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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF SERBIA

I. INTRODUCTORY PROVISIONS

Article 1

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

Article 2

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

Article 3

The work of the Constitutional Court is public.

Publicity is guaranteed by public hearings of procedures before the Constitutional Court, publication of its decisions, release of communiqués to the public information media and in other manner, in accordance with the Law and the Rules of Procedure of the Constitutional Court (hereinafter: Rules of Procedure).

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

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

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

Article 4

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

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

Article 5

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

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

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

Article 6

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

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

Article 7

Matters of procedure before the Constitutional Court not regulated by this Law are subject to the application of provisions of other appropriate procedural laws.

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

Article 8

The Constitutional Court adopts Rules of Procedure and other acts.

The Rules of Procedure more precisely define the organisation, manner of work of and the procedure before the Constitutional Court.

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

Article 9

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

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

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

Article 10

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

Article 11

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

If the National Assembly does not adopt a decision on the request referred to in § 1 of this Article within three months of the date of its submittal, the office of the Constitutional Court judge expires by force of law on the expiry of that time-limit.

Article 12

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

In the case referred to in § 1 of this Article, the authorised propounder shall initiate a procedure for termination of office of the Constitutional Court judge concerned.

If the National Assembly does not adopt a decision on the termination of office of a judge who has fulfilled requirements for retirement, the office of that judge is terminated on the date of fulfillment of those requirements.

Article 13

Constitutional Court judges may be relieved of duty if they violate the prohibition of conflicts of interest, suffer permanent loss of ability to perform the duty of a Constitutional Court judge, or are convicted to serve a custodial sentence or of a punishable offence rendering them unfit to serve as a Constitutional Court judge.

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

Procedures for relieving Constitutional Court judges of duty are initiated by the authorised propounders for the election, or appointment, of Constitutional Court judges. Initiatives for initiating procedures for relieving judges of duty may be submitted by the Constitutional Court.

Article 14

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

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

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

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

Article 15

Loss of capacity for work in the office of a Constitutional Court judge is determined on the basis of an expert finding and opinion of an authorised health-care institution.

Article 16

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

Article 17

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

Decisions of suspending Constitutional Court judges from work are issued by the Constitutional Court, in accordance with its Rules of Procedure.

Article 18

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

The nomination referred to in § 1 of this Article is submitted to the authority in charge of the election, or appointment, no later than three months after the date of notification about the termination of a Constitutional Court judge's office.

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

Article 19

Constitutional Court judges whose office has been terminated are entitled to receive salaries for six more months in the amount received at the time of termination.

The entitlement to salary referred to in § 1 of this Article may exceptionally be extended by a further six months if during that period the judge whose office has been terminated fulfils requirements for retirement.

The entitlement to salary referred to in §§ 1 and 2 of this Article expires if an employment contract is signed or requirements for retirement are fulfilled.

III. ORGANISATION OF THE CONSTITUTIONAL COURT

Article 20

The seat of the Constitutional Court is in Belgrade.

Article 21

The Constitutional Court has a President.

The President of the Constitutional Court is elected by the judges of the Constitutional Court from among them, by secret ballot and a majority vote of all the judges, to a term of office of three years, with no re-election.

Article 22

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

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

Article 23

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

The Deputy President of the Constitutional Court is elected by the Constitutional Court judges from among them, by secret ballot and a majority vote of all the judges, to a term of office of three years, with no re-election.

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

Article 24

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

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

The Registrar of the Constitutional Court may have a deputy.

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

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

Article 25

The Constitutional Court has advisors whom it appoints to five-year terms.

The persons referred to in § 1 of this Article have the status of civil servants holding posts and may be re-appointed.

Conditions for appointing the persons referred to in § 1 of this Article are determined by an act of the Constitutional Court.

Article 26

The Constitutional Court forms a Professional Service to perform professional and other services.

The organisation, activities and manner of work of the professional Service are determined by an act of the Constitutional Court.

To the rights and obligations of employees of the Professional Service are applied regulations pertaining to the status of civil servants and employees.

Article 27

Resources needed for the work and functioning of the Constitutional Court are provided from the Budget of the Republic of Serbia on the proposal of the Constitutional Court.

The Constitutional Court disposes of the funds referred to in § 1 of this Article independently, in accordance with the law and the Rules of Procedure.

Article 28

The Constitutional Court exercises international co-operation with foreign and international courts and international organisations in accordance with its jurisdiction.

