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DRAFT LAW
ON THE CONSTITUTIONAL COURT
OF MONTENEGRO

Law on the Constitutional Court of Montenegro

I GENERAL PROVISIONS

Article 1

This Law shall regulate the organization of the Constitutional Court of Montenegro (hereinafter referred to as the Constitutional Court), the proceedings before the Constitutional Court, legal effect of its decisions and other issues relevant for the work of the Constitutional Court.

Article 2

The Constitutional Court shall decide on issues falling within the scope of its jurisdiction which are defined by the Constitution of Montenegro (hereinafter referred to as the Constitution).

Article 3

The work of the Constitutional Court shall be public.

Publicity shall be ensured through publication of decisions, issuing of media releases and otherwise, in accordance with this Law.

The Constitutional Court may exclude the public from a session or a part thereof, if this is necessary in order to keep a secret, maintain public order, protect morals and respect for private and family life of the participants in proceedings.

Exclusion of the public shall not include the participants in proceedings, their attorneys and persons summoned.

The sessions of the Constitutional Court on deliberation and voting shall be closed.

Decisions of the Constitutional Court of Montenegro shall be published in the Official Gazette of Montenegro.

The Constitutional Court shall issue Bulletin in which it shall publish decisions and orders.

Article 4

The funds for the operation of the Constitutional Court shall be provided in the State Budget.

Proposal for the allocation of budgetary resources shall be established by the Constitutional Court and it shall submit it to the Government.

President of the Constitutional Court shall have the right to participate in the work of the session of the Parliament discussing the proposal for the budget of the Constitutional Court.

Article 5

The seat of the Constitutional Court shall be in Podgorica.

Article 6

The method of work and of decision-making of the Constitutional Court shall be regulated by this Law, and it shall be regulated in more details by the Rules of Procedure of the Constitutional Court of Montenegro (hereinafter referred to as the Rules of Procedure).

II – ORGANIZATION OF THE CONSTITUTIONAL COURT

a) President and judge of the Constitutional Court

Article 7

The President and judge of the Constitutional Court shall be elected and dismissed in a manner and under conditions prescribed by the Constitution.

On assuming office, the President and judge of the Constitutional Court shall take an oath before the Parliament of Montenegro (hereinafter referred to as the Parliament).

The wording of the oath shall be as follows: "I swear that I shall judge in accordance with the Constitution and law and that I shall perform my duty honourably, conscientiously and impartially".

Article 8

Judge of the Constitutional Court shall submit request for termination of office before the expiry of the term for which he has been elected, to the President of Montenegro and to the Parliament.

If the Parliament does not adopt a decision on the request referred to in paragraph 1 above within three months as of the date of its submission, the office of the judge of the Constitutional Court shall terminate upon the expiry of that time-limit.

Article 9

The Constitutional Court may decide that the President or the judge of the Constitutional Court against whom criminal proceedings have been instituted shall not exercise his office until those proceedings are terminated.

The decision referred to in paragraph 1 above shall be taken at the proposal of the President of the Constitutional Court in respect of judges of the Constitutional Court, or at the proposal of at least three judges of the Constitutional Court in respect of the President of the Constitutional Court.

The decision referred to in paragraphs 1 and 2 above shall be passed by the Constitutional Court, by majority vote of all the judges.

Article 10

The Constitutional Court shall notify the President of Montenegro and the Parliament of the expiry of the term of office of a judge of the Constitutional Court and of the fact that the judge has met the old-age pension requirements, no later than six months before the requirements for termination of office are fulfilled.

Article 11

The President of the Constitutional Court shall represent the Constitutional Court, convene and chair its sessions, coordinate the work of the Constitutional Court, ensure the implementation of the acts of the Constitutional Court and perform other duties laid down by this Law, the Rules of Procedure and other acts of the Constitutional Court.

Article 12

The Constitutional Court shall designate a judge who shall substitute the President of the Constitutional Court in instances when he is absent or prevented from performing his duties.

In case of termination of office of the President of the Constitutional Court, until the new President is elected the office of the President shall be performed by the judge acting as his substitute, in accordance with the rights and duties of the President.

Article 13

A judge of the Constitutional Court who was employed when he was elected judge of the Constitutional Court shall have the right to return to the position he had held or to another position corresponding to his professional field and level of education within three months after the termination of his office of a judge of the Constitutional Court.

Article 14

The President and judges of the Constitutional Court shall have their official attire – a judicial gown.

The design of the gown and the manner of wearing the gown shall be prescribed by the Rules of Procedure.

Article 15

The President and the judges of the Constitutional Court shall have identity card.

