



Strasbourg, 20 June 2000

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Restricted
CDL (2000) 51
English only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**The Constitutional Act on the
Constitutional Court of the Republic of Croatia**

THE CONSTITUTIONAL ACT ON THE CONSTITUTIONAL COURT OF THE REPUBLIC OF CROATIA

I. GENERAL PROVISIONS

Article 1

This Constitutional Act regulates conditions for the election of judges of the Constitutional Court of the Republic of Croatia (hereinafter referred to as: the Constitutional Court) and termination of their office, conditions and terms for instituting proceedings for the review of constitutionality and legality, procedure and legal effects of its decisions, protection of constitutional freedoms and human rights and other issues of importance for the performance of duties and functions of the Constitutional Court.

Article 2

The work of the Constitutional Court shall be public.

Article 3

(1) Judges of the Constitutional Court shall enjoy the same immunity as the members of the Croatian National Parliament.

(2) No judge of the Constitutional Court shall be responsible under the criminal law for an opinion expressed or vote cast in the Constitutional Court.

(3) No judge of the Constitutional Court shall be detained, nor shall criminal proceedings be instituted against him/her without the approval of the Constitutional Court.

(4) A judge of the Constitutional Court may be detained without the approval of the Constitutional Court only if he/she has been caught in the act of committing a

criminal offence for which a penalty of imprisonment of more than five years is prescribed by law. In such a case the state body which has arrested the judge shall instantly notify the President of the Constitutional Court thereof.

(5) The Constitutional Court may decide that the judge against whom criminal proceedings have been instituted may not perform his duties at the Constitutional Court during the proceedings.

II. CONDITIONS FOR THE ELECTION OF JUDGES OF THE CONSTITUTIONAL COURT, ELECTION OF JUDGES OF THE CONSTITUTIONAL COURT AND TERMINATION OF THEIR OFFICE

Article 4

(1) Judges of the Constitutional Court shall be proposed by the House of Counties of the Croatian National Parliament by the majority of votes of all its members.

(2) Judges of the Constitutional Court shall be elected by the House of Representatives of the Croatian National Parliament by the majority of votes of all its members.

Article 5

(1) Judges of the Constitutional Court shall be elected from among Croatian citizens, jurists with at least 15 years of experience in the legal profession, who have been distinguished by their scientific or professional work or public activity.

(2) A person who has obtained a doctoral degree in legal science and fulfils all the conditions stated in the Paragraph 1 of this Article may be elected as a judge of the Constitutional Court if he/she has at least 12 years of experience in the legal profession.

(3) Judges of the Constitutional Court shall be elected particularly from among judges, public prosecutors, state attorneys, attorneys-at-law and university teachers of law.

Article 6

(1) The elected judges of the Constitutional Court shall enter their office on the day of expiry of the term of office of their predecessors.

(2) The judge of the Constitutional Court who has been elected in place of the judge relieved of his/her office before the expiry of his/her term of office shall enter his office at the time determined by the House of Representatives of the Croatian National Parliament.

Article 7

Before entering their office, the Constitutional Court judges shall take the following oath before the President of the Republic of Croatia: "I do solemnly swear that I will faithfully execute the office of the judge of the Constitutional Court of the Republic of Croatia in accordance with the Constitution and laws of the Republic of Croatia".

Article 8

(1) The mandate of the judge of the Constitutional Court shall begin on the day of entering his office.

(2) Six months before the expiry of the mandate of a judge of the Constitutional Court, the President of the Constitutional Court shall notify the Speaker of the Croatian National Parliament thereof.

Article 9

(1) Judges of the Constitutional Court shall not perform any other public or professional duty.

(2) A university teacher of law (assistant professor, associate professor and full professor) elected as a judge of the Constitutional Court may, on a part-time basis and to a lesser extent, continue performing educational and scientific work as a university teacher of law.

(3) According to this Constitutional Act, neither other scientific or expert activities, nor membership of institutes and associations of lawyers, as well as of other humanitarian, cultural, sports and other associations, shall be considered to be public or professional duties.

Article 10

(1) A judge of the Constitutional Court may be relieved of office before the expiry of the term for which he/she has been elected:

- at his/her own request,
- if he/she has been sentenced to imprisonment for a criminal offence,
- if he/she has become permanently incapable of performing his/her duty.

(2) Grounds for the removal from office of a judge of the Constitutional Court before the expiry of the term of his office shall be determined by the Constitutional Court, which shall notify the Speaker of the Croatian National Parliament thereof.

Article 11

(1) If a judge of the Constitutional Court requests to be relieved of his office and if the House of Representatives of the Croatian National Parliament does not decide upon the request within the period of three months, the Constitutional Court shall, at the request of the President or a judge of the Constitutional Court, confirm the termination of his office.

