

# **LAW OF UKRAINE**

## **“On the Constitutional Court of Ukraine”**

*As amended by Law No 2147-VIII dated October 3, 2017*

This Law determines the procedure for the organisation and operation of the Constitutional Court of Ukraine, the status of the judges of the Constitutional Court of Ukraine, the grounds and procedure for applying to it, and the procedure for consideration of cases and execution of its decisions.

### **Section I**

## **CONSTITUTIONAL COURT OF UKRAINE**

### **Chapter 1. GENERAL PROVISIONS**

#### **Article 1. Status of the Constitutional Court of Ukraine**

1. The Constitutional Court of Ukraine (hereinafter - the “Constitutional Court” or the “Court”) shall be the body of constitutional jurisdiction, which ensures the supremacy of the Constitution of Ukraine, decides on conformity of laws of Ukraine to the Constitution of Ukraine and other acts in the cases provided for by the Constitution of Ukraine, provides official interpretation of the Constitution of Ukraine, as well as exercises other powers under the Constitution of Ukraine.

#### **Article 2. Basic Principles of the Operation of the Court**

1. The Constitutional Court shall operate on the principles of the rule of law, independence, collegiality, publicity, openness, complete and comprehensive consideration of cases, reasonableness and binding effect of its decisions and opinions.

#### **Article 3. Legal Framework for the Activities of the Court**

1. The Court shall operate under the powers defined by the Constitution of Ukraine.

The procedures for the organisation and operation of the Court, constitutional proceedings, consideration of cases and execution of decisions and opinions shall be established by this Law.

2. The management of the internal operations of the Court and the relevant rules of procedure for consideration of cases under this Law shall be established by the Rules of Procedure of the Constitutional Court of Ukraine (hereinafter - the “Rules of Procedure”).

3. The Court shall adopt other acts that regulate the management of its operations under this Law and the Rules of Procedure.

#### **Article 4. Seat of the Constitutional Court**

1. The permanent seat of the Constitutional Court shall be the city of Kyiv.

#### **Article 5. Attributes of the Courtroom**

1. The State Coat of Arms of Ukraine and the State Flag of Ukraine shall be the inalienable attributes of the Courtroom.

#### **Article 6. Openness of the Court’s Activities**

1. Cases shall be heard in public at the plenary sessions of the Grand Chamber of the Constitutional Court (hereinafter - the “Grand Chamber”), the Senate of the Constitutional Court (hereinafter - the “Senate”), except the in-camera part of these sessions when a decision is adopted, an opinion is provided, or a Court’s ruling is delivered.

An in-camera plenary session shall be allowed where a hearing in a public plenary session may result in the disclosure of a state secret and (or) other information protected by law.

2. Persons wishing to attend the public part of the plenary session held by the Grand Chamber or by the Senate shall be allowed in the Court premises and in the Courtroom in the manner set forth by the Rules of Procedure.

3. Representatives of mass media accredited at the Court shall be entitled to conduct video and still photography, audio recording of the public part of plenary sessions of the Grand Chamber or the Senate in the manner prescribed by the Rules of Procedure.

## **Chapter 2. POWERS OF THE CONSTITUTIONAL COURT**

#### **Article 7. Powers of the Court**

1. The powers of the Court shall include:

1) deciding on conformity to the Constitution of Ukraine (constitutionality) of laws of Ukraine and other legal acts of the Verkhovna Rada of Ukraine, acts of

the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea;

2) official interpretation of the Constitution of Ukraine;

3) providing, upon the application by the President of Ukraine or at least forty-five People's Deputies of Ukraine or the Cabinet of Ministers of Ukraine, opinions on conformity to the Constitution of Ukraine of applicable international treaties of Ukraine or those international treaties that are submitted to the Verkhovna Rada of Ukraine for its consent to their binding nature;

4) providing, upon the application by the President of Ukraine or at least forty-five People's Deputies of Ukraine opinions on conformity to the Constitution of Ukraine (constitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative;

5) providing, upon the application by the Verkhovna Rada of Ukraine, opinion on the observance, within the limits established by Articles 111 and 151 of the Constitution of Ukraine, of the constitutional procedure for investigating and considering a case on removal of the President of Ukraine from office through impeachment;

6) providing, upon the application by the Verkhovna Rada of Ukraine, opinion on conformity to Articles 157 and 158 of the Constitution of Ukraine of a draft law on the amendments to the Constitution of Ukraine;

7) providing, upon the application by the Verkhovna Rada of Ukraine, opinion on the violation by the Verkhovna Rada of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

8) deciding on conformity to the Constitution of Ukraine and laws of Ukraine of normative legal acts adopted by the Verkhovna Rada of the Autonomous Republic of Crimea upon the application by the President of Ukraine, under paragraph 2 Article 137 of the Constitution of Ukraine;

9) deciding on conformity to the Constitution of Ukraine (constitutionality) of laws of Ukraine (specific provisions thereof), upon a constitutional complaint of an individual who considers that the law of Ukraine applied in the final court judgment in his or her case contradicts the Constitution of Ukraine.

#### **Article 8. Limits of the Powers of the Court**

1. The Court shall consider conformity to the Constitution of Ukraine (constitutionality) of applicable acts (specific provisions thereof).

2. For the purpose of protecting or restoring the rights of a person, the Court shall consider conformity to the Constitution of Ukraine (constitutionality) of an ineffective act (specific provisions thereof) which is still applied to the legal relations that have arisen during the operation thereof.

3. The Court shall not consider conformity to the laws of Ukraine of acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, acts of other government authorities, authorities of the Autonomous Republic of Crimea and bodies of local self-government, unless as provided by sub-paragraph 28 paragraph 1 Article 85 and paragraph 2 Article 137 of the Constitution of Ukraine.

#### **Article 9. Composition of the Court**

1. The Court shall be composed of eighteen judges of the Constitutional Court.

2. The President of Ukraine, the Verkhovna Rada of Ukraine and the Congress of Judges of Ukraine each shall appoint six judges of the Constitutional Court.

#### **Article 10. Competence of the Court**

1. The Court shall be competent to exercise constitutional proceedings if composed of at least twelve judges of the Constitutional Court empowered under Article 17 of this Law.

### **Chapter 3. JUDGE OF THE CONSTITUTIONAL COURT**

#### **Article 11. Requirements for a Judge of the Constitutional Court**

1. A citizen of Ukraine who has command of the state language, has reached the age of forty as of the day of the appointment, has higher legal education and least fifteen years of professional experience in the field of law, high moral character, and is a lawyer with a recognised level of competence, shall be eligible to become a judge of the Constitutional Court.

2. A judge of the Constitutional Court of Ukraine (hereinafter - the "Constitutional Court Judge" or the "Judge") shall comply, both in and beyond his or her activities, with the established standards of professional ethics of a Constitutional Court Judge.

3. A Constitutional Court Judge shall comply with the criterion of political neutrality. A Judge may not be affiliated with political parties or trade unions, or display his or her disposition towards them, or participate in any political activities.

In particular, a person may not be appointed to the position of a Constitutional Court Judge if on the date of his or her appointment he or she:

1) is a member or holds a position in a political party or other organisation that pursues political objectives or participates in political activities;

2) is elected to an elective office in a government or local self-government authority, holds representative powers;

3) participates in managing or financing a political campaign or other political activities.

A Constitutional Court Judge shall not be entitled to combine his or her office with any position in a government authority or local authority, a self-governed professional legal association, with the status of a People's Deputy of Ukraine, Deputy of the Verkhovna Rada of the Autonomous Republic of Crimea or of an oblast, district, city, city-district, village, or settlement council, other representative mandate, advocacy activities, entrepreneurial activities, to occupy any other paid office, to exercise any other paid work or to receive any other remuneration, except for teaching, research or creative activities with remuneration for it, as well as to be on a management or supervisory board of a profit-making legal entity.

4. A person holding shares or other corporate rights, or other property rights, or other property interest in the activities of any profit-making legal entity shall transfer such shares (corporate rights) or any other relevant rights into an independent third-party management (without being entitled to issue instructions to such party in respect of the disposal of such shares, corporate or other rights, or to issue instructions in respect of the exercise of any rights attached thereto) for the duration of his or her tenure as a Constitutional Court Judge. A Constitutional Court Judge may receive interest, dividends and other passive income from the property in his or her possession.

5. Special screening of the persons applying for the position of a Constitutional Court Judge shall be conducted upon their written consent in the order prescribed by the Law of Ukraine "On Corruption Prevention".

The relevant requirements and restrictions set forth by the Law of Ukraine "On Corruption Prevention" shall apply to Constitutional Court Judges.

## **Article 12. Competitive Basis for Selection of Candidates for the Position of a Constitutional Court Judge**

1. The selection of candidates for the position of a Constitutional Court Judge on a competitive basis regarding the persons appointed by the President of Ukraine shall be carried out by a screening commission established by the President of Ukraine.

Preparation of the issue on competitive consideration of candidates for a position of a Constitutional Court Judge in the Verkhovna Rada of Ukraine shall be carried out by a committee the competence of which includes the legal status of the Constitutional Court of Ukraine (hereinafter - the "Committee"), in the manner established by the Rules of Procedure of the Verkhovna Rada of Ukraine, with account of the provisions of this article.

Preparation of the issue on competitive consideration of candidates for a position of a Constitutional Court Judge by the Congress of Judges of Ukraine (hereinafter - the “Congress”) shall be carried out by the Council of Judges of Ukraine.

2. The start of the competition to select candidates for the position of a Constitutional Court Judge shall be announced on the official website of the President of Ukraine, the Verkhovna Rada of Ukraine, or the Council of Judges of Ukraine, respectively, at least three months before the expiry of the term of office or attainment of the age limit for holding office by a Constitutional Court Judge, or within one month from the introduction of vacancies for the position of a Constitutional Court Judge, in the event of termination of powers or dismissal of such Judge for the reasons provided for in Article 149<sup>1</sup> of the Constitution of Ukraine.

3. Composition of the screening commission established by the President of Ukraine shall be established from among lawyers with a recognised level of competence, who do not participate in the competitive selection for the position of a Constitutional Court Judge.

4. The screening commission, the Committee, the Council of Judges of Ukraine within one month from the announcement of the beginning of the competitive selection, within the general term of the competition, provided for in paragraph 6 of this article shall accept applications from individuals who express their intent to take up the position of a Constitutional Court Judge and who comply with the requirements established by the Constitution of Ukraine.

The application of individuals who express their intent to take up the position of a Constitutional Court Judge shall be complemented by the following:

- 1) autobiography;
- 2) letter of motivation detailing the motives for being appointed as a Constitutional Court Judge;
- 3) copy of a document confirming identity and evidencing Ukrainian citizenship;
- 4) documents that evidence work experience in the field of law;
- 5) declaration of a person authorised to execute functions of the state or local self-government, declaration of family relationships of the judge and declaration of judge's integrity;
- 6) copy of a diploma on higher legal education (with transcripts) received in Ukraine, and/or copies of documents on higher legal education received abroad along with copies of documents that evidence recognition of the said documents in Ukraine, as well as copies of documents on academic degree, and academic rank (if any);

7) written consent to the processing of personal data and promulgation of copies of documents as set forth in this Article, except copies of the document set forth in sub-paragraph 3 of this paragraph;

8) statement about the screening provided by the Law of Ukraine “On Government Cleansing”, or conclusion of the findings of such verification (if any);

9) written consent to special screening under the law;

10) other documents provided by the Law of Ukraine “On Corruption Prevention” for carrying out special screening.

The screening commission, the Committee, the Council of Judges of Ukraine after the expiry of the term for accepting applications provided for by this paragraph, shall establish the conformity of individuals, who expressed their intent to take up the position of a Constitutional Court Judge, to the requirements established by the Constitution of Ukraine and this Law.

Autobiography and motivational letters of the candidates who meet the specified requirements shall be published, as well as special screening shall be carried out in the manner prescribed by the Law of Ukraine “On Corruption Prevention”. The Council of Judges of Ukraine shall organise special screening of the candidates appointed by the Congress.

5. Following the review of the documents and the information provided by candidates and interviews with them, the screening commission, the Committee, the Council of Judges of Ukraine shall adopt a recommendation for each candidate for the position of a Constitutional Court Judge.

The screening commission, the Council of Judges of Ukraine shall compile a list of candidates recommended for the position of a Constitutional Court Judge, on the basis of which the subjects of appointment shall make appropriate decisions. Such lists shall include the number of candidates, which at least three times is as many as the number of vacancies.

6. The overall term for holding competition to select candidates for the position of a Constitutional Court Judge shall be two months.

### **Article 13. Procedure for Appointment of a Constitutional Court Judge by the President of Ukraine**

1. Based on the results of the competitive selection, the President of Ukraine shall issue a decree on the appointment of a Constitutional Court Judge.

2. The President of Ukraine shall appoint a person to the position of a Constitutional Court Judge within three months from the termination of powers or dismissal of a Constitutional Court Judge appointed by the President of Ukraine.

#### **Article 14. Procedure for Appointment of a Constitutional Court Judge by the Verkhovna Rada of Ukraine**

1. The procedure for appointing of a Constitutional Court Judge by the Verkhovna Rada of Ukraine shall be established by the Rules of Procedure of the Verkhovna Rada of Ukraine.

#### **Article 15. Procedure for Appointment of a Constitutional Court Judge by the Congress of Judges of Ukraine**

1. Based on the results of the competitive selection, the Congress, by the majority of votes cast in open ballot by the delegates attending the Congress, shall include the candidates for the position of a Constitutional Court Judge into ballot papers for secret ballot.

2. A candidate who, following the secret ballot, has received a majority of the votes cast by the delegates elected to the Congress shall be deemed appointed to the position of a Constitutional Court Judge.

