

# Law on the Constitutional Court

Prevod preuzet iz Glasnikove baze *Propisi na engleskom jeziku (Legal Acts in English Online)*

Published in the *Službeni glasnik RS*, Nos. 109/07 of 28 November 2007, 99/11 of 27 December 2011, 18/13 (CC) of 26 February 2013, 40/15 of 7 May 2015 and 103/15 of 14 December 2015

- **I MAIN PROVISIONS**
- **II ELECTION, APPOINTMENT, TERMINATION OF OFFICE AND STATUS OF CONSTITUTIONAL COURT JUDGES**
- **III ORGANISATION OF THE CONSTITUTIONAL COURT**
- **IV PROCEDURES BEFORE THE CONSTITUTIONAL COURT AND LEGAL EFFECT OF ITS DECISIONS**
- **V ENFORCEMENT OF CONSTITUTIONAL COURT ACTS**
- **VI RELATIONSHIP OF THE CONSTITUTIONAL COURT AND THE NATIONAL ASSEMBLY**
- **VII COOPERATION WITH STATE AND OTHER AUTHORITIES AND ORGANISATIONS AND INTERNATIONAL COOPERATION**
- **VIII PENAL PROVISIONS**
- **IX TRANSITIONAL AND FINAL PROVISIONS**

## **LAW ON THE CONSTITUTIONAL COURT**

### **I. MAIN PROVISIONS**

#### **Article 1**

The organisation of the Constitutional Court, the procedure before the Constitutional Court and the legal effect of its decisions are determined by this Law.

#### **Article 2**

The Constitutional Court decides on questions from its jurisdiction determined by the Constitution of the Republic of Serbia (hereinafter: the Constitution) and performs other activities determined by the Constitution and by law.

#### **Article 3**

The work of the Constitutional Court is public.

Transparency is guaranteed by means of publication of decisions of the Constitutional Court, by publication of statements from sessions on the Internet home page of the Constitutional Court, by holding public debates and hearings in procedure before the Constitutional Court, by release of communiqués to the public information media, by holding press conferences and in other manner.\*

The Constitutional Court may exclude the public, only for the purpose of protecting the interests of national security, public order and morality in a democratic society, as well as for the purpose of protecting the interests of juveniles and the privacy of participants in a procedure.

Exclusion of the public does not pertain to the participants in a procedure, their legal representatives and representatives of the professional public.

Judges may not express publicly their opinions about questions which are the subject matter of a dispute before the Constitutional Court.

#### **Article 4**

Everyone is entitled to request insight into the case files and to request that he/she be allowed to copy the files, in accordance with the law governing free access to information of public importance.

Exceptionally, in procedures of constitutional complaints and complaints of judges, public prosecutors and deputy public prosecutors, the Constitutional Court may decide to grant the right of insight into case files solely to participants in the procedures.

Insight into case files shall not be allowed if there are reasons for exclusion of the public and in other cases, in accordance with law.

#### **Article 5**

Procedures before the Constitutional Court are conducted in the Serbian language and with the use of the Cyrillic script.

Official usage of other languages and scripts in procedures before the Constitutional Court is effected in accordance with the law governing the use of those languages and scripts.

#### **Article 6**

Procedures before the Constitutional Court are not subject to any duties.

Participants in procedures before the Constitutional Court bear their own expenses, unless the Constitutional Court determines otherwise.

The Constitutional Court may compensate other summoned persons for their expenses and determine a fee for their participation in the procedure.

#### **Article 7**

Decisions of the Constitutional Court are final, enforceable and universally binding.

The manner and procedure of enforcing decisions of the Constitutional Court are determined by this Law.

#### **Article 8**

Matters of procedure before the Constitutional Court not regulated by this Law shall accordingly be governed by provisions of appropriate procedural laws.

Matters of procedure not regulated by this Law or provisions of other procedural laws shall be decided on in each individual case by the Constitutional Court.

#### **Article 9**

Constitutional Court passed general and individual acts, by majority vote of all judges, except in cases prescribed by this Law.

#### **Article 10**

The Constitutional Court shall adopt the Rules of Procedure of the Constitutional Court (hereinafter: Rules of Procedure) by majority vote of all judges, which regulate in detail the organisation, manner and transparency of work and the procedure before the Constitutional Court.

Rules of Procedure are published in the Službeni glasnik Republike Srbije.

## **II. ELECTION, APPOINTMENT, TERMINATION OF OFFICE AND STATUS OF CONSTITUTIONAL COURT JUDGES**

#### **Article 11**

The Constitutional Court consists of 15 judges elected and appointed in the manner prescribed by the Constitution.

On assuming office judges take an oath before the Speaker of the National Assembly.

The text of the oath is as follows: "I solemnly swear to abide by the Constitution and laws of the Republic of Serbia in my work and to perform my duty honourably, conscientiously and impartially".

#### **Article 12**

Six months before the expiry of the nine-year term of office to which a Constitutional Court judge has been appointed, or elected, the President of the Constitutional Court shall notify thereof the authorised propounder and the National Assembly.

#### **Article 13**

Constitutional Court judges files requests for termination of office before the expiry of the term to which they have been elected, or appointed, to the authorised propounder for election, or appointment, to the National Assembly, and the President of the Constitutional Court.

If the National Assembly fails to adopt a decision on the request referred to in paragraph 1 of this Article within three months from the day it was filed, the office of the Constitutional Court judge expires by force of law on the expiry of that time-limit, and this is stated by a ruling passed by the President of the Constitutional Court

In case of death of Constitutional Court judge, the President of the Constitutional Court informs the authorised propounder and the National Assembly thereof.

#### **Article 14**

A Constitutional Court judge shall cease to perform duties upon fulfilment of general conditions for retirement.

Notwithstanding paragraph 1 of this Article, the Constitutional Court may extend the working age of a judge until the pending cases in which he was engaged have been closed, but no later than the expiration of the period for which he was elected or appointed, with his consent.

The Constitutional Court notifies the authorised propounder for election, or appointment of a judge, and the National Assembly, that the judge has fulfilled requirements for mandatory retirement, no later than six months before the fulfilment of those requirements.

In the case referred to in paragraph 3 of this Article, the authorised propounder shall initiate a procedure for termination of office of the Constitutional Court judge concerned.

If the National Assembly fails to adopt a decision on the termination of office of a judge who has fulfilled requirements for retirement, the office of that judge is terminated on the date of fulfilment of those requirements, and this is stated by a ruling passed by the President of the Constitutional Court.

#### **Article 15**

A Constitutional Court judge may be dismissed if he/she becomes a member of a political party, violates the prohibition of conflict of interest, suffers permanent loss of ability to perform the duty of a Constitutional Court judge, or is convicted to a prison sentence or convicted for a punishable offence rendering them him/her unworthy to serve as a Constitutional Court judge.

Fulfilment of conditions for dismissal of a Constitutional Court judge of duty is determined by the Constitutional Court.

Procedure for dismissal of Constitutional Court is initiated by the authorised propounders for the election, or appointment, of Constitutional Court judges. Initiative for commencement of dismissal procedure may be filed by the Constitutional Court.

#### **Article 16**

Constitutional Court judges may not hold or perform other public or professional office or job, except for professorships at faculties of law in the Republic of Serbia.

Unpaid work in cultural and artistic, humanitarian, sports or other associations shall not within the meaning of this Law be deemed as public or professional office or job.

Constitutional Court judge is under the obligation to inform the Constitutional Court of activities from paragraph 2 of this Article.

Professorship at faculties of law shall within the meaning of this Law be deemed as conducting teaching activities at faculties as full or associate professor.

Where it is suspected that a conflict of interest may exist, a Constitutional Court judge may approach the Constitutional Court for its opinion.

#### **Article 17**

Loss of ability to work as a Constitutional Court judge is determined on the basis of an expert finding and opinion of an authorised health-care institution.

#### **Article 18**

The competent court, or other state authority, has an obligation to serve to the authorised propounder for the election or appointment of a Constitutional Court judge, and to the Constitutional Court, legally binding decisions on convictions of Constitutional Court judges to a prison sentence or conviction for other punishable offence.

#### **Article 19**

For the duration of the procedure for determining whether requirements for dismissal a Constitutional Court judge have been fulfilled, the judge may be suspended from duty.

Decision on suspending a Constitutional Court judge is passed at the proposal of the President of the Constitutional Court.

