

## LAW NO. 47/1992

### on the Organisation and Operation of the Constitutional Court\*)

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#### CHAPTER I General Provisions

**Article 1.** - (1) The Constitutional Court is the guarantor of the supremacy of the Constitution.

(2) The Constitutional Court shall be the only authority of constitutional jurisdiction in Romania.

(3) The Constitutional Court is independent of any other public authority and it shall be subject only to the Constitution and to the present law.

**Article 2.** - (1) The Constitutional Court shall ensure the constitutional review of laws, international treaties, Standing Orders of Parliament, and ordinances of the Government.

(2) The provisions of the normative acts mentioned under paragraph (1) above, which infringe on the stipulations or principles of the Constitution, shall be unconstitutional.

(3) The Constitutional Court shall adjudicate only on the constitutionality of the acts in regard of which it has been apprised, and shall not be competent to modify or to supplement the provisions under review.

**Article 3.** - (1) The powers of the Constitutional Court are those laid down by the Constitution and by the present law.

(2) In the exercise of its powers, the Constitutional Court shall be the only authority entitled to decide upon its competence.

(3) The competence of the Constitutional Court, as is established in accordance with paragraph (2) above, cannot be contested by any public authority.

**Article 4.** - The seat of the Constitutional Court shall be in the Municipality of Bucharest.

#### CHAPTER II Organisation of the Constitutional Court

**Article 5.** - (1) The Constitutional Court shall consist of nine Judges appointed for a term of office of nine years, that cannot be prolonged or renewed.

(2) Three Judges shall be appointed by the Chamber of Deputies, three by the Senate, and three by the President of Romania.

(3) The Constitutional Court shall be renewed by one third of the Judges' number every three years.

(4) By the vote of the majority of its members, on the proposal of its Standing Bureau

and on the recommendation of the Legal Committee, each Chamber of Parliament shall appoint, in the capacity of Judge, that person who has got the majority of votes. (5) Candidatures may be handed in to the Legal Committee by the Parliamentary Groups, by Deputies and by Senators. Each candidate shall hand in a curriculum vitae and documents proving that he or she meets the requirements stipulated by the Constitution. The candidates shall be heard by the Legal Committee and by the plenary of the Chamber. The report of the Legal Committee shall be motivated with reference to all candidates.

**Article 6.** - The Constitutional Court shall carry on its activity in plenum, under the conditions of the present law and of its Organisation and Operation Rules, and the acts of the Court shall be adopted by a majority vote of the Judges, unless otherwise provided by this law.

**Article 7.** - (1) The Constitutional Court shall have a President elected by secret ballot for a period of three years, by majority of the Judges' votes, within five days from the renewal of the Court. (2) The President's term of office may be renewed. (3) For the election of the President, each group of Judges appointed by the Chamber of Deputies, the Senate, and, respectively, by the President of Romania may propose a single candidature. If at the first ballot no candidate gets a majority of votes, a second ballot shall be taken between the first two candidates qualified or selected by drawing lots, if all candidates have received the same number of votes. Proceedings for the election of the President shall be conducted by the Judge who is the eldest of age. (4) The President shall appoint a Judge to replace him while absent.

**Article 8.** - (1) In case of vacancy of office, a President shall be elected to act up to the end of the period of three years provided under Article 7, paragraph (1). (2) The election shall take place according to the procedure provided under Article 7, paragraph (3), within five days from the finding of the vacancy.

**Article 9.** - (1) The President of the Constitutional Court shall have the following attributions:

- a) to co-ordinate the activity of the Constitutional Court;
  - b) to convene and preside over the plenary sessions of the Constitutional Court;
  - c) to designate the Judge-Rapporteur in the cases provided by law and to set the date for adjudication proceedings;
  - d) to represent the Constitutional Court before public authorities and other Romanian or foreign organisations;
  - e) to establish the cases of cessation of the Judges' mandates, as provided in the present law, and to notify the public authorities that have appointed them about such vacancy in order to be filled;
  - f) to fulfil other attributions provided by the law or by the Rules governing the organisation and operation of the Constitutional Court.
- (2) The President shall oversee the activity carried out by the Secretary General of the Constitutional Court concerning discharge of duties as authorising officer in respect of the appropriations from the budget.
- (3) In exercising his powers of administrative direction, the President shall issue orders.

### **CHAPTER III**

#### **Jurisdiction of the Constitutional Court**

**Section 1**  
*Common Provisions*

**Article 10.** - (1) Institutions of proceedings can be made before the Constitutional Court only for the cases expressly provided under Article 146 of the Constitution, republished, or under its organic law.  
(2) The institutions of proceedings shall be made in writing and they shall be motivated.