If the Constitutional Court Judge has not been appointed on the basis of the results of the ballot, a second ballot shall be held in respect of two candidates who have received a majority of the votes as compared the other candidates.

3. The Congress shall appoint a person to the position of a Constitutional Court Judge within three months from the termination of powers or dismissal of a Constitutional Court Judge appointed by the Congress.

4. The resolution of the Congress to appoint a Constitutional Court Judge shall be signed by the Chairperson of the Congress and the Secretary.

5. The procedure for convening and holding the Congress of Judges of Ukraine shall be determined by the Law of Ukraine “On the Judiciary and Status of Judges”.

#### **Article 16. Appointment and Tenure of a Constitutional Court Judge**

1. A Constitutional Court Judge shall be appointed for the term of nine years, without the right to reappointment.

#### **Article 17. Empowerment of a Constitutional Court Judge**

1. A Judge shall become empowered upon taking the following oath at a special plenary session of the Court:

“I, (name and surname), in assuming the office of a Judge of the Constitutional Court of Ukraine, hereby solemnly swear my allegiance to Ukraine, to be independent, honest and conscientious while discharging the high duties of a Judge of the Constitutional Court of Ukraine, to ensure the supremacy of the



Constitution of Ukraine, to protect the constitutional order of the State by affirming human rights and freedoms.”

2. A special plenary session of the Court shall be convened, within five working days from the appointment of a Constitutional Court Judge to the position, by the Chairman of the Court or a Judge performing his duties.

3. The solemn ceremony of swearing-in a Constitutional Court Judge at a special plenary session shall take place in the Courtroom. The procedure for the solemn ceremony shall be established by the Rules of Procedure.

### **Article 18. Status of a Constitutional Court Judge**

1. The status of a Constitutional Court Judge shall be established by the Constitution of Ukraine and this Law.

2. A person shall acquire the status of a Constitutional Court Judge on the day following the date of the appointment to such position.

3. Powers of a Constitutional Court Judge and safeguards of his or her activities may not be restricted during martial law or a state of emergency in Ukraine or in its specific localities.

4. A Constitutional Court Judge shall perform preliminary preparation of issues to be considered by the Grand Chamber, the Senate, Board of Judges of the Constitutional Court of Ukraine (hereinafter - the “Board”), and shall participate in the hearings.

5. A Constitutional Court Judge may express in public his or her view solely on the merits of those cases in which the Court has adopted decision or provided opinion.

6. A Constitutional Court Judge may not be awarded with state awards of Ukraine, decorations, special titles of Ukraine, as well as any other awards, decorations, or certificates of merit during his or her tenure except awards for his or her personal courage and heroism displayed in the conditions associated with risk to life.

7. The description of and sample identity card of Constitutional Court Judges and former Constitutional Court Judges shall be set forth in the Rules of Procedure.

8. The identity card of the Constitutional Court Judge shall be signed by the President of Ukraine. The identity card of the former Constitutional Court Judge shall be signed by the Chairman of the Court.

### **Article 19. Judicial Gown and Badge of a Constitutional Court Judge**

1. A Constitutional Court Judge shall exercise his or her powers in a public part of the plenary session of the Court wearing a judicial gown and a badge.

2. A Constitutional Court Judge shall be provided with a judicial gown and a badge out of the funds of the State Budget of Ukraine.

3. The description of the judicial gown and badge of a Constitutional Court Judge shall be set forth in the Rules of Procedure.

#### **Article 20. Termination of Powers of a Constitutional Court Judge**

1. The powers of a Constitutional Court Judge shall be terminated:

1) upon expiry of his or her term of office;

2) upon attainment of seventy-years age;

3) upon termination of citizenship of Ukraine or acquisition of citizenship of another state as prescribed in the manner established by the law;

4) upon entering into force of a court judgment that declares him or her missing or deceased, incapable or partially capable;

5) upon entering into force of a guilty verdict against him or her for a committed crime;

6) death.

2. Termination of powers of a Constitutional Court Judge shall provide a basis for termination of employment relationship with him or her under an official order issued by the Chairman of the Court.

#### **Article 21. Dismissal of a Constitutional Court Judge**

1. Grounds for dismissal of a Constitutional Court Judge shall include:

1) inability to exercise his or her powers for reasons of health, which shall be evidenced by a medical report from a medical board established by a central executive healthcare authority that establishes and implements public policy in the healthcare field upon the application of the Chairman of the Court, or, in his or her absence, by the Deputy Chairman of the Court, or, in the absence of both, by a Judge acting as the Chairman of the Court;

2) his or her violation of incompatibility requirements, as set forth in paragraphs 3 and 4 Article 11 of this Law. The issue of the violation by Judge of incompatibility requirements shall be considered at a special plenary session of the Court, subject to the availability of an opinion by the Standing Commission of the Court on Regulations and Ethics. Should the circumstances that evidence the violation by a Judge of incompatibility requirements be confirmed, such Judge shall be warned of the need to remedy such circumstances within the term determined by the Court. Where the Judge has failed to remedy the circumstances

which evidence the violation of incompatibility requirements, within the term determined by the Court, the Court shall adopt a decision on his or her dismissal;

3) committing substantial disciplinary offence, gross or systematic neglect of his or her duties, incompatible with the status of a Constitutional Court Judge or his or her incompatibility with the position occupied. The issues of dismissal of a Judge on these grounds shall be considered at a special plenary session of the Court, subject to the availability of an opinion by the Standing Commission of the Court on Regulations and Ethics;

4) statement of resignation or on voluntary dismissal submitted by a Judge.

Decision to dismiss a Constitutional Court Judge shall be approved by the Court by at least two thirds of its constitutional composition.

2. A Judge shall be entitled to submit his or her statement of resignation after at least four years of service in the position of a Constitutional Court Judge, or statement of resignation for health reasons, irrespective of years of service, or statement on voluntary dismissal irrespective of motives.

3. In case a Constitutional Court Judge submits his or her statement of resignation or that of voluntary dismissal, he or she shall continue to exercise his or her powers until a relevant decision on his or her dismissal is adopted at a special plenary session of the Court.

The Court shall adopt a decision to dismiss a Constitutional Court Judge from office within one month from the date of receipt of the relevant statement.

## **Article 22. The Assembly of Constitutional Court Judges**

1. The Assembly of Constitutional Court Judges shall represent an organisational form of judicial self-government.

2. The Assembly of Constitutional Court Judges shall decide on matters that are not directly related to the constitutional proceedings and do not concern the matters decided on at the sessions of the Court.

The Assembly of Constitutional Court Judges shall be competent provided at least two-thirds of the general composition of the Court is present.

The Assembly of Constitutional Court Judges shall adopt decisions by a majority of votes present at the Assembly by an open ballot unless a decision is taken by secret ballot.

## **Article 23. Extrajudicial Activities of a Constitutional Court Judge**

1. A Constitutional Court Judge shall be entitled to take part in research and practice conferences, symposia, professional national, international and other events.

2. A Constitutional Court Judge may engage in teaching, research or creative activities.

## **Chapter 4. SAFEGUARDS FOR THE ACTIVITIES OF A CONSTITUTIONAL COURT JUDGE**

### **Article 24. Independence and Inviolability of a Constitutional Court Judge**

1. A Constitutional Court Judge shall exercise his or her powers guided by the Constitution of Ukraine and this Law, on the basis of the rule of law. Any influence on a Constitutional Court Judge shall be prohibited.

2. A Constitutional Court Judge shall not provide any clarifications on the merits of cases pending before the Court beyond the consideration of the case during the proceedings.

3. A Judge may not be brought to responsibility for voting in respect to decisions adopted or opinions provided by the Court, except in case of committing a crime or a disciplinary offence.

4. A Judge may not be detained or kept in custody or under arrest without the consent of the Court until a guilty verdict delivered by a court, unless detention of a Judge during or immediately after committing a grave or especially grave crime.

5. A petition for consent to detention, custody or arrest of a Judge shall be submitted to the Court by the Prosecutor General or a person performing his or her duties.

6. A decision to grant consent to the detention, custody or arrest of a Judge shall be approved by the Court at its special plenary session in the form of a resolution.

7. A Constitutional Court Judge shall not be subject to coercive enforcement to any authority or institution other than court.

8. A Constitutional Court Judge detained for an administrative offence or on suspicion of committing an act for which criminal liability is imposed shall be released promptly upon establishing his or her identity, unless:

1) the Court has given its consent to the detainment of the Judge in connection with such act;

2) he or she is detained during or immediately after committing a grave or especially grave crime.

The Court shall be notified promptly of any detention of a Judge.

9. A Judge shall be notified of suspicion of committing a criminal offence by the Prosecutor General or a person performing his or her duties.

**Article 25. Security Safeguards for a Constitutional Court Judge and Members of His or Her Family**

1. The safety of a Constitutional Court Judge and members of his or her family (parents, husband/wife, children) shall be given special protection by the State. Upon a relevant application by a Judge, law enforcement agencies shall take measures to ensure safety of a Judge and members of his or her family.

2. Any attempts on the life or health of a Judge committed in connection with his or her official duties, threats of murder, violence, or said acts committed against members of his or her family shall entail liability established by law.

**Article 26. Remuneration of a Constitutional Court Judge**

1. Remuneration of a Constitutional Court Judge shall be established by this Law.

2. The remuneration of a Judge shall consist of official salary and premiums for holding an administrative position in the Constitutional Court.

The remuneration shall be calculated as of the day following the date of the appointment of a Judge to his or her position.

3. The official salary of a Constitutional Court Judge shall be established in the amount of the official salary of a Supreme Court Judge.

4. A Constitutional Court Judge holding the position of the Secretary of the Board shall be paid a monthly premium of 5 per cent of the official salary of a Judge; the position of the Deputy Chairman of the Court – 10 per cent of the official salary of a Judge; and the position of the Chairman of the Court – 15 per cent of the official salary of a Judge.

**Article 27. Monthly Lifetime Monetary Allowance of a Former Constitutional Court Judge or Pension**

1. A former Constitutional Court Judge shall receive a monthly lifetime monetary allowance payable at 50 per cent of the remuneration of a Constitutional Court Judge.

2. In the event of an increase in the remuneration of a Constitutional Court Judge, the amount of the previously established monthly lifetime monetary allowance of a former Judge of the Constitutional Court shall be recalculated respectively. The amount of the monthly lifetime monetary allowance shall be recalculated on the basis of the entire amount of the remuneration of a Judge as of the date of the entitlement to the respective recalculation.

3. The monthly lifetime monetary allowance of a former Constitutional Court Judge shall be paid irrespective of the wages (profit) earned by such Judge after retirement. The monthly lifetime monetary allowance of a former Constitutional Court Judge shall be paid from the State Budget of Ukraine by the bodies of the Pension Fund of Ukraine.

4. A Constitutional Court Judge not entitled to retirement shall be granted, upon reaching the retirement age prescribed by law, a pension on the terms stipulated by the Law of Ukraine “On Mandatory State Pension Insurance”.

#### **Article 28. Vacation of a Constitutional Court Judge**

1. A Constitutional Court Judge shall be granted an annual paid leave of 30 working days.

#### **Article 29. Support for Official Needs of a Judge**

1. A Constitutional Court Judge shall be provided with a separate office, working space, official car and facilities necessary for his or her work.

#### **Article 30. Academic consultants and assistants of a Constitutional Court Judge**

1. A Constitutional Court Judge shall have two academic consultants and an assistant whose positions shall belong to the positions of the patronage office.

Academic consultants and assistant shall act under the Judge’s instructions related to constitutional proceedings cases and shall report to him or her directly.

2. A person shall be appointed to the position of academic consultant or assistant to a Judge by the Head of the Court’s Secretariat upon submission from such Judge.

At the suggestion of such Judge, a probation period may be established for the above persons in compliance with labour laws.

3. An individual who is a citizen of Ukraine, has higher legal education, professional work experience in the field of law at least three years and has the command of the state language may be appointed to the position of academic consultant.

4. Academic consultant or assistant to a Judge shall work under a fixed-term employment contract during the tenure of such Judge.

Academic consultant or assistant to a Judge shall be dismissed from their positions in compliance with the guarantees provided by the labour laws and subject to civil service laws.

Academic consultant or assistant to a Judge may be early dismissed from their positions upon submission from such Judge.

5. Academic consultant and assistant shall be subject to the same restrictions on the disclosure of information pertaining to constitutional proceedings, which became known to them during the discharge of their duties, as a Judge.

### **Article 31. Retention of the Title of a Constitutional Court Judge**

1. A Constitutional Court Judge, upon his or her retirement, shall retain the title of a Constitutional Court Judge.

2. The title of a Constitutional Court Judge as well as the right to receive a lifetime monthly monetary allowance, if the Judge has the work experience providing him or her the right to resignation, shall be retained by the Judge whose powers have been terminated on the grounds set forth in sub-paragraphs 1 and 2 paragraph 1 Article 149<sup>1</sup> of the Constitution of Ukraine, or who has been dismissed on the grounds set forth in sub-paragraphs 1 and 4 paragraph 2 Article 149<sup>1</sup> of the Constitution of Ukraine.

## **Chapter 5. MANAGEMENT OF THE OPERATION OF THE CONSTITUTIONAL COURT**

### **Article 32. Organisation Structure of the Court**

1. The Court comprises the Grand Chamber, two Senates and six Boards.

2. The Grand Chamber, the Senates and the Boards shall act as the Constitutional Court under the powers determined by this Law in respect of constitutional proceedings.

3. The Chairman of the Court, Deputy Chairman of the Court, Secretaries of the Boards shall act in the representative, managerial and administrative capacity.