Decision on suspension of the President of the Constitutional Court is passed at the proposal of at least three Constitutional Court judges.

Decision on suspension is passed by the Constitutional Court, by majority vote of all judges, in accordance with the Rules of Procedure.

#### **Article 20**

Where the office of a Constitutional Court judge is terminated before the expiry of the term to which that judge has been elected, or appointed, the authorised propounder nominates two candidates for election, or appointment.

The nomination referred to in paragraph 1 of this Article is submitted to the authority in charge of the election, or appointment, within three months from the date of notification about the termination of a Constitutional Court judge's office.

If the Constitutional Court judge whose office has been terminated was from the territory of an autonomous province, the candidates for election, or appointment, must be from the territory of the autonomous province.

#### **Article 20a**

The salary of a judge of the Constitutional Court shall be commensurate to the position and competences of the Constitutional Court and the responsibility of a judge for performing his duties, and shall represent one of the guarantees of independence in the protection of constitutionality and legality of human and minority rights and freedoms.

The salary of the President and judges of the Constitutional Court shall be determined on the basis on base salary.

Under this Law, the base salary is the value which does not include the percentage for the valuation of past service.

The base for calculation and payment of salaries of the President and judges of the Constitutional Court shall be determined by the Budget Law of the Republic of Serbia.

The coefficient for the calculation and payment of salary of the President of the Constitutional Court is 12.00, and for judges of the Constitutional Court 10.50.

In the event of vacancies in judicial positions at the Constitutional Court, the salary of the President and judges of the Constitutional Court shall be increased by 10% for each vacant judicial position, until all judicial positions have been filled.

A Constitutional Court judge who is elected or appointed to office from the ranks of law school professors, whose employment rights are covered by the law school, shall be entitled to a monthly compensation equal to the difference between the salary of a judge of the Constitutional Court, calculated for full-time work and without increases based on years spent at work, and the salary provided by the law school, determined in accordance with the regulations governing the manner of calculation of funds for salaries and coefficients for the calculation and payment of salaries at universities the activities of which are financed from the budget of the Republic of Serbia.

#### **Article 21**

Constitutional Court judge whose office has been terminated is entitled to receive a compensation of salary in the duration of six months in the amount equal to the salary of Constitutional Court judge.

The entitlement to compensation of salary shall cease before the expiry of the six months time limit if a judge whose office is terminated establishes an employment relation or acquires the right to a pension, and can be extended for additional six months if he/she acquires the right to pension within those six months.

Constitutional Court judge whose office was terminated due to fulfilling requirements for retirement, or who has been dismissed due to membership in a political party, violation of the prohibition of conflict of interest, conviction to a prison sentence or conviction for a punishable offence rendering him/her unworthy to serve as a Constitutional Court judge, shall not be entitled to compensation of salary from paragraphs 1 and 2 of this Article.

Constitutional Court judge whose office was terminated upon expiry of the period for which he was elected or appointed, shall be entitled to return to work in a state and other authority or legal entity from which was elected or appointed as a judge of the Constitutional Court, to the duties performed until his election or appointment or to other activities matching his level of expertise and skills, within three months from the date of cessation of duty.

Judicial or public prosecutor function of a Constitutional Court judge who was elected or appointed from the ranks of judges and deputy public prosecutors shall be suspended during his service as a judge of the Constitutional Court.

A judge or deputy public prosecutor referred to paragraph 5 of this Article, whose office was terminated upon expiry of the period for which he was elected or appointed, shall continue to perform the judicial function, or the deputy public prosecutor function, at the court or public prosecutor's office from which he was elected or appointed to office.

The High Judicial Council and the State Prosecutors Council are obligated to issue a decision on the case referred to in paragraph 6 of this Article within 30 days of termination of office of a Constitutional Court judge.

The public prosecutor function of a Constitutional Court judge who was elected or appointed from the ranks of public prosecutors shall be terminated on the date of taking office, and upon termination of office of a Constitutional Court judge, due to expiry of the period for which he was elected or appointed to office, the State Prosecutorial Council shall, within 30 days, issue a decision on his election to the position of deputy public prosecutor at the public prosecutor's office from which he was elected or appointed as a judge of the Constitutional Court.

### **III. ORGANISATION OF THE CONSTITUTIONAL COURT**

#### **Article 22**

The seat of the Constitutional Court is in Belgrade.

Sessions, public hearings and other types of activities of the Constitutional Court may be held outside of the seat of the Constitutional Court, by decision of the Constitutional Court.\*

### **Article 23**

The Constitutional Court has a President.

The President of the Constitutional Court is elected by the judges of the Constitutional Court from among them, by secret ballot and a majority vote of all the judges, to a term of office of three years, with possibility of re-election.

If the President of the Constitutional Court is not elected, the office of the President, until the election, shall be exercised by the Deputy President, or the oldest judge.

### **Article 24**

The President of the Constitutional Court represents the Constitutional Court, convenes its sessions, proposes the agenda and chairs sessions, harmonises the work of the Constitutional Court, looks after the implementation of Constitutional Court acts and performs other duties determined by this Law, the Rules of Procedure and other acts of the Constitutional Court.

The President of the Constitutional Court also exercises the duty of a judge.

### **Article 25**

The Constitutional Court has a Deputy President, who stands in for the President of the Constitutional Court if the President is absent or otherwise engaged.

Provisions of this Law on election and term of office of the President of the Constitutional Court apply to the election and term of office of Deputy President accordingly.

The Deputy President of the Constitutional Court also exercises the duty of a judge.

### **Article 26**

The Constitutional Court has a Secretary, appointed by a majority vote of all the judges, by secret ballot, to a term of office of five years, with the possibility of re-appointment.

The Secretary manages the Professional Service of the Constitutional Court and is accountable to the Constitutional Court for his work.

The Secretary of the Constitutional Court may have a deputy, appointed by the Constitutional Court by majority vote of all judges, for a period of five years, with possibility of re-appointment.

The Secretary and Deputy Secretary of the Court have the status of civil servant holding a post.

Requirements for the appointment of Secretary and Deputy Secretary are determined by an act of the Constitutional Court.

### **Article 27**

The Constitutional Court shall form a Professional Service for performance of professional and other tasks.

Organisation, tasks and manner of work of the Professional Service shall be governed in more detail by an act of the Constitutional Court.

Rights and obligations of employees in the Professional Service shall be governed by regulations governing the rights and duties of civil servants and appointees, unless otherwise specified by this law.

### **Article 27a**

The required number of civil servants in office, civil servants in executorial positions and employees in the Professional Service shall be established by the decision referred to in Article 27, paragraph 2 of this Law.

#### **Article 27b**

A position with the Professional Service is a position where a civil servant has the authority and responsibilities for managing and coordinating the work of the Professional Service, or certain parts of the Professional Service, or where he is responsible for organizing and conducting the most complex professional duties that are in function of exercising the constitutionally defined competences of the Constitutional Court.

The Constitutional Court shall elect a civil servant to a position with the Professional Service by majority vote of all judges.

A civil servant holding a position with the Professional Service may be relocated, either temporarily or until the expiry of the period for which he was appointed, to another position in the Professional Service if required by the interests of achieving the constitutionally defined competences of the Constitutional Court, where the time spent at the previous position is counted as the time for which the civil servant was appointed.

#### **Article 27c**

Civil servants may be promoted by being transferred to an executorial position of higher rank, by appointment to a position or senior position in the Professional Service, or by switching to a higher salary grade without changing jobs.

A civil servant who was awarded the mark of "outstanding distinction" at least three consecutive times may be promoted to an executorial position which is not next higher in rank, if he fulfils the conditions for performing the activities on this position.

The salary grade coefficient of a civil servant who is promoted by being transferred to an executorial position of higher rank, and within the salary group of his new position, shall be determined by the President of the Constitutional Court, taking into account that the coefficient reflects the complexity and scope of duties performed by the civil servant at this position and the previous achievements of the civil servant.

A civil servant employed by the Constitutional Court who was awarded the mark of "outstanding distinction" upon his first year of employment shall be promoted by two salary grades within the salary group of the position to which he was assigned.

#### **Article 27d**

Coefficients for calculation and payment of salaries of employees employed by the Professional Service which are 30% higher than the coefficients established by the law regulating the salaries of civil servants and employees may be determined.