**Article 11.** - (1) The Constitutional Court shall pronounce decisions, rulings and it shall issue advisory opinions, as follows:

A. Decisions, in cases in which:

- a) it shall pronounce on the constitutionality of the laws, before their promulgation, when a case was submitted by the President of Romania, by one of the Presidents of the two Chambers of Parliament, by the Government, by the High Court of Cassation and Justice, by the Advocate of the People, by a number of at least fifty Deputies or of at least twenty-five Senators, as well as ex officio, on initiatives of revision of the Constitution;
- b) it shall pronounce on the constitutionality of the treaties or other international agreements, before their ratification by Parliament, when a case was submitted by one of the Presidents of the two Chambers, by a number of at least fifty Deputies or of at least twenty-five Senators;
- c) it shall pronounce on the constitutionality of the standing orders of the Parliament, when a case was submitted by one of the Presidents of the two Chambers, by a parliamentary group or by a number of at least fifty Deputies or of at least twenty-five Senators;
- d) it shall decide on the exceptions raised before courts of law or of commercial arbitration regarding the unconstitutionality of the laws and ordinances, as well as on those brought up directly by the Advocate of the People;
- e) it shall resolve the legal disputes of a constitutional nature between public authorities, when a case was submitted by the President of Romania, by one of the Presidents of the two Chambers, by the Prime-Minister, or by the President of the Superior Council of the Magistracy;
- f) it shall decide on the objections regarding the constitutionality of a political party.

B. Rulings, in cases in which:

- a) it shall supervise the observance of the procedure for the election of the President of Romania and it shall confirm the results of the suffrage;
- b) it shall ascertain the existence of circumstances which justify the interim in the exercise of the office of President of Romania and it shall report its findings to the Parliament and to the Government;
- c) it shall supervise the observance of the procedure for the organization and carrying out of a referendum and it shall confirm its results;
- d) it shall verify the fulfilment of the conditions for the exercising of the legislative initiative by the citizens.

C. Advisory opinions on the proposal to suspend the President of Romania from office.

(2) Decisions and rulings shall be delivered in the name of the law.  
(3) Decisions, rulings and advisory opinions of the Constitutional Court shall be published in the Official Gazette of Romania, Part I. Decisions and rulings of the Constitutional Court shall be generally binding and with effects only for the future.

**Article 12.** - (1) The sessions of judgement shall be open, unless the Court may, with good reason, decide otherwise.  
(2) The parties involved shall have access to the deeds of the case.

(3) The acts and proceedings of the Constitutional Court, on the basis of which it shall pronounce its decisions and rulings or it shall issue its advisory opinions provided under Article 11, shall not be made public.

**Article 13.** - Applications submitted to the Constitutional Court shall be exempt from revenue-stamp.

**Article 14.** - The jurisdictional procedure provided under the present law shall be supplemented by the rules of civil procedure, to the extent to which they are compatible with the nature of the proceedings before the Constitutional Court. The compatibility shall be decided exclusively by the Constitutional Court.

## **Section 2** *Jurisdictional Procedure*

### **1. Constitutional review of laws before promulgation**

**Article 15.** - (1) When a case is submitted by the President of Romania, by one of the Presidents of the two Chambers of Parliament, by the Government, by the High Court of Cassation and Justice, by the Advocate of the People, by a number of at least fifty Deputies or of least twenty-five Senators, the Constitutional Court shall pronounce on the constitutionality of the laws before their promulgation.

(2) In order to exercise the right to submit a case to the Constitutional Court, the law shall be remitted to the Government, to the High Court of Cassation and Justice, as well as to the Advocate of the People, and it shall be handed in to the Secretary General of the Chamber of Deputies and of the Senate, five days before it is presented for promulgation. If the law has been passed under an expeditious procedure, the time limit shall be two days.

(3) The date on which the law has been handed in to the Secretaries General of the two Chambers shall be brought to the notice of the plenary of each Chamber within twenty-four hours from its registration. The handing in and the notification shall be made only on the days in which the Chambers of Parliament sit in plenum.

(4) When a case is submitted to the Court by Members of Parliament, the act on the respective case shall be sent to the Constitutional Court on the same day when it was received by the Secretary General of the respective Chamber.

**Article 16.** - (1) In case an institution of proceedings has been made by one of the Presidents of the two Chambers of Parliament, by the Members of Parliament, by the Government, by the High Court of Cassation and Justice, or by the Advocate of the People, the Court shall communicate the act on the case thus received to the President of Romania, on the day of its registration.

(2) If the institution of proceedings was made by the President of Romania, by the Members of Parliament, by the High Court of Cassation and Justice, or by the Advocate of the People, the Constitutional Court shall communicate such to the Presidents of the two Chambers of Parliament and the Government within twenty-four hours from the registration, also specifying the date when the debates are to take place.

(3) If the institution of proceedings was made by one of the Presidents of the two Chambers of Parliament, the Constitutional Court shall communicate such to the President of the other Chamber and to the Government, as well as to the Advocate of the People, and if the institution of proceedings was made by the Government, the Court shall communicate it to the Presidents of the two Chambers of Parliament, as well

as to the Advocate of the People, the provisions under paragraph 2 above being applied accordingly.

**Article 17.** - (1) The Presidents of the two Chambers of Parliament, the Government and the Advocate of the People may present their point of view in writing, by the date of the debates.  
(2) The Government's point of view shall be presented only under the signature of the Prime-Minister.

