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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

(VENICE COMMISSION)

**DRAFT LAW  
ON THE CONSTITUTIONAL COURT  
OF THE REPUBLIC OF AZERBAÏJAN**

*Draft*

**Article 1. Purpose of the Constitutional Court of Azerbaijan Republic.**

The Constitutional Court of Azerbaijan Republic (hereinafter, the Constitutional Court) shall be the supreme body of constitutional justice on matters attributed to its jurisdiction by the Constitution of Azerbaijan Republic

**Article 2. The Legal Basis for the Activity of the Constitutional Court.**

The legal basis for the activity of the Constitutional Court shall be the Constitution of Azerbaijan Republic, interstate agreements which Azerbaijan Republic is a party to, present Law and other laws.

**Article 3. The Basic Objective and Tasks of the Constitutional Court.**

The basic objective of the Constitutional Court shall be to ensure the supremacy of the Constitution of Azerbaijan Republic.

The fundamental tasks of the Constitutional Court shall be to decide the matters provided for in Article 130.3 of the Constitution of Azerbaijan Republic, interpret the Constitution and laws of Azerbaijan Republic on the basis of petitions made by those bodies listed in Article 130.4 of the Constitution of Azerbaijan Republic and implement other powers envisaged in the Constitution of Azerbaijan Republic.

**Article 4. Protection of Fundamental Human Rights and Freedoms by the Constitutional Court.**

In its activity the Constitutional Court shall protect the rights and freedoms of citizens.

**Article 5. Basic Principles of Activity of the Constitutional Court.**

The activity of the Constitutional Court shall be based on the principle of supremacy of the Constitution of Azerbaijan Republic as well as principles of justice, independence, collegiality, publicity and equality of parties.

**Article 6. Foundations of the Independence of the Constitutional Court.**

The Constitutional Court shall be the independent body of the state power and shall not depend in its organizational, financial or any other forms of activities on any legislative, executive and other judicial bodies, local self-government bodies, political

parties, public associations, trade unions and their officials as well as legal entities or individuals.

Direct or indirect restriction of the constitutional proceedings by anybody or for any reason, illegal impact, threat and interference as well as contempt of the Court shall be inadmissible and entail criminal responsibility in accordance with the legislation of Azerbaijan Republic.

## **CHAPTER II. BASIS FOR ORGANIZATION AND ACTIVITY OF THE CONSTITUTIONAL COURT, STATUS OF JUDGES OF THE CONSTITUTIONAL COURT**

### **Article 7. Composition, Organization and Powers of the Constitutional Court.**

Composition, organization and powers of the Constitutional Court shall be governed by Articles 86, 88, 95, 102-104, 107, 109, 125-128, 130, 153 and 154 of the Constitution of Azerbaijan Republic.

### **Article 8. Oath of a Judge of the Constitutional Court.**

On the day of appointment of the Judge of the Constitutional Court he/she shall take the following Oath at the session of the Milli Mejlis of Azerbaijan Republic:

"I do swear to execute properly and honestly the duties of the Judge of the Constitutional Court of Azerbaijan Republic, protect the Constitution of Azerbaijan Republic and make decisions on examined matters on the basis of Law and Justice."

The powers of the Judge of the Constitutional Court shall commence from the moment the Oath is taken.

### **Article 9. Requirements to be Met by Candidates for the Post of Judge of the Constitutional Court.**

Judges of the Constitutional Court may be those citizens of Azerbaijan Republic who meet the requirements envisaged in Article 126 of the Constitution of Azerbaijan Republic.

### **Article 10. Procedure for Nomination for and Election of Judges of the Constitutional Court**

According to Article 109.9 of the Constitution of Azerbaijan Republic the President of Azerbaijan Republic shall submit proposals to the Milli Mejlis of Azerbaijan Republic on the appointment of Judges of the Constitutional Court of Azerbaijan Republic

According to Article 95.10 of the Constitution of Azerbaijan Republic based on the recommendation by the President of Azerbaijan Republic the Milli Mejlis of

Azerbaijan Republic shall decide the issue on the appointment of Judges of the Constitutional Court of Azerbaijan Republic.

**Article 11. Terms of Office of Judges of the Constitutional Court.**

Judges of the Constitutional Court shall be appointed for a period of 10 years.

After expiration of the term of office, Judge of the Constitutional Court may be re-appointed to the same post only once.

**Article 12. Independence of Judges of the Constitutional Court.**

According to Article 127.1 of the Constitution of Azerbaijan Republic Judges of the Constitutional Court shall be independent, subordinate only to Constitution of Azerbaijan Republic and the present Law as well as they shall not be replaced during the term of their authority.

Judges shall not be transferred to another post without their consent

Powers of Judges of the Constitutional Court shall not be prematurely terminated, except for the grounds envisaged in Article 19 of the present Law.

**Article 13. Immunity of Judges of the Constitutional Court.**

According to Article 128.1-3 of the Constitution of Azerbaijan Republic Judges of the Constitutional Court shall be inviolable.

Judge of the Constitutional Court shall not be brought to criminal responsibility, detained or arrested, nor measures of administrative penalty determined by a court shall be applied to them, nor they shall be subjected to search, bringing to court or personal examination.

Immunity of the Judge spreads upon his/her apartments and office, means of transportation and communication, postal and telegraph correspondence, private property and documents.

Judge of the Constitutional Court detained on suspicion in commitment of criminal or administrative offence shall be released immediately after his/her identification. In this case, the body which has detained the Judge of the Constitutional Court shall promptly inform of it the Chairman of the Constitutional Court and the Prosecutor General of Azerbaijan Republic. The Prosecutor General of Azerbaijan Republic shall verify the legality of the detention of the Judge of the Constitutional Court as a person suspected in commitment of criminal or administrative offence.

Judge of the Constitutional Court whose activity contains signs of crime can be dismissed via the procedure provided for by Article 128.4 and 128.5 of the Constitution of Azerbaijan Republic.

The dismissed Judge of the Constitutional Court shall receive only the salary set for a Judge of the Constitutional Court.

The dismissed Judge of the Constitutional Court can be brought to criminal responsibility as well as arrested only on the basis of the resolution of the Prosecutor General of Azerbaijan Republic.

The powers of the dismissed Judge of the Constitutional Court shall be restored in case, if a “not guilty” verdict is passed regarding him or if the proceedings on the preliminary investigation of the case is terminated on justificatory grounds (absence of the criminal event, corpus delicti; failure to prove the committal of offence). In other cases the proceedings on the preliminary investigation of the case of a Judge of the Constitutional Court can not be terminated.

No legal proceedings can be instituted against Judge of the Constitutional Court for his/her activity, votes, opinions expressed at the Constitutional Court, as well as no testimonies or explanations can be claimed from him/her in this matter.

#### **Article 14. Appointment of the Chairman and Deputy Chairman of the Constitutional Court.**

Following the appointment of Judges of the Constitutional Court on the basis of Article 95.10.10, Article 109.9, Article 130.2 of the Constitution of Azerbaijan Republic by the Milli Mejlis of Azerbaijan Republic on the recommendation of the President of Azerbaijan Republic, the matter concerning appointment of the Chairman and Deputy Chairman shall be resolved according to the procedure specified by Article 109.32 of the Constitution of Azerbaijan Republic.

The Chairman and Deputy Chairman of the Constitutional Court shall be removed from their offices at their own request only. In this case, they remain in office as Judges of the Constitutional Court.