4. The Grand Chamber, the Senate, the Board of the Court shall have the status of the Court bodies.

### **Article 33. Chairman of the Court**

1. The Chairman of the Court shall preside over the Court and manage its activities.

2. The Chairman of the Court shall:

1) provide general guidance in managing the operation of the Court and the Court's Secretariat;

2) convene sessions, special plenary sessions of the Court, sessions, plenary sessions of the Grand Chamber;

3) preside at sessions, special plenary sessions of the Court, sessions, plenary sessions of the Grand Chamber;

4) sit on one of the Senates and preside over its sessions;

5) manage budgetary funds to maintain and provide for the operation of the Court under the budget approved by the Court and shall monitor the efficiency of application of these funds by the Court's Secretariat;

6) exercise other powers as provided by this Law and the Rules of Procedure.

3. The Chairman of the Court shall represent the Court in relations with public authorities, other government authorities in Ukraine, local self-government authorities, legal entities of all types of ownership, as well as authorities of foreign states and international organisations.

4. The Chairman of the Court shall be elected from among the Constitutional Court Judges by secret ballot at a special plenary session of the Court for a single three-year term by submitting ballot papers that list any number of candidates nominated by the Constitutional Court Judges.

5. A commission comprising Constitutional Court Judges shall be set up to elect the Chairman of the Court at a special plenary session of the Court.

6. A candidate for whom the majority of Constitutional Court Judges from the constitutional composition of the Court have voted shall be deemed elected the Chairman of the Court.

In case not more than two candidates have been nominated, and the Chairman of the Court has not been elected, new elections shall be held.

In case more than two candidates have been nominated, none of whom has been elected, repeat vote shall be held for the two candidates with the majority of votes.

In the event of failure to elect the Chairman of the Court during the repeat vote, new elections shall be held.

During the vote, a Judge may only vote for one candidate.

7. In the absence of the Chairman of the Court, his or her duties shall be performed by the Deputy Chairman of the Court, and, in the absence of both, – by the eldest Judge.

8. Upon a statement of resignation submitted by the Chairman of the Court, the Court shall approve the decision to dismiss him or her early, if voted for by the majority of Constitutional Court Judges of the constitutional composition of the Court.

### **Article 34. Deputy Chairman of the Court**

1. The Deputy Chairman of the Court, under instructions of the Chairman of the Court, shall exercise some of his or her powers.



2. The Deputy Chairman of the Court shall be elected upon the proposal of the Chairman of the Court for a single three-year term by secret ballot using ballot papers, in the manner prescribed by Article 33 of this Law.

3. The Deputy Chairman of the Court shall sit on one of the Senates and preside over its sessions.

4. Upon a statement of resignation submitted by the Deputy Chairman of the Court, the Court shall approve the decision to dismiss him or her early, if voted for by the majority of Constitutional Court Judges of the constitutional composition of the Court.

### **Article 35. The Grand Chamber**

1. The Grand Chamber shall consist of all Judges of the Constitutional Court.

2. The Grand Chamber shall consider the issues regarding:

1) conformity to the Constitution of Ukraine (constitutionality) of laws of Ukraine or other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea;

2) official interpretation of the Constitution of Ukraine;

3) conformity to the Constitution of Ukraine of applicable international treaties of Ukraine or of international treaties submitted to the Verkhovna Rada of Ukraine for its consent to a binding nature thereof;

4) conformity to the Constitution of Ukraine (constitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative;

5) observance of the constitutional procedure for investigation and consideration of a case on removal of the President of Ukraine from office through impeachment within the limits established by Articles 111 and 151 of the Constitution of Ukraine;

6) conformity of a draft law on amendments to the Constitution of Ukraine to Articles 157 and 158 of the Constitution of Ukraine;

7) violation by the Verkhovna Rada of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

8) conformity of normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea to the Constitution and laws of Ukraine;

9) conformity to the Constitution of Ukraine (constitutionality) of laws of Ukraine (specific provisions thereof), upon constitutional complaints, in the event of relinquishment of jurisdiction by the Senate in favour of the Grand Chamber in the instances determined by this Law.

3. The powers of the Grand Chamber shall also include resolving, under this Law, any procedural issues that may arise during constitutional proceedings.

### **Article 36. The Senate**

1. The Senate shall consist of nine Judges of the Constitutional Court.

If the number of Constitutional Court Judges is less than eighteen, the Senate shall be competent when comprising at least six Constitutional Court Judges.

2. The composition of the Senate shall be formed at a special plenary session of the Constitutional Court by drawing lots. With regard to the Chairman of the Constitutional Court and the Deputy Chairman of the Constitutional Court, no drawing lots shall be held.

The personal composition of the Senates shall be approved by the resolution of the Constitutional Court.

The Senate shall consider cases when at least six judges of the Constitutional Court are present.

The sessions of the Senates shall be presided by the Chairman of the Constitutional Court and the Deputy Chairman of the Constitutional Court accordingly, and in the absence of them, - by eldest Judge who is a member of the Senate.

3. The Senates shall be set up in the manner prescribed by the Rules of Procedure.

4. The Senate, upon a constitutional complaint, shall consider the issue of conformity to the Constitution of Ukraine (constitutionality) of laws of Ukraine (specific provisions thereof) as well as other issues specified by this Law.

### **Article 37. The Board**

1. The Board shall consist of three Constitutional Court Judges.

The Court, by drawing lots at a special plenary session, shall set up the Boards within the Senates in the manner prescribed by the Rules of Procedure.

The same Judge may not sit on several Boards on a permanent basis.

The Court shall approve the personal composition of the Board by its resolution.

Where the Board is incompetent due to the lack of quorum, a Judge from another Board shall be assigned to it temporarily in the manner prescribed by the Rules of Procedure.

2. The powers of the Board shall include deciding on initiating constitutional proceedings in the case upon constitutional petitions, constitutional appeals, or constitutional complaints.

3. The Board, by the majority of votes of its Constitutional Court Judges, shall deliver a ruling to initiate constitutional proceedings in the case or to reject constitutional proceedings in the case.

4. Where the Board has delivered a ruling to initiate constitutional proceedings in the case upon a constitutional petition or a constitutional appeal, the Secretary of the Board shall submit a proposal to the Chairman of the Court to convene the Grand Chamber in order to consider the issues associated with such constitutional proceedings.

Where the Board has delivered a ruling rejecting constitutional proceedings in the case upon a constitutional petition or a constitutional appeal, the Secretary of the Board shall refer such constitutional petition or constitutional appeal to the Grand Chamber in order to resolve the issue of initiating constitutional proceedings in the case.

5. Where the Board has delivered a ruling to initiate constitutional proceedings in the case upon a constitutional complaint, the Secretary of the Board shall submit a proposal to the Presiding Judge of the respective Senate to convene its session in order to consider the issues associated with such constitutional proceedings.

Where the Board has not been unanimous in delivering a ruling rejecting constitutional proceedings in the case upon a constitutional complaint, the Secretary of the Board shall refer such constitutional complaint to the Senate in order to resolve the issue of initiating constitutional proceedings in the case.

6. A ruling unanimously adopted by the Board to reject constitutional proceedings in the case of constitutional complaint shall be final.

### **Article 38. Secretary of the Board**

1. The Secretary of the Board shall be elected from among Constitutional Court Judges who are members of this Board in the manner prescribed by the Rules of Procedure.

2. The Secretary of the Board shall:

1) convene meetings of the Board and preside over them;

2) submit a proposal to the Presiding Judge of the Senate to convene a session of the Senate or a plenary session of the Senate, and to the Presiding Judge of the Grand Chamber – a proposal to convene session of the Grand Chamber;

3) perform other powers in accordance with this Law.

### **Article 39. Sessions of the Court Associated With Organisational Activities**

1. Special plenary sessions of the Court or sessions of the Court shall be convened to address issues associated with organisational activities of the Court.

2. The following activities shall be carried out at special plenary sessions of the Court only:

- 1) election of the Chairman of the Court, Deputy Chairman of the Court;
- 2) swearing-in newly appointed Judges;
- 3) approval of a decision to grant consent to detention, custody or arrest of a Judge;
- 4) warning a Judge of the need to remedy the circumstances that evidence the violation of incompatibility requirements;
- 5) approval of a decision to dismiss a Judge under Article 21 of this Law;
- 6) adoption of the Rules of Procedure;
- 7) approval of the personal composition of the Senates;
- 8) setting up the Boards, approval of the personal composition of the Boards.

3. Special plenary session shall be competent when attended by at least twelve Constitutional Court Judges empowered under this Law. This requirement shall not apply to a special plenary session at which newly appointed Constitutional Court Judges are to be sworn in.

4. Organisation, financial, personnel or other issues of the Court's internal operations not associated with constitutional proceedings shall be addressed at the Court sessions.

A session of the Court shall be competent when attended by at least ten Constitutional Court Judges.

5. A decision by a special plenary session or by a session shall be approved in the form of a resolution by a majority of the attending Constitutional Court Judges except cases determined by this law.

6. The procedure for holding sessions, special plenary sessions of the Court shall be prescribed by the Rules of Procedure.

### **Article 40. Standing Commissions of the Court**

1. Standing Commissions shall act as auxiliary bodies of the Court in the issues of managing its internal operations.

2. The Court shall set up Standing Commissions from among Constitutional Court Judges and approve their Regulations at its session.

3. The Chairperson of the Standing Commission shall be elected by the Commission from among its members.

#### **Article 41. Research Advisory Council of the Court**

1. Research Advisory Council shall be formed at the Constitutional Court from highly qualified specialists in the field of law for the preparation of research opinions on the activities of the Constitutional Court requiring research support.

2. The Regulations and composition of the Research Advisory Council shall be approved by the Court at its session.

#### **Article 42. Access to Public Information at the Court**

1. Acts of the Constitutional Court, Court sessions, and information on cases pending before the Court shall be public, unless otherwise provided by this Law. No one shall be restricted in the right to obtain from the Court verbal or written information on the outcome of his or her case. Anyone shall be entitled to free access to a judicial judgment in the manner prescribed by this Law.

2. The information on constitutional petitions, constitutional appeals, constitutional complaints received by the Court, progress of the case, date and time of the Senate, the Grand Chamber sessions shall be made publicly available and published on the Court's official website, unless otherwise provided by this Law.

3. The Court shall publish on its official website the following:

1) information on constitutional petitions, constitutional appeals, constitutional complaints;

2) information on the agenda of the Grand Chamber and the Senates plenary sessions, press releases or other information;

3) case files, decisions adopted or opinions provided in the cases considered by the Court, except materials of in-camera parts of the Senate or the Grand Chamber plenary sessions and materials containing classified information;

4) video recordings of public parts of the Court plenary sessions;

5) annual information report of the Court.

4. Upon request, the Court shall provide information under the Law of Ukraine "On Access to Public Information". No information shall be provided upon request concerning the cases pending before the Court.

5. Information shall be made publicly available and provided upon requests by the Secretariat of the Court.

#### **Article 43. Annual Information Report of the Court**

1. During the first quarter of each year, the Court shall make public annual information report of its activities and financial support in the previous year.

2. The Court shall approve the text of the annual information report at its session.

3. The procedure for compilation of annual information report, its review and approval, the manner and timing of its publication shall be prescribed by the Rules of Procedure.

4. The Court shall forward its annual information report to the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Supreme Court, and the Commissioner of the Verkhovna Rada of Ukraine for Human Rights.

#### **Article 44. Secretariat of the Court**

1. The Secretariat of the Court (hereinafter – the “Secretariat”) shall provide managerial, analytical, legal, information and logistics support for the Court’s operations.

2. The Secretariat shall:

1) support the preparation for and conduct of the Board sessions, sessions and plenary sessions of the Senates and the Grand Chamber, sessions and special plenary sessions of the Court;

2) support the activities of the Chairman of the Court, Deputy Chairman of the Court, Secretaries of the Boards, Constitutional Court Judges;

3) support promulgation of the Court’s acts;

4) forward acts of the Court according to paragraph 6 Article 88 of this Law;

5) forward relevant acts of the Court to the central executive authority, which implements the state legal policy for inclusion in the Single State Register of Statutory Acts and publication in the Official Bulletin of Ukraine;

6) perform registration and preliminary review of applications of all kinds received by the Court, prepare preliminary conclusions on the existence of grounds for initiation of constitutional proceedings in the case or for rejection of constitutional proceedings in the case;

7) maintain official communication with subject of application to the Court, parties to constitutional proceedings, and persons involved in constitutional proceedings;

8) be able to participate in the preparation of draft statutory acts that relate to the issues of the Court’s operations;

9) support the activities of the Standing Commissions of the Court and the Research Advisory Council of the Court;

10) monitor timely receipt of documents, materials or other information in a specific case prepared for consideration or considered by the Court, as well as documents, materials or other information demanded and obtained by the Judge-rapporteur in the case under this Law;

11) generalise the practice of executing the Court's acts;

12) perform other duties as provided by this Law and the Rules of Procedure.

3. The Secretariat shall be led by the Head of the Secretariat, appointed and dismissed by the Court upon submission of the Chairman of the Court. The candidate for the position of the Head of the Secretariat shall have higher legal education, and shall meet the qualification requirements stipulated by the Law of Ukraine "On Civil Service" imposed on the applicants for a Category "A" civil service position.

4. The Head of the Secretariat shall have the First Deputy and Deputies appointed and dismissed by the Court upon submission of the Chairman of the Court. Candidates for the positions of the First Deputy or Deputy of the Secretariat shall meet qualification requirements under the Law of Ukraine "On Civil Service" imposed on the applicants for Category "A" civil servant position.