**Article 18.** - (1) The debate shall take place in the plenum of the Constitutional Court, with the participation of the Judges of the Court, on the basis of the act on the case submitted to the Court, of the deeds and of the viewpoints received, both on the provisions mentioned in the respective act and on those which cannot obviously and necessarily be dissociated.  
(2) Following upon deliberation, the decision shall be pronounced by the majority of the Judges' votes and it shall be notified to the President of Romania. The decision by which the unconstitutionality of the law has been established shall also be notified to the Presidents of the two Chambers of Parliament and to the Prime-Minister.  
(3) In cases of unconstitutionality which concern the laws, before their promulgation, the Parliament shall be bound to re-examine the respective provisions in order to bring them into accord with the decision of the Constitutional Court.

## **2. Verification on the constitutionality of initiatives for the revision of the Constitution**

**Article 19.** - Before submission to the Parliament in order to initiate the legislative procedure for the revision of the Constitution, the bill or the legislative proposal, accompanied by the opinion of the Legislative Council, shall be handed in to the Constitutional Court, which shall have to pronounce on the observance of constitutional provisions in regard of such revision within ten days.

**Article 20.** - On receiving the bill or legislative proposal, the President of the Court shall designate a Judge-Rapporteur and set the date for adjudication proceedings.

**Article 21.** - (1) The Constitutional Court shall pronounce on the bill or legislative proposal by the vote of two thirds of the number of Judges.  
(2) The decision of the Constitutional Court shall be notified to the initiators of the bill or legislative proposal, or to their representative, as the case may be.

**Article 22.** - The bill or legislative proposal can be presented to the Parliament only together with the decision of the Constitutional Court, notified according to Article 21, paragraph (2).

**Article 23.** - (1) The Constitutional Court shall ex officio pronounce on the law for the revision of the Constitution within five days from its passage, the provisions under Articles 20 and 21 being applied accordingly.  
(2) The decision which ascertains that constitutional provisions concerning revision have not been complied with shall be sent to the Chamber of Deputies and to the Senate in order to re-examine the law for the revision of the Constitution and bring it into accord with the decision of the Constitutional Court.

## **3. Constitutional review of the treaties or other international agreements**

**Article 24.** - (1) The Constitutional Court shall pronounce on the constitutionality of the treaties or other international agreements before their ratification by Parliament, when a case is submitted to the Court by one of the Presidents of the two Chambers, by a number of at least fifty Deputies or at least twenty-five Senators.

(2) If the institution of proceedings is made by one of the Presidents of the two Chambers of Parliament, the Constitutional Court shall communicate the act on the respective case to the President of Romania, to the President of the other Chamber, and to the Government.

(3) When a case is submitted to the Court by Members of Parliament, the act on the case shall be registered at the Senate or at the Chamber of Deputies, as the case may be, and sent to the Constitutional Court on the same day when it was received by the Secretary General of the respective Chamber.

(4) The Constitutional Court shall communicate the act on the case to the President of Romania, to the Presidents of the two Chambers of Parliament, and to the Government.

**Article 25.** - The President of Romania, the Presidents of the two Chambers of Parliament and the Government may present their point of view in writing, by the date of the debates in the plenum of the Constitutional Court.

**Article 26.** - (1) The debates on the constitutionality of the treaty or international agreement shall take place in the plenum of the Constitutional Court, on the basis of the act on the case submitted to the Court, of the documents and the viewpoints received, both on the provisions mentioned in the respective act and on those which cannot obviously and necessarily be dissociated.

(2) Following upon deliberation, the decision shall be pronounced by the majority vote of the Judges and it shall be communicated to the President of Romania, to the Presidents of the two Chambers of Parliament and to the Government.

(3) When the constitutionality of the treaty or international agreement has been established according to Article 146, subparagraph b) of the Constitution, republished, such cannot form the object of an exception of unconstitutionality. A treaty or international agreement which was found unconstitutional cannot be ratified.

#### **4. Constitutional review of the Standing Orders of the Parliament**

**Article 27.** - (1) The Constitutional Court shall pronounce on the constitutionality of the Standing Orders of Parliament, resolutions by the Plenary of the Chamber of Deputies, resolutions by the Plenary of the Senate and resolutions by the Plenary of the joint Chambers of Parliament, when a case is submitted to the Court by one of the Presidents of the two Chambers, by a parliamentary group or by a number of at least fifty Deputies or at least twenty-five Senators.

(2) In case the institution of proceedings is made by Members of Parliament, the act of reference shall be sent to the Constitutional Court by the Secretary General of the Chamber to which they belong, on the same day when it was handed in, and the Constitutional Court shall inform the Presidents of the two Chambers of Parliament within twenty-four hours from the registration, specifying the date when the debate is to take place.

(3) The Presidents of the two Chambers of Parliament may notify the viewpoints of the Standing Bureau, by the date of the debates.

**Article 28.** - (1) The debates shall take place in the plenum of the Constitutional Court, on the basis of the act on the case submitted to the Court and of the viewpoints received.