(2) The court which has pronounced the sentence of imprisonment shall deliver without delay the final judgement to the Constitutional Court, which shall notify the Speaker of the Croatian National Parliament forthwith.

(3) Proceedings for determining permanent incapacity of a judge of the Constitutional Court to perform his office shall be instituted at the proposal of the President of the Constitutional Court to the Constitutional Court.

(4) Proceedings for determining permanent incapacity of the President of the Constitutional Court shall be instituted at the proposal of three judges of the Constitutional Court to the Constitutional Court.

(5) The decision on the proposal stated in section 4 of this Article shall be made by the Constitutional Court by the majority of votes of all the judges.

Article 12

(1) During the proceedings regulated by the provisions of Articles 10 and 11 of this Constitutional Act, the Constitutional Court judge may be suspended from performing duty.

(2) The decision on suspension, at the proposal of the President of the Constitutional Court, shall be made by the Constitutional Court by the majority of votes of all its judges.

(3) Proposal for the suspension of the President of the Constitutional Court shall be made by three judges.

(4) The decision on the proposal for the suspension of the President of the Constitutional Court shall be made by the Constitutional Court by the majority of votes of all its judges.

Article 13

(1) The judge of the Constitutional Court whose term of office has expired has the right to retire under the same conditions as the members of the Croatian National Parliament.

(2) The judge of the Constitutional Court who has been relieved of his office before the expiry of the term of his office at his own request, or because of permanent incapacity to perform his/her duty has the right to retire under the same conditions as stated for the judge in section 1 of this Article.

Article 14

The Constitutional Court shall elect the President of the Constitutional Court for a term of four years by secret ballot by the majority of votes of all its judges.

Article 15

No judge of the Constitutional Court shall be a member of any political party, nor shall he/she in his/her public activities and behavior express personal support to any political party.

III. PROCEEDINGS OF THE CONSTITUTIONAL COURT – GENERAL PROVISIONS

Article 16

(1) Proceedings of the Constitutional Court shall be initiated by a written request, a proposal or a constitutional complaint (hereinafter referred to as: applications).

(2) All applications sent to the Constitutional Court must be signed.

(3) The application is to be submitted to the Constitutional Court directly or sent by mail. The day the application has been sent as registered mail shall be considered the day of submission to the Constitutional Court.

(4) If the application has not been submitted to the Constitutional Court but to another body and has been received by the Constitutional Court after the expiration of the term for submission of the application, it shall be considered as being submitted within the term if the applicant has submitted the application to that body because of ignorance or an apparent mistake.

Article 17

(1) Applications instituting the proceedings, respective those proposing the institution of proceedings, as well as all other written statements, proposals and information shall be submitted to the Constitutional Court in the Croatian language and the Latin script.

(2) If there is, under the conditions specified by law, in individual local units along with the Croatian language and the Latin script, another language introduced into official use or Cyrillic or some other script, the participant in proceedings who is a resident, or

has a registered seat on the territory of that local unit, may also submit the applications to the Constitutional Court in this other language and the Cyrillic or some other script.

Article 18

(1) Applications submitted to the Constitutional Court must be understandable and must contain all the prerequisites for proceeding upon them.

(2) If an application is not understandable or if it does not contain all the prerequisites for proceeding upon it, the Constitutional Court shall return the application to the applicant for correction, respective a supplement, ordering the term for resubmission of the application.

(3) If the application has been corrected, respective supplemented and resubmitted to the Constitutional Court within the term ordered for correction respective a supplement, it shall be considered as being submitted on the day it was submitted for the first time.

(4) The application shall be considered as withdrawn if not returned to the Constitutional Court within the ordered term. If returned without correction, respective a supplement, it shall be rejected.

Article 19

(1) Proceedings are conducted by the Constitutional Court judge.

(2) Proceedings shall be conducted in such a manner to enable the Constitutional Court to make the decision on the substance of the case.

Article 20

If there exist reasons to exclude the public from the proceedings, the Constitutional Court judge shall note it in his report.

Article 21

If a delivery is to be done to individuals or legal persons abroad or to the aliens who enjoy the right of immunity, the delivery shall be done through a diplomatic respective a consular path, unless an international agreement provides for something else.

Article 22

Every participant in the Constitutional Court proceedings shall pay his own expenses unless decided differently by the Constitutional Court.

Article 23

(1) Participants may undertake actions in the proceedings in person or through a representative.

(2) Powers of attorney have to be given to the representative for the specific case.

Article 24

Every person, individual or legal, is due to present to the Constitutional Court, on its request, documents and information needed for the conduct of proceedings.