The coefficient level referred to in paragraph 1 of this Article shall be governed by the decision on the salaries of employees in the Professional Service made by the Constitutional Court, by majority vote of all judges.

The base for calculation and payment of salaries of employees shall be equal to the base for calculation and payment of salaries to civil servants and employees in other government bodies.

#### **Article 27e**

Secretary of the Constitutional Court shall prepare a draft personnel plan simultaneously with the preparation of the budget proposal of the Constitutional Court, so as to ensure its compliance with it.

The personnel plan is adopted by the President of the Constitutional Court, following the obtained opinion of the working body of the Constitutional Court in charge of organizational and financial issues.

#### **Article 27f**

The costs of additional education of civil servants employed by the Professional Service which is relevant to the work of the Constitutional Court, as well as costs related to the completion of professional practice of civil servants employed by the Professional Service in the international institutions responsible for

human rights and constitutional courts of other states, shall be borne by the budget of the Constitutional Court.

The rights and obligations of civil servants in the Professional Service who receive additional education, or who were referred to professional practice, shall be regulated in accordance with the law governing the rights and obligations of civil servants.\*

#### **Article 28**

Funds needed for the work and functioning of the Constitutional Court (hereinafter: the budget of the Constitutional Court) shall be provided from the budget of the Republic of Serbia, at the proposal of the Constitutional Court.

The Constitutional Court disposes of the budget funds of the Constitutional Court independently.

The Government shall, without the consent of the President of the Constitutional Court, suspend, postpone or limit the execution of the budget of the Constitutional Court.

The procedure for determining the budget proposal of the Constitutional Court shall be regulated by this Law and Rules of Procedure.

#### **Article 28a**

Secretary of the Constitutional Court prepares the budget proposal of the Constitutional Court in accordance with the law regulating the budget system and the Rules of Procedure and submits it to the working body of the Constitutional Court in charge of financial matters.

The working body referred to in paragraph 1 of this Article establishes the budget proposal of the Constitutional Court and refers it to the President of the Constitutional Court for submission to the Ministry in charge of finance affairs for a reasoned opinion.

The Minister in charge of finance affairs shall deliver a reasoned opinion on the proposal referred to in paragraph 2 of this Article to the Constitutional Court.

In the event that the Minister in charge of finance affairs has submitted comments to the budget proposal of the Constitutional Court, consultations shall be organized with the President of the Constitutional Court and the working body referred to in paragraph 1 of this Article, so as to achieve compliance.

If the Minister in charge of finance affairs has no objections to the budget proposal of the Constitutional Court or if an agreement referred to in paragraph 4 of this Article is reached, the Constitutional Court, by majority vote of all judges, shall determine the final budget proposal of the Constitutional Court, to be included without modification in the draft budget law of the Republic of Serbia by the Ministry in charge of finance affairs, as well as in the budget bill of the Republic of Serbia, without modification, by the Government.

If no agreement referred to in paragraph 4 of this Article is reached, the Ministry in charge of finance affairs shall include, without modification, the final budget proposal of the Constitutional Court referred to in paragraph 5 of this Article in the draft budget law of the Republic of Serbia, and the Government, without modification, in budget bill of the Republic of Serbia.

In the event referred to in paragraph 6 of this Article, the Government shall, in the reasoning of the budget bill of the Republic of Serbia, state the reasons for considering the budget proposal of the Constitutional Court unacceptable.

#### **Article 28b**

Control of the budget execution of the Constitutional Court shall be conducted in accordance with the regulations governing the budgetary system, accounting and auditing.

The Constitutional Court ensures the application of internal control of budget execution in the manner provided by the Rules of Procedure of the Constitutional Court, in accordance with the regulations governing the system budget, accounting and auditing.

## **IV. PROCEDURES BEFORE THE CONSTITUTIONAL COURT AND LEGAL EFFECT OF ITS DECISIONS**

### **1. General Provisions**

#### **a) Participants in Procedures**

##### **Article 29**

Participants in procedures before the Constitutional Court are the following:

1) state authorities, authorities of the autonomous provinces and local self-government entities, members of parliament, in procedures for assessing constitutionality and legality (hereinafter: authorised propounder);

2) anyone on whose initiative a procedure for assessing constitutionality and legality has been initiated (hereinafter: the initiator);

3) the enactor of a law, statute of an autonomous province, or local self-government entity and other general act (hereinafter: general act) whose constitutionality and legality are being assessed, as well as parties to a collective contract;

4) political parties, trade union organisations or citizens' associations the constitutionality and legality of statute of other general act of which is being assessed or prohibition of activity of which being decided on;

5) religious communities the prohibition of activity of which is being on;

6) anyone at whose request a procedure for deciding on an electoral dispute for which jurisdiction of a court has not been determined by law is being conducted, as well as the authority in charge of implementing the election in connection with the electoral activity of which the dispute is being initiated;

7) state and other authorities who accept, or disclaim, competence, as well as anyone unable to exercise a right on account of an acceptance or disclaimer of competence;

8) the Government, Republican Public Prosecutor and authority in charge of registering political parties, trade union organisations, citizens' associations or religious communities, in procedures for the prohibition of the activity of political parties, trade union organisations, citizens' associations or religious communities;

9) submitters of constitutional complaints, as well as state authorities or organisations vested with public authority, against the individual acts or actions of which the constitutional complaint has been filed;

10) authorities designated by the statute of an autonomous province or a local self-government unit, in appellate procedures where the exercise of the authority of an autonomous province, or a local self-government unit, is precluded by an individual act or action of a state authority or local self-government authority, as well as the authority against the individual act or action of which the appeal has been filed;

11) the National Assembly and the President of the Republic the existence of a violation of the Constitution in a procedure for his impeachment is being decided on;

12) judges, public prosecutors and deputy public prosecutors in procedures on appeals against decisions on termination of office, as well as the authority that passed the decision on termination;

13) other persons, in accordance with the law.

Other persons summoned by the Constitutional Court may also participate in proceedings before the Constitutional Court.

#### **Article 30**

Authorities and organisations are represented in procedures before the Constitutional Court by their authorised representatives.

Persons authorised by the participants in procedures by special authorisation may participate in procedures before the Constitutional Court.

#### **Article 31**

Participant in procedure has the right to file proposals and a duty to provide necessary data and information in the course of procedures and hearings, to submit evidence and to undertake other activities of significance for the decision-making of the Constitutional Court.

Participant in proceedings is entitled to present and explain his/her position and reasons during the procedure, as well as to answer the claims and reasons of other participants in the procedure.

Participants in procedure may, in the course of procedure, abandon their proposal, claim, appeal or initiative.

### **b) Preliminary Procedure**

#### **Article 32**

Submissions filed to the Constitutional Court are filed by mail or to the Constitutional Court directly and must be signed.

Proposal, initiative or other submission shall be deemed filed on the day they were received by the Constitutional Court.

If a proposal, initiative or other submission were sent by registered mail, the day of dispatch shall be deemed as the day they were received by the Constitutional Court.

#### **Article 33**

At the request of the Constitutional Court, a reply to a proposal, initiative and ruling on the initiation of a procedure to assess constitutionality or legality of a general act is provided by the enactor of that act, or an authority authorised by the enactor.

In respect of initiatives for assessing the constitutionality of a law or constitutionality and legality of other general act adopted by the National Assembly, the Constitutional Court may, before initiating a procedure, request an opinion from the National Assembly.

In respect of initiatives for assessing the constitutionality of the statute of an autonomous province or local self-government unit, the Constitutional Court may, before initiating a procedure, request an opinion from the Assembly of the autonomous province or of the local self-government unit.

#### **Article 34**

The enactor of the contested general act is bound, within a time-limit determined by the Constitutional Court which may not be less than 15 days, to submit the contested general act and necessary documentation and to provide data and information of significance for the conduct of the procedure and decision-making.

State and other authorities, organisations vested with public authority, legal and natural persons are under the obligation to provide data and information of significance for the procedure and decision-making

of the Constitutional Court, at the request of the Constitutional Court, within a time limit that may not be less than 15 days.

If the Constitutional Court does not receive a response, opinion, requested data or information within the specified time-limit, the procedure may be resumed.

#### **Article 35**

In procedure before the Constitutional Court, a judge rapporteur shall be named, in accordance with the Rules of Procedure.

