

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**Special Bulletin
on Constitutional Case-Law**

Basic Texts Issue 6

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Albania

Constitutional Court

Law Nr. 8577, dated 10.02.2000

On the organisation and operation of the Constitutional Court of the Republic of Albania

Based on Articles 6, 81.1, 81.2 and 83.1 of the Constitution of Albania and upon the proposal of a group of members of the Assembly.

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA DECIDED:

Chapter I

General Provisions

Article 1

Aim of the Law

(1) This Law lays down rules governing the organisation and functioning of the Constitutional Court, the status of its members and the presentation and review of applications, as well as principles and rules governing constitutional proceedings and the taking of decisions by the Court and the execution of the Courts decisions.

(2) In cases for which procedures are not laid down by this law, the Constitutional Court shall respect the legal provisions governing the procedures followed by other courts, taking into consideration the legal nature of the case.

Article 2

Duty of the Constitutional Court

The Constitutional Court is the highest authority guaranteeing the respect of the Constitution and interprets it conclusively.

Article 3

Independence of the Constitutional Court

(1) The Constitutional Court is subject only to the Constitution.

(2) The Constitutional Court enjoys complete organisational, administrational and financial independence in fulfilling the tasks laid down by the Constitution and the present Law.

Article 4

Location of the Constitutional Court

The Constitutional Court is located in Tirana, the capital city of the Republic of Albania.

Article 5

Symbols used at the Constitutional Court

(1) The emblem of the Republic, the National flag and a view of the cover of the Constitution of Albania are placed in the courtroom of the Constitutional Court.

(2) During plenary sessions, judges of the Constitutional Court shall wear special robes as defined by the Court itself.

Article 6

Financial means

(1) The Constitutional Court administers its own budget, which as part of the state budget is drafted by the Court and presented for approval to the Assembly of the Republic of Albania.

(2) The financial means of the Court include any other income not prohibited by law.

(3) The High State Control is responsible for auditing the Constitutional Court.

Chapter II

Organisation of the Constitutional Court

Article 7

Composition of the Constitutional Court

(1) Constitutional Court is composed of 9 (nine) members, who are appointed by the President of the Republic upon the consent of the Assembly.

(2) The judges are appointed for a term of 9 (nine) years without the right of reappointment and are selected from the ranks of highly qualified jurists with professional experience of no less than 15 years.

(3) The composition of one third of the Constitutional Court is renewed every three years following the procedure laid down in the present Law.

(4) The President of the Constitutional Court is nominated from the ranks of its members by the President of the Republic upon the consent of the Assembly for a term of 3 (three) years and may be reappointed during his/her term of office as a judge of the Court.

Article 8

Start of office

(1) The term of office of the judge of the Constitutional Court starts after he/she has been sworn in by the President of the Republic.

(2) The wording of the oath is: I solemnly swear always to be loyal to the Constitution of the Republic of Albania in fulfilling my duties.

(3) The term of office of the judge of the Constitutional Court starts on the day of his/her swearing in and terminates on the same date of the same month, unless otherwise provided by the Constitution.

(4) The judge of the Constitutional Court remains in office until the appointment of his/her successor.

style='font-size:10.0pt;font-family:Arial'>Article 9

Termination of office

(1) The term of office of the judge of the Constitutional court terminates when he/she:

- a. has been sentenced by a final decision for a committed crime,
- b. is absent for more than 6 (six) months without any justification,
- c. reaches the age of 70 years,
- d. offers his/her resignation,
- e. has been declared incapable of acting by a final judicial decision.

(2) The termination of the judge in office is declared by decision of the Constitutional Court. The application to declare the termination of the office of a judge is presented by the President of the Constitutional Court.

(3) When a vacancy arises, the President of the Republic appoints a new judge upon the consent of the Assembly within one month. The newly appointed judge holds office for the remainder of the term of office of the judge he/she has replaced.

Article 10

Dismissal of a judge

(1) A judge of the Constitutional Court may be dismissed by a two-thirds majority of the total number of members of the Assembly if he/she violates the Constitution, commits a crime, becomes mentally or physically incapable or commits other acts that seriously discredit the position and personality of the judge. The decision of the Assembly is reviewed by the Constitutional Court, which upon verification of the above causes, declares the dismissal of the member of the Constitutional Court.

(2) The reviewing of the procedure of the Assembly on the dismissal of a judge of the Constitutional Court, for one of the causes provided in paragraph 1 of this Article, commences upon receipt of a request, including reasons, of no less than half of the total number of members of the Assembly.

Article 11

Conduct of Constitutional Court

The activity of the Constitutional Court is organised and conducted by the President of the Court and in his/her absence by any judge he/she nominates, except where this Law assigns such competences to the Court.

Article 12

Powers of the President of the Court

The President of the Constitutional Court has the following powers:

- a) Prepares, convenes and chairs the plenary sessions of the Constitutional Court,
- b) Represents the Court in its relations with third parties,
- c) Organises and distributes the caseload among the judges,
- d) Signs the acts of the Constitutional Court, except the decisions of the court, which are signed by all judges,
- e) Nominates and dismisses the administrative staff and imposes disciplinary measures on them.

Article 13

Powers of the Court

The Constitutional Court has the following powers:

- a) Specifies the main lines of budget expenditure,
- b) Reviews every 6 (six) months the budgetary expenses,
- c) Decides on the organisational structure of the Constitutional Court,
- d) Decides on the number of staff and their respective salaries,
- e) Approves the Internal Rules governing the activity of the administration of the Constitutional Court.

Article 14

Civil servants

(1) The Secretary General is the most senior civil servant at the Constitutional Court.

(2) Other necessary services in the functioning of the Constitutional Court are under the care of other staff members and employees as appropriate.

(3) The Secretary General is appointed by the Constitutional Court and is selected from the ranks of professionally experienced lawyers.

(4) The Secretary General manages the administrative activity of the Constitutional Court, under the authority of its President.

(5) The rights and duties of the Secretary General and other employees of the services under the Court are laid down by this Law and the Internal Rules.

(6) The administrative staff of the Constitutional Court are subject to the regulations governing the Civil Service and are financially treated the same as the administrative staff of the Assembly of the Republic of Albania.

Article 15

Guarantees of the protection of order

(1) The Constitutional Court enjoys the right of police forces in its service to keep order and secure the protection of the Court.

(2) The number of police officers and their duties are approved by the Ministry of Public Order upon the proposal of the President of the Constitutional Court.

Chapter III

Status of judges of the Constitutional Court

Article 16

Immunity

(1) The judges of the Constitutional Court enjoy immunity of office. A judge of the Constitutional Court cannot be held legally responsible for opinions or his/her voting related to the case under review.

(2) A judge of the Constitutional Court cannot be investigated without the consent of the Constitutional Court. A judge of the Constitutional Court may be detained or arrested only if caught in the act of committing the crime or immediately after it. The relevant authority provides immediate notification to the Constitutional Court. The relevant authority shall release the judge unless the Constitutional Court provides its consent for the case to be presented to an ordinary court within 24 hours.

(3) The decision of the Constitutional Court, which is taken on the majority of votes should include reasons. The said judge, after being given a hearing, does not participate in the voting.

Article 17

Remuneration

(1) The remuneration of a judge of the Constitutional Court is equal to the remuneration of the President of the High Court.

(2) The remuneration of the President of the Constitutional Court is 20% higher than the remuneration of a judge of the Constitutional Court.

(3) The remuneration and other benefits of judges of the Constitutional Court may not be decreased or infringed.

Article 18

Other rights of judges of the Constitutional Court

(1) A judge of the Constitutional Court should:

- a) have special individual, family and property protection, when thus requested by him/her under serious circumstances or where it is considered necessary. The relevant authorities in charge of the protection of senior personalities are obliged to respond to every request of this kind.
- b) enjoy the right of annual paid holidays of 40 days. The annual holidays are during August September,
- c) be provided free of charge the Official Gazette and legal newspapers and magazines,
- d) enjoy equal rights with members of the Assembly of Albania as provided in Article 16, paragraphs 1, 19, 20, 23, 25 and 26 of Law Nr. 8550, date 18/11/1999 on the Status of Deputies.

(2) The term of office of a judge of the Constitutional Court may not be limited, except as provided for in the Constitution and this Law.

(3) After normal termination of office, unless dismissed through the procedures laid down in the present Law, the judge of the Constitutional Court is appointed to another equal or similar post with provision for the transitional remuneration of the judge of the Constitutional Court and/or supplementary retirement income according to the legislation in power.

Article 19

Protocol relations

(1) The President of the Constitutional Court and the other judges enjoy special protocol status.

(2) With regard to protocol relations, the President of the Constitutional Court comes immediately after the Prime Minister and the judges of this Court are equal with ministers in protocol treatment.

(3) Judges of this Court may be members of official delegations, ceremonies, receptions and different activities of cultural, social and sporting character in conformity with the protocol laid down in this Article.

Chapter IV

Principles of constitutional proceedings

Article 20

Discussion in Panels

Cases at the Constitutional Court are collegially discussed. The decision on a case is taken by the judges present at the session where the said case has been discussed.

Article 21

Public hearing

(1) Cases are heard at the Constitutional Court at open plenary sessions.

(2) The Constitutional Court may bar the public from attending all or part of the session, in order to protect public morals, public order, national security and the right of private life or personal rights.

Article 22

The use of the Albanian language

(1) The Albanian language is used in hearing the case.

(2) Parties to a dispute who do not speak Albanian may use their mother tongue. The entire hearing is translated through an interpreter, who as a rule is provided by the Court.

Article 23

Oral Hearing

The case is orally presented at the plenary session, or through the relevant documents according to the nature of the case.

Article 24

Legal representation in constitutional proceedings

Parties to the constitutional case may represent themselves or may appoint a person to represent them as provided by this Law.

Article 25

Impartiality in constitutional proceedings

(1) The judges of the Constitutional Court are impartial in discussing cases and are subject only to the Constitution and laws while exercising their duty.

(2) The judge of the Constitutional Court acts in his/her own name and does not represent any state organ or social organisation, political party or association, ethnic or social grouping.

Article 26

Publication of final decision

(1) Decisions of the Constitutional Court are final. They are published in Official Gazette and enter into force on the day of their publication. The Court may decide that its decision shall enter into force on the day of its proclamation when the decision concerns the protection of constitutional rights of the person.

(2) The body that publishes the Official Gazette is obliged to publish the decisions of the Constitutional Court no later than 15 days after the decision is presented to it.

(3) The Constitutional Court prepares an annual summary of its decisions.

Chapter V

Presentation and preliminary discussion of the application

Article 27

Registration of the application

(1) The application addressed to the Constitutional Court is immediately registered in the special register kept by the Secretary General of the Constitutional Court.

(2) The application is presented to the President of the Constitutional Court, who assigns one of the judges to report on the application for preliminary review.

Article 28

The content of the application

(1) The application is presented to the Constitutional Court in written form, in Albanian, in clear and comprehensible language, in as many copies as there are parties involved and should include:

- a) the name of court to which the application is presented,
- b) the name, surname, address or place of residence of the applicant,
- c) the name, surname, address or place of residence of the entities interested in the case,
- d) the object of the application,
- e) the content of the application and presentation of reasons,
- f) a list of the documents and other evidence that accompany the application,
- g) the signature of the applicant or his/her representative.

(2) The application is notified to the parties involved.

Article 29

Documents attached to the application

(1) Depending on the case, the following documents should be attached to the application:

- a) Authorisation of representation, if the application is presented by a representative,
- b) copies of the act which is the subject of the application,
- c) original documents or their certified copies and other written evidence related to the case in discussion

(2) Copies of the act, documents and written evidence are presented in as many copies as there are parties involved and interested in the case, so that they are notified to these parties.

Article 30

Deadline of presentation of application

(1) The deadline for lodging the application with the Constitutional Court is provided for by this Law.

(2) The application of persons regarding the violation of a constitutional right are to be presented no later than 2 (two) years from the evidence of the violation. If the law provides that the applicant may address another authority, he/she may present the application to the Constitutional Court after all the other legal means in protection of such rights have been exhausted. Under such a case, the deadline for lodging the application is 6 (six) months from the date on which the decision of therelevant authority is announced.

Article 31

Preliminary discussion of the application

(1) The application is preliminary discussed by a panel composed of 3 (three) judges of the Constitutional Court, including the one who relates the case.

(2) If the application, although within the competences of the Constitutional Court and submitted by a legitimate entity, is not complete, the panel returns it to the applicant for completion, notifying the reasons. When the application is presented for a second time and complete, it is forwarded to the panel for preliminary discussions. An incomplete application is not taken into consideration.

(3) When the application is presented by a legitimate entity and it is within the powers of the Constitutional Court, the panel decides to present it to the hearing session. If the application does not fall within the powers of the Constitutional Court, the panel decides to reject the application from the hearing session. In any case, if any of the judges of the panel presents a dissenting opinion, the application is to be presented to the preliminary session of the Constitutional Court, which then, by majority vote decides to accept or reject the application from the hearing session.

(4) Regarding all the above-mentioned cases, the panel or the Court does not review the case on the merits.

(5) Complaints, requests or any other correspondence, which does not include elements of the application as provided by Article 25 of this Law, are treated through administrative channels.

Chapter VI

Operation of the Constitutional Court

Article 32

Review in Plenary Sessions

(1) The Constitutional Court reviews applications in plenary sessions.

(2) The plenary session is attended by all the judges of the Constitutional Court, but in no case by less than two thirds of the members.

Article 33

Convening and chairing of the Plenary Session

(1) The plenary session of the Constitutional Court is convened and chaired by the President of the Constitutional Court.

(2) The plenary session may be convened and chaired by another judge upon the consent of the President of the Constitutional Court.

Article 34

The rights of the judge during constitutional proceedings

(1) Each judge of the Constitutional Court enjoys the right to:

- a) participate in the discussion of every application, unless otherwise prohibited by law,
- b) familiarise himself/herself with the content of the application and all the relevant materials of the case,
- c) ask questions and receive explanations by the parties involved in the case and the experts or witnesses during the hearing session,
- d) participate in the final discussion and express his/her opinion freely on the final decision in the case at hand.

Article 35

Duties of the judge during constitutional proceedings

Each judge of the Constitutional Court should:

- a) prepare the case for examination and take the appropriate measures for the proceedings of the plenary session,
- b) cast his/her vote for the decision on the case,
- c) observe the confidentiality of the discussions and voting process.

Article 36

Withdrawal from a case

(1) A judge of the Constitutional Court is obliged to withdraw from the examination of a concrete case when:

- a) he/she has participated in drafting the act that is the subject of proceedings,
- b) the impartiality of the judge may be called into question due to family or other relations with either of the parties involved,
- c) there is evidence giving rise to grave doubts as to his/her impartiality.

(2) The withdrawal is approved by the President of the Constitutional Court, unless the case has reached the hearing stage. If the case has reached the hearing stage, the withdrawal is decided upon by the majority of votes of the judges present.

Article 37

Removal of a judge from a case

(1) Where, under the provisions of Article 36, the judge does not withdraw from reviewing the case, the parties involved enjoy the right to request him/her to be removed from the case at any stage of the hearing.

(2) The removal of the judge is decided by the majority vote of the judges present at the hearing. The judge whose removal is requested, after being heard, does not participate in the voting. If the votes are evenly split, the judge is considered to have been removed from the case.

Article 38

Announcement of and participation in the plenary session

- (1) The time and date of the plenary session shall be announced to the applicant and the interested parties or their representatives.
 - (2) The Secretary General notifies the relevant parties at least 10 (ten) days before the date of the opening of the plenary hearing.
- (3) The relevant parties are notified through official notification, mail delivery or in urgent cases by telegram or fax handed to the parties involved or adult members of the family. If the residence of either parties to the constitutional process is not known or he/she is temporarily abroad, the notification is announced to the Constitutional Court and delivered at least 1 (one) month ahead of the date of the opening of the plenary hearing.
- (4) The plenary hearing is attended by the litigants or their respective representatives, the interested entity and witnesses or experts when needed.
- (5) Failure to announce the date of the plenary hearing is a justification to postpone the plenary hearing and fix another date, notifying the respective parties to this effect.
- (6) When the applicant, his/her representative or the interested entity, despite notification, is not present at the plenary hearing, with no legal reason, the plenary hearing is convened in his/her absence.

Article 39

Participants in constitutional proceedings

- (1) Participants in constitutional proceedings are:
 - a) The entity that presented the application or its representative,
 - b) Entities against which the application is made or which have a direct interest in the proceedings,
 - c) The entity that issued the impugned act,
 - d) State organs in disputes as to conflicts of powers.
- (2) Where state organs are parties to constitutional proceedings, they are represented by their respective leaders or, in their absence, by formally authorised persons.
- (3) The involved parties to the constitutional proceedings may be represented by defence lawyers having the appropriate authority to act or assigned upon a declaration at the plenary hearing session.
- (4) The National Chamber of Defence Lawyers issues the list of lawyers who may act before the Constitutional Court.

Article 40

Summoning of expert witnesses

- (1) The Constitutional Court may summon a specific individual as an expert if he/she has special knowledge in a certain field of science, technology or art, who will scientifically explain the evidence related to the case if this is requested by the parties involved or by the Court of its own motion.
- (2) The expert shall provide his/her explanations in written form, but he/she may give oral evidence during the hearing session as well.

Article 41

Summoning of witnesses

When needed to explain the evidence related to the case under hearing, upon the request of the parties involved and/or by the Constitutional Court of its own motion, the court may summons persons as witnesses during the hearing plenary sessions.

Article 42

Request of documents

(1) When considered necessary, upon the request of the parties involved or of its own motion, the Constitutional Court may request documents related to the case under hearing.

(2) The requested documents are produced during the hearing plenary session.

Article 43

Proceedings of the plenary session

The hearing of the case during the plenary session shall be conducted in accordance with the following rules:

- a) The session is declared open by the presiding judge,
- b) The presence of participants is verified,
- c) The eligibility of the parties or their representatives is verified,
- d) The parties are asked to present their preliminary requests if any and the court accordingly decides on them,
- e) The judge in charge of the case reads the application,
- f) The involved parties are invited to present their arguments for and against the application, starting with the entity that presented the application,
- g) The involved parties present their arguments or provide answers to the questions asked by the judges,
- h) The relevant evidence is produced and the involved parties are invited to comment on the contents,
- i) The involved parties are invited to make their final requests,
- j) The presiding judge declares the plenary hearing closed and the court withdraws for deliberation.

Article 44

Reopening of the hearing session

(1) The plenary hearing session, after being declared closed, may be reopened if additional explanations are of particular importance to the case under review.

(2) The decision to reopen the hearing session is taken by majority vote of the judges present at the hearing session.

(3) The decision to reopen the hearing session is announced to the involved parties, which enjoy the right to participate in the hearing session and take the floor to provide any explanations with respect to their case, if they so choose.

Article 45

The right of suspension

(1) The Constitutional Court, of its own motion or at the request of either of the parties, when it considers that the implementation of the law or legal act may have consequences on state, social or individual interests, upon the decision of the court or at the plenary hearing session, may decide the respective law or legal act. The suspension lasts until the final decision of the Constitutional Court is enforced.

(2) The decision of suspension is announced to the entity that issued the law/legal act and is also made public.

(3) The Constitutional Court may withdraw the suspension at any stage of the review upon a decision of the hearing plenary session.

(4) The Constitutional Court should decide on the continuation or termination of the suspension in its final decision.

Article 46

Minutes of the plenary hearing session

Minutes are kept during the plenary hearing session of the Constitutional Court and the presiding judge and secretary of the session sign accordingly.

Article 47

Deadline for commencing the review of the case

The application to the Constitutional Court is reviewed no later than 2 months from the presentation of the application.

Article 48

Scope of review of the case

(1) The scope of review is determined by the object of the application and the reasons given in it.

(2) The Constitutional Court alone shall decide in any case when there is a link between the object of the application and other normative acts.

Chapter VII

Special Proceedings

Proceedings with respect to the compatibility of laws and other normative acts with the Constitution and international agreements

Article 49

(1) A case before the Constitutional Court on the review of the compatibility of laws or other normative acts with the Constitution or international agreements, may be initiated by an application of the President of the Republic, the Prime-minister, not less than 1/5 of the deputies of the Assembly or the Chairman of the High State Control.

(2) This right extends, when it is demonstrated that the case concerns their interests, to the Peoples Advocate, local authorities, religious institutions, political parties and other organisations.

Article 50

The application to review the compatibility of laws or other normative acts with the Constitution or international agreements may be presented within a time limit of three years after they have entered into force.

Article 51

In reviewing the applications provided for by Articles 48 and 49 of the present Law, the Constitutional Court considers:

- a) the content of the law and other normative acts,
- b) the form of the law and other normative acts,
- c) the procedure of their approval, proclamation and enforcement.

Proceedings with respect to the compatibility of international agreements with the Constitution

Article 52

(1) The Constitutional Court considers the compatibility of international agreements with the Constitution before they are ratified.

(2) In such cases a case before the Constitutional Court is initiated only after an application is presented on behalf of entities provided in Article 134, letters a, b, c, d and entities provided by letters f, g, h and i of the Constitution and when the case concerns their interests.

(3) The ratification procedures concerning the agreement are suspended when the case is at the plenary hearing session. The review should conclude within 1 (one) month from the presentation of the application.

(4) When the Constitutional Court decides that the international agreement is incompatible with the Constitution, the agreement cannot be ratified.

Article 53

(1) The Council of Ministers is the only entity that may initiate an application with respect to international agreements that are incompatible with the Constitution and were ratified before the entry into force of the Constitution.

(2) Where the Constitutional Court concludes that an international agreement ratified by law includes provisions that are incompatible with the Constitution, the Constitutional Court decides on the abrogation of the act ratifying the agreement.

Proceedings concerning conflicts of powers

Article 54

(1) Where conflicts of powers arise between state authorities and between central and local authorities and when the disputes directly concern the carrying out of their activities, the Constitutional Court treats the case in virtue of Article 131.d of the Constitution.

(2) The Constitutional Court reviews such conflicts both when the entities concerned consider it is within their power to decide on a concrete case and, as the case may have issued acts for its procedures, or when the entities have not considered under their power to decide on certain cases.

(3) The application is presented to the Constitutional Court by an entity in conflict or by entities directly affected by the conflict.

(4) Any kind of legal or normative act, action or failure to act of the state or local authorities leading to conflicts of competence between them may form the basis to initiate the review of such cases.

Article 55

The application to review such disputes should be submitted within 6 (six) months from the time at which the conflict started.

Article 56

(1) The Constitutional Court decides which is the competent organ to solve the concrete case from which the dispute has arisen.

(2) When the solution of the constitutional dispute is related to legal or normative acts issued by the authorities that are parties to the conflict, the Constitutional Court reviews the constitutionality or legality of the act in order to solve the dispute.

Proceedings for the review of the constitutionality of political parties and political organisations

Article 57

(1) Proceedings for the review by the Constitutional Court of the constitutionality of political parties and organisations, as well as their activities, may be initiated by the application of the President of the Republic, the Prime Minister or no less than one fifth of the deputies of the Assembly.

(2) Such applications may be presented to the Constitutional Court at any time.

Article 58

The Constitutional Court reviews and decides:

(1) whether the political party or organisation is founded in accordance with the constitutional provisions,

(2) whether the activity of the political party or organisation is in conformity with the Constitution.

Article 59

When the Constitutional Court considers that there is ample evidence that the continued activity of a political party or organisation will violate the constitutional order or state and public interests, as the case may be, the Court upon a special decision of the Court or through the plenary session may decide to suspend the activity of the political party or organisation until such time as it delivers its final decision.

Article 60

(1) When the Constitutional Court concludes that the founding of a political party or organisation violates the Constitution, it decides to annul the founding act.

(2) When the Constitutional Court concludes that the activity of a political party or organisation is in violation of the Constitution, the Court decides, as the case may be, either to cancel the activity or order its deregistration.

Proceedings concerning the dismissal of the President of the Republic and confirmation of his/her incapacity to exercise his/her powers.

Article 61

(1) The Assembly of Albania, after deciding on the dismissal of the President of the Republic initiates an action before the Constitutional Court, which declares the dismissal of the President of the Republic.

(2) The decision of the Assembly of Albania should include an interpretation of the serious violation of the Constitution or of the serious crime, accompanied by the relevant evidence.

(3) The Constitutional Court forwards a copy of the decision of the Assembly and relevant evidence to the President of the Republic, who enjoys the right to present his/her observations in writing as he/she considers necessary.

Article 62

(1) The Constitutional Court decides to review the case at plenary hearing session upon the majority vote of its members.

(2) The President of the Republic or his/her representative enjoys the right to participate in the plenary hearing session.

Article 63

(1) When the Constitutional Court concludes that the President of the Republic has seriously violated the Constitution or committed a serious crime, it proclaims his/her dismissal from all his/her functions. Otherwise, the Constitutional Court annuls the decision of the Assembly of Albania.

(2) Regulations provided in Article 61.1, 61.2 and 61.3 are implemented in the case of final confirmation of the incapacity of the President of the Republic to

exercise his/her functions. Where such a situation arises, the Constitutional Court decides on the verification of the Presidents incapacity to exercise his/her functions or annuls the decision of the Assembly of Albania when it is found to be unjustifiable.

Eligibility and incompatibility in exercising the powers of the President of the Republic

Article 64

(1) Cases regarding the eligibility of the President of the Republic and incompatibilities arising with respect to the exercise of his/her functions may be initiated before the Constitutional Court by an application of no less than 1/5 of the members of the Assembly of Albania or political parties.

(2) Regarding the eligibility, the Constitutional Court may decide to annul the decision of the Assembly of Albania or reject the application.