- (2) The decision shall be pronounced by a majority vote of the Court's Judges and it shall be brought to the notice of the Chamber whose standing orders were debated.
- (3) If by the decision certain provisions of the standing orders are found unconstitutional, the Chamber to which the case was submitted shall re-examine these provisions within forty-five days, in order to bring them into accord with the stipulations of the Constitution. For this limited length of time the provisions of the standing orders which are declared unconstitutional shall be suspended. At the expiry of this term of forty-five days, the provisions declared unconstitutional shall cease their legal effects.

## **5. Settlement of the exception of unconstitutionality raised before courts of law or courts of commercial arbitration**

**Article 29.** - (1) The Constitutional Court shall decide upon the exceptions raised before the courts of law or courts of commercial arbitration referring to the unconstitutionality of laws and ordinances which are in force, or any provision thereof, where such is related to adjudication of the case, regardless in which stage of trial proceedings or subject matter thereof.

(2) The exception can be raised at the request of either party or ex officio, by the court of law or of commercial arbitration hearing the case. Likewise, the prosecutor is entitled to raise this exception before the court in cases where he attends trial proceedings.

(3) Legal provisions whose unconstitutionality has been found by prior decision of the Constitutional Court cannot form the object of an exception.

(4) The case shall be referred to the Constitutional Court by the court before which the exception of unconstitutionality was raised, through an interlocutory order which shall include the parties' for and against viewpoints, and the instance's opinion on the exception, together with the evidence provided by the parties. If the exception has been raised ex officio, the interlocutory order shall be motivated, including the parties' arguments, as well as the necessary evidence. Alongside with the interlocutory order, the referring court must also send to the Constitutional Court the full name of the litigant parties and other details comprising necessary data for the accomplishment of the summons proceedings in respect thereof.

(5) If the exception is inadmissible, being contrary to provisions under paragraphs (1), (2) or (3) above, the adjudicating court shall, through a motivated interlocutory order, dismiss the request for referring the case to the Constitutional Court. The interlocutory judgment is subject only to an appeal lodged to the superior court, within forty-eight hours from the pronouncement. The appeal shall be heard within three days.

**Article 30.** - (1) On receiving the interlocutory order provided under Article 29, paragraph (4), the President of the Constitutional Court shall designate the Judge-Rapporteur and also notify the Presidents of the two Chambers of Parliament, the Government and the Advocate of the People, of the interlocutory order by which the Constitutional Court was apprised, indicating the date by which they can submit their viewpoint. The provisions under Article 17, paragraph (2) shall apply accordingly.

(2) The Judge designated as rapporteur, subject to paragraph (1) above, shall be bound to take the necessary measures for evidence to be given by the date of judgment.

(3) Judgment shall take place at the date established, on the basis of the deeds of the case, with due summoning of the parties and of the Public Ministry.

(4) The prosecutor's attendance to the proceedings is mandatory.

(5) The parties may be represented by lawyers having the right to plead before the High Court of Cassation and Justice.

**Article 31.** - (1) The decision by which the unconstitutionality of a law or of an ordinance which is in force, or of provisions thereof, is established shall be final and binding.

(2) If the exception is admitted, the Court shall also pronounce upon the constitutionality of other provisions of the normative act being challenged, of which those mentioned in the case referral act cannot obviously and necessarily be dissociated.

(3) Provisions of the laws and ordinances in force which are found unconstitutional shall cease their legal effects within forty-five days from the publication of the decision of the Constitutional Court if in the bounds of said interval neither Parliament nor the Government, as may be applicable, have brought these unconstitutional provisions into accord with those of the Constitution. For this limited length of time the provisions declared unconstitutional shall be suspended de jure.

(4) The decisions pronounced under the terms of paragraph (1) above shall be notified to the two Chambers of Parliament, to the Government and also to the referring court.

(5) If by the date when the Constitutional Court decision has been communicated according to paragraph (4) above, the case is pending before another judicial organ, the referring court shall communicate such to the latter.

## **6. Settlement of the exception of unconstitutionality raised by the Advocate of the People**

**Article 32.** The Constitutional Court shall decide on the exceptions of unconstitutionality brought up directly by the Advocate of the People regarding the constitutionality of a law or ordinance which is in force, or of any provision thereof.

**Article 33.** - For adjudication on the exception of unconstitutionality, the provisions under Articles 29 to 31 shall be applied accordingly.

## **7. Resolution of legal disputes of a constitutional nature between public authorities**

**Article 34.** - (1) The Constitutional Court shall resolve legal disputes of a constitutional nature between public authorities, at the request of the President of Romania, of one of the Presidents of the two Chambers, of the Prime-Minister, or of the President of the Superior Council of the Magistracy.

(2) The request for settlement of such dispute shall indicate the public authorities which are in conflict, the legal texts upon which the conflict is bearing, and also include a presentation of the parties' stance and of the applicant's opinion.

**Article 35.** - (1) On receiving the request, the President of the Constitutional Court shall communicate it to the parties in conflict, soliciting them to express, in writing, their viewpoint on the subject matter at dispute and the possible ways for resolution, to be handed in within the established term, and shall designate the Judge-Rapporteur.