Exceptionally, when so required by the complexity of constitutional and legal issues, the President of the Constitutional Court may appoint one or more judges to conduct the proceedings with the judge rapporteur and prepare a joint proposal of the decision which is passed by the Constitutional Court.

#### **Article 35a**

The actions referred to in the aforementioned procedure shall be undertaken by the judge rapporteur or the Professional Service in accordance with this Law and the Rules of Procedure.

In the aforementioned procedure, the accuracy and admissibility of motions to initiate the proceedings before the Constitutional Court is examined, decisions to institute proceedings or motions for response and opinion are submitted, the necessary data, information and evidence to verify the allegations in the motion to institute proceedings to review constitutionality or legality are collected.

In the aforementioned procedure, other procedural actions relevant to the decision of the Constitutional Court are undertaken.\*

#### **Article 36**

The Constitutional Court shall dismiss a motion to initiate or institute a procedure before the Constitutional Court:

- 1) when it determines that the Constitutional Court is not competent to issue a decision;
- 2) if the motion was not filed within the designated time-limit;
- 3) if the motion is anonymous;
- 4) when the submitter had not rectified shortcomings which preclude processing within a designated time-limit;
- 5) when it determines that the motion is manifestly unfounded;
- 6) if it determines that the motion represents an abuse of law;
- 7) when other preconditions for conducting a procedure and determination do not exist, as established by law.

When the Constitutional Court determines that it is not competent to issue a decision, it may refer the motion initiating a procedure to the competent authority.

### **c) Public Hearing Article 37**

Constitutional Court shall hold a public hearing in the procedure for assessing constitutionality and legality, in the procedure for deciding on electoral disputes, as well as in proceedings for prohibition of work of a political party, trade union organisation, citizens' association or religious community.

Constitutional court can decide not to hold a public hearing in procedure for assessing the constitutionality and legality: if it deems that the matter was sufficiently clarified in the course of procedure and that, on the basis of evidence collected, it can decide even without holding a public hearing; if it has already decided on the same matter and new evidence for making a different decision on the matter have not been provided, as well as if there are conditions for discontinuation of procedure.

The Constitutional Court can hold a public hearing in other cases, when it deems that holding of a public hearing is necessary, in particular when the case concerns a complex constitutional issue or when there is an issue of constitutionality or legality on which the Constitutional Court does not have a position.

#### **Article 38**

All participants in proceedings are summoned to public hearing, in order to express their positions and provide necessary information.

If it is in the interest of constitutionality or legality, the Constitutional Court can summon representatives of authorities and organisations responsible for enforcing the given general act.

When necessary, representatives of authorities and organisations, scholars and public officials, as well as other persons, in order to give opinions and explanations.

#### **Article 39**

Absence of certain participants in proceedings from a public hearing shall not preclude the Constitutional Court from holding a public hearing and passing a decision.

#### **Article 40**

Constitutional Court may suspend or adjourn the public hearing in order to obtain necessary data, information and opinions, as well as in other justified cases.

#### **Article 41**

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

### **d) Forms of Work of Constitutional Court**

#### **Article 42**

Constitutional Court decides on issues within its competence in a session of the Constitutional Court, session of the Grand Chamber and session of the Small Council.

The Constitutional Court may, in order to clarify things in case, hold preparatory meetings, consultative meetings and other sessions, in accordance with the Rules of Procedure.

#### **Article 42a**

The Constitutional Court, in a session of the Constitutional Court, composed of all judges of the Constitutional Court:

- 1) passes general acts;
- 2) passes decisions referred to in Article 45, items. 1) to 5), items 8), 11), 14) and 15) of this Law;
- 3) initiates the procedure for the determination of unconstitutionality or illegality of a general act, upon its own motion;

- 4) issues a decision referred to in Article 46, item 10) of this Law;
- 5) passes decisions in case of absence of unanimity in the deciding of the Grand Chamber;
- 6) passes individual decisions if their adoption by the chamber, council or the President of the Constitutional Court is not stipulated by this Law or the Rules of Procedure.

In the session of Constitutional Court, decisions are passed by majority vote of all judges of the Constitutional Court.

Session of the Constitutional Court is also scheduled in order to hold a public hearing and session of deliberations and voting after holding a public hearing.

#### **Article 42b**

Constitutional Court, in a session of the Grand Chamber, consisting of the President of the Constitutional Court and seven judges:

- 1) passes decisions referred to in Article 45, items 6), 7), 9), 10), 12) and 13) of this Law;
- 2) adopts the decision referred to in Article 46, items 1) to 8) of this Law;
- 3) passes decisions in the absence of unanimity in the deciding of the Small Council.

At a session of the Grand Chamber, decisions and rulings referred to in paragraph 1 of this Article shall be adopted unanimously.

In the absence of unanimity of members of the Grand Chamber, the ruling or decision is passed in a session of the Constitutional Court.

The Constitutional Court has two Grand Chambers.

President of the Constitutional Court appoints the members of the Grand Chamber in the annual assignment of positions in the Constitutional Court.

#### **Article 42c**

The Constitutional Court, in a session of the Small Council, consisting of three judges of the Constitutional Court, one of whom is the presiding judge, shall pass:

- 1) the decision referred to in Article 46, item 9) of this Law;
- 2) conclusions referred to in Article 47 of this Law.

At a session of the Small Council, the decision and conclusions referred to in paragraph 1 of this Article shall be adopted unanimously.

In the absence of unanimity of members of the Small Council, the decision or the conclusion shall be passed by the Grand Chamber.

The Constitutional Court, by majority vote of all judges, shall adopt a decision determining the number of small councils.

The President of the Constitutional Court shall appoint the chairman and members of the Small Council in the annual assignment of positions of the Constitutional Court.

#### **Article 42d**

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

President of the Constitutional Court, who is also the President of the Grand Council, shall convene and chair meetings of the chamber.

Session of the Small Council shall be convened and chaired by the president of that council.

In a session of the Constitutional Court, as well as in sessions of Great Chamber and Small Council, minutes shall be kept.

Manner of functioning and deciding process in a session of the Constitutional Court and sessions of the Great Chamber and Small Council are regulated in more detail by the Rules of Procedure.\*

#### **Article 43**

Constitutional court shall form commissions and committees as permanent working bodies.

Constitutional Court may also form occasional working bodies.

Permanent and occasional working bodies from paragraphs 1 and 2 of this Article shall be formed in accordance with the Rules of Procedure.

### **e) Acts of the Constitutional Court**

#### **Article 44**

The Constitutional Court issues decisions, rulings and conclusions.

#### **Article 45**

The Constitutional Court issues decisions:

- 1) establishing that a law, statute of an autonomous province or local self-government unit and other general act does not comply with the Constitution, generally accepted rules of international law and ratified international agreements, or that at the time when it was in force it did not comply with the Constitution;
- 2) establishing that a law which has been adopted, but not promulgated by a decree, is not in compliance with the Constitution;
- 3) establishing that a ratified international agreement is not in compliance with the Constitution;
- 4) establishing that a statute of an autonomous province or local self-government unit or other general act is not in compliance with the law, or that it did not comply with the law at the time when it was in force;
- 5) establishing that a collective contract is not in compliance with the Constitution and the law;
- 6) specifying the manner of rectifying consequences that arose due to the implementation of a general act that is not in compliance with the Constitution or a law;
- 7) deciding on electoral disputes for which the jurisdiction of a court is not defined by law;

- 8) prohibiting the activities of a political party, trade union organisation, citizens' association or religious community;
- 9) deciding on constitutional complaints;
- 10) determining on complaints of authorities of an autonomous province or of local self-government unit in procedures where the exercise of the authority of an autonomous province, or a local self-government unit, is precluded by an individual act or action of a state authority or local self-government authority;
- 11) deciding in procedures for establishing violations of the Constitution by the President of the Republic;
- 12) deciding in procedures on appeals by judges against decisions on termination of office and other decisions of the High Judicial Council;
- 13) deciding in procedures on appeals by public prosecutors and deputy public prosecutors against decisions on termination of office;
- 14) dismissing proposals for establishing unconstitutionality and illegality.
- 15) rejects the request for determination of unconstitutionality or illegality of the general act of initiative on the occasion of that decision has been rendered on the initiation of proceedings.