The form and contents of the identity card shall be prescribed by the Constitutional Court, by a separate act.

b) Secretary General**Article 16**

The Constitutional Court shall have a Secretary General, who shall be appointed and dismissed by the Constitutional Court for the period of five years with the possibility of re-appointment.

The Secretary General shall be accountable to the Constitutional Court for his work.

The Secretary General may have a Deputy, who shall be appointed and dismissed by the Constitutional Court for the period of five years with the possibility of re-appointment.

c) Office of the Constitutional Court**Article 17**

The Constitutional Court shall form the Office of the Constitutional Court to perform specialized and other activities (hereinafter referred to as the Office).

Specialized activities falling within the jurisdiction of the Constitutional Court shall be performed by the advisors who shall be appointed and dismissed by the Constitutional Court for the period of five years with the possibility of re-appointment.

The organization, activities and manner of operation of the Office shall be regulated by an act of the Constitutional Court.

The Secretary General shall manage and be accountable for the work of the Office.

Article 18

The salaries of the Secretary General and his Deputy shall be fixed by the Constitutional Court at the salary rate fixed for the Secretary General of the Parliament and his Deputy.

The rights and duties of the Constitutional Court staff, which are not regulated by this Law, shall be governed by the legislation on civil servants and government employees.

**III - PROCEEDINGS BEFORE THE CONSTITUTIONAL COURT
AND LEGAL EFFECT OF ITS DECISIONS****1. Common provisions****Article 19**

The proceedings before the Constitutional Court shall not be subject to the fee.

The participants in proceedings before the Constitutional Court shall bear their own expenses.

Without prejudice to paragraph 2 above, the Constitutional Court may reimburse expenses to other persons summoned and determine a fee for their participation in proceedings.

Article 20

If a matter of procedure before the Constitutional Court is not regulated by this Law, the provisions of relevant procedural laws shall apply *mutatis mutandis*.

The matters which have not been regulated within the meaning of paragraph 1 above shall be determined in each individual case by the Constitutional Court.

a) Participants in proceedings

Article 21

Participants in proceedings shall be as follows:

1. court, other state administration authority, local self-government authority and Members of the Parliament;
2. anyone on whose initiative the proceedings have been initiated;
3. the authority which enacted a law, other regulation and general act, statute or another general act of local self-government reviewed for its constitutionality and legality;
4. submitter of constitutional complaint, as well as state authority or organization vested with public authority, against the act of which the constitutional complaint has been filed;
5. The Parliament and the President of Montenegro when it is being decided whether the President of Montenegro violated the Constitution;
6. courts and other state administration authorities, local self-government authorities accepting or rejecting jurisdiction, as well as a person unable to exercise his right as a result of acceptance or rejection of jurisdiction;
7. political party or non-governmental organization the ban on work of which is being decided upon;
8. anyone at whose request proceedings for resolution of electoral dispute and dispute related to referendum are being conducted, as well as the authority in charge of administration of the election or the authority in charge of administration of the referendum, in connection with the electoral activity of which the dispute has been initiated;
9. authorities competent to undertake measures and actions during the state of war or emergency and persons challenging those actions and measures; and
10. other persons, in accordance with the law.

Article 22

Participants in proceedings and other persons may request access to the case files and may copy those files, except for the files which are the reason to exclude the public, in accordance with the Rules of Procedure.

Persons referred to in paragraph 1 above shall bear the expenses of copying of the files.

Article 23

Participant in proceedings referred to in Article 21 above shall have a right and a duty to give proposals, to provide necessary data and information during the proceedings and hearings, to present and explain his position and reasons during the proceedings, to answer the allegations and reasons of other participants in proceedings, and to submit evidence and to undertake other actions relevant for the determination of the Constitutional Court.

Participant in the proceedings may withdraw his petition, complaint or initiative during the proceedings.

Article 24

An authority or another legal entity shall be represented in proceedings before the Constitutional Court by persons duly authorized by law or general act.

Persons duly authorized by a participant in proceedings may also participate in the proceedings before the Constitutional Court.

b) Preliminary procedure

Article 25

Submissions addressed to the Constitutional Court shall be delivered by post or to the Constitutional Court directly and must be signed.

Submissions sent by telefax, telegrams addressed to the Constitutional Court, as well as anonymous submissions shall not be deemed submissions whereby the proceedings before

the Constitutional Court are instituted, or whereby the institution of the proceedings before the Constitutional Court is initiated.

Submissions and accompanying documents shall be delivered to the Constitutional Court in three copies.

Petition, initiative or another submission shall be deemed to have been submitted on the date when they were delivered to the Constitutional Court.

Where a petition, initiative or another submission are sent by registered mail, the date of delivery to the post office shall be deemed to be the date of delivery to the Constitutional Court.

Without prejudice to the above, the submission concerning the electoral dispute or dispute related to referendum shall be submitted to the Constitutional Court directly.