(3) Regarding incompatibilities arising with respect to the exercise of the Presidents functions, the Constitutional Court either decides to proclaim the incompatibilities arising in the exercise of his/her functions by the President of the Republic or rejects the application.

Article 65

When the President of the Republic presents his/her resignation while the case for his/her dismissal is under hearing session, or his/her term of office ends, the Constitutional Court cancels further proceedings. The Constitutional Court recommences proceedings if so requested by the Assembly of Albania or the President.

Proceedings for the review of the eligibility and incompatibilities of members of the Assembly

Article 66

(1) Proceedings for the review of the eligibility of the members (deputies) of the Assembly of Albania by the Constitutional Court may be initiated by application of the President of the Republic or the Assembly of Albania.

(2) The Constitutional Court verifies the eligibility of the deputies upon the application of a political party or independent candidate with respect to the legal provisions in force on elections.

(3) Applications regarding on incompatibilities may be presented to the Constitutional Court by the Assembly at any time during the term of office of the deputy and the application regarding the eligibility of the deputy may be presented within 6 (six) months from the time the ineligibility is found.

Article 67

(1) Where the Constitutional Court verifies the eligibility of deputies, it decides as the case may be either to reject the application or annul the act of the Central Election Commission confirming the election of the deputy.

(2) After reviewing the application on the eligibility or incompatibility of the deputy, the Constitutional Court delivers its decision to the Assembly of Albania.

Proceeding for the review of the constitutionality of laws upon applications by the courts

Article 68

(1) When a court of any instance or the trial judge considers during the trial *ex officio* or at the request of either party involved that a certain law is unconstitutional and if there is a direct link between the law and the solution of the case at hand, that particular law shall not be applied in the case at hand and after suspending the trial the judge shall refer the file to the Constitutional Court, which on its side should deliver its verdict as to the constitutionality of the said law.

(2) The court or the trial judge in referring the file should specify the provisions of the law they consider incompatible with specified provisions or other principles of the Constitution that the law has not respected or violated, as well as the reasons for which the application for annulment has been presented.

Article 69

(1) When the Constitutional Court concludes that the file referred to it is not complete and in conformity with the above provision, it shall send it back to the original court. The latter should complete the file within one month from the date on which it receives the file.

(2) When the file is found to be complete and in conformity with Article 68 above, the Constitutional Court proclaims the date of the plenary hearing session and notifies the said court and other interested entities accordingly.

Article 70

(1) When reviewing the cases provided for under Article 68 and 69 of the present Law and because they are related to the constitutionality of a concrete law, the Constitutional Court shall make public the fact that such an issue is under review before the Constitutional Court.

(2) When the review has been completed, the relevant file and decision of the Constitutional Court are delivered to the court of origin.

(3) Where the Constitutional Court decides to annul a certain law as unconstitutional, this decision is announced to the Assembly of Albania and the Council of Ministers.

Interpretation of the Constitution

Article 71

(1) By virtue of Article 124.1 of the Constitution of the Republic of Albania, the Constitutional Court provides the final interpretation of the Constitution.

(2) Applications for the interpretation of the Constitution may be presented by the entities specified in letters a, b, c and d of Article 134.1 of the Constitution of the Republic of Albania and other entities specified by letters f, g, h and i and in cases in which they have an interest.

(3) The application presented should specify which constitutional provision or part of the provision is to be interpreted.

(4) The entity that is alleged to have wrongly interpreted the Constitution is a party to the hearing session.

(5) The review of such application may be conducted at a hearing session or through the review the respective documents.

Chapter VIII

Decisions of the Constitutional Court

Article 72

Decision taking and its delivery

(1) Discussions on and voting with respect to the decision are not public.

(2) The decisions of the Constitutional Court are taken by majority vote of the judges present at the plenary hearing session. Abstentions are not allowed.

(3) The decision is signed by all the judges present at the plenary hearing session.

(4) Parties to the proceedings are notified as to the date of the delivery of the decision. Their absence does not constitute grounds for postponing the delivery of the decision.

- (5) The decision is delivered in the name of the Republic.
- (6) The decision of the Constitutional Court should include reasons and be read by the judge presiding over the plenary hearing session or any other judge nominated by him/her.
- (7) The decision of the Constitutional Court is universally binding and final.
- (8) A judge delivering a dissenting opinion enjoys the right to present the reasoning of his/her opinion and thus it is attached to and published together with the court decision.
- (9) Copies of the decision shall be delivered to the involved parties if so requested by them and upon payment of the respective fee.

Article 73

Postponement of discussions and voting

- (1) If any of the judges participating in the plenary hearing session is absent during the discussion and voting session, then the meeting of the Court is adjourned to another date.
- (2) Where the participation of the judge cannot be secured within a reasonable period, the Court shall deliver its decision on the case at hand if it has been reached by an absolute majority of its members.
- (3) Where there is no such majority and there is a possibility of including judges who were not present at the plenary hearing session, then the plenary hearing session is reopened and the case is heard once again.

Article 74

Rejection of the application

Where votes are evenly split or no presented decision is voted for by the majority required, then the Constitutional Court shall reject the application. Such a rejection presents no obstacle for the applicant to present the application where all the possibilities to achieve the necessary majority exist.

Article 75

No changing of the decision

After voting, the decision of the Constitutional Court is considered valid and cannot be changed.

Article 76

Legal effects of the decisions of the Constitutional Court

- (1) The decision of the Constitutional Court annulling a law or normative act as incompatible with the Constitution or international agreements, as a rule will take legal effect from the date of its entry into force.
- (2) The decision may be retroactive only where:
- a) it concerns a criminal sentence and such a decision is being executed, if this is directly related to the implementation of the annulled law or normative act,
 - b) it concerns a case under review by the courts, unless their decisions are final,
 - c) it concerns a law or normative act that has not been implemented.

Article 77

Legal effects of judicial decisions

Decisions of courts of any instance that are annulled by the Constitutional Court have no legal effect from the date of their delivery. The case is delivered to be reviewed to the court of which the decision has been annulled.

Article 78

Notification of the decision

Where the annulment of a law or normative act is decided and certain relations require legal interpretation, then the decision of the Constitutional Court is notified to the authorities concerned, so that they take the measures specified in the Courts decision.

Article 79

Decision interpreting the Constitution

Decisions of the Constitutional Court that specify the interpretation of the Constitution is retrospective.

Article 80

Interpretation and completion of the decision

(1) The Constitutional Court cannot annul or change its own decisions, but it can:

- a) interpret the decision in case of doubts or disputes concerning its understanding, without changing its content,
- b) complete the decision or correct any possible mistake in calculations or any other evident inaccuracy in it within 2 (two) months from the date of its proclamation.

(2) The review of the above-mentioned cases is made at plenary hearing session with the participation of the involved parties.

Article 81

Execution of the decisions

(1) The execution of the decisions of the Constitutional Court is obligatory.

(2) The execution of the decisions of the Constitutional Court is secured by the Council of Ministers of the Republic of Albania through the appropriate state administration.

(3) The Constitutional Court may assign another authority to execute its decision and assign the means of execution if necessary.

(4) Persons who do not implement or who hinder the execution of decisions of the Constitutional Court, unless the case constitutes a criminal offence, are fined up to 100 000 (one hundred thousand) Lek by the President of the Constitutional Court and this decision is final and constitute a writ of execution.

Chapter IX

Transitional and final provisions

Article 82

Termination of and renewal of terms of office

- (1) The terms of office of the judges of the Constitutional Court appointed in 1992 expires in 2001.
- (2) Other judges elected on the basis of Law Nr. 7491, dated 29/04/1991, on the main Constitutional Provisions, including amendments, will remain in office for 12 (twelve) years from the day of their appointment.
- (3) The renewal of the Constitutional Court after 2001 will take place after the expiry of the term of each judge.

Article 83

Exemption from taxes and payment of expenses for services

- (1) The proceedings of the Constitutional Court are exempted from taxes.
- (2) Charges for other services provided as well as expenses met during the proceedings will be decided by the Constitutional Court.

Article 84

Obligation to provide documents

Any state authority, legal or physical entity is obliged to provide to the Constitutional Court documents, data and relevant information if thus requested or if this is considered necessary in reviewing the case.

Article 85

Obligation to publicise announcements

State information authorities are obliged to publish the Press Releases provided by the Constitutional Court for issues related to its activities.

Article 86

Implementation of the present law

The provisions of the present Law will be implemented with respect to the applications and cases under hearing on the date on which the present Law enters into force.

Article 87

Repealing of the Law

Law Nr. 8373, dated 15/07/1998, on the organisation and operation of the Constitutional Court of the Republic of Albania is repealed from the day of the entry into force of the present Law.

Article 87

This present Law shall enter into force 15 (fifteen) days after its publication in the Official Gazette.

Tribunal constitutionnel

Constitution de la Principaut d'Andorre

- extraits -

Titre V

De la justice

Article 85

1. La Justice est rendue, au nom du peuple andorran, exclusivement par des juges indpendants, inamovibles et, dans lexercice de leurs fonctions juridictionnelles, soumis uniquement la Constitution et la loi.
2. Lorganisation judiciaire est unique. Sa structure, sa composition, son fonctionnement et le statut juridique de ses membres sont fixs par une Llei Qualificada. Les juridictions dexception sont interdites.

Article 86

1. Les compences des juridictions et les rgles de procire relvent du domaine de la loi.
2. Les jugements sont motivs, rendus en application de la loi et notifs aux parties.
3. Le procs pnal est public sauf dans les cas prvis par la loi. La procire est de prfrence orale. Le jugement est rendu par une autorit judiciaire autre que celle qui a dirig linstruction; il est toujours susceptible de recours.
4. La protection des intrts gnraux peut tre exerc e en justice laide de la procire de laction populaire dans les conditions fixes par la loi.

Article 87

La fonction juridictionnelle est exerc e, conformment la loi, par les Battles, le Tribunal de Battles, le Tribunal de Corts et le Tribunal Superior de Justcia dAndorra, ainsi que par les prsidents de ces tribunaux.

Article 88

Les jugements, une fois dfinitifs, sont revus de lautorit de la chose juge et ne peuvent tre modifis ou annuls que dans les cas prvis par la loi ou lorsque, exceptionnellement, le Tribunal Constitucional, au terme dune procire de recours individuel (recours dempara), estime quil s ont t rendus en violation dun droit fondamental.

Article 89

1. Le Consell Superior de la Justcia en tant quorganisme de reprsentation, de direction et dadministration de lorganisation judiciaire, veille lindpendance et au bon fonctionnement de la Justice. Tous ses membres sont de nationalit andorrane.
2. Le Consell Superior de la Justcia se compose de cinq membres dsigns parmi les andorrans gs de plus de vingt cinq ans et ayant une exprience de ladministration de la justice, raison dun par le Sndic General, dun par chacun des Coprceps, dun par le Cap de Govern, et dun par les Magistrats et les Battles. Leur mandat est de six ans et ils ne peuvent faire lobjet de plus de deux dsignations conscutives. Le Consell Superior de la Justcia est prsid par la personne dsigne par le Sndic General.

3. Le Consell Superior de la Justicia nomme les Batlles et les Magistrats, exerce sur eux la fonction disciplinaire et veille ce que l'administration de la justice dispose des moyens nécessaires son bon fonctionnement. A cette fin, il peut tablier des rapports relatifs l'application des lois concernant la justice ou pour rendre compte de la situation de celle-ci.
4. La Llei Qualificada sur la justice dtermine les fonctions et les compétences du Consell Superior de la Justicia.

Article 90

1. Tous les juges, quelle que soit leur catgorie, sont nomms pour un mandat renouvelable de six ans parmi les personnes titulaires dun diplme de droit et ayant une aptitude pour lexercice de la fonction juridictionnelle.
2. Les prsidents du Tribunal de Batlles, du Tribunal de Corts et du Tribunal Superior de Justicia sont dsigns par le Consell Superior de la Justicia. La dure de leur mandat et les conditions de leur nomination sont fixes par la Llei Qualificada prcite larticle 89 alina 4 de la prsente Constitution.

Article 91

1. La fonction de juge est incompatible avec toute autre charge publique et avec lexercice dactivits commerciales, industrielles ou professionnelles. Les juges sont munrs uniquement sur le budget de lEtat.
2. Pendant son mandat, aucun juge ne peut tre blm, dplac, suspendu ou dmis de ses fonctions si ce nest en application dune sanction pnale ou disciplinaire dans les conditions prvues par la Llei Qualificada et en respectant les droits de la dfense. La mme Llei Qualificada prvoit galement les cas de responsabilit civile des juges.

Article 92

Conformment la loi et sous rserve des responsabilits personnelles encourues par leurs auteurs, lEtat rpare les dommages résultant dune erreur judiciaire ou du fonctionnement anormal de ladministration de la justice.

Article 93

1. Le Ministre public a pour mission de veiller au respect de la lgalit et lapplication de la loi, ainsi qu lindpendance des tribunaux, la sauvegarde des droits des citoyens et la dfense de lintrt gnral.
2. Le Ministre public se compose de membres nomms, pour un mandat renouvelable de six ans, par le Consell Superior de la Justicia, sur proposition du Govern, parmi les personnes remplissant les conditions pour tre juges. Leur statut juridique est fix par la loi.
3. Le Ministre public, dirig par le procureur gnral de lEtat, agit conformément aux principes de lgalit, dunit et de hirarchie interne.

Article 94

Les juges et le Ministre public dirigent laction de la police en matire judiciaire conformment la loi.

Titre VIII

Du Tribunal Constitutional

Article 95

1. Le Tribunal Constitutional est linterprte suprme de la Constitution; il sige en tant quorganne juridictionnel et ses dcisions simposent aux pouvoirs publics et aux personnes prives.

2. Le Tribunal Constitucional adopte son rglement et exerce sa fonction en tant uniquement soumis la Constitution et Llei Qualificada qui le rgit.

Article 96

1. Le Tribunal Constitucional est compos de quatre magistrats constitutionnels, dsigns parmi les personnes ayant une exprience juridique ou institutionnelle reconnue, raison dun par chacun des Copmceps et de deux par le Consell General. Leur mandat est de huit ans et nest pas immideattement renouvelable. Le renouvellement du Tribunal Constitucional seffectue par parties. Le rgime des incompatibilités est tabli par la Llei Qualificada mentionne larticle prcdent.

2. Sa prsidence est assure, tous les deux ans, par rotation, par lun de ses magistrats.

Article 97

1. Le Tribunal Constitucional adopte ses dcisions la majorit des voix. Les dlibrations et les votes sont secrets. Le rapporteur, qui est toujours dsign par tirage au sort, a voix prpondante en cas dgalit.

2. Dans la mesure o elles font droit aux requetes, en tout ou partie, il est tenu de prciser le domaine dapplication et la port de ses dcisions dans les conditions prvues par la Llei Qualificada.

Article 98

Le Tribunal Constitucional connaît:

des recours en inconstitutionnalit contre les lois, les dcrets pris en vertu dune

a. dgitation lgislative et le rglement du Consell General;

b. des demandes davvis pralables sur la constitutionnalit des lois et des traits internationaux;

c. des procédures de protection constitutionnelle (recours dempara);

d. des conflits de compétence entre les organes constitutionnels. Sont considrés comme organes constitutionnels les Copmceps, le Consell General, le Gouvernement, le Consell Superior de la Justicia et les Comuns.

Article 99

1. Peuvent former un recours en inconstitutionnalit contre les lois et les dcrets pris en vertu dune dgitation lgislative un cinquième des membres du Consell General, le Cap de Gouvernement et trois Comuns. Un cinquième des membres du Consell General peut former un recours en inconstitutionnalit contre le rglement de la Chambre. Le délai pour le dépôt du recours est de trente jours compter de la date de publication du texte contesté.

2. Le dépôt du recours n'a pas effet suspensif. Le Tribunal doit se prononcer dans un délai de deux mois.

Article 100

1. Quand, au cours d'une procédure, un tribunal a des doutes raisonnables et fondés sur la constitutionnalité d'une loi ou d'un décret pris en vertu d'une dgitation lgislative dont l'application est nécessaire pour la solution d'un litige, il saisit le Tribunal Constitucional d'une question préjudicielle pour lui demander de se prononcer sur la validité de la norme dont il s'agit.

2. Le Tribunal Constitucional peut déclarer le recours irrecevable. En cas d'admission du recours, il se prononce dans un délai de deux mois.

Article 101

1. Les Comptes, aux termes de l'article 46 alina 1.f, le Cap de Govern ou un cinquième des membres du Conseil Général peuvent saisir le Tribunal Constitutionnel de l'inconstitutionnalité des traités internationaux avant leur ratification. Le Tribunal examine cette demande en priorité.
2. Si le Tribunal constate l'inconstitutionnalité d'un traité, celui-ci ne peut être ratifié. Dans tous les cas, la conclusion d'un traité international contenant des clauses contraires à la Constitution nécessite la révision préalable de cette dernière.

Article 102

Sont fonds de demander, laide d'un recours, la protection du Tribunal Constitutionnel (recours démpara) contre les actes des pouvoirs publics qui lèvent des droits fondamentaux:

- a. les personnes qui ont été parties, directement ou en tant que tiers intervenants, dans la procédure judiciaire préalable mentionnée dans l'article 41 alina 2 de la présente Constitution;
- b. les personnes qui ont un intérêt légitime mis en cause par des dispositions ou des actes du Conseil Général n'ayant pas force de loi;
- c. le Ministre public en cas de violation du droit fondamental de saisir une juridiction.

Article 103

1. Il y a conflit entre des organes constitutionnels quand l'un d'entre eux allume l'exercice illégitime par un autre de compétences qui lui sont attribuées par la Constitution.
2. Le Tribunal Constitutionnel peut suspendre, titre conservatoire, l'exécution des normes ou des actes contestés et, le cas échéant, ordonner la cessation des procédures qui ont donné lieu au conflit.
3. La décision détermine et attribue l'une des parties la compétence objet du litige.
4. La saisine du Tribunal Constitutionnel pour conflit de compétences interdit que la matière soit portée devant l'autorité judiciaire.
5. La loi détermine les cas dans lesquels un conflit peut être soulevé pour le motif de non-exercice de leurs compétences par les organes auxquelles elles ont été attribuées.

Article 104

La Llei Qualificada fixe le statut juridique des membres du Tribunal Constitutionnel, les procédures et le fonctionnement de cette institution.

Loi qualifiée du Tribunal constitutionnel en date du 3 septembre 1993

Titre I

Nature du tribunal constitutionnel et domaine de ses compétences

Chapitre I

Nature du tribunal constitutionnel

Article 1

Le Tribunal constitutionnel, organe juridictionnel collgial, est l'interprte suprme de la Constitution et il en garantit la hirarchie normative suprieure dans l'ordre juridique, par des dcisions et des arrts rendus lors des procdures et des procgs rglements par la prsente loi qualifie.

Article 2

1. La juridiction du Tribunal constitutionnel stend sur tout le territoire de l'Etat andorran, elle est suprieure dans son ordre et dans lexercice de ses compences dfinies par la Constitution et par cette loi, ses dcisions simposent aux pouvoirs publics et aux particuliers et ses arrts ont lautorit de la chose juge.
2. La doctrine interprtative de la Constitution labore par le Tribunal devant fonder ses arrts simpose galement aux divers organes de la juridiction ordinaire.

Article 3

1. Le Tribunal constitutionnel nest soumis qu la Constitution et la prsente loi. Les prcdents tablis par le Tribunal constituent des critres d'interprétation qui simposent au Tribunal, mais ils peuvent tre modifis par une dcision motivée prise la majorité absolue de ses membres.
2. Aux effets de lalina ci-dessus, lexistence dun prcdent est prsume lorsquau moins deux cas identiques ont t rsolus avec la mme dcision et ont pour fondement la mme doctrine.

Article 4

1. Sans prjudice des dispositions des conventions et des traits internationaux valablement ratifis par l'Andorre, les dcisions et les arrts du Tribunal constitutionnel ne seront pas susceptibles d'appel devant un autre organe juridictionnel.
2. La juridiction du Tribunal constitutionnel est prfrentielle. Les causes qui sont portes sa connaissance ne peuvent tre instruites simultanément par un autre organe juridictionnel. Si le Tribunal constitutionnel dclare recevable une cause qui avait t porte en premier devant un organe juridictionnel ordinaire, ce dernier cesse den avoir connaissance.

Article 5

Les dcisions et les arrts du Tribunal constitutionnel sont rendus au nom du peuple andorran et sont publis au Bulletin officiel de la Principaut d'Andorre.

Chapitre II

Competences et fonctions du tribunal constitutionnel

Section I

Competences juridictionnelles du Tribunal

Article 6

Le Tribunal constitutionnel est compétent pour connaître:

1. du recours direct dinstitutionnalit contre les lois, les dcrets lgislatifs et le rglement du Consell general;
2. du procès incident dinstitutionnalit des normes prcrites demand par la juridiction ordinaire;
3. du contre pralable de constitutionnalit des traits internationaux;

4. de lavis pralable de conformit des lois la Constitution demand par les Coprinces;
5. des conflits de compences constitutionnelles entre le Consell general et le Gouvem, en tant quorganes gnraux de lEtat, et les Comuns, en tant quorganes des paroisses, ou ces derniers entre eux;
6. des conflits positifs et ngatifs de compences constitutionnelles entre les Coprinces, le Consell general, le Conseil suprieur de la Justice et le Gouvem;
7. du recours dempara.

Article 7

1. Les dcisions et les arrts du Tribunal constitutionnel rendus au cours dune procire ou dun recours prcis sont toujours motivs.
2. La motivation des dcisions et des arrts mettant fin une procire ou un recours doit exprimer de faon claire et prcise linterprtation du contenu des prescriptions constitutionnelles applicables et les raisons pour lesquelles lacte ou la rgle objet du litige est conforme ou non la Constitution.
3. La dcision ou larrt mettant fin une cause dclare recevable ne peut contenir des considrations diffrentes de celles qui ont t prsentes par les parties dans leurs prtentions respectives.

Article 8

1. Le Tribunal constitutionnel en statuant sur la constitutionnalit de lacte ou de la rgle dfis mettra en application la Constitution conformmement aux mandats et aux valeurs quelle contient de faon expresse, et statue sur leur validit ou leur nullit sans mettre des jugements dopportunit par rapport aux actes des pouvoirs publics.
2. Si lors de la contestation dune rgle juridique gnrale ou de certaines de ses prescriptions il nexiste quune seule interprtation conforme la Constitution et une ou plusieurs autres contraires, le Tribunal en dclarera linapplicabilit provisoire jusqu ce que lorgane layant mis en corrige les inconstitutionnalits. La nouvelle rgle mise purgera la prcdente, tout en demeurant soumise au rgime gnral du contrle de constitutionnalit.

Section II

Fonctions internes de gouvernement et dadministration

Article 9

Fonctions internes de gouvernement et dadministration:

- a. dclarer les incompatibilits, originaires ou survenues, des membres du Tribunal;
- b. exercer la fonction disciplinaire sur les membres du Tribunal;
- c. constater les cas de cessation des magistrats et dclarer lexistence dune incapacit physique conformmement aux termes de larticle 15.2 de la prsente loi;
- d. expdier les communications et, le cas chant, les requetes aux organes comptents pour nommer les nouveaux magistrats;
- e. organiser et distribuer le travail du personnel au service du Tribunal;
- f. instruire, le cas chant, les dossiers disciplinaires pour les fautes commises par les personnes prcites dans lexercice de leurs fonctions;
- g. administrer le budget destin au Tribunal;

h. adresser des rapports au Consell general et au Govern sur le fonctionnement et les besoins du Tribunal;

i. approuver le rglement interne de fonctionnement.

Titre II

Composition du tribunal et statut juridique de ses membres

Article 10

1. Le Tribunal constitutionnel est compos de quatre magistrats dsigns un par chacun des Coprinces et deux par le Consell general, parmi les personnes ges de plus de vingt-cinq ans et dont lexperience et les connaissances dans le domaine juridique et institutionnel sont reconnues.

2. Les magistrats dsigns par le Consell general sont lus la majorit des trois cinquiemes du nombre des conseillers gnraux de droit, en suivant les prescriptions du rglement de la Chambre.

3. Dans tous les cas, la dsignation dun magistrat doit contenir la motivation suffisante garantissant ladquation de la personne la fonction.

4. La nomination des magistrats constitutionnels est faite par les Coprinces, et elle est publie au Bulletin officiel de la Principaut dAndorre.

Article 11

Dans le cas o, pour des raisons de force majeure, une personne nayant pas la nationalit andorrane est nomme magistrat, elle jouira du statut de nationalit de fonction pendant son mandat conformment aux dispositions de la loi qualifie de la nationalit.

Article 12

La fonction de magistrat constitutionnel est incompatible:

a. avec lexercice de toute autre fonction publique dans une institution de lEtat ou des paroisses, quelle soit de nature lective, fonctionnariale ou contractuelle;

b. avec lexercice dactivits de representation, de gestion, de conseil ou de dfense des intrts privs de tiers sur le territoire andorran;

c. avec toute fonction de direction au sein de partis politiques, de syndicats ou dassociations, nationaux ou trangers;

d. avec toute autre activit susceptible de mettre en danger lindpendance et limpartialit dans laccomplissement de leurs devoirs.

Article 13

Pendant lexercice de leur fonction les magistrats constitutionnels sont indpendants et inamovibles et ne peuvent tre passibles dune sanction, sauf pour les causes dfinies et sous la forme prcise par la prsente loi. Sils estiment qu'une atteinte est porte leur indpendance ou quil sont perturbés dans leur fonction par l'action dun organe public ou par des particuliers, ils le communiquent au président du Tribunal.