#### **Article 46**

The Constitutional Court issues rulings:

- 1) initiating procedure for the determination of unconstitutionality, illegality or inconsistency with the generally accepted rules of international law and ratified international agreements;\*
- 2) deciding on conflicts of jurisdiction between state and other authorities, in accordance with the Constitution;
- 3) staying enforcement of individual acts, or action, and repealing a stay or dismissing a request for staying the enforcement of an individual act or action;
- 4) delaying the entry into force of a decision of an autonomous province authority;
- 5) rejecting the initiative initiating procedure for determining constitutionality or legality in the case referred to in Article 53, paragraph 2 of this Law;\*
- 6) determining the manner of enforcement of a Constitutional Court decision or ruling.
- 7) discontinuing procedures in the cases referred to in Articles 57, 88 and 97 of this Law;
- 8) dismissing requests for assessing constitutionality and legality of general acts on which it has already made determination, wherein new claims, reasons and evidence submitted do not provide grounds for a finding that there is reason for new deliberation and determination;
- 9) dismisses constitutional complaints if the procedural preconditions are not satisfied;
- 10) delaying the publication of its decision in the Službeni glasnik Republike Srbije.

#### **Article 47**

The Constitutional Court conclusion shall:

- 1) dismiss a motion initiating procedure for determination of constitutionality and legality of a general act, initiative or other request initiating proceedings before the Constitutional Court, other than a constitutional complaint, for lack of jurisdiction;
- 2) dismiss a proposal for determination of unconstitutionality or illegality of a general act and the motion initiating the procedure for determining constitutionality and legality when they have not been filed within the designated time limit referred to in Article 168, paragraph 5 of the Constitution;
- 3) dismiss an appeal of a judge, public prosecutor and deputy public prosecutor if the appeal has not been filed within the designated time limit;
- 4) dismiss a motion initiating procedure for determination of constitutionality and legality of a general act, initiative or other request initiating proceedings before the Constitutional Court, other than a constitutional complaint, which is incomprehensible or incomplete, or that contains other shortcomings which preclude processing by the Constitutional Court;
- 5) dismiss an anonymous motion initiating procedure for determination of constitutionality and legality of a general act, initiative or other request initiating proceedings before the Constitutional Court, other than a constitutional complaint;
- 6) dismiss a motion initiating procedure for determination of constitutionality and legality of a general act, initiative or other request initiating proceedings before the Constitutional Court, other than a constitutional complaint, which represents an abuse of law;
- 7) dismiss a motion initiating procedure for determination of constitutionality and legality and a proposal for establishing the unconstitutionality or illegality of a general act which has not been adopted;
- 8) dismiss a motion initiating procedure for determination of constitutionality and legality and a proposal for establishing the unconstitutionality or illegality of a general act the enactor of which has ceased to exist legally;
- 9) decide on the request of the enactor of a disputed general act to suspend the proceedings;
- 10) terminate the procedure if the proposal for determination of unconstitutionality or illegality of the general act has been withdrawn, or when the initiator withdraws the motion to initiate the procedure for determination of constitutionality and legality;
- 11) terminate the procedure in other cases, with the exception of constitutional complaint, due to withdrawal or abandonment of the filed request by the authorized proposer or applicant or other procedural requirements for the procedure.

The Constitutional Court shall also issue conclusions in cases when, in accordance with the provisions of this Law and the Rules of Procedure, it does not issue a decision or ruling.

#### **Article 48**

Decisions, rulings and conclusions of the Constitutional Court contain: introduction, statement and explanation.

The content of some parts of acts referred to in paragraph 1 of this Article shall be regulated in more detail by the Rules of Procedure, provided that the reasoning of the decision dismissing a constitutional complaint, or a conclusion, contains the legal basis for the decision only.

#### **Article 49**

Decisions of the Constitutional Court, except for constitutional complaint decisions, are published in the Službeni glasnik Republike Srbije, as well as in the official journals in which the statute of an

autonomous province, other general acts and collective contracts are published, i.e. in the manner in which the general act on which the Constitutional Court decided was published.

Decisions on constitutional complaints, as well as rulings of broader significance for the protection of constitutionality and legality, may be published in the Službeni glasnik Republike Srbije.

## **2. Procedure for Assessing the Constitutionality or Legality of General Acts**

### **Article 50**

Procedure for assessing the constitutionality or legality of general acts is initiated on the basis of a proposal submitted by an authorised propounder or a ruling on initiation of procedure.

Procedure for assessing the constitutionality or legality of general acts may be initiated by the Constitutional Court itself, on the basis of a decision taken by a two-thirds majority of the votes of all its judges.

### **Article 51**

Proposal for determination of unconstitutionality or illegality, or an initiative to initiate the procedure for determination of constitutionality and legality, shall contain: the name of the general act whose constitutionality or legality is being challenged; the name and number of the official journal in which the general act was published, if publication was done in an official journal; designation of the provision or provisions of a general act whose constitutionality or legality is disputed; the provisions of the Constitution or laws in respect of which constitutionality and legality is being challenged; the reasons for the challenge and other data of importance for assessing the constitutionality or legality of the disputed general act; proposal or request how to decide; information on the propounder, or the applicant of the initiative; signature of the propounder, or the applicant of the initiative.

Where the general act whose constitutionality or legality is being challenged was not published in an official journal, a certified copy of the act shall be attached to the proposal.

### **Article 52**

A procedure is deemed initiated on the date of the submittal of the proper proposal to the Constitutional Court, or on the date of issuance of a written decision to initiate a procedure.

### **Article 53**

Where the Constitutional Court finds there are grounds to commence a procedure on the basis of an initiative, it shall commence the procedure by a ruling.

Where the Constitutional Court finds that the initiative is unacceptable because the reasons set forth for the challenge do not support the claim that there are grounds for initiating procedure for assessing constitutionality and legality, it shall pass a ruling dismissing the initiative.

Where the constitutionality and legality are being challenged by an initiative, except for the laws and statute of an autonomous province or local self-government unit, or individual provisions of that act regulating questions on which the Constitutional Court has already assumed a position or where during the preliminary procedure the legal situation has been determined in full and the data collected provide a reliable foundation for determination, the Constitutional Court determines the matter without issuing a ruling on commencement of procedure.

Where the Constitutional Court, upon conducting the procedure, determines that the request for assessing unconstitutionality or illegality of the initiative which initiated the procedure is not grounded, it shall pass a decision dismissing the request.

### **Article 54**

In the procedure of assessing constitutionality and legality, the Constitutional Court is not constrained by the request of the authorised propounder, or initiator.

Where the authorised propounder, or initiator, abandons the request or initiative, the Constitutional Court will continue the procedure of assessing constitutionality or legality if it finds grounds for doing so.

#### **Article 55**

During the procedure, and at the request of the enactor of the disputed general act, the Constitutional Court may, before issuing a decision on the constitutionality or legality, suspend the procedure and allow the enactor of the general act to rectify, within a specified time-limit, unconstitutionality or illegality found.

If the unconstitutionality or illegality are not rectified within a specified time-limit, the Constitutional Court will continue the procedure.

#### **Article 56**

In the course of procedure, until the issuing of a final decision, the Constitutional Court may suspend the enforcement of an individual act or action taken on the basis of the general act whose constitutionality or legality are being assessed, where such enforcement could cause irreversible detrimental consequences.

Where, during a procedure, the Constitutional Court finds that due to altered circumstances the reasons for the suspension have ceased, it will lift the suspension of the enforcement of the individual act or action.

The Constitutional Court will dismiss a request for suspension of the enforcement of an individual act or action when issuing the final decision.

#### **Article 57**

The Constitutional Court will discontinue a procedure:

- 1) where during the procedure the general act was harmonised with the Constitution or law, and the Constitutional Court did not determine that, due to the consequences of the unconstitutionality or illegality, a decision should be issued because the consequences of the unconstitutionality or illegality have not been rectified;
- 2) where during the procedure the procedural preconditions for conducting the procedure cease to exist.

#### **Article 58**

When the Constitutional Court establishes that a law, statute of an autonomous province or local self-government unit, other general act or collective contract do not comply with the Constitution, generally accepted rules of international law and ratified international agreement, such law, statute of autonomous province or local self-government unit, other general act or collective contract shall cease to be valid on the day the Constitutional Court decision is published in the Službeni glasnik Republike Srbije.

