



Strasbourg, 1 December 2006

**CDL(2006)089**

Opinion No. 405/2006

Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**CONSTITUTION OF SERBIA\***

**As approved by the National Assembly  
on 30 September 2006**

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\* Provisional translation.

Under Article 73 Item 8 of the Constitution of the Republic of Serbia and Article 10 para.1 of the Law on Referendum and People's Initiative ('Official Gazette of RS', no. 48/94 and 11/98),

The National Assembly of the Republic of Serbia at its first special session in 2006 held on 30 September 2006 has adopted

## **D E C I S I O N**

### **CALLING A REPUBLIC REFERENDUM TO ENDORSE THE NEW CONSTITUTION OF THE REPUBLIC OF SERBIA**

1. Republic referendum is hereby called to endorse the new Constitution of the Republic of Serbia adopted by the National Assembly of the Republic of Serbia at its first special session in 2006 held on 30 September 2006.

2. Republic referendum shall be conducted between 7.00 and 20.00 on 28<sup>th</sup> and 29<sup>th</sup> October 2006.

3. The citizens shall vote on the following question on the republic referendum:  
'Do you endorse the new Constitution of the Republic of Serbia?'

4. The citizens shall decide by circling the word 'yes' or 'no' on the voting slip.

5. The Republic Electoral Commission shall be in charge of referendum implementation.

The Republic Electoral Commission shall form municipal commissions and voting committees.

6. The Republic Electoral Commission shall establish and announce the final result of the republic referendum and submit the report on the conducted referendum to the National Assembly of the Republic of Serbia.

7. In order to inform the citizens about the content of the Constitution of the Republic of Serbia which is put to republic referendum for endorsement, Constitution of the Republic of Serbia shall be published in the 'Official Gazette of the Republic of Serbia' as an integral part of this decision, in the media and in any other form determined by the Republic Electoral Commission.

8. This decision shall be published in the 'Official Gazette of the Republic of Serbia'.

RS no. 35

Belgrade, 30<sup>th</sup> September 2006

**NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA**

CHAIRMAN  
Predrag Marković

Considering the state tradition of the Serbian people and equality of all citizens and ethnic communities in Serbia,

Considering also that the Province of Kosovo and Metohija is an integral part of the territory of Serbia, that it has the status of a substantial autonomy within the sovereign state of Serbia and that from such status of the Province of Kosovo and Metohija follow constitutional obligations of all state bodies to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations,  
the citizens of Serbia adopt

## **CONSTITUTION OF THE REPUBLIC OF SERBIA**

### ***PART ONE***

#### **CONSTITUTION PRINCIPLES**

##### **Republic of Serbia**

###### **Article 1**

Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values.

##### **Sovereignty holders**

###### **Article 2**

Sovereignty is vested in citizens who exercise it through referendums, people's initiative and freely elected representatives.

No state body, political organization, group or individual may usurp the sovereignty from the citizens, nor establish government against freely expressed will of the citizens.

##### **Rule of law**

###### **Article 3**

Rule of law is a fundamental prerequisite for the Constitution which is based on inalienable human rights.

The rule of law shall be exercised through free and direct elections, constitutional guarantees of human and minority rights, separation of power, independent judiciary and observance of Constitution and Law by the authorities.

##### **Division of power**

###### **Article 4**

The legal system is unique.

Government system shall be based on the division of power into legislative, executive and judiciary.

Relation between three branches of power shall be based on balance and mutual control.

Judiciary power shall be independent.

##### **Political parties**

###### **Article 5**

The role of political parties in democratic shaping of the political will of the citizens shall be guaranteed and recognized.

Political parties may be established freely.

Activities of political parties aiming at forced overthrow of constitutional system, violation of guaranteed human or minority rights, inciting racial, national or religious hatred, shall be prohibited.

Political parties may not exercise power directly or submit it to their control.

**Prohibition of the conflict of interests****Article 6**

No person may perform a state or public function in conflict with their other functions, occupation or private interests.

The presence of conflict of interest and liability for its resolution shall be regulated by the Constitution and Law.

**Coat of arms, flag and national anthem****Article 7**

The Republic of Serbia shall have coat of arms, flag and national anthem.

The coat of arms of the Republic of Serbia shall be used in the form of the Large Coat of Arms and Small Coat of Arms.

The flag of the Republic of Serbia shall exist and be used as the National Flag and State Flag.

National anthem of the Republic of Serbia shall be official song "Bože pravde".

Appearance and use of the coat of arms, flag and national anthem shall be regulated by law.

**Territory and border****Article 8**

The territory of the Republic of Serbia is inseparable and indivisible.

The border of the Republic of Serbia is inviolable and may be altered in a procedure applied to amend the Constitution.

**Capital City****Article 9**

The capital city of the Republic of Serbia is Belgrade.

**Language and script****Article 10**

Serbian language and Cyrillic script shall be in official use in the Republic of Serbia.

Official use of other languages and scripts shall be regulated by the law based on the Constitution.

**Secularity of the State****Article 11**

The Republic of Serbia is a secular state.

Churches and religious communities shall be separated from the state.

No religion may be established as state or mandatory religion.

**Provincial autonomy and local self-government****Article 12**

State power is restricted by the right of citizens to provincial autonomy and local self-government.

The right of citizens to provincial autonomy and local self-government shall be subjected only to supervision of constitutionality and legality.

**Protection of citizens and Serbs abroad****Article 13**

The Republic of Serbia shall protect the rights and interests of its citizens in abroad.

The Republic of Serbia shall develop and promote relations of Serbs living abroad with the kin state.

### **Protection of national minorities**

#### **Article 14**

The Republic of Serbia shall protect the rights of national minorities.

The State shall guarantee special protection to national minorities for the purpose of exercising full equality and preserving their identity.

### **Gender equality**

#### **Article 15**

The State shall guarantee the equality of women and men and develop equal opportunities policy.

### **International relations**

#### **Article 16**

The foreign policy of the Republic of Serbia shall be based on generally accepted principles and rules of international law.

Generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly.

Ratified international treaties must be in accordance with the Constitution.

### **Status of foreign nationals**

#### **Article 17**

Pursuant to international treaties, foreign nationals in the Republic of Serbia shall have all rights guaranteed by the Constitution and law with the exception of rights to which only the citizens of the Republic of Serbia are entitled under the Constitution and law.

## ***PART TWO***

### **HUMAN AND MINORITY RIGHTS AND FREEDOMS**

#### **1. Fundamental Principles**

##### **Direct implementation of guaranteed rights**

#### **Article 18**

Human and minority rights guaranteed by the Constitution shall be implemented directly.

The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. The law may prescribe manner of exercising these rights only if explicitly stipulated in the Constitution or necessary to exercise a specific right owing to its nature, whereby the law may not under any circumstances influence the substance of the relevant guaranteed right.

Provisions on human and minority rights shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation.

##### **Purpose of constitutional guarantees**

#### **Article 19**

Guarantees for inalienable human and minority rights in the Constitution have the purpose of preserving human dignity and exercising full freedom and equality of each individual in a just, open, and democratic society based on the principle of the rule of law.

### **Restriction of human and minority rights**

#### **Article 20**

Human and minority rights guaranteed by the Constitution may be restricted by the law if the Constitution permits such restriction and for the purpose allowed by the Constitution, to the extent necessary to meet the constitutional purpose of restriction in a democratic society and without encroaching upon the substance of the relevant guaranteed right.

Attained level of human and minority rights may not be lowered.

When restricting human and minority rights, all state bodies, particularly the courts, shall be obliged to consider the substance of the restricted right, pertinence of restriction, nature and extent of restriction, relation of restriction and its purpose and possibility to achieve the purpose of the restriction with less restrictive means.

### **Prohibition of discrimination**

#### **Article 21**

All are equal before the Constitution and law.

Everyone shall have the right to equal legal protection, without discrimination.

All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited.

Special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination.

### **Protection of human and minority rights and freedoms**

#### **Article 22**

Everyone shall have the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to elimination of consequences arising from the violation.

The citizens shall have the right to address international institutions in order to protect their freedoms and rights guaranteed by the Constitution.

## **2. Human Rights and Freedoms**

### **Dignity and free development of individuals**

#### **Article 23**

Human dignity is inviolable and everyone shall be obliged to respect and protect it.

Everyone shall have the right to free development of his personality if this does not violate the rights of others guaranteed by the Constitution.

### **Right to life**

#### **Article 24**

Human life is inviolable.

There shall be no death penalty in the Republic of Serbia.

Cloning of human beings shall be prohibited.

### **Inviolability of physical and mental integrity**

#### **Article 25**

Physical and mental integrity is inviolable.

Nobody may be subjected to torture, inhuman or degrading treatment or punishment, nor subjected to medical and other experiments without their free consent.

### **Prohibition of slavery, servitude and forced labour**

#### **Article 26**

No person may be kept in slavery or servitude.

All forms of human trafficking are prohibited.

Forced labour is prohibited. Sexual or financial exploitation of person in unfavourable position shall be deemed forced labour.

Labour or service of persons serving sentence of imprisonment if their labour is based on the principle of voluntariness with financial compensation, labour or service of military persons, nor labour or services during war or state of emergency in accordance with measures prescribed on the declaration of war or state of emergency, shall not be considered forced labour.

### **Right to freedom and security**

#### **Article 27**

Everyone has the right to personal freedom and security. Depriving of liberty shall be allowed only on the grounds and in a procedure stipulated by the law.

Any person deprived of liberty by a state body shall be informed promptly in a language they understand about the grounds for arrest or detention, charges brought against them, and their rights to inform any person of their choice about their arrest or detention without delay.

Any person deprived of liberty shall have the right to initiate proceedings where the court shall review the lawfulness of arrest or detention and order the release if the arrest or detention was against the law.

Any sentence which includes deprivation of liberty may be proclaimed solely by the court.

### **Treatment of persons deprived of liberty**

#### **Article 28**

Persons deprived of liberty must be treated humanely and with respect to dignity of their person.

Any violence towards persons deprived of liberty shall be prohibited.

Extorting a statement shall be prohibited.

### **Special Rights in Case of Arrest and Detention without Decision of the Court**

#### **Article 29**

Any person deprived of liberty without decision of the court shall be informed promptly about the right to remain silent and about the right to be questioned only in the presence of a defense counsel they chose or a defense counsel who will provide legal assistance free of charge if they are unable to pay for it.

Any person deprived of liberty without a decision of the court must be brought before the competent court without delay and not later than 48 hours, otherwise they shall be released.

### **Detention**

#### **Article 30**

Any person under reasonable doubt of committing a crime may be remanded to detention only upon the decision of the court, should detention be necessary to conduct criminal proceedings.

If the detainee has not been questioned when making a decision on detention or if the decision on holding in detention has not been carried out immediately after the pronouncement, the detainee must be brought before the competent court within 48 hours from the time of sending to detention which shall reconsider the decision on detention.

A written decision of the court with explanation for reasons of detention shall be delivered to the detainee not later than 12 hours after pronouncing. The court shall decide on the appeal to decision detention and deliver it to the detainee within 48 hours.

### **Duration of detention**

#### **Article 31**

The court shall reduce the duration of detention to the shortest period possible, keeping in mind the grounds for detention. Sentencing to detention under a decision of the court of first instance shall not exceed three months during investigation, whereas higher court may extend it for another three months, in accordance with the law. If the indictment is not raised by the expiration of the said period, the detainee shall be released.

The court shall reduce the duration of detention after the bringing of charges to the shortest possible period, in accordance with the law.

Detainee shall be allowed pre-trial release as soon as grounds for remanding to detention cease to exist.

### **Right to a fair trial**

#### **Article 32**

Everyone shall have the right to a public hearing before an independent and impartial tribunal established by the law within reasonable time which shall pronounce judgement on their rights and obligations, grounds for suspicion resulting in initiated procedure and accusations brought against them.

Everyone shall be guaranteed the right to free assistance of an interpreter if the person does not speak or understand the language officially used in the court and the right to free assistance of an interpreter if the person is blind, deaf, or dumb.