Article 26

A petition, initiative for institution of the proceedings for review of constitutionality and legality, constitutional complaint and appeal shall be examined within the preliminary procedure.

Article 27

A petition, initiative for institution of the proceedings, constitutional complaint and appeal shall be subject to preliminary examination by the judge designed under the allocation of tasks (hereinafter referred to as the Judge-Rapporteur), who shall check whether the procedural preconditions and other conditions for conduct of the proceedings and determination of the request have been fulfilled.

Article 28

If the submission is incomprehensible, incomplete or if it contains deficiencies precluding its processing, the applicant shall be requested to rectify those deficiencies within a specified time-limit.

Article 29

The Constitutional Court shall deliver a copy of the petition, initiative, constitutional complaint or appeal to other participants and it shall specify a period within which they are to submit responses to allegations and evidence contained in those submissions.

Without prejudice to the above, the Constitutional Court shall not deliver the submissions referred to in paragraph 1 above if it finds that procedural preconditions for initiation and/or conduct of the proceedings have not been fulfilled.

The response to the petition and initiative shall be given by the authority which enacted the act or the authority authorized by it, and the response to the constitutional complaint shall be given by the authority which enacted the individual act.

The response to the petition for the ban on the work of a political party or of a non-governmental organization shall be given by the authority designated by a general act of the political party or of the non-governmental organization

The response to the complaint about electoral dispute or dispute related to a referendum shall be given by the authority in charge of administration of elections or referendum.

The response to the complaint about the compatibility of measures and actions undertaken during the state of war and emergency shall be given by the competent authority.

Article 30

The authority referred to in Article 29, paragraphs 3, 4, 5 and 6 above, shall be obliged to deliver to the Constitutional Court the challenged general act, and/or the necessary documentation and to provide data and information relevant for the conduct of the proceedings and determination within a period specified by the Constitutional Court which must be 15 days at least.

With respect to the initiative for review of constitutionality of law, and/or constitutionality or legality of another act, which is passed by the Parliament, the Constitutional Court may

request the opinion of the Parliament, i.e. of the competent working body of the Parliament, before it institutes the proceedings.

Article 31

If the Constitutional Court does not receive a response, opinion, documentation, requested data and information within the prescribed time-limit, the proceedings may be resumed.

Article 32

The Constitutional Court shall reject a petition, initiative, constitutional complaint or other submission initiating proceedings:

- 1) if it determines that it is not competent to issue a decision;
- 2) if it was not submitted within the prescribed time-limit;
- 3) if within the prescribed time-limit the applicant did not rectify deficiencies which preclude processing;
- 4) if it finds that it made a decision on the same matter previously and
- 5) if other preconditions for conduct of the proceedings and determination do not exist to conduct the proceedings and determine the matter.

v) Public hearing

Article 33

The Constitutional Court shall hold a public hearing, in proceedings for review of constitutionality or legality, in proceedings for resolution of electoral disputes, as well as in proceedings for ban on the work of a political party or a non-governmental organization.

The Constitutional Court may decide not to hold a public hearing in proceedings for review of constitutionality or legality: if it determines that during the proceedings the matter has been sufficiently clarified and that it can make a decision on the basis of evidence collected without holding a public hearing; if it made a decision on the same matter previously and no new reasons have been presented to make a different decision in that matter, as well as if the requirements for discontinuance of the proceedings have been fulfilled.

The Constitutional Court may hold a public hearing in other cases as well when it assesses that the holding of a public hearing is necessary, and especially in the event of complex constitutional and legal issue or where a constitutionality and legality question has been raised on which the Constitutional Court has not taken a position.

Article 34

The participants in proceedings and, when necessary, the representatives of authorities and organizations, scientists and other experts, shall be summoned to the public hearing to give their opinions and clarifications.

The absence of participants in proceedings and of other persons summoned shall not preclude the Constitutional Court from holding the public hearing.

Article 35

In justified cases, the Constitutional Court may postpone or adjourn public hearing and schedule a new public hearing.

Article 36

Other issues related to public hearing shall be regulated in more details by the Rules of Procedure.

g) Forms of work of the Constitutional Court

Article 37

The Constitutional Court shall decide on matters falling within its jurisdiction at a session.

The sessions of the Constitutional Court shall be convened and chaired by the President of the Constitutional Court.

The Constitutional Court may also hold other sessions to clarify the matter in the case, in accordance with the Rules of Procedure.

d) Acts of the Constitutional Court

Article 38

The Constitutional Court shall issue decisions and orders.