Provisions of ratified international agreement for which it is established by a Constitutional Court decision that they do not comply with the Constitution, shall cease to be valid in the manner provided by such international agreement or generally accepted rules of international law.

When the Constitutional Court determines that a general act or collective contract is not in compliance with the law, the validity of that general act or collective contract expires on the date of the publication of the Constitutional Court's decision in the Službeni glasnik Republike Srbije.

The Constitutional Court may postpone the publication of its decision in the Službeni glasnik Republike Srbije by means of a special decision, but no further than six months from the date of adoption.

In the case referred to in paragraph 4 of this Article, the Constitutional Court shall deliver the decision determining that a general act is not in conformity with the Constitution, the law, generally accepted rules of international law or ratified international agreement to the enactor of a general act together with the decision postponing its publication.

#### **Article 59**

When the Constitutional Court determines the manner of rectifying the consequences which arose due to the implementation of a general act which is not in compliance with the Constitution or law, the decision of the Constitutional Court has legal effect from the date of its publication in the Službeni glasnik Republike Srbije.

#### **Article 60**

Laws and other general acts for which it has been established by a Constitutional Court decision that they do not comply with the Constitution, generally accepted rules of international law, ratified international agreements or law, cannot apply to relations that arose before the day of publication of the Constitutional Court decisions, if they were not finally resolved by that date.

General act passed for the purpose of enforcement of laws and other general acts for which it is established, by a Constitutional Court decision, that they are not in compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law, shall not apply from the day of publication of the Constitutional Court decision, if the decision implies that these general acts are incompatible with the Constitution, generally accepted rules of international law, ratified international agreements or law.

Enforcement of finally binding individual acts passed on the basis of regulations that can no longer apply, cannot be allowed or implemented, and if the enforcement is initiated, it shall be discontinued.

#### **Article 61**

Everyone whose right has been violated by a final or legally-binding individual act, adopted on the basis of a law or other general act determined by a decision of the Constitutional Court not to be in compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law is entitled to demand from the competent authority a revision of that individual act, in accordance with the rules of procedure in which the individual act was passed.

Proposals for revision of a final or legally-binding individual act adopted on the basis of a law or other general act determined by a decision of the Constitutional Court not to be in compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law may be submitted within six months from the date of the publication of the decision in the Službeni glasnik Republike Srbije, unless more than two years have passed between the delivery of the individual act and the submittal of the proposal or initiative for initiating a procedure.

#### **Article 62**

If it is established that revision of an individual act cannot rectify the consequences which arose from the implementation of the general act determined by a decision of the Constitutional Court not to be in compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law, the Constitutional Court may order the consequences rectified by restitution, indemnification, or otherwise.

#### **Article 63**

If during a procedure before a court of general or special jurisdiction the issue of compliance of law or other general act with the Constitution, generally accepted rules of international law, ratified international agreements or law, is raised, the court shall, if it finds that the issue has grounds, adjourn the procedure and initiate a procedure for assessing the constitutionality or legality of that act before the Constitutional Court.

#### **Article 64**

Where during a procedure a general act's validity expired or the act was brought into compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law,

but the consequences of unconstitutionality, or illegality, had not been rectified, the Constitutional Court may determine by decision that the general act was not in compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law. This decision of the Constitutional Court has an identical legal effect as a decision determining that a general act is not in compliance with the Constitution, generally accepted rules of international law, ratified international agreements, or law.

#### **Article 65**

The provisions of Articles 50 through 64 of this Law shall apply accordingly in procedures of deciding on compliance of laws and other general acts with generally accepted rules of international law and ratified international agreements.

### **3. Procedure for Assessing the Constitutionality of a Law before its Promulgation**

#### **Article 66**

The text of the adopted law certified by the Secretary of the National Assembly or a person so authorised by him/her shall be attached to the proposal for assessing the constitutionality of a law before its promulgation.

The proposal for assessing the constitutionality of a law before its promulgation shall not be forwarded for the National Assembly to provide its opinion, nor shall a public hearing regarding it be held.

The Constitutional Court shall inform the President of the Republic that a procedure for assessing the constitutionality of a law before its promulgation has been initiated.

The procedure of assessing the constitutionality of a law before its promulgation is urgent shall be conducted in accordance with the time limits prescribed by the Constitution.

Decision establishing that a law that has not been promulgated does not comply with the Constitution shall have legal effect from the day the law is promulgated.

### **4. Procedure for Deciding on Suspending the Entry into Force of a Decision of an Autonomous Province Authority**

#### **Article 67**

In a proposal for assessing the constitutionality or legality of a decision of an autonomous province authority that has not yet entered into force, the Government can propose to the Constitutional Court to suspend the entry into force of the contested decision until the Constitutional Court decides on its constitutionality or legality.

The Government is under the obligation to attach the text of the contested decision of an autonomous province authority to the proposal.

Constitutional Court first decides on the Government proposal to suspend the entry into force of the contested decision, in accordance with the time limits prescribed by the Rules of Procedure, where it shall not ask for an opinion on the contested decision from the authority that passed it, nor shall it hold a public hearing on the proposal.

If the Constitutional Court passes a ruling to suspend the entry into force of the contested decision of an autonomous province authority, it is under the obligation to conduct the procedure of assessing the constitutionality or legality urgently, in accordance with the time limits prescribed by the Rules of Procedure.

A ruling whereby the Constitutional Court suspends the entry into force of the contested decision of an autonomous province authority shall have legal effect from the day it is served to the autonomous province authority that has adopted it.

### **5. Procedures of Resolving Conflicts of Jurisdiction**

#### **Article 68**

The Constitutional Court resolves conflicts of jurisdiction from Article 167 paragraph 2 items 1 to 4 of the Constitution.

Motion for resolving conflicts of jurisdiction referred to in paragraph 1 of this Article are filed by one or both of the conflicting authorities, as well as the person in connection with whose right the conflict of jurisdiction appeared.

#### **Article 69**

Motion for resolving conflicts of jurisdiction contain the titles of the authorities which accept or disclaim jurisdiction and their reasons for doing so.

#### **Article 70**

If the authorities disclaim jurisdiction, the motion for resolution of conflict of jurisdictions shall be filed within 15 days from the day the decision of the second authority that declared itself incompetent becomes finally binding.

#### **Article 71**

Procedure of resolving conflicts of jurisdiction are deemed initiated on the date the motion is received by the Constitutional Court.

#### **Article 72**

The time limit for the reply of authorities in conflict of jurisdiction is eight days from the day of service

#### **Article 73**

The Constitutional Court may order that the procedure before the authorities between which the conflict of jurisdiction appeared is suspended until the conclusion of the procedure of resolving the conflict of jurisdiction by the Constitutional Court.

#### **Article 74**

When the Constitutional Court resolves a conflict of jurisdiction between state and other authorities, the order of the Constitutional Court has legal effect from the date of its publication in the Službeni glasnik Republike Srbije.

### **6. Procedure of Deciding on Electoral Disputes**

#### **Article 75**

Motion for deciding on electoral disputes for which jurisdiction of a court is not defined by law may be submitted by: any elector, candidates for President of the Republic, Member of Parliament or council member, as well as those who nominate candidates.

Motion contains the grounds for requesting a decision on the electoral dispute and appropriate evidence.

Requests may be submitted no later than 15 days from the concluding date of the electoral procedure being challenged.

#### **Article 76**

The Constitutional Court serves one copy of the request for deciding on an electoral dispute to the authority in charge of implementing the election in connection with whose activities the electoral dispute was initiated, with an order for a response and requisite electoral acts, i.e., documentation, to be submitted within a specified time-limit.

#### **Article 77**

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

In the case referred to in paragraph 1 of this Article the entire electoral procedure or parts thereof will be repeated within ten days of the serving of the decision of the Constitutional Court to the competent authority.

#### **Article 78**

Decisions of the Constitutional Court on annulling an entire electoral procedure or parts thereof have legal effect from the day a decision of the Constitutional Court is served to the competent authority.

#### **Article 79**

Appeals against decision regarding the confirmation of mandate of members of parliament can be filed by the candidate and by those who have proposed the candidate within 48 hours of passing the decision.

In procedures on appeal against decisions in connection with confirmation of members of parliament mandates, the authority against whose decision the complaint was submitted shall submit requisite documentation to the Constitutional Court within 24 hours<sup>7</sup> of the submittal of the appeal.

