that any evidence in his/her possession be handed over, and shall take any interim measures it deems necessary.
2. If the court deems it necessary, it shall order that notice of the hearing be served on any interested third parties whose rights may be affected or who possess further evidence, so that a decision may be given.
3. The defendant may file submissions in response before the public hearing.

ARTICLE 31. (PUBLIC HEARING). The public hearing shall be governed by the following procedure:

1. The hearing shall be oral and proceedings shall be recorded by any appropriate means.
2. The failure of the parties or the Public Prosecutor's Office to attend the hearing shall not prevent it from being held.
3. The complaint and the submissions in response shall be read out.
4. The parties' statements shall be heard. If the court deems it appropriate, it may hear other persons or representatives of institutions proposed by the parties.
5. The parties may bring evidence proving the facts they allege or disproving the other party's allegations, as the case may be. The judge may disallow evidence when it considers it to be irrelevant or request the production of any evidence it deems necessary.
6. In the course of the hearing, the court may put any questions it considers appropriate to decide the case, shall supervise the activity of the participants and shall avoid unnecessary delays.

7. No recess may be ordered during the course of the hearing until a decision has been given. An extension of time may be authorised if necessary to conclude the hearing.
8. The decision granting or denying the protection sought shall be given orally at the hearing and immediately executed. The decision shall be deemed to have been notified to the parties once read out. They shall also receive it in writing, by means of an attested copy.
9. Plaintiffs and defendants may request clarification, amendment or additions, either at the hearing or within 24 hours of receiving the written notification. In the former case, the court shall reply at the hearing, in the latter case, within 24 hours of submission of the document requesting clarification, amendment or additions.

ARTICLE 32. (CONTENTS OF THE DECISION). The written decision on a constitutional defence action shall contain:

1. The title and date of the decision.
2. The identity of the person who brought the action and, where applicable, his/her legal representative.
3. Details of the authority, body or person against which/whom the action was brought.
4. A recital of the previous procedural steps.
5. A recital of the facts and the rights on which the decision is based.
6. The decision.

ARTICLE 33. (REFERRAL TO THE PLURINATIONAL CONSTITUTIONAL COURT). The decision and the case-file in a constitutional defence action shall be referred automatically to the Plurinational Constitutional Court for review within 24 hours of being issued in writing. Any order for clarification, amendment or addition shall be referred to the Plurinational Constitutional Court immediately after the parties have been notified.

ARTICLE 34. (LIABILITY).

- I. A decision granting protection may also determine the existence or not of civil or criminal liability, assessing in the former case the amount of damages to be paid and, in the latter, referring the case-file to the Public Prosecutor's Office or the Office of the State Prosecutor General where appropriate. For this purpose the Court may set a period of up to 10 days for producing evidence, starting from the date of notification at the hearing itself.
- II. If liability is attributable to a public servant, the judge shall order the transmission of a copy of the decision to the highest authority of the entity in which he/she is employed so that disciplinary proceedings may be initiated if appropriate.

ARTICLE 35. (IMMEDIATE EXECUTION AND ENFORCEMENT OF DECISIONS).

- I. Decisions given by a court in constitutional defence actions shall be executed immediately, without prejudice to their referral to the Plurinational Constitutional Court for review, within the time-limit set in this Code.

- II. In constitutional defence actions, the court shall take the necessary measures to enforce its decisions. For this purpose it may request the assistance of the forces of law and order or temporarily suspend from their duties any officials who fail to comply with its decisions.

ARTICLE 36. (TRANSMISSION TO THE PUBLIC PROSECUTOR'S OFFICE OR THE OFFICE OF THE STATE PROSECUTOR GENERAL). For the purposes of any subsequent civil or criminal actions arising from non-compliance with its decisions, courts hearing constitutional defence actions shall transmit the case-file to the Office of the State Prosecutor General, where appropriate, or to the Public Prosecutor's Office.

**SECTION II
REVIEW OF CONSTITUTIONAL DEFENCE ACTIONS BEFORE THE
PLURINATIONAL CONSTITUTIONAL COURT**

ARTICLE 37. (REGISTRATION). The Plurinational Constitutional Court shall register the reception of the case-file in habeas corpus, constitutional protection, privacy, enforcement and public-interest actions and shall transmit it to the Admissibility Committee within 24 hours of reception.

ARTICLE 38. (DRAWING OF LOTS). Immediately after admitting the action, the Admissibility Committee shall assign it by drawing of lots to a division of the Plurinational Constitutional Court for a review of the decision given, transmitting the case-file at the same time.

ARTICLE 39. (TIME-LIMIT FOR THE DECISION). Constitutional defence actions shall be reviewed and a decision given within 30 days of being assigned to the relevant division.

ARTICLE 40. (TYPES OF JUDGMENT IN CONSTITUTIONAL DEFENCE ACTIONS). Judgments in constitutional defence actions may:

1. Confirm in full or in part the decision of the originating court.
2. Revoke the decision of the originating court.

ARTICLE 41. (CONTENTS OF THE JUDGMENT IN CONSTITUTIONAL DEFENCE ACTIONS). The judgment in a constitutional defence action referred for review shall contain:

1. The title and date of the decision.
2. The identity of the person who brought the action and of his/her legal representative, if any.
3. Details of the authority, body or individual against which/whom the action was brought.
4. A recital of the previous procedural steps.
5. A recital of the facts and the rights on which the decision is based.
6. The decision.

CHAPTER 2 HABEAS CORPUS ACTIONS

ARTICLE 42. (PURPOSE). The purpose of a habeas corpus action is to safeguard and protect the rights to life, physical integrity, personal freedom and freedom of movement of any person who believes that he/she has been wrongly or illegally prosecuted, detained, tried or imprisoned or who considers his/her life or physical integrity to be in danger.

ARTICLE 43. (CAPACITY TO BRING PROCEEDINGS). A habeas corpus action may be brought by:

1. Any person who considers his/her life or physical integrity to be in danger or who is illegally persecuted and wrongly tried, imprisoned or deprived of his/her liberty, in person or by any other person on his/her behalf without there being any need for a power of attorney.
2. The Public Prosecutor's Office.
3. The Office of the Ombudsman.