5. The Court's office of court administrators shall be set up within the Secretariat.

6. Civil servants and other employees of the Secretariat shall be appointed and dismissed by the Head of the Secretariat, except those appointed and dismissed by the Court in the manner prescribed by the laws on civil service and labour.

7. The amount of position salary paid to civil servants and other employees of the Secretariat, employees of patronage services shall be established in the amount of the position salary of the corresponding positions of the apparatus of the Supreme Court with a 1.25 ratio.

8. Patronage office of a Judge shall be set up within the Secretariat. Employees of the patronage office shall be on the payroll of the Secretariat.

9. The procedure for employment in civil service, rights, duties and responsibilities of civil servants and employees of the patronage office of a Judge shall be established and prescribed in the laws on civil service and labour, subject to the features set out in this Law and the Rules of Procedure.

10. The Regulations on the Secretariat, its structure and staff table shall be approved by the Court upon submission of the Head of the Secretariat.

#### **Article 45. Archives of the Court**

1. The materials of the Court's activities shall be kept in the Archives of the Court.

2. The case files in which the Court adopted its decision or provided its opinion shall be kept in the Archives of the Court for one hundred years. Decisions and opinions of the Court which contain personal signatures of the Constitutional Court Judges shall be kept in the Archives of the Court permanently.

3. The Regulations on the Archive of the Court shall be approved by the Court.

#### **Article 46. The Court Library**

1. The Court Library shall operate to provide the Court with academic or other professional literature.

2. The Regulations on Court Library shall be approved by the Court.

#### **Article 47. Official Publication of the Court**

1. The official publication of the Court Ukraine shall be “The Bulletin of the Constitutional Court of Ukraine”.

2. Publication of “The Bulletin of the Constitutional Court of Ukraine” shall be provided by the editorial board the composition of which shall be approved by the Court.

### **Chapter 6. SUPPORT FOR THE OPERATION OF THE CONSTITUTIONAL COURT**

#### **Article 48. Safeguards for Financial Independence of the Court**

1. Expenditures to provide financial support for the operations of the Court shall represent a separate line in the State Budget of Ukraine.

Expenditures to provide financial support for the operations of the Court may not be reduced in the current fiscal year.

The amount of expenditures to provide financial support for the operations of the Court in the following year may not be less than the amount of the expenditures in the previous fiscal year.

2. In compliance with the Budget Code of Ukraine, the Court shall act as a chief administrator of funds from the State Budget of Ukraine as regards financial support for its operations.

#### **Article 49. Property and Status of the Court as a Legal Entity**



1. The building, other immovable and movable property assigned to the Court to support its operations shall constitute public property and may not be seized or assigned to other government authorities or local self-government authorities without the Court's consent.

2. The Court shall be a legal entity and have the official seal bearing the State Coat of Arms of Ukraine and the name of the Court.

## **Section II**

### **CONSTITUTIONAL PROCEEDINGS**

#### **Chapter 7. APPLICATIONS TO THE CONSTITUTIONAL COURT OF UKRAINE**

##### **Article 50. Forms of Applications to the Constitutional Court of Ukraine**

1. Applications to the Constitutional Court of Ukraine shall be made in the form of a constitutional petition, constitutional appeal, or constitutional complaint.

##### **Article 51. Constitutional Petition**

1. Constitutional petition shall be a written application submitted to the Court regarding:

- 1) finding an act (specific provisions thereof) unconstitutional;
- 2) official interpretation of the Constitution of Ukraine.

2. A constitutional petition shall indicate:

- 1) the subject of the right to a constitutional petition;
- 2) information about a representative of the subject of the right to a constitutional petition;
- 3) documents and materials referred to by the subject of the right to a constitutional petition, indicating full name, number, date of adoption, and official publication sources for the relevant act;
- 4) list of the attached materials and documents.

3. Constitutional petition regarding constitutionality of the act (specific provisions thereof) shall specify the act (specific provisions thereof) to be reviewed for conformity to the Constitution of Ukraine, particular provisions of the Constitution of Ukraine against which the act (specific provisions thereof) is to be reviewed for conformity, and substantiation of claims as to unconstitutionality of the act (specific provisions thereof).

4. Constitutional petition regarding the official interpretation of the Constitution of Ukraine shall specify particular provisions of the Constitution of

Ukraine which require official interpretation and substantiation of the reasons that have necessitated interpretation.

### **Article 52. Subject of the Right to Constitutional Petition**

1. Under the Constitution of Ukraine, subjects of the right to constitutional petitions shall be: the President of Ukraine, at least forty-five People's Deputies of Ukraine, the Supreme Court, the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, and the Verkhovna Rada of the Autonomous Republic of Crimea.

2. A statement by a People's Deputy of Ukraine on withdrawal of his or her signature to a constitutional petition shall have no legal implications.

### **Article 53. Constitutional Appeal**

1. Constitutional appeal shall be a written application submitted to the Court regarding:

1) conformity to the Constitution of Ukraine of an applicable international treaty of Ukraine or of an international treaty to be submitted to the Verkhovna Rada of Ukraine for its consent to a binding nature thereof;

2) conformity to the Constitution of Ukraine (constitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative;

3) observance of the constitutional procedure for investigating and considering a case on removal of the President of Ukraine from office through impeachment;

4) conformity of a draft law on amendments to the Constitution of Ukraine to Articles 157 and 158 of the Constitution of Ukraine;

5) violation by the Verkhovna Rada of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

6) conformity of normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea to the Constitution of Ukraine and laws of Ukraine.

2. Constitutional appeal shall indicate:

1) subject of the right to constitutional appeal;

2) information about a representative of the subject of the right to constitutional appeal;

3) documents and materials referred to by the subject of the right to constitutional appeal, indicating full name, number, date of adoption, and official publication sources for the relevant act;

4) list of the attached materials and documents.

3. Constitutional appeal regarding conformity to the Constitution of Ukraine of an international treaty shall specify particular provisions of such treaty to be reviewed for conformity to the Constitution of Ukraine, and particular provisions of the Constitution of Ukraine against which such treaty is to be reviewed for conformity, as well as substantiation of claims as to unconstitutionality of such international treaty (specific provisions thereof).

4. Constitutional appeal regarding conformity to the Constitution of Ukraine (constitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative shall specify those questions constitutionality of which is challenged, and particular provisions of the Constitution of Ukraine against which such questions are challenged for conformity, as well as substantiation of claims as to non-conformity to the Constitution of Ukraine (unconstitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative.

5. Constitutional appeal regarding observance of the constitutional procedure for investigating and considering a case on removal of the President of Ukraine from office through impeachment shall be supplemented by:

1) materials on the initiated removal of the President of Ukraine from office through impeachment;

2) documents on the establishment and activities of a special ad hoc investigation commission of the Verkhovna Rada of Ukraine to conduct investigation, opinions and proposals of such commission;

3) materials on the review by the Verkhovna Rada of Ukraine of opinions and proposals from a respective special ad hoc investigation commission;

4) decision by the Verkhovna Rada of Ukraine on bringing an accusation of state treason or another crime against the President of Ukraine;

5) decision by the Verkhovna Rada of Ukraine to appeal to the Constitutional Court.

6. Constitutional appeal regarding violation of the Constitution of Ukraine or laws of Ukraine by the Verkhovna Rada of the Autonomous Republic of Crimea shall contain substantiation of an alleged violation of the Constitution of Ukraine or laws of Ukraine by the Verkhovna Rada of the Autonomous Republic of Crimea.

7. Constitutional appeal regarding conformity of normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea to the Constitution of Ukraine and laws of Ukraine shall specify the act of the Verkhovna Rada of the Autonomous Republic of Crimea (specific provisions thereof) to be reviewed for conformity to the Constitution of Ukraine and laws of Ukraine, and particular provisions of the Constitution of Ukraine and laws of Ukraine against which the act of the Verkhovna Rada of the Autonomous Republic of Crimea (specific individual provisions thereof) is to be reviewed for conformity, and substantiation of claims as to non-conformity to the Constitution of Ukraine and laws of Ukraine

of the act of the Verkhovna Rada of the Autonomous Republic of Crimea (specific provisions thereof).

#### **Article 54. Subject of the Right to Constitutional Appeal**

1. Subjects of the right to constitutional appeal shall be:

1) the President of Ukraine – under sub-paragraphs 1, 2, 6 paragraph 1 Article 53 of this Law, which follows from Articles 137, 151 of the Constitution of Ukraine;

2) the Verkhovna Rada of Ukraine – under sub-paragraphs 3, 4, 5 paragraph 1 Article 53 of this Law, which follows from sub-paragraph 28 paragraph 1 Article 85, Articles 151 and 159 of the Constitution of Ukraine;

3) the Cabinet of Ministers of Ukraine – under sub-paragraph 1 paragraph 1 Article 53 of this Law, which follows from Article 151 of the Constitution of Ukraine;

4) at least forty-five People's Deputies of Ukraine – under sub-paragraphs 1, 2 paragraph 1 Article 53 of this Law, which follows from Article 151 of the Constitution of Ukraine.

2. A statement by a People's Deputy of Ukraine on withdrawal of his or her signature to a constitutional petition shall have no legal implications.

#### **Article 55. Constitutional Complaint**

1. Constitutional complaint shall be a written application submitted to the Court regarding review for conformity to the Constitution of Ukraine (constitutionality) of a law of Ukraine (specific provisions thereof) which was applied in the final court judgment in the case of the subject of the right to constitutional complaint.

2. Constitutional complaint shall indicate:

1) surname, name, patronymic (if any) of a citizen of Ukraine, foreigner or a stateless person, his or her residential address (place of stay of a foreigner or a stateless person), or full name and registered address of a legal entity, as well as the number of means of communications, e-mail address, where available;

2) information about an authorised person acting on behalf of the subject of the right to constitutional complaint;

3) summary of the final court judgment in which relevant provisions of the law of Ukraine were applied;

4) report of proceedings of the relevant case in courts;

5) specific provisions of the law of Ukraine to be reviewed for conformity to the Constitution of Ukraine, and particular provisions of the Constitution of Ukraine against which such law of Ukraine is to be reviewed for conformity;

6) substantiation of alleged unconstitutionality of a law of Ukraine (specific provisions thereof), specifying those human rights safeguarded by the Constitution of Ukraine, which in the opinion of the subject of the right to constitutional complaint, have been violated by the application of such law;

7) information regarding documents and materials referred to by the subject of the right to constitutional complaint, with copies of such documents and materials attached;

8) list of the attached materials and documents.

A copy of the final court judgment in the case of a subject of the right to constitutional complaint shall be duly certified by the adjudicating court.

### **Article 56. Subject of the Right to Constitutional Complaint**

1. Subject of the right to constitutional complaint shall be a person who considers that the law of Ukraine applied in the final court judgment in his or her case (specific provisions thereof) contradicts the Constitution of Ukraine.

Public legal entities shall not be the subject of the right to constitutional complaint.

2. Constitutional complaint shall be signed by an individual in person.

Where a subject of the right to constitutional complaint is a legally capable person unable to personally sign the constitutional complaint due to his or her health state or physical incapacity, it shall be signed by a person authorised in a manner prescribed by the law acting on his or her behalf.

3. Constitutional complaint by a legal person shall be signed by a duly authorised person whose powers shall be evidenced by constituent documents of such legal entity and by an act appointing (electing) a duly authorised person to such position.

## **Chapter 8. PROCEDURE FOR ADMITTING APPLICATIONS TO THE CONSTITUTIONAL COURT**

### **Article 57. Preliminary Review of Applications to the Court**

1. Applications to the Court shall be forwarded to the Court by post or submitted to the Secretariat directly.

2. The Secretariat shall conduct preliminary review of applications to the Court.

3. Where the form of a constitutional complaint is non-compliant with this Law, the Head of the Secretariat shall return it to the subject of the right to constitutional complaint.

Any return of a constitutional complaint shall not preclude repeat application to the Court in compliance with this Law.

### **Article 58. Consideration of Applications to the Court in the Boards**

1. Consideration of the application lodged with the Court shall be carried out by the Board, which includes the respective Judge-rapporteur.

### **Article 59. Judge-Rapporteur in the Case**

1. Judge-rapporteur in the case shall be determined by allocation of applications to the Court between the judges alternately, in alphabetical order, taking into account the name, surname and patronymic, by the date of receipt and the registration number irrespective of the form of application in the manner established by the Rules of Procedure.

2. Where a Judge-rapporteur is unable for valid reasons (illness, travel, vacation, etc.) within three months to prepare case files for consideration, or if his or her application for withdrawal or recusal has been approved, the Secretary of the Board of which he or she is a member of shall submit for the Board's consideration a proposal to replace the Judge-rapporteur. Where it is impossible to replace the Judge-rapporteur by another Judge from the same Board, the Secretary of the Board shall submit to the Chairman of the Court or the Deputy Chairman of the Court a proposal to refer the case to another Board.

3. Where several constitutional proceedings have been merged into one, a single Judge-rapporteur may be assigned.

4. Judge-rapporteur shall:

1) examine the issues raised in the application and prepare materials for consideration by the Board, the Senate, the Grand Chamber;

2) demand and obtain documents, materials, and other data related to the case from the subject of the application, the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Prosecutor General, judges, and other government authorities, authorities of the Autonomous Republic of Crimea, local self-government authorities, officials, enterprises, institutions, organisations of any form of ownership, political parties or civil groups;

3) issue instructions to the relevant units of the Secretariat and establish deadlines for their implementation;

4) engage experts for the purpose of consultations, investigation of documents;

5) submit for consideration by the Senate or the Grand Chamber proposals for arranging expert examination in the case, engaging specialists to the constitutional proceedings, summoning officials, experts, specialists, witnesses, authorised persons acting on behalf of the subject of application, as well as citizens whose participation may contribute to unbiased and complete consideration of the case;

6) exercise other powers determined by the Rules of Procedure.