(2) At the date when the last viewpoint has been received, but not later than twenty days from the receipt of the request, the President of the Constitutional Court shall establish the date for the hearing session to which he shall summon the parties involved in the dispute. The debate shall take place on the day fixed by the President of the Constitutional Court, regardless of whether either of the public authorities involved has failed to meet the deadline for presenting its point of view.

(3) The debate shall take place on the basis of the report presented by the Judge-Rapporteur, of the act on the case submitted to the Court, of the viewpoints presented according to paragraph (1) above, of the evidence given and the parties' arguments.



**Article 36.** - The decision which resolves the legal conflict of a constitutional nature shall be final and it shall be communicated to both the applicant, and to the parties in dispute, before its publication in the Official Gazette of Romania, Part I.

## **8. Observance of the procedure for the election of the President of Romania**

**Article 37.** - (1) The Constitutional Court shall supervise the observance of the procedure for the election of the President of Romania, and it shall confirm the ballot returns.

(2) The result of the elections to the office of President of Romania shall be validated by the Constitutional Court.

**Article 38.** - Objections as to the registration or non- registration of a candidacy to the office of President of Romania, as well as to hindrance of a political party or formation, or of a candidate, to carry out electoral campaigning under the conditions of the law shall be resolved by the Constitutional Court, by a majority vote of the Judges, within the deadlines stipulated by the Law for the Election of the President of Romania.

## **9. Trial of objections on the constitutionality of a political party**

**Article 39.** - (1) The Constitutional Court shall decide on objections regarding the constitutionality of a political party.

(2) The objection on the constitutionality of a political party may be formulated by the President of one of the Chambers of Parliament, or by the Government. The President of the Chamber may formulate the objection only on the basis of a resolution adopted by the Chamber by a majority vote of its Members.

(3) The objection has to be motivated, and the evidence on which it rests must be annexed.

**Article 40.** - (1) In order to resolve the claim, the President of the Constitutional Court shall designate the Judge-Rapporteur, who shall have to communicate such to the political party concerned, together with documentary proof, also specifying the date uptill when a memorandum in defence and appropriate evidence can be laid before the Court.

(2) Trial shall be with due summoning of contestant, the political party whose constitutionality is contested and the Public Ministry, on the basis of the report presented by the Judge assigned to the case and of the given evidence.

(3) The Chamber of Parliament which has handed in the objection can be represented by a person it shall designate, and the Government shall be represented by the Ministry of Justice. The political party can also be represented by a lawyer having the right to plead before the High Court of Cassation and Justice.

(4) The decision of the Court shall not be subject to any appeal.

**Article 41.** - (1) Political parties can be declared unconstitutional in the cases provided under Article 40, paragraph (2) of the Constitution, republished.

(2) The decision granting the objection shall be notified to the Tribunal of Bucharest for striking the unconstitutional party off from the register of lawfully constituted political parties.

## **10. Issue of an Advisory Opinion on the proposal to suspend the President of Romania from office**

**Article 42.** - (1) The Constitutional Court shall give advisory opinion on the proposal to suspend the President of Romania from office.  
(2) A copy of the proposal to suspend the President of Romania from office, together with the evidence in support, shall be sent to the Constitutional Court by the President who presided the common session of the two Chambers.  
(3) On receiving the impeach, the President of the Constitutional Court shall designate the Judge-rapporteur.

**Article 43.** - (1) The advisory opinion on the suspension of the President of Romania from office shall be issued by the Constitutional Court following upon debate on the proposal of suspension and on the given evidence.  
(2) The President of Romania shall be notified of the date fixed for the debate, and he may offer explanations regarding the imputations brought to him.  
(3) The advisory opinion of the Constitutional Court shall be notified to the Presidents of the two Chambers of Parliament, and to the President of Romania.

### **11. Establishment of the reality of circumstances justifying the Interim in the exercising of the office of President of Romania**

**Article 44.** - (1) The Constitutional Court shall establish the reality of the circumstances justifying the interim in the exercising of the office of President of Romania, and shall notify its findings to the Parliament and to the Government.  
(2) The vacancy of the office of President of Romania shall be established at the request of one of the Presidents of the Chambers of Parliament, or of the President ad interim, exercising the attributions of the President of Romania while the President is suspended from office.  
(3) In case the President of Romania has been suspended from office, the request to establish the circumstances justifying the interim shall be made by the President who presided over the proceedings of the common session of the two Chambers of Parliament, on the basis of the decision adopted at the common session.  
(4) If the interim of the office of President of Romania is due to a temporary incapacity to exercise the presidential attributions, the request shall be made by the President of Romania, or by the President of one of the Chambers of Parliament.

**Article 45.** - The request for establishing the reality of the circumstances justifying the interim in the office of President of Romania shall be presented together with the necessary evidence, and the finding of these circumstances shall be pronounced by the Constitutional Court, by the majority of the Judges' votes.