The press and public may be excluded from all or part of the court procedure only in the interest of protecting national security, public order and morals in a democratic society, interests of juveniles or the protection of private life of the parties, in accordance with the law.

### **Special rights of persons charged with criminal offense**

#### **Article 33**

Any person charged with criminal offense shall have the right to be informed promptly, in accordance with the law, in the language which this person understands and in detail about the nature and cause of the accusation against him, as well as the evidence against him.

Any person charged with criminal offense shall have the right to defend himself personally or through legal counsel of his own choosing, to contact his legal counsel freely and to be allowed adequate time and facilities for preparing his defense.

Any person charged with criminal offense without sufficient means to pay for legal counsel shall have the right to a free legal counsel when the interests of justice so require and in compliance with the law.

Any person charged with criminal offense available to the court shall have the right to a trial in his presence and may not be sentenced unless he has been given the opportunity to a hearing and defense.

Any person prosecuted for criminal offense shall have the right to present evidence in his favour by himself or through his legal counsel, to examine witnesses against him and demand that witnesses on his behalf be examined under the same conditions as the witnesses against him and in his presence.

Any person prosecuted for criminal offense shall have the right to a trial without undue delay.

Any person charged or prosecuted for criminal offense shall not be obligated to provide self-incriminating evidence or evidence to the prejudice of persons related to him, nor shall he be obliged to confess guilt.

Any other natural person prosecuted for other offences punishable by law shall have all the rights of a person charged with criminal offense pursuant to the law and in accordance with it.

### **Legal certainty in criminal law**

#### **Article 34**

No person may be held guilty for any act which did not constitute a criminal offence under law or any other regulation based on the law at the time when it was committed, nor shall a penalty be imposed which was not prescribed for this act .

The penalties shall be determined pursuant to a regulation in force at the time when the act was committed, save when subsequent regulation is more lenient for the perpetrator. Criminal offences and penalties shall be laid down by the law.

Everyone shall be presumed innocent for a criminal offence until convicted by a final judgement of the court.



No person may be prosecuted or sentenced for a criminal offence for which he has been acquitted or convicted by a final judgment, for which the charges have been rejected or criminal proceedings dismissed by final judgment, nor may court ruling be altered to the detriment of a person charged with criminal offence by extraordinary legal remedy. The same prohibitions shall be applicable to all other proceedings conducted for any other act punishable by law.

In special cases, reopening of proceedings shall be allowed in accordance with criminal legislation if evidence is presented about new facts which could have influenced significantly the outcome of proceedings had they been disclosed at the time of the trial, or if serious miscarriage of justice occurred in the previous proceedings which might have influenced its outcome.

Criminal prosecution or execution of punishment for a war crime, genocide, or crime against humanity shall not be subject to statute of limitation.

### **Right to rehabilitation and compensation**

#### **Article 35**

Any person deprived of liberty, detained or convicted for a criminal offence without grounds or unlawfully shall have the right to rehabilitation and compensation of damage by the Republic of Serbia, as well as other rights stipulated by the law.

Everyone shall have the right to compensation of material or non-material damage inflicted on him by unlawful or irregular work of a state body, entities exercising public powers, bodies of the autonomous province or local self-government.

The law shall stipulate conditions under which the injured party may demand compensation for damage directly from the person that inflicted the damage.

### **Right to equal protection of rights and legal remedy**

#### **Article 36**

Equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local self-government shall be guaranteed.

Everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations or lawful interests.

### **Right to legal person**

#### **Article 37**

Everyone shall have legal capacity.

Upon becoming of age all persons shall become capable of deciding independently about their rights and obligations. A person becomes of age after turning 18.

A person may choose and use personal name and name of their children freely.

### **Right to citizenship**

#### **Article 38**

Acquiring and terminating citizenship of the Republic of Serbia shall be regulated by the law.

A citizen of the Republic of Serbia may not be expelled or deprived of citizenship or the right to change it.

Any child born in the Republic of Serbia shall have the right to citizenship of the Republic of Serbia unless conditions have been met to acquire citizenship of some other country.

### **Freedom of movement**

#### **Article 39**

Everyone shall have the right to free movement and residence in the Republic of Serbia, as well as the right to leave and return.

Freedom of movement and residence, as well as the right to leave the Republic of Serbia may be restricted by the law if necessary for the purpose of conducting criminal proceedings, protection of public order, prevention of spreading contagious diseases or defense of the Republic of Serbia.

Entry and stay of foreign nationals in the Republic of Serbia shall be regulated by the law. A foreign national may be expelled only under decision of the competent body, in a procedure stipulated by the law and if time to appeal has been provided for him and only when there is no threat of persecution based on his race, sex, religion, national origin, citizenship, association

with a social group, political opinions, or when there is no threat of serious violation of rights guaranteed by this Constitution.

### **Inviolability of home**

#### **Article 40**

A person's home shall be inviolable.

No one may enter a person's home or other premises against the will of their tenant nor conduct a search in them. The tenant of the home or other premises shall have the right to be present during the search in person or through his legal representative together with two other witnesses who may not be under age.

Entering a person's home or other premises, and in special cases conducting search without witnesses, shall be allowed without a court order if necessary for the purpose of immediate arrest and detention of a perpetrator of a criminal offence or to eliminate direct and grave danger for people or property in a manner stipulated by the law.

### **Confidentiality of letters and other means of communication**

#### **Article 41**

Confidentiality of letters and other means of communication shall be inviolable.

Derogation shall be allowed only for a specified period of time and based on decision of the court if necessary to conduct criminal proceedings or protect the safety of the Republic of Serbia, in a manner stipulated by the law.

### **Protection of personal data**

#### **Article 42**

Protection of personal data shall be guaranteed.

Collecting, keeping, processing and using of personal data shall be regulated by the law.

Use of personal data for any the purpose other the one were collected for shall be prohibited and punishable in accordance with the law, unless this is necessary to conduct criminal proceedings or protect safety of the Republic of Serbia, in a manner stipulated by the law.

Everyone shall have the right to be informed about personal data collected about him, in accordance with the law, and the right to court protection in case of their abuse.

### **Freedom of thought, conscience and religion**

#### **Article 43**

Freedom of thought, conscience, beliefs and religion shall be guaranteed, as well as the right to stand by one's belief or religion or change them by choice.

No person shall have the obligation to declare his religious or other beliefs.

Everyone shall have the freedom to manifest their religion or religious beliefs in worship, observance, practice and teaching, individually or in community with others, and to manifest religious beliefs in private or public.

Freedom of manifesting religion or beliefs may be restricted by law only if that is necessary in a democratic society to protect lives and health of people, morals of democratic society, freedoms and rights guaranteed by the Constitution, public safety and order, or to prevent inciting of religious, national, and racial hatred.

Parents and legal guardians shall have the right to ensure religious and moral education of their children in conformity with their own convictions.

### **Churches and religious communities**

#### **Article 44**

Churches and religious communities are equal and separated from the state.

Churches and religious communities shall be equal and free to organize independently their internal structure, religious matters, to perform religious rites in public, to establish and manage religious schools, social and charity institutions, in accordance with the law.

Constitutional Court may ban a religious community only if its activities infringe the right to life, right to mental and physical health, the rights of child, right to personal and family integrity, public safety and order, or if it incites religious, national or racial intolerance.

### **Conscientious objection**

#### **Article 45**

No person shall be obliged to perform military or any other service involving the use of weapons if this opposes his religion or beliefs.

Any person pleading conscientious objection may be called upon to fulfill military duty without the obligation to carry weapons, in accordance with the law.

### **Freedom of thought and expression**

#### **Article 46**

The freedom of thought and expression shall be guaranteed, as well as the freedom to seek, receive and impart information and ideas through speech, writing, art or in some other manner.

Freedom of expression may be restricted by the law if necessary to protect rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia.

### **Freedom of expressing national affiliation**

#### **Article 47**

National affiliation may be expressed freely.

No person shall be obliged to declare his national affiliation.

### **Promotion of respect for diversity**

#### **Article 48**

The Republic of Serbia shall promote understanding, recognition and respect of diversity arising from specific ethnic, cultural, linguistic or religious identity of its citizens through measures applied in education, culture and public information.

### **Prohibition of inciting racial, ethnic and religious hatred**

#### **Article 49**

Any inciting of racial, ethnic, religious or other inequality or hatred shall be prohibited and punishable.

### **Freedom of the media**

#### **Article 50**

Everyone shall have the freedom to establish newspapers and other forms of public information without prior permission and in a manner laid down by the law.

Television and radio stations shall be established in accordance with the law.

Censorship shall not be applied in the Republic of Serbia. Competent court may prevent the dissemination of information through means of public informing only when this is necessary in a democratic society to prevent inciting to violent overthrow of the system established by the Constitution or to prevent violation of territorial integrity of the Republic of Serbia, to prevent propagation of war or instigation to direct violence, or to prevent advocacy of racial, ethnic or religious hatred enticing discrimination, hostility or violence.

The law shall regulate the exercise of right to correct false, incomplete or inaccurately imparted information resulting in violation of rights or interests of any person, and the right to react to communicated information.

### **Right to information**

#### **Article 51**

Everyone shall have the right to be informed accurately, fully and timely about issues of public importance. The media shall have the obligation to respect this right.

Everyone shall have the right to access information kept by state bodies and organizations with delegated public powers, in accordance with the law.

**Electoral right****Article 52**

Every citizen of age and working ability of the Republic of Serbia shall have the right to vote and be elected.

Suffrage shall be universal and equal for all, the elections shall be free and direct and voting is carried out by secret ballot in person.

Election right shall be protected by the law and in accordance with the law.

**Right to participate in management of public affairs****Article 53**

Citizens shall have the right to take part in the management of public affairs and to assume public service and functions under equal conditions.

**Freedom of assembly****Article 54**

Citizens may assemble freely.

Assembly held indoors shall not be subjected to permission or registering.

Gathering, demonstrations and other forms of assembly held outdoors shall be reported to the state body, in accordance with the law.

Freedom of assembly may be restricted by the law only if necessary to protect public health, morals, rights of others or the security of the Republic of Serbia.

**Freedom of association****Article 55**

Freedom of political, union and any other form of association shall be guaranteed, as well as the right to stay out of any association.

Associations shall be formed without prior approval and entered in the register kept by a state body, in accordance with the law.

Secret and paramilitary associations shall be prohibited.

Constitutional Court may ban only such associations the activity of which is aimed at violent overthrow of constitutional order, violation of guaranteed human or minority rights, or inciting of racial, national and religious hatred.

Judges of Constitutional Court, judges, public prosecutors, Defender of Citizens, members of police force and military persons may not be members of political parties.

**Right to petition****Article 56**

Everyone shall have the right to put forward petitions and other proposals alone or together with others, to state bodies, entities exercising public powers, bodies of the autonomous province and local self-government units and to receive reply from them if they so request.

No person may suffer detrimental consequences for putting forward a petition or proposal.

No person may suffer detrimental consequences for opinions stated in the petition or proposal unless they constitute a criminal offense.

**Right to asylum****Article 57**

Any foreign national with reasonable fear of prosecution based on his race, gender, language, religion, national origin or association with some other group, political opinions, shall have the right to asylum in the Republic of Serbia.

The procedure for granting asylum shall be regulated by the law.

**Right to property****Article 58**

Peaceful tenure of a person's own property and other property rights acquired by the law shall be guaranteed.

Right of property may be revoked or restricted only in public interest established by the law and with compensation which can not be less than market value.

The law may restrict the manner of using the property.

Seizure or restriction of property to collect taxes and other levies or fines shall be permitted only in accordance with the law.

### **Right to inheritance**

#### **Article 59**

Right to inheritance shall be guaranteed in accordance with the law.

Right to inheritance may not be denied or restricted for failing to observe public duties.

### **Right to work**

#### **Article 60**

Right to work shall be guaranteed in accordance with the law.

Everyone shall have the right to choose his occupation freely.

All work places shall be available to everyone under equal conditions.

Everyone shall have the right to respect of his person at work, safe and healthy working conditions, necessary protection at work, limited working hours, daily and weekly interval for rest, paid annual holiday, fair remuneration for work done and legal protection in case of termination of working relations. No person may forgo these rights.