Article 39

By a decision, the Constitutional Court shall:

- 1) determine that the law, or some of its provisions, does not comply with the Constitution and with ratified and published international treaties;
- 2) determine that another regulation or general act, or some of its provisions, does not comply with the Constitution and law, or that at the time when it was in force the same did not comply with the Constitution and law;
- 3) determine that the human rights and freedoms guaranteed by the Constitution were violated by an individual act or action;
- 4) determine whether the President of Montenegro violated the Constitution;
- 5) resolve the conflict of jurisdiction;
- 6) decide on the ban on work of a political party or of a non-governmental organization;
- 7) decide on electoral disputes and disputes related to referendum;
- 8) decide on compatibility with the Constitution of measures and actions of public authorities undertaken during the state of war and emergency;
- 9) reject the petition for determination of unconstitutionality and illegality;
- 10) reject the constitutional complaint and appeal;
- 11) determine the manner of rectifying the consequences occurring as a result of enforcement of general act incompatible with the Constitution and law.

Article 40

By an order, the Constitutional Court shall:

- 1) initiate proceedings;
- 2) discontinue proceedings in cases laid down under this Law;
- 3) suspend the enforcement of an individual act or action, repeal the measure of suspension, or dismiss the request for suspension of enforcement of an individual act or action;
- 4) not accept the initiative to initiate proceedings for review of constitutionality or legality;
- 5) dismiss submissions referred to in Article 32 of this Law;
- 6) decide on the issues relating to the administration of the procedure .

Article 41

The decision and the order of the Constitutional Court shall contain an introduction, operative part and statement of reasons.

Article 42

The decisions of the Constitutional Court, except for the decisions upon constitutional complaint and appeal, shall be published in the Official Gazette of Montenegro, and in a manner in which the act upon which the Constitutional Court decided was published.

A decision upon constitutional complaint and appeal, as well as the order which is important for the protection of constitutionality and legality, may be published in the Official Gazette of Montenegro.

2. Proceedings for review of constitutionality and legality of general acts

Article 43

Proceedings for review of constitutionality and legality of general acts shall be initiated by a petition submitted by the petitioner referred to in Article 150 paragraph 2 of the Constitution and when the Constitutional Court institutes proceedings on the basis of an initiative submitted or on its own by an order.

Article 44

The petition or initiative for the review of constitutionality and legality of a general act shall contain: the title of the general act, reference to the provision, title and number of the Official Gazette in which it was published, grounds for the petition or initiative, as well as other data relevant for the review of constitutionality and legality.

Where the general act the constitutionality or legality of which has been challenged was not published in the Official Gazette, a certified copy of the act shall be attached, as a rule, to the petition or initiative.

Article 45

The proceedings shall be deemed initiated on the date of the submission of the petition to the Constitutional Court, or on the date of issuance of a written order of the Constitutional Court initiating proceedings.

Article 46

The Constitutional Court shall not accept the initiative if it finds that there are no grounds to initiate proceedings.

Article 47

In the proceedings for review of constitutionality and legality of a general act, the Constitutional Court shall not be limited by the petition or initiative.

If the petitioner or initiator withdraws the petition or initiative, the Constitutional Court shall continue proceedings if it finds grounds for doing so.

Article 48

During the proceedings, and at the request of the authority which enacted the disputed general act, the Constitutional Court may, before issuing a decision on the constitutionality or legality, stay the proceedings and allow the authority which enacted the general act to rectify unconstitutionality and illegalities found within a specified time-limit.

If the unconstitutionality or illegality is not rectified within a specified time-limit, the Constitutional Court shall resume the proceedings.

Article 49

The Constitutional Court may suspend the enforcement of an individual act or action at the request of the petitioner or initiator if he demonstrates that enforcement will cause irreversible detrimental consequences.

If during the proceedings the Constitutional Court determines that the reasons for the suspension of enforcement of an individual act or action, which have been undertaken based on the general act the constitutionality or legality of which is reviewed, have ceased, it shall repeal that measure.

The Constitutional Court shall reject a request for suspension of the enforcement of individual acts or actions after it makes the decision.

Article 50

If in proceedings pending before a court, the question of compatibility of the law with the Constitution and ratified and published international treaties or of other regulations and general acts with the Constitution and law is raised, the court shall stay the proceedings and initiate proceedings for review of constitutionality or legality of that act before the Constitutional Court.

Article 51

The Constitutional Court shall discontinue proceedings:

- 1) if during the proceedings the law was harmonised with the Constitution and with ratified and published international treaties, and/or if another regulation and general act were harmonised with the Constitution and law, and the Constitutional Court did not find that a decision should be issued because the consequences of the unconstitutionality or illegality have not been rectified;
- 2) if during the proceedings the petition for review of constitutionality or legality of general act has been withdrawn and the Constitutional Court has not found the grounds to continue the proceedings on its own initiative;
- 3) if the proceedings were initiated based on wrongly established facts and
- 4) if during the proceedings the procedural preconditions for conduct of the proceedings cease to exist.