### **12. Exercise of powers in respect of the organisation and carrying-out of a Referendum and confirmation of its results**

**Article 46.** - (1) The Constitutional Court shall supervise the observance of the procedure for the organization and carrying out of a referendum, and it shall confirm its results.  
(2) In order to implement the provisions under paragraph (1) above, the Constitutional Court is entitled to request information from any public authority.  
(3) At the request of the Constitutional Court, the Central Election Committee must present information on the stages and operations related to the carrying out of the referendum.

**Article 47.** - (1) The Plenum of Constitutional Court shall decide on the validity of the referendum, with a two thirds majority.  
(2) The ruling made by the Constitutional Court establishes whether the procedure for the organization and carrying out of the referendum has been complied with, and it shall confirm its results.  
(3) Before publication in the Official Gazette of Romania, Part I, the ruling of the Constitutional Court shall be presented to the Chamber of Deputies and the Senate, in their common session.

### **13. Verification of fulfilment of the conditions for the citizens' exercise of the legislative initiative**

**Article 48.** - The Constitutional Court shall, ex officio or on the basis of the act submitted by the President of the Chamber of Parliament at which the citizens' legislative proposal has been registered, pronounce upon:  
a) the constitutionality of the legislative proposal which forms the object of the citizens' initiative;  
b) the fulfilment of the conditions relative to the publication of this proposal and whether the lists of supporters are duly certified by the mayors of the administrative-territorial units or by their empowered representatives;  
c) the attainment of the minimum number of supporters required for the promotion of such initiative, as provided under Article 74, paragraph (1) or, as the case may be, under Article 150, paragraph (1) of the Constitution, republished, as well as the observance of their territorial dispersion in counties and in the Municipality of Bucharest, provided under the same Articles.

**Article 49.** - On receiving the act on the respective case, the President of Constitutional Court shall designate the Judge-Rapporteur and fixes the date when the Judges shall convene in order to verify the initiative.

## **CHAPTER IV The Plenum of the Constitutional Court**

**Article 50.** - The Plenum of the Constitutional Court, composed of the Court's Judges, shall fulfil its powers as provided by the Constitution and the law. The Plenum can take any necessary measure in order to ensure proper operation of the Court.

**Article 51.** - (1) The Constitutional Court shall be authorised to act in the presence of two-thirds of the Judges. The Plenum decides by the majority of votes of the Judges, unless otherwise stipulated by law. (2) The disposition of a case reached by the Constitutional Court in the exercise of jurisdictional powers, shall be entered in the register of adjudication sessions, while in administrative matters such shall be written down, for each session in part, in a report which is the basis for issuing a resolution to be signed by the President of the Court and countersigned by the Secretary General. (3) In order to exercise attributions other than jurisdictional powers, the Plenum shall be convened by the President of the Constitutional Court, at his own initiative or on written request from another Judge. Such calling shall be upon an announced agenda, which is adopted by the Plenum, at the beginning of the session.

## **CHAPTER V Procedural Rules specific for the activity of the Constitutional Court**

**Article 52.** - (1) All Judges of the Constitutional Court shall have to participate in the Plenum sessions, except where some of them are not in attendance for justified reasons.

(2) Sessions shall be presided over by the President of the Constitutional Court. In the absence of the President of the Court, the sessions shall be presided over by a Judge designated by the President. Sessions must also be attended by the assistant-magistrate assigned to the Judge-Rapporteur and, in cases provided by law, by the representative of the Public Ministry and by other persons or authorities summoned to this end.

(3) Debates shall take place on the basis of the act on the case submitted to the Court act and of its other deeds, with no other than the Judges partaking therein, without the parties being summoned, except in the cases provided under Article 146, subparagraphs d), e) and k) of the Constitution, republished. The President can invite anyone whose presence is deemed necessary, to give clarification.

**Article 53.** - (1) The access of the public is restricted to the number of seats in the courtroom. The Secretary General shall take measures so as to ensure public access into the courtroom.

(2) For purposes of ensuring the solemnity of sessions, the utilisation of any sound or video equipment for taking, recording, or broadcasting voice and/or picture in the courtroom shall be allowed only before commencement of proceedings, with prior authorisation of the President of the Constitutional Court.

(3) Any kind of propaganda, either viva voce or by posters, placards or other similar materials shall be strictly forbidden, under the sanction of being removed from the courtroom and having police called in, if the President of the Constitutional Court so deems necessary in regard of the gravity of such activity.

(4) Provisions under Articles 122 and 123 of the Code of Civil Procedure shall apply accordingly.

(5) A joining of cases entered on the docket of the Constitutional Court is ordered when the object of the exception is identical.

**Article 54.** - While attending public sessions, the Judges, the assistant-magistrates, public prosecutors, and lawyers shall wear court attires (robes).

**Article 55.** - Once legally vested with a case, the Court shall proceed to carrying on the review of constitutionality, in which neither provisions of the Code of Civil Procedure regarding the suspension, interruption or termination of proceedings, nor those concerning the challenge of Judges shall be applicable.