ARTICLE 44. (SPECIAL PROCEDURAL RULES). A habeas corpus action shall comply with the following procedure:

1. Once the action is brought, the court shall set a day and time for a public hearing, which shall take place within the next 24 hours. For this purpose, an order shall be made for notice to be served personally or by delivery of documents on the authority or individual against which/whom the action is brought.
2. If the person deprived of liberty is in prison or another place of detention, the court shall also order notice to be served on the person in charge of that facility so that the person deprived of liberty may be taken to the place of the hearing at the date and time set. Such order shall be obeyed without objection or excuse.
3. In the event of any danger, resistance by the authority or any other situation deemed by the court to justify such action, it may decide to go immediately to the place of detention and hold the hearing there.
4. Dilatory behaviour on the part of the court hearing the case shall be considered a very serious fault in accordance with the Law on the Judiciary, without prejudice to any criminal liability which might arise in respect of the damage caused.
5. If the hearing has to be held on a Saturday, Sunday or public holiday, the habeas corpus action shall be heard by the duty court.

6. Even if the causes of the habeas corpus action have ceased, the hearing shall take place at the date and time set, for the purpose of establishing responsibility.

ARTICLE 45. (DAMAGES). If the action is allowed, the person(s) responsible for violation of the right shall be ordered to pay damages in accordance with the provisions of Article 34 of this Code.

CHAPTER THREE ACTION FOR CONSTITUTIONAL PROTECTION

ARTICLE 46. (PURPOSE). The purpose of an action for constitutional protection is to safeguard the constitutionally and legally recognised rights of any physical or legal person from illegal acts or wrongful omissions by public servants or private individuals which restrict or suppress them or threaten to restrict or suppress them.

ARTICLE 47. (CAPACITY TO BRING PROCEEDINGS). An action for constitutional protection may be brought by:

1. Any physical or legal person whose rights are being restricted or suppressed or are threatened with being restricted or suppressed, directly or by another person on his/her/its behalf holding a sufficient power of attorney.
2. The Public Prosecutor's Office.
3. The Office of the Ombudsman.
4. The Office of the State Prosecutor General.

ARTICLE 48. (INADMISSIBILITY). An action for constitutional protection shall not be admissible:

1. Against decisions whose execution has been suspended by any defence or ordinary or special remedy employed previously by the applicant and by reason of which such decisions might be revised, modified, revoked or annulled.
2. Against acts freely and expressly consented to, or when the effects of the act complained of have ceased.
3. Against judicial decisions which might be modified or cancelled by another remedy which has not been used in the proper way.
4. When the public servant's omission violates an express constitutional or legal mandate which can be protected by means of enforcement action.
5. When the rights or guarantees violated can be protected by a habeas corpus action, a privacy action or a public-interest action.

ARTICLE 49. (SUBSIDIARITY AND IMMEDIACY).

- I. An action for constitutional protection shall not be admissible when there is another legal remedy affording immediate protection of the rights and guarantees restricted or suppressed or under threat of being restricted or suppressed.
- II. In exceptional cases, subject to prior justification, said action shall be admissible when:
 1. Protection is afforded belatedly.
 2. There is an imminent threat of irremediable and irreparable damage occurring unless protection is granted.

ARTICLE 50. (TIME-LIMIT FOR BRINGING PROCEEDINGS).

- I. An action for constitutional protection may be brought within a maximum period of 6 months starting from the date on which the alleged violation was committed or the fact became known
- II. Where an application is made for additions to or clarification or amendment of the impugned judicial decision, the time-limit shall be calculated from the date of notification of the decision granting or rejecting the application.

ARTICLE 51. (SPECIAL PROCEDURAL RULE). On the day on which the action is brought, the court shall set a day and time for a public hearing, which shall take place within 48 hours of the action being brought. For this purpose an order shall be made for notice to be served personally or by delivery of documents on the authority or person against which/whom the action was brought.

ARTICLE 52. (EFFECTS OF THE DECISION).

- I. The decision granting protection shall order the restoration of the rights and guarantees restricted, suppressed or threatened, and may establish the civil or criminal liability of the defendant in accordance with the provisions of Article 34 of this Code.
- II. If the action was prompted by an illegal or wrongful act which restricts or suppresses or threatens to restrict or suppress rights and guarantees, the judgment shall declare the act null and void and order the restoration of the right.
- III. If the action was prompted by an illegal or wrongful omission which restricts or suppresses or threatens to restrict or suppress rights and guarantees, the judgment shall order the enforcement of the omitted right.

**CHAPTER FOUR
PRIVACY ACTION**

ARTICLE 53. (PURPOSE). The purpose of a privacy action is to guarantee the right of any person to have access to the data concerning him/her recorded by any physical, electronic, magnetic or other means, and kept in public or private archives or data banks;

and to object to or secure the removal or rectification of such data when they contain errors or affect his/her right to personal or family intimacy or privacy or his/her own image, honour and reputation.

ARTICLE 54. (CAPACITY TO BRING PROCEEDINGS). A privacy action may be brought by:

1. Any physical or legal person who considers him/her/itself injured in his/her/its rights, or another person on his/her/its behalf holding a sufficient power of attorney.
2. The heirs of a deceased person who believe that person to be injured in his/her right to privacy, image, honour and reputation, when said injury directly generates a violation of their rights by virtue of their relationship to the deceased.
3. The Public Prosecutor's Office.
4. The Office of the Ombudsman.

ARTICLE 55. (CAPACITY TO DEFEND PROCEEDINGS).

I. A privacy action may be brought against:

1. Any physical or legal person responsible for public or private archives or data banks where the relevant information may be found.
2. Any physical or legal person having in their possession data or documents of any kind which might affect the right to personal or family intimacy and privacy or a person's image, honour and reputation.

II. In both cases, an action may be brought against any physical or legal person, public or private, who/which compiles personal data in a register which, regardless of whether it has a commercial purpose or not, is intended to be used for the production of reports, whether or not they are circulated or disseminated.

ARTICLE 56. (BRINGING PROCEEDINGS DIRECTLY). A privacy action may be brought directly without the need for a prior administrative complaint when it is necessary to proceed urgently and the action is chiefly precautionary in nature.

ARTICLE 57. (INADMISSIBILITY). A privacy action shall be inadmissible when it has been brought in order to lift secrecy in press matters. A privacy action shall also be inadmissible when free and express consent has been given to the violation or threatened violation of the rights invoked or the effects of the act complained of have ceased.

ARTICLE 58. (EFFECTS OF THE DECISION).