Article 25

The records of the Constitutional Court sessions shall be made.

Article 26

(1) The Constitutional Court renders decisions and rulings by a majority vote of all its judges, unless differently provided by the Constitution or this Constitutional Act.

(2) When deciding on the substance of the case the Constitutional Court renders a decision, and in all other cases a ruling.

(3) Reasons shall be given for the decision and the ruling of the Constitutional Court.

(4) The judge of the Constitutional Court who dissents from the majority is due to give reasons for his opinion in writing.

(5) The judge of the Constitutional Court who voted against the majority may, within a reasonable time from the day of making the decision, give reasons for his opinion in writing, and publish it.

(6) The judge of the Constitutional Court shall not abstain from voting, except in the case when he has participated in the making of legislation, some other regulation or decision which are the matter of the decision in hand.

Article 27

(1) The decision and the ruling of the Constitutional Court shall have an introduction, a dictum and reasons.

(2) The introduction of a decision, respective a ruling contains: the title of the Constitutional Court, names and surnames of the president and the judges who have participated in rendering the decision, respective the ruling, a brief note on the case being decided and the date of the decision, respective the ruling.

(3) The dictum contains judgment of the Constitutional Court in the case.

(4) In the reasons, the Constitutional Court shall explain the content of the application which proposes the institution of proceedings, respective the one by which the proceedings have been instituted, present the reasons for deciding as in the dictum and the regulations upon which the decision has been grounded.

Article 28

The decisions and the important rulings of the Constitutional Court shall be published in the Official Gazette "Narodne novine".

Article 29

(1) The Constitutional Court shall deliver an official copy of its decision, respective the ruling, to the participants in the proceedings.

(2) If the summons, decisions or rulings of the Constitutional Court may not, for whatever reason, be delivered to the participants in the proceedings, the delivery for them is done by affixing the summons, the decision or the ruling up to the notice board of the Constitutional Court.

(3) The delivery is considered done after the expiration of eight days from the day the summons, the decision or the ruling has been affixed up to the notice-board of the Constitutional Court.

(4) In case of publishing the decision or the ruling in the Official Gazette, the delivery is considered done on the day of publication.

Article 30

(1) The decisions and the rulings of the Constitutional Court are obligatory and every individual or legal person shall obey them.

(2) All bodies of the central government and the local self-government and administration shall, within their constitutional and legal jurisdiction, execute the decisions and the rulings of the Constitutional Court.

(3) The Government of the Republic of Croatia ensures, through the bodies of central administration, the execution of the decisions and the rulings of the Constitutional Court.

(4) The Constitutional Court might determine which body is authorized for the execution of its decision, respective its ruling.

(5) The Constitutional Court may determine the manner in which its decision, respective its ruling shall be executed.

Article 31

The Constitutional Court shall by its ruling reject a request, a proposal or a constitutional complaint if it is not competent for deciding upon it or if they have been late and in all other occasions when there exist no conditions to decide on the substance of the case.

Article 32

The Constitutional Court shall render the decision upon the request, the accepted proposal and the constitutional complaint, as a rule, within the term not longer than one year.

Article 33

If not differently provided by this Constitutional Act, the Constitutional Court shall subsidiarily meaningfully apply the provisions of the relevant procedural legislation of the Republic of Croatia.

IV. REVIEW OF THE CONSTITUTIONALITY OF LAWS AND THE CONSTITUTIONALITY AND LEGALITY OF OTHER REGULATIONS

Article 34

The request by which the proceedings before the Constitutional Court are instituted may be presented by:

- one fifth of the members of the House of Representatives or one fifth of the members of the House of Counties of the Croatian National Parliament,
- a committee of the House of Representatives,
- the President of the Republic of Croatia,
- the Government of the Republic of Croatia, to review the constitutionality and legality of regulations,
- the Supreme Court of the Republic of Croatia, if the issue of constitutionality and legality has arisen before the courts of justice,
- the People's Ombudsman in proceedings provided by Article 93 of the Constitution of the Republic of Croatia,
- representative bodies of the units of local self-government and administration in the matters affecting the organization of local self-government and administration.

Article 35

(1) When the court of justice in its proceedings determines that the law to be applied is not in accordance with the Constitution, it shall stop the proceedings and

require the Supreme Court to present to the Constitutional Court a request for review of the constitutionality of the law.

(2) When the court of justice in its proceedings determines that the regulation other than the law, which is to be applied, is not in accordance with the Constitution or the law, it shall not apply that regulation and shall inform the Supreme Court thereupon.