IV. PROCEDURES BEFORE THE CONSTITUTIONAL COURT

a) Participants in procedures

Article 29

Participants in procedures before the Constitutional Court are the following:

- 1) state authorities, authorities of the autonomous provinces and local self-government entities, national deputies, in procedures for assessing constitutionality and legality (hereinafter: authorised proponent);
- 2) anyone on whose initiative a procedure for assessing constitutionality and legality has been initiated (hereinafter: the initiator);
- 3) the enactor of a law, statute of an autonomous province, or local self-government entity and other general act (hereinafter: general act) whose constitutionality and legality are being assessed;
- 4) political parties, trade union organisations or citizens' associations the constitutionality and legality of whose statute of other general act is being assessed or about whose prohibition of activity it is being decided;
- 5) religious communities about whose prohibition of activity it is being decided;
- 6) anyone at whose request is being conducted a procedure for deciding on an electoral dispute for which jurisdiction of a court has not been determined by law, as well as the authority in charge of implementing the election in connection with whose electoral activity the dispute is being initiated;
- 7) state and other authorities who accept, or disclaim, competence, as well as anyone unable to exercise a right on account of an acceptance or disclaimer of competence;
- 8) the Government, Republican Public Prosecutor and authority in charge of registering political parties, trade union organisations, citizens' associations or religious communities, in procedures for the prohibition of the activity of political parties, trade union organisations, citizens' associations or religious communities;
- 9) submitters of constitutional complaints, as well as state authorities or organisations vested with public authority, against whose individual acts or actions the constitutional complaint has been filed;
- 10) authorities designated by the statute of an autonomous province or a municipality, in complaints procedures where the exercise of the authority of an autonomous province, or a municipality, is precluded by an individual act or action of a state authority or municipal authority, as well as the authority against whose individual act or action the complaint has been uttered;
- 11) the National Assembly and the President of the Republic when it is being decided on the existence of a violation of the Constitution in a procedure for his impeachment;

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

13) other persons, in accordance with the law.

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

Article 30

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

Persons duly authorised by participants in procedures may also participate in procedures before the Constitutional Court.

Article 31

Authorised propounders have a right to offer proposals and a duty to provide requisite data and information during procedures and hearings, to submit evidence and to undertake other activities of significance for the determination of the Constitutional Court.

Authorised propounders are entitled to present and explain their position and reasons during the procedure, as well as to provide answers to the claims and reasons of other participants in the procedure.

Authorised propounders may abandon their proposal during the procedure.

The other participants in the procedure are also entitled to the rights referred to in §§ 1 and 2 of this Article.

Article 32

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

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

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

Article 33

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

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

b) Preliminary procedure

Article 34

Submissions to the Constitutional Court are submitted to the Court directly or through the mail and must be signed.

Proposals, initiatives or other submissions are deemed to have been submitted on the date when they were filed directly with the Constitutional Court or received by the Constitutional Court. Where proposals, initiatives or other submissions are sent to the Court by Registered Mail, the date of dispatch is deemed as the day of submittal to the Constitutional Court.

Article 35

All persons are entitled to request insight into case files and to be permitted to copy documents, in accordance with the law regulating freedom of access to information of public importance. Insight into case files and copying documentation will not be allowed where there are reasons to exclude the public and in other cases, in accordance with the law.

Article 36

Preliminary procedures consist of the collection of data and information and the performance of other activities of significance for discussion and determination at sessions of the Constitutional Court, in particular: whether the Constitutional Court is competent to issue a decision; whether a proposal has been submitted by an authorised propounder, or whether a proposal or an initiative are complete and comprehensible; whether requisite information, documents and attachments have been provided; whether other procedural prerequisites for the conduct of a procedure have been satisfied.

Responses and information from participants in a procedure, expert and other opinions, evidence and other data of significance for determination are obtained in the preliminary procedure.

A reporting judge is designated in the preliminary procedure, in accordance with the Rules of Procedure.

Article 37

State and other authorities, organisations vested with public authority, legal and natural persons, have an obligation to, at the request of the Constitutional Court and within a period of time which may not be less than 15 days, submit data and information of significance for the procedure and determination of the Constitutional Court.

Article 38

The Constitutional Court will reject a proposal, request, constitutional complaint, other act initiating a procedure, or initiative:

- 1) when it determines that it is not competent to issue a decision;
- 2) when the submittal was not made within the prescribed time-limit;
- 3) when within a designated time-limit the submitter had not rectified shortcomings which preclude processing;
- 4) when other legally-defined preconditions for conducting a procedure and determination do not exist.