- I. If the judicial body regards the violation of the right as proven, it may establish the civil or criminal liability of the defendant in accordance with Article 34 of this Code.

- II. If the action was prompted by an illegal or wrongful act preventing access to data recorded by any physical, electronic, magnetic or other means in public or private data banks, the judgment shall uphold the plaintiff's objection.
- III. If the action was prompted by an illegal or wrongful act preventing an objection being raised to data recorded by any physical, electronic, magnetic or other means in public or private data banks, the judgment shall uphold the plaintiff's objection.
- IV. If the action was prompted by an illegal or wrongful act preventing the removal or rectification of data recorded by any physical, electronic, magnetic or other means in public or private data stores, the judgment shall order the removal or rectification of the plaintiff's data.

CHAPTER FIVE ENFORCEMENT ACTION

ARTICLE 59. (PURPOSE). The purpose of an enforcement action is to guarantee the execution of a constitutional or legal rule when public servants or state bodies fail to execute it.

ARTICLE 60. (CAPACITY TO BRING PROCEEDINGS). An enforcement action may be brought by:

1. Any physical or legal person who believes he/she/it is affected by the failure to enforce a constitutional or legal provision, or by another person on his/her/its behalf holding a sufficient power of attorney.
2. The Public Prosecutor's Office.
3. The Office of the Ombudsman.
4. The Office of the State Prosecutor General.

ARTICLE 61. (INADMISSIBILITY). An enforcement action shall not be admissible:

1. When the rights violated can be safeguarded by a habeas corpus or privacy action or by a public-interest action.
2. When the plaintiff did not first make a documented request to the defendant authority for legal or administrative enforcement of the omitted duty.
3. For the enforcement of judicial decisions constituting res judicata.
4. In administrative proceedings involving violations of rights which can be protected by an action for constitutional protection.
5. Against the Plurinational Legislative Assembly, with the intention of securing the approval of a law.

ARTICLE 62. (EFFECTS OF THE DECISION). In the event of a finding of non-compliance with or omission of a constitutional or legal rule, the judgment shall order the immediate performance of the omitted duty or, where appropriate, shall set a firm time-limit for enforcement of the rule and may establish the civil or criminal liability of the defendant in accordance with Article 34 of this Code.

CHAPTER SIX PUBLIC-INTEREST ACTION

ARTICLE 63. (PURPOSE). The purpose of a public-interest action is to guarantee collective rights and interests related to heritage, land, public safety, public health, the environment and others of a similar nature recognised by the Constitution when they are violated or threatened by an act or omission of the authorities or physical or legal persons.

ARTICLE 64. (CAPACITY TO BRING PROCEEDINGS). An action may be brought by:

1. Any physical or legal person, on his/her/its own behalf or as representative of a group, who/which considers that collective rights or interests identified in the preceding article have been violated or are threatened.
2. The Public Prosecutor's Office and the Office of the Ombudsman, on a mandatory basis, when they become aware of such acts through the exercise of their functions.
3. The Office of the Chief State Prosecutor.

ARTICLE 65. (BRINGING PROCEEDINGS). A public-interest action may be brought for as long as the violation or threatened violation of the protected collective rights and interests persists, without there being any need to exhaust the judicial or administrative remedies existing for this purpose.

ARTICLE 66. (EFFECTS OF THE DECISION). If the court grants protection, it shall order the annulment of any act or the performance of any omitted duty which violates or threatens to violate collective rights or interests related to the object of the action, and may establish the civil or criminal liability of the defendant in accordance with Article 34 of this Code.

PART III ACTIONS FOR UNCONSTITUTIONALITY

CHAPTER I GENERAL PROVISIONS

ARTICLE 67 (PURPOSE) Actions for unconstitutionality can be brought in cases of failure to apply any legal provisions included in a law, decree or any type of non-judicial resolution incompatible with the Constitution; they are brought by the public authorities referred to in this Code.

ARTICLE 68 (TYPES OF ACTIONS FOR UNCONSTITUTIONALITY) Actions for unconstitutionality may take either of the following forms:

1. actions for abstract unconstitutionality against laws, autonomous entity statutes, organic charters, decrees and any type of non-judicial order or resolution.
2. actions for concrete unconstitutionality in the framework of a judicial or administration hearing, the decision in which will depend on the constitutionality or unconstitutionality of laws, autonomous entity statutes, organic charters, decrees or any type of non-judicial orders or resolutions.

CHAPTER II ACTIONS FOR ABSTRACT UNCONSTITUTIONALITY

ARTICLE 69 (CAPACITY TO DEFEND PROCEEDINGS) The following may bring actions for abstract unconstitutionality: the President of the Plurinational State, any member of the Plurinational Legislative Assembly or of the legislative bodies of the autonomous territorial entities, the supreme executive authorities of the autonomous territorial entities and the Ombudsperson.

ARTICLE 70 (TIME-LIMIT FOR BRINGING ACTIONS) The time-limit for bringing such actions is six months from the date of publication of the legal provision under challenge. (SUBJECT TO A REQUEST FOR A REVIEW)

ARTICLE 71 (PROHIBITION OF INADMISSIBILITY ON FORMAL GROUNDS) Actions for abstract unconstitutionality cannot be rejected on formal grounds, which can be addressed within a time-limit to be established by the Court.

ARTICLE 72 (PROCEDURE)

- i. If the action is admitted, the Admissibility Committee will so inform the authority or body having issued the challenged provision, so that its representatives can submit the relevant information within fifteen days.
- ii. Once the time-limit has elapsed, whether the Court has received the information or not, it must issue the corresponding judgment within thirty days.

ARTICLE 73 (CONTENT OF THE JUDGMENT)

- i. The Plurinational Constitutional Court will base the declaration of unconstitutionality on the violation of any constitutional provision, whether or not it was adduced when the action was brought.
- ii. The judgment finding the unconstitutionality of all or part of a challenged provision or of any provision which, by analogy, should be declared unconstitutional, will have the effect of repealing the latter.

ARTICLE 74 (EFFECTS OF THE JUDGMENT)

I. The judgment may find the constitutionality or unconstitutionality of the law, autonomous entity statute, organic charter, decree or any type of non-judicial order or resolution.