Celui-ci sollicite lassistance de la juridiction ordinaire pour rparer latteinte ou la perturbation.

Article 14

1. La dure du mandat des magistrats constitutionnels est de huit ans compter de la date de publication de leur nomination.
2. Selon le roulement prvu par cette loi, un des magistrats constitutionnels cesse ses fonctions tous les deux ans, et il est remplac par un autre magistrat dsign par l'organe ayant choisi le juge sortant.
3. Le magistrat constitutionnel remplaant un magistrat, dont la cessation est survenue avant la fin de son mandat, est nomm pour la prie de qui reste courir de ce mandat.
4. Si l y a un poste de magistrat vacant, l'organe qui doit dsigner le remplaant doit procder son lectio dans le dala maximum dun mois.
5. Exception faite des dispositions de lalina 3 du prsent article, aucun magistrat constitutionnel ne peut tre lu pour un mandat consutif.

Article 15

1. Les magistrats constitutionnels cessent leur fonction: au terme de leur mandat, par renonciation volontaire, par dcs, cause d'une incapacit personnelle ou lgale, cause d'une condamnation pnale pour commission dun dlt dolosif et par limposition par le Tribunal lui mme d'une sanction disciplinaire pour commission d'une faute qualifie de trs grave.
2. Toute cause d'incapacit nnonce lalina ci-dessus sera apprcie par le Tribunal runi en session plnire et porte la connaissance de l'organe ayant dsign le magistrat en cause, afin quil procde une nouvelle nomination. Dans tous les cas est considre comme une cause d'incapacit le non exercice des fonctions pendant une prie de plus de six mois consutifs.

Article 16

Les magistrats constitutionnels sont responsables civilement, pnalemment et sur le plan disciplinaire.

Article 17

Les responsabilits civile et pnale pour des actions ou des omissions commises dans lexercice de leurs fonctions sont portes devant le Tribunal suprieur de Justice, conformment aux lois de fond et de procudre applicables aux membres de la juridiction ordinaire.

Article 18

1. Pour les fautes graves et trs graves, la responsabilit disciplinaire est dcide par le Tribunal constitutionnel en session plnire et l'unanimit des voix des autres membres. Pour les fautes lgres, cette responsabilit est dcide par le prsident du Tribunal ou, le cas chant, par le vice-prsident.
2. Sont des fautes lgres:
 - le manque de considration et de respect envers les autres membres du Tribunal, envers le personnel qui est leur service et envers les personnes comparaissant au proc, quel que soit le titre de leur comparution;
 - le retard imprudent dans l'accomplissement des devoirs qui dcoulent de leur fonction.
3. Sont des fautes graves:
 - linexcution de l'obligation de secret des dlibrations;
 - la non-motivation des avis prsents par les rapporteurs;

- la ngligence manifeste et ritre dans la rsolution des affaires de leur compence;
- manifester publiquement des critiques ou un dsaccord avec les dcisions et les arts du Tribunal;
- adresser des avertissements, des compliments ou des rprobations aux organes et aux pouvoirs de lEtat;
- labsence non justifie deux sessions plnires, ou plus, du Tribunal ou deux sessions, ou plus, formellement convoques par le prsident;
- porter atteinte au droit la procire des parties lors de la procire ou du procs;
- commettre de faon ritre des fautes lgres, dont la sanction na pas prescrite.

4. Sont des fautes trs graves:

- linexcution des incompatibilits spcifies par la prsente loi;
- labandon non justifi de la fonction juridictionnelle pendant plus de deux mois;
- commettre des fautes graves de faon ritre ou renouvelée.

Article 19

1. Lexercice de la fonction disciplinaire exige toujours laudition et la dfense de la partie intresse dans le dossier instruit cet effet.
2. Les fautes lgres sont possibles dun avertissement verbal ou crit; les fautes graves sont possibles de la suspension des fonctions et de la rmunration pour une priode non infrieure quinze jours ni suprieure trois mois; les fautes trs graves sont possibles de la cessation dfinitive des tches et de la fonction.
3. Les sanctions sont enregistres au livre de procs-verbaux du Tribunal, prvu cet effet. Elles ne sont radies et ne se prescrivent que si dans le cas de fautes lgres, le membre fautif nencourt pas une autre sanction pendant un dlai de six mois; dans le cas de fautes graves, la radiation nest possible quaprs un dlai de deux ans et avec les mmes conditions.
4. Un recours contentieux administratif contre la sanction, sans appel, peut toujours tre interjet devant le Tribunal suprieur de Justice.

Article 20

La munration de la fonction de magistrat est la charge du budget de lEtat. Elle est compose dune somme fixe par an, gale pour tous les membres du Tribunal et dune somme variable en fonction de la charge reue, du nombre et de la dure des sessions, et du nombre de procires et de recours expdis par chacun des membres. La loi budgtaire doit prvoir les postes destin s au fonctionnement du Tribunal et moyennant un dcrit, le Gouvem devra spcifier le rgime des munrations des magistrats.

Titre III

Fonctionnement du tribunal constitutionnel

Chapitre I

Organes du tribunal Competences et fonctions

Article 21

Le Tribunal constitutionnel exerce ses compétences juridictionnelles et ses fonctions internes de gouvernement et dadministration par lintermdiaire du prsident,

du vice-prsident, des magistrats rapporteurs et du Tribunal runi en session plnire.

Article 22

1. La session plnire du Tribunal, en tant que formation collgiale, est l'organe suprieur du Tribunal constitutionnel, constitu par les quatre magistrats constitutionnels.
2. Nonobstant les dispositions du prcdent alina, lorsquelle exerce la fonction disciplinaire, ou en absence de lun des quatre magistrats, le Tribunal est constitu par trois magistrats.

Article 23

Il appartient au Tribunal runi en session plnire de dcider juridictionnellement sur:

- a. ladmission de toutes les causes prsentes, quelles soient ou non de la connaissance oblige du Tribunal, y compris celles ayant t prsentes hors d'lai ou celles ne remplissant pas les conditions de lgitimation, de procuration ou dintroduction de l'action et de prtention indispensables du point de vue de la procire;
- b. toutes les hypothses de dchance de l'action pour dfaut de comparution, renonciation, soumission, caducita ou toute autre raison mettant fin la procire ou au procs avant son terme;
- c. les rcusations formes contre les magistrats constitutionnels;
- d. les inhibitions pour connaissance de laffaire poses par lun des magistrats;
- e. les recours de suplica forms lors de toute procire ou procs;
- f. les arrts, les dcisions et les avis rsolvant le fond de la procire ou du procs.

Article 24

Il appartient au Tribunal runi en session plnire de dcider administrativement et gouvernementalement sur:

- a. les hypothses prvues aux a) et c) de larticle 9, et lalina 2 de larticle 15 de la prsente loi;
- b. lexercice de la fonction disciplinaire en matire de fautes graves et trs graves;
- c. la dtermination des fonds disponibles destins aux magistrats constitutionnels indispensables lexercice de leurs fonctions;
- d. la rsolution des recours administratifs internes forms contre les dcisions du prsident ou, le cas chant, du vice-prsident;
- e. le contenu du mmoire annuel adress au Consell general sur la situation de la justice constitutionnelle en Andorre;
- f. lapprobation de son rglement de fonctionnement interne;
- g. la dsignation des magistrats rapporteurs conformment aux dispositions de la prsente loi.

Article 25

Il appartient aux magistrats rapporteurs:

- a. de dcider et de diriger toute procédure ou tout procès lui ayant été attribué, dans toutes les affaires juridictionnelles nant pas de la compétence du Tribunal réuni en session plénière;
- b. de proposer un avis motivé de la décision ou de l'arrêt qui doit être approuvé par le Tribunal réuni en session plénière ou, le cas échéant, rédiger la résolution ou la décision traduisant le jugement majoritaire rendu;
- c. de faire valoir leur voix prépondérante en cas de partage des voix lors des sessions plénaires dans les affaires qui leur ont été attribuées.

Article 26

1. Le président est l'organe individuel de direction, gestion et représentation du Tribunal constitutionnel.

2. Cette fonction est exercée pendant deux ans consécutifs par le magistrat constitutionnel désigné selon l'origine de sa nomination et du roulement établi par la présente loi. En cas de cessation anticipée du président en tant que magistrat constitutionnel, la présidence est exercée par le magistrat de même origine le remplaçant pour la période restante jusqu'à la conclusion du mandat de deux ans.

3. La cessation du président dans son poste ainsi que la prise de possession se déroulent devant une unique session plénière du Tribunal.

Article 27

Il appartient au président:

- a. de représenter le Tribunal constitutionnel devant les institutions publiques et privées;
- b. de fixer l'ordre du jour, de convoquer les sessions plénaires du Tribunal et de diriger les délibérations;
- c. de transmettre les décisions et les arrêts du Tribunal réuni en session plénière et de donner leur publication;
- d. de mettre en possession de leur charge les magistrats constitutionnels, nommés pendant son mandat, et de constater leur cessation lorsqu'elle se produit;
- e. d'exercer la direction du personnel au service du Tribunal;
- f. de gérer le budget et d'autoriser les dépenses extraordinaires;
- g. de préparer le mémoire annuel du Tribunal afin de le soumettre à l'approbation du Tribunal réuni en session plénière;
- h. d'effectuer toutes les activités nécessaires au bon gouvernement et la bonne administration du Tribunal.

Article 28

1. Le vice-président du Tribunal constitutionnel exerce les fonctions du président en cas d'incapacité physique de celui-ci ou par délégation expresse.

2. La fonction de vice-président est exercée par le magistrat constitutionnel qui, en raison de l'origine de sa nomination, doit occuper la présidence au cours du mandat suivant.

3. La cessation et la prise de possession ont lieu au cours du mme acte prvu larticle 26.3 de cette loi.

Chapitre II

Le personnel au service du tribunal

Article 29

1. Les formalits de gestion et d'execution matrielles des competences propres du Tribunal sont effectuées par les membres du bureau administratif permanent se trouvant son service et sous sa dpendance.

2. Les postes de ce bureau sont:

- le secrtaire du Tribunal;
- l'officier-conseil.

Article 30

1. La nomination et le statut de fonctionnaire de ces postes sont grs par le rglement du Govern, qui tablit le nombre de postes pourvoir en fonction des besoins du Tribunal. Dans tous les cas les personnes dsignes pour les postes de secrtaire du tribunal et dofficier-conseil doivent tre diplmes en droit.

2. Le rglement interne du Tribunal dtermine la rglementation et la division des tches des diffrents postes noncs, ainsi que les cas de responsabilit disciplinaire rclame toutes les personnes son service.

3. Sans prjudice des facults dinstruction des dossiers disciplinaires, qui sont de la competence du prsident du Tribunal, les dcisions administratives concernant le personnel du Tribunal appartiennent au Govern.

Chapitre III

Du rgime des sessions et de la distribution des causes

Article 31

1. Le Tribunal, en tant qu'organe collgial, agit en session plnire constitu en chambre unique.

2. Pour adopter valablement des accords, la prsence au moins trois magistrats est exige, et pour les affaires juridictionnelles lun deux doit tre le magistrat rapporteur.

3. Les accords sont adopts la majorit des voix. Lorsque l'affaire objet du dbat est juridictionnelle et en cas de partage des voix le magistrat rapporteur aura voix prpondrante.

4. Pour les affaires non juridictionnelles le partage des voix empche ladoption de l'accord.

Article 32

1. Les dlibrations et les votes ne sont pas publics.

2. Lors de chaque session, un procs-verbal des accords pris est dress sans faire mention du contenu des dlibrations. Pour la prparation du procs-verbal le vice-

président du Tribunal ou, le cas échéant, le magistrat le plus jeune agit comme secrétaire.

3. Le secrétaire du Tribunal assiste aux sessions lorsque le président le juge utile.

4. Sur décision du président du Tribunal ou la demande de deux des magistrats présents, les votes sont effectués au moyen d'un bulletin écrit et secret.

Article 33

1. Les sessions ordinaires du Tribunal sont convoquées par le président, en y joignant l'ordre du jour, sept jours au moins auparavant. La période est d'au moins une session tous les deux mois. Lors des sessions, on procède à la distribution des affaires parvenues au Tribunal, ainsi qu'à la délibération et la prise de décision des causes en attente, aussi bien pendant la phase de résolution que celle d'admission.

2. Les sessions extraordinaires sont convoquées par le président, de sa propre initiative ou la demande des magistrats, au moins trois jours auparavant lorsque des raisons de nécessité le exigeraient. Sont également considérées comme des sessions extraordinaires celles qui sont tenues sans convocation préalable la totalité des membres du Tribunal; lors de ces sessions les membres du Tribunal peuvent décider unanimement de prendre des accords.

Article 34

1. Lors des sessions ordinaires, la distribution des affaires juridictionnelles présentes au Tribunal est faite entre les magistrats par tirage au sort; ces magistrats sont les rapporteurs de l'affaire. Pour le tirage au sort chaque magistrat tire, dans une bourse, un numéro allant de 1 au 4, ensuite les affaires sont distribuées successivement dans l'ordre rigoureux de registre.

2. Avant de procéder à leur distribution, le Tribunal tenu en session plénière doit qualifier la nature de chaque affaire.

3. Sans préjudice du premier alinéa de cet article, le Tribunal peut décider, n'importe quel stade de la procédure, de joindre plusieurs affaires en une seule, pour des raisons identiques ou de similitude de l'objet. Dans ce cas, est magistrat rapporteur celui qui l'affaire a été distribuée en premier.

4. Les affaires non juridictionnelles seront suivies par le président conformément aux dispositions de la présente loi et du règlement du Tribunal constitutionnel.

Titre IX

Les procédures et les procès constitutionnels

Chapitre I

Dispositions communes toutes les procédures et tous les procès

Article 35

1. Les procédures et les procès non régis par l'article 6 de cette loi sont toujours introduits par une partie. Celle-ci, moins qu'il s'agisse du Ministre public ou d'un organe juridictionnel, est représentée et défendue par un avocat inscrit au barreau d'Andorre.

La représentation et la défense des intérêts de l'Etat andorran devant le Tribunal constitutionnel appartiennent aux avocats andorrans rattachés au cabinet juridique du Gouvernement, sans préjudice pour le Gouvernement, le cas échéant, de pouvoir requérir les services d'autres avocats.

2. Sans préjudice du droit à la procédure des parties, le Tribunal peut réclamer d'office toutes les actions qu'il estime nécessaires pour le bon achèvement de la procédure ou du procès.

Article 36

1. Les procédures et les procès constitutionnels sont déposées au siège du Tribunal constitutionnel, dans les délais prévus par la présente loi, et ils sont introduits au moyen d'un document de demande contenant:

- a. l'identification du demandeur, la légitimation active et, le cas échéant, sa représentation et sa procuration;
 - b. les faits ayant donné lieu à la lésion constitutionnelle alléguée, la loi ou la règle contre laquelle ou sur laquelle la demande est fondée, et la personne ou l'organe qui les faits sont imputés;
 - c. les fondements juridiques sur lesquels repose la prétention;
 - d. la définition exacte de la prétention contenue.
2. Le document de demande ou de requête doit être accompagné des pièces justificatives - si y en a - des éléments de fait allégués, ainsi que suivant le cas les moyens de preuve offerts estimés pertinents.
 3. Les réponses de la partie ou des parties défenderesses ou touchées, sont soumises au même régime de procédure que celui des demandeurs.
 4. Si le Tribunal déclare la déchéance de l'action pour cause de non comparution, désistement ou soumission d'une des parties au cours du procès ou de la procédure, cela n'empêche point la suite de la procédure y compris la décision finale.

Article 37

1. L'omission d'une des formalités spécifiées à l'article précédent donne lieu à l'irrecevabilité de la demande, sans préjudice pour le Tribunal de requérir le demandeur de réparer le défaut formel dans les six jours au plus tard.
2. La demande est également irrecevable en cas d'incompétence manifeste du Tribunal constitutionnel ou si la cause a la qualité de chose jugée.

Article 38

La recevabilité ou l'irrecevabilité de la demande ou de la requête est déterminée, une fois le magistrat rapporteur entendu, par un arrêt du Tribunal tenu en session plénière. Un recours contre l'arrêt irrecevable pourra être interjet dans un délai de six jours ouvrables commençant courir partir de la date de réception de la notification. La décision sur ce recours est sans appel.

Article 39

1. Dans toute procédure ou tout procès, le Tribunal rend des décisions sous forme d'ordonnance, d'arrêt ou de jugement. L'ordonnance emploie pour des questions de procédure qui ne touchent pas le fond de l'affaire; l'arrêt implique une résolution n'affectant le fond ni directement ni indirectement; le jugement est exclusivement rendu lors des procès constitutionnels et son caractère est définitif.
2. Il n'y a pas de voies de recours pour les ordonnances et les jugements. En ce qui concerne les arrêts, excepté celui qui contient la résolution de la procédure visée à l'article 67 de cette loi, un recours de supplément peut être interjet devant le Tribunal tenu en session plénière dans un délai de six jours ouvrables.
3. Si une des parties considère qu'une ordonnance a une incidence quant au fond de l'affaire, elle peut interjeter un recours de supplément devant le Tribunal tenu en session plénière dans le délai signalé au précédent alinéa. Le Tribunal doit rendre la résolution sous forme d'arrêt; aucun recours ultérieur ne peut être interjet contre cette décision.

Article 40

1. Une réclamation ou une abstention du magistrat rapporteur est recevable lorsque celui-ci a un intérêt direct et personnel dans l'affaire, ou lorsqu'il a été titulaire de l'organe ayant effectué la loi, ou sur laquelle l'objet de la contestation au moment de leur production.
2. La réclamation des autres membres du Tribunal n'est recevable dans aucun cas.

Article 41

1. La justice constitutionnelle est gratuite. Cependant les frais matériels engagés pour les prétentions des parties, tels que les frais de défense et de représentation, les frais concernant les documents demandés, l'assistance judiciaire, la demande de comparution des témoins, et, en général toute dépense découlant de la gestion ordonnée par le Tribunal pour répondre à leurs demandes ayant trait à la procédure, sont la charge des parties.

2. Une partie peut être condamnée aux dépenses si sa demande est estimée irretenue ou abusive.

Article 42

Les délais prévus par la présente loi pour exercer les diverses actions sont impratiques pour les parties et pour le Tribunal constitutionnel. Toutefois en cas de nécessité et pourvu que ces délais ne soient pas prévus par la Constitution, l'initiative du magistrat rapporteur, d'office ou la demande d'une partie, le Tribunal peut consentir à réduire ou augmenter la durée de ces délais moyennant un arrêt motivé.

Chapitre II

Les procès constitutionnalité

Article 43

1. En ce qui concerne les recours constitutionnalité, le Tribunal constitutionnel contrôle la conformité à la Constitution des lois, des décrets législatifs et du règlement du Conseil général ou d'une de leurs prescriptions.
2. Ces procès sont introduits par un recours direct, présenté par un cinquième des membres de droit du Conseil général, par le chef du Gouvernement ou par trois Comuns, soit par un critère incident formé par un tribunal de la juridiction ordinaire.

Article 44

1. Après l'admission d'une des deux formes de procès contestés, et sauf évidence de l'action pour une quelconque raison, le Tribunal constitutionnel déclare la constitutionnalité ou l'inconstitutionnalité de la règle ou des règles différences moyennant une décision.
2. La déclaration d'inconstitutionnalité entraîne la nullité de la règle ou des règles différences.
3. La déclaration de conformité de ces règles à la Constitution empêche toute contestation ultérieure des mêmes règles en alléguant une atteinte portée aux mêmes prescriptions constitutionnelles.

Section 1

Le recours direct d'institutionnalité

Article 45

1. Le recours direct d'institutionnalité contre les lois et les décrets législatifs peut être introduit dans les trente jours à partir de la date de publication de la règle, par un cinquième des membres de droit du Conseil général, par le chef du Gouvernement ou par trois Comuns.
2. Le recours contre le règlement du Conseil général ne peut être introduit que par un cinquième de ses membres de droit.

Article 46

1. Le recours est introduit par une demande qui doit contenir les formalités prévues à l'article 36 de cette loi.
2. Si les demandeurs sont trois Comuns ou plus, il doit être joint à la demande un certificat des accords pris par les organes collégiaux respectifs, en faisant apparaître la décision d'introduire le procès de contestation contre la règle en question.

3. Dans le cas prvu lalina prcdent et dans celui de la contestation par un cinquime, au moins, des membres du Consell, la demande doit tre conjointe et partage dans tous ses termes. Toutes les actions concernant le recours sont imputables tous les codemandeurs. Le dispositif de lun dentre eux entrane la dchance de laction si le nombre de Comuns ou de conseillers exig nest plus respect.

Article 47

1. Ladmission de la demande ninterrompt pas lapplication de la rgule dfire.

2. Une fois la demande admise par le Tribunal constitutionnel, le magistrat rapporteur moyennant une ordonnance doit en transfer une copie au prsident de lorgane qui a dict la rgule dfire et au Ministre public, pour quils comparaissent et rpondent la demande dans les quinze jours au plus tard.

3. Les rponses la demande doivent contenir les allgations en fait et en droit estimes pertinentes; ils doivent apporter, le cas chant, les moyens de preuve et la pratique de la preuve utiles leurs intrts; par ailleurs la documentation qui fait foi des conditions de reprsentation et de procuration doit y tre jointe.

4. En cas de soumission conjointe du Ministre public et de lorgane qui a dict la rgule dfire, toutes les prtentions de la partie demanderesse, le Tribunal, moyennant une dcision dclare l'institutionnalit de ladite rgule, sans dautres dmarches. En cas de soumission partielle, la cause se poursuit, mais la dcision doit faire mention des effets de la soumission conformment aux termes signals.

Article 48

1. Une fois les rponses reues, le magistrat rapporteur donne toutes les parties, moyennant une ordonnance, un dlai commun de sept jours pour formaliser et exercer la preuve. Le rapporteur admet les rponses estimes appropries aux prtentions des parties et dboute celles quil estime inadquates, sans aucun recours ultrieur, puis il fixe les dates et les formes dexecution dans les sept jours suivants.

2. Une fois que la preuve a t exerc e et la cause transfre aux parties, celles-ci peuvent exposer leurs conclusions au moyen dun document dans un dlai de sept jours additionnels.

Article 49

Les actions de la procudre termines, le Tribunal doit statuer dans les quinze jours qui suivent le jour de la prsentation des conclusions par les parties et, en tout cas, dans un dlai maximum de deux mois compter de la date dadmission du recours.

Article 50

La dcision du Tribunal est porte la connaissance des parties et envoye pour tre publie au Bulletin officiel de la Principaut d'Andorre, date laquelle elle prendra effet.

Article 51

1. Les dcisions confirmant l'institutionnalit de toute ou une partie de la rgule dfire travers le recours prvu dans cette section, doivent dclarer la nullit absolue et la suppression des effets ventuellement crs pendant sa priode de validit. A cette fin, doit tre publi, en annexe la dcision, un tableau de validit des rgles abrogées par les prescriptions dclares institutionnelles et les parties concernes ont un dlai de quinze jours au maximum pour solliciter devant les pouvoirs publics dtre rtablies dans la position juridique touche par ces prescriptions.

2. Malgr les dispositions du paragraphe ci-dessus, les situations juridiques cres par des dcisions qui ne sont pas susceptibles d'appel et qui ont la valeur de la chose juge ne peuvent pas tre modifis, sauf dans le cas de rtroactivit positive et les cas ayant entraîné l'acquisition dun droit subjectif.

Section 2

Le procédé d'institutionnalité introduit par les tribunaux ordinaires

Article 52

Dans lexercice de leur fonction juridictionnelle, les Battles (juges de premire instance), le Tribunal des Battles, le Tribunal des Corts (tribunal competent en matire pnale) et le Tribunal suprme de Justice dAndorre sont lgitimes pour demander louverture dun procs incident dinstitutionnalit contre les lois, les dcrets lgislatifs et les rgles ayant force de loi, quelle que soit la date de leur entre en vigueur.

Article 53

1. La demande de contrle de constitutionnalit forme devant le Tribunal constitutionnel est recevable, si dans une phase quelconque dun procs juridictionnel ordinaire, lorgane judiciaire qui en a connaissance estime doifice ou linstance dune partie quine des rgles signales larticle prcdent et dont lapplication est indispensable pour rsoudre la cause principale ou un incident quelconque instruit dans celle-ci est contraire la Constitution.
2. Cette estimation dinstitutionnalit doit tre fonde sur limpossibilit dinterprter la rgle ou les rgles conformment la Constitution, sur le raisonnement et lexplication de sa qualit de rgle indispensable la solution de la cause principale ou de lincident en question, ainsi que sur linexistence dune rsolution ou une dcision du Tribunal constitutionnel en dclarant la constitutionnalit conformement aux dispositions de larticle 44.3 de cette loi.
3. Avant de dposer le document introduisant laction prvue par le premier alina du prsent article au Tribunal constitutionnel, lorgane judiciaire doit consulter les parties et le Ministre public, si celui-ci est prsent au procs. Les parties entendues, lorgane, sous sa seule responsabilit, prend sa dcision sur le dpt de la demande, moyennant un arrt. La dcision prise dans cet arrt nest pas susceptible de recours, sans prijudice, si elle est ngative, que la demande puisse tre renouvelle lors des instances successives, le cas chant.

Article 54

Dans le cas o lentre en vigueur de la rgle ou des rgles applicables estimes contraires la Constitution est antérieure cette dernire, on peut opter entre la saisine du Tribunal constitutionnel et la dclaration de labrogation des rgles au moment appropri du procs. En tout cas, la dclaration dabrogation nentrane pas lannulation de la rgle prconstitutionnelle, simplement elle constate de faon motive son absence de vigueur.