Article 36

(1) Every individual or legal person has the right to propose the institution of proceedings to review the constitutionality of the law and the legality and constitutionality of other regulations.

(2) The Constitutional Court itself may decide to institute proceedings to review the constitutionality of the law and the review of constitutionality and legality of other regulations.

Article 37

(1) The request for review of the constitutionality of the law or the constitutionality and legality of other regulations shall contain the naming of the provisions the constitutionality, respective the legality, of which is being disputed, the naming of the provisions of the Constitution or the law for which the request asserts to be violated, the reasons to assert that the disputed regulation was not in accordance with the Constitution, respective the law, and the signature and seal of the presenter.

(2) In the request, the presenter may include the other evidence of significance for adjudication of the matter, and his opinion whether the disputed regulation should be invalidated or annulled.

Article 38

The proposal to institute proceedings to review the constitutionality of the law or the constitutionality and legality of other regulations contains, as a rule, the same as the request.

Article 39

Every request, respective a proposal to institute the proceedings to review the constitutionality of the law or the constitutionality and legality of the other regulation shall be assigned to the reporting judge for elaboration by the president of the Constitutional Court.

Article 40

(1) On the proposal of the reporting judge the Constitutional Court may send the request, respective the proposal to the body who had brought the disputed regulation for a response.

(2) If the body mentioned in section 1 of this Article does not respond during the term of 60 days, the Constitutional Court shall forward the proceedings.

Article 41

(1) Upon the proposal that the Constitutional Court institutes proceedings for review of the constitutionality of the law and the review of constitutionality and legality of other regulations, the Constitutional Court at its session adopts the ruling whether to accept the proposal and institute proceedings.

(2) The Constitutional Court shall inform the applicants on the institution of proceedings, respective the refusal of the proposal as might be the case.

(3) The ruling to institute the proceedings to review the constitutionality of the law shall be published in the Official Gazette.

Article 42

(1) The proceedings to review the constitutionality of the law or the constitutionality and legality of other regulations shall be considered instituted on the day the request was received by the Constitutional Court, respective on the day of handing it to the post office as registered mail.

(2) The proceedings to review the constitutionality of the law and the constitutionality and legality of other regulations upon the proposal shall be considered instituted on the day the ruling to institute the proceedings was brought.

Article 43

The Constitutional Court may, until the final decision, temporarily suspend the execution of the individual decisions or actions undertaken on the grounds of the law or the other regulation, the constitutionality respective the legality of which is being reviewed, if their execution might cause grave and irreparable consequences.

Article 44

(1) When the case has been elaborated in such a manner as to enable the Constitutional Court to decide the substance of the matter, the reporting judge submits the written report on the case to the president of the Constitutional Court.

(2) The report shall contain the information on the request or the proposal, on the procedural actions undertaken, on principal facts and legal matters, the opinions received and the opinion whether the case may be decided at the session without a public hearing or the public hearing should be convoked.

Article 45

(1) The president of the Constitutional Court puts the received report or a draft decision or ruling on the schedule of the Constitutional Court session in order to decide the case.

(2) Unless the Constitutional Court decides differently, the secretary and the legal advisers of the Constitutional Court and the head of the Office of Records and Documentation are present at the session and may take part in deliberations.

(3) Journalists and the media reporters may be present at the session and the public hearing as well as the other gatherings in the Constitutional Court.

(4) Permission of the president of the Constitutional Court is required for television transmission and radio broadcasting from the Constitutional Court.

Article 46

(1) At the session, the reporting judge orally explains the report and gives additional clarifications if necessary.

(2) The judge may authorize a legal adviser to present the case to the session.

(3) After that, the president of the Constitutional Court opens the floor for a discussion.

(4) When the discussion of the case is completed, the president puts the proposal of the reporting judge on for deciding, and then the other proposals presented in the discussion of the case as well.

(5) If the Constitutional Court does not accept the proposal of the reporting judge, it may return the report to the reporting judge for a supplement or authorize the other judge to elaborate another opinion.

Article 47

(1) The Constitutional Court holds a consultative session if it considers that a discussion with participants in the proceedings, governmental bodies, bodies of local self-government and administration, associations, scientists and other experts, is needed before deciding on the substance of the matter.

(2) The consultative session may be also convoked by the reporting judge, about which he is due to inform the president of the Constitutional Court.

Article 48

(1) The Constitutional Court in session may conclude to make the decision on the substance of the matter on the grounds of a public hearing.

(2) A public hearing is convoked by the president of the Constitutional Court.

(3) The participants in the proceedings and the representatives of the governmental

bodies, the bodies of local self-government and administration and associations, as well as the persons, whose participation at the public hearing is needed, are summoned to the public hearing.