#### **Article 15. Rights of Judges of the Constitutional Court.**

Judges of the Constitutional Court shall be invested with the following rights:

- to participate in all sessions of the Constitutional Court;
- to participate in a vote when the Constitutional Court adopts decisions on matters related to its jurisdiction;
- during the consideration of matters by the Constitutional Court to ask questions from the parties involved in the case and interested subjects;
- to request any documents or other information on matters to be examined by the Constitutional Court from legislative, executive and other judicial bodies, local self-government bodies, political parties, social unions, trade unions and their officials, legal entities and individuals, as well as to listen to the explanations of the officials on these matters;
- to express their dissenting opinion in case of disagreement with the decision adopted by the Constitutional Court;
- to request to hold the session of the Constitutional Court;
- to exercise other rights specified by the present Law;

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### **Article 16. Responsibilities of Judges of the Constitutional Court.**

Judges of the Constitutional Court shall bear the following responsibilities:

- to be governed in their activities by the Constitution of Azerbaijan Republic and to ensure its supremacy;
- to examine cases before the Constitutional Court objectively and impartially on the basis of Law and Justice;
- not to miss any session of the Constitutional Court without a good reason;
- to participate in votes on matters examined by the Constitutional Court;
- to abstain from acts or statements discrediting high status of Judges of the Constitutional Court;
- to execute instructions of the Chairman of the Constitutional Court connected only with preparation of the matters to be examined at the sessions;
- to abstain from violation of the requirements envisaged in Article 9.2 of the present Law;

When making statements in press or other mass media and before any audience, the Judges of the Constitutional Court shall not give openly their opinion on the matters which can be a subject of examination by the Constitutional Court as well as the subject that is considered or has been accepted for the examination by the Constitutional Court, before adoption of the decision on this matter.

### **Article 17. Chairman of the Constitutional Court.**

The Chairman of the Constitutional Court shall;

- represent the Constitutional Court in its relations with the legislative, executive and other judicial bodies, political parties, trade unions, public associations, foreign governments and international organizations, mass media and also any other legal entities or individuals;
- arrange the work of the Constitutional Court;
- bring to discussion of the Constitutional Court the matters to be examined at the sessions of the Chambers and Plenum;
- convene sessions of the Constitutional Court and preside over them;
- determine a range of matters to be considered by the Deputy Chairman of the Constitutional Court;
- distribute tasks among Judges of the Constitutional Court in connection with the preparation of the matters to be examined at the sessions;
- return petitions and other applications not provided for by the Constitution of Azerbaijan Republic and the present Law;
- make appropriate instructions concerning funds allocated from the State budget for the activity of the Constitutional Court;
- direct the staff of the Constitutional Court;
- exercise other powers specified by the present Law;

The Chairman of the Constitutional Court shall have all rights and bear all the responsibilities of a Judge of the Constitutional Court.

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**Article 18. Deputy Chairman of the Constitutional Court.**

The Deputy Chairman of the Constitutional Court shall assist to the Chairman of Constitutional Court in execution of Chairman's duties envisaged in Article 17 of the present Law as well as take place of the Chairman of the Constitutional Court in case of absence of the latter one or inability to execute his/her duties and preside over the sessions of the Chamber.

**Article 19. Equality of Judges of the Constitutional Court**

Judges of the Constitutional Court as well as Chairman of the Constitutional Court and his/her Deputy shall have the equal rights at consideration of all matters within the jurisdiction of the Constitutional Court.

**Article 20. Pre-term Termination of Powers of a Judge of the Constitutional Court**

The powers of a Judge of the Constitutional Court shall be suspended ahead of time in the following cases:

- 1) in case of death;
- 2) submission of the written request on the voluntary resignation;
- 3) in case of the Judge's renouncing from the nationality of Azerbaijan Republic, adopting the nationality of the different State or acquiring obligations to another State;
- 4) in case if the decision of the Judge's guilt adopted by the Court comes into legal force or if the Court decision concerning compulsory medical treatment is passed;
- 5) in case of the Court's decision concerning his/her incapability or limited capability;
- 6) in case of the Court's decision declaring the Judge dead or missing;
- 7) in case if the Judge's appointment is considered invalid as the result of the revealed lack of conformity to the requirements set forth with regard to candidates for Judges of the Constitutional Court by Article 126.1 of the Constitution of Azerbaijan Republic;
- 8) in case of violation of restrictions specified by the Article 126.2 of the Constitution of Azerbaijan Republic;
- 9) in case of groundless non-participation in three sessions of the Constitutional Court successively or unfounded absence at ten sessions within the period of one year;
- 10) in case of the Judge's refusal to vote on matters examined by the Constitutional Court;
- 11) in case of the Judge's inability to perform his/her duties within a period of more than four months due to disease, with the availability of a certificate of the medical commission established by the Constitutional Court confirming his/her disease;

The matter on pre-term suspension of powers of Judge of the Constitutional Court in cases provided for by para 1-6 of the present Article shall be solved according to the Article 109.32 of the Constitution of Azerbaijan Republic.

In cases provided for by para 7-11 proposals concerning pre-term suspension of powers of a Judge shall be made by the Constitutional Court according to the Article 109.32 of the Constitution of Azerbaijan Republic.

### **CHAPTER III. PRINCIPLES OF PROCEEDINGS AT THE CONSTITUTIONAL COURT**

#### **Article 21. Independence**

Independence of the Constitutional Court shall be ensured by the special procedure of appointment and removal of Judges, their immunity, established procedure of examination of cases and matters related to jurisdiction of the Constitutional Court, secret deliberation of Judges, responsibility for contempt of the Constitutional Court or interference with its activity, creation of appropriate technical and organizational conditions for Court's activity and also material and social security of Judges, corresponding to their high status.

Activity of the Constitutional Court concerning the matters of constitutional proceedings shall not be accountable. No one shall have the right to demand of Judges of the Constitutional Court to account for implementation of their powers.

#### **Article 22. Publicity**

Proceedings of cases in the Constitutional Court shall be public.

The hearing of a case in camera shall be admissible only when the Constitutional Court assumes that public sessions can become a reason of disclosure of the state, professional or commercial secret or when it reveals the necessity to protect private or family life of citizens.

The ruling concerning examination of a case in camera shall be adopted by the Constitutional Court at the deliberative room.

Constitutional proceedings shall be oral and the sessions of the Constitutional Court shall be taken down in shorthand.

Decision of the Constitutional Court shall be announced publicly in all cases.

Public sessions of the Constitutional Court may be attended by representatives of the mass media accredited by the Constitutional Court and allowed by Judge presiding over the session to make filming, photography and video recording of the session and broadcast it on Radio and TV.

Information concerning the forthcoming session of the Constitutional Court shall be published in the official state newspaper at least 5 days prior to the session. In urgent cases when it is impossible to observe this regulation, the information concerning the time of the session of the Constitutional Court shall be announced by TV and Radio.

#### **Article 23. Equality of Parties**



Parties to proceedings shall have equal rights and opportunities to defend their positions at the sessions of Constitutional Court.

The Constitutional Court shall not be bound by evidences and arguments of parties as well as interested subjects and shall be obliged to strive for a thorough, complete and impartial examination of matters considered.

#### **Article 24. Language of the Constitutional Proceedings**

Constitutional proceedings shall be conducted, and the decisions adopted by the Constitutional Court stated as well as announced in the official language of Azerbaijan Republic.

Participants to cases considered by the Constitutional Court who do not speak the language of proceedings shall be provided with the translation of all materials of the case into language they speak and ensured with the opportunity to speak at the proceedings in their native language.

Minutes of sessions of the Constitutional Court shall be recorded in the official language.

#### **Article 25. Principle of Collegiality**

Sessions of the Constitutional Court shall be held collectively. None of Judges of the Constitutional Court may deviate from consideration of a case, except the cases preventing the Judge from participation at the session.

Inability of a Judge to participate at further consideration of a case shall not hinder from continuation of proceedings at availability of quorum but excludes participation of the dropout Judge at the consultation of Judges and adoption of the decision.

During deliberation of Constitutional Court none of Judges attending the session may abstain from voting.

#### **Article 26. Immediacy.**

When considering matters related to its jurisdiction the Constitutional Court shall directly examine all the documents, materials and evidences related to the case directly, as well as to hear the parties, interested subjects, witnesses and experts and announce the examined documents during proceedings.

### **CHAPTER IV. PETITIONS, APPLICATIONS AND COMPLAINTS TO THE CONSTITUTIONAL COURT**

#### **Article 27. Grounds for Examination of Cases by the Constitutional Court**

Grounds for examination of cases by the Constitutional Court shall be petitions, applications and complaints meeting the requirements of the present Law.