II. Judgments finding:

1. the constitutionality of a provision set out in a law, autonomous entity statute, organic charter, decree or any type of order or resolution shall make any further unconstitutionality appeals against the same provision inadmissible;
2. the unconstitutionality of a provision shall constitute *res judicata* and the legal bases shall be binding and general;
3. the total unconstitutionality of a contested legal provision will have the effect of repealing it;
4. the partial unconstitutionality of a contested legal provision will have the effect of repealing the articles or parts of the latter regarding which the finding of unconstitutionality is issued, while the remaining articles or part will remain in force;
5. the unconstitutionality of other provisions related to or concordant with the contested legal provision, with the same effects as for the latter.

**CHAPTER III
ACTIONS FOR CONCRETE UNCONSTITUTIONALITY**

ARTICLE 75 (CAPACITY TO BRING PROCEEDINGS) The following may bring actions for concrete unconstitutionality: courts and administrative authorities which, *ex officio* or at the request of one of the parties, decides that the settlement of the judicial or administrative proceedings depends on the provisions against which the application has been brought.

ARTICLE 76 (PROCEDURE BEFORE THE JUDICIAL OR ADMINISTRATIVE AUTHORITY)

- i. Once the action for concrete unconstitutionality has been brought before the body responsible for the judicial or administrative proceedings, the relevant writ shall be issued, if appropriate, within twenty-four hours, so that the defendant can reply within three days.
- ii. Whether or not the reply has been received, the authority will decide, within 24 hours after the time-limit has elapsed, whether it will proceed with the action for concrete unconstitutionality.
- iii. Whether or not the action goes ahead, the authority must transmit its decision to the Plurinational Constitutional Court, together with authenticated photocopies of any necessary background documents. Where the action is shelved, the decision will be transmitted to the Plurinational Constitutional Court for review by its Admissibility Committee.
- iv. Where the action is rejected for manifest inadmissibility, the case will continue to be processed. The rejection decision will be referred *ex officio* to the Plurinational Constitutional Court for review within 24 hours.

ARTICLE 77 (CONTINUATION OF PROCEEDINGS) The bringing of the action shall not suspend the proceedings until the delivery of the final judgment or decision, for which purpose it will be necessary for the Plurinational Constitutional Court to give its final decision.

ARTICLE 78 (PROCEEDINGS BEFORE THE CONSTITUTIONAL COURT)

- i. Once the action for concrete unconstitutionality has been received, together with the related documents, the latter shall be transmitted to the Admissibility Committee for the purposes of the present Code. The procedure shall be the same as for actions for abstract unconstitutionality.
- ii. Decisions given by the judicial or administrative body rejecting actions for concrete unconstitutionality will be examined by the Admissibility Committee, which must, within ten days, ratify the body's decision or admit the action for concrete unconstitutionality.

ARTICLE 79 (EFFECTS OF THE JUDGMENT)

- i. Decisions issued by the Plurinational Constitutional Court in cases of actions for concrete unconstitutionality shall have the same effects as those established in the case of actions for abstract unconstitutionality.
- ii. Public servants and individuals who are required to implement the decision and who fail to do so are liable to criminal proceedings, for the purposes of which the relevant documents must be submitted to the Public Prosecutor's Office.

**PART IV
CONFLICTS OF JURISDICTION**

ARTICLE 80 (PURPOSE)

- i. The Plurinational Constitutional Court will hear and determine conflicts involving:
 1. attributions assigned by the Constitution to the constitutional bodies;
 2. jurisdiction assigned by the Constitution or law to the different territorial levels;
 3. jurisdiction between the indigenous peasant courts, the ordinary courts and the agri-environmental courts;
- ii. "Constitutional body" means any public body set out in the Constitution which is assigned attributions, functions or responsibilities;
- iii. "legislation of the autonomous territorial entities" means legislation assigning, developing or regulating responsibilities in the framework of Chapter 8, Part I, section three of the Constitution.

CHAPTER I
CONFLICTS OF JURISDICTION BETWEEN PUBLIC BODIES

ARTICLE 81 (ORIGIN) Conflicts of jurisdiction between public bodies are admissible where a party considers that its jurisdiction or attributions are being exercised by a different body.

ARTICLE 82 (CAPACITY TO ACT) Any public body to which the Political Constitution of the State explicitly entrusts specific functions or responsibilities may be an active or passive subject in a conflict of jurisdiction.

ARTICLE 83 (PRIOR PROCEDURE)

- i. The body disputing the exercise of jurisdiction or of an attribution vis-à-vis another body shall request the revocation of the disputed decision within thirty days of the date of its notification to the appellant.
- ii. Where the defendant body rejects the request or fails to reply within fifteen days, the appellant shall be empowered to submit the conflict to the Plurinational Constitutional Court.

ARTICLE 84 (REPRESENTATION) The conflict of jurisdiction shall be presented by the representative of the constitutional body which considers its jurisdiction to have been infringed. In the case of collegiate bodies, approval for submission of the application shall be sought on a simple majority of its members.

ARTICLE 85 (PROCEDURE BEFORE THE PLURINATIONAL CONSTITUTIONAL COURT)

- i. Once the application has been admitted, the Admissibility Committee of the Plurinational Constitutional Court shall order its transmission to the other body so that it can reply within fifteen days.
- ii. Once this time-limit has elapsed, whether the reply has been received or not, the Admissibility Committee will appoint a reporting judge to address the case in point. The court must issue the corresponding decision within thirty days of the date of the said appointment.

ARTICLE 86 (CONTENT AND EFFECTS OF THE JUDGMENT) The judgment of the Plurinational Constitutional Court will decide which body holds the jurisdiction or attributions mentioned in the application, and shall declare null and void the acts implemented by the body not holding jurisdiction.

CHAPTER 2
CONFLICTS OF JURISDICTION BETWEEN THE CENTRAL
STATE LEVEL AND THE AUTONOMOUS TERRITORIAL
ENTITIES, AND AMONG THE LATTER

SECTION I
GENERAL PROVISIONS

ARTICLE 87 (ORIGIN)

- i. Conflicts of jurisdiction between the central State level and the autonomous and decentralised territorial entities, and among the latter, shall be dealt with as a positive conflict where one of the parties considers that the other is exercising a specific competence which is not conferred on it by the Constitution or by law.
- ii. Similarly, it shall be addressed as a negative conflict where none of these levels exercises the competences assigned by the Constitution or by law.