Article 52

The provisions of Articles 43 – 51 above shall apply in the proceedings for review of constitutionality or legality of general acts of political parties and non-governmental organizations.

Article 53

If it establishes that the provisions of a general act of a political party or of a non-governmental organization do not comply with the Constitution and law, those provisions shall cease to be valid on the date of publication of the decision of the Constitutional Court.

Article 54

The decision of the Constitutional Court defining the manner of rectifying the consequences which resulted from the implementation of a general act incompatible with the Constitution, with ratified and published international treaties or law shall have legal effect from the date of its publication in the Official Gazette of Montenegro.

Article 55

Regulations and other general acts enacted to implement laws and other regulations, which have been found to be incompatible with the Constitution and law, shall not apply as of the date of publication of the decision of the Constitutional Court.

Enforcement of legally binding individual acts enacted based on regulations which are not applicable any longer, may not be allowed or implemented, and if the enforcement has already commenced it shall be terminated.

Article 56

Anyone whose right was violated by a final or legally binding individual act, enacted based on law or other regulation and general act which has been found to be incompatible with the Constitution, with ratified and published international treaties or law by a decision of the Constitutional Court, shall have right to request the competent authority to amend that individual act.

The petition for the amendment of the final or legally binding individual act enacted based on law or other regulation and general act which has been found to be incompatible with the Constitution, ratified and published international treaties or law by a decision of the Constitutional Court, may be submitted within six months as of the date of publication of the decision in the Official Gazette of Montenegro, if more than two years has not passed between the delivery of the individual act and the submission of the request.

Article 57

If during the proceedings, the general act ceased to be valid or has been harmonized with the Constitution, ratified and published international treaties or law, but the consequences of unconstitutionality and illegality have not been rectified, the Constitutional Court may establish by a decision that the general act was incompatible with the Constitution, ratified and published international treaties or law.

The decision of the Constitutional Court referred to in paragraph 1 above shall have the same legal effect as the decision establishing that the general act is incompatible with the Constitution, ratified and published international treaties or law.

3. Proceedings upon constitutional complaint

Article 58

Constitutional complaints may be lodged against an individual act of state authority, local self-government authority or organisation vested with public powers, for the reason of violation of human rights and freedoms guaranteed by the Constitution, after all effective legal remedies have been exhausted.

All effective legal remedies referred to in paragraph 1 above shall be deemed exhausted within the meaning of this Law, if the complainant in the dispute exhausted all ordinary and extraordinary legal remedies prescribed by law.

Article 59

Constitutional complaints may be lodged by anyone who believes that his human right and freedom guaranteed by the Constitution was violated by an individual act of state authority, local self-government authority or organisation vested with public powers.

Constitutional complaint may also be lodged by another natural person or a state authority or organization in charge of the monitoring and realization of human rights and freedoms on behalf of the person referred to in paragraph 1 above on the basis of his authorization.

Article 60

Constitutional complaint may be submitted within 30 days from the date on which an individual act violating human right or freedom guaranteed by the Constitution was delivered.

Without prejudice to paragraph 1 above, the Constitutional Court shall grant *restitutio in integrum* to the person who failed to lodge the constitutional complaint within this time-limit for justified reasons, if that person submits an application for *restitutio in integrum* and simultaneously lodges a constitutional complaint within 15 days from the disappearance of reasons which caused him to miss the deadline.

Restitutio in integrum cannot be requested after the expiry of a period of three months from the date of missing the deadline referred to in paragraph 1 above.

Article 61

Constitutional complaint must contain: the name and surname, the personal identification number of the citizen, the domicile or temporary residence, or name and registered office of the complainant, the name and surname of his attorney, the number and date of the act against which the complaint is lodged and the name of the authority which enacted it, human right or freedom guaranteed by the Constitution that is claimed to have been violated, with the quotation of the constitutional provision guaranteeing this right or freedom, the

cause of complaint and description of the nature of violation or denial of rights, the request on which the Constitutional Court is to decide and the signature of the complainant.

A certified copy of the challenged act, evidence that legal remedies have been exhausted and other evidence of significance for determination, shall be enclosed to the constitutional complaint.

Article 62

If a human right or freedom guaranteed by the Constitution of more persons was violated by an individual act, and only some of them lodged constitutional complaint, the decision of the Constitutional Court shall also relate to persons who did not lodge the constitutional complaint, provided that they are in the same legal situation.

Article 63

Constitutional complaint shall not preclude implementation of the individual act against which it was lodged.

The Constitutional Court shall decide only on the violation of human right or freedom cited in the constitutional complaint.