### **Article 28. General Requirements Concerning Petitions and Complaints.**

Petition or complaint shall be submitted to the Constitutional Court in written and signed by the authorized person.

If the petition is submitted by a collective body then it shall be signed by its head. The petition and complaint shall contain the following:

- 1) The Constitutional Court as a body which a petition or complaint is submitted to;
- 2) The name of complainant (a citizen's complaint shall contain his/her first, middle and last names), address and the other data about complainant;
- 3) Necessary data on representative of complainant and his/her authorities, except the cases, when the representation is implemented *ex officio*;
- 4) Name and address of the state body that issued the debatable act or participating in the dispute concerning the competence;
- 5) Provisions of the Constitution and the present Law entitling to apply to the Constitutional Court;
- 6) The exact name, number, date of adoption, source of publication and the other information about the debatable act or the provision of the Constitution or law to be interpreted;
- 7) Position of the applicant regarding the matter brought up by him/her and its legal proves with the reference to the relevant provisions of the Constitution;
- 8) Request submitted in connection with the petition or complaint to the Constitutional Court;
- 9) List of documents enclosed to the application;

It shall be inadmissible to put a question as to interpretation of several provisions of the Constitution at once. The petition concerning simultaneous interpretation of several provisions of the Constitution shall be lawful only when they are inseparably linked with each other and have the same subject.

### **Article 29. Documents to be Enclosed to a Petition or Complaint**

The following documents shall be enclosed to the petition or complaint submitted to the Constitutional Court:

- 1) The text of debatable act or provision of the Constitution or law to be interpreted;
- 2) Letter of attorney or other document, confirming the authorities of the representative except the cases when representation is implemented *ex officio* as well as copies of documents confirming the right of a person to speak at the Constitutional Court as a representative;
- 3) Translation of all documents into Azeri language submitted in other language;

The list of witnesses, specialists (experts) proposed to be called to the session of the Constitutional Court as well as other documents and materials may also be enclosed to a petition or complaint

### **Article 30. Petition of a Court**

If a court at the consideration of a case as a court of first, appeal or cassation instance comes to a conclusion that the normative legal act applied in the case does not conform to the normative legal acts of the higher legal force it shall forward a petition to the Constitutional Court.

The petition shall be forwarded in the form of motivated court decision. The decision shall be adopted and signed by the judge or court considering the case.

The documents confirming the decision of the court or judge shall be enclosed to the petition. The considered case may be enclosed to the decision.

From the moment of adoption of the court's decision as to submission of the petition to the Constitutional Court and before adoption of the resolution by Constitutional Court the proceedings on a case or execution of the decision on a case adopted by the court shall be suspended.

### **Article 31. Constitutional Complaint**

Any person who alleges that the normative legal act applied in a case has violated his/her fundamental rights guaranteed by the Constitution may submit a complaint to the Constitutional Court.

The Constitutional complaint shall be submitted only after exhaustion of ordinary judicial remedies (complaint or application to the court of general jurisdiction).

If the legal protection of constitutional rights by means of courts of general jurisdiction can not prevent the imposing of serious damage to a petitioner then Constitutional Court may decide the matter concerning the acceptance of a complaint for examination.

The constitutional complaint can be submitted to Constitutional Court within three months after the decision of the court of last instance came into force.

In addition to the contents of complaint, the following shall be confirmed:

- 1) the basic constitutional rights of a complainant have been violated;
- 2) all other legal remedies have been exhausted and there are no other ones;

The following shall be enclosed to the constitutional case:

- 1) explanations and documents required for clarification of the circumstances of a case;
- 2) the documents confirming the fact that all other legal remedies have been exhausted;

## **CHAPTER V. PRELIMINARY EXAMINATION OF PETITIONS, APPLICATIONS AND COMPLAINTS**

### **Article 32. Secretariat of Constitutional Court**

The Secretariat of Constitutional Court shall arrange reception of citizens, preliminarily consider those complaints the examination of which ones by the Judges of Constitutional Court is not necessary, as well as assist to Judges in preparation of cases to consideration.

The Secretariat of Constitutional Court having determined that the complaint does not meet the requirements of the present Law as to its form shall return it to the petitioner with the suggestion to eliminate the existing defects. After a petitioner has eliminated defects he/she shall have the right to submit a constitutional complaint to Constitutional Court once again.

The complaints, which are obviously not within the jurisdiction of Constitutional Court may be sent by the Secretariat of Constitutional Court to the relevant bodies and organizations for examination within their jurisdiction.

### **Article 33. Preliminary Study of Petitions, Applications and Complaints by the Judges of Constitutional Court**

Petitions, applications and complaints meeting the requirements of the present Law shall be reported to the Chairman of the Constitutional Court, who shall adopt a decision on passing them to a Judge (Reporter Judge) or several Judges of Constitutional Court for the preliminary study.

The Reporter Judge shall arrange all measures connected with the preparation of a session on behalf of Constitutional Court.

### **Article 34. Drawing up the Constitutional Case**

Upon completion of preparation to the session of Constitutional Court there shall be drawn up the constitutional case that shall include the following:

- 1) petition, application or complaint, which served as a ground for institution of constitutional case;
- 2) materials enclosed to a petition, application or complaint which served as the ground for institution of constitutional case;
- 3) materials enclosed to the constitutional case by a Reporter Judge;
- 4) a conclusion of expert (specialist) if he/she is engaged in constitutional case;
- 5) additional materials enclosed by parties or interested subjects;
- 6) other documents related to the constitutional case;
- 7) a report of the Reporter Judge;

Once the constitutional case has been drawn up the Judges of the Constitutional Court can get acquainted with it.

**Article 35. Acceptance of a Petition or Complaint to Examination by the Constitutional Court**

With the view of deciding as to acceptance of a case to examination, the Chairman of Constitutional Court shall refer it either to the Chambers or Plenum of Constitutional Court for consideration within their jurisdiction.

The parties shall be informed of the decision adopted by the Constitutional Court.

**Article 36. Refusal to Accept a Petition, Application or Complaint to Examination**

Petition, application or complaint shall be rejected, if:

- 1) it is obviously not within the jurisdiction of Constitutional Court;
- 2) does not meet the requirements of the present Law as to its form and contents;
- 3) it is proceeded by the improper person;
- 4) the Constitutional Court has already adopted a decision on the matter risen in a petition, application or complaint;

**Article 37. Withdrawal of Petitions, Applications and Complaints Referred to the Constitutional Court**

The subject who submitted a petition, application or complaint to the Constitutional Court shall be enabled to recall the petition, application or complaint before the beginning of the session devoted to examination of the matter risen in this petition, application or complaint.

**CHAPTER VI. SESSIONS OF THE CONSTITUTIONAL COURT**

**Article 38. Types of Sessions of the Constitutional Court**

Sessions shall be usually convened by the Chairman of Constitutional Court and held in established time.

At the regulatory session of Constitutional Court there shall be considered the matters on acceptance or rejection of a petition, application or complaint to examination by the Constitutional Court.

The concrete cases shall be examined at the court sessions.

The regulatory and court sessions shall be held in accordance with the procedures determined by the present Law.

**Article 39. Organizational Forms of the Constitutional Proceedings**

The Constitutional Court shall consist of the Plenum and two Chambers.

The Plenum shall be composed of all Judges. Sessions of the Plenum shall be presided by the Chairman of Constitutional Court or acting Chairman of Constitutional Court.

Session of the Plenum shall be authorized if not less than 6 Judges are present at the session. Resolution of the Plenum shall be adopted by the majority of 5 Judges, if otherwise is not provided for by the Constitution of Azerbaijan Republic and the present Law. In case if the votes of Judges are equal then the violation of the Constitution and other norms of law can not be considered as found.

One Chamber shall be composed of 4 Judges and another – of 5 Judges of Constitutional Court.

The composition of Chambers shall be confirmed by the Plenum of Constitutional Court upon proposals of the Chairman of Constitutional Court.