ARTICLE 88 (LAWS IN THE AUTONOMOUS ENTITY FIELD) Laws in the autonomous entity field are pieces of State or autonomous territorial entity legislation assigning, developing or regulating competences in the framework of Chapter 8, Part I, section three of the Constitution.

ARTICLE 89 (CAPACITY TO ACT) The following may submit cases of conflicts of jurisdiction between the central State level and the autonomous and decentralised territorial entities, and among the latter:

1. The Plurinational Legislative Assembly and the decision-making bodies of the autonomous and decentralised territorial entities, where the conflict concerns legislative competences. (REQUEST FOR REVIEW)
2. The Government and the executive organs of the autonomous territorial entities, where the conflict concerns statutory and executive competences.
3. The authorities of the indigenous peasant autonomous entities, where the conflict concerns their competences.

SECTION II
POSITIVE CONFLICTS OF JURISDICTION

ARTICLE 90 (PRIOR PROCEDURE)

- i. The authority deeming itself affected shall apply to the corresponding body for abrogation or annulment of the contested act.
- ii. The application for a finding of lack of jurisdiction shall be submitted within twenty days of the date of notification of the act by the authority considering itself affected, to the person representing the corresponding body.

- iii. The application shall specify the parts of the provision or specific points in the decision or act affected by lack of jurisdiction, as well as the legal or constitutional provisions deemed to have been violated.
- iv. The corresponding body shall issue a reasoned decision on the application within seven days of the date of its receipt, admitting or rejecting it, without subsequent appeal.
- v. Once the rejection of the application has been notified, or when the time-limit has elapsed for issuing a decision, the authority which considers itself affected may, within fifteen days, submit an application concerning the conflict of jurisdiction to the Plurinational Constitutional Court.

ARTICLE 91 (SUSPENSION OF JURISDICTION) The applicant authority may request the precautionary measure of suspension of the defendant authority. The Plurinational Constitutional Court shall reach a decision within three days of the date of admission of the request.

SECTION III NEGATIVE CONFLICTS OF JURISDICTION

ARTICLE 92 (PRIOR PROCEDURE)

- i. The authority deeming itself affected by the failure to exercise jurisdiction shall invite the responsible body to make good this failure.
- ii. Such request for exercise of jurisdiction may be submitted at any time by the authority deeming itself affected, to the person representing the corresponding body.
- iii. The request shall specify the constitutional or legal provisions which are deemed to have been omitted.
- iv. The corresponding body shall issue a reasoned decision on the application within seven days of the date of its receipt, admitting or rejecting it, without subsequent appeal facilities.
- v. Once the rejection of the application has been notified, or when the time-limit has elapsed for issuing a decision, the authority which considers itself affected may, within fifteen days, submit an application concerning the conflict of jurisdiction to the Plurinational Constitutional Court.

ARTICLE 93 (PLEA TO THE JURISDICTION)

- i. A negative conflict of jurisdiction involving a plea to the jurisdiction shall be dealt with where the authority declines jurisdiction for settling a claim submitted by any natural or legal person, specifying that a different body holds jurisdiction. All available administrative remedies must be exhausted before such a negative conflict of jurisdiction can be submitted.

- ii. In a negative conflict involving a plea to the jurisdiction, the authority which declines jurisdiction shall invite the body which it considers to hold jurisdiction to exercise the latter. The request shall be submitted within seven days of the date of notification, together with the most recent administrative act.
- iii. The request shall specify the constitutional or legal provisions substantiating the plea to the jurisdiction and the reasons for claiming that the other body holds jurisdiction. The request shall be dealt with in the manner and within the time-limit set out in the previous Article.
- iv. Once the rejection of the request has been notified or when the aforementioned time-limit has elapsed without any decision being reached, the natural or legal person considering him/itself affected can submit, within fifteen days, an application regarding the conflict of jurisdiction to the Plurinational Constitutional Court.

ARTICLE 94 (PROCEDURE BEFORE THE PLURINATIONAL CONSTITUTIONAL COURT IN POSITIVE OR NEGATIVE CONFLICTS)

- i. Where the request is admitted, the Admissibility Committee of the Plurinational Constitutional Court shall order its notification to the defendant party, so that the latter can reply within fifteen days.
- ii. Where a request is submitted for a suspension of jurisdiction in positive conflicts, the Plurinational Constitutional Court shall proceed in accordance with the provisions of Article 90 of this Code.
- iii. Once the time-limit set out in indent I of this Article has elapsed, whether the reply has been received or not, the Admissibility Committee will appoint a reporting judge to address the case in point. The court must issue the corresponding decision within thirty days of the date of the appointment.

**CHAPTER III
CONFLICTS OF JURISDICTION BETWEEN THE
INDIGENOUS PEASANT COURTS, THE ORDINARY
COURTS AND THE AGRI-ENVIRONMENTAL COURTS**

ARTICLE 95 (PURPOSE) The Plurinational Constitutional Court shall settle conflicts of jurisdiction between the indigenous peasant courts, the ordinary courts and the agri-environmental courts.

Article 96 (ADMISSIBILITY)

- i. The request can be submitted by any indigenous peasant court which considers that an ordinary or agri-environmental court is exercising jurisdiction in an individual, territorial or material field which the Constitution or the law assigns to the indigenous peasant court.

- ii. The request can also be submitted by any ordinary or agri-environmental court which considers that an indigenous peasant court in the area for which it holds territorial jurisdiction is exercising the attributions of the ordinary or agri-environmental court as laid down in the Constitution or in law.

ARTICLE 97 (PRIOR PROCEDURE)

- i. The authority claiming jurisdiction from the other court shall request the latter to withdraw.
- ii. Where the defendant authority rejects this request or fails to reply within seven days of the date of the applicant authority's request, the latter may refer the conflict to the Plurinational Constitutional Court.

ARTICLE 98 (PROCEDURE BEFORE THE PLURINATIONAL CONSTITUTIONAL COURT)

- i. Where the request is admitted, the Admissibility Committee of the Plurinational Constitutional Court shall order its notification to the defendant party, so that the defendant can reply within fifteen days.
- ii. Once the time-limit set out in indent i. of this Article has elapsed, whether the reply has been received or not, the Admissibility Committee will appoint a reporting judge to address the case in point. The court must issue the corresponding decision within thirty days of the date of the appointment.