Women, young and disabled persons shall be provided with special protection at work and special work conditions in accordance with the law.

### **Right to strike**

#### **Article 61**

The employed shall have the right to strike in accordance with the law and collective agreement.

The right to strike may be restricted only by the law in accordance with nature or type of business activity.

### **Right to enter into marriage and equality of spouses**

#### **Article 62**

Everyone shall have the right to decide freely on entering or dissolving a marriage.

Marriage shall be entered into based on the free consent of man and woman before the state body.

Contracting, duration or dissolution of marriage shall be based on the equality of man and woman.

Marriage, marital and family relations shall be regulated by the law.

Extramarital community shall be equal with marriage, in accordance with the law.

### **Freedom to procreate**

#### **Article 63**

Everyone shall have the freedom to decide whether they shall procreate or not.

The Republic of Serbia shall encourage the parents to decide to have children and assist them in this matter.

### **Rights of the child**

#### **Article 64**

A child shall enjoy human rights suitable to their age and mental maturity.

Every child shall have the right to personal name, entry in the registry of births, the right to learn about its ancestry, and the right to preserve his own identity.

A child shall be protected from psychological, physical, economic and any other form of exploitation or abuse.

A child born out of wedlock shall have the same rights as a child born in wedlock.

Rights of the child and their protection shall be regulated by the law.

## **Rights and duties of parents**

### **Article 65**

Parents shall have the right and duty to support, provide upbringing and education to their children in which they shall be equal.

All or individual rights may be revoked from one or both parents only by the ruling of the court if this is in the best interests of the child, in accordance with the law.

## **Special protection of the family, mother, single parent and child**

### **Article 66**

Families, mothers, single parents and any child in the Republic of Serbia shall enjoy special protection in the Republic of Serbia in accordance with the law.

Mothers shall be given special support and protection before and after childbirth.

Special protection shall be provided for children without parental care and mentally or physically handicapped children.

Children under 15 years of age may not be employed, nor may children under 18 years of age be employed at jobs detrimental to their health or morals.

## **Right to legal assistance**

### **Article 67**

Everyone shall be guaranteed right to legal assistance under conditions stipulated by the law.

Legal assistance shall be provided by legal professionals, as an independent and autonomous service, and legal assistance offices established in the units of local self-government in accordance with the law.

The law shall stipulate conditions for providing free legal assistance.

## **Health care**

### **Article 68**

Everyone shall have the right to protection of their mental and physical health.

Health care for children, pregnant women, mothers on maternity leave, single parents with children under seven years of age and elderly persons shall be provided from public revenues unless it is provided in some other manner in accordance with the law.

Health insurance, health care and establishing of health care funds shall be regulated by the law.

The Republic of Serbia shall assist development of health and physical culture.

## **Social protection**

### **Article 69**

Citizens and families that require welfare for the purpose of overcoming social and existential difficulties and creating conditions to provide subsistence, shall have the right to social protection the provision of which is based on social justice, humanity and respect of human dignity.

Rights of the employees and their families to social protection and insurance shall be regulated by the law.

The employees shall have the right to salary compensation in case of temporary inability to work, as well as the right to temporary unemployment benefit in accordance with the law.

Disabled people, war veterans and victims of war shall be provided special protection in accordance with the law.

Social insurance funds shall be established in accordance with the law.

## **Pension insurance**

### **Article 70**

Pension insurance shall be regulated by the law.

The Republic of Serbia shall see to economic security of the pensioners.

### **Right to education**

#### **Article 71**

Everyone shall have the right to education.

Primary education is mandatory and free, whereas secondary education is free.

All citizens shall have access under equal conditions to higher education. The Republic of Serbia shall provide for free tertiary education to successful and talented students of lower property status in accordance with the law.

Establishment of schools and universities shall be regulated by the law.

### **Autonomy of university**

#### **Article 72**

Autonomy of universities, faculties and scientific institutions shall be guaranteed.

Universities, faculties and scientific institutions shall decide freely on their organization and work in accordance with the law.

### **Freedom of scientific and artistic creativity**

#### **Article 73**

Scientific and artistic creativity shall be unrestricted.

Authors of scientific and artistic works shall be guaranteed moral and material rights in accordance with the law.

The Republic of Serbia shall assist and promote development of science, culture and art.

### **Healthy environment**

#### **Article 74**

Everyone shall have the right to healthy environment and the right to timely and full information about the state of environment.

Everyone, especially the Republic of Serbia and autonomous provinces, shall be accountable for the protection of environment.

Everyone shall be obliged to preserve and improve the environment.

## **3. Rights of Persons Belonging to National Minorities**

### **Basic Provision**

#### **Article 75**

Persons belonging to national minorities shall be guaranteed special individual or collective rights in addition to the rights guaranteed to all citizens by the Constitution. Individual rights shall be exercised individually and collective rights in community with others, in accordance with the Constitution, law and international treaties.

Persons belonging to national minorities shall take part in decision-making or decide independently on certain issues related to their culture, education, information and official use of languages and script through their collective rights in accordance with the law.

Persons belonging to national minorities may elect their national councils in order to exercise the right to self-governance in the field of culture, education, information and official use of their language and script, in accordance with the law.

### **Prohibition of discrimination against national minorities**

#### **Article 76**

Persons belonging to national minorities shall be guaranteed equality before the law and equal legal protection.

Any discrimination on the grounds of affiliation to a national minority shall be prohibited.

Specific regulations and provisional measures which the Republic of Serbia may introduce in economic, social, cultural and political life for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority, shall not be considered discrimination if they are aimed at eliminating extremely unfavourable living conditions which particularly affect them.

### **Equality in administering public affairs**

#### **Article 77**

Members of national minorities shall have the right to participate in administering public affairs and assume public positions, under the same conditions as other citizens.

When taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of members of national minorities shall be taken into consideration.

### **Prohibition of forced assimilation**

#### **Article 78**

Forced assimilation of members of national minorities shall be strictly prohibited.

Protection of members of national minorities from all activities directed towards their forced assimilation shall be regulated by the Law.

Undertaking measures, which would cause artificial changes in ethnic structure of population in areas where members of national minorities live traditionally and in large numbers, shall be strictly prohibited.

### **Right to preservation of specificity**

#### **Article 79**

Members of national minorities shall have a right to: expression, preservation, fostering, developing and public expression of national, ethnic, cultural, religious specificity; use of their symbols in public places; use of their language and script; have proceedings also conducted in their languages before state bodies, organisations with delegated public powers, bodies of autonomous provinces and local self-government units, in areas where they make a significant majority of population; education in their languages in public institutions and institutions of autonomous provinces; founding private educational institutions; use of their name and family name in their language; traditional local names, names of streets, settlements and topographic names also written in their languages, in areas where they make a significant majority of population; complete, timely and objective information in their language, including the right to expression, receiving, sending and exchange of information and ideas; establishing their own mass media, in accordance with the Law.

Under the Law and in accordance with the Constitution, additional rights of members of national minorities may be determined by provincial regulations.

### **Right to association and cooperation with compatriots**

#### **Article 80**

Members of national minorities may found educational and cultural associations, which are funded voluntarily.

The Republic of Serbia shall acknowledge a specific role of educational and cultural associations of national minorities in their exercise of rights of members of national minorities.

Members of national minorities shall have a right to undisturbed relations and cooperation with their compatriots outside the territory of the Republic of Serbia.

### **Developing the spirit of tolerance**

#### **Article 81**

In the field of education, culture and information, Serbia shall give impetus to the spirit of tolerance and intercultural dialogue and undertake efficient measures for enhancement of mutual respect, understanding and cooperation among all people living on its territory, regardless of their ethnic, cultural, linguistic or religious identity.



### **PART THREE**

## **ECONOMIC SYSTEM AND PUBLIC FINANCES**

### **1. Economic system**

#### **Basic principles**

##### **Article 82**

Economic system in the Republic of Serbia shall be based on market economy, open and free market, freedom of entrepreneurship, independence of business entities and equality of private and other types of assets.

The Republic of Serbia shall represent a unique economic area with a single commodity, labour, capital and services market.

The impact of the market economy on social and economic status of the employed shall be adjusted through social dialogue between trade unions and employers.

#### **Freedom of entrepreneurship**

##### **Article 83**

Entrepreneurship shall be permitted.

Entrepreneurship may be restricted by the Law, for the purpose of protection of people's health, environment and natural goods and security of the Republic of Serbia.

#### **Status on the market**

##### **Article 84**

Everyone shall have equal legal status on the market.

Acts, which are contrary to the Law and restrict free competition by creating or abusing monopolistic or dominant status, shall be strictly prohibited.

Rights gained through capital investments, in accordance with the Law, may not be curtailed by the Law.

Foreign persons shall be equalled on the market with domestic persons.

#### **Proprietary rights of foreigners**

##### **Article 85**

Foreign natural and legal entities may obtain real estate property, in accordance with the Law or international contract.

Foreigners may obtain a concession right for natural resources and goods, as well as other rights stipulated by the Law.

#### **Equality of all types of assets**

##### **Article 86**

Private, cooperative and public assets shall be guaranteed. Public assets shall become state assets, assets of the autonomous province and assets of local self-government units. All types of assets shall have equal legal protection.

The existing social assets shall become private assets under the terms, in a manner and within the deadlines stipulated by the Law.

Resources from the public assets shall be appropriated in a manner and under the terms stipulated by the Law.

### **State assets**

#### **Article 87**

Natural resources, goods which are stipulated by the Law as goods of public interest and assets used by the bodies of the Republic of Serbia shall be the state assets. State assets shall include other things and rights, according to the Law.

Natural and legal entities may obtain particular rights on particular goods in public use, under the terms and in a manner stipulated by the Law.

Natural resources shall be utilised under the terms and in a manner stipulated by the Law.

Assets of autonomous provinces and local self-government units, method of its utilisation and management shall be stipulated by the Law.

### **Land**

#### **Article 88**

Utilisation and management of agricultural land, forest land and municipal building land on private assets shall be permitted.

The Law may restrict the models of utilisation and management, that is stipulate terms of utilisation and management, in order to eliminate the danger of causing damage to environment or prevent violation of rights and legally based interests of other persons.

### **Protection of heritage**

#### **Article 89**

Everyone shall be obliged to protect natural rarities and scientific, cultural and historical heritage, as well as goods of public interest in accordance with the Law.

The Republic of Serbia, autonomous provinces and local self-government units shall be held particularly accountable for the protection of heritage.

### **Protection of consumers**

#### **Article 90**

The Republic of Serbia shall protect consumers.

Activities directed against health, security and privacy of consumers, as well as all other dishonest activities on the market, shall be strictly prohibited.

## **2. Public finances**

### **Taxes and other revenues**

#### **Article 91**

Resources which are used for the purpose of funding competences of the Republic of Serbia, autonomous provinces and local self-government units shall be provided from taxes and other revenues, stipulated by the Law.

Obligation of paying taxes and other dues shall be general and based on economic power of taxpayers.

### **Budget**

#### **Article 92**

The Republic of Serbia, autonomous provinces and local self-government units shall have budgets, which must outline all receipts and expenses with which they are funding their competences.

The Law shall stipulate the deadlines within which the Budget must be adopted, as well as method of temporary funding.

Realisation of all budgets shall be audited by the State Audit Institution.

The National Assembly shall discuss the financial statement proposal of the Budget upon the received evaluation of the State Audit Institution.

**Public debt  
Article 93**

The Republic of Serbia, autonomous provinces and local self-government units may be indebted.

Terms and procedure of getting into debts shall be stipulated by the Law.

**Balancing development  
Article 94**

The Republic of Serbia shall take care of balanced and sustainable regional development, in accordance with the Law.

**National Bank of Serbia  
Article 95**

The National Bank of Serbia shall be a central bank of the Republic of Serbia, independent and subject to supervision by the National Assembly to which it accounts for its work.

The National Bank of Serbia shall be managed by the Governor elected by the National Assembly.

The Law on the National Bank of Serbia shall be enacted.