When the Constitutional Court determines that it is not competent to issue a decision, it may refer the proposal, request, constitutional complaint, other act initiating a procedure, or initiative, to the competent authority.

c) Initiation and conduct of procedures

1. Procedure for assessing the constitutionality or legality of general acts

Article 39

Procedures for assessing the constitutionality or legality of general acts are initiated on the basis of a proposal submitted by an authorised propounder or a written decision to initiate a procedure by an order to initiate a procedure.

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

Article 40

Procedures for assessing the constitutionality or legality of general acts include: the name of the general act, designation of the provision, title and number of the official journal in which it was published, grounds for the proposal, as well as other data of importance for assessing constitutionality or legality.

Initiatives contain the data referred to in § 1 of this Article.

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

Article 41

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

By exception from the provision of § 1 of this Article, in respect of the time-limit for assessing the constitutionality or legality of a general act which is no longer in force, it is deemed that a procedure was initiated within the prescribed time-limit if the proposal, or initiative, was submitted before the expiry of a period of time of six months from the date when the validity of the act ceased.

Article 42

Where the Constitutional Court determines that there is reason to commence a procedure on the basis of an initiative, it issues a written decision initiating the procedure.

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

Where the Constitutional Court finds no grounds to initiate a procedure in connection with an initiative, it will not accept the initiative.

Article 43

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

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

Article 44

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

If the unconstitutionality or illegalities are not rectified within a specified time-limit, the Constitutional Court will continue the procedure and duly issue a decision.

Article 45

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

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

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

Article 46

The Constitutional Court will discontinue a procedure:

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

Article 47

The provisions of Articles 39 through 46 of this Law are also applicable in procedures of deciding on compliance of laws and other general acts with universally accepted rules of international law and ratified international agreements, as well as in the procedure of assessing the constitutionality of a law before its entry into force.

2. Procedures of resolving conflicts of jurisdiction

Article 48

The Constitutional Court resolves conflicts of jurisdiction between state and other authorities in the case referred to in Article 167 §§ 2.1 through 2.4 of the Constitution.

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

Article 49

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

Article 50

Requests for resolving conflicts of jurisdiction are deemed initiated on the date the request is received by the Constitutional Court.

Article 51

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

3. Procedure of deciding on electoral disputes

Article 52

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

Requests contain the grounds for requesting a decision on the electoral dispute and appropriate evidence.

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

Article 53

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

Article 54

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

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

Article 55

In procedures on complaints against decisions in connection with confirmation of national deputies' mandates, the authority against whose decision the complaint was submitted shall submit requisite documentation to the Constitutional Court within 24 hours of the submittal of the complaint.

The Constitutional Court shall issue a decision within 72 hours of the submittal of the complaint. The provisions of Articles 52 through 54 of this Law shall also apply in procedures on complaints against decisions in connection with confirmation of national deputies' mandates.

4. Procedures of deciding on prohibition of the activity of political parties, trade union organisations, citizens' associations or religious communities

Article 56

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

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

5. Constitutional complaints procedures

Article 57

Constitutional complaints may be uttered against individual acts or actions of state authorities or organisations vested with public authority whereby are breached or denied human and minority rights and liberties guaranteed by the Constitution, when other legal remedies have been exhausted or are not prescribed or where the right to their judicial protection has been excluded by law.

Constitutional complaints may also be uttered where all legal remedies have not been exhausted, in cases where the complainant's right to a trial in a reasonable time was breached.

Article 58

Constitutional complaints may be uttered by all persons who believe that their human or minority rights and liberties guaranteed by the Constitution have been breached or denied by an individual act or action of a state authority or organisation vested with public authority.

Constitutional complaints may on behalf of the persons referred to in § 1 of this Article and on the basis of their written authorisation also be uttered by natural or legal persons authorised by them in writing, as well as state and other authorities in charge of the overseeing and exercise of human and minority rights and liberties.

Article 59

Constitutional complaints may be submitted within 30 days of the date of being served an individual act or the date of the action whereby human rights and liberties guaranteed by the Constitution were breached or denied.

The Constitutional Court will allow restitution to a person who on justified grounds missed the time-limit for submitting a constitutional complaint if within 15 days of the cessation of the reasons which caused the missing of the deadline that person submits a proposal for restitution and simultaneously submits a constitutional complaint.

Restitution cannot be requested after the expiry of a period of three months from the date of missing the deadline.