Article 64

Constitutional complaint may also be delivered to persons who participated in the procedure of enactment of challenged individual act, to send their responses thereto within a specified period, if by that act their right and obligation have been determined.

Article 65

The Constitutional Court shall discontinue proceedings:

1. if a constitutional complaint was withdrawn;
2. if the authority which enacted the challenged individual act has annulled, repealed or amended that act in accordance with the request contained in the constitutional complaint or if the action which caused the violation or denial of a human right or freedom guaranteed by the Constitution has terminated, with the consent of the complainant;
3. if other procedural preconditions for conduct of the proceedings cease.

Article 66

The Constitutional Court shall decide on the constitutional complaint by a decision.

By a decision, the constitutional complaint shall be granted or dismissed as unfounded.

Article 67

When the Constitutional Court establishes that a challenged individual act violated a human right or freedom guaranteed by the Constitution, it shall grant the constitutional complaint and repeal that act, entirely or partially and remand the case for repeat procedure to the authority which enacted the repealed act.

If at the time of passing of the decision of the Constitutional Court the legal effect of challenged individual act terminated, the Constitutional Court shall state by a decision that violation occurred if it finds that a human right or freedom guaranteed by the Constitution was violated.

The Constitutional Court shall state in the statement of reasons of the decision by which act which constitutional right was violated and the nature of violation.

Alternative wording:

If it finds that a human right or freedom guaranteed by the Constitution was violated by an individual act, the Constitutional Court shall grant the complaint.

The decision of the Constitutional Court granting the complaint shall represent a legal basis for reparation, before the competent authority, in accordance with the law.

If the complainant considers that the violation of a human right or freedom found cannot be rectified in a manner prescribed by paragraph 2 above, the decision of the

Constitutional Court shall represent a legal basis for repeat procedure before the competent authority.

The request for repeat procedure in accordance with paragraph 3 above may be submitted within three months as of the date of delivery of decision of the Constitutional Court.

Article 68

In determination of constitutional complaint, the Constitutional Court shall take into account the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 69

When enacting the new act, the competent authority shall be obliged to observe legal reasons of the Constitutional Court expressed in the decision and to make the decision in repeat procedure within a reasonable time.

Article 70

The decision of the Constitutional Court granting the constitutional complaint shall represent a legal basis for submission of claim for reparation or of request for rectifying of other detrimental consequences before the competent authority, in accordance with the law.

Article 71

The constitutional complaint shall be dismissed as unfounded if the Constitutional Court finds that the grounds on which the act is challenged do not exist.

Article 72

The decision of the Constitutional Court granting the constitutional complaint shall have legal effect from the date of its delivery to the participants in the proceedings.

4) Proceedings for determination whether the President of Montenegro violated the Constitution

Article 73

The proceedings deciding whether the President of Montenegro violated the Constitution shall be deemed initiated on the date on which the bill of impeachment is received by the Constitutional Court.

The bill of impeachment referred to in paragraph 1 above shall contain the statement of reasons and statement of allegations due to which it is considered that the President of Montenegro violated the Constitution.

Article 74

When the Constitutional Court determines that the bill of impeachment has been submitted in accordance with Article 98 paragraph 3 of the Constitution, it shall submit it, within three days after the day on which it was received, to the President of Montenegro for response.

The President of Montenegro shall have the right to make a statement on the reasons contained in the bill of impeachment, to provide data and information relevant for conduct of proceedings and determination, within 15 days after the date on which the bill of impeachment was submitted.

Article 75

The proceedings deciding whether the President of Montenegro violated the Constitution shall be urgent.

Article 76

In the proceedings deciding whether the President of Montenegro violated the Constitution, the Constitutional Court shall be limited solely to the bill of impeachment.

Article 77

The Constitutional Court shall discontinue the proceedings:

- 1) if the Parliament withdraws the bill of impeachment and
- 2) if the office of the President of Montenegro is terminated during the proceedings.

Without prejudice to paragraph 1 subparagraph 2 above, the Constitutional Court shall continue the proceedings if requested by the President of Montenegro.

Article 78

The Constitutional Court shall issue the decision on whether the President of Montenegro violated the Constitution within 45 days after the date on which the bill of impeachment was submitted.

Article 79

The Constitutional Court shall submit the decision regarding the violation of the Constitution by the President of Montenegro to the Parliament.

5) Proceedings resolving a conflict of jurisdiction**Article 80**

The petition to resolve a conflict of jurisdiction shall be submitted by one or both of the conflicting authorities, as well as the person who is unable to exercise his rights due to acceptance or rejection of jurisdiction.

Article 81

The petition to resolve a conflict of jurisdiction shall contain the names of the authorities, the subject of dispute and grounds on which they accept or reject jurisdiction.