**State Audit Institution  
Article 96**

The State Audit Institution shall be the supreme state body for auditing public finances in the Republic of Serbia, independent and subject to supervision by the National Assembly to which it accounts for its work.

The Law on the State Audit Institution shall be enacted.

***PART FOUR***

**COMPETENCES OF THE REPUBLIC OF SERBIA**

**Competences of the Republic of Serbia**

The Republic of Serbia shall organise and provide for:

1. sovereignty, independence, territorial integrity and security of the Republic of Serbia, its international status and relations with other countries and international organisations;
2. exercise and protection of freedoms and rights of citizens; constitutionality and legality; proceedings before courts and other state bodies; liabilities and sanctions for violation of freedoms and rights of citizens stipulated by the Constitution and for violation of laws, other regulations and general acts; amnesty and pardon for criminal offences;
3. territorial organisation of the Republic of Serbia; system of local self-government;
4. defence and security of the Republic of Serbia and its citizens; measures in case of the state of emergency;
5. system of crossing the border and control of the trade in goods, services and passenger traffic over border crossing; status of foreigners and foreign legal entities;
6. single market; legal status of business entities; system of performing particular economic and other activities; commodity reserves; monetary, banking, foreign exchange and customs system; international economic relations; system of foreign credit relations; fiscal system;
7. property and bonded relations and protection of all types of assets;
8. system in the area of labour relations, protection at work, employment, social insurance and other forms of social security; other economic and social relations of public interest;
9. sustainable development; system of protection and improvement of environment; protection and improvement of flora and fauna; production, trade and transport of arms, poisonous, inflammable, explosive, radioactive and other hazardous substances;

10. system in areas of health care, social security, protection of war veterans and the disabled , protection of children, education, culture and protection of cultural goods, sport, public information, system of public services;
11. control of legality of managing resources of legal entities; financial audit of public finances; collection of statistical and other data of public interest;
12. development of the Republic of Serbia, policy and measures for spurring balanced development of particular areas of the Republic of Serbia, including the development of underdeveloped areas; organisation and utilisation of space; scientific and technological development;
13. regime and security in all areas of transport,
14. holidays and symbols of the Republic of Serbia;
15. funding of exercising rights and duties of the Republic of Serbia, stipulated by the Constitution and Law;
16. organisation, competences and work of the bodies of the Republic;
17. other relations of interest to the Republic of Serbia, in accordance with the Constitution.

## ***PART FIVE***

### **ORGANISATION OF GOVERNMENT**

#### **1. National Assembly**

##### **Status of the National Assembly**

###### **Article 98**

The National Assembly shall be the supreme representative body and holder of constitutional and legislative power in the Republic of Serbia.

##### **Competences**

###### **Article 99**

The National Assembly shall:

1. adopt and amend the Constitution,
2. decide on changes concerning borders of the Republic of Serbia,
3. call for the Republic referendum,
4. ratify international contracts when the obligation of their ratification is stipulated by the Law,
5. decide on war and peace and declare state of war and emergency,
6. supervise the work of security services,
7. enact laws and other general acts within the competence of the Republic of Serbia,
8. give previous approval for the Statute of the autonomous province,
9. adopt defence strategy,
10. adopt development plan and spatial plan,
11. adopt the Budget and financial statement of the Republic of Serbia, upon the proposal of the Government,
12. grant amnesty for criminal offences.

Within its election rights, the National Assembly shall:

1. elect the Government, supervise its work and decide on expiry of the term of office of the Government and ministers,
2. appoint and dismiss judges of the Constitutional Court,
3. appoint the President of the Supreme Court of Cassation, presidents of courts, Republic Public Prosecutor, public prosecutors, judges and deputy public prosecutors, in accordance with the Constitution,
4. appoint and dismiss the Governor of the National Bank of Serbia and supervise his/her work,
5. appoint and dismiss the Civic Defender and supervise his/her work,

6. appoint and dismiss other officials stipulated by the Law.

The National Assembly shall also perform other functions stipulated by the Constitution and Law.

### **Constitution of the National Assembly**

#### **Article 100**

The National Assembly shall consist of 250 deputies, who are elected on direct elections by secret ballot, in accordance with the Law.

In the National Assembly, equality and representation of different genders and members of national minorities shall be provided, in accordance with Law.

### **Election of deputies and constitution of the National Assembly**

#### **Article 101**

Elections for deputies shall be called by the President of the Republic, 90 days before the end of the term of office of the National Assembly, so that elections are finished within the following 60 days.

The first session of the National Assembly shall be convened by the Chairman of the National Assembly from the previous session, so that the session is held not later than 30 days from the day of declaring the final election results.

At the first session, the National Assembly shall confirm deputies' terms of office.

The National Assembly shall be constituted by confirmation of terms of office of the two thirds of deputies.

Against the decision made in relation to confirmation of terms of office, an appeal may be lodged before the Constitutional Court, which decides on it within 72 hours.

By means of confirming terms of office of the two thirds of deputies, the term of office of the previous session of the National Assembly shall end.

### **Status of Deputies**

#### **Article 102**

The term of office of the deputy shall begin on the day of confirmation of terms of office in the National Assembly and last four years, that is until the expiry of terms of office of deputies of that session of the National Assembly.

Under the terms stipulated by the Law, a deputy shall be free to irrevocably put his/her term of office at disposal to the political party upon which proposal he or she has been elected a deputy.

Deputy may not be a deputy in the Assembly of the autonomous province, nor an official in bodies of executive government and judiciary, nor may he or she perform other functions, affairs and duties, which represent a conflict of interest, according to the Law.

Election, expiry of the term of office and status of deputies shall be stipulated by the Law.

### **Immunity of deputies**

#### **Article 103**

Deputies shall enjoy immunity.

Deputies may not accept criminal or other liability for the expressed opinion or cast vote in performing the deputy's function.

Deputy who uses his/her immunity may not be detained, nor may he or she be involved in criminal or other proceedings in which prison sentence may be pronounced, without previous approval by the National Assembly.

Deputy found in the act of committing any criminal offence for which the prison sentence longer than five years is not envisaged, may be detained without previous approval by the National Assembly.

There shall be no deadlines stipulated for the criminal or other proceedings in which the immunity is established.

Failure to use the immunity shall not exclude the right of the National Assembly to establish the immunity.

## **President and Vice Presidents of the National Assembly**

### **Article 104**

By means of majority votes of all deputies, the National Assembly shall elect the President and one or more Vice Presidents of the National Assembly.

The President of the National Assembly shall represent the National Assembly, convoke its sessions, preside over them and perform other activities stipulated by the Constitution, Law and Rules of Procedure of the National Assembly.

## **Method of decision making in the National Assembly**

### **Article 105**

The National Assembly shall adopt decisions by majority vote of deputies at the session at which majority of deputies are present.

By means of majority vote of all deputies the National Assembly shall:

1. grant amnesty for criminal offences,
2. declare and call off the state of emergency,
3. order measures of departure from human and minority rights in the state of war and emergency,
4. enact the Law by which the Republic of Serbia delegates particular issues falling within its competence to autonomous provinces and local self-government units,
5. give previous approval for the Statute of the autonomous province,
6. decide on the Rules of Procedure pertaining to its work,
7. cancel immunities of deputies, the President of the Republic, members of the Government and Civic Defender,
8. adopt the Budget and financial statement,
9. elect members of the Government and decide on the end of the term of office of the Government and ministers,
10. decide on response to interpellation,
11. elect judges of the Constitutional Court and decide on their dismissal and end of their term of office,
12. elect the President of the Supreme Court of Cessation, presidents of courts, Republic Public Prosecutor and public prosecutors and decide on the end of their term of office,
13. elect judges and deputy public prosecutors, in accordance with the Constitution,
14. elect and dismiss the Governor of the National Bank of Serbia, Governors' Council and Civic Defender,
15. also perform other election competences of the National Assembly .

By means of majority vote of all deputies, the National Assembly shall decide on laws which regulate:

1. referendum and national initiative,
2. enjoying of individual and collective rights of members of national minorities,
3. development and spatial plan,
4. public debt,
5. territories of autonomous provinces and local self-government units,
6. conclusion and ratification of international contracts,
7. other issues stipulated by the Constitution.

## **Sessions**

### **Article 106**

The National Assembly shall be convoked for two regular sessions per year.

The first regular session shall start on the first weekday of March, while the second regular session shall start on the first weekday of October. Regular sessions may not last longer than 90 days.

The National Assembly shall be convoked for extraordinary session upon the request of at least one third of deputies or upon the request of the Government, with previously determined agenda.

The National Assembly shall be convoked without announcement upon the declaration of the state of war or emergency.

### **Right to propose laws**

#### **Article 107**

A right to propose laws, other regulations and general acts shall belong to every deputy, the Government, assemblies of autonomous provinces or at least 30,000 voters.

The Civic Defender and National Bank of Serbia shall have a right to propose laws falling within their competence.

### **Referendum**

#### **Article 108**

Upon the request of the majority of all deputies or at least 100,000 voters, the National Assembly shall call the referendum on issues falling within its competence, in accordance with the Constitution and Law.

The subject of the referendum may not include duties deriving from international contracts, laws pertaining to human and minority rights and freedoms, fiscal and other financial laws, the budget and financial statement, introduction of the state of emergency and amnesty, as well as issues pertaining to election competences of the National Assembly.

### **Dissolution of the National Assembly**

#### **Article 109**

The President of the Republic may dissolve the National Assembly, upon the elaborated proposal of the Government.

The Government may not propose dissolution of the National Assembly, if a proposal has been submitted for the vote of no confidence in the Government or if the issue of its confidence has been raised.

The National Assembly shall be dissolved if it fails to elect the Government within 90 days from the day of its constitution.

The National Assembly may not be dissolved during the state of war and emergency.

The President of the Republic shall be obliged to dissolve the National Assembly upon his/her decree, in cases stipulated by the Constitution.

Simultaneously with the dissolution of the National Assembly, the President of the Republic shall schedule elections for deputies, so that elections finish not later than 60 days from the day of their announcement.

The National Assembly, which has been dissolved, shall only perform current or urgent tasks, stipulated by the Law. In case of declaration of the state of war or emergency, its full competence shall be reestablished and last until the end of the state of war, that is, emergency.

### **Law on the National Assembly**

#### **Article 110**

The Law on the National Parliament shall be enacted.

## **2. The President of the Republic**

### **Status of the President of the Republic**

#### **Article 111**

The President of the Republic shall express state unity of the Republic of Serbia.

### **Competences**

#### **Article 112**

The President of the Republic shall:

1. represent the Republic of Serbia in the country and abroad,
2. promulgate laws upon his decree, in accordance with the Constitution,
3. propose to the National Assembly a candidate for the Prime Minister, after considering views of representatives of elected lists of candidates,
4. propose to the National Assembly holders of positions, in accordance with the Constitution and Law,
5. appoint and dismiss, upon his/her decree, ambassadors of the Republic of Serbia, upon the proposal of the Government,
6. receive letters of credit and revocable letters of credit of foreign diplomatic representatives,
7. grant amnesties and award honours,
8. administer other affairs stipulated by the Constitution.

In accordance with the Law, the President of the Republic shall command the Army and appoint, promote and relieve officers of the Army of Serbia.

### **Promulgation of laws**

#### **Article 113**

The President of the Republic shall be obliged to issue a decree on promulgation of laws or to return the law for reconsideration with a written explanation to the National Assembly, within maximum 15 days from the day of adoption of the law, that is, not later than within seven days, if the law has been adopted by emergency procedure.

If the National Assembly decides to vote again on the law, which has been returned for reconsideration by the President of the Republic, the law shall be adopted by the majority vote from the total number of deputies.

The President of the Republic shall be obliged to promulgate the newly adopted Law.

If the President of the Republic fails to issue a decree on promulgation of the law within the deadline stipulated by the Constitution, the decree shall be issued by the Chairman of the National Assembly.

### **Election**

#### **Article 114**

The President of the Republic shall be elected on direct elections, by secret ballot, in accordance with the Law.

Elections for the President of the Republic shall be scheduled by the Chairman of the National Assembly, 90 days before the end of term of office of the President of the Republic, so that elections finish within the following 60 days, in accordance with the Law.