Article 60

Constitutional complaints must contain the name and surname, permanent or temporary residence, or name and seat, number and date of the act against which the complaint was uttered and the name of the authority which enacted it and explanation of the nature of the violation or denial of a specified human or minority right or liberty guaranteed by the Constitution and defines the request which the Constitutional Court is to determine.

To the constitutional complaint shall be attached a copy of the disputed individual act, proof that legal remedies have been exhausted, and other evidence of significance for determination.

Article 61

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

Acting on a proposal of the complainant, the Constitutional Court may suspend implementation of the individual act or action referred to in § 1 of this Article if implementation would cause irreparable damage to the complainant, and the suspension is not contrary to the public interest, and neither would suspension cause damage to a third party.

Article 62

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

Article 63

The Constitutional Court will discontinue a procedure:

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

Article 64

The provisions of Articles 57 through 63 shall also apply to procedures in connection with complaints of authorities designated by the statute of an autonomous province, or municipality, where the exercise of the competences of the autonomous province, or municipality, is precluded by an individual act or action of a state authority or municipal authority.

6. Procedure of establishing a violation of the Constitution by the President of the Republic

Article 65

Procedures of establishing a violation of the Constitution by the President of the Republic are initiated by the National Assembly.

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

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

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

Article 66

After the expiry of the term given for the response, the President of the Constitutional Court will call a hearing to which he will summon the President of the Republic and the Speaker of the National Assembly.

Article 67

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

Article 68

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

The decision referred to in § 1 of this Article must be issued by the Constitutional Court within 45 of the date of submittal of the act of the National Assembly initiating a procedure for establishing a violation of the Constitution by the President of the Republic.

Article 69

The Constitutional Court will discontinue the procedure:

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

7. Procedures on appeals by judges, public prosecutors and deputy public prosecutors against decisions on termination of office

Article 70

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

The authority which issued the impeachment decision is entitled to a response to the appeal within 15 days of the day of submittal.

Article 71

After the expiry of the time-limit for submitting a response, the Constitutional Court calls a hearing to which it summons the appellant and a representative of the authority which issued the impeachment decision.

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

Article 72

The Constitutional Court may issue a decision upholding the appeal and abrogate the impeachment decision, or dismiss the appeal.

Article 73

The provisions of Articles 70 through 72 shall also apply to procedures on appeals against decisions of the High Judicial Council.

d) Deliberation and determination

1. Sessions of the Constitutional Court

Article 74

The Constitutional Court decides on questions within its jurisdiction in session.

Sessions of the Constitutional Court are called and chaired by the President of the Constitutional Court.

Minutes are kept of sessions of the Constitutional Court.

The manner of work and determination at sessions of the Constitutional Court are regulated by the Rules of Procedure.

2. Public hearings

Article 75

The Constitutional Court holds public hearings, in procedures for establishing constitutionality and legality, in procedures of deciding on electoral disputes, as well as in procedures in connection with bans of political parties, trade union organisations, citizens' associations or religious communities.

The Constitutional Court may decide not to hold a public hearing: if it determines that during the procedure the matter has been sufficiently clarified and that it can make a determination on the basis of evidence collected and without holding a public hearing; if it has already made determination on the same matter, and no new reasons have been given for different determination in that matter, as well as if the necessary conditions exist for discontinuing a procedure.

The Constitutional Court may also hold a public hearing in other cases when it determines that the holding of a public hearing is necessary, and especially in connection with complex constitutional and legal questions or where a constitutionality and legality question is raised on which the Constitutional Court has not previously assumed a position.

Article 76

All participants in a procedure are summoned to the public hearing for the purpose of presenting their opinions and providing necessary information.

If it is in the interest of assessing constitutionality and legality, the Constitutional Court may summon to the public hearing representatives of the authorities and organisations in charge of enforcing the general act in question.

Whenever necessary, representatives of authorities and organisations, scientists, scholars and other public figures, as well as other persons, are summoned to public hearings for the purpose of presenting their opinions and clarifications.

Article 77

The absence of one or more participants in a procedure from a public hearing does not preclude the Constitutional Court from holding the public hearing and issuing a decision.

Article 78

The Constitutional Court may postpone or adjourn a public hearing for the purpose of obtaining necessary data, information and opinions, as well as in other justified cases.

Article 79

Other questions in connection with public hearings are regulated more precisely by the Rules of Procedure.

3. Other forms of work of the Constitutional Court

Article 80

Other forms of work of the Constitutional Court are regulated by the Rules of Procedure.

4. Acts of the Constitutional Court

Article 81

The Constitutional Court issues decisions, orders and conclusions.