Article 82

The proceedings resolving the conflict of jurisdiction shall be deemed initiated on the date on which the Constitutional Court received the petition.

Article 83

In case when the authority rejects or accepts the jurisdiction, the petition to resolve the conflict of jurisdiction shall be submitted within 15 days after the date on which the decision of the authority by which that authority declared itself non-competent or competent became legally binding or final.

Article 84

The Constitutional Court shall discontinue the proceedings:

- 1) if the petition to resolve the conflict of jurisdiction has been withdrawn during the proceedings and
- 2) if the procedural preconditions for conduct of proceedings and determination have ceased to exist during the proceedings.

Article 85

The Constitutional Court may order to stay the proceedings before the authorities between which the conflict of jurisdiction occurred, until the decision is made.

Article 86

The Constitutional Court shall decide which authority is competent, or that there is no conflict of jurisdiction.

Article 87

The decision of the Constitutional Court resolving the conflict of jurisdiction shall have legal effect from the date of its publication in the Official Gazette of Montenegro.

6) Proceedings deciding on ban on work of a political party or of a non-governmental organization

Article 88

The proceedings deciding to ban the work of a political party or of a non-governmental organization shall be initiated by a petition which may be submitted by;

- the Government;
- the Council of Defence and Security and
- state administration authority in charge of entry of a political party or a non-governmental organization in the registry.

Article 89

The petition for the ban on work of a political party or of a non-governmental organization must quote the prohibited activity referred to in Article 55 paragraph 1 of the Constitution, and/or the facts and circumstances of unconstitutional activity which may be a reason to ban the work of a political party or of a non-governmental organization.

Article 90

The Constitutional Court may ban the work of a political party or of a non-governmental organization if their activities are directed or aimed at violent destruction of constitutional order, infringement on the territorial integrity of Montenegro, violation and call for violation of human freedoms and rights or instigating of racial, religious and other hatred and intolerance.

Article 91

When the Constitutional Court bans the work of a political party or of a non-governmental organization, that political party or non-governmental organization shall be erased from the registry.

The decision banning the work of a political party or of a non-governmental organization shall have legal effect from the date of serving of the decision of the Constitutional Court to the competent authority.

7) Proceedings deciding on electoral disputes and disputes related to referendum

a) Proceedings deciding on violation of right during elections

Article 92

The proceedings deciding on the violation of right during elections for the Members of the Parliament and Councillors shall be initiated by filing a complaint against the decision of the electoral commission dismissing or rejecting the appeal against the decision.

The complaint referred to in paragraph 1 above shall be filed within 24 hours from the hour the order was received.

Article 93

The complaint may be filed by an elector, a candidate for a Member of the Parliament or a candidate for the Councillor, as well as by parties/groups nominating candidates.

The complaint shall contain grounds for and evidence of violation of the right during elections.

The Constitutional Court shall be due to render the decision on the complaint referred to in paragraph 1 above within 48 hours from the hour it was received.

Article 94

The Constitutional Court shall serve one copy of the complaint to the authority in charge of administration of the election concerning the activity of which the electoral dispute has been initiated, with an order to deliver a response and necessary electoral acts and/or documentation within a specified period.

Article 95

The complaint shall be filed with the Constitutional Court within 24 hours from the hour of delivery of the decision of the competent electoral commission.

The Constitutional Court is due to render the decision on the complaint referred to in paragraph 1 above within 48 hours from the hour it was received.

Article 96

The Constitutional Court shall dismiss the complaint by an order if it does not have jurisdiction, if the complaint was late and if the complaint is inadmissible.

Article 97

The Constitutional Court shall decide on complaint by a decision.

The complaint shall be granted or dismissed as unfounded by a decision.

Article 98

Where an irregularity in an election procedure was proved, and had a significant influence on the result of the election, the Constitutional Court shall issue a decision annulling the entire electoral procedure or parts thereof which must be precisely specified.

In the case referred to in paragraph 1 above, the entire electoral procedure or parts thereof shall be repeated within ten days as of the date of serving of the decision of the Constitutional Court to the competent authority.

In the case referred to in paragraph 2 above, the final results shall be established by the competent electoral commission within five days as of the date on which the elections were held.

Article 99

The decision of the Constitutional Court annulling the entire electoral procedure or a part thereof shall have legal effect as of the date of serving of the decision of the Constitutional Court to the competent authority.

Article 100

The proceedings deciding on the violation of right during elections for the President and the Members of the Government, President of the Supreme Court, President and judges of the Constitutional Court, Chief State Prosecutor and State Prosecutor, Ombudsman, Governor of the Central Bank and Members of the Council of the Central Bank, President and Members of the Senate of the State Audit Institution and other holders of the offices appointed by the Parliament, shall be initiated by the complaint which may be filed by the candidate or the party/group nominating the candidate.