While assuming the office, the President of the Republic shall take the following oath before the National Assembly:

“I do solemnly swear that I will devote all my efforts to preserve the sovereignty and integrity of the territory of the Republic of Serbia, including Kosovo and Metohija as its constituent part, as well as to provide exercise of human and minority rights and freedoms, respect and protection of the Constitution and laws, preservation of peace and welfare of all citizens of the Republic of Serbia and perform all my duties conscientiously and responsibly.”

### **Incompatibility of positions**

#### **Article 115**

The President of the Republic may not perform another public function or professional duty.

### **Term of office**

#### **Article 116**

The term of office of the President of the Republic shall last five years and begin from the day of taking of the oath before the National Assembly.



If the term of office of the President of the Republic expires during the state of war or emergency, it shall be extended so that it lasts until the expiry of three months from the day of the end of the state of war, that is, of emergency.

No one shall be elected to a position of the President of the Republic more than twice.

The term of office of the President of the Republic shall end with expiry of the period of time for which he or she has been elected, by his/her resignation or released of duty.

The President of the Republic shall tender his/her resignation to the Chairman of the National Assembly.

### **Resignation**

#### **Article 117**

When the President of the Republic tenders his/her resignation, he or she shall then inform about this the general public and the Chairman of the National Assembly.

The term of office of the President of the Republic shall end on the day of his/her resignation.

### **Dismissal**

#### **Article 118**

The President of the Republic shall be dismissed for the violation of the Constitution, upon the decision of the National Assembly, by the votes of at least two thirds of deputies.

Procedure for the dismissal may be initiated by the National Assembly, upon the proposal of at least two thirds of deputies.

The Constitutional Court shall have the obligation to decide on the violation of the Constitution, upon the initiated procedure for dismissal, not later than within 45 days.

### **Immunity**

#### **Article 119**

The President of the Republic shall enjoy the immunity as a deputy.

The National Assembly shall decide on the immunity of the President of the Republic.

### **Replacement of the President of the Republic**

#### **Article 120**

When the President of the Republic is prevented from performing his/her duties or his/her term of office ends before the expiry of the period of time for which he or she has been elected, he or she shall be replaced by the Chairman of the National Assembly.

The Chairman of the National Assembly may replace the President of the Republic for maximum three months.

The Chairman of the National Assembly shall be obliged to schedule elections for the President of the Republic so that they are held not later than three months from the beginning of indisposition of the President of the Republic, that is the end of his/her term of office for which he or she has been elected.

### **Law on the President of the Republic**

#### **Article 121**

The Law on the President of the Republic shall be enacted.

## **3. Government**

### **Status of the Government**

#### **Article 122**

The Government shall be the holder of executive power in the Republic of Serbia.

### **Competences**

#### **Article 123**

The Government shall:

1. establish and pursue policy,

2. execute laws and other general acts of the National Assembly,
3. adopt regulations and other general acts for the purpose of law enforcement,
4. propose to the National Assembly laws and other general acts and gives its opinion on those laws and general acts, when another mover proposes them,
5. direct and adjust the work of public administration bodies and perform supervision of their work,
6. administer other affairs stipulated by the Constitution and Law.

### **Responsibilities of the Government**

#### **Article 124**

The Government shall account to the National Assembly for the policy of the Republic of Serbia, for enforcement of laws and other general acts of the National Assembly, as well as for the work of the public administration bodies.

### **Prime Minister and members of the Government**

#### **Article 125**

The Government shall consist of the Prime Minister, one or more Vice Presidents and ministers.

The Prime Minister shall manage and direct the work of the Government, take care of coordinated political activities of the Government, coordinate the work of members of the Government and represent the Government.

Ministers shall account for their work and situation within the competence of their ministries to the Prime Minister, Government and National Assembly.

### **Incompatibility of functions**

#### **Article 126**

Member of the Government may not be a deputy in the National Assembly, deputy in the Assembly of the autonomous province and representative in the Assembly of the local self-government units, nor may he or she be a member of the executive council of the autonomous province or executive body of the local self-government unit.

Other functions, actions or private interests which are incompatible with the position of a member of the Government shall be stipulated by the Law.

### **Election of the Government**

#### **Article 127**

A candidate for the Prime Minister shall be proposed to the National Assembly by the President of the Republic, after he or she considers the opinions of representatives of elected election lists.

The candidate for the Prime Minister shall present to the National Assembly the Government's Programme and propose its constitution.

The National Assembly shall simultaneously vote on the Government's Programme and election of the Prime Minister and members of the Government.

The Government shall be elected if the majority of the total number of deputies votes for its election.

### **Commencement and termination of term of office of the Government and members of the Government**

#### **Article 128**

The term of office of the Government shall last until the expiry of the term of office of the National Assembly which elected it.

The term of office of the Government shall commence on the day of taking an oath before the National Assembly.

The term of office of the Government shall terminate before the period of time for which it has been elected, by the vote of no confidence, dissolution of the National Assembly, resignation of the President of the Republic and in other cases stipulated by the Constitution.

The Government whose term of office has expired may only perform affairs stipulated by the Law, until the election of the new Government.

The Government whose term of office has expired may not propose the dissolution of the National Assembly.

The term of office of the member of the Government shall expire before the expiry of the period of time for which he or she has been elected, by accepting his/her resignation, by the vote of no confidence in the National Assembly and dismissal by the National Assembly, upon the proposal of the Prime Minister.

### **Interpellation**

#### **Article 129**

At least 50 deputies may propose interpellation in relation to the work of the Government or particular member of the Government.

The Government shall have the obligation to respond to interpellation within 30 days.

The National Assembly shall discuss and vote on the response to interpellation submitted by the Government or member of the Government to whom the interpellation is directed.

After voting for the endorsement of the response, the National Assembly continues to work according to the adopted agenda.

If the National Assembly fails to endorse the response of the Government or the member of the Government by voting, it shall initiate a vote of no confidence in the Government or a member of the Government, unless the Prime Minister, that is a member of the Government resign beforehand, after the rejection of the response to the interpellation.

The issue which was a subject of interpellation, may not be discussed again before the expiry of the 90-day deadline.

### **Vote of no confidence in the Government or the member of the Government**

#### **Article 130**

A vote of no confidence in the Government or the particular member of the Government may be requested by at least 60 deputies.

The proposal for the vote of no confidence in the Government or the particular member of the Government shall be discussed by the National Assembly at the next first session, not later than five days after the submission of the proposal. After the discussion is concluded, they shall vote on the proposal.

The proposal for the vote of no confidence in the Government or the member of the Government shall be accepted by the National Assembly, if more than a half of the total number of deputies votes for it.

If the National Assembly passes a vote of no confidence in the Government, the President of the Republic shall be obliged to initiate proceedings for election of the new Government. If the National Assembly fails to elect the new Government within 30 days from the passing of a vote of no confidence, the President of the Republic shall be obliged to dissolve the National Assembly and schedule elections.

If the National Assembly passes a vote of no confidence in the member of the Government, the President of the Republic shall be obliged to initiate proceedings for election of a new member of the Government, in accordance with the Law.

If the National Assembly fails to pass a vote of no confidence in the Government or the member of the Government, signatories of the proposal may not submit a new proposal for a vote of no confidence before the expiry of the 180-day deadline.

### **Vote of confidence in the Government**

#### **Article 131**

The Government may require a vote of its confidence.

Upon the request of the Government, proposal for a vote of confidence in the Government may be discussed at the current session of the National Assembly, and if the Government has failed to submit such a proposal, the proposal shall be discussed on the

next first session, not later than five days from its submission. After the discussion is concluded, they shall vote on the proposal.

The proposal for the vote of confidence in the Government or the member of the Government shall be accepted by the National Assembly, if more than a half of the total number of deputies votes for it.

If the National Assembly fails to pass a vote of confidence in the Government, the term of office of the Government ends and the President of the Republic shall be obliged to initiate proceedings for election of the new Government. If the National Assembly fails to elect the new Government within 30 days from the day of passing of vote of no confidence, the President of the Republic shall be obliged to dissolve the National Assembly and schedule elections.

### **Resignation of the Prime Minister**

The Prime Minister may tender his/her resignation to the National Assembly.

The Prime Minister shall tender his/her resignation to the Chairman of the National Assembly and, at the same time, inform the President of the Republic and general public.

At the next first session, the National Assembly shall confirm the resignation of the Prime Minister.

The term of office of the Government shall terminate on the day of confirmation of the resignation of the Prime Minister.

After the National Assembly confirms the resignation of the Prime Minister, the President of the Republic shall be obliged to initiate the proceedings for election of the new Government. If the National Assembly fails to elect the new Government within 30 days from the day of confirmation of the resignation of the Prime Minister, the President of the Republic shall be obliged to dissolve the National Assembly and schedule elections.

### **Resignation and dismissal of the member of the Government**

#### **Article 133**

The member of the Government may tender his/her resignation to the Prime Minister.

The Prime Minister shall submit the resignation of the member of the Government to the Chairman of the National Assembly and the National Assembly shall confirm the resignation at the next first session.

The Prime Minister may propose to the National Assembly a dismissal of particular member of the Government.

The National Assembly shall discuss and vote on the proposal for dismissal of the member of the Government at the next first session.

Decision on Dismissal of the Member of the Government shall be adopted if the majority of the total number of deputies votes for it.

The term of office of the member of the Government who has tendered his/her resignation shall terminate on the day of confirmation of resignation, and for the member of the Government who has been dismissed, the term of office shall terminate on the day of adoption of the Decision on Dismissal.

Status and responsibilities of the member of the Government who has tendered his/her resignation or for whom the proposal for dismissal has been submitted shall be stipulated by the Law, until the termination of the term of office.

The Prime Minister shall be obliged to initiate proceedings for election of the new member of the Government, after the expiry of the term of office of the member of the Government due to tendered resignation or dismissal.

### **Immunity of the President and member of the Government**

#### **Article 134**

The Prime Minister and the member of the Government shall not be held accountable for opinions expressed at sittings of the Government and sessions of the National Assembly, or for the cast vote at the sittings of the Government.

The Prime Minister and the member of the Government shall enjoy immunity as a deputy. The Government shall decide on the immunity of the Prime Minister and the member of the Government.

**The Law on the Government**  
**Article 135**

The Law on the Government shall be enacted.

**4. Public Administration**

**Status of the Public Administration**  
**Article 136**

The Public Administration shall be independent, bound by the Constitution and Law and it shall account for its work to the Government.

Public Administration affairs shall be performed by ministries and other public administration bodies, stipulated by the Law.

Public Administration affairs and the number of ministries shall be stipulated by the Law.

Internal organisation of ministries and other public administration bodies and organisations shall be regulated by the Government.

**Delegation of public powers and public services**  
**Article 137**

In the interest of more efficient and rational exercise of citizens' rights and duties and satisfying their needs of vital importance for life and work, the Law may stipulate delegation of performing particular affairs falling within the competence of the Republic of Serbia to the autonomous province and local self-government unit.

According to the Law, particular public powers may be delegated to enterprises, institutions, organisations and individuals.

According to the Law, particular public powers may be also delegated to specific bodies through which they perform regulatory function in particular fields or affairs.

The Republic of Serbia, autonomous provinces and local self-government units may establish public services.

Affairs or duties for which public services are established, their organisation and work shall be stipulated by the Law.

**5. Civic Defender**  
**Article 138**

The Civic Defender shall be independent state body who shall protect citizens' rights and monitor the work of public administration bodies, body in charge of legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organisations, companies and institutions to which public powers have been delegated.

The Civic Defender shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor's Offices.

The Civic Defender shall be elected and dismissed by the National Assembly, in accordance with the Constitution and Law.

The Civic Defender shall account for his/her work to the National Assembly.

The Civic Defender shall enjoy immunity as a deputy. The National Assembly shall decide on the immunity of the Civic Defender.

The Law on the Civic Defender shall be enacted.

## **The Army of Serbia**

### **Competences**

#### **Article 139**

The Army of Serbia shall defend the country from external armed threat and perform other missions and tasks, in accordance with the Constitution, Law and principles of international law, which regulate the use of force.