(4) Failure of the summoned participants in the proceedings and other persons to appear does not prevent the Constitutional Court from continuing the proceedings and making the decision if it is of an opinion that the conditions for this exist.

(5) In justified circumstances the Constitutional Court may postpone a public hearing and convoke the new one.

Article 49

(1) The president of the Constitutional Court conducts the public hearing, while the reporting judge reports on the principal facts and the legal matters of the case.

(2) The record of the public hearing is conducted. The written record is conducted by the counselor of the Constitutional Court who has cooperated with the judge in the elaboration of the case. The public hearing is stenotyped or audio recorded unless the president of the Constitutional Court decides differently. The audio record of the public hearing is enclosed with the written record.

(3) The written record of the public hearing shall be signed by the president of the Constitutional Court and the legal adviser who has conducted the record.

Article 50

When the Constitutional Court holds that the case has been discussed to the extent, which enables rendering the decision, the president of the Constitutional Court shall proclaim the hearing concluded.

Article 51

(1) The Constitutional Court renders the decision at a separate session.

(2) The session of the Constitutional Court may be held if the majority of all judges are present.

(3) The summary of the case, the decision on the case and the result of voting (who has voted “for” and who “against”) are entered into the record of the session.

Article 52

The Constitutional Court may review the constitutionality of the law, respective the constitutionality and legality of other regulations even in the case when the same law or regulation has already been reviewed by the Constitutional Court.

Article 53

(1) The Constitutional Court shall invalidate the law or its separate provisions if it finds them in discordance with the Constitution.

(2) The law invalidated; respective the invalidated provisions of the law lose legal force on the day of publication of the Constitutional Court decision in the Official Gazette, unless the Constitutional Court sets another term.

Article 54

(1) The Constitutional Court shall repeal or annul the regulation other than the law, or its separate provisions, if it finds it in discordance with the Constitution, respective the law.

(2) While making the decision whether to repeal or to annul the regulation, the Constitutional Court shall take into account all the circumstances of importance for protection of the constitutionality and legality, having particularly in mind seriousness of the violation of the Constitution or the law and the interest of legal certainty.

(3) The Constitutional Court shall annul a regulation

- if the fundamental freedoms and human rights have been violated by it,
- if some individuals, groups or associations are with no grounds put into a privileged position by it.

Article 55

(1) In case when the proceedings to review the constitutionality of the law, respective of the constitutionality and legality of the other regulation have been instituted before the Constitutional Court, and the competent body repeals or amends this law, respective the other regulation prior to the proceedings before the Constitutional Court have been concluded, the Constitutional Court shall complete the instituted proceedings.

(2) In case when the unconstitutionality of the repealed or amended law, respective the unconstitutionality or illegality of another regulation mentioned in Section 1 of this Article is ascertained, the Constitutional Court shall bring the decision on its unconstitutionality or illegality, upon which everyone whose right has been violated by a final individual act grounded on the repealed or amended law or another regulation, has the right to request from the competent body to change this individual act by an analogous application of the provisions of Article 56 of this Constitutional Act.

Article 56

(1) The final sentence for a criminal offense grounded upon the legal provision which has been repealed because of being in discordance with the Constitution does not produce legal effects and may be changed by the analogous application of the provisions on the renewal of criminal procedure.

(2) Every individual or legal person whose right has been violated by an individual act grounded upon the repealed law or another repealed or annulled regulation has the right to request from the competent body to change this individual act by an analogous application of the provisions on the renewal of criminal procedure.

(3) The request to change the individual act mentioned in Section 2 of this Article may be submitted during the term of six months from the day the Constitutional Court decision was published in the Official Gazette. This request may be submitted if from the delivery of the individual act, by which the procedure has been finally completed, until the submission of the request, respective the proposal after which the law or another regulation was repealed, not more than one year period expired. If the regulation has been

annulled by the Constitutional Court's decision, the request may be submitted if from the delivery of the individual act, by which the procedure has been finally completed, until the submission of the request, not more than two year period expired.

(4) The execution of the final, respective the enforceable individual acts made on the grounds of the repealed law or the repealed, respective annulled another regulation may neither be ordered nor accomplished, and if the execution has been commenced, it will be ceased.

(5) If it is ascertained that by changing the individual act the consequences which occurred by the application of the unconstitutional or illegal regulation cannot be recovered, the Constitutional Court may order that these consequences are to be recovered by restitution into the previous state, by damages or in some other manner.

(6) The Constitutional Court shall render the decision mentioned in the previous Section on the proposal of a person who shows legal interest therein. The proposal is to be submitted during the term of 30 days after the final conclusion of the procedure to change the individual act.

