

Seychelles

Constitution of the Republic of Seychelles

## Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution) Rules

Statutory Instrument 33 of 1994

Legislation as at 1 June 2020

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# Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution)

## Rules

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## Seychelles

### Constitution of the Republic of Seychelles

# Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution) Rules Statutory Instrument 33 of 1994

Commenced on 25 April 1994

*[This is the version of this document as it was at 1 June 2020 to 9 May 2021.]*

*[SI. 33 of 1994; SI. 2 of 2004]*

#### 1.

These Rules may be cited as the Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution) Rules.

#### 2.

- (1) These Rules provide for the practice and procedure of the Constitutional Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution.
- (2) Where any matter is not provided for in these Rules, the Seychelles Code of Civil Procedure shall apply to the practice and procedure of the Constitutional Court as they apply to civil proceedings before the Supreme Court.

#### 3.

- (1) An application to the Constitutional Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution shall be made by petition accompanied by an affidavit of the facts in support thereof.
- (2) All persons against whom any relief is sought in a petition under subrule (1) shall be made a respondent thereto.
- (3) Except where the petition under subrule (1) is presented by the Attorney-General, the Attorney-General shall be made a respondent thereto.

#### 4.

- (1) Where the petition under rule 3 alleges a contravention or a likely contravention of a provision of the Constitution, the petition shall be filed in the Registry of the Supreme Court#
  - (a) in a case of an alleged contravention, within 3 months of the contravention;
  - (b) in a case where the likely contravention is the result of an act or omission, within 3 months of the act or omission;
  - (c) in a case where the likely contravention arises in consequence of any law, within 3 months of the enactment of such law.
- (2) Where a petition under rule 3 relates to the application enforcement or interpretation of any provisions of the Constitution, the petition shall be filed in the Registry of the Supreme Court within 3 months of the occurrence of the event that requires such application, enforcement or interpretation.

- (3) Notwithstanding subrules (1) and (2), a petition under rule 3 may, with the leave of the Constitutional Court, be filed out of time.
- (4) The Constitutional Court may, for sufficient reason, extend the time for filing a petition under rule 3.

**5.**

- (1) A petition under rule 3 shall contain a concise statement of the material facts and refer to the provision of the Constitution that has been allegedly contravened or is likely to be contravened or in respect of which the application, enforcement or interpretation is sought.
- (2) Where the petitioner alleges a contravention or likely contravention of any provision of the Constitution, the petition shall contain the name and particulars of the person alleged to have contravened that provision or likely to contravene that provision and in the case of an alleged contravention also state the date and place of the alleged contravention.
- (3) The Court shall not permit an amendment of a petition which seeks to include any new matter not pleaded in the petition.
- (4) The petitioner shall file in the Registry of the Supreme Court as many copies of the petition as there are respondents.

**6.**

- (1) Where a petition which has been presented fails to comply to with the Rules, the Registrar of the Supreme Court shall submit the petition for an order of the Constitutional Court.
- (2) The Constitutional Court shall hear the petitioner before making an order under subrule (1).

**7.**

- (1) The provision of the Court Fees (Supreme Court) and Costs Act shall apply in relation to the fees and taxation of costs of a petition to the Constitutional Court as they apply to proceedings in the Supreme Court in respect of civil proceedings before the Supreme Court.
- (2) For the purpose of subrule (1) the value of the subject matter of the petition shall be deemed to be R25,000.

**8.**

After the petitioner has complied with the Rules, the Registrar shall issue notice on the respondents fixing a date and time for their appearance.

**9.**

The respondent may before filing a defence to the petition raise any preliminary objection to the petition and the Constitutional Court shall hear the parties before making an order on the objection.

**10.**

- (1) A reference made to the Constitutional Court by any court of law or tribunal for the determination of the Constitutional Court of any question with regard to the contravention or likely contravention of any provision of the Constitution shall be made in the form of a case stated setting out the facts, the question for determination and the names and addresses of the parties to the proceedings before that court or tribunal, in respect of which the question arose.

- (2) A reference under subrule 1 shall be made within 14 days of the date on which the question arose before the court of law or tribunal but the Constitutional Court may for sufficient cause entertain such reference notwithstanding the lapse of time.
- (3) The Constitutional Court shall give notice of the reference to the parties to the proceedings of the court of law or tribunal in which the question arose and, where the Attorney-General is not a party, to the Attorney-General.
- (4) The Constitutional Court shall hear the parties noticed under subrule (3) and the Attorney-General before making its determination on the question referred to it:  
  
Provided that if any party does not appear on notice served on him, the Constitutional Court may proceed to determine the question in the absence of that party.

**11.**

Where the Constitutional Court is of the opinion that it would be for its convenience and that of all the parties concerned that two or more petitions or references be consolidated the Court may of its own motion or on the application of any parties direct that the petitions or references be consolidated and treated as one petition or reference.

**12.**

Proceedings of the Constitutional Court shall take precedence over all other matters of the Supreme Court.

**13.**

- (1) An appeal from a decision of the Constitutional Court to the Seychelles Court of Appeal shall be lodged at the Registry of the Supreme Court within 10 days from the date of such decision.
- (2) Subject to subrule (1), the Seychelles Court of Appeal Rules relating to appeals in civil matters shall be applicable to such an appeal.