Judges of Constitutional Court shall preside over sessions of Chambers in turn.

Resolution of Chamber shall be adopted by the majority of votes of 3 Judges.

If the votes of Judges for and against the decision are equal then the Chamber shall not adopt the decision and refer the case for the consideration by the Plenum.

Judges of Constitutional Court shall not be excepted.

#### **Article 40. Matters to be Examined at the Sessions of the Plenum of the Constitutional Court**

The following matters shall be examined at the sessions of the Plenum of the Constitutional Court:

- 1) verification of conformity of laws of Azerbaijan Republic, orders and decrees of the President of Azerbaijan Republic to the Constitution of Azerbaijan Republic;
- 2) verification of conformity of decrees of the President of Azerbaijan Republic to laws of Azerbaijan Republic;
- 3) elimination of political parties and other public associations;
- 4) settlement of disputes concerning the separation of powers among Legislature, Executive and Judiciary;
- 5) ascertainment of information concerning complete inability of the President of Azerbaijan Republic to perform his/her duties for the state of health;
- 6) resignation of the President;
- 7) removal of the President from office;
- 8) verification and confirmation of the results of elections of deputies to the Milli Mejlis of Azerbaijan Republic;
- 9) giving the opinion of Constitutional Court on proposals of the Milli Mejlis or President of Azerbaijan Republic regarding the introduction of modifications to the text of the Constitution of Azerbaijan Republic;
- 10) verification of conformity of interstate agreements of Azerbaijan Republic which have not come into force to the Constitution of Azerbaijan Republic and intergovernmental agreements of Azerbaijan Republic to the Constitution and laws of Azerbaijan Republic;
- 11) interpretation of the Constitution and laws of Azerbaijan Republic;

12) announcement of the results of the elections of the President of Azerbaijan Republic;

In addition, at the sessions of the Plenum, the Constitutional Court shall:

- 1) form the personal composition of the Chambers of Constitutional Court;
- 2) confirm the Internal Regulations (Rules of Procedure), Regulations concerning the emblem, robe, breastplate, seal and staff of the Constitutional Court as well as introduce the modifications and amendments into them;
- 3) propose consideration of the matter on pre-term suspension of powers of a Judge of the Constitutional Court in cases provided for by Article 19.6-11 of the present Law;

#### **Article 41. Matters to be Examined at the Sessions of the Chambers of the Constitutional Court**

At the sessions of Chambers the Constitutional Court shall examine the cases covered by its jurisdiction and which are not subject to consideration exclusively in the Plenum of Constitutional Court.

The following matters shall be examined at the sessions of the Chambers:

- 1) verification of conformity of resolutions of Milli Mejlis of Azerbaijan Republic, resolutions and orders of the Cabinet of Ministers of Azerbaijan Republic, Constitution and laws of Nakhichevan Autonomous Republic, normative legal acts of the central bodies of Executive of Azerbaijan Republic, resolutions of Supreme Assembly of Nakhichevan Autonomous Republic, resolutions of the Cabinet of Ministers of Nakhichevan Autonomous Republic to the Constitution of Azerbaijan Republic;
- 2) verification of conformity of resolutions of the Cabinet of Ministers of Azerbaijan Republic, laws of Nakhichevan Autonomous Republic, normative legal acts of the central bodies of Executive of Azerbaijan Republic, resolutions of the Cabinet of Ministers of Nakhichevan Autonomous Republic to the laws of Azerbaijan Republic;
- 3) verification of conformity of resolutions of the Cabinet of Ministers of Azerbaijan Republic, normative legal acts of the central bodies of Executive of Azerbaijan Republic, resolutions of the Cabinet of Ministers of Nakhichevan Autonomous Republic to the decrees of the President of Azerbaijan Republic;
- 4) verification of conformity of resolutions of the Cabinet of Ministers of Nakhichevan Autonomous Republic to the resolutions of the Cabinet of Ministers of Azerbaijan Republic;
- 5) in cases provided for by the Law, verification of conformity of decisions of the Supreme Court of Azerbaijan Republic to the Constitution and laws of Azerbaijan Republic;
- 6) on conformity of the acts of municipalities to the Constitution of Azerbaijan Republic, laws of Azerbaijan Republic, orders of the President of Azerbaijan Republic, decrees of the Cabinet of Ministers of Azerbaijan Republic;

**Article 42. General Rules for the Conduction of the Session of Constitutional Court.**

The court session of the Constitutional Court shall be conducted by the presiding Judge. The presiding Judge shall open the court session and present information concerning the matters to be examined by Constitutional Court. In case if it is impossible to complete examination of a case during one working day the presiding Judge shall declare a break in the session of the Constitutional Court and appoint the date of its resumption.

On completion of consideration of the matters listed on the agenda of the session of the Constitutional Court, the presiding Judge shall declare the session closed.

**Article 43. Judge Presiding at the Session of the Constitutional Court.**

Sessions of Constitutional Court shall be presided by the Chairman of Constitutional Court, in his/her absence or based on his/her instructions – by Deputy Chairman, and in case of their both absence – by the oldest Judge of Constitutional Court. The Reporter Judge can not preside over sessions of Constitutional Court.

**Article 44. Powers of a Judge at the Court Session**

Judges of the Constitutional Court shall be invested with the following powers during the court sessions:

- to ask questions from the Judge presiding over the session of the Constitutional Court;
- to put questions to the Reporter Judge, parties, persons involved, witnesses and experts with the permission of the Judge presiding over the session of the Constitutional Court;
- to get familiar with the petitions and other materials presented at the session of the Constitutional Court;
- to express their opinion on the procedure of the session;
- to require from the Judge presiding over the session of the Constitutional Court to keep order in the session hall;

In the deliberative room Judges of the Constitutional Court may express their opinions regarding decisions to be adopted by the Constitutional Court and vote for or against the decision examined.

**CHAPTER VII CONSTITUTIONAL PROCEEDINGS**

**Article 45. Ways and Types of Proceedings Carried out at the Constitutional Court.**



The proceedings in Constitutional Court shall be carried out in two following ways:

- 1) the constitutional proceedings;
- 2) the constitutional special proceedings;

The constitutional proceedings on the cases examined by the Constitutional Court shall be held in the following forms:

- 1) proceedings on cases related to consideration of petitions regarding the matters specified by Article 130.3.1-6 and 130.3.8 of the Constitution of Azerbaijan Republic;
- 2) proceedings on cases related to petitions on elimination of political parties and other public associations;
- 3) proceedings on cases related to petitions on distribution of powers among Legislature, Executive and Judiciary;

The special constitutional proceedings on the cases examined by the Constitutional Court shall be held in the following forms:

- 1) proceedings on cases related to petitions concerning interpretation of the Constitution and laws of Azerbaijan Republic;
- 2) proceedings on cases related to petitions of the Milli Mejlis of Azerbaijan Republic held with the view to ascertain the information regarding complete inability of the President of Azerbaijan Republic to perform his/her duties due to the state of health;
- 3) proceedings on cases related to consideration of resignation of the President of Azerbaijan Republic;
- 4) proceedings on cases related to consideration of the matter of impeachment of the President of Azerbaijan Republic;
- 5) proceedings on cases related to verification and confirmation of the results of elections of the Deputies of the Milli Mejlis of Azerbaijan Republic;
- 6) proceedings on cases concerning fixing the date of the first session of a newly elected Milli Mejlis of Azerbaijan Republic;
- 7) proceedings on cases related to giving the opinion of the Constitutional Court regarding the introduction of modifications to the Constitution of Azerbaijan Republic as proposed by the Milli Mejlis of Azerbaijan Republic or the President of Azerbaijan Republic;

At the consideration of a petition or complaint as to verification of constitutionality of a law the Constitutional Court shall be enabled to confine itself to interpretation of this law. And at consideration of the petition as to interpretation of a law the Constitutional Court shall be enabled to recognize this law unconstitutional.

#### **Article 46. Parties to the Constitutional Proceedings**

Petitioners and Respondents shall be the parties to constitutional proceedings.