Complaint referred to in paragraph 1 above shall contain grounds for and evidence of violation of the right during election.

Article 101

Decision of the Constitutional Court deciding on the violation of rights during the elections of persons referred to in Article 100 above shall have legal effect from the date of serving of the decision to the Parliament.

b) Proceedings deciding on violation of right during elections for the President of Montenegro and a Mayor

Article 102

The proceedings deciding on the violation of right during elections for the President of Montenegro and a Mayor shall be initiated by a complaint which may be filed by the presidential candidate, the party/group nominating the candidate or by an elector.

Complaint referred to in paragraph 1 above shall contain grounds for and evidence of violation of the right during election.

Article 103

The provisions of this Law relating to the proceedings deciding on the violation of right during elections shall apply to the proceedings deciding on the violation of right during elections for the President of Montenegro and a Mayor.

v) Proceedings deciding on violation of right during referendum

Article 104

Complaint to decide on violation of right during referendum may be filed by an elector and authority calling the referendum.

The complaint must be reasoned and contain grounds for violation and evidence.

Article 105

The decision on violation of rights referred to in Article 104 above shall be issued by the Constitutional Court within 30 days as of the date of initiation of proceedings.

The decision of the Constitutional Court referred to in paragraph 1 above shall have legal effect from the date of serving of the decision to the competent authority.

Article 106

The provisions of this Law relating to the proceedings deciding on the violation of right during elections shall apply to the proceedings deciding on the violation of right during referendum.

8) Proceedings deciding on compatibility of measures and actions of public authorities undertaken during the state of war and emergency

Article 107

The proceedings deciding on compatibility of measures and actions of public authorities undertaken during the state of war and emergency shall be initiated by complaint.

The complaint referred to in paragraph 1 above may be submitted by a person who considers that these measures and actions limit the exercise of individual freedoms and rights beyond the extent necessary to achieve the purpose for which this limitation has been introduced.

The complaint referred to in paragraph 1 above shall be filed within three days from the date of introduction of measures and actions during the state of war and emergency.

The complaint referred to in paragraph 1 above must contain the statement of reasons and grounds for and evidence of limitations on the exercise of individual freedoms and rights, referred to in Article 25 of the Constitution of Montenegro.

Article 108

The Constitutional Court shall issue the decision establishing compatibility or incompatibility with the Constitution of measures and actions referred to in Article 107 above within seven days from the date of receipt of complaint in the Constitutional Court.

When the Constitutional Court establishes that the measures and actions are incompatible with the Constitution, it shall repeal the act entirely or partially, and/or ban the action.

Article 109

The decision of the Constitutional Court shall have legal effect from the date of serving of the decision to the competent authority.

9. Monitoring the implementation of constitutionality and legality**Article 110**

The Constitutional Court shall monitor the implementation of constitutionality and legality and notify the Parliament about any occurrence of unconstitutionality and illegality it has noticed.

The notification referred to in paragraph 1 above shall be established by the Session of the Constitutional Court.

IV- PENAL PROVISIONS**Article 111**

Authority, organization or another legal entity shall be fined for a misdemeanour in the amount not less than ___ nor more than ___:

1) if they fail to submit to the Constitutional Court the challenged general act and necessary documentation and to provide data and information relevant for the conduct of the proceedings and determination within the prescribed time-limit (Article ___);

2) if they fail to submit to the Constitutional Court necessary data and information relevant for the conduct of the proceedings and determination (Article ___).

The entrepreneur shall also be fined for a misdemeanour referred to in paragraph 1 above in the amount not less than ___ nor more than ___.

The responsible person in the authority, organization or another legal entity shall also be fined for a misdemeanour referred to in paragraph 1 above in the amount not less than ___ nor more than ___.

V – TRANSITIONAL AND FINAL PROVISIONS**Article 112**

Proceedings before the Constitutional Court initiated before the effective date of this Law shall be finalized according to the provisions of this Law.

Article 113

Constitutional complaints filed before the effective date of this Law shall be deemed timely submitted, and they shall be allowed against individual acts and actions adopted after the date of entry into force of the Constitution of Montenegro.

Article 114

The Constitutional Court shall adopt its Rules of Procedure within 90 days of the effective date of this Law.

Until the Rules of Procedure are adopted, the provisions of the Rules of Procedure of the Constitutional Court of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, Nos. 53/93, 10/97 and 80/05) shall apply, unless they are contrary to this Law.

Article 115

The Law on the Constitutional Court of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, No. 21/93) shall cease to be valid on the date of entry into force of this Law.

Article 116

This Law shall enter into force on the eighth day from the date of its publication in the Official Gazette of Montenegro.