Article 82

The Constitutional Court issues decisions:

- 1) determining that a law, statute of an autonomous province or local self-government entity and other general act does not comply with the Constitution, universally accepted rules of international law and ratified international agreements, or that at the time when it was in force the same did not comply with the Constitution;
- 2) determining that a law which has been adopted, but not promulgated by a decree, is not in compliance with the Constitution;
- 3) determining that a ratified international agreement is not in compliance with the Constitution;
- 4) determining that a statute of an autonomous province or local self-government entity and general act is not in compliance with the law, or that it did not comply with the law at the time when it was in force;
- 5) determining that a collective contract is not in compliance with the Constitution and the law;
- 6) specifying the manner of rectifying consequences which arose due to the implementation of a general act which is not in compliance with the Constitution or a law;
- 7) deciding on electoral disputes for which the jurisdiction of a court is not defined by law;
- 8) prohibiting the activities of a political party, trade union organisation, citizens' association or religious community;
- 9) determining on constitutional complaints;
- 10) determining on complaints of authorities of an autonomous province or municipality in procedures where the exercise of the authority of an autonomous province, or a municipality, is precluded by an individual act or action of a state authority or municipal authority;
- 11) determining in procedures for establishing violations of the Constitution by the President of the Republic;
- 12) determining in procedures on appeals by judges, public prosecutors and deputy public prosecutors against impeachment decisions;
- 13) dismissing proposals for establishing unconstitutionality and illegality.

Article 83

The Constitutional Court issues orders:

- 1) initiating procedures;
- 2) deciding on conflicts of jurisdiction between state and other authorities, in accordance with the Constitution;
- 3) staying enforcement of individual acts, or action, and repealing a stay or dismissing a request for staying the enforcement of an individual act or action;
- 4) not accepting an initiative for initiating a procedure of determining unconstitutionality and illegality;
- 5) discontinuing procedures in the cases referred to in Articles 46, 63 and 69 of this Law;
- 6) dismissing requests for assessing constitutionality and legality of general acts on which it has already made determination, wherein new claims, reasons and evidence submitted do not provide grounds for a finding that there is reason for new deliberation and determination;
- 7) dismisses constitutional complaints if the procedural preconditions are not satisfied.

Article 84

Constitutional Court decisions and orders contain: an introductory part, the ordering part and reasons.

Article 85

When it does not issue other acts, the Constitutional Court issues conclusions.

Article 86

Decisions of the Constitutional Court, except for constitutional complaint decisions, are published in the *Official Gazette of the Republic of Serbia*, as well as in the official journals in which are published the statute of an autonomous province, other general acts and collective contracts, i.e., in the manner in which was published the general act on which the Constitutional Court decided.

Decisions on constitutional complaints, as well as orders of broader significance for the protection of constitutionality and legality, may be published in the *Official Gazette of the Republic of Serbia*.

V. LEGAL EFFECT OF CONSTITUTIONAL COURT ACTS

Article 87

When the Constitutional Court determines that a law, statute of an autonomous province or local self-government entity, other general act or collective contract is not in compliance with the Constitution, universally accepted rules of international law and ratified international agreement, the validity of that law, statute of autonomous province or local self-government entity, other general act or collective contract expires on the date of the publication of the Constitutional Court's decision in the *Official Gazette of the Republic of Serbia*.

When the Constitutional Court determines that a ratified international agreement is not in compliance with the Constitution, the validity of the act on the ratification of the international agreement expires on the date of the publication of the Constitutional Court's decision in the *Official Gazette of the Republic of Serbia*.

When the Constitutional Court determines that a general act or collective contract is not in compliance with the law, the validity of that general act or collective contract expires on the date of the publication of the Constitutional Court's decision in the *Official Gazette of the Republic of Serbia*.

Article 88

When the Constitutional Court determines the manner of rectifying the consequences which arose due to the implementation of a general act which is not in compliance with the Constitution or law, the decision of the Constitutional Court has legal effect from the date of its publication in the *Official Gazette of the Republic of Serbia*.

Article 89

When the Constitutional Court resolves a conflict of jurisdiction between state and other authorities, the order of the Constitutional Court has legal effect from the date of its publication in the *Official Gazette of the Republic of Serbia*.

Article 90

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

Article 91

When the Constitutional Court prohibits the activity of a political party, trade union organisation, citizens' association or religious community, that political party, trade union

organisation, citizens' association or religious community is struck from the appropriate register on the date the decision of the Constitutional Court is served to the competent authority.