According to the Article 130.3 of the Constitution of Azerbaijan Republic the President of Azerbaijan Republic, the Milli Mejlis of Azerbaijan Republic, the Cabinet of Ministers of Azerbaijan Republic, the Supreme Court of Azerbaijan Republic, the Prosecutor's Office of Azerbaijan Republic, the Supreme Assembly of Nakhchivan

Autonomous Republic and Ombudsman can be the petitioners at the constitutional proceedings. Individuals who submitted a constitutional complaint shall be called petitioners.

According to Article 130.3 of the Constitution of Azerbaijan Republic the following subjects may be respondents at the constitutional proceedings:

1) a State body that has adopted a normative legal act which by opinion of petitioner does not conform to the Constitution and laws of Azerbaijan Republic, decrees of the President of Azerbaijan Republic, resolutions of the Cabinet of Ministers of Azerbaijan Republic;

2) the Supreme Court of Azerbaijan Republic that has adopted the guidelines which do not conform to the Constitution and laws of Azerbaijan Republic;

3) a local self-government body that has adopted municipal act which do not conform to the Constitution and laws of Azerbaijan Republic, decrees of the President of Azerbaijan Republic, resolutions of the Cabinet of Ministers of Azerbaijan Republic (in Nakhchivan Autonomous Republic also the Constitution and laws of Nakhchivan Autonomous Republic, resolutions of the Cabinet of Ministers of Nakhchivan Autonomous Republic);

4) an official who has signed the interstate agreement on behalf of Azerbaijan Republic which has not come into force and does not conform by opinion of petitioner to the Constitution of Azerbaijan Republic;

5) an official who has signed intergovernmental agreement on behalf of Azerbaijan Republic which does not conform on opinion of the petitioner to the Constitution and laws of Azerbaijan Republic;

6) political parties and other public associations, which elimination is requested by a petitioner;

7) legislative, executive or judicial body accused by petitioner of infringement of the separation of powers;

In the constitutional proceedings the petitioners and respondents can be represented by their legal representatives.

#### **Article 47. Interested Parties to the Constitutional Special Proceedings.**

The interested subjects of the constitutional special proceedings shall be the bodies which submitted a petition to the Constitutional Court in cases provided for by the Constitution of Azerbaijan Republic, and bodies and individuals whose interests are affected by such petitions.

The interested parties may be represented by their legal representatives in constitutional special proceedings.

#### **Article 48. Rights and Liabilities of Parties and Interested Subjects**

The parties and interested subjects shall have the right to get acquainted with the materials of the constitutional case, take extracts from them and make copies. During consideration of the case, the parties and interested subjects may declare objections, present evidence, participate in the surveys of evidence, put questions to each other, as

well as to the witnesses and experts, submit petitions, answer questions put to them, object to petitions, evidences and statements from the other party and present the final statement.

The parties and interested subjects shall respect the Constitutional Court and comply with the requirements of the special constitutional proceedings. The parties and interested subjects must appear before the Constitutional Court in due time, observe the order adopted in the Constitutional Court and comply immediately with the orders of the Judge presiding over the session of Constitutional Court.

#### **Article 49. Witnesses.**

A person possessing any information regarding the constitutional case examined at the session of the Constitutional Court shall be a witness. A witness may be summoned to the session of the Constitutional Court with the view to give witness testimonies upon proposals of the petitioner, respondent, subject concerned or decision of the Constitutional Court.

A witness shall present testimonies concerning the facts known to him/her, which are to be ascertained within the constitutional case.

A witness shall respect the Constitutional Court and observe requirements of constitutional proceedings. A witness shall respect the procedure established in the Constitutional Court and execute immediately the orders of the Judge presiding over the session of the Constitutional Court.

#### **Article 50. Experts**

Persons possessing scientific or other specialized knowledge on the constitutional case examined at the session of the Constitutional Court may be invited in their capacity as experts by the Constitutional Court, the Reporter Judge, the parties or interested subjects. The expert shall present the written opinion on the case.

Expert shall provide impartial and well-grounded answers to questions put to them. In order to answer the questions, experts may apply to the Constitutional Court with the requests to get acquainted with all the materials of the constitutional case and any other necessary documents. In case if expert considers that the presented materials are not sufficient to answer the questions put, or unable to answer them as not sufficiently knowledgeable, they should inform the Constitutional Court. In order to answer the questions posed, experts may with the permission of the Judge presiding over the Constitutional Court put questions to the parties, interested subjects and witnesses.

Experts should respect the Constitutional Court and observe the requirements of the constitutional proceedings. Experts must appear promptly to the summons of the Constitutional Court, respect the procedure adopted by the Constitutional Court and execute immediately the orders of the Judge presiding over the session of the Constitutional Court

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**Article 51. Responsibility for Breach of Procedure of Constitutional Proceedings**

With the view to ensure the implementation of constitutional proceedings the administrative measures in the form of the fine at the rate from 5 to 25 minimum salaries shall be provided for:

- interference with the procedural activity of the Judges of Constitutional Court as well as for the attempt of pressure on the Judges by means of non-procedural methods;
- failure to execute without a good reason and in within the determined procedure and terms the requests of the Judges of Constitutional Court as well as the resolutions of Constitutional Court;
- breach of the judicial oath;
- demonstration of the contempt of the Constitutional Court expressed via noncompliance with the orders of the Judge presiding over the session, breach of the order during the session as well as performance of other actions displaying the obvious contempt of the Constitutional Court and the procedure of constitutional proceedings;

Measures of administrative responsibility shall be applied by the Judge presiding over the session and entered into the Minutes of the session.

Payment of the fine shall be carried out within 15 days from the date of notification of the person about the imposing of such fine.

**Article 52. Commencement of Consideration of Constitutional Case in the Constitutional Court.**

The consideration of a constitutional case in the Constitutional Court shall commence with a verification of presence of participants in the Court.

The Judge presiding over the session of the Constitutional Court shall give a word to the clerk of the court session to provide information regarding presence of the parties, interested subjects, witnesses and experts in court, as well as the reasons for absence of those not participating in the session.

The Judge presiding over the session of the Constitutional Court shall announce denomination of the constitutional case, as well as composition of the Constitutional Court participating in the session, the clerk of the court session, the parties, interested subjects and, when necessary, verify authorities of the parties and the interested subjects.

**Article 53. Explanation of Rights and Liabilities to Persons Participating in Examination of Constitutional Cases.**

The Judge presiding over the session of the Constitutional Court shall explain rights and obligations to each person participating in examination of the constitutional case.

**Article 54. Consequences of the Default of Persons Participating in Examination of a Constitutional Case at the Session of the Constitutional Court.**

In case of default of any person participating in the consideration of a constitutional case at a session of the Constitutional Court, the Constitutional Court shall hear the opinions of the parties and interested subjects on the possibility to examine the case in the absence of the person who has not appeared and shall make a decision on continuation of examination of the case or postponement to another date.

**Article 55. Removal of Witnesses from the Hall of the Session of the Constitutional Court Prior to Hearing Them.**

Witnesses participating in examination of a constitutional case shall be removed from the hall of a session of the Constitutional Court prior to hearing them.

**Article 56. Statement of the Reporter Judge**

Examination of essence of constitutional case shall commence with the report of the Reporter Judge. The Reporter Judge shall explain the essence of the matter considered, analyze the circumstances of the constitutional case, briefly give a summary of the contents of the documents in the constitutional case and the measures undertaken to prepare the matter for examination.

The Reporter Judge shall not have the right to predetermine the decision of the constitutional case. Judges of the Constitutional Court may put questions to the Reporter Judge.

**Article 57. Resolution of Solicitations**

During examination of the constitutional case the parties, interested subjects and experts shall have the right to submit solicitations to the Constitutional Court.

Solicitations submitted in a written form shall be read out by the Clerk of the court session and enclosed to the constitutional case following the instructions of the Judge presiding over the session of Constitutional Court.