Article 55

1. Une fois que la saisine, prvue par les dispositions prcdentes, a t convenue, lorgane judiciaire doit constituer une pice spare contenant les actions exerces cette fin et soumettre un document au Tribunal constitutionnel en y joignant cette pice et lexpos des fondements sur lesquels reposent ses doutes quant la constitutionnalit de la rgle ou des rgles, ainsi que les preceptes constitutionnels quil estime viols, de mme que les formalits exiges larticle 36 de cette loi.
2. La cause principale ou le cas incident, le cas chant, suivra son cours jusqu la phase du jugement ou de la rsolution, phase o la procire est paralysée jusqu ce que le Tribunal constitutionnel prononce larrt de rsolution ou la dcision. Si lincident ayant donn lieu au procs dinstitutionnalit porte sur la nullit dactions, une dcision sur la cause principale ne pourra intervenir quapr la dcision constitutionnelle.

Article 56

1. Lors de la rception du document et de la pice spare prvus par larticle prcdent, le Tribunal constitutionnel admet ou non laction dinstitutionnalit au moyen dun arrt motiv. Le recours de suplica signal larticle 39.2 de cette loi peut tre interjet contre larrt dclarant linadmissibilit.
2. Aprs ladmission de laction et une fois le procs entam, sont parties lorgane judiciaire promoteur, lorgane ayant dict la rgle dfte et le Ministre public. Les parties prsentes au procs judiciaire en question peuvent comparatre titre dintervenants.
3. Si la contestation est soulev contre des rgles prconstitutionnelles, le Consell general est partie au procs quel que soit lorgane qui les a dictes.

Article 57

1. Linstruction du procs incident jusqu sa dcision suit les mmes procdures que celles prvues pour le recours direct dinstitutionnalit.
2. La dcision rendue par le Tribunal constitutionnel simpose lorgane judiciaire qui la saisi. Cependant, dans ce cas est exclu le principe de non applicabilit provisoire des verdicts de dboutement interprtatifs, prvu larticle 8.2 de la prsente loi et qui simpose lorgane judiciaire, afin quil puisse statuer sur la cause principale.

Article 58

1. Les décisions déboutant l'inconstitutionnalité allègue produisent les mêmes effets que ceux produits par les décisions rendues lors d'un recours direct.
2. Les décisions déclarant l'institutionnalité partielle ou totale des règles d'ordre prennent effet la date de la publication au Bulletin officiel de la Principauté d'Andorre. Sauf dans les cas d'application rétroactive favorable, les effets en cours produits par ces règles avant leur annulation subsistent tant que de nouvelles règles ne sont pas créées pour réglementer les situations juridiques préexistantes.

Chapitre III

La procédure préalable de contrôle de la constitutionnalité des traités internationaux

Article 59

Les traités internationaux approuvés par le Consell général ou conclus par le Gouvernement conformément aux dispositions de l'article 64 de la Constitution, peuvent faire l'objet d'un contrôle de constitutionnalité si la demande est faite soit par un ou des deux Co-princes, soit par un cinquième des membres de droit du Consell général, soit par le chef du Gouvernement.

Article 60

1. La procédure est introduite par un document de demande dédié à la constitutionnalité. Ce document doit être présenté au Tribunal constitutionnel avec les formalités exigées par l'article 36 de cette loi, dans le délai commun compris entre le huitième et le quinzième jour que la Constitution octroie aux Co-princes pour manifester le consentement de l'Etat.
2. Le dépôt du document au Tribunal constitutionnel interrompt la ratification du traité jusqu'à ce que le Tribunal émette son avis, avec les effets prévus par l'article 62 de cette loi.

Article 61

1. Une fois le document admis, le Tribunal constitutionnel l'ordonne la procédure préférentielle et le transmet au Consell général ou au Gouvernement, selon que le traité devant être contrôlé fasse partie de ceux compris dans l'alinea 1 de l'article 64 ou dans l'alinea 2 de l'article 64 de la Constitution, pour qu'ils comparaissent et répondent dans un délai maximum de dix jours ouvrables.
2. Le magistrat rapporteur doit réunir tous les rapports et les documents estimés nécessaires à l'exposition de sa proposition dédiée et, en tout cas, les présenter au Tribunal réuni en session plénière dans les quinze jours ouvrables au plus tard compter de la date de dépôt du document de réponse. Le Tribunal met l'avis de constitutionnalité dans les trois jours suivant la présentation de la proposition.

Article 62

1. L'avis doit porter sur la conformité de la Constitution des clauses du traité qui ont été déclarées.
2. Si la décision rendue déclare l'institutionnalité, le traité ne peut pas être ratifié. Dans ce cas, le Tribunal signale les prescriptions constitutionnelles violées et le contenu de la possible réforme, au cas où la prévision du paragraphe deuxième, alinea 2 de l'article 101 de la Constitution serait applicable.

Chapitre IV

La procédure dédiée à la conformité des lois à la Constitution demandée par les co-princes

Article 63

Les prévisions et les attributions de compétence spécifiées par la Constitution aux articles 45.2, deuxième paragraphe, 46.1 e) et 98 b), en ce qui concerne l'avis préalable de constitutionnalité des lois, sont développées au moyen d'une seule procédure réglementée dans ce chapitre.

Article 64

Les lois approuvées par le Consell général nonces aux articles 45.1 g) et 63 de la Constitution peuvent être soumises par un ou par les deux Coprinces au contrôle constitutionnalité, moyennant un document conjoint ou individuel de demande devant le Tribunal constitutionnel.

Article 65

1. Le dépôt du document doit avoir lieu entre le huitième et le quinzième jour du délai prévu pour la sanction des lois conformément à l'article 45.2 de la Constitution et contenir les formalités de l'article 36 de cette loi.
2. Le dépôt du document de demande devant le Tribunal constitutionnel interrompt le délai de sanction.

Article 66

Une fois le document admis par le Tribunal constitutionnel la procédure suivante doit respecter les dispositions des articles 47 alinéas 2 et 3 et 48 de cette loi.

Article 67

1. L'avis rendu par le Tribunal constitutionnel, moyennant un arrêt, déclare la conformité ou la non-conformité, partielle ou totale de la loi à la Constitution selon les préoccupations faites dans le document de demande.
2. Si l'avis a été demandé par chacun des Coprinces de façon individuelle, le Tribunal doit statuer sur toutes et chacune des préoccupations des requérants en un document unique.
3. Une fois que l'avis a été approuvé, le Tribunal le signifie à tous les organes ayant participé à la procédure et en ordonne la publication au Bulletin officiel de la Principauté d'Andorre.

Article 68

1. Si la procédure a été introduite par un des Coprinces, une déclaration du Tribunal favorable à la constitutionnalité totale de la loi ne empêche pas le requérant de se refuser à sanctionner la loi, conformément aux dispositions de l'alinea 2 de l'article 45 de la Constitution.
2. Si la procédure a été introduite par les deux Coprinces, une déclaration du Tribunal également favorable à la constitutionnalité de la loi, entraîne la promulgation de celle-ci avec la sanction de l'un des Coprinces au moins.
3. Si le Tribunal déclare l'inconstitutionnalité partielle ou totale de la loi, la sanction de l'un ou de l'autre des Coprinces n'est pas recevable, sans préjudice des dispositions de l'alinea ci-après.
4. Dans le cas d'inconstitutionnalité partielle de la loi, le reste des prescriptions sont prises comme valables. Le Consell général peut réclamer la sanction des Coprinces pour les prescriptions valables afin de les publier en tant que loi.

Chapitre V

Les conflits de compétences entre les organes constitutionnels de l'Etat

Section 1

Les conflits de compétences constitutionnelles entre le Consell général, le Gouvernement et les Comuns, ou entre ces derniers entre eux

Article 69

1. Si les actes, les résolutions ou les dispositions normatives du Consell général ou du Gouvernement envahissent le domaine de compétence réservé aux Comuns par la Constitution ou si les Comuns exercent des compétences réservées au Consell général, au Gouvernement ou à un autre Comté, les organes peuvent introduire un conflit de compétences devant le Tribunal constitutionnel.

2. L'introduction du conflit est également recevable lorsque le défaut d'exercice d'une compétence d'un organe général de l'Etat ou d'un Comté empêche, entrave ou porte atteinte à un autre organe dans l'exercice d'une compétence lui étant propre, ou viole un droit subjectif des particuliers.
3. Dans le cas où la limite une compétence est attribuée par une loi du Conseil général ou un décret législatif du Gouvernement, le conflit est instruit au moyen du recours constitutionnal au Chapitre II du Titre IV de la présente loi avec toutes ses dispositions, y compris celles qui concernent la légitimation active.

Article 70

Dans le but de déterminer la nature constitutionnelle des compétences en litige et leur résolution, le Tribunal met en application outre les prévisions constitutionnelles les dispositions de la loi ou des lois qualifiées qui délimitent les compétences des Comuns, définissent leurs facultés économiques et fiscales et assurent les apports de l'Etat au budget communal.

Article 71

1. À l'exception de l'hypothèse prévue à l'article 69.3 de la présente loi, l'organe concerné par la plainte, la résolution ou la disposition doit, avant d'introduire le conflit devant le Tribunal constitutionnel, sommer son titulaire de suspendre l'activité présumée envahissante, ou annuler cette résolution ou cette disposition.
2. Cette sommation doit être faite dans un délai de quinze jours ouvrables compter de la date de notification ou de la connaissance de la plainte, de la résolution ou de la disposition. Si l'organe sommé ne se prononce pas dans les quinze jours ouvrables suivants, la prétention est présumée rejetée.

Article 72

1. Le conflit de compétences est introduit par le dépôt d'un document de demande au Tribunal constitutionnel dans un délai de vingt jours ouvrables compter de la notification du rejet express de la sommation ou du délai de rejet tacite.
2. En plus des conditions générales prévues à l'article 36 de la présente loi, le document doit contenir les pièces justificatives de la sommation effectuée d'après les termes non pas de l'article précédent et contenir la demande expresse, le cas échéant que l'exercice de la compétence contestée soit suspendu par le Tribunal.

Article 73

Le Tribunal constitutionnel, en outre des causes générales, peut ne pas admettre le document de demande, pour les raisons suivantes:

- a. estimer que la compétence en litige n'est pas de nature constitutionnelle;
- b. le conflit doit être instruit par des voies de procédure différentes;
- c. une décision relative cette même compétence a déjà été rendue.

Article 74

1. Le Tribunal, après avoir admis le document de demande et après avoir reçu la réponse, prend la décision en ce qui concerne la suspension des effets de la plainte, de la résolution ou de la disposition contestées, moyennant un arrêt et conformément aux règles générales.
2. En tout cas, il est opportun de déclarer la suspension de ces effets lorsque leur maintien pourrait causer l'autre partie des préjudices difficiles à souder ou irreparables, ou lorsque l'exercice de la compétence fait susceptible de sachevoir au cours du procès sans suites ultérieures entraînant ainsi la disparition de l'objet du litige.

Article 75

La décision attribue la compétence litigieuse à l'une des parties, en déterminant la matière et la fonction qu'elle renferme et se prononce sur la validité des actes juridiques effectués à la suite de l'exercice de cette compétence. Le cas échéant, les responsabilités pour dommages sont exigibles devant la juridiction ordinaire.

Article 76

1. Lorsque le demandeur est un des organes publics prcis les conflits issus du non exercice des compétences sont traités conformément ce qui est tabli dans cette section.
2. Le document de demande doit réclamer l'autre organe l'exercice de la compétence. Quant au reste les mêmes règles sont appliquées.
3. Le document de demande doit signaler le lien causal entre l'inexécution de compétence allégée et l'impossibilité d'exercer la compétence particulière. Quant au reste les mêmes règles sont appliquées.
4. Lorsque l'organe requis pour l'inexécution de compétence est un Comité, le Tribunal tient compte, en plus de la Constitution et des lois qualifiées spécifiques à l'article 70 de la présente loi, des lois qui auraient transférées aux paroisses des compétences dont l'Etat est titulaire.
5. La décision attribue la compétence et en ordonne l'exercice, tout en prenant les mesures nécessaires pour être exécutée.

Article 77

Lorsque le demandeur est un particulier le conflit se poursuit conformément aux dispositions relatives aux conflits négatifs de compétences énoncées dans la section ci-après.

Section 2

Les conflits de compétences entre les Coprinces, le Conseil général, le Conseil supérieur de la Justice et le Gouvernement

Article 78

1. Le conflit positif de compétences ou d'attributions entre les organes généraux de l'Etat est porté devant le Tribunal constitutionnel lorsque l'un des organes estime qu'un autre envoie le domaine des compétences lui étant reconnus par la Constitution. Les Coprinces, le Conseil général, le Conseil supérieur de la Justice et le Gouvernement sont légitimes pour introduire ce conflit positif de compétences.
2. Un conflit négatif de compétences ou d'attributions peut être introduit pour le non-exercice des compétences par un des organes susvisés. La légitimation active appartient aux organes précis et aux personnes physiques et juridiques agissant en défense d'un droit subjectif particulier.

Article 79

Le conflit positif de compétences suit la procédure conformément aux dispositions des articles 69 et 71 à 75 de la présente loi.

Article 80

1. Tout organe constitutionnel cité dans cette section peut demander à l'autre d'exercer une attribution ou une compétence lui étant assignées par la Constitution.
2. L'inexécution par les organes concernés des attributions constitutionnelles exigeant une forme expresse par la Constitution ou par une loi qualifiée et imposant un devoir de faire, qui entraîne un préjudice pour l'intérêt général ou le fonctionnement normal des institutions de l'Etat, est susceptible de sommation.
3. Sans préjudice de la responsabilité politique qui en découlerait, ce genre de sommation n'est jamais applicable à l'inexécution des facultés discrétionnaires ni de celles exigeant une réglementation par loi ou décret législatif.

Article 81

Le cas chant, les dispositions de la section 1 de ce Chapitre et, en particulier des articles 71, 72 et 76 - pour ce dernier les alinás 1,2 et 5 - sont applicables au conflit ngatif form par les organes constitutionnels de rfrence.

Article 82

1. Lorsquune personne physique ou juridique dpose une prtentio fonde sur lexistence dun droit subjectif particulier devant un des organes susvis et, si celui-ci dcline sa compétence parce quil estime quelle correspond un autre organe, elle adresse ce dernier pour rirer la mme prtentio dans un dlat maximum de quinze jours ouvrables compter de la date de notification de l'accord. Au cas o le second organe se dclare incomptent le demandeur peut introduire le conflit ngatif de compétence devant le Tribunal constitutionnel.
2. La compétence ne peut pas tre dclina par le silence. Si aucune rponse nest donne par l'organe somm un mois aprs la presentation de la demande nonce lalin ci-dessus il est prsum quil estime tre titulaire de la compétence et par son exercice il peut reconnatre ou dbouter le droit subjectif algu. Le silence n'empche pas le recours juridictionnel ordinaire contre l'organe ayant admis la compétence de faon tacite.

Article 83

Le conflit doit tre introduit au Tribunal dans un dlat de quinze jours ouvrables partir de la date de notification de l'accord ngatif du second des organes spcifis l'article prcdent moyennant un document contenant les conditions gnrales exigies par l'article 36 de la prsente loi et la documentation faisant foi de lexecution des demandes cites l'article prcdent.

Article 84

Ce procs est instruit conformment aux dispositions des articles 69 et 70 75 de cette loi. La dcision du Tribunal constitutionnel attribue la compétence lun des organes somms, permettant de renouveler devant cet organe lexpos des prtentios ayant lieu en droit, sans prjudice de pouvoir exiger les responsabilits pour dommages devant la juridiction ordinaire.

Chapitre VI

Le recours dempara

Article 85

Par le recours dempara, le Tribunal constitutionnel garantit, en tant qu'instance juridictionnelle suprieure, les droits reconnus aux Chapitres III et IV du Titre II de la Constitution, except le droit nonc l'article 22 de celle-ci.

Article 86

A lexception des cas prcis aux articles 95 et 96 de cette loi, le recours dempara est form contre les verdicts de dboutement de la demande rendus en dernire instance par la juridiction ordinaire au cours de la procédure urgente et prfentielle prvue l'article 41.1 de la Constitution.

Article 87

1. Sont lgitims pour former le recours dempara les demandeurs ou les intervenants dans la procédure susvis l'article prcdent.

2. Sont parties dfenderesses et intervenantes au recours dempara celles qui auraient eu cette mme condition lors de l'instance prcdente.

Article 88

1. Le recours dempara est introduit au moyen dun document dans un dlat de quinze jours ouvrables compter de la date de notification de la dcision conteste, conformtement aux conditions gnrales exigies l'article 36 de cette loi. Lannulation de cette dcision est demande ainsi que, le cas chant, la suspension de ses effets et en rirant la prtection de la protection juridictionnelle du droit, dont la lsion est prsente dans les mmes termes noncs l'instance cte.

2. Il nest admis aucun recours dempara modifiant la teneur de la prtection de la protection du droit ou des droits prsente lors de la procédure urgente et

prfrentielle prcite.

Article 89

1. Une fois que le document prcit a t prsent, le Tribunal constitutionnel requiert la dcision faisant lobjet de lappel lorgane juridictionnel pour quil lui transfre la cause dans un dlat de trois jours ouvrables et dsigne un magistrat rapporteur.
2. A la vue des actions, le Tribunal prend sa dcision, moyennant un arrt sur la recevabilit du recours. Le recours de duplica nonc larticle 38 de cette loi peut tre interjet contre larrt dirrecevabilit.

Article 90

1. Une fois le recours admis et, le cas chant, la dcision sur la suspension des effets du jugement objet du recours rendu, le Tribunal en fait le transfert la partie dfenderesse et ses intervenants et au Ministre public pour quils fassent les allégations pertinentes dans un dlat maximum de quinze jours ouvrables.
2. Une fois les allégations reues, les parties et le Ministre public ont un dlat de six jours ouvrables pour produire leurs conclusions.

Article 91

1. Sans prjudice des dispositions de larticle 35.2 de la prsente loi le Tribunal estime que sont des faits prouvs ceux qui sont spcifis en tant que tels dans la cause objet du recours.
2. Le Tribunal statue dans les deux mois compter de la date dadmission du recours.

Article 92

1. Le recours peut faire lobjet dune acceptation totale ou partielle.
2. Une acceptation totale entrane lannulation du jugement objet du recours et de tous ses effets et la dclaration de latteinte porte un droit constitutionnel, et lappelant est rtabli dans son droit par ladoption des mesures necessaires cet effet. Si latteinte est matriellement irparable, le Tribunal dtermine le genre de responsabilit encourue par le sujet ayant viol le droit pour la rclamer devant la juridiction ordinaire.
3. Lacception partielle a lieu lorsque le Tribunal considre valables un ou plusieurs des prononcs contenus dans le jugement objet du recours. En ce qui concerne le droit ls, les conditions nonces lalina prcdent sont ici aussi applicables.
4. Le dboutement du recours dempara entrane la condamnation aux dpens de lappelant.

Article 93

Sans prjudice des dispositions de larticle suivant, les jugements rendus par la juridiction ordinaire dans toutes les autres procédures ne sont pas visibles par le Tribunal constitutionnel et ils ont la autorit de la chose juge conformément aux lois de procédure.

Article 94

1. Si un des droits noncs larticle 10 de la Constitution a t ls au cours ou en raison dune procédure judiciaire ou prjudiciaire, le sujet titulaire du droit ls doit alligner cette lsion pour le dfendre devant lorgane ordinaire grce aux moyens et au recours prvis par la loi.
2. Une fois que la voie judiciaire ordinaire pour la dfense du droit constitutionnel ls a t puise sans succs, le sujet peut sadresser dans un dlat de six jours ouvrables partir de la date de la notification du dernier jugement de dboutement, au Ministre public moyennant un document lui demandant dinterjeter un recours dempara. Doivent y tre jointes une copie des actions menes terme pour la dfense du droit et une copie des jugements rendus sur les procédures correspondantes.
3. Le Ministre public doit prendre la dcision dans les six jours ouvrables suivants au cas o, conformment larticle 102 de la Constitution, linterjection du recours

serait recevable. Cette dcision nadmet pas de recours.

4. Si la dcision est positive ou estimatoire, le recours dempara doit tre interjet dans un dlat de vingt jours ouvrables compter du dernier jugement de dboutement. Dans l'introduction et l'instruction sont codemandeurs le Ministre public et le sujet concern par le droit constitutionnel en cause. La procire qui doit suivre est soumise aux dispositions des articles 91 et 93 de la prsente loi.

Article 95

1. Les dispositions, les rsolutions et les actes du Conseil general ayant pas force de loi et qui portent atteinte aux droits spcifis par l'article 85 de la prsente loi peuvent tre contestes par les sujets concern moyennant un recours dempara.
2. Les introductions du document de contestation et du recours dempara doivent tre produites dans les quinze jours ouvrables compter de la date de la notification ou, le cas chant, de publication de la disposition, de la rsolution ou de l'acte et ce conformment aux conditions gnrales de l'article 36 de la prsente loi.

Article 96

1. L'admission ou l'inadmission d'une diligence par le Tribunal est soumise aux rgles gnrales du recours dempara spcifies dans ce Chapitre.
2. La contestation des actes, des rsolutions et des dispositions du Conseil general comprend, le cas chant, la procire relative la rception de la preuve.
3. La dcision qui met fin la procire doit accepter ou dbouter la prtention avec les jugements gnraux rendus. Ces derniers sont prvus l'article 94.2 de cette loi.

Disposition additionnelle

Les prescriptions qui rglement les procs juridictionnels ordinaires sont d'application suppltive pour les procires et les procs rglements par la prsente loi.

Disposition transitoire premire

1. Aprs la nomination des quatre premiers magistrats constitutionnels, conformement aux dispositions de la Constitution et de la prsente loi, la session constitutive doit tre convoqu par le Sindic gnral et preside par le magistrat le plus g dans les quinze jours suivant la publication de toutes les nominations.
2. Au cours de cette session, un tirage au sort est effectu pour dterminer la nomination du prsident du Tribunal et l'ordre de succession la prsidence, conformement la Constitution. A cet effet, chaque magistrat tire au sort une des boules, numrotes de 1 4, dposes auparavant dans une bourse. Le numro obtenu par chacun des magistrats dcide l'ordre successif de prsidence, selon l'origine de la nomination.
3. Les magistrats ayant tir les numros 1 et 2 sont proclams prsident et vice-prsident.

Disposition transitoire deuxime

1. Les magistrats lus pour le premier mandat du Tribunal constitutionnel ayant obtenu les numros 2, 3 et 4 au tirage au sort prcit, cessent leur mandat aprs l'avoir exerc pendant six, quatre et deux ans respectivement en exction des prvisions constitutionnelles concernant le roulement des charges.
2. Les magistrats ayant accompli deux et quatre ans de mandat peuvent tre dsigns pour le mandat consutif suivant.
3. Aux effets du roulement indiqu et de llection du successeur, le Conseil general tient compte du numro obtenu par les magistrats dsigns par ce dernier, de sorte que, dans le fonctionnement interne du Tribunal le magistrat occupe la place correspondante lors de chaque nouvelle lection.

Disposition transitoire troisiime

Sans prjudice de leur affectation dfinitive au rgime gnral des fonctionnaires de l'administration, les premires dsignation et nomination des titulaires des postes

Bosnia and Herzegovina

Constitutional Court

1. Composition

The Constitutional Court of Bosnia and Herzegovina shall have nine members.

(a) Four members shall be selected by the House of Representatives of the Federation, and two members by the Assembly of the Republika Srpska. The remaining three members shall be selected by the President of the European Court of Human Rights after consultation with the Presidency.

(b) Judges shall be distinguished jurists of high moral standing. Any eligible voter so qualified may serve as a judge of the Constitutional Court. The judges selected by the President of the European Court of Human Rights shall not be citizens of Bosnia and Herzegovina or of any neighboring state.

(c) The term of judges initially appointed shall be five years, unless they resign or are removed for cause by consensus of the other judges. Judges initially appointed shall not be eligible for reappointment. Judges subsequently appointed shall serve until age 70, unless they resign or are removed for cause by consensus of the other judges.

(d) For appointments made more than five years after the initial appointment of judges, the Parliamentary Assembly may provide by law for a different method of selection of the three judges selected by the President of the European Court of Human Rights.

2. Procedures

(a) A majority of all members of the Court shall constitute a quorum.

(b) The Court shall adopt its own rules of court by a majority of all members. It shall hold public proceedings and shall issue reasons for its decisions, which shall be published.

3. Jurisdiction

The Constitutional Court shall uphold this Constitution.

(a) The Constitutional Court shall have exclusive jurisdiction to decide any dispute that arises under this Constitution between the Entities or between Bosnia and Herzegovina and an Entity or Entities, or between institutions of Bosnia and Herzegovina, including but not limited to:

- Whether an Entity's decision to establish a special parallel relationship with a neighboring state is consistent with this Constitution, including provisions concerning the sovereignty and territorial integrity of Bosnia and Herzegovina.

- Whether any provision of an Entity's constitution or law is consistent with this Constitution.

Disputes may be referred only by a member of the Presidency, by the Chair of the Council of Ministers, by the Chair or a Deputy Chair of either chamber of the Parliamentary Assembly, by one-fourth of the members of either chamber of the Parliamentary Assembly, or by one-fourth of either chamber of a legislature of an Entity.

(b) The Constitutional Court shall also have appellate jurisdiction over issues under this Constitution arising out of a judgment of any other court in Bosnia and Herzegovina.