PART V PRIOR VERIFICATION OF CONSTITUTIONALITY AND REQUESTS FOR REVIEWS

CHAPTER I GENERAL PROVISIONS

ARTICLE 99 (PURPOSE) The purpose of prior verification of constitutionality is to compare the texts of international treaties and draft laws, Statutes or Organic Charters with the Political Constitution of the State, and to ascertain the constitutionality of referendum questions.

ARTICLE 100 (TYPES OF PRIOR VERIFICATION) The possible types of prior verification of constitutionality include:

1. Draft International Treaties
2. Requests for reviews of draft laws
3. Requests for reviews of draft Statutes or Organic Charters
4. Requests for reviews of referendum questions.

CHAPTER II
PRIOR VERIFICATION OF CONSTITUTIONALITY IN
RATIFYING INTERNATIONAL TREATIES

ARTICLE 101 (PURPOSE) The purpose of prior control of the constitutionality of international treaties is to compare the texts of such instruments with the Political Constitution of the State before their ratification, and to determine their total or partial constitutionality or unconstitutionality.

ARTICLE 102 (ADMISSIBILITY)

- i. Where he or she has legitimate doubts about the constitutionality of a draft treaty or any part thereof, the State President shall submit the latter to the Plurinational Constitutional Court.
- ii. Where the text of the international treaty has been forwarded by the Executive to the Legislature for possible approval and subsequent ratification, the President of the Plurinational Legislative Assembly must mandatorily, within twenty days of its receipt, transmit it to the Plurinational Constitutional Court, before the ratification of the said instrument.
- iii. When the international treaty is being reviewed, the President of the Plurinational Legislative Assembly may expound his or her legitimate doubts as to the constitutionality of the draft treaty or of any of its provisions.
- iv. Within the same time-limit, the Presidents of the Chambers of Senators and Deputies, or a minimum of five senators or ten deputies, may submit to the Plurinational Constitutional Court, either directly or through the President of the Plurinational Legislative Assembly, any legitimate doubts they may have as to the constitutionality of the draft treaty or of any of its provisions.

ARTICLE 103 (PROCEDURE BEFORE THE COURT)

- i. Once the request for a review has been admitted, the Admissibility Committee shall order this fact to be notified to the Executive, so that it can submit a reasoned opinion on the request for a review within fifteen days of notification.
- ii. Once this time-limit has elapsed, whether or not the said opinion has been submitted, the Plurinational Constitutional Court shall issue a Constitutional Declaration within thirty days regarding the total or partial constitutionality or unconstitutionality of the said draft international treaty.

ARTICLE 104 (DECLARATION AND EFFECTS THEREOF)

- i. Where the international treaty is declared incompatible with the Political Constitution of the State, no ratification may ensue.
- ii. A declaration of unconstitutionality of any of the treaty's provisions does not preclude its approval, subject to a reservation concerning the provisions deemed contrary to the Constitution under the Declaration from the Plurinational Constitutional Court.

ARTICLE 105 (PRIOR VERIFICATION OF TREATIES SUBJECT TO REFERENDUM)

- i. Any international treaty which requires approval by referendum in accordance with the Political Constitution of the State, where the citizens or the representatives of the Plurinational Legislative Assembly so request, shall be reviewed by the Plurinational Constitutional Court within thirty days of the date of notification of the referendum proposed by the Executive, or if the Electoral Body confirms that a minimum of 5% of the electorate has signed the petition for a referendum, or if the Legislative Assembly confirms that a minimum of 35% of its membership is in favour of the initiative.
- ii. The Plurinational Constitutional Court will decide whether the content of the draft international treaty is compatible with the Constitution.
- iii. Where the international treaty contains provisions contrary to the Constitution, the Plurinational Constitutional Court shall declare the total or partial unconstitutionality of the text of the international treaty in question, thus preventing the text or part of the text declared unconstitutional from being put to referendum.

CHAPTER III REQUESTS FOR REVIEWS OF THE CONSTITUTIONALITY OF DRAFT LAWS

ARTICLE 106 (PURPOSE) The purpose of a request for a review of the constitutionality of a draft law is to compare the text of the latter with the Political Constitution of the State and to guarantee the supremacy of the latter.

ARTICLE 107 (CAPACITY TO ACT) The persons empowered to submit requests for reviews of the constitutionality of draft laws are:

- i. The President of the Plurinational State in the case of drafts tabled by the Executive.
- ii. The President of the Plurinational Legislative Assembly in the case of draft laws approved by Resolution of the Plenary Plurinational Legislative Assembly or one of its Chambers. The votes of 2/3 of the members are required for such approval.
- iii. For draft laws in the judicial field, the President of the Supreme Court of Justice and the Agri-Environmental Court, with the prior approval of the respective Plenary Court.

ARTICLE 108 (PROCEDURE BEFORE THE COURT) Once the request for a review has been received, compliance with the prerequisites verified and/or the observations corrected, the Admissibility Committee shall appoint the reporting judge within 24 hours. The Constitutional Court shall issue the Constitutional Declaration within thirty days of the date of such appointment.

ARTICLE 109 (SUSPENSION OF PROCEDURE) The request for a review will suspend the procedure for adopting the draft law in the Plurinational Legislative Assembly.

ARTICLE 110 (DECLARATION AND EFFECTS OF THE RESOLUTION IN REQUESTS FOR REVIEWS OF THE CONSTITUTIONALITY OF A LAW)

- i. The Plurinational Constitutional Court shall declare the constitutionality or unconstitutionality of the draft law under review. This declaration will be binding on the body which submitted the request and on the Legislature, where it has not submitted the request.
- ii. Where the Plurinational Constitutional Court issues a declaration of constitutionality of the draft law, no further appeal may be submitted on the questions dealt with by the Court.
- iii. A declaration of unconstitutionality of the draft law will definitively suspend its approval, and the text may no longer be tabled in the same form.

**CHAPTER IV
VERIFICATION OF THE CONSTITUTIONALITY OF DRAFT STATUTES
OR ORGANIC CHARTERS OF TERRITORIAL ENTITIES**

ARTICLE 111 (PURPOSE) The purpose of prior verification of the constitutionality of statutes and organic charters is to compare the text of these instruments with the Political Constitution of the State and to guarantee the supremacy of the latter.

ARTICLE 112 (ORIGIN) Prior verification of the constitutionality of draft statutes and organic charters is mandatory for the territorial entities, before they can come into force as the basic institutional norm for each territorial entity.