### **Use of the Army outside the borders**

#### **Article 140**

The Army of Serbia may be used outside the borders of the Republic of Serbia only upon the decision of the National Assembly of the Republic of Serbia.

### **Control over the Army of Serbia**

#### **Article 141**

The Army of Serbia shall be subject to democratic and civil control.  
The Law on the Army of Serbia shall be enacted.

## **7. Courts**

### **Judiciary principles**

#### **Article 142**

Judicial power shall be unique on the territory of the Republic of Serbia.

Courts shall be separated and independent in their work and they shall perform their duties in accordance with the Constitution, Law and other general acts, when stipulated by the Law, generally accepted rules of international law and ratified international contracts.

The hearing before the court shall be public and may be restricted only in accordance with the Constitution.

Judges and jurors shall participate in a trial, in the manner stipulated by the Law.

The Law may also regulate that only judges may participate in a trial in particular courts and in particular cases.

The court shall decide on matters within the Council, while the Law may stipulate that a single judge may decide on particular matters.

### **Types of courts**

#### **Article 143**

Judicial power in the Republic of Serbia shall belong to courts of general and special jurisdiction.

Establishing, organisation, jurisdiction, system and structure of courts shall be regulated by the Law.

Provisional courts, courts-martial or special courts may not be established.

The Supreme Court of Cassation shall be the Supreme Court in the Republic of Serbia.

The seat of the Supreme Court of Cassation shall be in Belgrade.

### **President of the Supreme Court of Cassation**

#### **Article 144**

President of the Supreme Court of Cassation shall be elected by the National Assembly, upon the proposal of the High Judicial Council and received opinion of the meeting of the Supreme Court of Cassation and competent committee of the National Assembly.

President of the Supreme Court of Cassation shall be elected for the period of five years and may not be reelected.

Term of office of the President of the Supreme Court of Cassation shall terminate before the expiry of the time for which he or she has been elected upon his/her personal request, under the terms stipulated by the Law pertaining to the termination of the term of office of the judge or dismissal for reasons stipulated by the Law pertaining to dismissal of the President of Court.

Decision on the end of term of office of the President of the Supreme Court of Cassation shall be adopted by the National Assembly, in accordance with the Law, while the decision on dismissal shall be adopted upon the proposal of the High Judicial Council.

### **Court decisions**

#### **Article 145**

Court decisions shall be passed in the name of people.

Court decisions are based on the Constitution and Law, the ratified international treaty and regulation passed on the grounds of the Law.

Court decisions shall be obligatory for all and may not be a subject of extrajudicial control.

A court decision may only be reconsidered by an authorised court in a legal proceedings prescribed by the Law.

A passed sentence may be fully or partially forgiven without a court decision, by general pardon or amnesty.

### **Permanent tenure of office**

#### **Article 146**

A judge shall have a permanent tenure.

Exceptionally, a person who is elected a judge for the first time shall be elected for the period of three years.

### **Election of judges**

#### **Article 147**

On proposal of the High Judicial Council, the National Assembly shall elect as a judge the person who is elected to the post of judge for the first time.

Tenure of office of a judge who was elected to the post of judge shall last three years.

In accordance with the Law, the High Judicial Council shall elect judges to the posts of permanent judges, in that or other court.

In addition, the High Judicial Council shall decide on election of judges who hold the post of permanent judges to other or higher court.

### **Termination of a judge's tenure of office**

#### **Article 148**

A judge's tenure of office shall terminate at his/her own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law, as well as if he/she is not elected to the position of a permanent judge.

The High Judicial Council shall pass a decision on termination of a judge's tenure of office. A judge shall have the right to appeal with the Constitutional Court against this decision. The lodged appeal shall not include the right to lodge a Constitutional appeal.

The proceedings, grounds and reasons for termination of a judge's tenure of office, as well as the reasons for the relief of duty of the President of Court shall be stipulated by the Law.

### **Independence of judge**

#### **Article 149**

In performing his/her judicial function, a judge shall be independent and responsible only to the Constitution and the Law.

Any influence on a judge while performing his/her judicial function shall be prohibited.

### **Non-transferability of judge**

#### **Article 150**

A judge shall have the right to perform his/her judicial function in the court to which he/she was elected, and may be relocated or transferred to another court only on his/her own consent.

In case of revocation of the court or the substantial part of the jurisdiction of the court to which he/she was elected, a judge may exceptionally, without his/her consent, be permanently relocated or transferred to another court, in accordance with the Law.

**Immunity**  
**Article 151**

A judge may not be held responsible for his/her expressed opinion or voting in the process of passing a court decision, except in cases when he/she committed a criminal offence by violating the Law.

A judge may not be detained or arrested in the legal proceedings instituted due to a criminal offence committed in performing their judicial function without the approval of the High Judicial Council.

**Incompatibility of judiciary function**  
**Article 152**

A judge shall be prohibited to engage in political actions.

Other functions, actions or private interests which are incompatible with the judiciary function shall be stipulated by the Law.

**8. The High Judicial Council**

**Status, constitution and election**  
**Article 153**

The High Judicial Council is an independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges.

The High Judicial Council shall have eleven members.

The High Judicial Council shall be constituted of the President of the Supreme Court of Cassation, the Minister responsible for justice and the President of the authorised committee of the National Assembly as members ex officio and eight electoral members elected by the National Assembly, in accordance with the Law.

Electoral members shall include six judges holding the post of permanent judges, of which one shall be from the territory of autonomous provinces, and two respected and prominent lawyers who have at least 15 years of professional experience, of which one shall be a solicitor, and the other a professor at the law faculty.

Presidents of Court may not be electoral members of the High Judicial Council.

Tenure of office of the High Judicial Council's members shall last five years, except for the members appointed ex officio.

A member of the High Judicial Council shall enjoy immunity as a judge.

**Jurisdiction of the High Judicial Council**  
**Article 154**

The High Judicial Council shall appoint and relieve of judges, in accordance with the Constitution and the Law, propose to the National Assembly the election of judges in the first election to the post of judge, propose to the National Assembly the election of the President of the Supreme Court of Cassation as well as presidents of courts, in accordance with the Constitution and the Law, participate in the proceedings of terminating the tenure of office of the President of the Supreme Court of Cassation and presidents of courts, in the manner stipulated by the Constitution and the Law, and perform other duties specified by the Law.

**Legal remedy**  
**Article 155**

An appeal may be lodged with the Constitutional Court against a decision of the High Judicial Council, in cases stipulated by the Law.



## **9. Public Prosecutor's Office**

### **Status and jurisdiction**

#### **Article 156**

Public Prosecutor's Office shall be an independent state body which shall prosecute the perpetrators of criminal offences and other punishable actions, and take measures in order to protect constitutionality and legality.

Public Prosecutor's Office shall perform its function on the grounds of the Constitution, Law, ratified international treaty and regulation passed on the grounds of the Law.

### **Establishment and organisation**

#### **Article 157**

Establishment, organisation and jurisdiction of Public Prosecutor's Office shall be specified by the Law.

The Republic Public Prosecutor's Office shall be the supreme Public Prosecutor's Office in the Republic of Serbia.

### **The Republic Public Prosecutor**

#### **Article 158**

The Republic Public Prosecutor shall perform the function of the Public Prosecutor's Office within the rights and duties of the Republic of Serbia.

The Republic Public Prosecutor shall be elected by the National Assembly, on the Government proposal and upon obtaining the opinion of the authorised committee of the National Assembly.

The Republic Public Prosecutor shall be elected for the period of six years and may be re-elected.

Tenure of office of the Republic Public Prosecutor shall terminate if he/she is not re-elected, at his/her own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law.

The decision on termination of tenure of office of the Republic Public Prosecutor shall be adopted by the National Assembly, in accordance with the Law, bearing in mind that it shall pass a decision on relief of duty on the Government proposal.

### **Public Prosecutors and Deputy Public Prosecutors**

#### **Article 159**

A Public Prosecutor shall perform the function of the Public Prosecutor's Office.

A Public Prosecutor shall be elected by the National Assembly, on the Government proposal.

Tenure of office of the Public Prosecutor shall last six years and he/she may be re-elected.

A Deputy Public Prosecutor shall stand in for the Public Prosecutor in performing the function of the Public Prosecutor's Office and shall be obliged to act according to his/her instructions.

On proposal of the State Prosecutors Council, the National Assembly shall elect as a Deputy Public Prosecutor the person who is elected to this function for the first time.

Tenure of office of a Deputy Public Prosecutor elected to that function for the first time shall last three years.

In accordance with the Law, the State Prosecutors Council shall elect Deputy Public Prosecutors to permanently perform that function, in that or other Public Prosecutor's Office.

In addition, the State Prosecutors Council shall decide on the election of Deputy Public Prosecutors who permanently perform that function in another or superior Public Prosecutor's Office.

### **Responsibility**

#### **Article 160**

The Republic Public Prosecutor shall account for the work of the Public Prosecutor's Office and his/her own work to the National Assembly.

Public Prosecutors shall account for the work of the Public Prosecutor's Office and their own work to the Republic Public Prosecutor and the National Assembly, whereas Junior Prosecutors shall account for their work to their immediately superior Public Prosecutor as well.

Deputy Public Prosecutors shall be held responsible for their work to the Public Prosecutor.

### **Termination of Public Prosecutor and Deputy Public Prosecutor's tenure of office**

#### **Article 161**

A Public Prosecutor and Deputy Public Prosecutor may terminate their tenure of office at their own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law. A Public Prosecutor's tenure of office shall terminate even if he/she is not re-elected, and Deputy Public Prosecutor's tenure off office shall terminate if he/she is not permanently elected to that function.

A decision on termination of a Public Prosecutor's tenure of office shall be adopted by the National Assembly, in accordance with the Law, and it shall pass a decision on relief of duty on the Government proposal.

A decision on termination of a Deputy Public Prosecutor's tenure of office shall be passed by the State Prosecutors Council.

A Public Prosecutor and Deputy Public Prosecutor may lodge an appeal with the Constitutional Court against the decision on termination of their tenure of office. The lodged appeal shall not include the right to lodge a Constitutional appeal.

The proceedings, grounds and reasons for termination of a Public Prosecutor and Deputy Public Prosecutor's tenure of office shall be regulated by the Law.

### **Immunity**

#### **Article 162**

A Public Prosecutor and Deputy Public Prosecutor may not be held responsible for the expressed opinion while performing the function of prosecutors, except in cases when a Public Prosecutor or Deputy Public Prosecutor commits a criminal offence by violating the law.

A Public Prosecutor or a Deputy Public Prosecutor may not be detained or arrested in the legal proceedings instituted due to a criminal offence committed in performing the prosecutor's function or service without the approval of the authorised committee of the National Assembly.

### **Incompatibility of prosecutor's function**

#### **Article 163**

Public Prosecutors and Deputy Public Prosecutors shall be prohibited to engage in political actions.

Other functions, activities or private interests which are incompatible with the prosecutor's function shall be stipulated by the Law.

### **Status, constitution and election of the State Prosecutors' Council**

#### **Article 164**

The State Prosecutors Council is an autonomous body which shall provide for and guarantee the autonomy of Public Prosecutors and Deputy Public Prosecutors, in accordance with the Law.

The State Prosecutors Council shall have 11 members.

The State Prosecutors Council shall be constituted of the Republic Public Prosecutor, the Minister responsible for justice and the President of the authorised committee of the National Assembly as members ex officio and eight electoral members elected by the National Assembly, in accordance with the Law.

Electoral members shall include six Public Prosecutors or Deputy Public Prosecutors holding permanent posts, of which one shall be from the territory of autonomous provinces, and two respected and prominent lawyers who have at least 15 years of professional experience, of which one shall be a solicitor, and the other a professor at the law faculty.

Tenure of office of the State Prosecutors Council's members shall last five years, except for the members appointed ex officio.

A member of the State Prosecutors Council shall enjoy immunity as a Public Prosecutor.