Article 57

When the court of justice by the final judgment has refused to apply the regulation because of its unconstitutionality or illegality, but the Constitutional Court finds that such unconstitutionality, respective illegality does not exist, everyone whose right has been violated may request a change of the final judgement of the court during the term of one year from the publication of the Constitutional Court's decision.

Article 58

The Constitutional Court may end the proceedings if the applicant withdraws the request, respective the proposal, and shall do so in the cases when the requirements for the conduct of proceedings cease to exist.

V. PROTECTION OF THE CONSTITUTIONAL FREEDOMS AND HUMAN RIGHTS

Article 59

(1) Every individual or legal person may submit to the Constitutional Court a constitutional complaint if he/she deems that by the decision of the judicial or administrative authority or other bodies of the public authority, some of its freedoms and human rights (hereinafter: the constitutional right) guaranteed by the Constitution have been violated.

(2) If some other legal remedy is provided against violation of the constitutional rights, the constitutional complaint may be submitted only after this remedy has been exhausted.

(3) In matters in which an administrative dispute is provided, respective a revision in civil or extra-litigation procedure, remedies are exhausted after the decision has been rendered upon these legal remedies.

(4) As an exception, the Constitutional Court may institute the proceedings after the constitutional complaint even before the other remedies have been exhausted if it finds obvious that the disputed act, respective the omission to make an act in a reasonable time, the constitutional rights or freedoms have been seriously violated and that grave and irreparable consequences might occur if the proceedings are not instituted.

Article 60

The constitutional complaint may be submitted during the term of 30 days from the day the decision was received.

Article 61

(1) The constitutional complaint shall contain the name and surname, the social security number of the citizen, the domicile or temporary residence, respective the firm and the seat of the applicant of the constitutional complaint, the name and surname of his

representative, the title of the decision by which some right or freedom has been violated, the evidence that the legal remedies have been exhausted and that the complaint is timely submitted as well as the signature of the applicant.

(2) The disputed act in original or in a certified copy shall be enclosed with the constitutional complaint.

Article 62

(1) The Constitutional Court shall permit restitution into the previous state to the person who for the justified reasons has omitted the term for submission of the constitutional complaint, if during the term of 15 days after the cessation of the reason which has caused the omission he submits the proposal for restitution into the previous state and at the same time submits the constitutional complaint.

(2) After the expiration of three months from the day of omission, the restitution into the previous state may not be sought.

(3) Restitution into the previous state shall not be permitted if the term for submission of the proposal for permission of restitution into the previous state has been omitted.

Article 63

(1) The constitutional complaint, as a rule, does not prevent the application of the disputed act.

(2) The Constitutional Court may, on the proposal of the applicant, postpone the enforcement on property until the decision is made, if the enforcement would cause to the applicant such damage, which could hardly be repaired, and the postponement is not contrary to the public interest nor would the postponement cause to anyone greater damage.

Article 64

(1) The council composed of five judges decides upon the constitutional complaint.

(2) The council composed of three judges decides upon the constitutional complaint when there exist no requirements for deciding on the substance of the matter (late or not permissible etc.).

(3) The council may decide only unanimously and with all its members present.

(4) If a unanimous opinion is not reached by the council, or if the council holds that the reasons exist to bring the matter to the session, the Constitutional Court shall decide upon the constitutional complaint in session.

Article 65

The reporting judge:

- invites the applicant, ordering the term, to supplement the constitutional complaint or to correct it if not understandable, respective if after the evidence and the enclosures it cannot be ascertained from the constitutional complaint which act is disputed or if the constitutional complaint has not been signed (incomplete constitutional complaint),

- delivers, as may be needed, a copy of the constitutional complaint to the interested persons and invites them to respond to it, demands, as may be needed, the delivery of the file which relates to the matter of the constitutional complaint, respective the report on the violations of the constitutional rights and freedoms done by the disputed act.

Article 66

During the ordered term, the body which had brought the disputed act is due to deliver to the Constitutional Court all the documents related to the matter of the constitutional complaint.

Article 67

The council, respective the session of the Constitutional Court shall examine only the violations of constitutional rights and freedoms which are stated in the constitutional complaint.

Article 68

The Constitutional Court shall reject the constitutional complaint by a ruling if it is not competent, if the constitutional complaint has not been timely submitted, or if it is incomplete, not understandable or not permissible. The constitutional complaint is not permissible: if the provided legal remedies are not exhausted, respective if the applicant has omitted to use the provided legal remedy in the previous procedure, with the exception provided for in Article 59 of this Constitutional Act; if the complaint has been submitted by the person not entitled to submit it, and if the complaint has been submitted by a legal person who cannot be entitled to the constitutional rights and freedoms.