(c) The Constitutional Court shall have jurisdiction over issues referred by any court in Bosnia and Herzegovina concerning whether a law, on whose validity its decision depends, is compatible with this Constitution, with the European Convention for Human Rights and Fundamental Freedoms and its Protocols, or with the laws of Bosnia and Herzegovina; or concerning the existence of or the scope of a general rule of public international law pertinent to the court's decision.

4. Decisions

Decisions of the Constitutional Court shall be final and binding.

Rules of Procedure

Having regard to Article VI.2 (b) of the Constitution of Bosnia and Herzegovina, at its session held on 5 November 1999, the Constitutional Court of Bosnia and Herzegovina has established the purified text of the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No. 2/97, 16/99 and 20/99).

RULES OF PROCEDURE OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA

Amended Text

I GENERAL PROVISIONS

Article 1

These Rules of Procedure shall regulate, pursuant to the Constitution of Bosnia and Herzegovina (hereinafter: the Constitution) the organization of the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Court), the proceedings before the Court and the legal character of its acts.

Article 2

The Court shall exercise its rights and obligations in accordance with the Constitution, these Rules of Procedure and other acts.

The Court shall be independent of all State authorities.

The Court shall organize its work and carry out its activities on the basis of the principle of financial independence.

Article 3

The seat of the Court shall be Sarajevo.

Article 4

The Court shall have its seal and other symbols in accordance with the regulations of Bosnia and Herzegovina.

Article 5

Equal use of the languages and alphabets of the peoples of Bosnia and Herzegovina shall be applied in the work of the Court.

II GENERAL RULES OF PROCEEDINGS

Article 6

The Court in session decides by a majority of votes of all members of the Court.

Article 7

The work of the Court shall be public.

Proceedings before the Court shall be made public:

1. by informing the public of the preparations and holding of sessions of the Court as well as of public hearings before the Court;
2. by providing information about the course of the proceedings;
3. by allowing the participants in the proceedings and other interested persons to inspect and get copies of the documents from the files in cases the Court is deciding on and by allowing them to be present at the sessions of the Court from which the public is not excluded under these Rules of Procedure;
4. by publishing the adopted decisions;
5. by publishing the Court's Bulletin in which the more important decisions, rulings and other acts shall be published;
6. in any other way regulated by the Court.

Article 8

The proceedings of working sessions of the Court, including deliberation and voting, are not public.

The public shall also be excluded when the Court hears and decides upon issues which are confidential according to the law, when this is required by reasons relating to the protection of morality, public order, state security, the right to privacy or personal rights.

The participants in the proceedings cannot be excluded on the basis of the previous paragraph.

Article 9

Information on sessions and public hearings of the Court (time, place and agenda) shall be announced on the notice board of the Court.

Information referred to in the previous paragraph may be announced in the media, when it is of special importance for the public.

Article 10

In proceedings before the Court, the official languages which are indicated in Article 5 of these Rules of Procedure shall be used. The Court may allow the use of another language upon the request of a participant in the proceedings who belongs to another people.

The Court shall provide the conditions for everyone to exercise his or her right in accordance with the previous paragraph.

1) Participants in the Proceedings

Article 11

The participants in the proceedings shall be:

- a) initiators of disputes referred to in Article VI.3 (a) of the Constitution and the adopters of the acts which are the subject of the dispute;
- b) the parties to the proceedings which ended in a decision challenged by the appeal as well as the court which rendered the appealed decision (Article VI.3 (b) of the Constitution of Bosnia and Herzegovina);
- c) the chair of the House of Peoples, in case of a dispute according to Article IV.3 (f) of the Constitution;
- d) the court which referred the issue to the Court and the adopter of the law on whose validity the court's decision depends (Article VI.3 (c) of the Constitution).

On a specific issue, the Court shall determine other participants in the proceedings according to the principle of an adversarial procedure.

The Court may examine an appeal only if all legal remedies which are available under the laws of the Entities against the judgment challenged by the appeal have been exhausted and if it is filed within a time limit of 60 days from the date on which the appellant received the final decision.

Article 12

The Court shall decide only on those appeals that were put on the list of cases for decision.

This list shall be determined by the President and the Vice-Presidents of the Court by majority vote; the President shall have the casting vote in case of a tie.

An appeal shall not be put on the case-list referred to in the previous paragraph of this Article in any of the following cases:

1. if the appeal is anonymous;
2. if the appellant has withdrawn his appeal;
3. if the time-limit for filing the appeal has not been respected;
4. if the appeal was submitted by an unauthorized person;
5. if the Court has already decided on the same matter;
6. if the appeal is manifestly ill-founded (*prima facie*).

Upon reviewing the appeals not put on the case-list, the Court may decide to put them on the list.

Where appropriate, appeals included in the list may be removed from the list by the same procedure, and if removed or originally not included in the list, they may be returned or included in the list.

In the cases referred to in paragraph 3 of this Article, the Court shall decide by rulings, and the appellant shall be informed in writing about the reasons why the

appeal was not included in the case-list.

2) Rules of Proceedings

Article 13

Requests for institution of proceedings before the Court shall be delivered by mail or be brought directly before the Court.

Submissions referred to in the previous paragraph shall be deemed to have been received on the day of their receipt in the Court or on the day of delivery by registered mail.

Article 14

A request for institution of proceedings according to Article VI.3 (a) of the Constitution has to contain:

- the title of the disputed act with the title and number of the official gazette in which it was published;
- the provisions of the Constitution which are deemed to have been violated;
- assertions, facts and evidence on which the request is founded;
- the signature of an authorized person (verified with the seal of the applicant).

An appeal according to Article VI.3 (b) of the Constitution has to contain:

- the judgment of a court in Bosnia and Herzegovina;
- the provisions of the Constitution deemed to have been violated;
- assertions, facts and evidence on which the appeal is founded;
- the signature of the appellant.

A request according to Article VI.3 (c) of the Constitution has to contain:

- a specification of the law the review of whose compatibility is requested, with reference to the official gazette in which the law was published;
- a specification of the provisions of the Constitution, the European Convention on Human Rights and Fundamental Freedoms and its Protocols and the laws of Bosnia and Herzegovina in regard to which the compatibility issue arises or of the general rule of public international law whose existence or scope is pertinent to the courts decision;
- assertions, facts and evidence on which the request is founded;
- the signature of an authorized person certified with the seal of the applicant.

[B. Dj.1]

Article 15

When the Court reviews the procedural regularity of a proposed decision under Article IV.3 (f) of the Constitution, the ratified copy of the decision, with reasons given for the procedure, shall be enclosed with the request.

Article 16

The Court shall submit the request for institution of proceedings or the appeal to the adopter of the disputed act for the purpose of giving the latter the opportunity to respond or to submit documents [B. Dj.2].

The Court shall communicate the appeal to the other party in the proceedings leading to the decision challenged by the appeal, for the purpose of giving that party the opportunity to submit a reply.

A failure to submit a response shall not influence the course of the proceedings before the Court.

In case of rejecting of the appeal, the Court may adopt a decision without previously communicating the appeal to the other party, for the purpose of submitting a reply.

Article 17

The President of the Court and the judges shall be informed of requests for institution of proceedings or appeals.

A Judge rapporteur shall be designated for every case according to the order.

In view of the nature of the case, the Court may decide to apply an expedited procedure.

Article 18

The Judge rapporteur shall specify a deadline for submitting the replies to the allegations of the request or appeal.

Article 19

In case the request or appeal sent to the Court is incomplete or does not contain data indispensable for conducting the proceedings, the Judge rapporteur shall request the applicant to rectify the error within a specified period, which may be no longer than one month.

If the applicant fails to rectify the errors within the period, the request or appeal shall be rejected.

Article 20

Participants in the proceedings have the right to inspect the documents of the Court; this right may also be granted to other interested persons.

The request or appeal and the response to the request or appeal are sent to the participants in the proceedings.

Reports, draft decisions, draft rulings and other acts drawn up in preparation of the decision as well as documents designated as secret under Article 8 of these Rules of Procedure may not be inspected.

The inspection of the documents shall be approved by the Secretary General of the Court and shall be carried out in the official premises of the Court and in the presence of an authorized employee of the Court.

Article 21

Participants in the proceedings and other interested persons may request copies of the documents of the case except those which may not be made available for inspection under Article 20 paragraph 3 of these Rules of Procedure.

Persons referred to in the previous paragraph shall bear the expenses for the transcripts.

Making copies of documents of a case shall be approved by the Secretary of the Court and be carried out in the official premises of the Court.

Article 22

As a rule, the Court shall deliberate and decide on the case on the basis of a written report.

The report shall contain:

1. the designation or name of the applicant,
2. the date of submission,
3. relevant statements on the requests made,
4. the contested act or provisions,
5. the established facts and legal situation, as well as the disputed issues,
6. a conclusion drawn from the established facts and legal situation and an evaluation of the validity of the application based on this conclusion,
7. a proposal for the decision,
8. supplements of importance for the decision (an overview of relevant constitutional jurisprudence, relevant scientific and expert views, a copy of the provisions of relevant regulations, etc.).

The draft of the proposed decision shall be enclosed with the report.

Article 23

Information on the course of the proceedings before the Court shall be given by the President of the Court, the Judge rapporteur or the Secretary General of the Court.

Article 24

Acts of the Court, writs of summons etc. shall be submitted to the persons concerned by registered mail or directly with a delivery slip.

Article 25

When the Court, within its competence, receives several requests on the same matter, the Court shall, as a rule, conduct one set of proceedings and adopt one decision.

Requests as referred to in the previous paragraph shall not be combined if this would prolong the proceedings considerably.

Article 26

When taking a decision, the Court shall only examine whether the existence of those violations alleged in the request.

Article 27

The Court may only evaluate the constitutionality of general acts that are in force.

Article 28

The institutions of Bosnia and Herzegovina, those of the Entities, legal and natural persons and others have, upon the request of the Court, the duty to submit data and information necessary for the work of the Court and to take, upon the directive of the Court, actions in the interest of the conduct of the proceedings.

3) Court Sessions

Article 29

A session of the Court shall be held when required.

As a rule, sessions of the Court shall be held at the seat of the Court, but the Court may decide to hold the session outside the seat of the Court.

Article 30

Sessions of the Court shall be attended by the Secretary General of the Court and the experts who worked on the cases and, when needed, by others as determined by the Secretary General of the Court.

Article 31

The President of the Court shall convene sessions, propose the agenda and chair the sessions of the Court.

The President of the Court shall convene a session when:

1. the Court has decided to hold a session;
2. a judge of the Court requests a session in order to consider matters within the jurisdiction of the Court;
3. a working body of the Court requests a session to be held.

Judges of the Court may propose amendments to the sessions agenda.

The agenda of the session shall be determined by the Court.

Article 32

The summons for the session, the case-files and other materials to be discussed at the session shall be served on the judges no later than eight days prior to the day of the session.

Exceptionally, in urgent cases, the summons for the session, case-files and other materials to be discussed at the session may be served within a shorter period.

Article 33

When discussing a case on the agenda of the Courts session, the Judge rapporteur shall, prior to deliberation and voting, outline the legal issues which are relevant for the deliberation and decision, as well as the proposal for the decision.

The Judge rapporteur of the case may designate a legal advisor to give explanations on the case.

After the statements of the Judge rapporteur or the legal advisor, the floor shall be given to the judges in the order in which they request the floor.

The Secretary General of the Court and the professional employees of the Court may participate in deliberations during the session of the Court.

A judge who is prevented from attending the session may submit a written opinion on the case, which shall be read at the session in the course of the deliberations on that case.

Article 34

The Court may adjourn or discontinue the deliberations on a case in order to obtain new data and information or for other reasons.

Article 35

After the deliberations on the case have been concluded, the Court shall take a decision.

The decision shall be adopted by the majority of votes of all judges.

The voting shall be done by show of hands.

The Court may decide to adopt the decision by secret voting.

If several proposals were made on an issue, voting shall be done in the order in which the proposals were presented.

The proposal of the Judge rapporteur shall be considered the first proposal.

Article 36

Judges may not abstain from voting.

When a judge disagrees with the decision, he shall be entitled to deliver a separate opinion

The judge has the right and obligation to submit and give reasons for his separate opinion in written form no later than within fifteen days.

Separate opinions of the judges shall be attached to the minutes of the session and enclosed with the case which they relate to [B.3]; they shall be stated [B.4] in the decisions and rulings passed [B.5].

A separate opinion shall be attached to the decision as an annex. The decision shall be published in the Bulletin of the Court together with the separate opinion.

On [B. D.6] request of a [B. D.7] judge who delivered a separate opinion, the relevant reasons for the separate opinion shall, in an abridged manner proportionally to the volume of the opinion, be included [B. D.8] in the decision or the ruling of the Court.

Article 37

Only judges who participated in the hearing may participate in decisions [B. D.9] of the Court.

A session of the Court shall, as a rule, be adjourned if not at least one of the judges from each constituent people is present; the following session shall be held, however, in case the same situation occurs again without justified reason.

The provision in paragraph 2 of this Article shall not be applied in cases where the request is rejected [B. D.10] or the decision [B. D.11] does not affect the constituent people represented by the absent judge [B. D.12].

Article 38

Minutes shall be drawn up at the sessions of the Court.

The Court may decide to make the record [B. D.13] in shorthand or to record [B. D.14] the course of the session or a [B. D.15] part of the session by a tape-recorder [B. D.16]. In that case, the shorthand or taped record will be attached to the minutes and is considered to be [B. D.17] an integral part of it.

Article 39

The minutes of the Courts session shall contain:

1. the date of the session;
2. the names of present and absent judges;
3. the names of other persons present at the session;
4. the subject of discussion and decision-making;
5. the operative part [B. Dj.18] (dispozitiv [B. Dj.19]) of the decision;
6. the result of the voting [B. Dj.20] indicating which of the judges voted against the decision or which judge delivered a separate opinion [B. Dj.21];
7. other decisions taken on the occasion [B. Dj.22] of the hearing of the case.

A brief account of the hearing and the more important questions relevant to a decision [B. Dj.23] in the case shall be included in the minutes.

If the public was excluded from the session or parts of it, a statement on this fact shall be included in the minutes.

Article 40

The minutes of the Courts session shall be approved [B. Dj.24] at the next session of the Court.

The approved minutes shall be signed by the President or Vice-President of the Court, the Secretary [B. Dj.25] of the Court, the interpreter [B. Dj.26] and the recording secretary.

4) Public Hearing

Article 41

When, during the proceedings before the Court, an oral hearing of issues relevant to the decision becomes necessary, the Court shall hold a public hearing.

[B. Dj.27]

The Court shall decide on the need of holding a public hearing.

Article 42

The participants in the proceedings shall be summoned to the public hearing.

If necessary, the Court shall summon persons who may submit [B. Dj.28] expert opinions and statements relevant to the decision.

On [B. Dj.29] proposal of the Judge rapporteur, the Court shall decide which persons to summon according to the previous paragraph.

Article 43

The summons to the public hearing and the corresponding material shall be served no later than eight days prior to the public hearing.

Exceptionally, the material [B. Dj.30] for the public hearing may be served within a shorter period.

Article 44

The public hearing [B. Dj.31] shall be held at the seat of the Court.

For [B. Dj.32] special reasons, the Court may decide to hold the public hearing outside the seat of the Court.

Article 45

The absence of participants in the proceedings at the public hearing shall not prevent the Court from holding the public hearing and from adopting the decision.

Article 46

When necessary, the Court may adjourn or discontinue the public hearing in order to obtain necessary data and information or for other legitimate [B. Dj.33] reasons.

In the cases [B. Dj.34] referred to in the previous paragraph [B. Dj.35] the President of the Court shall inform the participants present and other summoned persons when [B. Dj.36] the public hearing shall be held or continued.

Article 47

The President of the Court shall open the public hearing and announce the subject of the hearing.

The Secretary [B. Dj.37] of the Court shall inform the Court about [B. Dj.38] the presence of the participants in the proceedings and of other persons summoned.

Article 48

At the public hearing, the Judge rapporteur shall outline the factual situation and the disputed legal issues insofar as they are relevant to the hearing [B.39], without stating his opinion [B.40] on the decision to be taken.

After the statement of the Judge rapporteur, the participants in the proceedings shall present and explain [B.41] their positions and shall give replies to the statements made at the hearing; other persons summoned shall present their opinions insofar as they are relevant to the elucidation of the factual situation.

Article 49

The President of the Court shall ensure the maintenance of peace and [B.42] order at the public hearing.

To that end he may:

- warn any person who disturbs the order,
- decide that a person who insults the Court or someone else or is guilty of any other abuse when speaking shall no longer be allowed to address the Court [B.43],
- remove from the public hearing any person who, although warned, continues to disturb the course of the public hearing.

Article 50

When the submissions [B.44] of the participants in the proceedings and other persons summoned are completed and there are no questions on the clarification of the factual situation, the President of the Court shall conclude the public hearing and inform the participants in the proceedings and other persons summoned about the time and manner of announcement of the Courts decision.

Article 51

The Court, as a rule, shall hold the session of deliberation and voting immediately upon the conclusion of the public hearing.

In the procedure of deliberation, the Judge rapporteur shall be the first to submit [B_45] his opinion and position on the case at issue.

After the completion of the statement of the Judge rapporteur, the judges of the Court shall present their opinions and positions in the order in which they request the floor.

After the completion of the deliberation, the voting shall take place.

The sessions of deliberation and voting shall be attended by the judges of the Court who participated in the hearing [B46].

Article 52

After completing the session of deliberation and voting, the President of the Court shall, as a rule, orally announce the decision of the Court, including its principal reasons [B47].

The decision of the Court shall be communicated to the participants in the proceedings within 30 days from the day of its adoption.

Article 53

Minutes shall be drawn up at the public hearing.

The minutes at the public hearing shall include data on the session of deliberation and voting.

If there was no shorthand or taped record at the public hearing, the minutes shall include a summary of the statements of the participants in the proceedings and the other persons present.

The written statement of the Judge rapporteur as well as the statements of the participants in the proceedings and other persons present, who may submit their written statements to the Court, shall be attached to the minutes of the public hearing.

5) Acts of the Court

Article 54

The Court shall adopt decisions and rulings.

Decisions shall be taken when the Court decides [B48] on the merits of a case brought before it under Article VI.3 of the Constitution and in cases referred to in Article IV.3 (f) of the Constitution.

On all other issues, the Court shall decide by rulings.

Article 55

The Court shall take the decision to reject a request at a session where only the judges and the persons responsible for the minutes are present. The Court shall take such a decision if it finds that:

1. it is not competent to decide;
2. the request was submitted by an unauthorized person;
3. lang='EN-US' style='font-size:10.0pt;mso-bidi-font-size:7.0pt;font-family:Arial'> the applicant did not rectify the errors[\[B. Dj.49\]](#) in the given period as requested;
4. the challenged general act is not in effect;
5. the issue in question was already decided by the Court, and it does not follow from the statements and evidence presented in the claim that there are grounds for a new decision.

The Court may take the decision referred to in the preceding paragraph even when the procedure described in Article 16 of the Rules of Procedure has not been executed.

Article 56

The Court shall take the decision to terminate[\[B. Dj.50\]](#) the procedure if in the course of the procedure:

1. the unconstitutionality of the challenged act has been removed;
2. the challenged general act ceased to be valid;
3. the applicant has withdrawn the request.

In case of a situation from[\[B51\]](#) [\[B52\]](#)item 3 in the preceding paragraph, the Court may resume the procedure if there is a manifest violation of the provisions of Article II of the Constitution.

Article 57

The Court shall take the[\[B53\]](#) decision to dismiss a[\[B54\]](#) request if it finds that the violation of the Constitution indicated in the request does not exist.

Article 58

The Court may adopt a partial decision if the request contains several issues and if the nature of the case makes it possible.

Article 59

When adopting a decision, the Court specifies its legal character (ex nunc, ex tunc).

In connection[\[B55\]](#) with the[\[B56\]](#) decision declaring an act incompatible according to Article VI.3 (a) or (c), the adopter of the act may be granted a period, not exceeding three months, within which to adapt it accordingly.

If the incompatibility was not eliminated within the set period, the Court shall, in a decision, declare that the incompatible provisions cease to be valid.

The incompatible provisions cease[\[B57\]](#) to be valid on the day on which[\[B58\]](#) the decision of the Court referred to in the previous paragraph was published[\[B59\]](#) [\[B60\]](#)in the Official Gazette of Bosnia and Herzegovina.

Article 60

The Court shall take the[\[B61\]](#) decision to dismiss an appeal as ill-founded if it finds that the case does not raise issues under the Constitution, i.e. if the appellants constitutional right for which the judgment is challenged has not been violated.

Article 61

If the Court finds that an appeal is well-founded, it may, depending on the nature of the rights and fundamental freedoms under the Constitution in question:

1. decide on the merits of the case and communicate the decision to the competent Entity authority for the securing of the appellants constitutional rights that have been violated.

The Court may decide on the merits only if a possibility was given to the other party to the proceedings to present its views under Article 16 paragraph 2 of the Rules of Procedure.

2. annul the challenged judgment and refer the case back to the court that adopted this judgment for a new examination if the case does not involve only constitutional issues but also requires the examination of other legal issues and facts upon which the evaluation of constitutionality depends.

The court whose judgment has been annulled is obliged to adopt another one, in the process of which it is bound by the legal understanding [B62] of the Court on the violation of constitutionally established rights and fundamental freedoms of the appellant.

The procedure referred to in the preceding paragraph is expedited.

If the court referred to in item 2 of this Article fails to act accordingly to the decision of the Court, the appellant may institute a new appeal within the time limit issued by [B. Dj.63] Article 11 paragraph 3 of these Rules of Procedure, in which case the Court shall decide on the merits of the case.

Article 62

Everyone whose right is violated by an individual act of last instance or which is final and [B64] founded on provisions which ceased to be valid in accordance with Article 59 of these Rules, shall have the right to request the competent organ to alter that individual act; the competent organ has to repeat the proceedings and adapt the act in accordance with the Courts decision.

Article 63

The request [B. Dj.65] to alter an individual act of last instance or which is final, [B66] according to the previous Article, [B. Dj.67] may be submitted within the [B. Dj.68] period of six months from the day on which the decision was published in the Official Gazette of Bosnia and Herzegovina, if [B. Dj.69] no more than five years have elapsed from the adoption of the act to the decision of the Court.

Article 64

Decisions and rulings shall contain an introduction, the operative part and the reasons of the Court.

The introduction shall in particular indicate the constitutional basis for taking the decision or ruling and the date on which the session of the Court was held.

The operative part [B. Dj.70] (dispositiv [B. Dj.71]) shall indicate the manner in which the matter was decided and the mode of announcement of the decision or ruling.

The reasons shall indicate the ascertained [B. Dj.72] factual situation and the legal reasons for the decision or ruling.

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Article 65

The Court may adopt a supplementary decision and ruling if not all relevant issues have been decided upon in the previous proceedings.

Article 66

The draft decision or draft ruling [B. Dj.73] of the Court shall be discussed [B. Dj.74] by the Court.

The professional and technical proofreading [B. Dj.75] of the text of the decision and [B. Dj.76] ruling shall be done [B. Dj.77] by the Editorial Commission.

The president of the Editorial Commission shall certify the final text of the decision or ruling by his signature.

Article 67

Exceptionally, the Editorial Commission, as well as the judges of the Court, may propose to the Court to review the [B. Dj.78] adopted decision or ruling.

A proposal to review a decision or ruling may be submitted until the decision or ruling is dispatched by the Court.

Article 68

At the request of interested participants or on its own initiative, the Court may alter its decision if new, legally relevant, facts emerge which require [B. Dj.79] an essentially different decision.

The interested participant must [B. Dj.80] submit the request to alter the decision of the Court not later than six months from the emergence of the new facts.

The decision of the Court cannot be altered if, after its adoption, more than five years have elapsed.

Article 69

The original of the decision or ruling shall be signed by the President and the Judge rapporteur; it shall be published only with the signature of the President.

Under original shall be understood the original of the decision of the Court, signed by the President and the Judge rapporteur [B. Dj.81].

The Secretary [B. Dj.82] of the Court shall certify a dispatch note of the decision or ruling.

Article 70

If the original of the decision or ruling contains technical errors or if the published text is not identical to the original, the Secretary [B. Dj.83] of the Court, on the basis of an authorization of the Court, shall make the correction [B. Dj.84].

The correction shall be submitted to the participants in the proceedings and shall be published in the same manner as the decision or ruling.

Article 71

The decisions of the Court shall be published in the Official Gazette of Bosnia and Herzegovina and in the official gazettes of the entities.

The Court may decide to publish rulings on issues of wider importance in the same way

In decisions and rulings published under paragraphs 1 and 2 of this Article, only initials shall figure instead of the first and last names of the appellant and of the other party to the proceedings referred to in Article 16 paragraph 2 of the Rules of Procedure.

Article 72

Every interested person or body may request the execution of a decision of the Court.

A request to undertake measures for the execution of the decisions of the Court shall be submitted to the Court.

The Court shall confirm [B. Dj.85] by a ruling that the decision has not been executed.

The ruling of the Court shall be submitted to the Council of Ministers of Bosnia and Herzegovina or to the government of the Entity for the purpose of execution.

Article 73

The execution of individual acts of last instance or which are final and [B. Dj.86] founded on provisions which have ceased to be valid in accordance with Article 59 of these Rules, can neither be ordered nor carried out and, in case the execution has begun, it shall be discontinued.

Article 74

If it appears that the consequences of the application of provisions which were declared incompatible, cannot be overcome by altering an individual act, the Court may, at the request of an interested person, decide that these consequences be set aside by restoration of a previously existing situation, by compensation for damage or in any other way.