**Article 56.** - In the course of a public session the assistant-magistrate shall take notes, per case number, of the oral arguments made by the parties and by the public prosecutor, of the measures ordered by the Court, as well as of any other aspects arising from the development of the proceedings, in the record book whose pages are consecutively numbered and affixed with a seal. On its basis, the assistant-magistrate shall prepare the minutes of the proceedings. Such records shall be kept in the archives of the Court for a period of five years as from the date of the last written notes.

**Article 57.** - Should the Constitutional Court defer the delivery of judgment, the President shall announce the day set for the pronouncement. As a rule, such postponement shall not exceed thirty days. When pronouncement is being given, the date on which the debates have taken place shall also be entered in the register of adjudication sessions.

**Article 58.** - (1) Deliberation shall be in secret, and only the Judges who have also taken part in the debates are allowed to attend. The assistant-magistrate who has prepared and participated in the debate proceedings may be consulted.  
(2) The first one to vote is the Judge-Rapporteur, second comes the youngest of the Judges, then the others, while the President of the Constitutional Court is the last to vote.

(3) Where either of the Judges demands to interrupt deliberation in order to have a better sight into the matters under their current examination, and the President of the Constitutional Court or at least one third of the Judges of the Plenum consider that such request has good reason, pronouncement shall be adjourned for a later date, taking into account the urgency of the case.

(4) If further clarification of certain aspects may appear to be necessary while in the process of deliberation, the President of the Constitutional Court may order that proceedings be re-opened, also taking all due procedural measures.

**Article 59.** - (1) The result of the deliberation is recorded in the minutes, which is signed by the Judges who have taken part in the session and by the assistant-magistrate.

(2) The assistant-magistrate shall forthwith enter the dispositions of the case as have been rendered, into the register of sessions, and it shall be signed by the Judges.

(3) Judges who have given a negative vote may formulate a separate opinion. With regard to the reasoning of the decision, it is also possible to write a concurring opinion. The separate (dissenting) and, as the case may be, concurring opinion shall be published in the Official Gazette of Romania, Part I, together with the decision.

**Article 60.** - (1) Decisions, rulings, and advisory opinions shall be drafted in written form by the assistant-magistrate who has participated in the proceedings, under the guidance of the Judge-Rapporteur. The term for redaction shall be maximum thirty days as from the pronouncement.

(2) Decisions, rulings, or advisory opinions shall be certified by the President of the Constitutional Court and by the assistant-magistrate who has participated in the proceedings. They receive numbers in their order of entry on the register of sessions, but singled out as decisions, rulings, and advisory opinions.

(3) The Court publishes collections of decisions and rulings and organises the systematisation of its case-law.

## CHAPTER VI

### Status of the Judges of the Constitutional Court

**Article 61.** - (1) The Judges of the Constitutional Court shall be independent in the exercising of their attributions and irremovable during the term of office.

(2) The Judges of the Constitutional Court cannot be held legally responsible for their opinions and for the votes cast in rendering the decisions.

(3) The Judges of the Constitutional Court must have graduated in law, must have high professional competence, and at least eighteen years' experience in juristical or academic activities in law.

(4) The office of Judge is incompatible with any other public or private office, except that of academic professorial activity in law.

**Article 62.** - The appointment of the Judges under the conditions of the present law can be made only with the previous agreement of the candidate, expressed in writing. In case the candidate holds an office incompatible with that of Judge at the Constitutional

Court, or he is a member of a political party, the agreement shall necessarily include the candidate's engagement to resign from that office or from the political party whose member he or she is, on the day of the appointment.

**Article 63.** - (1) Judges of the Constitutional Court shall take before the President of Romania, and the Presidents of the two Chambers of Parliament, the following oath: "I swear to respect and abide by the Constitution, and to fulfil in good faith and without partiality my obligations as Judge of the Constitutional Court. So help me God!" (2) The oath shall be taken individually. The Judges of the Constitutional Court shall exercise their office from the date of their taking the oath.

**Article 64.** - The Judges of the Constitutional Court shall be under an obligation:

- a) to perform their function unbiasedly and in abidance by the Constitution;
- b) to keep the secret of the deliberations and of the votes, and not to take a public stand, or to give legal opinion in matters within the competence of the Constitutional Court;
- c) to express their affirmative or negative vote in adopting the acts of the Constitutional Court, abstention from voting not being permitted;
- d) to impart to the President of the Constitutional Court any activity which might entail incompatibility with the mandate exercised;
- e) to preclude the use of the office performed for purposes of trade publicity or propaganda of any kind whatsoever;
- f) to abstain from any activity or manifestation contrary to the independence or dignity of their office.

**Article 65.** - The Plenum of the Constitutional Court shall be exclusively competent to establish the Judges' infringements of discipline, the sanctions, and the mode of their application.

**Article 66.** - (1) The Judges of the Constitutional Court cannot be arrested, nor can they be indicted for criminal offences, unless approved by the Standing Bureau of the Chamber of Deputies, or of the Senate, or by the President of Romania, as the case may be, and at the request of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice. (2) The legal competence for trial of the offences committed by Judges of the Constitutional Court shall belong to the High Court of Cassation and Justice, Criminal Division. (3) The Judge of the Constitutional Court shall be suspended from office, de jure, from the date of his indictment for a criminal offence. In case of conviction by final sentence, the judge shall be excluded de jure, and in case of a not guilty verdict, the suspension shall cease.