Article 92

Laws and other general acts determined by a decision of the Constitutional Court not to comply with the Constitution, universally accepted rules of international law, ratified international agreements or law may not be applied to relations which arose before the date of the publication of the Constitutional Court's decision if by that date they were not resolved by legally-binding decision.

General acts adopted for the enforcement of laws and other general acts determined by decision of the Constitutional Court not to be in compliance with the Constitution, universally accepted rules of international law, ratified international agreements or law will not be applied from the date of the publication of the decision of the Constitutional Court, if it transpires from the decision that those general acts do not comply with the Constitution, universally accepted rules of international law, ratified international agreements or law.

Enforcement of legally-binding individual acts adopted on the basis of regulations which may no longer be applied may not be either permitted or conducted, and where implementation has been commenced, it will be discontinued.

Article 93

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

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

Article 94

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

Article 95

If during a procedure a court determines that a law or other general act is not in compliance with the Constitution, universally accepted rules of international law, ratified international agreements or law, it will adjourn the procedure and initiate a procedure for assessing the constitutionality or legality of that act before the Constitutional Court.

Article 96

Where during a procedure a general act's validity expired or the act was brought into compliance with the Constitution, universally accepted rules of international law, ratified international agreements or law, but the consequences of unconstitutionality, or illegality, had

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

Article 97

When in a procedure on a constitutional complaint the Constitutional Court determines that the disputed individual act or action violated or denied a human or minority right and liberty guaranteed by the Constitution, it will abrogate the individual act, or prohibit further performance, or order a certain action to be performed and order the detrimental consequences rectified.

A decision of the Constitutional Court upholding a constitutional complaint represents a legal basis for submitting a claim for indemnification or rectification of other detrimental consequences before a competent authority, in accordance with the law.

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

Article 98

When in a procedure on a complaint of an authority designated by the statute of an autonomous province or a municipality the Constitutional Court determines that the exercise of the authority of an autonomous province, or a municipality, is precluded by an individual act or action of a state authority or municipal authority, it will abrogate the individual act, or prohibit further performance or order the performance of a certain action and order the detrimental consequences rectified.

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

Article 99

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

Article 100

Decisions of the Constitutional Court in procedures on appeals by judges, public prosecutors and deputy public prosecutors against impeachment decisions have legal effect from the date of their publication in the *Official Gazette of the Republic of Serbia*.

VI. ENFORCEMENT OF CONSTITUTIONAL COURT ACTS

Article 101

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

If it is needed, enforcement of decisions and orders of the Constitutional Court will be secured by the Government.

Decisions and orders of the Constitutional Court may be enforced by the Government directly or through a competent state administration authority.

VII. RELATIONSHIP OF THE CONSTITUTIONAL COURT AND THE NATIONAL ASSEMBLY

Article 102

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

Article 103

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

Article 104

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

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

VIII. PUNITIVE PROVISIONS

Article 105

Organisations or other legal persons are punishable by a fine ranging from 50,000 dinars to 1,000,000 dinars for the following minor offences:

- 1) if they fail to submit to the Constitutional Court within the prescribed time-limit the disputed general act and requisite documentation and to provide data and information of significance for the conduct of the procedure and determination (Article 33 § 1);
- 2) if they fail to submit to the Constitutional Court requisite data and information of significance for the conduct of the procedure and determination (Article 37);

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

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

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

IX. TRANSITIONAL AND CONCLUDING PROVISIONS

Article 106

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

Article 107

Judges of the Constitutional Court elected in accordance with Constitution of the Republic of Serbia (*Official Gazette of the Republic of Serbia*, No. 1/90) whose office is terminated are entitled to six months' salary in the amount received at the time of termination of office.

The pay entitlement referred to in § 1 of this Article may by exception be extended by another six months if during that period the judge whose office has been terminated fulfils conditions for retirement.

The entitlement referred to in §§ 1 and 2 of this Article expires if an employment contract is concluded or requirements for retirement are fulfilled.

Article 108

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

Article 109

The Constitutional Court adopts its Rules of Procedure within 90 days of the effective date of this Law.

The Constitutional Court adopts the act referred to Article 26 § 2 of this Law within 90 days of the effective date of this Law.

Article 110

The validity of the Law on the Procedure before the Constitutional Court and Legal Effect of its Decisions (*Official Gazette of the Republic of Serbia*, Nos. 32/91, 67/93 and 101/05) expires on the effective date of this Law.

Article 111

This Law shall enter into force on the eighth day from the date of its publication in the *Official Gazette of the Republic of Serbia*.