7) Special Provisions

Article 75

The Court may, until the final decision has been made [B. Dj.87], fully or partially suspend the execution of decisions, laws (acts) or individual acts (temporary measures), if their execution may have detrimental consequences that cannot be overcome.

The Court shall revoke an interim measure when it has ascertained [B. Dj.88] that the reasons for which it was taken [B. Dj.89] have ceased to exist.

Article 76

If the summons, decisions or rulings of the Court may not be delivered to the participants in the procedure for any reason, except for the requests for reply referred to in Article 16 paragraph 2 of the Rules of Procedure, the delivery shall be effected by putting the summons, decision or ruling on the notice board of the Court.

The delivery shall be considered executed eight days after the summons, decision or ruling was put on the notice board of the Court.

Article 77

The Court shall decide in each individual case on any issue regarding the proceedings before the Court, [B. Dj.90] which is not regulated by these Rule [B. Dj.91]s.

III THE ORGANIZATION OF THE COURT

1) Rights and Obligations of the Court

Article 78

The Court, apart from performing the tasks in accordance with the provisions of the Constitution, shall decide on:

- the election of the President and Vice-Presidents;
- the status and immunity rights of the President and judges;
- the internal organization of the Court and the Service[\[B. Dj.92\]](#)s;
- the foundation of working bodies of the Court;
- status issues with regard to the Secretary[\[B. Dj.93\]](#) of the Court and the advisors of the Court;
- the working schedule of the Court and its execution;
- the financial needs of the Court;
- other issues within the competence of the Court.

In the exercise of its financial independence, the Court shall:

- draw up a draft budget required for the performance of the Courts judicial tasks and submit it to the Presidency of Bosnia and Herzegovina for the purpose of having it included in the draft budget referred to in Article VIII of the Constitution;
- adopt a financial plan for the Court which sets out the expected revenues and expenditures for the current year;
- decide on the use of donations and other sources of revenues.

Article 79

The sessions of the Court at which issues according to[\[B. Dj.94\]](#) Article 78 of these Rules of Procedure are decided, shall be attended, apart from the President and the judges, by the Secretary[\[B. Dj.95\]](#) of the Court, and, if necessary, by other professional employees as determined by the Secreta[\[B. Dj.96\]](#)ry.

Article 80

The Court shall cooperate with other constitutional courts.

The Court may organize meetings and conferences and participate in meetings and conferences where issues of interest for the work of the Court are discussed.

2) The President of the Court and the Judges

Article 81

The Court shall elect the President and Vice-Presidents of the Court among the judges.

Article 82

The President of the Court shall be elected by the Court by secret voting; he is elected if he receives the majority of votes of all judges.

If in the first round of voting none of the candidates receives the majority of votes, the voting shall be repeated with the two candidates who got the largest number of votes. The candidate is elected who receives the largest number of votes in the second round.

If none of the candidates received the majority of otes in the second round of voting, lots shall be drawn.

Article 83

The President of the Court shall be elected by rotation among the judges elected by the legislative organs of the Entities of Bosnia and Herzegovina.

Article 84

The mandate of the President of the Court shall last for 20 months and shall commence upon election.

Article 85

The President of the Court shall organize and supervise the activities of the Court, convene and chair the sessions and public hearings, represent the Court, sign the decisions of the Court, be responsible for the cooperation with other institutions, pass individual acts, and carry out other duties specified in these Rules[\[B. Dj.97\]](#) and other acts of the Court.

Article 86

The Court, at the same session at which the President of the Court is elected, shall elect three Vice-Presidents of the Court.

The Vice-Presidents of the Court shall be elected from among all judges.

The President of the Court and the Vice-Presidents of the Court may not, at the same time, belong to the same people.

The mandate of the Vice-President[\[B. Dj.98\]](#) of the Court shall be the same as that of the President of the Court.

Voting for the Vice-Presidents shall take place[\[B. Dj.99\]](#) in the same manner as for the President of the Court.

Article 87

In case that he is absent or otherwise prevented, the President of the Court shall be represented by the Vice-President whom the President of the Court designates.

In case the President of the Court is not able to designate a vice-president to represent him, the Court determines which of the elected vice-presidents shall represent the President of the Court in the sense of the previous paragraph.

Article 88

The judges shall have the right and obligation to participate in the work and adoption of decisions[\[B. Dj.100\]](#) of the Court and its working bodies whose members they are.

The judges living outside the seat of the Court work[\[B. Dj.101\]](#) in offices established at the place of their residence. These offices shall be equipped with the necessary material-technical[\[B. Dj.102\]](#) resources; the indispensable personnel shall work in it.

Article 89

The President of the Court or a judge shall not participate in the work and decision-making in a case initiated in the Court or brought to the Court on appeal if:

- he or she has a personal interest in the case;

- he or she was involved in the making of an enactment which is the subject of the dispute as a judge, a party in the proceedings or a representative of a party, or of a decision which is the subject of an appeal, or in the creation of a law whose compatibility with the Constitution is being challenged (Article VI.3 of the Constitution), or in dealing with a proposed parliamentary decision whose procedural regularity is the subject of review (Article VI.3(f) of the Constitution); or [\[B. Dj.103\]](#);

- there are other circumstances which create doubts about his or her impartiality.

The judge whose non-participation is being decided upon may give a reply to the proposal for non-participation.

The decision on non-participation referred to in the preceding paragraph shall be taken by a majority of all judges, upon the proposal of the President of the Court or a judge.

Article 90

The judges shall carry out the functions of a judge conscientiously.

The judges shall uphold the reputation and dignity of the Court and the reputation and dignity of a judge.

Article 91

The judges of the Court shall have the right to propose specific [\[B. Dj.104\]](#) issues for consideration at the sessions of the Court.

Article 92

The judges of the Court shall have the right to be regularly informed about all issues of importance for the carrying out of the functions of the Court.

The President and the Secretary [\[B. Dj.105\]](#) of the Court shall be responsible for keeping the judges informed [\[B. Dj.106\]](#).

Article 93

The position of a judge is incompatible with:

- membership of a political party or a political organization in Bosnia and Herzegovina,
- membership of a legislative, executive and other judicial authority in Bosnia and Herzegovina or the Entities,
- any other position which could influence the impartiality of the Court [\[B. Dj.107\]](#).

Article 94

The judges, in performance of their function, are entitled to immunity.

Issues of immunity of the judges shall be regulated by a special act adopted by the Court.

Article 95

A judge may be dismissed from the function of a judge before the mandate has expired, in the following cases:

- if he requests his dismissal;
- if he is sentenced to prison [\[B108\]](#);

- if he permanently loses the ability to carry out his function;
- if the circumstances indicated in Article 93 of these Rules of Procedure occur;
- if he fails to perform the function of a judge in accordance with Article 90 of the Rules of Procedure.

The Court shall ascertain [B. Dj.109] the existence of reasons according to the previous paragraph, dismiss the judge on the basis of consensus of the other judges and inform the organ which elected that judge.

Article 96

The Court shall issue an official identity card to the President and judges.

The form and the mode of issuance of the official identity card shall be prescribed by the Court.

Article 97

The President and judges shall wear official attire at public hearings.

3) Working bodies of the Court

Article 98

The work of the Court shall be [B. Dj.110] carried out in both [B. Dj.111] permanent and ad hoc commissions and other bodies of the Court.

Permanent Commissions shall be:

- the Editorial Commission,
- the Commission for Administrative Affairs,
- the Commission for Publications and Information of the Court,
- the Commission for Electronic Equipment of the Court and Information Systems.

Ad hoc commissions shall be established for drafting general acts, expert documents, analyses and for other issues.

Article 99

The Editorial Commission shall designate the board for proofreading [B. Dj.112] of the texts of decisions, rulings and other texts of the Court.

Article 100

The Commission for Administrative Affairs shall supervise and analyze the organization of the work of the Court, prepare the proposal for the budget and final account, make proposals and deliver opinions for resolving other issues relating to the judges, the Secretary [B113] of the Court and professional employees who are appointed and dismissed by the Court.

Article 101

The Commission for Publications and Information of the Court shall publish the Bulletin and other publications of the Court, prepare [B. Dj.114] the appropriate professional literature as well as articles on the work of constitutional courts in the media, scientific and professional publications and shall decide on the purchase of professional literature.

Article 102

The Commission for Electronic Equipment and Information Systems [B. Dj. 115] of the Court shall be responsible for the use and improvement of the information system, for the carrying out of the development program, and for inclusion [B. Dj. 116] of the system into information networks in the country and abroad.

Article 103

A permanent commission shall consist of the [B. Dj. 117] president and, as a rule, three members.

The president and one member shall mandatorily be elected among the judges.

The commission, whenever required, shall elect a secretary.

The President and the members of permanent commissions shall be elected for two years. After this period has expired, they may be reelected.

4) The Court Service

Article 104

The Service of the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Service) shall carry out professional and other duties.

Certain accounting, financial, material and technical duties for the needs of the Court may be assigned to another appropriate service.

Article 105

The most complex professional duties relating to the realization of rights and duties of the Court shall be carried out by the Secretary [B. Dj. 118] of the Court and the advisors of the Court who are appointed and dismissed by the Court.

The Secretary [B119] of the Court and advisors may be appointed among distinguished lawyers with experience of the same or similar legal activities.

The mandate of the persons referred to in paragraph 1 of this Article shall have the same duration as that of the judges.

Article 106

The organization of the Service shall be regulated by a special act of the Court.

The act referred to in the previous paragraph shall provide a more detailed regulation of the organization and tasks of the Service, the conditions for the realization of the tasks, the number of executive personnel and other issues of importance for the work of the Service and the realization of the rights, duties and responsibilities of the employees.

Article 107

The President of the Court, upon agreement with the Vice-president [B. Dj. 120], adopts individual acts in accordance with the general act according to Article 106 of these Rules [B. Dj. 121].

If an agreement as referred to in the previous paragraph cannot be reached, the individual act shall be adopted by the Court.

IV OTHER PROVISIONS

Article 108

The regulations which are in force for the organs of the authorities of Bosnia and Herzegovina shall, as appropriate, be applied to the labor law related legal status of the employees of the Service as well as the material and financial issues of the Court.

The Secretary[\[B. Dj.122\]](#) of the Court, in accordance with the authorization of the President of the Court, shall be the superior for using the means of operation of the Court and the Service.

Article 109

The Court shall, by a separate act, regulate the salaries and other forms of compensation for the judges and the persons it appoints.

Upon the proposal of the Secretary[\[B. Dj.123\]](#) of the Court, the Court shall adopt an act regulating the salaries and other forms of compensation for the employees of the Service.

Article 110

The regulations on office operation, working hours and house rules applicable to the organs of the authorities of Bosnia and Herzegovina shall as appropriate be applied to the Court, unless otherwise stipulated by an act of the Court.

Article 111

General acts of the Court shall be adopted by a majority of votes of all judges.

These Rules of Procedure of the Court shall be published in the Official Gazette of Bosnia and Herzegovina and the official gazettes of the Entities; other general acts and the act on the election of the President of the Court and the Vice-presidents shall be published in the manner regulated by the Court.

Article 112

These Rules of Procedure shall enter into force on the day of their adoption.

Moldova

Cour Constitutionnelle

Constitution adopté le 29 juillet 1994

- extraits

Titre III

Les autorits publiques

Chapitre IV

Le Parlement

Article 62

La validation du mandat de dput

La Cour constitutionnelle dcide, sur proposition de la Commission lectorale centrale, de la validation du mandat de dput ou sa non-validation en cas de violation de la lgislation lectorale.

Chapitre V

Le Prsident de la Rpublique de Moldova

Article 79

La validation du mandat et la prestation du serment

(1) Le rsultat des lections pour la fonction de Prsident de la Rpublique de Moldova est valid par la Cour constitutionnelle.

(2) Le candidat dont l'lection a t valide prte devant le Parlement et la Cour constitutionnelle, 45 jours au plus tard aprs les lections, le serment suivant: "Je jure de consacrer toute ma force et toutes mes capacits la prospit de la Rpublique de Moldova, de respecter la Constitution et les lois du pays, de dfendre la dmocratie, les droits et les liberts fondamentales de l'homme, la souverainet, l'indpendance, l'unit et l'intgrit du territoire de la Moldova".

Titre V

La Cour Constitutionnelle

Article 134

Le statut

(1) La Cour constitutionnelle est l'unique autorit de juridiction constitutionnelle dans la Rpublique de Moldova.

(2) La Cour constitutionnelle est indpendante de toute autre autorit publique et est soumise uniquement la Constitution.

(3) La Cour constitutionnelle garantit la suprmatie de la Constitution, assure la mise en uvre du principe de la sparation du pouvoir d'Etat entre le pouvoir lgislatif, excutif et judiciaire, et garantit la responsabilit de l'Etat envers le citoyen et du citoyen envers l'Etat.

Article 135

Les attributions

(1) La Cour Constitutionnelle:

- b. exerce sur saisine le contrle de constitutionnalit des lois, des rglements et des arrts du Parlement, des dcrets du Prsident de la Rpublique de Moldova, des arrts et des dcisions du Gouvernement, ainsi que des traits internationaux auxquels la Rpublique de Moldova est partie;
- c. interprte la Constitution;
- d. se prononce sur l'initiative de vision de la Constitution;

- e. confirme les résultats des référendums publicains;
- f. confirme les résultats des élections du Parlement et du Président de la République de Moldova;
- g. constate les circonstances justifiant la dissolution du Parlement, la suspension du Président de la République de Moldova de sa fonction ou l'interim dans l'exercice de la fonction de Président de la République de Moldova;
- h. résout les cas exceptionnels d'inconstitutionnalité des actes juridiques, sur saisine de la Cour suprême de Justice;
- i. règle les problèmes ayant pour objet la constitutionnalité d'un parti.

(2) La Cour constitutionnelle agit sur l'initiative des sujets prévus par la Loi relative à la Cour constitutionnelle.

Article 136

La structure

(1) La Cour constitutionnelle est composée de 6 juges, nommés pour un mandat de 6 ans.

(2) Deux juges sont nommés par le Parlement, deux par le Président de la République de Moldova et deux par le Conseil supérieur de la Magistrature.

(3) Les juges de la Cour Constitutionnelle lisent, au scrutin secret, le Président de la Cour.

Article 137

L'indépendance

Les juges de la Cour constitutionnelle sont inamovibles et indépendants pour la durée de leur mandat et ne sont soumis qu'à la Constitution.

Article 138

Les conditions de nomination

Les juges de la Cour constitutionnelle doivent avoir une formation juridique supérieure, une haute compétence professionnelle et une ancienneté d'au moins 15 ans dans le domaine juridique, dans l'enseignement juridique ou dans le domaine scientifique.

Article 139

Les incompatibilités

La fonction de juge de la Cour constitutionnelle est incompatible avec toute autre fonction publique ou privée attribuée, l'exception des activités pédagogiques et scientifiques.

Article 140

Les arrêts de la Cour constitutionnelle

(1) Les lois et les autres actes normatifs ou certaines parties de ceux-ci sont nuls à partir du moment de l'adoption de l'arrêt d'anticonstitutionnalité par la Cour constitutionnelle.

(2) Les arrêts de la Cour constitutionnelle sont définitifs et ne peuvent faire objet d'un recours.

Article 141

L'initiative de la révision

(1) La révision de la Constitution peut être engagée par l'initiative:

d'au moins 200 000 citoyens de la République de Moldova ayant le droit de vote. Les citoyens qui prennent l'initiative de la révision de la Constitution doivent provenir de la moitié des districts et des municipalités et dans chacun de ces districts ou municipalités ; 5 000 signatures au moins doivent être enregistrées à l'appui de cette initiative;

- a. d'un tiers au moins du nombre des députés du Parlement;
- b. du Président de la République de Moldova;
- c. du Gouvernement.

(2) Les projets de lois constitutionnelles ne seront présentés au Parlement qu'avec l'avis de la Cour constitutionnelle, adoptés par le vote d'au moins 4 juges.

Titre VII

Dispositions Finales et Transitoires

Article V

(1) Dans un délai de 6 mois comptant à partir de la date d'entrée en vigueur de la présente Constitution, la Cour constitutionnelle et la Cour des comptes seront créées.

(2) Les juges de la composition initiale de la Cour Constitutionnelle, qui doivent être nommés par le Conseil Supérieur de la Magistrature, sont nommés par l'Assemblée générale des juges populaires et des membres de la Cour suprême.

Article VI

Jusqu'à la création de la Cour constitutionnelle, la Cour suprême peut, sur l'initiative du Parlement, être saisie sur les questions visées à l'article 135 de la présente Constitution.

Loi n° 317 XIII du 13 décembre 1994 relative à la Cour Constitutionnelle

Chapitre 1er

Dispositions générales

Article 1

La Cour constitutionnelle a l'autorité de juridiction constitutionnelle

(1) La Cour constitutionnelle est l'unique autorité de juridiction constitutionnelle en République de Moldova.

(2) La Cour constitutionnelle est indépendante et ne se soumet qu'à la Constitution.

(3) La Cour constitutionnelle :

- a. garantit la suprématie de la Constitution;
- b. assure la mise en œuvre du principe de la séparation du pouvoir d'État entre pouvoirs législatif, exécutif et judiciaire;
- c. garantit la responsabilité de l'État envers le citoyen et du citoyen envers l'État.

Article 2

La législation relative à la Cour constitutionnelle

La Cour constitutionnelle exerce son activit conformment la Constitution, la prsent loi, et au Code de la juridiction constitutionnelle.

Article 3

Les principes de lactivit

La Cour constitutionnelle exerce ses fonctions sur la base des principes suivants:

- a. lindpendance;
- b. la latitude colligale ;
- c. la lgalit;
- d. la publicit.

Article 4

Les attributions

(1) La Cour constitutionnelle:

- a. exerce sur saisine : le contre de la constitutionnalit des lois, des rglements et des arrts du Parlement, des dcrets du Prsident, des arrts et des dcisions du Gouvernement et des traits internationaux auxquels la Rpublique de Moldova est partie;
- b. interprte la Constitution;
- c. se prononce sur les initiatives de vision de la Constitution;
- d. confirme les rsultats des rfrendums rpublicains;
- e. confirme les rsultats des lections du Parlement et du Prsident;
- f. constate lexistence de circonstances justifiant la dissolution du Parlement, la suspension du Prsident de la Rpublique de sa fonction ou lintrim dans lexercice de la fonction de Prsident;
- g. dcide des exceptions de la saisine de la Cour suprme de justice concernant linconstitutionnalit des actes juridiques;
- h. tranche les diffrends concernant la constitutionnalit des partis politiques.

(2) La compence de la Cour constitutionnelle est fixe par la Constitution et ne peut tre conteste par aucune autorit publique.

Article 5

La dure du mandat de la Cour Constitutionnelle

(1) Le mandat de la Cour constitutionnelle est dune dure illimit.

(2) Le juge de la Cour constitutionnelle ne peut exercer sa fonction que durant deux mandats.

Article 6

La structure

(1) La Cour constitutionnelle se compose de 6 juges, nomms pour un mandat de 6 ans.

(2) Deux juges sont nomms par le Parlement, deux par le Prsident de la Rpublique et deux par le Conseil suprieur de la magistrature.

(3) Le Secrariat de la Cour constitutionnelle est responsable de la prparation et de lorganisation des activits de la Cour.

(4) Un Conseil scientifique et consultatif peut tre mis sur pied pour assister la Cour constitutionnelle.

Article 7

Le Prsident de la Cour constitutionnelle

(1) Le Prsident de la Cour constitutionnelle est lu au scrutin secret, la majorit des votes des juges de la Cour, par un mandat de trois ans.

(2) Le nombre de candidats la fonction de Prsident de la Cour constitutionnelle est illimit.

(3) Lorsquau premier tour du scrutin un candidat na pas recueilli la majorit des suffrages des juges, on procde un second tour de scrutin et sera lu prsident le juge ayant obtenu le plus grand nombre de suffrages.

(4) Lorsquau second tour du scrutin les candidats ont recueilli un nombre gal de votes, le Prsident sera lu en tirant au sort.

(5) La Cour constitutionnelle lit un juge qui exercera la fonction de Prsident pendant son absence.

Article 8

Les attributions du Prsident de la Cour constitutionnelle

(1) Le Prsident de la Cour constitutionnelle a les attributions de:

- a. convoquer la Cour constitutionnelle et prsider les sances;
- b. coordonner lactivit de la Cour et attribuer les affaires;
- c. reprsenter la Cour devant les autorits publiques du pays et ltranger;
- d. constater les cas de cessation du mandat dun juge fixs par la prsente loi et saisir lautorit publique qui la nomm en sollicitant la nomination d'un juge pour la fonction devenue vacante;
- e. exercer ladministration gnrale du Secrariat de la Cour, engager ou relever de sa fonction le personnel du Secrariat, selon les conditions du contrat de travail;
- f. prsenter lapprobation la Cour constitutionnelle : le Rglement dorganisation et de fonctionnement du Secrariat de la Cour, lorganigramme, lstat du personnel, le Rglement du Conseil scientifique et consultatif, et approuver le rglement des dpartements du Secrariat;
- g. exercer les attributions fixes par la prsente loi, par le Code de la juridiction constitutionnelle et par les autres actes lgislatifs.

(2) Le Prsident de la Cour constitutionnelle est responsable des ressources financires de la Cour dans les limites du budget approuv.

(3) Le Prsident de la Cour rend des dcisions et des directives.

Article 9

Le caractre obligatoire de lexclusion des exigences de la Cour constitutionnelle

(1) Les autorits publiques ou les autres personnes juridiques, indiffremment du type de la proprit et de la forme dorganisation juridique, sont obliges de communiquer les informations et de prsenter, dans un dlai de 15 jours, les documents et les actes exiges par la Cour afin quelle puisse exercer ses fonctions.

(2) La non-exclusion de lalina (1) ou lexclusion inadquate ou labsence lors des sances plnires pour des motifs considrs par la Cour comme mal fonds sont sanctionnes en conformit avec le Code de la juridiction constitutionnelle.

Article 10

Les rapports de la Cour constitutionnelle

La Cour présente annuellement, aux autorités compétentes qui nomment les juges, des rapports sur l'exercice de la juridiction.

Chapitre II

Statut du juge de la cour constitutionnelle

Article 11

La nomination

(1) Le juge de la Cour doit être citoyen de la République de Moldova, avoir une formation juridique supérieure, une haute compétence professionnelle et une expérience d'au moins 15 ans dans le domaine juridique, dans l'enseignement juridique supérieur ou dans le domaine scientifique.

(2) La limite d'âge pour être nommé juge de la Cour constitutionnelle est de 65 ans.

(3) La nomination des juges ne sera faite que sur l'accord préalable, exprimé sous forme écrite, du candidat. Lorsque le candidat exerce une fonction incompatible avec celle de juge de la Cour constitutionnelle ou si il est membre d'un parti politique ou d'une organisation politique, l'accord doit inclure l'engagement du candidat de démissionner de cette fonction ou du parti politique ou de l'organisation politique, dont il est membre, la date de sa nomination.

Article 12

Le serment

(1) Les juges de la Cour constitutionnelle prêtent, devant le Parlement, le Président de la République et le Conseil supérieur de la magistrature, le serment suivant:

Je jure de remplir de bonne foi et consciencieusement les obligations du juge de la Cour constitutionnelle, de défendre la Constitution et de me soumettre uniquement à la Constitution.

(2) Les juges de la Cour exercent leurs fonctions partir de la date de la prestation du serment.

Article 13

L'indépendance

(1) Les juges de la Cour sont indépendants dans l'exercice de leurs fonctions et ne se soumettent qu'à la Constitution.

(2) Les juges de la Cour ne peuvent être tenus responsables juridiquement des votes ou des opinions exprimées dans l'exercice de leurs fonctions.

Article 14

L'inamovibilité

(1) Les juges de la Cour sont inamovibles pendant la durée de leur mandat.

(2) Le mandat de juge de la Cour est suspendu ou prend fin uniquement dans les cas déterminés par la présente loi.

(3) Au cas où le mandat prend fin, le juge est relevé de sa fonction dans les conditions prévues par la présente loi.

(4) Le juge peut démissionner de par sa propre initiative.

Article 15

Les incompatibilités

La fonction de juge est incompatible avec toute fonction publique ou privée munie, l'exception des fonctions pédagogiques et scientifiques.

Article 16

L'immunité

(1) Les juges ne peuvent être : arrêtés ou perquisitionnés l'exception des cas d'infraction flagrante, ou être traduits en justice contraventionnellement ou pénalement que sur l'approbation préalable de la Cour.

(2) La compétence de jugement l'égard des infractions et des délits administratifs commis par les juges incombe la Cour suprême de justice.

(3) Ester ou demander l'approbation de traduire en justice incombe la compétence du procureur général.

(4) A partir de la date à laquelle il est traduit en justice, le juge est suspendu d'exercice de sa fonction. En cas de condamnation définitive, il en est exclu de droit selon les conditions prévues par la présente loi.

Article 17

Les obligations

Les juges de la Cour sont obligés :

- a. de remplir impartiallement et dans le respect de la Constitution leurs obligations;
- b. de garder le secret des délibérations et des votes et de ne pas prendre position publiquement ou donner des consultations sur les questions qui relèvent de la compétence de la Cour;
- c. d'exprimer affirmativement ou négativement leur vote lors de l'adoption des actes de la Cour;
- d. de communiquer au Président de la Cour sur toute activité qui pourrait entraîner l'incompatibilité avec les attributions qu'ils exercent;
- e. de ne pas permettre l'utilisation de la fonction qu'ils remplissent en guise de propagande quelconque;
- f. de s'abstenir de toute activité contraire au statut de juge.