Article 69

- (1) The Constitutional Court resolves the constitutional complaint by the decision.
- (2) By the decision, the constitutional complaint shall be accepted or refused as not grounded.

Article 70

If ascertained that the constitutional right or freedom of the applicant has been violated not only by the disputed, but also by some other act brought in this matter, the Constitutional Court shall invalidate by the decision, as a whole or in part, and this act as well.

Article 71

The constitutional complaint shall be refused by the decision when the Constitutional Court ascertains that the reasons for which the act has been disputed do not exist.

Article 72

By the decision to accept the constitutional complaint, the disputed act by which some constitutional right has been violated shall be invalidated, and the matter returned to the competent body for proceeding anew.

Article 73

(1) When the constitutional complaint is accepted and the disputed act invalidated, the Constitutional Court shall state in the reasons for the decision which constitutional right or freedom has been violated and what makes the violation.

(2) The body whose act has been invalidated is due to make a new act instead of the invalidated one, whereas it is bound by the decision of the Constitutional Court on the violation of the rights and freedoms of the applicant guaranteed by the Constitution.

Article 74

(1) The original of the decision, respective the ruling, shall be signed by the president of the council (if the constitutional complaint has been decided by the council), respective the president of the Constitutional Court (if the constitutional complaint has been decided by the session of the Constitutional Court) as well as the reporting judge and the legal adviser.

(2) The Constitutional Court shall deliver the official copy of its decision, respective the ruling to the applicant of the constitutional complaint, to the body which has brought the disputed act and to the person whom the Constitutional Court has invited to respond.

Article 75

The proceedings instituted by the constitutional complaint shall end:

- when the applicant dies,
- when the applicant, who is a legal person ceases to exist,
- in case the constitutional complaint is withdrawn.

Article 76

The Constitutional Court may order that the applicant of the constitutional complaint who has not succeeded with his complaint reimburses the expenses of the proceedings before the Constitutional Court if he/she has caused them intentionally.

**VI. RESOLVING JURISDICTIONAL DISPUTES BETWEEN
THE LEGISLATIVE, THE EXECUTIVE AND THE JUDICIAL
BRANCHES****Article 77**

(1) If a jurisdictional dispute between the bodies of the legislative, the executive or the judicial branches occurs, because a certain body of the legislative, the executive or the judicial branch accepts jurisdiction in the same matter, each of these bodies may require that the Constitutional Court resolve the jurisdictional dispute.

(2) The request to resolve the jurisdictional dispute may also be submitted by a party whose interest has been violated or could be violated because of the dispute.

(3) The request is to be submitted during the term of 30 days from the day of learning that the other body has accepted the jurisdiction.

(4) The Constitutional Court may order that the procedure before the bodies between whom the jurisdictional dispute has occurred be standstill until its decision.

Article 78

If a jurisdictional dispute between the bodies of the legislative and the executive or the judicial branch occurs, because a certain body of the legislative, the executive or the judicial branch refuses the jurisdiction in the same matter, the request to resolve the jurisdictional dispute may be submitted after entering into force of the court's decision, respective the final decision of the body of the executive branch or the responding decision of the legislative body, who has first decided on its jurisdiction.

The request mentioned in the previous Section may also be submitted by the party who, because of the rejection of jurisdiction, could not effectuate its right, as well as each of the bodies of the legislative, the executive and the judicial branch between whom the dispute occurred.

The request is to be submitted during the term of 30 days from the day of learning of the rejection of jurisdiction.

VII. PROCEEDINGS ON THE IMPEACHMENT OF THE PRESIDENT OF THE REPUBLIC OF CROATIA

Article 79

(1) The act of the House of Representatives of the Croatian National Parliament concerning the impeachment of the President of the Republic shall contain the description of facts and the legal qualification as well as the evidence of the violation of the Constitution for which the President of the Republic is charged.

(2) The Constitutional Court shall obtain the statement of the President of the Republic about the act of impeachment of the House of Representatives and shall enable him to participate in the proceedings.

Article 80

The Constitutional Court shall by the decision refuse the ungrounded act of impeachment or determine the responsibility of the President of the Republic.

VIII. CONTROL OF THE CONSTITUTIONALITY OF PROGRAMS AND ACTIVITIES OF POLITICAL PARTIES

Article 81

The Constitutional Court controls the constitutionality of programs and activities of political parties and shall ban their work if ascertained that the requirements provided by the Constitution exist.

Article 82

The Constitutional Court shall ban the work of a political party or its section when ascertained that its' program or activity violently threatens the democratic constitutional order, independence, unity or territorial integrity of the Republic of Croatia.