### **Jurisdiction of the State Prosecutors Council**

#### **Article 165**

The State Prosecutors Council shall propose to the National Assembly the candidates for the first election of a Deputy Public Prosecutor, elect Deputy Public Prosecutors to permanently perform that function, elect Deputy Public Prosecutors holding permanent posts as Deputy Public Prosecutors in other Public Prosecutor's Office, decide in the proceedings of termination of Deputy Public Prosecutors' tenure of office in the manner stipulated by the Constitution and the Law, and perform other duties specified in the Law.

## **PART SIX**

### **THE CONSTITUTIONAL COURT**

#### **Status**

#### **Article 166**

The Constitutional Court shall be an autonomous and independent state body which shall protect constitutionality and legality, as well as human and minority rights and freedoms.

The Constitutional Court decisions are final, enforceable and generally binding.

#### **Jurisdiction**

#### **Article 167**

The Constitutional Court shall decide on:

1. compliance of laws and other general acts with the Constitution, generally accepted rules of the international law and ratified international treaties,
2. compliance of ratified international treaties with the Constitution,
3. compliance of other general acts with the Law,
4. compliance of the Statute and general acts of autonomous provinces and local self-government units with the Constitution and the Law,
5. compliance of general acts of organisations with delegated public powers, political parties, trade unions, civic associations and collective agreements with the Constitution and the Law.

The Constitutional Court shall:

1. decide on the conflict of jurisdictions between courts and state bodies,
2. decide on the conflict of jurisdictions between republic and provincial bodies or bodies of local self-government units,
3. decide on the conflict of jurisdictions between provincial bodies and bodies of local self-government units,
4. decide on electoral disputes for which the court jurisdiction has not been specified by the Law,
5. perform other duties stipulated by the Constitution and the Law.

The Constitutional Court shall decide on the banning of a political party, trade union organisation or civic association.

The Constitutional Court shall perform other duties stipulated by the Constitution.

### **Assessment of constitutionality and legality**

#### **Article 168**

A proceedings of assessing the constitutionality may be instituted by state bodies, bodies of territorial autonomy or local self-government, as well as at least 25 deputies. The procedure may also be instituted by the Constitutional Court.

Any legal or natural person shall have the right to an initiative to institute a proceedings of assessing the constitutionality and legality.

The Law or other general acts which is not in compliance with the Constitution or the Law shall cease to be effective on the day of publication of the Constitutional Court decision in the official journal.

Before passing the final decision and under the terms specified by the Law, the Constitutional Court may suspend the enforcement of an individual general act or action undertaken on the grounds of the Law or other general act whose constitutionality or legality it assesses.

The Constitutional Court may assess the compliance of the Law and other general acts with the Constitution, compliance of general acts with the Law, even when they ceased to be effective, if the proceedings of assessing the constitutionality has been instituted within no more than six months since they ceased to be effective.

### **Assessment of constitutionality of the law prior to its coming into force**

#### **Article 169**

At the request of at least one third of deputies, the Constitutional Court shall be obliged within seven days to assess constitutionality of the law which has been passed, but has still not been promulgated by a decree.

If a law is promulgated prior to adopting the decision on constitutionality, the Constitutional Court shall proceed with the proceedings as requested, according to the regular proceedings of assessing the constitutionality of a law.

If the Constitutional Court passes a decision on non-constitutionality of a law prior to its promulgation, that decision shall come into force on the day of promulgation of the law.

The proceedings of assessing constitutionality may not be instituted against the law whose compliance with the Constitution was established prior to its coming into force.

### **Constitutional appeal**

#### **Article 170**

A constitutional appeal may be lodged against individual general acts or actions performed by state bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified..

### **Ensuring the enforcement of decisions**

#### **Article 171**

Everyone shall be obliged to observe and enforce the Constitutional Court's decision.

The Constitutional Court shall regulate in its decision the manner of its enforcement, whenever deemed necessary.

Enforcement of the Constitutional Court's decisions shall be regulated by the Law.

### **Organisation of the Constitutional Court. Election and appointment of the Constitutional Court justices**

#### **Article 172**

The Constitutional Court shall have 15 justices who shall be elected and appointed for the period of nine years.

Five justices of the Constitutional Court shall be appointed by the National Assembly, another five by the President of the Republic, and another five at the general session of the Supreme Court of Cassation.

The National Assembly shall appoint five justices of the Constitutional Court from among ten candidates proposed by the President of the Republic, the President of the Republic shall appoint five justices of the Constitutional Court from among ten candidates proposed by the National Assembly, and the general session of the Supreme Court of Cassation shall appoint five justices from among ten candidates proposed at a general session by the High Judicial Court and the State Prosecutor Council.

On each of the proposed lists of candidates, one of the appointed candidates must come from the territory of autonomous provinces.

A justice of the Constitutional Court shall be elected and appointed from among the prominent lawyers who have at least 40 years of experience in practicing the law.

One person may be elected or appointed a justice of the Constitutional Court on two occasions at the most.

Justices of the Constitutional Court shall elect the president from among their representatives for the period of three years, in a secret ballot.

### **Conflict of interest**

#### **Immunity Article 173**

A justice of the Constitutional Court may not engage in another public or professional function or action, except for the professorship a law faculty in the Republic of Serbia, in accordance with the Law.

A justice of the Constitutional Court shall enjoy immunity as a deputy. The Constitutional Court shall decide on its immunity.

#### **Termination of the tenure of office of the Constitutional Court justice Article 174**

Tenure of office of the Constitutional Court justice shall terminate upon expiry of the period for which he/she had been elected or appointed, at his/her own request, after meeting the requirements regulated by the Law for obtaining the old age pension or by relief of duty.

A justice of the Constitutional Court shall be relieved of duty if he/she violates the prohibition of the conflict of interest, permanently loses the ability to discharge the function of a justice of the Constitutional Court, or is convicted of a penalty of imprisonment or criminal offence which makes him/her ineligible for the post of the Constitutional Court justice.

The National Assembly shall decide on the termination of a justice's tenure of office, on request of movers authorised for election, as well as on appointment for election of a justice of the Constitutional Court. An initiative to institute the proceedings of relieving of duty may be submitted by the Constitutional Court.

### **The manner of deciding in the Constitutional Court**

#### **The Law on the Constitutional Court Article 175**

The Constitutional Court shall adjudicate by the majority of votes cast by all justices of the Constitutional Court.

A decision to autonomously institute the proceedings of assessing the constitutionality or legality shall be passes by the Constitutional Court by two thirds of the majority votes cast by all justices.

Organisation of the Constitutional Court and the proceedings before the Constitutional Court, as well as the legal effect of its decisions shall be regulated by the Law.

## ***PART SEVEN***

### **TERRITORIAL ORGANISATION**

#### **1. Provincial autonomy and local self-government**

##### **Concept Article 176**

Citizens shall have the right to the provincial autonomy and local self-government, which they shall exercise directly or through their freely elected representatives.

Autonomous provinces and local self-government units shall have the status of legal entities.

### **Definition the competences**

#### **Article 177**

Local self-government units shall be competent in those matters which may be realised, in an effective way, within a local self-government unit, and autonomous provinces in those matters which may be realised, in an effective way, within an autonomous province, which shall not be the competence of the Republic of Serbia.

What matters shall be of republic, provincial or local interest shall be specified by the Law.

### **Delegation of competences**

#### **Article 178**

The Republic of Serbia may, in accordance with the law, delegate particular matters within its competence to autonomous provinces and local self-government units.

According to its decision, an autonomous province may delegate particular matters within its competence to local self-government units.

Resources to execute the delegated competences shall be provided for by the Republic of Serbia or an autonomous province, depending on who the competences were delegated by.

Right and duties of autonomous provinces and local self-government units and powers of the Republic of Serbia and autonomous provinces in the process of monitoring the execution of delegated competences shall be regulated by the Law.

### **The right to autonomous organisation of bodies**

#### **Article 179**

Autonomous provinces, in accordance with the Constitution and the Statute, and local self-government units, in accordance with the Constitution and the Law, shall autonomously regulate the organisation and competences of its bodies and public services.

### **The Assembly of an autonomous province and local self-government unit**

#### **Article 180**

The Assembly shall be the supreme body of the autonomous province and a local self-government unit.

The Assembly shall be constituted of deputies, and the assembly of a local self-government unit of councilors.

Deputies and councilors shall be elected for the period of four years, in direct elections by secret ballot, namely, deputies in accordance with the decision of the Assembly of the autonomous province, and councilors in accordance with the Law.

In those autonomous provinces and local self-government units with the population of mixed nationalities, a proportional representation of national minorities in assemblies shall be provided for, in accordance with the Law.

### **Cooperation of autonomous provinces and local self-government units**

#### **Article 181**

Autonomous provinces and local self-government units shall cooperate with the corresponding territorial communities and local self-government units from other countries, within the foreign policy of the Republic of Serbia, observing the territorial integrity and legal system of the Republic of Serbia.

## **2. Autonomous provinces**

### **Concept, establishment and territory of autonomous province**

#### **Article 182**

Autonomous provinces shall be autonomous territorial communities established by the Constitution, in which citizens exercise the right to the provincial autonomy.

In the Republic of Serbia, there are the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija. The substantial autonomy of the Autonomous

province of Kosovo and Metohija shall be regulated by the special law which shall be adopted in accordance with the proceedings envisaged for amending the Constitution.

New autonomous provinces may be established, and already established ones may be revoked or merged following the proceedings envisaged for amending the Constitution. The proposal to establish new, or revoke or merge the existing autonomous provinces shall be established by citizens in a referendum, in accordance with the Law.

Territory of autonomous provinces and the terms under which borders between autonomous provinces may be altered shall be regulated by the Law. Territory of autonomous provinces may not be altered without the consent of its citizens given in a referendum, in accordance with the Law.

### **Competences of autonomous provinces**

#### **Article 183**

Autonomous provinces shall, in accordance with the Constitution and their Statutes, regulate the competences, election, organisation and work of bodies and services they establish.

Autonomous provinces shall, in accordance with the Law, regulate the matters of provincial interest in the following fields:

1. urban planning and development,
2. agriculture, water economy, forestry, hunting, fishery, tourism, catering, spas and health resorts, environmental protection, industry and craftsmanship, road, river and railway transport and road repairs, organising fairs and other economic events,
3. education, sport, culture, health care and social welfare and public informing at the provincial level.

Autonomous provinces shall see to exercising human and minority rights, in accordance with the Law.

Autonomous provinces shall establish their symbols, as well as the manner in which they shall be put to use.

Autonomous provinces shall manage the provincial assets in the manner stipulated by the Law.

Autonomous provinces shall, in accordance with the Constitution and the Law, have direct revenues, provide the resources for local self-government units for performing the delegated affairs and adopt their budget and annual balance sheet.

### **Financial autonomy of autonomous provinces**

#### **Article 184**

An autonomous province shall have direct revenues for financing its competences.

A kind and amount of direct revenues shall be stipulated by the Law.

The Law shall specify the share of autonomous provinces in the part of revenue of the Republic of Serbia.

The budget of the Autonomous Province of Vojvodina shall amount to at least 7% in relation to the budget of the Republic of Serbia, bearing in mind that three- sevenths of the budget of the Autonomous Province of Vojvodina shall be used for financing the capital expenditures.

### **Legal acts of autonomous province**

#### **Article 185**

The Statute shall be the supreme legal act of the autonomous province.

The Statute of the Autonomous Province of Vojvodina shall be adopted by its Assembly, subject to prior approval of the National Assembly.

The autonomous province shall enact other decisions and general acts pertaining to matters within its competences.

### **Monitoring the work of bodies of autonomous province**

#### **Article 186**

The Government may institute, before the Constitutional Court, the proceedings of assessing the constitutionality and legality of a decision adopted by the autonomous province, prior to its

coming into force. In that sense, prior to passing its decision, the Constitutional Court may defer coming into force of the challenged decision of the autonomous province.

### **Protection of the provincial autonomy**

#### **Article 187**

A body designated by the Statute of the autonomous province shall have a right to lodge an appeal with the Constitutional Court, if an individual legal act or action of a state body or body of local self-government unit obstructs performing the competences of the autonomous province.