Article 18

Vacance de la fonction

(1) Le mandat de juge de la Cour constitutionnelle expire et la fonction est déclarée vacante dans le cas :

- a. d'expiration du mandat;
- b. de démission;
- c. de retrait du mandat;
- d. de décès.

(2) La cessation du mandat et la vacance de la fonction prévues aux alinéas (1) a, b, d sont déclarées par décision du Président de la Cour, et dans le cas prévu par la lettre c par la Cour constitutionnelle.

Article 19

Retrait du mandat

(1) Le mandat de juge cesse par le retrait de l'immunit du juge en cas:

- a d'impossibilit d'exercer sa fonction pour raison de sant pour une longue prode (plus de 4 mois);
- b de la violation du serment et des obligations de la fonction;
- c de la condamnation par une instance judiciaire lorsqu'il a commis une infraction;
- d. d'incompatibilit.

(2) La Cour dcide du retrait de l'immunit du juge et de la cessation de l'exercice de la fonction dans les cas prus l'alina (1).

(3) Le contrle factuel de la violation du serment ou des attributions de la fonction par le juge est ralis par deux juges nomms par dcision du Prsident de la Cour.

Article 20

Remplacement de la vacance

(1) Au cas o le mandat du juge a cess conformment l'article 18, le Prsident de la Cour en saisit l'autorit comptente dans un dlai de 3 jours maximum partir de la date de la dclaration de la vacance, en sollicitant la nomination dun nouveau juge.

(2) L'autorit comptente nomme le nouveau juge dans un dlai de 15 jours partir de la saisine du Prsident de la Cour constitutionnelle.

Article 21

Les salaires, les indemnits et les pensions

(1) Le Prsident de la Cour constitutionnelle est assimil au Prsident de la Cour suprme de justice en ce qui concerne le salaire, les indemnits et les pensions.

(2) Les juges de la Cour constitutionnelle sont assimils au vice-prsident de la Cour suprme de justice en ce qui concerne le salaire, les indemnits et les pensions.

(3) Le salaire et les indemnits du Prsident et des juges de la Cour sont fixs par dcision de la Cour constitutionnelle et sont prvues dans son budget.

(4) Les juges exclus de la composition de la Cour en raison de l'ge ou cause d'une longue impossibilit (qui dpasse 4 mois) d'exercer leurs attributions pour des raisons de sant ont le droit une indemnit de congdiement gale au salaire annuel de la fonction. La Cour a le droit d'accorder au juge qui dmmissionne une indemnit de congdiement gale trois mois de salaires.

(5) Le mode de couverture des pensions est dtermin par la loi.

Article 22

Les garanties de l'excuton du mandat

(1) Le contrat de travail dtenu antrieurement est suspendu pendant la priode d'excuton du mandat de juge.

(2) Aprs la cessation du mandat en raison de l'expiration de la priode pour laquelle il a t attribu, le juge a le droit de revenir au poste qu'il dtentait antrieurement, lorsque celui-ci a t aboli on lui propose une fonction quivalente.

(3) On octroie un contrat de travail avec un certain dlai la personne devant exercer la fonction antérieure du juge, qu'on peut rsilier ds son retour. On procde de la mme faon dans les situations o la fonction antérieurement dtenue est occupée sur la base dune slection ou dun concours.

(4) La dure de l'excution du mandat de juge est incluse dans l'anciennet de la spcialit prcdente.

(5) Le juge qui, la date de l'expiration du mandat, a atteint lge limite ou l'anciennet nécessaire pour la retraite est retrait selon les conditions fixes par la loi.

(6) Le juge a droit un cong annuel pay pour une dure de 36 jours ouvrables (en comptant que la semaine de travail est de 6 jours) et un cong sans solde pour raison personnelle.

(7) Dans l'ventualit o le juge na pas de logement ou que celui-ci doit tre amlior, il a selon la lgislation, droit un amnagement dans un dlai de 6 mois partir de la date de sa nomination.

Chapitre III

Exercice de la juridiction

Article 23

La sance plnire de la Cour constitutionnelle

(1) La Cour constitutionnelle exerce sa juridiction en sances plnires.

(2) La Cour constitutionnelle exerce en sance plnire sa juridiction et organise les activits de la Cour.

(3) Le quorum de la Cour en sance plnire est fix aux deux tiers du nombre des juges de la Cour.

(4) La Cour a le droit dtre convoquée en sance plnire uniquement lorsquau moins 4 juges ont t nommés par les autorits compétentes.

Article 24

La saisine de la Cour constitutionnelle

(1) La Cour exerce sa juridiction sur la saisine des personnes dterminées par la prsente loi et dans les conditions fixes par le Code de la juridiction constitutionnelle.

(2) La saisine doit tre fonde et doit correspondre aux exigences prvues dans le Code de la juridiction constitutionnelle.

(3) La saisine est signe par le chef de l'organe qui l'avait mise.

(4) Le modle de la saisine et le mode de sa prsentation sont prvus dans le Code de la juridiction constitutionnelle.

Article 25

Les personnes ayant le droit de saisir la Cour constitutionnelle

Ont le droit de saisir la Cour :

a. le Prsident de la Rpublique;

- b. le gouvrenement;
- c. le Ministre de la Justice;
- d. la Cour suprme de justice;
- e. la Cour conomique;
- f. le Procureur gnral;
- g. un dput du Parlement;
- h. un groupe parlementaire.

Article 26

Les actes de la Cour constitutionnelle

- (1) La Cour constitutionnelle rend des arrts, des dcisions et met des avis.
- (2) Les arrts et les avis sont adopts au nom de la Rpublique de Moldova.
- (3) Les actes de la Cour constitutionnelle aprs leur adoption sont noncs en sance plnire.
- (4) Les arrts et les avis de la Cour sont publis au "Monitorul Oficial al Republicii Moldova" pour une priode de 10 jours partir de la date de leur adoption.
- (5) Les actes de la Cour ne sont soumis aucune voie de recours, sont dfinitifs et entrent en vigueur partir de la date de leur adoption. Sur dcision de la Cour, certains actes entrent en vigueur partir de la date de leur publication ou de la date indique dans l'acte.
- (6) Les actes de la Cour sont signs par le Prsident de la Cour ou par le juge qui le remplace.
- (7) Les actes de la Cour ne sont applicables que pour l'avenir.

Article 27

Le vote

- (1) Les actes de la Cour sont adopts par le vote de la majorit des juges.
- (2) Au cas de part des votes, le vote du Prsident ou du juge qui le remplace est dcisif.
- (3) Le vote est main leve. Sur dcision en sance plnire de la Cour certains actes peuvent tre vot par scrutin secret.
- (4) Le juge n'a pas le droit de s'esquiver ou de s'abstenir de voter.
- (5) L'opinion dissidente du juge peut tre annexe sur demande l'acte adopt.

Article 28

L'action des arrts

- (1) Les lois et les autres actes juridiques ou certaines dispositions dclares inconstitutionnelles perdent leur effet juridique la date de l'adoption de l'arrt par la Cour et ne sont applicables que pour l'avenir.

(2) Les conséquences juridiques de l'acte ou de la norme de droit déclarées inconstitutionnelles sont cartes par l'organe qui les a mis.

Article 29

La publicité des débats

Les sances de la Cour sont publiques, mais le Président peut décider que la séance soit secrète lorsque la publicité peut préjudicier la sécurité de l'Etat et l'ordre public.

Article 30

La langue de procédure

(1) La procédure et les travaux de secrétariat sont réalisés dans la langue officielle. Les documents présents dans une autre langue sont traduits dans la langue officielle et sont portés à la connaissance du public.

(2) Les participants à la séance peuvent qui ne connaissent pas la langue officielle parler et donner des explications avec l'aide d'un interprète.

Article 31

Les limites de compétence

(1) La Cour examine uniquement les affaires qui sont de sa compétence.

(2) Les actes normatifs adoptés après l'entrée en vigueur de la Constitution, adoptée le 29 juillet 1994, sont soumis au contrôle constitutionnel.

(3) La Cour examine en exclusivité les problèmes de droit.

Article 32

Le délai pour solutionner la saisine

La Cour doit solutionner la saisine dans un délai de 6 mois compter de la date de réception des dossiers.

Article 33

La législation relative à la procédure juridictionnelle

La procédure de la cour constitutionnelle est déterminée par le Code de la juridiction constitutionnelle.

Chapitre IV

Le personnel spécialisé et administratif

Article 34

Le Secrétariat de la Cour constitutionnelle

(1) Le Secrétariat de la Cour fournit une assistance en matière d'information, d'organisation et de recherche, organise l'audience des citoyens, examine au préalable les saisines de la Cour lorsqu'une solution peut être trouvée sans intervention de la Cour et accorde une aide à la préparation des affaires pour leur examen.

(2) Le Secratriat de la Cour est dirig par un secrtaire en chef.

(3) Le rglement du Secratriat de la Cour, l'organigramme et l'tat du personnel sont approuv par la Cour.

(4) Le personnel spcialis et administratif est rgit par la lgislation du travail, sauf les exceptions dtermines par la prsente loi.

Article 35

Les juges-assistants

(1) Le Prsident et les juges de la Cour sont assistts pour leurs travaux par 6 juges-assistants.

(2) Les juges-assistants doivent avoir une formation juridique suprieure et une anciennet da moins 10 ans dans le domaine juridique ou l'enseignement juridique suprieur. Ils sont engags sur la base dun concours. La commission d'examen, nomme par le Prsident de la Cour, est forme de 3 juges, du chef du Secratriat et d'autres fonctionnaires de la Cour.

(3) Les juges-assistants sont assimils aux juges de la Cour d'appel et ont le mme statut que les juges d'autres instances judiciaires.

Article 36

Le Conseil scientifique et consultatif

(1) Un Conseil scientifique et consultatif peut tre cr auprs de la Cour en cooptant des savants et des praticiens du domaine juridique.

(2) Le rglement du Conseil est approuv par la Cour.

Chapitre V

Dispositions finales

Article 37

Le financement de la Cour

(1) La Cour a son propre budget qui est partie intgrante du budget de l'Etat.

(2) Le projet du budget, avec l'avis pralable du Ministre des Finances, est approuv par le Parlement en mme temps que le budget de l'Etat.

Article 38

Les symboles du pouvoir

(1) L'embleme d'Etat, le Drapeau d'Etat et la Constitution de la Rpublique se trouvent dans la salle des sances de la Cour.

(2) Les juges de la Cour portent pendant les sances des robes dont le modle a t approuv par la Cour.

(3) On dlie des cartes d'identit aux juges de la Cour et au personnel spcialis et administratif. Le modle de la carte d'identit et le mode de sa remise sont prvus par le rglement du Secratriat. La carte d'identit des juges de la Cour est remise par le Prsident de la Rpublique.

Article 39

Le sceau

La Cour a un sceau avec l'image de l'embleme de l'Etat et de sa dnomination.

Article 40

Le siège

(1) Le siège de la Cour est dans la municipalité de Chisinau.

(2) Les sessions plénaires de la Cour se tiennent au siège de la Cour.

Article 41

La Sécurité

La sécurité du siège de la Cour et, selon le cas, du Président de la Cour est assurée selon les conditions prévues par la loi.

Chapitre VI

Dispositions transitoires

Article 42

(1) La Cour est constituée dans un délai maximum de 30 jours à partir de la date de la publication de la présente loi.

(2) La Cour élit le Président dans un délai de 5 jours après sa constitution.

(3) Les juges de la composition initiale de la Cour, en accord avec le Conseil supérieur de la magistrature, sont nommés par l'assemblée générale des juges populaires et des membres de la Cour suprême.

(4) La saisine de la Cour constitutionnelle par la part de la Cour suprême de justice sera présente jusqu'à sa création par la Cour suprême et la saisine de la Cour économique par le Consul d'Arbitrage de la République de Moldavie.

(5) Jusqu'à la création du Conseil supérieur de la magistrature, les juges de la Cour prêteront serment devant le Parlement et le Président de la République.

(6) Jusqu'à l'élection du Président de la Cour, les sessions seront convoquées et présidées par le juge le plus âgé.

(7) Jusqu'à la création de la Cour suprême de justice et de la Cour d'appel, les salaires et les indemnités du Président, des juges et des juges-assistants de la Cour seront fixés par le Parlement.

**The former Yugoslav
Republic of Macedonia
Constitutional Court**

IV. THE CONSTITUTIONAL COURT OF MACEDONIA

Article 108

The Constitutional Court of Macedonia is a body of the Republic protecting constitutionality and legality.

Article 109

The Constitutional Court of Macedonia is composed of nine judges.

The Assembly elects the judges to the Constitutional Court by a majority vote of the total number of Representatives. The term of office of the judges is nine years without the right to reelection.

The Constitutional Court elects a President from its own ranks for a term of three years without the right to reelection.

Judges of the Constitutional Court are elected from the ranks of outstanding members of the legal profession.

Article 110

The Constitutional Court of Macedonia:

- decides on the conformity of laws with the Constitution;
- decides on the conformity of collective agreements and other regulations with the Constitution and laws;
- protects the freedoms and rights of the individual and citizen relating to the freedom of communication, conscience, thought and public expression of thought, political association and activity as well as to the prohibition of discrimination among citizens on the grounds of sex, race, religion or national, social or political affiliation;
- decides on conflicts of competency among holders of legislative, executive and judicial offices;
- decides on conflicts of competency among Republic bodies and units of local self-government;
- decides on the answerability of the President of the Republic;
- decides on the constitutionality of the programs and statutes of political parties and associations of citizens; and
- decides on other issues determined by the Constitution.

Article 111

The office of judge of the Constitutional Court is incompatible with the performance of other public office, profession or membership in political party.

Judges of the Constitutional Court are granted immunity. The Constitutional Court decides on their immunity.

Judges of the Constitutional Court cannot be called up for duties in the Armed Forces.

The office of a judge of the Constitutional Court ceases when the incumbent resigns. A judge of the Constitutional Court shall be discharged from office if sentenced for a criminal offense to unconditional imprisonment of a minimum of six months, or if he/she permanently loses the capability of performing his/her office, as determined by the Constitutional Court.

Article 112

The Constitutional Court shall repeal or invalidate a law if it determines that the law does not conform to the Constitution.

The Constitutional Court shall repeal or invalidate a collective agreement, other regulation or enactment, statute or program of a political party or association, if it determines that the same does not conform to the Constitution or law.

The decisions of the Constitutional Court are final and executive.

Article 113

The mode of work and the procedure of the Constitutional Court are regulated by an enactment of the Court.

RULES OF PROCEDURE OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF MACEDONIA

Adopted on 7 October 1992

I. GENERAL PROVISIONS

Article 1

These Rules of Procedure regulate the way of working and the procedure in front of the Constitutional court of the Republic of Macedonia (hereinafter: Constitutional court).

Article 2

The head office of the Constitutional court is in Skopje.

On the building of the Constitutional court, the following inscription is written: CONSTITUTIONAL COURT OF THE REPUBLIC OF MACEDONIA - SKOPJE .

Article 3

The Constitutional court has its own seal in a circular form, with a diameter of 32 mm.

The seal contains the coat of arms of the Republic of Macedonia, circled by the inscription: Republic of Macedonia - Constitutional court of the Republic of Macedonia - Skopje.

The seal of the Constitutional court is put on the decisions and resolutions of the Constitutional court as well as on other official documents.

The Constitutional court has a small seal with a diameter of 20 mm.

The small seal is the same as the above-mentioned seal and is being used for accounting documents and for certifying employee booklets and medical-care booklets.

II. WAY OF PROCEEDING OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF MACEDONIA

Article 4

For the procedures of its competence, defined with the Constitution of the Republic of Macedonia, the Constitutional court decides on a meeting.

Article 5

The meeting is scheduled and run by the President of the Constitutional court.

The President of the Constitutional court schedules a meeting upon a request of any judge.

Article 6

The meeting may be held if, at least 5 judges of the Constitutional court are present.

If the Agenda of the meeting comprises issues for which, according to the Constitution of the Republic of Macedonia, the Constitutional court decides with a two-thirds majority of votes of

the total numbers of judges, the meeting may be held if, at least 6 judges are present.

Article 7

On a meeting, the Constitutional court elects a president of the Constitutional court from among the judges, with a two-thirds majority of the total number of judges, by secret voting.

Any judge may suggest a candidate for a president of the Constitutional court.

The proposal for a candidate for a president of the Constitutional court is confirmed by a commission of three judges elected by a majority of the total number of judges.

If the candidate does not obtain the necessary majority of votes, the procedure for an election of a president will be repeated.

Article 8

The president of the Constitutional court:

- represents the Constitutional court;
- signs the decisions, resolutions and other documents of the Constitutional court;
- is in charge of implementing the Rules of Procedure of the Constitutional court, and
- does other activities defined with these Rules of Procedure.

In case of absence or prevention, the president replaces the judge according to the schedule defined by the Constitutional court, upon an alphabetical order of the surname of the judges.

Article 9

The judge of the Constitutional court:

- participates in the work and in the decision-making during the discussions and on the meetings of the Constitutional court;

- as a judge-informer administers the preceding procedure upon the case which was given to him and informs the Constitutional court on a meeting about the attitudes upon that case;
- follows and studies the laws, other regulations and common acts and may give an initiative for initiating a procedure for assessment of the constitutionality of a special law, in other words, the constitutionality and legality of a certain regulation or a common act, and
- does other activities defined with these Rules of Procedure and the program and schedule for work of the Court.

Article 10

The judges of the Constitutional court enjoy the immunity like the members of Parliament of the Republic of Macedonia, defined by the Constitution of the Republic of Macedonia.

The judge may not be called upon to a criminal responsibility or arrested for the said attitude or voting in the Court.

The judge can not be arrested without an approval by the Court, unless he/she is caught in a criminal act, for which a sentence- prison of at least 5 years is prescribed.

The Court may decide for applying an immunity for the judge, although he/she has not cited it himself, if it is necessary for executing his/her function.

III. CONSTITUTIONALITY OF LAWS AND CONSTITUTIONALITY AND LEGALITY OF REGULATIONS AND OTHER COMMON ACTS ASSESSMENT PROCEDURE

1) Initiating a procedure

Article 11

The constitutionality of a law and the constitutionality of a regulation or other common act assessment procedure is being initiated by a decision of the Constitutional court upon a submitted initiative.

Article 12

Anyone can submit an initiative for initiating constitutionality of law and constitutionality and legality of a regulation or other common act assessment procedure.

Article 13

The submitter of the initiative and the legislator of the denied act, are participants in the procedure in front of the Constitutional court.

Article 14

The Constitutional court may itself initiate constitutionality of a law, that is constitutionality and legality of a regulation or other common act assessment procedure.

During the investigation of the constitutionality of a law that is the constitutionality and the legality of a regulation or other common act, the Constitutional court may also assess the constitutionality and the legality of the regulation or other common act, which are not denied with the initiative.

Article 15

The initiative is submitted in front of the Constitutional court in written and in two copies.

The initiative for initiating an assessment procedure of the constitutionality of a law and a constitutionality and legality of a regulation and other common act, contains: an indication of the law, regulation or the common act, that is, its certain provisions which are being denied, reasons for their denying, the provisions of the Constitution, that is, the law, which are being violated with that act, and the name, that is the title and the head office of the submitter of the initiative.

Article 16

If the initiative does not contain the data mentioned in paragraph 2 of art.15 of the Rules of Procedure, the Secretary of the Constitutional court will point out the shortcomings to the submitter and will determine a time-frame for their elimination, which may be no longer than 30 days.

If the shortcomings are not solved within the defined time-frame or if the initiative is submitted by an unknown submitter, it will be considered that it is not submitted, and the secretary will indicate that on the submitted document.

If the initiative requires opinion, explanation or an intervention in front of other entities, the secretary of the Constitutional court will inform the submitter, in a written way, that the Constitutional court is not competent to decide for such issues.

2) Preceding procedure

Article 17

Received initiatives are registered in corresponding registers and appropriate files are formed.

The files are distributed to the professional employees according to the field defined in the schedule for work.

When the initiative requires initiating a procedure for an assessment of the constitutionality of a law, program or statute of a political party, the file is also distributed to a judge according to the alphabetical order of the surname.

If the judge is being assigned a case, and if he/she or the Constitutional court considers that there are justified reasons for he/she not to carry out the preceding procedure, the case is given to another judge, according to the defined order.

Article 18

The judge and the professional employee to whom the case has been given, carry out the preceding procedure according to the provisions of these Rules of Procedure.

When investigating the initiatives for an assessment of the constitutionality and legality, the professional employee will collect the data and the notices, which are necessary for making the decision related to the request for initiating a procedure.

Within 10 days at the latest, and when in the initiative the citizen calls upon to protection of freedom and rights defined with the Constitution, within 3 days from the day of receiving the case, the judge and the professional employee are obliged to take over the activities of the preceding procedure.

During the preceding procedure, the judge and the professional employee may call any participant in the procedure and other interested persons, to a consultative conversation and ask them for the necessary information and explanations, and, if necessary, send the initiative to the submitter of the denied act.

Article 19

The decision for initiating a procedure is being submitted to the entity which has passed the denied regulation or other common act and a time-frame for an

answer is being determined, no longer than 30 days.

If the entity which has passed the denied regulation or other common act, does not send an answer within the determined time-frame, the Constitutional court will decide for the further course of the procedure.

Article 20

Everyone is obliged to give data and notices to the Constitutional court, upon issues which are of interest for conducting the investigation.

Article 21

If during the course of the procedure, it has been found that a number of participants with special initiatives have requested for an assessment of the constitutionality, that is constitutionality and legality of the same provisions of one and the same law, other regulation or common act, all initiatives will be attached to the firstly submitted one, and for all of them a unique procedure is being carried and one decision is made.

If there are a number of files in the Court for several separate initiatives for judging the constitutionality, that is the constitutionality and the legality of one and the same law, other regulation or common act, all files formed later may be attached to the firstly established one, a unique lawsuit may be carried out for all of them and one decision will be made.

Article 22

The participants in the procedure and their representatives and agents, have a right, in the presence of a corresponding employee in the Constitutional court, to consider the papers of the case in procedure.

To the participants in the procedure and to the interested persons, the corresponding employee gives information about the case, which refer to the data in the registers.

Article 23

After completing the preceding procedure, within three months at the latest from the day when the case is given, a report is being submitted for a meeting or the Court is being informed about the course of the procedure.

When in an initiative for an assessment of the constitutionality and the legality of a regulation or other common act, the citizens call upon for protection of freedom and rights defined by the Constitution, the time-frame from paragraph 1 of this article is 30 days.

The report for a meeting contains particularly: when the initiative is being submitted and what kind of request is placed, what preparations are being performed, what denied legal and factual issues have occurred during the course of work upon the case, presentation of the constitutional-court practice, and by rule, an opinion and proposal for the way of solving the placed request.

3) Meeting

Article 24

The President of the Constitutional court informs the judges in a written way, for the day and the hour of the meeting to be held, on which the reports proposed for a meeting will be discussed.

The written notice is being delivered to the judges seven days at the latest before the day of the meeting, and only in exceptional cases, when the urgency of procedure for certain cases requires it, the president may decide the meeting to be held in a shorter time-frame.

The reports with the draft-decisions are enclosed to the written notice for holding the meeting, and if necessary other materials, too.

Article 25

The meeting of the Constitutional court begins To the participants in the procedure, as well to other persons, a report, a draft decision and other conclusions which are being prepared for making a decision in front of the Court, can not be made available, except the reports for public hearing, for a preparatory meeting or for a meeting on which they are invited to participate with defining the Agenda.

For each case a judge-informer is assigned, except for cases which are being given to a judge in the preceding procedure.

For each item of the Agenda, a discussion is held for the disputable legal and factual issues and a decision is being made. If the Court during the discussion finds that there are basis for changing the already taken position or if additional studying of the case is needed, it will postpone the decision-making for re-investigating the already taken position, that is for additional studying, and will define instruction for that.

The resolution, that is the decisions are made with a majority votes of the total number of judges of the Constitutional court, unless otherwise regulated by the Constitution or by these Rules of Procedure.

The judge of the Constitutional court which is prevented to participate on the meeting, may give written opinion about the case.

The judge who voted against the decision or who considers that it should be based on other legal basis, may separate his/her opinion and explain it in written. The separated opinion is published in the Court Bulletin and in the official magazine in which the decision of the Court is being published.

Article 26

A Minutes is made for the course of the meeting.

The Minutes contains: time and place of the meeting, names of the judges attending the meeting, according to the alphabetical order of the surname and other attendants, the adopted Agenda, the decision, that is the conclusion for each item of the Agenda, with the names of the judges who voted for and against the decision.

For certain cases in which more significant constitutional-legal issues are placed, a stenography is provided, that is a tape recording of the course of the discussion.

Article 27

The Constitutional court may, during the discussion, until the adoption of final decision, take a resolution for cessation of the execution of certain acts or activities which are undertaken on the basis of a law, other regulation or a common act whose constitutionality i.e. legality is being assessed, if with its performance the occurred consequences could not be easily eliminated.

In the cases from paragraph 1 of this article, the Constitutional court is obliged to finalize the procedure as soon as possible.

Article 28

The Constitutional court will refuse the initiative:

- if it is not competent to decide upon the request;
- if it has already dealt with the same matter, and there are no basis for different decision and
- if there are other procedure obstacles for deciding upon the initiative.

4) Preparatory meeting

Article 29

For clarifying the factual and legal status of certain cases in each phase of the procedure, the Constitutional court may decide a preparatory meeting to be held.

On the preparatory meeting the participants in the procedure, professional entities and organizations and scientific and professional workers are being invited, who will be defined by the Court.