5. Where a Judge-rapporteur finds that the grounds, as defined by Article 68 of this Law, exist for referral of the case to the Grand Chamber in public constitutional proceedings in a constitutional complaint, he or she shall submit for consideration by the Senate a draft ruling on relinquishment of the Senate's jurisdiction in the case in favour of the Grand Chamber.

#### **Article 60. Conflict of Interests and Recusal (Withdrawal) of a Judge**

1. A Constitutional Court Judge shall not take part in the preparation, consideration and decision making, exercise other powers in matters in which he or she has an actual or potential conflict of interest.

2. If a Constitutional Court Judge has an actual or potential conflict of interest, he or she shall inform the Court about this in writing within one working day and withdraw himself/herself.

3. For the same reasons, the recusal of a Constitutional Court Judge may be effected against him or her by persons who are parties to constitutional proceedings.

4. Recusal (withdrawal) shall be applied, in particular, if:

1) a Judge is interested in the outcome of the case either directly or indirectly;

2) a Judge is a member of the family or a close relative of the persons participating in the case;

3) any other circumstances exist that cast a doubt over objectivity and impartiality of a Judge.

5. A statement of recusal (withdrawal) shall be submitted in writing and considered in the manner prescribed by the Rules of Procedure.

Note. The terms “actual conflict of interests”, “potential conflict of interest” shall have the meaning set forth in the Law of Ukraine “On Corruption Prevention”.

## **Chapter 9. INITIATION OF CONSTITUTIONAL PROCEEDINGS IN THE CASE**

### **Article 61. Initiation of Constitutional Proceedings in the Case**

1. Issues related to the initiation of constitutional proceedings in the case shall be resolved at the sessions of the Boards, Senates, and the Grand Chamber.

2. A ruling to initiate constitutional proceedings in the case upon constitutional petitions or constitutional appeals shall be delivered by:

1) the Board;

2) the Grand Chamber, in the event of its disagreement with the Board’s ruling to reject constitutional proceedings in the case.

3. A ruling to initiate constitutional proceedings in the case upon constitutional complaints shall be delivered by:

1) the Board;

2) the Senate, in the event of its disagreement with the Board’s ruling to reject constitutional proceedings in the case, which was not delivered unanimously.

4. A ruling to initiate constitutional proceedings in the case or to reject constitutional proceedings in the case shall be delivered by the Board within one month from the assignment of a Judge-rapporteur. This term may be extended at a session of the Grand Chamber upon an application by a Judge-rapporteur or the Senate’s Presiding Judge.

5. The case in which constitutional proceedings have been initiated shall be considered by the Senate or the Grand Chamber respectively at a plenary session according to the procedure and within the term established by this Law.

6. A date for consideration of the case by the Senate or the Grand Chamber shall be established by the Chairman of the Court or the Deputy Chairman of the Court, respectively.



7. The subject of application shall be notified of the initiated constitutional proceedings in the case within ten days from delivering a ruling to initiate constitutional proceedings in the case.

### **Article 62. Grounds for Rejection to Initiate Constitutional Proceedings in the Case**

1. The grounds for rejection to initiate constitutional proceedings in the case shall be as follows:

- 1) application submitted to the Court by an inappropriate subject;
- 2) issues raised in the constitutional petition, constitutional appeal, or the constitutional complaint fall beyond the Court's competence;
- 3) non-compliance of a constitutional petition or a constitutional appeal with the requirements set forth by this Law;
- 4) inadmissibility of a constitutional complaint;
- 5) invalidation of the act (specific provisions thereof), conformity of which to the Constitution of Ukraine has been raised, except as provided by paragraph 2 Article 8 of this Law;
- 6) existence of a decision or an opinion by the Court in respect of the same subject matter of a constitutional petition, constitutional appeal, constitutional complaint, as well as of rulings by the Court to reject constitutional proceedings in the case or to terminate constitutional proceedings in the case, where adopted pursuant to sub-paragraphs 1, 2 of this paragraph.

### **Article 63. Termination of Consideration of Applications to the Court**

1. An application to the Court, irrespective of its form, may be withdrawn, at any time after the initiation of constitutional proceedings, but before the Court proceeds to an in-camera part of the plenary session to adopt a decision or provide an opinion, upon a written submission by a subject of such application to the Court.

2. A ruling to terminate constitutional proceedings in the case upon an application, regarding which request on withdrawal was filed, shall be delivered by:

1) the Grand Chamber in a plenary session – in the cases upon constitutional petition, constitutional appeal, as well as of constitutional complaint (in the event of relinquishment of jurisdiction by the Senate in favour of the Grand Chamber);

2) the Senate in a plenary session – in the cases upon constitutional complaint.

3. Where the Senate or the Grand Chamber finds that the issues raised in the constitutional complaint are of particular social importance in the protection of human rights, the Court may reject the termination of the consideration of such complaint, even if its withdrawal has been requested by the subject of the right to constitutional complaint.

4. The Senate or the Grand Chamber shall terminate constitutional proceedings in the case, if any grounds for rejection of constitutional proceedings, as stipulated by Article 62 of this Law, have been discovered during a plenary session.

5. Voluntary resignation of the President of Ukraine against whom accusations have been brought shall constitute grounds for termination of constitutional proceedings in the case concerning the observance of the constitutional procedure for investigating and considering a case on removal of the President of Ukraine from office through impeachment.

## **Chapter 10. CONSIDERATION OF CASES IN THE CONSTITUTIONAL COURT OF UKRAINE**

### **Article 64. Forms of Constitutional Proceedings**

1. The Court shall consider cases in which constitutional proceedings have been initiated under a written or oral procedure.

2. The basic form of proceedings in the Court shall be a written procedure. The Senate and the Grand Chamber shall determine the form of the proceedings.

3. In a case considered by the Court under a written procedure, oral hearings may be held with regard to specific issues.

### **Article 65. Sessions and Plenary Sessions**

1. Consideration of cases in which constitutional proceedings have been initiated shall be considered in the plenary session of the Senates, the Grand Chamber.

2. The procedure for conduct of sessions, plenary sessions shall be established by this Law and the Rules of Procedure.

3. The sessions, plenary sessions of the Grand Chamber and the Senate shall be presided by the Chairman of the Court or the Deputy Chairman of the Court, and, in their absence – by the eldest Judge.

### **Article 66. Sessions and Plenary Sessions of the Grand Chamber**

1. The Grand Chamber at its sessions shall consider the issue of initiating or rejecting constitutional proceedings in the cases upon constitutional petition or constitutional appeal, in the event of a ruling delivered by the Board to reject constitutional proceedings in the case.

2. A session of the Grand Chamber shall be competent when attended by at least twelve Constitutional Court Judges.

3. A ruling shall be delivered by the Grand Chamber if voted for by the majority of the Constitutional Court Judges attending its session. Where the votes cast by the Constitutional Court Judges are equally divided, the constitutional proceedings shall be deemed as initiated.

4. In the event that the Grand Chamber delivers a ruling to initiate constitutional proceedings in the case, the Chairman of the Court shall refer such case to a plenary session of the Grand Chamber.

5. A ruling delivered by the Grand Chamber to reject constitutional proceedings in the case shall be final.

6. The Grand Chamber at its plenary sessions shall consider the cases in which proceedings have been initiated upon a constitutional petition, a constitutional appeal, as well as the cases in which proceedings have been initiated upon a constitutional complaint, but where the Senate has relinquished its jurisdiction in favour of the Grand Chamber.

7. The public part of plenary session of the Grand Chamber under an oral procedure shall be recorded by technical means and taking minutes.

8. The Grand Chamber shall adopt its decision and provide its opinion in the in-camera part of a plenary session.

9. Speeches made by Constitutional Court Judges during the in-camera part of a plenary session of the Grand Chamber shall constitute official information and may not be disclosed.

10. Minutes of the in-camera part of a plenary session of the Grand Chamber may not be disclosed and shall be kept separately from the case files.

11. A Court decision shall be adopted by the Grand Chamber, and the opinion shall be provided if voted for by at least ten Constitutional Court Judges.

### **Article 67. Sessions and Plenary Sessions of the Senate**

1. The Senate at its session shall consider the issue of initiating or rejecting constitutional proceedings in the case upon constitutional complaint, where the Board has not been unanimous in adopting a ruling rejecting constitutional proceedings.

2. Sessions and plenary sessions of the Senate shall be competent when attended by at least six Judges of the Constitutional Court of the constitutional composition of the Senate.

3. A ruling shall be delivered by the Senate if voted for by the majority of the Constitutional Court Judges attending the session.

4. Where the votes cast by the Constitutional Court Judges that are members of the Senate are equally divided, the constitutional proceedings shall be deemed as initiated.

5. In the event that a ruling has been delivered at a session of the Board or the Senate to initiate constitutional proceedings in the case upon a constitutional complaint, the Chairman of the Court or the Deputy Chairman of the Court shall refer such case to a plenary session of the respective Senate.

6. A ruling delivered by the Senate to reject constitutional proceedings in the case upon constitutional complaint shall be final.

7. The public part of the plenary session of the Senate under an oral procedure shall be recorded by technical means and taking minutes.

8. The Senate shall adopt its decision in the in-camera part of a plenary session.

9. Speeches made by Constitutional Court Judges during the in-camera part of a plenary session of the Senate shall constitute official information and may not be disclosed.

10. Minutes of the in-camera part of a plenary session of the Senate may not be disclosed and shall be kept separately from the case files.

11. A Court decision in the case upon a constitutional complaint shall be adopted if voted for by at least two-thirds of the Constitutional Court Judges who considered the case in the Senate.

### **Article 68. Relinquishment of Jurisdiction by the Senate in Favour of the Grand Chamber**

1. Where a case pending before the Senate raises a need to interpret the Constitution of Ukraine, or where the resolution of a question before the Senate might have a result inconsistent with a legal position previously approved by the Court, the Senate may, at any time before it has adopted its decision, relinquish its jurisdiction in favour of the Grand Chamber.

2. A ruling to relinquish jurisdiction in favour of the Grand Chamber shall be delivered, citing the relevant grounds, by the majority of the Constitutional Court Judges attending the session of the Senate.

### **Article 69. Ensuring Complete Consideration of a Case**

1. The Board, the Senate, or the Grand Chamber, when preparing a case for consideration or during constitutional proceedings in a case, may:

1) demand and obtain from the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Prosecutor General, judges, and other government authorities, authorities of the Autonomous Republic of Crimea, local self-government authorities, officials, enterprises, institutions, organisations of any types of ownership, political parties or civil groups copies of documents, materials or other information relevant to the case;

2) arrange expert examination, if necessary, or engage specialists in constitutional proceedings;

3) summon to sessions or plenary sessions any officials, experts, specialists, witnesses, representatives of the subjects of application, citizens whose participation is necessary to ensure unbiased and complete consideration of the case.

2. Avoiding attendance, without valid reasons, at a session of the Board, session or a plenary session of the Senate or Grand Chamber, as well as refusal to provide the requested documents, materials or other information, or their intentional concealment, shall entail liability of persons guilty thereof under the law.

3. Written substantiated legal opinions (*amicus curiae*) may be submitted on the issues pending before the Court, the Senate, or the Grand Chamber. Inclusion and consideration of such *amicus curiae* shall be at the sole discretion of the Court.

### **Article 70. Participants in Constitutional Proceedings**

1. Participants in constitutional proceedings shall be a subject of the right to constitutional petition, constitutional appeal, constitutional complaint (an authorised person acting on his or her behalf), and a body or an official who has adopted the act considered by the Court (hereinafter - the “participant in constitutional proceedings”), as well as authorities and officials, witnesses, experts, specialists, interpreters and other persons involved by the Court in the proceedings in the case and whose participation is necessary to ensure unbiased and complete consideration of the case (hereinafter - the “external participant in constitutional proceedings”).

2. A ruling on the involvement of authorities and officials, witnesses, experts, specialists, interpreters or other persons in constitutional proceedings in a session of the Board, session or a plenary session of the Senate or of the Grand Chamber shall be delivered by the Board, the Senate, or the Grand Chamber, respectively.

3. The Board, the Senate, and the Grand Chamber may postpone the hearing of a case if a participant in constitutional proceedings has failed to arrive at a relevant session for a valid reason.

4. Where a participant in constitutional proceedings has repeatedly failed to arrive at a relevant session for a valid reason, the Board, the Senate or the Grand Chamber may deliver a ruling on consideration of a case in his or her absence.

5. Where a participant in constitutional proceedings, who was duly notified of the date, time, and place of the hearing of a case, has failed to arrive at a relevant session without a valid reason, the Board, the Senate, or the Grand Chamber may consider a case in his or her absence.

6. Participants in constitutional proceedings and other persons present in the Courtroom shall be entitled to conduct video and audio recording of the public part of plenary sessions of the Senate or the Grand Chamber, using portable equipment in the manner prescribed by the Rules of Procedure.

### **Article 71. Rights and Duties of a Participant in Constitutional Proceedings**

1. Participant in constitutional proceedings shall have the right to:
  - 1) get acquainted with the case files;
  - 2) give oral or written clarifications;
  - 3) provide his or her opinion on pending issues;
  - 4) with the permission of the Presiding Judge, put questions to other participants in constitutional proceedings;
  - 5) table motions;
  - 6) submit applications for recusal of a Judge;
  - 7) exercise other rights provided for in this Law and the Rules of Procedure.

2. A motion tabled by a participant in constitutional proceedings during a session or a plenary session shall be considered by the Senate or the Grand Chamber in the Courtroom or in a separate deliberation room.