The Constitutional Court shall issue a decision within 72 hours of the submittal of the appeal.

The provisions of Articles 75 through 78 of this Law shall also apply in procedures on appeal against decisions in connection with confirmation of members' of parliament mandates.

### **7. Procedures of Deciding on Prohibition of the Activity of Political Parties, Trade Union Organisations, Citizens' Associations or Religious Communities**

#### **Article 80**

The Constitutional Court decides on the prohibition of the activity of political parties, trade union organisations, citizens' associations or religious communities on the basis of a proposal of the Government, the Republican Public Prosecutor or authority in charge of the registration of political parties, trade union organisations, citizens' associations or religious communities.

The proposal specifies grounds and provides evidence for requesting a ban on the activity of the political party, trade union organisation, citizens' association or religious community.

#### **Article 81**

When the Constitutional Court prohibits the activity of a political party, trade union organisation, citizens' association or religious community, that political party, trade union organisation, citizens' association or religious community is struck from the appropriate register on the date the decision of the Constitutional Court is served to the competent authority.

#### **Article 81a**

When the initiative seeks the prohibition of a covert or paramilitary organisation, the Constitutional Court shall pass a decision determining that the operation of such organisation is prohibited by the Constitution.

In the decision referred to in paragraph 1 of this Article, the Constitutional Court may determine the measures necessary to prevent the operation of a covert or paramilitary organisation.

### **8. Constitutional Appeal Procedure**

#### **Article 82**

Constitutional appeal may be filed against individual acts or actions of state authorities or organisations vested with public authority that violate or deny human and minority rights and freedoms

guaranteed by the Constitution, when other legal remedies have been exhausted or are not prescribed or where the right to their judicial protection has been excluded by law.

#### **Article 83**

Constitutional appeal may be filed by everyone who believes that his/her human or minority rights and freedoms guaranteed by the Constitution have been violated or denied by an individual act or action of a state authority or organisation vested with public authority.

Constitutional appeal can be filed on behalf of the persons referred to in paragraph 1 of this Article, on the basis of their written authorisation, by other natural or legal persons, state and other authorities in charge of the monitoring and exercise of human and minority rights and freedoms.

#### **Article 84**

Constitutional appeal may be filed within 30 days of the date of being served an individual act or the date of the action whereby human rights and freedoms guaranteed by the Constitution were violated or denied.

The Constitutional Court will allow restitution to a person who on justified grounds failed to observe the time-limit for submitting a constitutional appeal if such persons, within 15 days from the cessation of the reasons that caused the failure, files a proposal for restitution and simultaneously submits a constitutional appeal.

Restitution cannot be requested after the expiry of a period of three months from the date of failure to observe the time limit.

#### **Article 85**

Constitutional appeal must contain the name and surname, citizens' identification number, place permanent or temporary residence, or name and seat of person filing the constitutional appeal, name and surname of plaintiff's representative, number and date of the act against which the appeal is being filed the name of the authority that enacted it, specification of human or minority right and freedom guaranteed by the Constitution that is allegedly violated with specification of the Constitutional provision guaranteeing such right or freedom, dedicated motion on which the Constitutional Court should decide, specifying the amount and basis for compensation for material or immaterial damages, where compensation is required, signature of the complainant or the person who was issued a special authorization to file a constitutional complaint.

A copy of the disputed individual act, evidence that legal remedies have been exhausted, evidence on the amount of material damage, and other evidence of significance for determination shall be attached to the constitutional appeal.

A claim for compensation of damages may only be set simultaneously with filing of a constitutional complaint.

#### **Article 86**

A constitutional appeal, as a rule, does not preclude implementation of the individual act or action against which it was filed.

Acting on a proposal of the complainant, the Constitutional Court may suspend implementation of the individual act or action referred to in paragraph 1 of this Article if implementation would cause irreparable damage to the complainant, provided that suspension is not contrary to the public interest, and that suspension would not cause considerable damage to a third party.

#### **Article 87**

Where a Constitutionally-guaranteed human or minority right or freedom of several persons was violated or denied by an individual act or action, and only some of them filed the constitutional appeal, the decision of the Constitutional Court also relates to persons who did not file the constitutional appeal, if they are in the same legal situation.

#### **Article 88**

The Constitutional Court will discontinue the procedure:

1. where a constitutional appeal was withdrawn;
2. where the authority that enacted the disputed individual act annuls, repeals or revises the act in accordance with the request contained in the constitutional appeal or if the action which caused the violation or denial of a Constitutionally-guaranteed right or freedom has ceased, with the consent of the complainant;
3. where other procedural preconditions for conducting the procedure cease.

#### **Article 89**

Constitutional appeal is upheld or denied as unfounded by a decision.

When the Constitutional Court finds that the challenged individual act or action violates or denies a human or minority right or freedom guaranteed by the Constitution, it may annul the individual act, prohibit the continuation of such actions or order taking other measures or actions that eliminate the harmful consequences of the violation or denial of guaranteed rights and freedoms and determine the manner of just satisfaction for the propounder.

In a decision upholding a constitutional appeal, the Constitutional Court shall also decide on the request of the complainant for compensation of pecuniary and non-pecuniary damages, where such request has been made. In doing so, the Constitutional Court shall, once the request has been granted, determine in its decision the body under obligation to pay pecuniary or non-pecuniary damages and set a four months' time-frame from the date the decision has been served to the body, within which this body may voluntarily pay the damages. The enforcement proceedings for pecuniary or non-pecuniary damages may be initiated only if the pecuniary or non-pecuniary damages have not been voluntarily paid within the time-frame of four months from the date the decision was served.

A decision of the Constitutional Court upholding a constitutional appeal has legal effect from the date when it is served to the participants in the procedure.

#### **Article 90**

(Deleted)

#### **Article 91**

Provisions of Articles 82 to 88 of this Law shall apply accordingly in procedures on appeals of authorities designated by the statute of autonomous province or local self-government unit, if the individual act or action of state authority or local self-government unit precludes the exercise of authority of autonomous province or local self-government.

#### **Article 92**

When in a procedure on an appeal of an authority designated by the statute of an autonomous province or a local self-government unit the Constitutional Court establishes that the exercise of the authority of an autonomous province, or of local self-government, is precluded by an individual act or action of a state authority or local self-government authority, it will annul the individual act, or prohibit further performance or order the performance of a certain action and order the detrimental consequences rectified.

A decision of the Constitutional Court upholding the appeal referred to in paragraph 1 of this Article has legal effect from the date of its delivery to the participants in the procedure.

### **9. Procedure of Establishing a Violation of the Constitution by the President of the Republic**

#### **Article 93**

Procedures of establishing a violation of the Constitution by the President of the Republic are initiated by the National Assembly, at the proposal of one third of the total number of members of parliament.

The act on the initiation of the procedure referred to in paragraph 1 of this Article contains the legal grounds, the provisions of the Constitution that were violated and evidence on which the act is based.

The Speaker of the National Assembly submits the act on the initiation of the procedure referred to in paragraph 1 of this Article to the Constitutional Court.

If the Constitutional Court establishes that the procedure for the impeachment of the President of the Republic was initiated in accordance with the Constitution and the law, the act of the National Assembly initiating the procedure of establishing a violation of the Constitution is served to the President of the Republic for a reply, within a time-limit determined by the Constitutional Court.

#### **Article 94**

After the expiry of the time limit given for the reply, the President of the Constitutional Court will schedule a hearing to which he will summon the President of the Republic and the Speaker of the National Assembly.

#### **Article 95**

In the procedure of establishing a violation of the Constitution by the President of the Republic, the Constitutional Court is limited solely to the establishment of violations of the provisions of the Constitution specified in the act of the National Assembly on initiation of the procedure.

#### **Article 96**

The Constitutional Court will determine whether the President of the Republic violated the Constitution and serve its decision thereof to the National Assembly and to the President of the Republic.

The decision referred to in paragraph 1 of this Article must be issued by the Constitutional Court within 45 days from the day the act of the National Assembly initiating a procedure for establishing a violation of the Constitution by the President of the Republic was filed.

#### **Article 97**

The Constitutional Court will discontinue the procedure:

1. if the National Assembly withdraws the act on the initiation of the procedure;
2. if the office of the President of the Republic is terminated during the procedure.