Article 30

Along with the invitation for the preparatory meeting, a report is submitted for the preparatory meeting, in which the reasons are stated in the initiative for initiating a procedure for an assessment of the constitutionality of a law, that is a constitutionality and the legality of the regulation or the common act, legal status, disputable legal issues and legal attitudes which were stated in the preceding procedure.

Article 31

The preparatory meeting is governed by the president of the Constitutional court.

The judge-informer for the case informs the attendants about the factual and legal status, as well as about the disputable legal issues which are put in front of the Court during the preceding procedure, and afterwards the president of the court invites the attendants to give their attitudes and opinions, i.e. the attitudes and opinions of the entities and organizations which they represent.

During the discussion of the preparatory meeting, the judges may set questions, give opinions and comments in connection with the disputable legal and factual issues and for other circumstances of importance for the Court decision.

Article 32

After completing the procedure for the case upon which a preparatory meeting is being held, a copy of the decision, i.e. the resolution with which the Constitutional court has completed the procedure for an assessment of the constitutionality and the legality, is given to the participants in the preparatory meeting.

5) Public hearing

Article 33

The Constitutional court decides on a meeting for public hearing to be held, during which, apart from the participants in the procedure, also defines the entities and the organizations and the scientific and professional workers who are to be invited on the hearing.

The mass media are also informed about the public hearing.

The public hearing may be held after the initiated procedure for an assessment of the constitutionality of a law, i.e. the constitutionality and the legality of a regulation or other common act.

Article 34

The report for a public hearing contains: an essence of the request placed in the initiative, brief contents of the answer and other notices of the participants in the procedure, the legal and the factual status defined by the public hearing, disputable legal issues and possible attitudes upon them with a corresponding legal argumentation.

Article 35

The public hearing is scheduled by the president of the Constitutional court.

The president of the Constitutional court sends a written invitation to the judges for the date and time of the hearing.

The written invitation is delivered to the judges within ten days at the latest, before the scheduled hearing, and only in exceptional cases, when the urgency requires it, in a shorter time-frame.

The report of the judge-informer and of the professional employee, and other materials if necessary, are enclosed to the written invitation.

Article 36

The written invitation for a public hearing is send also to the participants in the procedure, that is to their representatives or agents, as well as to other invited persons, entities and organizations.

From the day of delivering the invitations until the day of holding the public hearing, at least ten days should pass, and only in exceptional cases, when the urgency requires it, a shorter time-frame may be defined.

A copy of the report for public hearing is send together with the invitation.

Article 37

The public hearing is held in the premises of the Constitutional court. The Constitutional court may decide the hearing to be held in other premises within the headquarters of the Court or outside it.

Article 38

The public hearing may be held if at least five judges of the Constitutional court are present.

The hearing is administered by the president of the Constitutional court.

Article 39

At the beginning of the hearing, the president of the Constitutional court informs the attendants which case is to be discussed and which of the invited persons attend the hearing.

The judge-informer will present the introductory report for the case of the hearing.

Judge-informer of the hearing is the judge who leads the preceding procedure. In case of his/her prevention, the president of the Constitutional court assigns another judge-informer.

If in the preceding procedure, more judges participate, a judge-informer is the judge who according to the schedule for work has been given the case, unless otherwise agreed by the judges.

After the report of the judge-informer, the participants on the hearing present and explain the opinions and the facts which are of interest for the clarification of the case status.

During the public hearing, the judges of the Constitutional court may ask questions and request an explanation from the participants in the procedure and from other invited persons for issues which are subject to the public hearing, without giving their opinion.

With respect to the course of the hearing, on a proposal of the president or a judge, the Court may decide to end the hearing.

Article 40

During the public hearing, the participants in the procedure give and explain their attitudes, proposals and legal opinions and answer to the statements for the facts and legal issues which are quoted in the public hearing.

The representatives of the invited entities and organizations give the attitudes of the entities, i.e. the organizations they represent and give explanation and legal argumentation for the issues which are subject of the hearing.

The scientific and professional workers, as well as other persons who are invited on the hearing, give their opinion and legal argumentation for the issues which are subject of the hearing.

The participants in the public hearing from the paragraphs 1, 2 and 3 of this article, have right to give additionally their attitudes and opinions in connection with the subject of the hearing.

Article 41

The Constitutional court decides whether the evidences which are presented in the preceding procedure will be performed on the hearing.

If during the hearing new evidences are quoted, which are not being presented in the preceding procedure, the same will be performed on the hearing.

Article 42

The Constitutional court may decide, upon a proposal of the participants in the procedure or upon its own evaluation, to postpone the public hearing for a definite or indefinite period of time, due to gathering necessary data, notices or opinions.

Article 43

If during the public hearing, the submitter of the initiative cancels the initiative for initiating a procedure, the Constitutional court may continue with the public hearing, if the issue is of a wider constitutional-legal importance.

If on the public hearing the Constitutional court decides to assess the constitutionality and the legality of provisions of a common act, which constitutionality and legality are not being denied in the initiative, i.e. which is not comprised with the resolution for initiating a procedure, the Constitutional court, on a request of the participants in the procedure, will postpone the public hearing and will determine a time-frame for providing an answer from the legislator of the act.

Article 44

When the Constitutional court evaluates that the hearing upon the case is being exhausted, the president of the Court concludes the public hearing and informs the participants in the procedure for the way of announcing the decision.

If the Constitutional court has decided for the constitutionality and the legality immediately after the public hearing, the president of the Court announces the decision to the participants in the procedure, giving the basic reasons for its adoption.

Article 45

A Minutes is being made for the course of the hearing, for each case separately.

The Minutes contains: time and place of the public hearing, composition of the Constitutional court, present participants and other invited persons, brief contents of the reports of the participants in the procedure and other invited persons, proposed new evidences, set questions and given answers during the hearing.

The Minutes is made by a professional employee who has cooperated in the case, and signed by the president of the Constitutional court and the court clerk.

If during the hearing stenography notes are being taken or if the hearing is recorded with a tape recorder, the stenography notes, i.e. the tape are the composing part of the Minutes.

Article 46

The participants in the procedure bear the expenses by themselves in the procedure in front of the Constitutional court.

The scientific and the professional workers, as well as other persons, who upon an invitation of the Court participate in its work, have right on a compensation according to the criteria determined by a Court decision.

6) Ending the procedure

Article 47

The Constitutional court will end the procedure:

- if during the procedure, the law, other regulation or common act ceased to be effective, and there are no basis for the assessment of their constitutionality, i.e. constitutionality and legality during the effectiveness;
- if during the procedure the initiative for constitutionality, i.e. constitutionality and legality assessment is being withdrawn, and the Constitutional court does not find basis to carry out the procedure by its own initiative;
- if it is determined that the initiating of the procedure was based on an improper factual condition;
- if after determining the factual and legal status of the public hearing, there are no basis for doubting in the constitutionality and legality, and
- if during the procedure the process assumptions for its further continuing have ceased.

7) Consultation and voting

Article 48

When after the held public hearing, that is, the held meeting, the Constitutional court concludes that the case is sufficiently clarified, consultation and voting will be taken up.

Consultation and voting is done without the presence of public.

Article 49

On the consultation and voting, the judges of the Constitutional court, who did not participate on the public hearing, i.e. the meeting, also participate.

During the consultation, the Constitutional court may decide to postpone the adoption of the decision or to hold another hearing.

Before deciding for the essence of the matter, if necessary, the judges of the Constitutional court vote for special issues on which the decision adoption depends.

Article 50

For consultation and voting, a special Minutes is being made.

The Minutes for the consultation and voting contains: date of the consultation and voting, names of the judges of Constitutional court who participated in the consultation and voting, important contents of the consultation, the result of voting, adopted decision and names of the judges who voted for and against the decision. The opinions explained in written are attached to this Minutes.

The Minutes for the consultation and voting is being signed by the president of the Constitutional court and the court clerk.

The Minutes for the consultation and voting is kept in a sealed envelope, which may be opened only if the Court decides.

IV. PROCEDURE FOR PROTECTION OF FREEDOM AND RIGHTS OF ARTICLE 110 PARAGRAPH 3 OF THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA

Article 51

Any citizen considering that an individual act or action has infringed his/her right or freedom, as provided in article 110 paragraph 3 of the Constitution of the Republic of Macedonia, he/she may request protection by the Constitutional court within 2 months from the day of delivery of the final or legally enforced individual act, namely from the date on which he/she became aware of the activity undertaken creating such an infringement, but not later than 5 years from the day of the undertaking.

Article 52

In the request from article 51, it is necessary to state the reasons due which a protection is being asked, the acts or the actions with which they are infringed, facts and evidences on which the request is based, as well as other data necessary for the decision of the Constitutional court.

Article 53

The request for protection of freedoms and rights is being delivered for an answer to the submitter of the individual act, namely the entity which has undertaken an action of their infringement, within 3 days from the day of delivery.

The time-frame for an answer is 15 days.

Article 54

Within 30 days at the latest from the day when the case has been given for work, a report is being submitted for a meeting or the Court is being informed for the course of the procedure.

Article 55

For the protection of freedoms and rights, the Constitutional court decides, by rule, on the basis of a held public hearing.

The participants in the procedure and the public attorney, and if necessary other persons, entities or organizations are being invited on the public hearing.

The public hearing may be held although some of the participants in the procedure or the public attorney who have been duly invited, do not attend.

Article 56

With the decision for protection of freedoms and rights, the Constitutional court will define whether there is an infringement and depending on that, it will annul the individual act, prohibit the action causing the infringement or refuse the request.

Article 57

During the procedure, the Constitutional court may pass a resolution for ending the execution of the individual act or action until adopting final decision.

V PROCEDURE FOR DEPRIVING OF IMMUNITY FOR REGULATING THE RESPONSIBILITY AND FOR REGULATING THE OCCURRENCE OF CONDITIONS FOR A CESSATION OF THE FUNCTION PRESIDENT OF THE REPUBLIC

Article 58

For depriving of the immunity of the President of the Republic, the Constitutional court decides upon a proposal of a competent organ in front of which a request for initiating criminal charges is being submitted.

When deciding, the Constitutional court will be at least led by the contents of the immunity of the members of the Parliament of the Republic of Macedonia, regulated by law.

Article 59

The procedure for an assessment of the responsibility of the President of the Republic for violating the Constitution and the law, is considered as initiated on the day of submitting the proposal from the Parliament of the Republic of Macedonia.

The proposal contains a description, as well as evidences for the violation of the Constitution and the law, which is to be borne by the President of the Republic of Macedonia.

The Constitutional court will ask for an opinion from the President of the Republic for the statements from the proposal of the Parliament of the Republic of Macedonia. The President of the Republic also participates in the procedure in front of the Court for an assessment of the responsibility.

Article 60

The occurrence of the conditions for a cessation of the function President of the Republic due to death, resignation permanent prevention for executing the function or a cessation of the mandate according to Constitution, are regulated by the Constitutional court upon an official duty.

The occurrence of the permanent prevention for executing the function from paragraph 1 of this article, is regulated on the basis of acts, findings, expert and professional opinions of medical or other institutions or organs, in accordance with a law.

Article 61

The Constitutional court establishes a commission composed of three judges of the Constitutional court, which investigates the circumstances, facts and evidences which are of importance for the decision of the Court in the cases of article 58 and 60 of these Rules of Procedure.

VI. PROCEDURE FOR COMPETENCE COLLISION SETTLEMENT

Article 62

A proposal for a competence collision settlement among the legislators of the legislative, executive and court authority and among the Republic organs and self-government units, may be submitted by any of the organs between which the collision has occurred. A proposal may be submitted by anyone who due to non-acceptance or refusal of the competence of separate organs can not achieve his right.

Article 63

The organs from article 62 of these Rules of Procedure, may submit the proposal for a competence collision settlement, after one of the organs with a definite or legally enforced act accepts or refuses the competence for the settlement of a same case.

The subjects from article 62 of these Rules of Procedure, who due to acceptance or refusal of the competence can not achieve their right, may submit the proposal for the competence collision settlement after both organs accept or refuse the competence with a final or legally enforced act.

Article 64

The proposal for a competence collision settlement contains: case of the dispute due which the collision has occurred, organs between which the collision has occurred and an indication for the final, that is the legally enforced acts with which the organs have accepted or refused the competence to decide upon a same case.

Article 65

With the decision for a competence collision settlement, the Constitutional court defines the competent organ for deciding upon the case.

Article 66

During the procedure, the Constitutional court may adopt a resolution for ending the execution of individual acts of the organs on the occasion of which the competence collision has been caused, until adopting a final decision.

VII. PROCEDURE FOR DEPRIVING OF IMMUNITY AND FOR AN ASSESSMENT OF PERMANENT LOSS OF CAPABILITY FOR PERFORMING THE FUNCTION JUDGE OF THE CONSTITUTIONAL COURT

Article 67

For an assessment of a permanent loss of capability of the judge of the Constitutional court to perform his/her function, as well as for depriving his/her immunity, the Constitutional court decides on a meeting.

The permanent loss of the capability from paragraph 1 of this article, is determined on the basis of acts, findings, expert and professional opinions of medical and other institutions and organs, with which the health or other incapability is determined, in accordance with a law.

The Constitutional court establishes a commission composed of three judges of the Constitutional court, which investigates the circumstances, facts and evidences of importance for the decision of the Court upon cases from paragraphs 1 and 2 of this article.

VIII. APPLYING PROVISIONS OF THESE RULES OF PROCEDURE

Article 68

The provisions of these Rules of Procedure, which refer to the procedure for an assessment of the constitutionality of laws and constitutionality and legality of regulations and other common acts (Chapter III) are being applied accordingly to the procedures regulated in Chapters IV, V and VI, unless otherwise regulated by these Rules of Procedure.

IX. CONSTITUTIONAL COURT ACTS

Article 69

The Constitutional court makes decisions, resolutions and conclusions.

Article 70

The Constitutional court decides when to make a decision for the essence of work, namely:

- for revoking or repealing a law or other provision, program and statute of a political party or other common act;
- for protection of freedoms and rights from article 110 paragraph 3 of the Constitution;
- for competence collision settlement;
- for depriving of immunity, for the responsibility and for an assessment of the occurrence of conditions for a cessation of the function President of the Republic of Macedonia;
- for the immunity and conditions for releasing from the duty of a judge of the Constitutional court of the Republic of Macedonia, and
- for an assessment of non-constitutionality of a law, that is a non-constitutionality and illegality of a provision and other common act within the period when they are in effect, which has ceased to be valid during the procedure, if the conditions for their annulling are fulfilled.

Article 71

The Constitutional court adopts a resolution:

- for initiating a procedure for an assessment of constitutionality of a law, that is constitutionality and legality of a provision and other common act;
- for ending the procedure;
- for rejecting the initiatives, proposals and requests;
- for ending the execution of individual acts or action, adopted on the basis of a law, regulation or other common act, whose constitutionality, that is constitutionality and legality it assesses, and
- in other cases when it does not decides for the essence of the work.

Article 72

The Constitutional court makes conclusions for the activities which are undertaken during the procedure.

Article 73

When deciding whether to revoke or repeal the law, provision or a common act, the Constitutional court, will take into account all the circumstances which are of importance for the protection of constitutionality and legality, and particularly the height of the violation and its nature and importance for achieving the freedoms and rights of the citizens or for the relations which are being established on the basis of those acts, legal security and other circumstances important for making the decision.

Article 74

The decisions and resolutions of the Constitutional court contain an indication that they have been adopted by the Constitutional court of the Republic of Macedonia, the names i.e. the name and the headquarters of the submitter of the initiative, i.e. the proposal, disposition, explanation, names of the judges who participated in the adoption of the decision, i.e. the resolution, as well as the type of majority they are being adopted with.

The draft-text of the decision, i.e. the resolution is made by the judge-informer and the professional employee who have carried out the preceding procedure.

Article 75

The text of the decision, that is the resolution is being defined on a meeting of the Constitutional court, and is being edited by the editorial commission.

Article 76

The text of the decision, that is the resolution, defined on a meeting, is being edited by the editorial commission, within 7 days.

If the editorial commission, while editing, finds that in the text of the decision or resolution there are improperly defined factual or legal circumstances or contradictions, it will inform the Court about that on the next meeting.

Article 77

The defined final text of the decision, i.e. resolution is being signed by the president of the Constitutional court, as well as the judge-informer.

Article 78

Copy of the decision, i.e. resolution is being delivered to the participants in the procedure.

The decision of the Constitutional court are published in the Official newspaper of the Republic of Macedonia.

The Constitutional court may decide individual resolutions to be published in the Official newspaper of the Republic of Macedonia.

The final text of the decision that is the resolution, is delivered to the participants in the procedure and for publishing within 3 days from the day of signing by the president.

X. LEGAL EFFECT OF CONSTITUTIONAL COURT DECISIONS

Article 79

The decision of the Constitutional court of the Republic of Macedonia with which a law, regulation or other common act is being repealed or revoked, produces a legal action from the day of publishing in the Official newspaper of the Republic of Macedonia.

Article 80

The execution of legality enforced individual acts passed on the basis of a law, regulation or other common act, which by a decision of the Court is revoked, can not be allowed, nor implemented, and if the execution is being started, it will be canceled.

Article 81

Anyone whose right has been infringed by a final or legally enforced act, adopted on the basis of a law, regulation or other common act which by a decision of the Constitutional court is being revoked, has right to ask from the competent organ to revoke that individual act, within 6 months from the day of publishing the decision of the Court in the Official newspaper of the Republic of Macedonia.

If by changing the individual act with respect to paragraph 1 of this article, the consequences from applying the law, regulation or the common act which by a decision of the Constitutional court is revoked, can not be eliminated, the Court may determine the consequences to be eliminated by their returning in the previous condition, with a compensation of damage or in another way.

The execution of the legally enforced individual acts adopted on the basis of a law, regulation or other common act, which by a decision of the Constitutional court is being annulled, can not be allowed, nor implemented, and if the execution has been started it will be canceled.

Article 82

By a decision with which the Constitutional court decides for protection of freedoms and rights from art. 110 paragraph 3 of the Constitution, the Constitutional court will determine the way of eliminating the consequences from applying the individual act or action, with which those rights and freedoms have been violated.

XI. PUBLICITY IN THE CONSTITUTIONAL COURT WORK

Article 83

The work of the Constitutional court is public.

Article 84

The publicity in the work of the Constitutional court is provided by informing the public through the mass media for holding the public hearing, and by an estimation of the Court for holding the meeting and the preparatory meeting, with the attendance of participants in the procedure, other persons, organs and organizations, and representatives of the mass media on a public hearing, preparatory meeting and meeting, as well as with announcements through the mass media for the decisions of the Court upon issues of interest for the public.

The Constitutional court, if necessary, and at least twice a year, organizes press conferences.

The Constitutional court issues a Bulletin and a Collection of decisions as a permanent sources for acquainting the public with its decision, professional opinions and attitudes.

Article 85

The public, in the Court activity on the public hearing, meeting and preparatory meeting, can be excluded if it is requested by the interests of country's security and defense, keeping state, official or business secret, protection of the public morality and in other justified cases defined by the Court.

XII. EXECUTING THE DECISIONS OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF MACEDONIA

Article 86

The decisions of the Constitutional court are executed by the entity which passes the law, other regulation or common act, which by a decision of the Court is

being annulled, or repealed.

The decisions with which the Court decides for protection of freedoms and rights regulated by the Constitution, are executed by the organ or the organization which has adopted the individual act, which with a decision of the Court is annulled, that is the organ or the organization which has undertaken the activity forbidden with a decision of the Constitutional court.

Article 87

The Constitutional court follows the execution of its decisions, and if necessary, will ask from the Government of the Republic of Macedonia to ensure their execution.

XIII. COOPERATION WITH THE CONSTITUTIONAL COURTS OF OTHER COUNTRIES

Article 88

When executing its functions, the Constitutional court of the Republic of Macedonia cooperates with the constitutional courts of other countries, upon issues of interests for protection and promotion of the human and citizens freedoms and rights and of importance for the development and promotion of the constitutional-court thought and practice.

When realizing this cooperation, the Constitutional court of the Republic of Macedonia, raises an initiative for considering certain issues, participates in their solving on mutual consultancy meetings and other professional gatherings, exchanges opinions, information and other materials and establishes other forms of cooperation.

XIV. INTERNAL ORGANIZATION

1) Constitutional court Meeting

Article 89

Upon issues of the domain for internal organization and work, the Constitutional court, on a meeting:

- adopts acts for the organization of work and for the procedure in front of the Constitutional court;
- adopts a program and schedule for work in the Constitutional court;
- appoints and releases the secretary of the Constitutional court, councilor of the Court, independent councilor and the councilor and regulates their personal income;
- appoints representatives of the Constitutional court for participation on consultancy meetings and other professional gatherings and discussions, on which it has been invited, and
- adopts a decision for the amount and way of paying out the salary to scientific and professional workers, as well as other persons, who on an invitation of the Constitutional court, participate in its work.

Article 90

For considering certain issues of the Constitutional court activity, the president of the Court schedules working meetings.

The judges and the secretary of the Constitutional court participate on the working meetings, and according to the opinion of the Constitutional court president, some professional and other workers of the Court may also participate.

A Minutes is being made for the course of the working meeting, which contains the elements from article 26 paragraph 2 of these Rules of Procedure.

The Minutes of the working meeting is being adopted on the first following meeting of the Court.

2) Commissions

Article 91

The Constitutional court has permanent and temporary commissions. Permanent commissions are:

- Commission for organizational and personnel affairs;
- Commission for informing and cooperation and
- Editorial commission.

Temporary commissions are being established when necessary.

Commissions are established from among the judges, secretary and professional workers.

The president, who is being elected from among the judges, administers the work of the commission.

The members of the permanent commissions are appointed in three years time.

The composition and the period for which the temporary commissions are being elected are defined by a decision for their establishing.

Article 92

The Commission for organizational and personnel affairs:

- considers the issues and prepares proposals for improving the organization and the method of work of the Constitutional court;
- considers and gives proposals for appointing and releasing the secretary of the Court, the councilor of the Court, independent councilor and the councilor;
- defines proposals for adopting acts for organization and systematization and other acts for the work of Constitutional court, and
- performs other activities which will be assigned to the Constitutional court.

Article 93

The Commission for informing and cooperation:

- edits the bulletin and other occasional editions of the Constitutional court;
- takes care about regular, prompt and true informing the public for the activity of the Constitutional court ;
- organizes press conferences and other forms of informing the public for the activity of the Constitutional court;
- takes care about the regular provision of the Constitutional court library with vocational literature, periodical vocational magazines, other publications and official magazines and daily newspaper, and
- follows the articles for the activity of the constitutional courts in the mass media and in the scientific and professional publications and informs the Court for issues of interest for the constitutionality and legality.

On the basis of the information during the consideration of more important legal issues, issues of importance for protection and promotion of freedoms and rights of citizens and of importance for promoting the constitutional-court thought and practice, the Commission suggests the Court to take attitudes and opinions and establish cooperation with the constitutional courts of other countries.

Article 94

The Editorial Commission edits the decisions, resolutions and other materials defined by the Court.

3) Constitutional court Secretary

Article 95

The Constitutional court has a secretary.

The secretary of the Constitutional court is appointed for four years and can be appointed again for the same duty.

For his work and for the work of the professional service the secretary of the Constitutional court is responsible in front of the Court, and for the assignments he has been given to the president of the Court.

The secretary of the Constitutional court with regard to the working relations and administration of the work of the professional service of the Constitutional court has the rights and obligations of an official who runs a Republic organ of the Administration, unless otherwise regulated with these Rules of Procedure.

In case of absence or prevention, the secretary of the Constitutional court is being replaced by one of the councilors of the Court, who will be appointed by the Court.

Article 96

The secretary of the Constitutional court:

- administers the professional service of the Constitutional court and takes care about the promotion of its activity;
- takes care about the regularity and promptness in the work upon cases and preparations of other materials and for that purpose schedules and runs the working meetings of the professional service and professional board meeting;
- follows the execution of decisions and conclusions of the Constitutional court and informs the Court about that;
- has a position of an official for the employees in the professional service, who runs the administration organ and is a commander for executing the accounting of revenues and expenditures of the Constitutional court, and
- does other activities regulated by the acts for the Court organization, which will be assigned by the Court and the president of the Court.

4) Professional service

Article 97

Professional and other activities of the Constitutional court are executed by the Professional service of the Constitutional court.

Professional service consists of councilors of the Court, independent councilors, councilors and professional associates, administrative and administrative-technical employees.

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Article 98

Professional service:

- performs theoretical, comparative and empirical investigations and analysis of legal issues of an importance for the constitutionality and legality;
- performs previous analytical processing of the initiatives and proposals upon which cases have been formed;
- provides following of constitutional-court practice of constitutional courts in other countries;
- elaborates reports, draft-decisions and resolutions and other acts of the Court;
- performs administrative-financial, organizational-technical, documentary and other activities necessary for the Court, and
- does other activities in accordance with the common acts for organization and systematization.

Article 99

Professional-analytical part of the activities of the Professional service is done directly by the professional workers, with professional teams and professional board, depending on the importance of the legal issues which are placed in the Constitutional court work.

XV. TRANSITIONAL AND FINAL PROVISIONS

Article 100

The procedure upon the cases established before these Rules of Procedure becomes effective, continues and will be completed according to the provisions of these Rules of Procedure.

Article 101

On the day when these Rules of Procedure become effective, the Rules of Procedure of the Constitutional court of Macedonia from October, 4th, 1982 (Official newspaper of SRM num. 43/82) cease to be effective.

Article 102

These Rules of Procedure become effective on the eighth day from the day of publishing in the Official newspaper of the Republic of Macedonia.

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