3. Where invited, a participant in constitutional proceedings shall attend a session or a plenary session of the Senate or the Grand Chamber, provide true clarifications, documents, materials or other information necessary for a complete and comprehensive consideration of the case. Failure to provide information or provision of designedly false documents, materials or other false information shall entail liability of a participant in the manner prescribed by the law.

## **Article 72. Rights and Duties of an External Participant in Constitutional Proceedings**

1. An external participant in constitutional proceedings shall have the right to provide written clarifications which shall be attached to the case files, as well as to get acquainted with clarifications given by other participants in the proceedings.

2. Where invited, experts, specialists, witnesses or other persons whose participation should facilitate objective and complete consideration of the case shall attend a session or a plenary session of the Senate or the Grand Chamber, provide true clarifications, documents, materials or other information necessary for complete and comprehensive consideration of the case. Failure to provide information or provision of designedly false documents, materials or other false information shall entail liability of a participant in the manner prescribed by the law.

### **Article 73. Liability for Breach of Order at Plenary Sessions of the Court**

1. The Presiding Judge at a plenary session of the Senate or the Grand Chamber shall maintain the orderly conduct thereof.

2. Participants in constitutional proceedings and other persons present in the Courtroom shall be warned of the need to maintain the established order.

3. Any use of means of mobile communications during plenary sessions shall not be permitted.

4. Participants in constitutional proceedings, interpreter, witness, specialist, expert, other participants in constitutional proceedings engaged by the Constitutional Court to participate in the case, for disrespect to the Constitutional Court which has manifested in malicious evasion of appearance to the session, a plenary session of the Senate or the Grand Chamber of the Constitutional Court, or in non-compliance by these or other persons with the orders issued by the Presiding Judge, or in breach of order during such hearings, as well as other persons present in the Courtroom (except the Judges of the Constitutional Court) for committing any actions that evidence clear contempt of the Constitutional Court, shall be held liable as provided for by law.

5. Order in the Courtroom shall be maintained by the office of Court administrators.

6. Where ordered by the Senate or the Grand Chamber, a court administrator shall expel the offender from the Courtroom.

### **Article 74. Language of Constitutional Proceedings**

1. Constitutional petitions, constitutional appeals, and constitutional complaints shall be submitted to the Court in the official language.

2. The Court shall conduct its proceedings in the official language.

3. Acts of the Court shall be drawn up and promulgated in the official language.

4. Participants in constitutional proceedings who have no command of the official language shall timely submit a motion to engage an interpreter to the case. An interpreter may be suggested for the Court by such participants in constitutional proceedings through presentation of documents that evidence professional skills of such interpreter.



5. Participation of an interpreter shall be decided by the Senate or the Grand Chamber by delivering a ruling prior to consideration of the case.

6. For mistranslation or for a failure to perform obligations imposed on him or her without valid reasons, the interpreter shall bear criminal responsibility, and for non-fulfillment of other obligations – he or she shall be held liable under the law.

### **Article 75. Term of Constitutional Proceedings**

1. The term of constitutional proceedings shall be calculated from the date when a ruling on initiation of constitutional proceedings was delivered or, in the event of relinquishment of jurisdiction by the Senate in favour of the Grand Chamber, – from the date when a relevant ruling was delivered by the Senate.

2. The term of constitutional proceedings shall not exceed six months, unless otherwise provided by this Law.

3. The term of constitutional proceedings shall not exceed one month in the cases:

1) on providing opinion on conformity of a draft law on amendments to the Constitution of Ukraine to Articles 157 and 158 of the Constitution of Ukraine;

2) on constitutionality of acts of the Cabinet of Ministers of Ukraine, upon the application by the President of Ukraine under sub-paragraph 15 paragraph 1 Article 106 of the Constitution of Ukraine;

3) where the Senate or the Grand Chamber declared constitutional proceedings as urgent.

### **Article 76. Joining and Separation of Constitutional Proceedings**

1. Where the Court receives several applications concerning the same issue or interrelated issues, and where constitutional proceedings with regard to these applications have been initiated, the Senate or the Grand Chamber shall deliver a ruling to join such cases into joint constitutional proceedings.

Where constitutional complaints concerning the same issue or interrelated issues are in constitutional proceedings pending before different Senates, a ruling to merge them into joint constitutional proceedings shall be delivered by the Grand Chamber. In this event, constitutional complaints merged into joint constitutional proceedings shall be considered by the Senate determined by the Grand Chamber.

Where different constitutional complaints concerning the same issue or interrelated issues are in constitutional proceedings pending before the Senate or the Grand Chamber, a ruling to merge them into joint constitutional proceedings shall be delivered by the Grand Chamber. Constitutional complaints merged into joint constitutional proceedings shall be considered by the Grand Chamber.

2. The Senate or the Grand Chamber, where necessary, may, in its plenary session, deliver a ruling on the division of constitutional proceedings into separate constitutional proceedings.

## **Chapter 11. FEATURES OF PROCEEDINGS, UPON A CONSTITUTIONAL COMPLAINT, IN CASES CONCERNING CONFORMITY TO THE CONSTITUTION OF UKRAINE (CONSTITUTIONALITY) OF LAWS OF UKRAINE (SPECIFIC PROVISIONS THEREOF)**

### **Article 77. Admissibility of Constitutional Complaint**

1. A constitutional complaint shall be deemed as admissible subject to its compliance with Articles 55 and 56 of this Law and where:

1) all domestic legal remedies have been exhausted (subject to the availability of a legally valid judicial judgment delivered on appeal, or, where the law provides for cassation appeal, – of a judicial judgment delivered on cassation);

2) not more than three months have passed from the effective date of a final judicial judgment that applies the law of Ukraine (specific provisions thereof).

2. As an exception, a constitutional complaint may be accepted beyond the requirements established in sub-paragraph 2 paragraph 1 of this Article, where the Court declares its consideration as being necessary on the grounds of public interest.

3. Where a subject of the right to constitutional complaint has missed the date for submitting a constitutional complaint due to the unavailability of a full text of the judicial judgment, he or she shall have the right to petition in his or her constitutional complaint for the renewal of the missed term.

4. The Court shall reject constitutional proceedings by declaring a constitutional complaint inadmissible, where the content or demands of such constitutional complaint are manifestly ill-founded or where the right to submit a complaint has been abused.

### **Article 78. Securing a Constitutional Complaint**

1. When considering a constitutional complaint, the Grand Chamber, on its own initiative, in exceptional instances, may take measures to secure such constitutional complaint by issuing an interim order that is an enforcement document.

2. The basis for securing a constitutional complaint consists in preventing irreversible consequences that may occur due to execution of the final court judgment.

3. The means of securing a constitutional complaint is imposition of a temporary ban on a certain action.

4. An interim order shall lose its effect on the date of a judgment approved or a ruling delivered to terminate constitutional proceedings in the case.

## **Chapter 12. FEATURES OF PROCEEDINGS IN CASES CONCERNING CONFORMITY TO THE CONSTITUTION OF UKRAINE (CONSTITUTIONALITY) OF QUESTIONS TO BE PUT TO ALL-UKRAINIAN REFERENDUM ON POPULAR INITIATIVE**

### **Article 79. Referral of Constitutional Appeal**

1. A constitutional appeal concerning the conformity to the Constitution of Ukraine (constitutionality) of the questions proposed to be put to an all-Ukrainian referendum on a popular initiative shall be referred to the Court prior to the declaration by the President of Ukraine of an all-Ukrainian referendum on a popular initiative.

### **Article 80. Subject Matter of Consideration**

1. The subject matter of consideration shall include the questions proposed to be put to an all-Ukrainian referendum on a popular initiative.

### **Article 81. Participation in Constitutional Proceedings**

1. Where an issue is to be considered concerning the conformity with the Constitution of Ukraine (constitutionality) of the questions proposed to be put to an all-Ukrainian referendum on a popular initiative, the Court shall engage a representative or representatives of an all-Ukrainian referendum initiative group in constitutional proceedings.

2. The Court may engage, where necessary, representatives of political parties and public associations in constitutional proceedings.

### **Article 82. Operative Part of the Opinion**

1. In the operative part of its opinion, the Court shall determine which questions proposed to be put to an all-Ukrainian referendum on a popular initiative conform to the Constitution of Ukraine (are constitutional) and which do not conform to the Constitution of Ukraine (are unconstitutional).

## **Chapter 13. ACTS OF THE CONSTITUTIONAL COURT**

### **Article 83. Types of Acts**

1. The Court shall adopt decisions, provide opinions, deliver rulings, and issue interim orders.

2. The Court shall adopt its acts on matters not related to constitutional proceedings in the form of resolutions.

### **Article 84. Decision of the Court**

1. Decision of the Court shall be adopted by:

1) the Grand Chamber upon considering the cases upon constitutional petitions concerning constitutionality of laws of Ukraine, and other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea, as well as concerning official interpretation of the Constitution of Ukraine, as well as upon considering the cases upon constitutional complaints in the event of relinquishment of jurisdiction by the Senate in the case of constitutional complaint in favour of the Grand Chamber;

2) the Senate upon considering the cases upon constitutional complaints.

### **Article 85. Opinion of the Court**

1. An opinion of the Court shall be provided by the Grand Chamber in the cases concerning:

1) conformity to the Constitution of Ukraine of applicable international treaties of Ukraine or of international treaties to be submitted to the Verkhovna Rada of Ukraine for its consent to a binding nature thereof;

2) conformity to the Constitution of Ukraine (constitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative;

3) observance of the constitutional procedure for investigating and considering a case on removal of the President of Ukraine from office through impeachment;

4) conformity of a draft law on amendments to the Constitution of Ukraine to the requirements of Articles 157 and 158 of the Constitution of Ukraine;

5) violation by the Verkhovna Rada of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

6) conformity of normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea to the Constitution of Ukraine and laws of Ukraine.

#### **Article 86. Ruling of the Court**

1. In order to address issues associated with the initiation, rejection, termination of proceedings in the case, other procedural actions, motions, procedure for consideration of cases, the Court shall deliver relevant rulings.

#### **Article 87. Interim Order of the Constitutional Court**

1. In the constitutional proceedings under sub-paragraph 9 paragraph 1 Article 7 of this Law, the Court may issue an interim order to take measures in order to secure a constitutional complaint.

#### **Article 88. Adopting Decision and Providing Opinion by the Court**

1. The Court shall adopt a decision and provide an opinion in the name of Ukraine.

2. The Court shall adopt its decision or provide an opinion in the in-camera part of a plenary session of the Senate or the Grand Chamber by a roll call vote of the Constitutional Court Judges who considered the case.

3. Proposals by Constitutional Court Judges regarding draft decision or opinion shall be put to vote in the order of their receipt.

4. When adopting a decision or providing an opinion, a Judge may not abstain from voting.

5. Decisions and opinions of the Court shall be signed separately by the Constitutional Court Judges who voted for and by Constitutional Court Judges who voted against them. A decision or an opinion of the Court shall be final and may not be appealed.

A Constitutional Court Judge shall be obliged to sign a decision or an opinion of the Court.

6. The Court shall forward the decision or opinion to the participant in constitutional proceedings no later than the following working day after adoption of the decision or providing the opinion.

### **Article 89. Requirements for the Court's Decision**

1. Decision of the Court shall contain:

1) a preamble indicating:

a) the title of the decision, date and place of its adoption, and its number;

b) the body which adopted it;

c) the composition of the Constitutional Court Judges who considered the case;

d) the list of participants in the constitutional proceedings;

2) a descriptive part indicating:

a) the demands of the constitutional petition or constitutional complaint;

b) the full title, date of adoption, and reference number of the act the constitutionality of which is challenged; name of the authority or the official which has adopted the act considered by the Court;

3) the reasoning part, referring to the provisions of the Constitution of Ukraine based on which the Court substantiates its decision;

4) an operative part indicating:

a) the act (specific provisions thereof) which the Court finds constitutional or unconstitutional in the case concerning constitutionality of the act (specific provisions thereof);

b) the official interpretation of the provisions of the Constitution of Ukraine, in respect of which the constitutional petition was submitted in the case concerning official interpretation of the Constitution of Ukraine;

c) the fact that the decision of the Court is binding, final and may not be appealed;

d) the source in which the decision of the Court is to be published.

2. When considering a case concerning constitutionality of an act which brings into force an international treaty in Ukraine, the Court shall specify in the operative part any legal implications for Ukraine in the event the act is found unconstitutional.

3. Where the Court, when considering the case upon a constitutional complaint, found the law of Ukraine (provisions thereof) as being in conformity with the Constitution of Ukraine, but also discovered that a court had applied the law of Ukraine (provisions thereof) by interpreting it in a manner that is not compliant with the Constitution of Ukraine, the Court shall indicate that fact in the operative part of its decision.