A body designated by the Statute of the autonomous province may institute the proceedings of assessing the constitutionality or legality of the law and other legal act of the Republic of Serbia or the legal act of the local self-government unit which violates the right to the provincial autonomy.

### **3. Local self-government**

#### **General provisions**

##### **Article 188**

Local self-government units shall be municipalities, towns and the City of Belgrade.

The territory and seat of a local self-government unit shall be specified by the Law.

Establishment, revocation or alteration of the territory of a local self-government unit shall be preceded by a referendum on the territory of that local self-government unit.

Affairs of a local self-government unit shall be financed from the direct revenues of the local self-government unit, the budget of the Republic of Serbia, in accordance with the Law, and the budget of the Autonomous Province of Vojvodina, in cases when the autonomous province delegated the performing of affairs within its competences, in accordance with the decision of the Assembly of the Autonomous Province.

#### **Status of local self-government units**

##### **Article 189**

Municipalities shall be established and revoked by the Law.

A town shall be established by the Law, in accordance with the criteria stipulated by the Law regulating local self-government.

A town shall have competences delegated to the municipality by the Constitution, whereas other competences may be delegated to it by the Law.

It may be envisaged in the Statute of the town to establish two or more town municipalities on the territory of the town. The Statute of the town shall regulate the affairs falling within the town competence performed by town municipalities.

The status of the City of Belgrade, the capital of the Republic of Serbia, shall be regulated by the Law on the Capital and the Statute of the City of Belgrade. The City of Belgrade shall have competences delegated to the municipality and city by the Constitution and the Law, and other competences may be delegated to it in accordance with the Law on the Capital.

#### **Competence of municipality**

##### **Article 190**

The municipality shall, through its bodies, and in accordance with the Law:

1. regulate and provide for the performing and development of municipal activities;
2. regulate and provide for the use of urban construction sites and business premises;
3. be responsible for construction, reconstruction, maintenance and use of local network of roads and streets and other public facilities of municipal interest; regulate and provide for the local transport;
4. be responsible for meeting the needs of citizens in the field of education, culture, health care and social welfare, child welfare, sport and physical culture;
5. be responsible for development and improvement of tourism, craftsmanship, catering and commerce;
6. be responsible for environmental protection, protection against natural and other disasters; protection of cultural heritage of the municipal interest;
7. protection, improvement and use of agricultural land;



8. perform other duties specified by the Law.

The municipality shall autonomously, in accordance with the Law, adopt its budget and annual balance sheet, the urban development plan and municipal development programme, establish the symbols of the municipality, as well as their use.

The municipality shall see to exercising, protection and improvement of human and minority rights, as well as to public informing in the municipality.

The municipality shall autonomously manage the municipal assets, in accordance with the Law.

The municipality shall, in accordance with the Law, prescribe offences related to violation of municipal regulations.

### **Municipal legal acts and bodies**

#### **Article 191**

The Statute shall be the supreme legal act of the municipality. The Statute shall be adopted by the Municipal Assembly.

The Municipal Assembly shall pass general acts within its competences, adopt the budget and annual balance sheet, adopt the development plan and the municipal spatial plan, schedule the municipal referendum and perform other duties specified by the Law and the Statute.

Municipal bodies shall be the Municipal Assembly and other bodies designated by the Statute, in accordance with the Law.

The Municipal Assembly shall decide on the election of municipal executive bodies, in accordance with the Law and the Statute.

Election of executive bodies of the town and the City of Belgrade shall be regulated by the Law.

### **Monitoring the work of municipality**

#### **Article 192**

The Government shall be obliged to cancel the enforcement of the municipal general act which it considers to be in noncompliance with the Constitution or the Law, and institute the proceedings of assessing its constitutionality or legality within five days.

The Government may, under the terms specified by the Law, dismiss the Municipal Assembly.

Simultaneously with the dismissal of the Municipal Assembly, the Government shall appoint a temporary body which shall perform duties within the competences of the Assembly, taking into consideration the political and national composition of the dismissed Municipal Assembly.

### **Protection of local self-government**

#### **Article 193**

The body designated by the Statute of the municipality shall have the right to lodge an appeal with the Constitutional Court if an individual legal act or action by a state body or body of local self-government unit obstructs performing the competences of the municipality.

The body designated by the Statute of the municipality may institute the proceedings of assessing the constitutionality or legality of the Law or other legal act of the Republic of Serbia or autonomous province which violates the right to local self-government.

## ***PART EIGHT***

### **CONSTITUTIONALITY AND LEGALITY**

#### **Hierarchy of domestic and international general legal acts**

##### **Article 194**

The legal system of the Republic of Serbia shall be unique.

The Constitution shall be the supreme legal act of the Republic of Serbia.

All laws and other general acts enacted in the Republic of Serbia must be in compliance with the Constitution.

Ratified international treaties and generally accepted rules of the international law shall be part of the legal system of the Republic of Serbia. Ratified international treaties may not be in noncompliance with the Constitution.

Laws and other general acts enacted in the Republic of Serbia may not be in noncompliance with the ratified international treaties and generally accepted rules of the International Law.

### **Hierarchy of domestic general legal acts**

#### **Article 195**

All by-laws of the Republic of Serbia, general acts of organisations with delegated public powers, political parties, trade unions and civic associations and collective agreements must be in compliance with the Law.

Statutes, decisions and other general acts of autonomous provinces and local self-government units must be in compliance with the Law.

All general acts of autonomous provinces and local self-government units must be in compliance with their statutes.

### **Publication of laws and other general acts**

#### **Article 196**

Laws and all other general acts shall be published prior to coming into force.

The Constitution, laws and by-laws of the Republic of Serbia shall be published in the republic official journal, and statutes, decisions and other general acts of autonomous provinces shall be published in provincial official journals.

Statutes and general acts of local self-government units shall be published in local official journals.

Laws and other general acts shall come into force no earlier than on the eighth day from the day of publication and may come into force earlier only if there are particularly justified grounds for that, specified at the time of their adoption.

### **Prohibition of retroactive effect of laws and other general acts**

#### **Article 197**

Laws and other general acts may not have a retroactive effect.

Exceptionally, only some of the law provisions may have a retroactive effect, if so required by general public interest as established in the procedure of adopting the Law.

A provision of the Penal Code may have a retroactive effect only if it shall be more favourable for the perpetrator.

### **Legality of administration**

#### **Article 198**

Individual acts and actions of state bodies, organisations with delegated public powers, bodies of autonomous provinces and local self-government units must be based on the Law.

Legality of final individual acts deciding on a right, duty or legally grounded interest shall be subject to reassessing before the court in an administrative proceedings, if other form of court protection has not been stipulated by the Law.

### **Language of proceedings**

#### **Article 199**

Everyone shall have the right to use his/her language in the proceedings before the court, other state body or organisation performing public powers, when his/her right or duty is decided on.

Unfamiliarity with the language of the proceedings may not be an impediment for the exercise and protection of human and minority rights.

### **State of emergency**

#### **Article 200**

When the survival of the state or its citizens is threatened by a public danger, the National Assembly shall proclaim the state of emergency.

The decision on the state of emergency shall be effective 90 days at the most. Upon expiry of this period, the National Assembly may extend the decision on the state of emergency for another 90 days, by the majority votes of the total number of deputies.

During the state of emergency, the National Assembly shall convene without any special call for assembly and it may not be dismissed.

When proclaiming the state of emergency, the National Assembly may prescribe the measures which shall provide for derogation from human and minority rights guaranteed by the Constitution.

When the National Assembly is not in a position to convene, the decision proclaiming the state of emergency shall be adopted by the President of the Republic together with the President of the National Assembly and the Prime Minister, under the same terms as by the National Assembly.

When the National Assembly is not in a position to convene, the measures which provide for derogation from human and minority rights may be prescribed by the Government, in a decree, with the President of the Republic as a co-signatory.

Measures providing for derogation from human and minority rights prescribed by the National Assembly or Government shall be effective 90 days at the most, and upon expiry of that period may be extended under the same terms.

When the decision on the state of emergency has not been passed by the National Assembly, the National Assembly shall verify it within 48 hours from its passing, that is, as soon as it is in a position to convene. If the National Assembly does not verify this decision, it shall cease to be effective upon the end of the first session of the National Assembly held after the proclamation of the state of emergency.

In cases when the measures providing for derogation from human and minority rights have not been prescribed by the National Assembly, the Government shall be obliged to submit the decree on measures providing for derogation from human and minority rights to be verified by the National Assembly within 48 hours from its passing, that is, as soon as the National Assembly is in a position to convene. In other respects, the measures providing for derogation shall cease to be effective 24 hours prior to the beginning of the first session of the National Assembly held after the proclamation of the state of emergency.

### **The state of war Article 201**

The National Assembly shall proclaim the state of war.

When the National Assembly is not in a position to convene, the decision on proclamation of the state of war shall be passed by the President of the Republic together with the President of the National Assembly and the Prime Minister.

When proclaiming the state of war, the National Assembly may prescribe the measures which shall provide for derogation from human and minority rights guaranteed by the Constitution.

When the National Assembly is not in a position to convene, the measures which provide for derogation from human and minority rights guaranteed by the Constitution shall be decided on by the President of the Republic together with the President of the National Assembly and the Prime Minister.

All measures prescribed in the period of the state of war shall be verified by the National Assembly when in a position to convene.

### **Derogation form human and minority rights in the state of emergency and war Article 202**

Upon proclamation of the state of emergency or war, derogations from human and minority rights guaranteed by the Constitution shall be permitted only to the extent deemed necessary.

Measures providing for derogation shall not bring about differences based on race, sex, language, religion, national affiliation or social origin.

Measures providing for derogation from human and minority rights shall cease to be effective upon ending of the state of emergency or war.

Measures providing for derogation shall by no means be permitted in terms of the rights guaranteed pursuant to Articles 23, 24, 25, 26, 28, 32, 34, 37, 38, 43, 45, 47, 49, 62, 63, 64 and 78 of the Constitution.

## **PART NINE**

### **AMENDING THE CONSTITUTION**

#### **Proposal to amend the Constitution and adoption of the amendment to the Constitution**

##### **Article 203**

A proposal to amend the Constitution may be submitted by at least one third of the total number of deputies, the President of the Republic, the Government and at least 150,000 voters.

The National Assembly shall decide on amending the Constitution.

A proposal to amend the Constitution shall be adopted by a two-third majority of the total number of deputies.

If the required majority of votes has not been achieved, the amending of the Constitution according to the issues contained in the submitted proposal which has not been adopted shall not be considered in the following twelve months.

In case the National Assembly adopts the proposal for amending the Constitution, an act on amending the Constitution shall be drafted, that is, considered.

The National Assembly shall adopt an act on amending the Constitution by a two-third majority of the total number of deputies and may decide to have it endorsed in the republic referendum by the citizens.

The National Assembly shall be obliged to put forward the act on amending the Constitution in the republic referendum to have it endorsed, in cases when the amendment of the Constitution pertains to the preamble of the Constitution, principles of the Constitution, human and minority rights and freedoms, the system of authority, proclamation the state of war and emergency, derogation from human and minority rights in the state of emergency or war or the proceedings of amending the Constitution.

When the act on amending the Constitution is put forward for endorsement, the citizens shall vote in the referendum within no later than 60 days from the day of adopting the act on amending the Constitution. The amendment to the Constitution shall be adopted if the majority of voters who participated in the referendum voted in favour of the amendment.

The act on amending the Constitution endorsed in the republic referendum shall come into force once promulgated by the National Assembly.

If the National Assembly does not decide to put forward the act on amending the Constitution for endorsement, the amendment of the Constitution shall be adopted by voting in the National Assembly, and the act on amending the Constitution shall come into force once promulgated by the National Assembly.

#### **Prohibition to amend the Constitution**

##### **Article 204**

The Constitution shall not be amended in the time of the state of war or emergency.

#### **Constitutional law**

##### **Article 205**

A constitutional law shall be enacted for the enforcement of the amendments to the Constitution.

A constitutional law shall be adopted by a two-third majority of the total number of deputies.

***PART TEN***

**FINAL PROVISION**

**Article 206**

This Constitution shall come into force on the day of its promulgation in the National Assembly.