Solicitations shall be accepted or rejected by the rulings adopted at the same session of Constitutional Court.

**Article 58. Right of the Constitutional Court to Use Newly-Opened Evidence**

While examining the constitutional case, the Constitutional Court may adopt a ruling to summon new witnesses and experts, as well as to demand additional documents and materials.

**Article 59. Statements of the Parties During Constitutional Proceedings.**

During constitutional proceedings, following the statement of the Reporter Judges, the Judge presiding over the session of the Constitutional Court shall give the floor to the parties.

The parties may be represented by several representatives and each of them shall have the right to speak at the session.

Following statements of both of the parties, the Judge presiding over the session of the Constitutional Court shall provide the Judges with the opportunity to question the party that made a statement. Then the opportunity to question shall be given to another party.

### **Article 60. Presentations by the Interested Subjects in the Course of Constitutional Special Proceedings.**

In the course of constitutional special proceedings, after the statement of the Reporter Judge, the Judge presiding over the session of the Constitutional Court shall give the floor to the interested subjects.

Interested subjects may be represented by several representatives and each of them shall have the right to speak at the session.

After presentations of each of the interested subjects, the Judge presiding over the session of the Constitutional Court shall give Judges the opportunity to question the interested subject who had made a statement. The opportunity to pose questions shall be given to another interested subject.

### **Article 61. Hearing Witnesses**

A witness before hearing shall be adjured and warned of responsibility for the wittingly false testimonies.

The Judge presiding over the session of the Constitutional Court shall invite each witness to inform the Constitutional Court of circumstances known to them, relating to the constitutional case. After the presentation of the witness, the questions may be put to him/her. Judges of the Constitutional Court may put questions to the witnesses at any time during hearings of the latter ones.

### **Article 62. Announcement of Documents.**

Documents enclosed to the materials of the constitutional case or submitted to the Court during the court session shall be announced at the session of the Constitutional Court. Subsequently the parties and interested subjects shall be enabled to present their clarifications in connection with the announced documents.

### **Article 63. Hearing the Experts.**

An Expert before statement shall be adjured and warned of responsibility for the wittingly false opinions.

The Judge presiding over the session of the Constitutional Court shall invite the experts to express their opinions on the examined case to the Constitutional Court. As the expert have expressed their opinions the questions may be posed to him/her.

#### **Article 64. Postponement of a Session**

Examination of a case may be postponed, if:

- 1) the case has not been prepared insufficiently and its further study is required;
- 2) the new evidences must be considered;
- 3) the other good reasons arose;

In this case the Constitutional Court shall appoint a new date of a session. The session on a case, which examination is postponed shall start from the beginning or the moment it was postponed from.

#### **Article 65. Concluding Statements of the Parties and Concluding Remarks of the Interested Subjects.**

In the course of constitutional proceedings the parties, and in the course of special constitutional proceedings - the interested subjects, shall be enabled to deliver concluding statements. The Constitutional Court may grant to the parties the time to prepare their concluding statements.

Following the concluding statements by the parties and interested subjects, the Constitutional Court shall adopt the ruling to retire to the deliberative room.

#### **Article 66. Resumption of Examination of a Case**

If after concluding statements of parties, the Constitutional Court recognizes as necessary to ascertain additional circumstances which are essential for the case or examine the new evidences, it shall adopt the ruling on resumption of examination of the case.

Upon completion of additional examination, the parties shall have the right to repeated concluding statements but only in connection with the newly examined circumstances and evidences.

#### **Article 67. Discontinuance of the Proceedings on a Case**

The Constitutional Court shall discontinue the proceedings on a case if any grounds to reject the acceptance of a petition, application or complaint are discovered during the session.

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**Article 68. Minutes of Court Sessions.**

The Clerk of the court session shall keep minutes of the session of Constitutional Court. The Minutes of the court session shall include as follows:

- 1) date of the session of Constitutional Court;
- 2) place of the session of Constitutional Court;
- 3) First, middle and last names of the Judge presiding over the session of the Constitutional Court;
- 4) First, middle and last names of the Judges of the Constitutional Court participating at the session of the Constitutional Court;
- 5) First, middle and last names of the Clerk of the court session of Constitutional Court;
- 6) agenda of the Constitutional Court;
- 7) information concerning the parties, interested subjects and their representatives participating in examination of the constitutional case;
- 8) information concerning the attendance of the parties, interested subjects, witnesses and experts participating in examination of the constitutional case;
- 9) information concerning the actions of Constitutional Court in their sequence;
- 10) Statement of the Reporter Judge as well as presentations and solicitations of the parties, interested subjects, questions put to them and answers;
- 11) orders of the Judge presiding over the session of Constitutional Court and rulings adopted by the Constitutional Court;
- 12) presentations of witnesses and experts, questions posed to them and answers;
- 13) concluding statements of the parties or concluding remarks of the interested subjects;

Each page of the Minutes of the session of Constitutional Court shall be signed by the Judge presiding over the session of Constitutional Court and the Clerk of court session. Minutes shall be enclosed to the materials of the constitutional case.

The parties or interested subjects shall have access to the Minutes of the session of Constitutional Court and may present their comments thereto.

The Constitutional Court shall examine within a period of 10 days the comments concerning the minutes of Constitutional Court and adopt a well-grounded decision as to enclosure or rejection of the comments to the Minutes.

**CHAPTER VIII. SPECIFIC FEATURES OF CONSTITUTIONAL PROCEEDINGS ON VARIOUS TYPES OF CONSTITUTIONAL CASES**

**Article 69. Procedure of Submission of Petitions and Complaints to the Constitutional Court in Cases Specified in Articles 130.3.1-5 and 130.3.8 of the Constitution of Azerbaijan Republic**

In cases specified by Articles 130.3.1-5 and 130.3.8 of the Constitution of Azerbaijan Republic, petitions or complaints shall be submitted to the Constitutional Court in written form.



A petition or complaint shall meet the requirements of Article 28 of the present Law.

The documents indicated in Article 29 of the present Law shall be enclosed to a petition or complaint and the documents indicated in Article 31 of the present Law shall be additionally enclosed to a complaint.

**Article 70. Terms of Consideration of a Petition or Complaint in Cases Provided for by Articles 130.3.1-5 and 130.3.8 of the Constitution of Azerbaijan Republic**

After a petition or complaint provided for by Articles 130.3.1-5 and 130.3.8 of the Constitution of Azerbaijan Republic has been submitted to the Constitutional Court, the Constitutional Court shall within 15 days consider it at the session and adopt a ruling whether to accept it for or reject its examination.

The ruling on acceptance or rejection of examination of a petition or complaint shall be sent within 7 days after its adoption to a body or official who submitted a petition or a person who lodged a complaint.

The examination in essence of a petition or complaint by the Constitutional Court shall be commenced within 60 days after acceptance for examination.

**Article 71. Procedure for Submission of Petitions Concerning Non-Conformity of Interstate Agreements with the Constitution and Intergovernmental Agreements with the Constitution and Laws of Azerbaijan Republic**

In cases provided for by Article 130.3.6 of the Constitution of Azerbaijan Republic, the petition in written form shall be submitted to the Constitutional Court.

A petition should meet the requirements of Article 28 of the present Law.

The documents indicated in Article 29 of the present Law shall be enclosed to a petition.

**Article 72. Terms of Consideration of Petitions Concerning Non-Conformity of Interstate Agreements with the Constitution and Intergovernmental Agreements with the Constitution and Laws of Azerbaijan Republic**

After a petition provided for by Articles 130.3.6 of the Constitution of Azerbaijan Republic has been submitted to the Constitutional Court, the Constitutional Court shall within 15 days consider it at the session and adopt a ruling whether to accept it for or reject its examination.

The ruling on acceptance or rejection of examination of a petition shall be sent within 7 days after its adoption to a body or official who submitted the petition.

The examination in essence of a petition by the Constitutional Court shall be commenced within 60 days after its acceptance for examination.

In case, if a petition had been submitted before the interstate or intergovernmental agreements of Azerbaijan Republic came into force then the mentioned agreements shall not be approved until examination of the case risen in the petition is completed.