#### **Article 90. Requirements for the Court's Opinion**

1. Opinion of the Court shall contain:

1) a preamble indicating:

a) the title of the opinion, date and place of its delivery, and its number;

b) the fact that the opinion is provided by the Grand Chamber;

c) the composition of the Constitutional Court Judges who considered the case;

d) the list of participants in the constitutional proceedings;

2) a descriptive part indicating the demands set out in the constitutional appeal;

3) the reasoning part referring to the provisions of the Constitution of Ukraine based on which the Court substantiates its opinion;

4) an operative part indicating:

a) provisions of an international treaty which the Court finds constitutional or unconstitutional - in the case concerning constitutionality of an applicable international treaty of Ukraine or of an international treaty to be submitted to the Verkhovna Rada of Ukraine for its consent to a binding nature thereof;

b) questions that the Court finds constitutional or unconstitutional - in the case concerning conformity to the Constitution of Ukraine (constitutionality) of the questions to be put to an all-Ukrainian referendum on a popular initiative;

c) whether the constitutional procedure for investigating and considering a case on removal of the President of Ukraine from office through impeachment was complied with - in the case concerning compliance with such procedure;

d) provisions of a draft law which conform to the requirement of Articles 157 and 158 of the Constitution of Ukraine and those provisions that do not conform to such requirements - in the case concerning conformity to the requirements of Articles 157 and 158 of the Constitution of Ukraine of a draft law on the amendments to the Constitution of Ukraine;

e) whether the Verkhovna Rada of the Autonomous Republic of Crimea has violated the Constitution of Ukraine or laws of Ukraine - in the case of violation by the Verkhovna Rada of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

f) the normative legal act of the Verkhovna Rada of the Autonomous Republic of Crimea (specific provisions thereof) found by the Court to be conforming to the Constitution of Ukraine and laws of Ukraine, or non-conforming to the Constitution of Ukraine and laws of Ukraine, - in the case concerning conformity of the normative legal act of the Verkhovna Rada of the Autonomous Republic of Crimea to the Constitution of Ukraine and laws of Ukraine;

g) the fact that the opinion of the Court is binding, final and may not be appealed;

h) the source in which the opinion of the Court is to be published.

### **Article 91. Determination by the Court of the Date of Loss of Effect of an Act (Specific Provisions Thereof)**

1. Where laws of Ukraine or other acts or specific provisions thereof are found by the Court to be non-conforming to the Constitution of Ukraine, they shall lose their effect from the day of the adoption by the Court of a decision declaring their unconstitutionality, unless otherwise provided by the same decision, but not earlier than the date of its adoption.

### **Article 92. Legal Position of the Constitutional Court**

1. The Court shall state its legal position in the reasoning and/or operative part of a decision or an opinion. The Court's legal position may be set forth in the



Court's rulings, as delivered by the Senate or the Grand Chamber, which reject constitutional proceedings in the case or terminate constitutional proceedings in the case.

2. The Constitutional Court may develop and elaborate a legal position of the Court in its subsequent acts, change its legal position in the event of substantial change to normative regulations that the Court was guided by when expressing such position, or in the presence of objective grounds for the need to improve the protection of constitutional rights and freedoms, taking into account Ukraine's international obligations, subject to substantiation of such change in the Court's act.

### **Article 93. Dissenting Opinion of a Judge**

1. A Judge who signed a decision, opinion or ruling to reject constitutional proceedings in the case or to terminate constitutional proceedings may state his or her dissenting opinion within the term established in the Rules of Procedure.

2. A Judge shall state his or her dissenting opinion in writing, to be attached to the relevant act of the Court and without delay published on the official website of the Court.

### **Article 94. Official Promulgation and Publication of the Court's Acts**

1. Promulgation of all acts of the Court following the constitutional proceedings shall be carried out on the official website of the Court or, in certain instances, according to the relevant ruling of the Court, – in the Courtroom, but not later than the following working day after the adoption thereof. An act of Court, together with the dissenting opinion of a Judge, shall be published in “The Bulletin of the Constitutional Court of Ukraine” and other official printed publications of Ukraine.

2. The procedure for and the manner of official promulgation of the Court's acts in the Courtroom and on the official website of the Court shall be prescribed in the Rules of Procedure.

### **Article 95. Elimination of Clerical Errors in the Text of an Act of the Court and Clarification of the Procedure for Execution of the Court's Acts**

1. The Court, upon official promulgation of an act of the Court, may, on its own initiative or upon submission of a participant in constitutional proceedings, who participated in the case, eliminate clerical errors in the respective act.

2. The Court, upon a motion by a participant in constitutional proceedings who participated in the case, may clarify the procedure for executing a decision or an opinion of the Court.

Upon receipt of a relevant motion, the Judge-rapporteur shall, within one month, prepare the issue for consideration during a hearing.

3. A ruling to eliminate clerical errors or to clarify the procedure for execution of a decision or an opinion of the Court shall be delivered which shall be a constituent part of a relevant decision or an opinion of the Court.

#### **Article 96. Approval of the Rules of Procedure, Other Acts that Regulate the Management of Court's Operations and Amendments to Them**

1. The Court shall approve and amend its Rules of Procedure at a special plenary session. The Rules of Procedure or amendments thereto shall be approved if voted for by at least two-thirds of the constitutional composition of the Court.

Other acts of the Court that regulate the management of its operations shall be approved by the Court at its session by the majority of votes of those present.

2. The Court shall promulgate the Rules of Procedure on its official website and publish it in "The Bulletin of the Constitutional Court of Ukraine".

3. Amendments to the Rules of Procedure shall be promulgated by the Court on its official website, with the indication of their effective date. Where necessary, the Court shall promulgate amendments to the Rules of Procedure with a reservation as to the procedure of their application regarding the proceedings which have been initiated at the time of the adoption of such amendments, as well as to the applications submitted to the Court which have not been considered by the Court.

### **Chapter 14. EXECUTION OF JUDGMENTS AND OPINIONS OF THE CONSTITUTIONAL COURT**

#### **Article 97. Procedure for Execution of Decisions and Opinions of the Court**

1. The Court in its decision or opinion may establish the procedure for and terms of the execution thereof and oblige relevant government authorities to

provide monitoring of the execution of such decision or compliance with such opinion.

2. The Court may demand a written confirmation of the execution of a decision or compliance with an opinion from the relevant authorities.

### **Article 98. Liability for Failure to Execute Acts of the Court**

1. Failure to execute decisions or comply with opinions of the Court shall entail liability under the law.

## **Section III FINAL PROVISIONS**

1. This Law shall come into force on the day after the day of its publication.

2. Upon this Law coming into force, plenary sessions and special plenary sessions of the Court shall be conducted according to the procedure established by this Law.

3. A constitutional complaint may be submitted if a final judicial judgment in the case of a person became effective no earlier than September 30, 2016.

A constitutional complaint filed before this Law comes into force with regard to the case, the final judicial decision on which has come into force before September 30, 2016, shall be returned by the Secretariat of the Constitutional Court to the subject of the right to constitutional complaint, without consideration within ten days from the date on which this Law has come into force.

The term provided for in sub-paragraph 2 paragraph 1 Article 77 of this Law shall not be applied to the constitutional complaint filed before this Law comes into force with regard to the case, the final judicial decision on which has entered into force in the period between September 30, 2016 and the entry into force of this Law.

A constitutional complaint with regard to the case, the final judicial judgment on which has entered into force in the period from September 30, 2016, prior to the entry into force of this Law, may be filed within three months from the date of this Law entered into force.

4. If a constitutional complaint filed before this Law comes into force, does not meet its requirements, the Secretariat of the Constitutional Court shall notify the subject of the right to constitutional complain about the possibility of bringing such constitutional complaint into conformity with the requirements of this Law within three months from the date on which this Law has come into force.

A constitutional complaint that does not meet the requirements of this Law, shall be returned by the Secretariat of the Constitutional Court to the subject of the right to constitutional complaint without consideration in the ten-day period after the expiry of the term specified in first paragraph of this sub-paragraph.

5. Within three months from the date of official promulgation of this Law the Court shall adopt the Rules of Procedure and set up the Senates in the manner prescribed by this Law.

6. The procedure for selection of candidates for the position of a Constitutional Court Judge and appointment of Constitutional Court Judges established by Articles 12 – 15 of this Law, shall not apply to Constitutional Court Judges appointed before this Law comes into force.

The beginning of the competition for the selection of candidates for positions of the Constitutional Court Judges, which are vacant on the day of the entry into force of this Law and which will become vacant within three months from the date of entry into force of this Law on the grounds provided for in subparagraph 1 paragraph 1 Article 149<sup>1</sup> of the Constitution of Ukraine, shall be announced on the official website of the President of Ukraine, the Verkhovna Rada of Ukraine, and the Council of Judges of Ukraine respectively, not later than three months from the date of entry into force of this Law.

7. A Constitutional Court Judge appointed before this Law comes into force shall be entitled to resign pursuant to the law in force on the date of his or her appointment.

In such case, the experience of other practical, scientific, pedagogical work on the specialty and seniority of civil service shall be included into the length of service, which gives the Constitutional Court Judge the right to resign and payment of the retirement benefit.

8. The Law of Ukraine “On the Constitutional Court of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1996, No. 49, p. 272, with subsequent amendments) shall be deemed as ineffective.

9. To amend the following legal acts of Ukraine:

1) In the Code of Ukraine on Administrative Offences (The Bulletin of the Supreme Council of the Ukrainian SSR, 1984, Appendix to No. 51, p. 1122):

a) Article 185<sup>3</sup>:

the title shall be supplemented with the words “or the Constitutional Court of Ukraine”;

shall be supplemented with paragraph 5 to read as follows:

“Contempt of the Constitutional Court of Ukraine on the part of the participants in constitutional proceedings, interpreter, witness, specialist, expert, or other participants in constitutional proceedings, engaged by the Constitutional Court to participate in the case, which has manifested in malicious evasion of appearance to the session, a plenary session of the Senate or the Grand Chamber of the Constitutional Court of Ukraine, or in non-compliance by these and other persons with the orders issued by the Presiding Judge, or in breach of order during such hearings, or commission by any person, present at the plenary session (except the Judges of the Constitutional Court of Ukraine), of any actions that evidence clear contempt of the Constitutional Court of Ukraine,

– shall entail imposition of the fine from twenty to one hundred tax-free minimum incomes of citizens”;

b) to supplement with Article 188<sup>49</sup> to read as follows:

“Article 188<sup>49</sup>. Failure to Comply With Legitimate Demands of a Judge of the Constitutional Court of Ukraine, the Board of Judges, the Senate, the Grand Chamber of the Constitutional Court of Ukraine

Failure to provide information, at the request of a Judge of the Constitutional Court of Ukraine, the Board of Judges, the Senate, the Grand Chamber of the Constitutional Court of Ukraine, or providing deliberately false documents, materials, other false information, –

shall entail imposition of the fine from twenty to one hundred tax-free minimum incomes of citizens.

The same actions committed repeatedly within one year after the imposition of an administrative penalty –

shall entail imposition of the fine from one hundred to two hundred tax-free minimum incomes of citizens”;

c) to supplement Article 221 after the figures “188<sup>48</sup>,” with the following figures “188<sup>49</sup>”;

d) in paragraph 1 Article 255:

to state sub-paragraph 7<sup>1</sup> to read as follows:

“7<sup>1</sup>) court administrator (paragraphs one, two, four of Article 185<sup>3</sup>)”;

to supplement with paragraph 9<sup>5</sup> to read as follows:

9<sup>5</sup>) “Authorised persons of the Secretariat of the Constitutional Court of Ukraine (Article 188<sup>49</sup>)”;

2) to read sub-paragraph 5 paragraph 2 Article 112 in the Economic Procedural Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 1992, No. 6, p. 56) as follows:

“5) unconstitutionality of the law of Ukraine or other act (specific provisions thereof) found by the Constitutional Court of Ukraine, or official interpretation of the provisions of the Constitution of Ukraine provided by the Constitutional Court of Ukraine, which is different from that applied by the court in its judgment”;

3) in the Criminal Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2001, Nos. 25–26, p. 131):

a) to supplement the first paragraph of paragraph 1 Article 344, after the words “a member of the Cabinet of Ministers of Ukraine” with the words “the Chairman of the Constitutional Court of Ukraine, a Judge of the Constitutional Court of Ukraine”;

b) to supplement the first paragraph of paragraph 4 Article 382, with the words “a decision of the Constitutional Court of Ukraine, or intentional non-compliance with an opinion of the Constitutional Court of Ukraine”;

c) to supplement the first paragraph of paragraph 1 Article 384 after the words after the words “in court” with the words “or during constitutional proceedings in the Constitutional Court of Ukraine”;

d) to supplement the first paragraph of paragraph 1 Article 385 after the words “in court” with the words “in the Constitutional Court of Ukraine”;

4) to read sub-paragraph 4 paragraph 2 Article 361 of the Civil Procedural Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2004, Nos. 40–42, p. 492) as follows:

“4) unconstitutionality of the law of Ukraine or other act (specific provisions thereof) found by the Constitutional Court of Ukraine, or official interpretation of the provisions of the Constitution of Ukraine provided by the Constitutional Court of Ukraine, which is different from that applied by the court in its judgment”;

5) to read sub-paragraph 5 paragraph 2 Article 245 of the Code of Administrative Procedure of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2005, Nos. 35-37, p. 446) as follows:

“5) unconstitutionality of the law of Ukraine or other act (specific provisions thereof) found by the Constitutional Court of Ukraine, or official interpretation of the provisions of the Constitution of Ukraine provided by the Constitutional Court of Ukraine, which is different from that applied by the court in its judgment”;

6) to read sub-paragraph 4 paragraph 2 Article 459 in the Criminal Procedural Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2013, Nos. 9–13, p. 88) as follows:

“4) finding unconstitutionality of the law of Ukraine or other act (specific provisions thereof) by the Constitutional Court of Ukraine, or providing official interpretation of the provisions of the Constitution of Ukraine by the Constitutional Court of Ukraine, which is different from that applied by the court in its judgment”;

7) In the Law of Ukraine “On State Protection of Judicial and Law Enforcement Employees” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1994, No. 11, p. 50, with subsequent amendments):

a) to replace the words “judicial employees and” in Article 1 with the words “Judges of the Constitutional Court of Ukraine, judges and court administration employees and employees”, and the words “such employees” - with the words “such persons”;

b) in paragraph 1 Article 2:

in sub-paragraph 1:

to replace the words “judicial employees and” in the second paragraph with the words “Judges of the Constitutional Court of Ukraine, judges and court administration employees and employees”;

to read sub-paragraphs “a” and “b” as follows:

“a) constitutional proceedings;

b) legal proceedings, criminal proceedings or proceedings in cases of administrative offences”;

to supplement sub-paragraph 2 with a note to read as follows:

“Note. With regard to the Judge of the Constitutional Court of Ukraine, this Law applies to family members of a Judge of the Constitutional Court of Ukraine, the list of which is specified in the Law of Ukraine “On the Constitutional Court of Ukraine”;

c) to supplement Article 14 with sub-paragraph “d” to read as follows:

“d) the Chairman of the Constitutional Court of Ukraine – with regard to the protection of a Judge of the Constitutional Court of Ukraine and his or her close relatives, upon an application by such Judge”;

d) to supplement paragraph 1 Article 15 with sub-paragraph “d<sup>1</sup>” to read as follows:

“d<sup>1</sup>) with regard to a Judge of the Constitutional Court of Ukraine and his or her close relatives – on respective unit of the National Police of Ukraine”;

e) to supplement paragraph 1 Article 24 after the words “Prosecutor General” with the words “Chairman of the Constitutional Court of Ukraine”;

8) In the third paragraph, sub-paragraph 3 paragraph 1 Article 13 and in paragraph 2 Article 15 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1998, No. 20, p. 99), the words “and the laws of Ukraine” shall be excluded;

9) In the Rules of Procedure of the Verkhovna Rada of Ukraine, as approved by the Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2010, Nos. 14–17, p. 133, with subsequent amendments):

a) to replace in the first sentence of paragraph 5 Article 144 the words “before the day of its first consideration” with the words “before consideration”, and the words and numbers “(paragraph 1 Article 44 of the Law of Ukraine “On the Constitutional Court of Ukraine”)” to replace with the words “under the Law of Ukraine “On the Constitutional Court Of Ukraine”;

b) to read Article 208 as follows:

“Article 208. The procedure for appointing and dismissing the  
Commissioner of the Verkhovna Rada of Ukraine for Human  
Rights

1. Under sub-paragraph 17 paragraph 1 of Article 85 of the Constitution of Ukraine, the Verkhovna Rada shall appoint and dismiss the Commissioner of the Verkhovna Rada of Ukraine for Human Rights.

2. Candidates for the position of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights shall be proposed to the Verkhovna Rada by the Chairperson of the Verkhovna Rada of Ukraine, subject to the requirements of the Law of Ukraine “On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights”.

3. The Committee, the competence of which includes the observance of human and citizen’s rights and freedoms, shall submit its decision on candidates for the position of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights. The decision of the Committee and information about the candidates for the post of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights, prepared in compliance with the requirements regarding the information about the candidate for the position (paragraph 2 Article 205 of these Rules of Procedure), shall be submitted to the People's Deputies no later than three

days before the Verkhovna Rada considers the issue of appointment of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights.

4. Information about the proposed candidates for the position of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights (paragraph 2 Article 205 of these Rules of Procedure) shall be published in the newspaper “Holos Ukrayiny” not later than 10 days prior to the consideration of the appointment.

5. The discussion of candidates for the position of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights shall be conducted in the manner prescribed by paragraph 8 Article 205 of these Rules of Procedure.

6. Dismissal from the position of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights shall be carried out upon written submission of the Chairperson of the Verkhovna Rada of Ukraine provided there is a decision of the Committee, the competence of which includes the observance of human and citizen’s rights and freedoms.

7. The decision on the appointment and dismissal of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights shall be adopted by the Verkhovna Rada an open ballot by a majority of votes of People's Deputies from the constitutional composition of the Verkhovna Rada.

8. The decision on the appointment and dismissal of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights shall be formalised by a respective resolution of the Verkhovna Rada”;

c) to supplement Article 208<sup>4</sup> to read as follows:

“Article 208<sup>4</sup>. Procedure for Appointment of Judges of the Constitutional Court of Ukraine

1. Under sub-paragraph 26 paragraph 1 Article 85 of the Constitution of Ukraine, the Verkhovna Rada shall appoint Judges of the Constitutional Court of Ukraine.

2. The selection of candidates for the position of a Judge of the Constitutional Court of Ukraine shall be carried out on a competitive basis.

A committee, the subject matter of which is the legal status of the Constitutional Court of Ukraine, shall carry out preparation of consideration on a competitive basis of candidates for the position of a judge of the Constitutional Court of Ukraine in the Verkhovna Rada.

3. Not later than three months before the expiration of the term of office or attaining the maximum age of a Judge of the Constitutional Court of Ukraine or not later than one month from the day of the vacancy on the position of Judge of the Constitutional Court of Ukraine in the event that the powers of the Judge of the Constitutional Court of Ukraine are terminated or he or she is dismissed from office on the grounds stipulated by Article 149<sup>1</sup> of the Constitution of Ukraine, the Apparatus of the Verkhovna Rada at the submission of the committee, the competence of which includes the legal status of the Constitutional Court of Ukraine, shall publish information on the official website of the Verkhovna Rada



and inform the deputy factions (deputy groups) about the beginning of accepting proposals from deputy factions (deputy groups) regarding candidates for the position of a Judge of the Constitutional Court of Ukraine. The deputy faction (deputy group) may offer one candidate for each vacant position of a Judge of the Constitutional Court of Ukraine.

The right to submit a proposal regarding a candidate for a position of a Judge of the Constitutional Court of Ukraine may also be fulfilled by a group of non-factional People's Deputies in the amount of not less than the quantitative composition of the smallest deputy group.

4. The deputy faction (deputy group), a group of non-factional People's Deputies shall submit a proposal regarding a candidate for the position of a Judge of the Constitutional Court of Ukraine together with a statement of the person who has declared his or her intention to take up the position of a Judge of the Constitutional Court of Ukraine and the documents specified in paragraph 4 Article 12 of the Law of Ukraine “On the Constitutional Court Ukraine”, to the committee, which subject matter is the legal status of the Constitutional Court of Ukraine, within thirty calendar days from the day of the announcement of the beginning of the acceptance of the proposals of deputy factions (deputy groups).

5. Information on proposals of deputy factions (deputy groups), as well as groups of non-factional People's Deputies (in case of submission) and about persons who are applying for being elected as Judges of the Constitutional Court of Ukraine, together with autobiographies and motivational letters of candidates, shall be published by the Apparatus of the Verkhovna Rada of Ukraine on the official web-site of the Verkhovna Rada on the next working day after the deadline for accepting applications of candidates.

6. The committee, which competence includes the legal status of the Constitutional Court of Ukraine, shall examine the application of a person who has declared his or her intention to hold office of a Judge of the Constitutional Court of Ukraine, and the documents submitted with the proposals of deputy factions (deputy groups), and decide on compliance of the person with the requirements established by the Constitution of Ukraine, the Law of Ukraine “On the Constitutional Court of Ukraine”.

Candidates, regarding whom the decision is made about their non-compliance with the requirements established by the Constitution of Ukraine, the Law of Ukraine “On the Constitutional Court of Ukraine”, shall terminate participation in the competition.

The documents of a candidate for the position of a Judge of the Constitutional Court of Ukraine, who meets such requirements, shall be submitted to the Apparatus Verkhovna Rada of Ukraine by the committee, which competence includes the legal status of the Constitutional Court of Ukraine, for the organisation of a special check on this candidate.

Within three days after receiving information on the results of the special check from the central executive authority, which implements the state policy in the field of civil service, the Apparatus of Verkhovna Rada passes a certificate on

the results of the special check to the committee, which competence includes the legal status of the Constitutional Court of Ukraine.

After the receipt of a certificate on the results of the special check regarding all candidates to the position of a Judge of the Constitutional Court of Ukraine the committee, which competence includes the legal status of the Constitutional Court of Ukraine shall hold interview with the candidates who have passed special check.

Following the results of interviews with candidates, the committee, which competence includes the legal status of the Constitutional Court of Ukraine, shall adopt a recommendation for each candidate for the position of Judge of the Constitutional Court of Ukraine.

The committee, which competence includes the legal status of the Constitutional Court of Ukraine, shall submit for consideration to the Verkhovna Rada concerning each candidate for a position of a Judge of the Constitutional Court of Ukraine, a recommendation, a certificate on the results of the special check and other documents submitted by the candidate.

7. All documents (except for restricted information) specified in the seventh paragraph paragraph 6 of this article shall be submitted to People's Deputies no later than three days before the consideration of the relevant issue by the Verkhovna Rada.

8. Each candidate shall have the right to make a speech at the plenary session of the Verkhovna Rada before the beginning of the vote.

People's Deputies may ask a candidate questions at a plenary session of the Verkhovna Rada regarding any information concerning the candidate, except information related to his or her private life and for which there are no reasonable grounds to consider that it may be important for determining the candidate's ability to properly exercise the powers of the Judge of the Constitutional Court of Ukraine, as well as information constituting state secret.

Representatives of deputy factions (deputy groups), representatives of committees, and People's Deputies shall take part in the discussion of candidates for the position of a Judge of the Constitutional Court of Ukraine.

9. After the candidates' speeches and discussion of the candidates, a vote shall be held.

10. Election to a position of a Judge of the Constitutional Court of Ukraine shall be carried out by the Verkhovna Rada by open rating vote for each candidate separately.

The Verkhovna Rada shall appoint the Judges of the Constitutional Court of Ukraine with a list determined upon the results of the rating vote, according to the number of vacant positions by open ballot, by the majority of the votes of the People's Deputies comprising the constitutional composition of the Verkhovna Rada.

In the event that there is one vacancy for a position of a Judge of the Constitutional Court of Ukraine, the Verkhovna Rada, by the majority of the votes cast by the People's Deputies comprising the constitutional composition of the Verkhovna Rada by open ballot, shall appoint to the position the candidate who,

according to the results of the rating vote, received the largest number of votes of People's Deputies.

If the decision to appoint Judges (Judge) of the Constitutional Court of Ukraine is not adopted, a repeat competition shall be announced, which shall be conducted in accordance with the procedure specified by this article.

11. The decision to appoint Judges of the Constitutional Court of Ukraine shall be formalised by a resolution of the Verkhovna Rada”;

10) in Article 36 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2014, No. 13, p. 222):

to exclude the words “as well as for official interpretation of the Constitution and laws of Ukraine” from the first paragraph;

to supplement with paragraph 2 to read as follows:

“2. The interests of the Cabinet of Ministers of Ukraine during the consideration of cases in the Constitutional Court of Ukraine shall be represented by a permanent representative of the Cabinet of Ministers of Ukraine in the Constitutional Court of Ukraine”;

11) In the Law of Ukraine “On Civil Service” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2016, No. 4, p. 43; 2007, Nos. 7-8, p.50):

3) to supplement paragraph 3 Article 3 with sub-paragraphs 11<sup>1</sup> and 11<sup>2</sup> to read as follows:

“11<sup>1</sup>) Judges of the Constitutional Court of Ukraine;

11<sup>2</sup>) permanent representative of the Cabinet of Ministers of Ukraine in the Constitutional Court of Ukraine”;

б) in Article 91:

to supplement paragraph 2 after the words “specified in paragraph one of this article” with the words “except the Head of the Secretariat of the Constitutional Court of Ukraine”;

to supplement after paragraph 6 a new paragraph to read as follows:

“7. Head of Secretariat of the Constitutional Court of Ukraine, his First Deputy and Deputy shall be appointed and dismissed in the manner prescribed by the Law of Ukraine “On the Constitutional Court of Ukraine”.

With regard to this, paragraph 7 shall be considered to be paragraph 8.

10. The Cabinet of Ministers of Ukraine shall:

within one month from the day this Law comes into force prepare and submit for consideration by the Verkhovna Rada of Ukraine its proposals on funding high-priority measures to implement this Law;

within three months from the day this Law comes into force bring its normative acts and ensure that ministries and other central executive authorities bring their normative acts in conformity to this Law;

provide in the Law of Ukraine “On the State Budget of Ukraine for 2017” and draft laws on the State Budget of Ukraine for the following years, for the expenditures associated with the implementation of the provisions of this Law.

## **Section IV TRANSITIONAL PROVISIONS**

1. The Constitutional Court shall terminate any constitutional proceedings, as may have been initiated prior to this Law becoming effective, in the cases upon constitutional petitions concerning official interpretation of laws of Ukraine (specific provisions thereof) and in the cases upon constitutional appeals.

Constitutional petitions concerning official interpretation of laws of Ukraine (specific provisions thereof) and constitutional appeals received by the Constitutional Court prior to this Law becoming effective, where constitutional proceedings in such cases have not been initiated, shall be returned to the Secretariat of Court to their authors.

2. Cases where constitutional proceedings have been initiated shall be considered in the form determined by the Grand Chamber.

3. The institute of a Special Adviser shall be established temporarily, until January 1, 2020, to provide expert assistance in constitutional proceedings in the cases upon constitutional complaints in the Constitutional Court.

To exercise the functions of a Special Adviser, the Constitutional Court may invite a former judge from a foreign body of constitutional jurisdiction or a representative of an international governmental organisation which statutory mission concerns constitutional law. A citizen of a state recognised by the Verkhovna Rada of Ukraine to be aggressor may not be invited to carry out these functions.

Special Adviser, prior to the hearing of a case by the Senate or by the Grand Chamber, may provide his or her written substantiated legal opinion (*amicus curiae*) in the case.

Activities of a Special Adviser shall be supported at the expense of international technical assistance or by international organisations.

President of Ukraine

P.POROSHENKO

The city of Kyiv

13 July 2017

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