ARTICLE 113 (CAPACITY TO ACT) Requests for reviews of the constitutionality of draft statutes or organic charters must be submitted by the President of the decision-making body of the territorial entity which tabled them, after approval by 2/3 of its membership.

ARTICLE 114 (PROCEDURE BEFORE THE COURT)

- i. Once the prerequisites have been fulfilled and the observations corrected in the request, the Admissibility Committee will appoint the reporting judge.
- ii. The Plurinational Constitutional Court will issue a constitutional declaration on the request for a review within thirty days.

ARTICLE 115 (RESOLUTION)

- i. The Plurinational Constitutional Court may declare the constitutionality or unconstitutionality of the draft statute or organic charter.
- ii. Where the Plurinational Constitutional Court declares the unconstitutionality of the draft statute or organic charter or of any of its provisions, it shall order the decision-making body to bring the draft into line with the Political Constitution of the State. In this case, before it can come into force, the draft must be the subject of as many further verifications of constitutionality as may prove necessary.

- iii. Should the Plurinational Constitutional Court declare the constitutionality of the draft statute or organic charter, the decision-making body of the Autonomous Territorial Entity which tabled it may submit it to referendum.

CHAPTER V
REQUESTS FOR A REVIEW OF THE CONSTITUTIONALITY
OF REFERENDUM QUESTIONS

ARTICLE 116 (PURPOSE) The purpose of this type of request for a review is to guarantee the constitutionality of questions drawn up for national, departmental or municipal referendums.

ARTICLE 117 (MANDATORY NATURE) All questions for national, departmental or municipal referendums must be subjected to a review of constitutionality.

ARTICLE 118 (CAPACITY TO ACT) The President of the Electoral Court who is responsible for issuing convocations to the referendum may submit requests for reviews of the constitutionality of referendum questions.

ARTICLE 119 (APPROPRIATENESS) Requests for review must be submitted within seven days of the date of receipt of the request for a referendum. The schedule of activities for the running of referendums cannot be drawn up by the Supreme Electoral Court or the Departmental Electoral Courts until the Plurinational Constitutional Court has reached its decision.

ARTICLE 120 (PROCEDURE BEFORE THE COURT) On receipt of the request for a review, the Admissibility Committee will appoint the reporting judge.

ARTICLE 121 (TIME-LIMIT) The Plurinational Constitutional Court will deal with the request for a review within fifteen days of the date of appointment of the reporting judge.

ARTICLE 122 (DECISION)

- i. The declaration on requests for reviews of the constitutionality of referendum questions will establish their constitutionality or unconstitutionality.
- ii. Where the questions are declared unconstitutional, the defendant body shall delete or reword the questions. In the latter case, it will present the questions with the relevant corrections, as often as may prove necessary for the Plurinational Constitutional Court to declare their compatibility with the Constitution.

PART VI
REQUESTS FOR REVIEWS FROM INDIGENOUS PEASANT AUTHORITIES
REGARDING THE APPLICATION OF THEIR LEGAL NORMS
IN A SPECIFIC CASE

ARTICLE 123 (PURPOSE) The purpose of requests for reviews from indigenous peasant authorities concerning the application of their norms to specific cases is to ensure that the said norms comply with the principles, values and purposes of the Political Constitution of the State.

ARTICLE 124 (CAPACITY TO ACT) Any indigenous peasant authority may submit the request for review.

ARTICLE 125 (PROCEDURE BEFORE THE COURT) The Admissibility Committee shall, within 24 hours of the receipt of the request for review, refer the latter to the relevant chamber of the Plurinational Constitutional Court. The chamber shall issue its declaration within thirty days in Spanish and in the language of the indigenous peasant people or nation having initiated the request for a review.

ARTICLE 126 (CONTENT OF THE REQUEST FOR REVIEW) In addition to the prerequisites set out in Article 20 of this Code, the document setting out the request for review from indigenous peasant authorities regarding the application of its norms to a specific case must contain:

1. Information on the indigenous peasant nation or people, their location and identification of the authority submitting the request.
2. Examples of facts and circumstances to which the norm in question can be applied, showing the established nature of the norm, the institutional nature of the authorities, procedures and world view of the indigenous peasant people or nation.
3. Authorisation of the members of the relevant political institution, in the case of collective bodies.
4. Explanation of their doubts as to the constitutionality of the norm and its application.

ARTICLE 127 (DECLARATION AND EFFECTS THEREOF)

- i. The Plurinational Constitutional Court shall declare the applicability or inapplicability of the norm in question.
- ii. This declaration shall be binding only on the indigenous peasant people or nation having requested the review.

**PART VII
REMEDIES BEFORE THE PLURINATIONAL CONSTITUTIONAL COURT**

**CHAPTER I
APPEALS AGAINST TAXES, LEVIES, DUTIES, DUES OR SPECIAL FEES
OR CONTRIBUTIONS**

ARTICLE 128 (PURPOSE) The purpose of such appeals is to guarantee that any legal provision introducing, modifying or abolishing a tax, levy, duty, dues, special fees or contributions of any kind is drawn up in accordance with the Political Constitution of the State.

ARTICLE 129 (ADMISSIBILITY) This remedy is admissible when the challenged norm was published and ratified in breach of the content and scope of the relevant constitutional provisions.

ARTICLE 130 (CAPACITY TO BRING PROCEEDINGS) This action may be brought by any natural or legal person deeming him/itself affected by the introduction, modification or abolition of a tax, levy, duty, dues, special fees or contributions of any kind.

ARTICLE 131 (CAPACITY TO DEFEND PROCEEDINGS) This remedy can be submitted against any authority responsible for the introduction, modification or abolition of a tax, levy, duty, dues, special fees or contributions of any kind.

ARTICLE 132 (TIME-LIMIT) The time limit for bringing this action is 180 days of the date of publication of the provision establishing the tax, levy, duty, dues, special fees or contributions.

ARTICLE 133 (PROCEDURE) Since the Plurinational Constitutional Court is responsible for this remedy, the latter shall summon the defendant party, which must reply within fifteen days of the date of issue of the summons. Whether the reply is received or not, the Plurinational Constitutional Court shall deliver judgment within thirty days of the admission of the appeal.