**Article 73. Procedure for Submission of Petitions Concerning Elimination of Political Parties and Other Public Associations.**

In cases provided for by Article 130.3.7 of the Constitution of Azerbaijan Republic, a petition in written form shall be submitted to the Constitutional Court.

A petition should meet the requirements of Article 28 of the present Law.

The documents indicated in Article 29 of the present Law shall be enclosed to a petition.

**Article 74. Terms of Consideration of Petitions Concerning Elimination of Political Parties and Other Public Associations**

After a petition on elimination of political parties and other public associations has been submitted to the Constitutional Court, the Constitutional Court shall within 7 days consider it at the session and adopt a ruling whether to accept for or reject its examination.

The ruling on acceptance or rejection of examination of a petition shall be sent the day of its adoption to a body or official who submitted a petition and also the political party or public association. The examination of a petition by Constitutional Court shall be commenced within 45 days after its acceptance for examination.

**Article 75. Procedure for Submission of Petitions on Disputes Concerning Separation of Powers Among the Bodies of Legislature, Executive and Judiciary**

In cases provided for by Article 130.3.9 of the Constitution of Azerbaijan Republic, a petition in written form shall be submitted to the Constitutional Court.

A petition should meet the requirements of Article 28 of the present Law.

The documents indicated in Article 29 of the present Law shall be enclosed to a petition.

**Article 76. Terms of Consideration of Petitions on Disputes Concerning Separation of Powers Among the Bodies of Legislature, Executive and Judiciary.**

After a petition on the disputes concerning separation of powers among Legislature, Executive and Judiciary has been submitted to the Constitutional Court, the Constitutional Court shall within 7 days consider it at the session and decide whether to accept for or reject its examination.

The ruling on acceptance or rejection of examination of a petition shall be sent the day of its adoption to a body or official who submitted a petition.

The examination of a petition by Constitutional Court shall be commenced within 45 days after its acceptance for examination.

**Article 77. Procedure for Submission of Petitions on Interpretation of the Constitution of Azerbaijan Republic and Laws of Azerbaijan Republic.**

In cases provided for by Article 130.4 of the Constitution of Azerbaijan Republic, petitions shall be submitted in written form.

A petition shall meet the requirements of Article 28 of the present Law.

The documents indicated in Article 29 of the present Law shall be enclosed to a petition.

**Article 78. Terms of Consideration of a Petition Concerning Interpretation of the Constitution and Laws of Azerbaijan Republic.**

After a petition on interpretation of the Constitution and Laws of Azerbaijan Republic has been submitted to the Constitutional Court, the Constitutional Court shall within 15 days consider it at the session and adopt a ruling whether to accept for or reject its examination.

The ruling on acceptance or rejection of examination of a petition shall be sent within 7 days from the date of its adoption to a body or official who submitted the petition.

The examination of a petition by the Constitutional Court shall be commenced within 60 days after its acceptance for examination.

**Article 79. Procedure of Consideration of Petitions Submitted by the Milli Mejlis of Azerbaijan Republic as to Verification of Information Concerning Complete Inability of the President of Azerbaijan Republic to Execute His/Her Duties due to the State of Health.**

In cases specified by Article 104.3 of the Constitution of Azerbaijan Republic, the Milli Mejlis of Azerbaijan Republic shall adopt a relevant resolution on a written petition to the Constitutional Court:

The petition shall include the following:

- 1) denomination of Constitutional Court;
- 2) date of the session of the Milli Mejlis of Azerbaijan Republic;
- 3) Article of the Constitution of Azerbaijan Republic enabling the Milli Mejlis of Azerbaijan Republic to submit a petition to Constitutional Court and approving the authorities of the Constitutional Court to examine this petition;
- 4) the source of information concerning complete inability of the President of Azerbaijan Republic to execute his/her duties;

- 5) a list of documents and materials enclosed to a petition;
- 6) a list of persons who will participate at the session of Constitutional Court from the Milli Mejlis of Azerbaijan Republic;
- 7) signature of the Chairman of the Milli Mejlis of Azerbaijan Republic;

**Article 80. Rejection to Consider the Petition Submitted by the Milli Mejlis of Azerbaijan Republic as to Verification of Information Concerning Complete Inability of the President of Azerbaijan Republic to Execute His/Her Duties due to the State of Health**

The Constitutional Court shall refuse to consider petitions submitted by the Milli Mejlis of Azerbaijan Republic as to verification of information concerning complete inability of the President of Azerbaijan Republic to execute his/her duties due to the state of health in the following cases:

- if a petition was adopted at the session of the Milli Mejlis of Azerbaijan Republic at which the quorum established by the Constitution of Azerbaijan Republic was not available or if the petition did not collect the required majority of votes;
- if a petition does not meet the requirements of Article 78 of the present Law;

**Article 81. Terms of Consideration of the Petitions Submitted by the Milli Mejlis of Azerbaijan Republic as to Verification of Information Concerning Complete Inability of the President of Azerbaijan Republic to Execute His/Her Duties due to the State of Health.**

Petition submitted by the Milli Mejlis of Azerbaijan Republic as to verification of information concerning complete inability of the President of Azerbaijan Republic to execute his/her duties due to the state of health shall be brought for examination at the session of the Constitutional Court within 3 days after its receipt by Constitutional Court and the ruling concerning the acceptance or rejection of examination of a petition in question shall be adopted.

The ruling on acceptance or rejection of examination of a petition shall be adopted by the majority of not less than 5 Judges. The ruling on acceptance or rejection to examine a petition shall be sent to the President of Azerbaijan Republic and the Milli Mejlis of Azerbaijan Republic on the day of its adoption.

Examination in essence of petition shall be commenced within 7 days from the day of its acceptance for examination.

A decision of the Constitutional Court on impeachment of the President of Azerbaijan Republic in connection with his/her complete inability to execute his/her duties due to the state of health shall be adopted by the majority of 6 Judges.

In case if Constitutional Court does not confirm the fact of complete inability of the President of Azerbaijan Republic to execute his/her duties due to the state of health the matter shall be considered as settled and written information about that shall be sent immediately to the Milli Mejlis of Azerbaijan Republic.

**Article 82. Procedure of Consideration of Application of the President of Azerbaijan Republic on Retirement.**

In cases specified by Article 104.2 of the Constitution of Azerbaijan Republic, the President of Azerbaijan Republic shall submit a written application to the Constitutional Court.

The Constitutional Court of Azerbaijan Republic shall not be enabled to reject the consideration of application of the President of Azerbaijan Republic on retirement.

The application of the President of Azerbaijan Republic on retirement shall be examined in essence by the Constitutional Court within 3 days after its receipt.

In case if the Constitutional Court is confident in voluntary character of the application of the President of Azerbaijan Republic it shall adopt a decision concerning the acceptance of retirement of the President of Azerbaijan Republic.

In case if the Constitutional Court is not convinced that the application on retirement of the President of Azerbaijan Republic was submitted voluntarily, the decision on non-acceptance of retirement of the President of Azerbaijan Republic shall be adopted.

These decisions shall be adopted by the Constitutional Court by the majority of not less than 5 Judges and immediately sent to the Milli Mejlis of Azerbaijan Republic.

**Article 83. Procedure of Consideration of Impeachment of the President of Azerbaijan Republic.**

According to Article 107.1 of the Constitution of Azerbaijan Republic, in case if the President commits a grave crime the Constitutional Court may bring an initiative to dismiss the President of Azerbaijan Republic from office.

The proposal concerning impeachment of the President of Azerbaijan Republic shall be submitted by not less than three Judges of the Constitutional Court. This proposal shall be submitted in written form to the Chairman of the Constitutional Court. Within the period of 3 days after proposal was made a session of the Constitutional Court shall be called to examine this matter. If the Constitutional Court finds this proposal groundless, the majority of 5 Judges shall be required to adopt the decision about that.