Article 83

The request to ban the work of a political party or its section may be submitted by the President of the Republic of Croatia, each house of the Croatian National Parliament, the Government of the Republic of Croatia, the Supreme Court of the Republic of Croatia, the body authorized for registration of the parties and the Attorney General of the Republic of Croatia.

IX. CONTROL OF THE CONSTITUTIONALITY AND LEGALITY OF THE ELECTIONS AND THE NATIONAL REFERENDUM AND THE ELECTORAL DISPUTES

Article 84

The Constitutional Court:

- controls the constitutionality and legality of elections,
- controls the constitutionality and legality of the national referendum,
- decides on the electoral disputes, which are not within the jurisdiction of the courts of justice, acting as a court of appeal against the rulings of the competent electoral commission.

Article 85

Political parties, candidates, not less than 100 voters or not less than 5 percent of voters of the constituency in which the elections are held are authorized during the elections, respective not later than the expiry of the term of 30 days from publishing the results of the elections, to request from the Constitutional Court to undertake relevant measures, performing the control of the constitutionality and legality of the elections, if the electoral activities are being carried out in discordance with the Constitution and the law.

Article 86

When the Constitutional Court ascertains that the participants in the elections act contrary to the Constitution and the law, it shall inform the public over the media, if needed warn the competent bodies, and in case of violation which influenced or might have influenced the results of the elections, shall annul all or separate electoral acts and decisions, which preceded such violation.

Article 87

(1) The proceedings of control of the constitutionality and legality of elections may be instituted during the term mentioned in Article 85 of this Constitutional Act, counting from the day the results of the elections were published in the Official Gazette.

(2) The term mentioned in Section 1 of this Article shall begin to expire on the day the Official Gazette has been issued, and in this matter the Constitutional Court is authorized to ascertain the actual day of the issuance of the Official Gazette.

Article 88

(1) Political parties, candidates, not less than 100 voters or not less than 5 percent of voters of the constituency in which the elections are held, have the right to submit an appeal against the ruling of the competent electoral commission to the Constitutional Court (electoral dispute).

(2) The appeal is to be submitted to the Constitutional Court through the competent electoral commission during the term of 48 hours from the expiration of the day when the disputed ruling was received.

(3) The Constitutional Court is due to render the decision on the appeal during the term of 48 hours from the day it was received.

(4) The appeal does not postpone the performance of the electoral acts prescribed by the electoral legislation.

(5) The decision of the Constitutional Court on appeal excludes the right to submit a constitutional complaint.

Article 89

(1) In control of the constitutionality and legality of the elections and the national referendum the Constitutional Court decides in session.

(2) The Constitutional Court shall decide on the electoral disputes in the council composed of three judges appointed on the proposal of the president of the Constitutional Court by the Constitutional Court in session.

Article 90

(1) The council shall examine the disputed act in its disputed part being restrained, as a rule, to the examination of the violations pointed out by the applicant.

(2) The council shall decide in a private session.

Article 91

(1) The council shall make the decision only unanimously.

(2) If the unanimous decision may not be reached in the council, or if the council holds that there exist reasons to present the matter to the session of the Constitutional Court, the file shall be delivered to the president of the Constitutional Court in order to be presented to the session and decided.

Article 92

The Constitutional Court shall control the constitutionality and legality of the national referendum and undertake measures by an analogous application of the provisions of Articles 84 to 92 of this Constitutional Act.

X. TRANSITIONAL AND CONCLUDING PROVISIONS**Article 93**

On the day of entering into legal force of this Constitutional Act, the legal force of the Constitutional Act on the Constitutional Court of the Republic of Croatia (Official Gazette no. 13 of 1991) and the provisions of the Rules of Procedure of the

Constitutional Court of the Republic of Croatia (Official Gazette no. 29 of 1994) which have not been brought into conformity with this Constitutional Act or which are in conflict with it, shall cease.

Article 94

The Rules of Procedure of the Constitutional Court shall be brought into conformity with this Constitutional Act during the term of 90 days of entering into legal force of this Constitutional Act.

Article 95

(1) Proceedings in the matters which have been instituted before entering into legal force of this Constitutional Act shall be completed under the provisions of this Constitutional Act.

(2) The terms determined by this Constitutional Act shall start by its entering into legal force.

Article 96

This Constitutional Act shall enter into legal force on the day of proclamation.

Class: 711-01/99-01/02

Zagreb, September 24, 1999

***THE HOUSE OF REPRESENTATIVES
OF THE CROATIAN NATIONAL PARLIAMENT***

*Speaker of the House of Representatives
of the Croatian National Parliament
Academician Vlatko Pavletić*