ARTICLE 134 (JUDGMENT AND THE EFFECTS THEREOF)

- i. The judgment shall specify:
 1. The applicability of the challenged legal norm, ordering the appellant to pay the costs.
 2. The inapplicability of the challenged legal norm, with *erga omnes* effect.
- ii. Should the challenged tax provision be declared inapplicable, the judgment will have the effect of repealing it.
- iii. The Plurinational Constitutional Court will determine the complete refund of the money collected under the challenged provision, as well as payment of damages and compensation, with the ordinary court determining the amount of damages and compensation.

CHAPTER II REMEDIES AGAINST DECISIONS OF THE LEGISLATURE

ARTICLE 135 (PURPOSE) The purpose of this remedy is to guarantee the fundamental right of every natural or legal person to contest decisions issued by the Plurinational Legislative Assembly.

ARTICLE 136 (PLURINATIONAL LEGISLATURE) The expression “Plurinational Legislature” covers both the Plurinational Legislative Assembly and the Chambers of Deputies and Senators, meeting separately or together in the Plurinational Legislative Assembly.

ARTICLE 137 (ADMISSIBILITY) This appeal can be filed against any decision issued by the Plurinational Legislative Assembly which affects one or more fundamental rights of natural or legal persons.

ARTICLE 138 (TIME-LIMIT) The time-limit for lodging the appeal is thirty days of the date of its publication or citation.

ARTICLE 139 (JUDGMENT AND THE EFFECTS THEREOF) The Plurinational Constitutional Court shall declare the remedy founded or unfounded. In the former case, the challenged decision shall be declared null and void and the judgment will only affect the instant case. In the latter case, the challenged decision shall be upheld, and the appellant fined and ordered to pay the costs.

CHAPTER III DIRECT ANNULMENT PROCEEDINGS

ARTICLE 140 (PURPOSE) The purpose of direct annulment proceedings is to secure the annulment of acts by natural or legal persons which usurp the functions of a public authority or body for which they are not responsible, as well as acts by anyone exercising jurisdiction or power not based on law.

ARTICLE 141 (ACT) An act is any declaration, provision or decision, of general or specific scope, which is issued by a public authority or organ in breach of the Constitution or the relevant laws.

ARTICLE 142 (CAPACITY TO BRING PROCEEDINGS) Direct annulment proceedings may be instigated by the following:

1. Any natural or legal person suffering direct material or non-material damage.
2. The Defender of the People.

ARTICLE 143 (INADMISSIBILITY OF DIRECT ANNULMENT PROCEEDINGS) Direct annulment proceedings cannot be brought in cases of:

1. Alleged infringements of due process.

2. Decisions issued by judicial authorities, unless they have been issued by the authority after it has terminated or suspended its functions exclusively because of administrative disciplinary proceedings against it. This latter provision is applicable also to other authorities.

ARTICLE 144 (TIME-LIMIT FOR BRINGING THE ACTION) Direct annulment proceedings may be brought within thirty days of the date of notification, together with the decision to be challenged.

ARTICLE 145 (SUSPENSION OF JURISDICTION OF THE DEFENDANT AUTHORITY IN DIRECT ANNULMENT PROCEEDINGS) From the time of notification of the direct annulment proceedings, as decided by the Plurinational Constitutional Court, the jurisdiction of the defendant authority over the case in question shall be suspended. Any provision issued subsequently will be null and void *ipso jure*.

ARTICLE 146 (JUDGMENTS AND THE EFFECTS THEREOF) The Plurinational Constitutional Court shall deliver judgment, declaring:

1. The action unfounded, where the defendant (person or authority) has acted within the framework of his/her/its competences or exercised his/her/its jurisdiction and power in accordance with the law. In this case, the Plurinational Constitutional Court will order the plaintiff to pay a fine and legal costs.
2. The action founded, where the defendant (person or authority) has not acted within the framework of his/her/its competences or exercised his/her/its jurisdiction and power in accordance with the law. In this case, the Plurinational Constitutional Court will declare the challenged decision or act null and void and order the transmission of the relevant documents to the Public Prosecutor's Office *ex officio*.

PART VIII CONSTITUTIONALITY OF THE PROCEDURE FOR PARTIAL REFORM OF THE POLITICAL CONSTITUTION OF THE STATE

ARTICLE 147 (PURPOSE) The purpose of the request for a review is to decide on the constitutionality of the procedure for partially reforming the Constitution.

ARTICLE 148 (CAPACITY TO BRING PROCEEDINGS) The following may request a review of the procedure for the partial reform of the Political Constitution of the State:

1. The President of the Plurinational State.
2. Any member of the Plurinational Legislative Assembly.

ARTICLE 149 (ORIGIN) The request for a review of the constitutionality of the partial reform of the Political Constitution of the State shall be admitted in all cases in which such a reform is planned.

ARTICLE 150 (PROCEDURE BEFORE THE COURT)

- i. The proposed partial reform of the Constitution originating in a referendum or a reform law of the Plurinational Legislative Assembly, shall be reviewed *ex*

officio by the Plurinational Constitutional Court, once the Electoral Body has notified it that a minimum of 20% of the electorate have signed the relevant petition or the Legislative Assembly has notified it that a minimum of 2/3 of its total membership is in favour.

- ii. The Plurinational Constitutional Court shall decide whether the content of the referendum or reform law conforms to the subject-matter assigned to a partial reform under the Constitution.
- iii. Where the referendum or reform law comprises proposals for a constitutional amendment which do not comply with the partial reform, the Plurinational Constitutional Court shall declare totally or partially inadmissible the initiative or reform law, which cannot be put to referendum in respect of those sections which the Plurinational Constitutional Court has declared unconstitutional.

FINAL PROVISIONS

- I. Article 1 of Law No. 027 of 6 June 2010 on the Plurinational Constitutional Court is amended as follows:

“Article 1 (Purpose) The purpose of the present Law is to regulate the structure, organisation and functioning of the Plurinational Constitutional Court”.

- II. Part II of the Law on the Plurinational Constitutional Court is repealed.

- III. Article 179 bis of Penal Code No. 1768 of 10 March 1997 is amended as follows:

“Article 179 bis (FAILURE TO RESPECT DECISIONS IN CONSTITUTIONAL DEFENCE ACTIONS AND ACTIONS FOR UNCONSTITUTIONALITY) Any public servant or individual who fails to implement the decisions issued in constitutional defence actions and actions for unconstitutionality will be sentenced to between two and six years’ imprisonment and a day fine for between one hundred and three hundred days”.