**Article 67.** - (1) The mandate of Judge of the Constitutional Court shall cease:

- a) expiration of the term of appointment, or in case of resignation, disfranchisement, exclusion de jure, or of demise;
- b) in situations of incompatibility, or of impossibility of exercising the office of Judge for a period which is longer than six months;
- c) in case of infringement of the provisions of Article 16, paragraph (3) or of Article 40, paragraph (3) of the Constitution, republished, or of severe infringement of the obligations provided under Article 64.

(2) The establishment of the cessation of the mandate, according to subparagraph a. above, shall be made by the President of the Constitutional Court, and in the other

cases the cessation of the mandate shall be decided in plenum by the majority of votes of the Court's Judges.

**Article 68.** - (1) Three months before expiration of the mandate of each Judge, the President of the Court shall notify the President of the Chamber of Parliament which has appointed the Judge or, as the case may be, the President of Romania, soliciting the appointment of another Judge in his or her place; the appointment shall be made at least one month before the cessation of the mandate of the preceding Judge.

(2) In case the mandate has ceased before the expiration of the duration for which the Judge was appointed, and the remaining period exceeds six months, the President shall notify the public authority provided under paragraph (1) above, within three days at the most from the date of cessation of the mandate, in order to appoint a new Judge. The mandate of the Judge thus appointed shall cease at the expiration of the mandate of the Judge replaced.

(3) If the period for which the new Judge has been appointed according to paragraph (2) above is shorter than three years, the respective Judge can be appointed for a full mandate of nine years at renewal of the Constitutional Court.

**Article 69.** - (1) After cessation of the mandate as a result of the expiration of the period for which it was granted, the Judge shall have the right to resume the position previously held, if his or her appointment to the Constitutional Court was made on condition of its reservation.

(2) In case the Judge held a magistrate office, the reservation of the office is obligatory.

(3) During the period it is reserved, the office provided under paragraphs (1) and (2) above can be occupied only by labour contract for a determined duration.

**Article 70.** - Judges who are not domiciled in the Municipality of Bucharest shall be entitled to free accommodation, weekly transportation to and from their respective locality of residence, as well as to a per diem allowance for the days in which they participate in the working of the Constitutional Court, under the same conditions as stipulated by law with regard to Deputies and Senators.

**Article 71.** - (1) Upon cessation of the mandate as a result of the expiration of its term of office, or incapacity to exercise office for reasons of ill health, the Judges of the Constitutional Court shall benefit of an amount equal to the net indemnity for six months of activity.

(2) On the date of retirement or recalculation of pensions as have been established up to that time, the Judges of the Constitutional Court shall benefit of a service pension whose amount equals 80% of their monthly gross indemnity. The pension established in this way shall be updated in relation with the indemnity of the Constitutional Court Judges and shall be taxed according to the law.

(3) The Judges of the Constitutional Court have the right to hold a diplomatic passport, under the terms of the law.

## **CHAPTER VII**

### **Personnel of the Constitutional Court**

**Article 72.** - (1) The personnel of the Constitutional Court is made up of the body of Assistant-Magistrates and of the staff of the General Secretariat, which is headed by a Secretary General.

(2) The Secretary General shall be assimilated with the magistrates, and shall accordingly enjoy their rights. The period of time in fulfilling the office of Secretary

General of the Constitutional Court shall count as length of service in magistracy.  
(3) The Secretary General discharges powers as authorising officer in respect of the appropriations from the budget, under the terms of Article 9, paragraph (2).


**Article 73.** - The legal status of the personnel of the Constitutional Court shall be regulated under a special law.

## **CHAPTER VIII**

### **Final and Transitory Provisions**

**Article 74.** - (1) The Constitutional Court shall have its own budget, which shall be an integral part of the State Budget.  
(2) The draft of the budget shall be approved by Plenum of the Constitutional Court, and it shall be forwarded to the Government in order to be distinctively included in the State Budget.

**Article 75.** - (1) The first Constitutional Court shall be set up within ten days at the most from the publishing date of the present law in the Official Gazette of Romania [\*]  
(2) To this end, each Chamber of Parliament shall appoint three Judges for a period of three, six, and nine years, while observing the provisions of Article 5, paragraph (4). The Judges shall be appointed according to the number of votes expressed for each candidate. Likewise, the President of Romania shall appoint three Judges for the same periods.  
(3) Within three days from its setting up, the Court shall elect a President, and within ten days it shall adopt the Organization and Operation Rules.

**Article 76.** - Public authorities, institutions, self-managed public companies, trading companies  and all the other organizations shall have to communicate any information, documents, and deeds they hold, and which are requested by the Constitutional Court for the fulfilment of its powers.

**Article 77.** - For the year 1992, the sums required for the operation of the Constitutional Court shall be provided by the Government from the budgetary reserve existing at its disposal.

[\*] Law no.47/1992 was initially published in the Official Gazette of Romania, Part I, no.101 of 22 May 1992.