#### **Article 98**

A decision of Constitutional Court on violation of the Constitution by the President of the Republic has legal effect from the date of the service of the decision to the National Assembly.

### **10. Procedures on Appeals by Judges, Public Prosecutors and Deputy Public Prosecutors against Decisions on Termination of Office**

#### **Article 99**

Judges, public prosecutors and deputy public prosecutors may lodge appeals to the Constitutional Court against decisions on termination of office within 30 days of the day of being served the decision.

The authority that issued the decision on termination of office is entitled to a reply to the appeal within 15 days of the day of being served the appeal.

#### **Article 100**

After the expiry of the time-limit for submitting a reply, the Constitutional Court schedules a hearing to which it summons the appellant and a representative of the authority that issued the decision on termination of office.

The public may be excluded from the hearing referred to in paragraph 1 of this Article.

#### **Article 101**

The Constitutional Court may issue a decision upholding the appeal and annul the decision on termination of office\*, or deny the appeal.

#### **Article 102**

Decisions of the Constitutional Court in procedures on appeals by judges, public prosecutors and deputy public prosecutors against decisions on dismissal have legal effect from the date of being served to participants in proceedings.

#### **Article 102a**

In an appeal procedure by a judge, public prosecutor, or deputy public prosecutor, the provisions of this Law governing the procedure on constitutional appeal shall be applied accordingly.

#### **Article 103**

The provisions of Articles 99 through 102a shall apply accordingly to procedures on appeals against decisions of the High Judicial Council, in cases prescribed by law.

## **V. ENFORCEMENT OF CONSTITUTIONAL COURT ACTS**

#### **Article 104**

State and other authorities, organisations vested with public authority, political parties, trade union organisations, citizens' associations or religious communities have an obligation to enforce decisions and orders of the Constitutional Court, within their rights and duties.

If necessary, enforcement of decisions and rulings of the Constitutional Court will be secured by the Government, in a manner established by a special Constitutional Court ruling.

## **VI. RELATIONSHIP OF THE CONSTITUTIONAL COURT AND THE NATIONAL ASSEMBLY**

#### **Article 105**

The Constitutional Court informs the National Assembly about the situation and problems of exercising constitutionality and legality in the Republic of Serbia provides opinions and indicates the need for adopting and revising laws and implementing other measures for the purpose of protecting constitutionality and legality.

#### **Article 106**

When the Constitutional Court determines that a competent authority has not adopted a general act for the enforcement of provisions of the Constitution, law or other general act, and had had an obligation to adopt such a general act, it will notify the National Assembly thereof.

#### **Article 107**

Proposals of authorised propounders and rulings on initiation of procedure for the assessment of the constitutionality of a law, or constitutionality and legality of other general act adopted by the National Assembly are submitted by the Constitutional Court to the National Assembly for its reply.

The Constitutional Court forwards to the National Assembly decisions establishing that a law or other general act adopted by the National Assembly is not in compliance with the Constitution, generally accepted rules of international law, ratified international agreements or law.

## **VII. COOPERATION WITH STATE AND OTHER AUTHORITIES AND ORGANISATIONS AND INTERNATIONAL COOPERATION**

### **Article 108**

In exercise of its functions, the Constitutional Court cooperates with state and other authorities and organisations, scientific and other institutions, companies and other legal persons, on questions of interest for preservation of constitutionality and legality.

### **Article 109**

Constitutional Court realises international cooperation with foreign and international courts and international organisations in accordance with its competence.

## **VIII. PENAL PROVISIONS**

### **Article 110**

Organisations or other legal persons shall be punished by a fine ranging from 50,000 dinars to 1,000,000 dinars for the following petty offences:

- 1) if they fail to forward to the Constitutional Court within the prescribed time-limit the challenged general act and necessary documentation and to provide data and information of significance for the conduct of the procedure and determination (Article 34 paragraph 1);
- 2) if they fail to submit to the Constitutional Court necessary data and information of significance for the conduct of the procedure and determination (Article 34 paragraph 2);

Entrepreneurs are liable to fines ranging from 20,000 dinars to 500,000 dinars for the minor offences referred to in paragraph 1 of this Article.

Responsible persons in organisations or other legal persons are liable to fines of up to 50,000 dinars for the minor offences referred to in paragraph 1 of this Article.

Responsible officials in state and other authorities are also liable to fines of up to 50,000 dinars for the petty offences referred to in paragraph 1 of this Article.

## **IX. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 111**

First session of the Constitutional Court shall be chaired by the oldest judge.

### **Article 112**

Procedures before the Constitutional Court initiated before the effective date of this Law will be concluded according to the provisions of this Law.

### **Article 113**

Procedures on constitutional appeals filed from the day of promulgation of the Constitution to the day this Law enters into force shall be conducted in accordance with the provisions of this Law.

Constitutional appeal can also be filed against an individual act or action of state authority or organisation vested with public authority, which violates or denies a human or minority right or freedom

guaranteed by the Constitution, if such act or action was effected from the day of promulgation of the Constitution to the day this Law enters into force.

Constitutional appeal in cases referred to in paragraph 2 of this Article can be filed within 30 days from the day this Law enters into force.

#### **Article 114**

Judges of the Constitutional Court elected in accordance with Constitution of the Republic of Serbia (Službeni glasnik Republike Srbije, No. 1/90) whose office is terminated are entitled to six months' salary equal to the salary of a Constitutional Court judge.

The pay entitlement referred to in paragraph 1 of this Article shall cease before the expiry of six months if the judge whose office has been terminated enters into employment contract or acquires the right to pension, and may also be extended for additional six months, if the judge acquires the conditions for pension within those six months.

#### **Article 115**

Civil servants and employees employed in the Service of the Constitutional Court of Serbia continue to work in the Constitutional Court in positions to which they had been appointed or allocated until the effective date of this Law, pending the adoption of appointment or allocation rulings, or the conclusion of employment contracts, in accordance with a Constitutional Court act from Article 27 paragraph 2 of this Article.

#### **Article 116**

The Constitutional Court adopts its Rules of Procedure and the act from Article 27 paragraph 2 within 90 days of the effective date of this Law.

Minister competent for judiciary shall pass the act from Article 90 paragraph 3 of this Act within 90 days from the effective date of this Law.

#### **Article 117**

The validity of the Law on the Procedure before the Constitutional Court and Legal Effect of its Decisions (Službeni glasnik Republike Srbije, Nos. 32/91, 67/93 and 101/05) expires on the effective date of this Law.

#### **Article 118**

This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije.

\* \* \*

### **ARTICLES NOT INCLUDED IN THE FINAL TEXT OF THE LAW AMENDING THE LAW ON CONSTITUTIONAL COURT (Službeni glasnik RS, No. 99/11 of 27 December 2011)**

#### **Article 38**

*The Constitutional Court shall harmonize the Rules of Procedure with the provisions of this Law within 90 days from the effective date of this Law.*

#### **Article 39**

*A judge of the Constitutional Court, who was elected or appointed as a judge of the Constitutional Court from the ranks of judges prior to the effective date of this Law, and upon termination of office of a Constitutional Court judge due to the expiry of the period for which he was elected or appointed, has the right to be elected to judicial office at the court from which he was elected or appointed as a judge of the Constitutional Court or at the Court of highest degree which has taken over the jurisdiction of the court from which the Constitutional Court judge was elected or appointed.*

*The High Judicial Council shall be obligated to pass the decision on the election to judicial office referred to in paragraph 1 of this Article within 30 days of termination of office of a judge of the Constitutional Court.*

**Article 40**

*Procedures initiated before the effective date of this Law shall be completed under the provisions of this Law.*

*Claims for compensation of damages submitted by the Commission referred in Article 90, paragraph 3 of the Law on the Constitutional Court (Službeni glasnik RS, No. 109/07) by the effective date of this Law, shall be decided in accordance with the regulations in force before the effective date of this Law.*

**Article 41**

*On the effective date of this Law, the provisions of the Law on Salaries in Public Administration and Public Services (Službeni glasnik RS, No. 34/01, 62/06 – other law, 63/06 – correction of other law, 116 / 08 - other law and 92/11), in the part regulating the manner of determining the salaries of the President and judges of the Constitutional Court, shall cease to apply.*

**Article 42**

*This Law shall enter into force on the eighth day from the date of publication in the Službeni glasnik Republike Srbije.*