If the proposal is found well-grounded, the Constitutional Court shall submit a matter to the Supreme Court of Azerbaijan Republic in order to receive an opinion on whether the President of Azerbaijan Republic has committed a grave crime. A decision on this matter shall be adopted by the majority of 6 Judges of Constitutional Court. Within 30 days after receipt of a matter, the Supreme Court of Azerbaijan Republic shall examine it and provide the Constitutional Court with the written opinion.

If the Constitutional Court comes to conclusion that no grave crime was found in the actions of the President of Azerbaijan Republic, the matter shall be considered as settled.

Taking into consideration the opinion of the Supreme Court of Azerbaijan Republic, the Constitutional Court by majority of 7 Judges can adopt a decision as to

bringing an initiative on impeachment of the President of Azerbaijan Republic in connection with the presence of a grave crime in his/her actions. This decision shall be immediately sent to the Milli Mejlis of Azerbaijan Republic.

If the Milli Mejlis of Azerbaijan Republic according to the procedure specified by Article 107.2 of the Constitution of Azerbaijan Republic adopts a resolution on impeachment of the President of Azerbaijan Republic, then this resolution shall be immediately sent to Constitutional Court. Having received the resolution of the Milli Mejlis of Azerbaijan Republic, the Constitutional Court shall verify within 7 days whether the requirements of the Constitution and relevant Laws of Azerbaijan Republic were observed at the adoption of this resolution. The decision of the Constitutional Court supporting the resolution of the Milli Mejlis of Azerbaijan Republic shall be adopted by majority of not less than 7 Judges. The resolution of the Milli Mejlis of Azerbaijan Republic on impeachment of the President of Azerbaijan Republic shall be signed by the Chairman of the Constitutional Court according to the Article 107 of the Constitution of Azerbaijan Republic.

If Constitutional Court does not adopt decision supporting the resolution of the Milli Mejlis of Azerbaijan Republic, then the resolution of the Milli Mejlis of Azerbaijan Republic on impeachment of the President of Azerbaijan Republic shall not enter into force.

#### **Article 84. Procedure of Verification and Confirmation of the Results of the Elections to the Milli Mejlis of Azerbaijan Republic.**

According to Article 86 of the Constitution of Azerbaijan Republic, the Constitutional Court shall verify and confirm the results of the elections of deputies to the Milli Mejlis of Azerbaijan Republic. The procedure of verification and confirmation of accuracy of the elections of deputies to the Milli Mejlis shall be determined by the legislation of Azerbaijan Republic. The Constitutional Court shall not be enabled to consider the disputes regarding actual circumstances of holding the elections and calculation of votes.

Session of the Constitutional Court devoted to verification of the accuracy of the results of general elections of deputies to the Milli Mejlis shall be commenced within 20 days from the day of receipt of materials.

Session of the Constitutional Court devoted to verification of the accuracy of the results of repeated elections of deputies to the Milli Mejlis shall be commenced within 20 days from the day of receipt of materials.

Several Reporter Judges may be appointed for examination of this matter.

Chairman and members of the Central Election Commission as well as other persons invited by the Constitutional Court may participate at the session of Constitutional Court held with the view to verify the accuracy of elections of deputies to the Milli Mejlis of Azerbaijan Republic.

Following the results of verification, the Constitutional Court may by a majority of not less than 5 Judges adopt a decision on complete confirmation, partial confirmation or non-confirmation of the results of the elections of deputies to the Milli Mejlis of Azerbaijan Republic.

**Article 85. Procedure of Fixing the Date of the First Session of the Newly-Elected Milli Mejlis of Azerbaijan Republic.**

According to Article 88.1 of the Constitution of Azerbaijan Republic the Constitutional Court shall fix the date of the first session of the newly-elected Milli Mejlis of Azerbaijan Republic in case if powers of the 83 deputies have not been confirmed by the 1<sup>st</sup> February after the elections.

If the Constitutional Court confirms the election of the 83 deputies of the Milli Mejlis of Azerbaijan Republic after 1<sup>st</sup> February then the date of the first session of the newly-elected Milli Mejlis shall be fixed at the same session of Constitutional Court.

Decision on this matter shall be adopted by a majority of not less than 5 Judges of the Constitutional Court.

**Article 86. Procedure of Consideration of a Matter Concerning the Opinions of Constitutional Court with regard to Proposals on Introduction of Modifications to the Text of the Constitution of Azerbaijan Republic Set Forth by the Milli Mejlis or the President of Azerbaijan Republic.**

According to Article 153 of the Constitution of Azerbaijan Republic in case if the proposals on introduction of modifications to the text of the Constitution of Azerbaijan Republic are set forth by the Milli Mejlis or the President of Azerbaijan Republic, the opinion of the Constitutional Court on the proposed modifications shall be required.

Text of proposed modifications shall be brought for discussion at the session of the Constitutional Court within 7 days from the day of their receipt by Constitutional Court.

A well-grounded opinion as to expediency of the proposed modifications to the principles of the Constitution of Azerbaijan Republic shall be adopted by the Constitutional Court.

If a referendum on introduction of modifications to the text of the Constitution of Azerbaijan Republic is held, then a summary of the opinion of the Constitutional Court shall be included into a voting-paper.

**CHAPTER IX. ACTS OF CONSTITUTIONAL COURT**

**Article 87. Acts of Constitutional Court.**

The Constitutional Court shall adopt resolutions and rulings

**Article 88. Resolution of Constitutional Court**

The resolution of Constitutional Court shall be the written document adopted at the sessions of Constitutional Court and containing the conclusions of Constitutional Court obtained as a result of examination of the constitutional case in essence.

Resolutions of Constitutional Court shall be adopted on behalf of Azerbaijan Republic.

Resolutions of Constitutional Court shall be final and cannot be cancelled, modified or interpreted by any body or official.

Resolutions of Constitutional Court shall be signed by the Judge presiding over the session of Constitutional Court.

### **Article 89. Procedure of Adoption of Resolutions of the Constitutional Court.**

Resolutions of Constitutional Court shall be adopted in the deliberative room. Upon completion of examination of the constitutional case by Constitutional Court, the Judges shall retire to deliberative room in order to adopt a resolution. Only those Judges participating in examination of constitutional case may be present in deliberative room. Presence of other persons in deliberative room shall not be permitted.

The meeting shall be presided by the Judge presiding over the session of Constitutional Court. After an exchange of opinions by the Judges, the open vote shall be held. Judge of the Constitutional Court shall not be enabled to obtain or deviate from voting.

The Chairman of Constitutional Court shall be the last to vote.

No information concerning circumstances which took place in deliberative room shall be disseminated by Judges of Constitutional Court.

Written resolution of Constitutional Court shall be prepared by either the Reporter Judge or by another Judge on the instruction of the Chairman of the Constitutional Court.

### **Article 90. Dissenting Opinion of a Judge of the Constitutional Court**

Judge of the Constitutional Court who disagrees with the resolution of the Constitutional Court may express the dissenting opinion in written form. The dissenting opinion of the Judge of the Constitutional Court shall be attached to the resolution of Constitutional Court.

The dissenting opinion of a Judge shall be enclosed to the materials of case as well as published along with the resolution of Constitutional Court.

### **Article 91. Contents of Resolution of the Constitutional Court**

The resolution of Constitutional Court shall consist of three parts: introductory, descriptive and resolute ones.

An introductory part of the resolution of Constitutional Court shall include as follows:

- denomination of resolution;
- date and place of adoption of resolution;



- composition of Constitutional Court;
- Clerk of court session, parties or interested subjects;

A descriptive part of the resolution of Constitutional Court shall include as follows:

- actual circumstances of constitutional case;
- information on the documents of constitutional case;
- the facts established during examination of constitutional case;
- information on the normative legal acts used at examination of constitutional case;

A resolute part of the resolution of the Constitutional Court shall include as follows:

- Articles of Constitution or other laws of Azerbaijan Republic which the Constitutional Court is guided by when adopting a resolution;
- arguments substantiating the conclusions of Constitutional Court on Constitutional Case;
- procedure of entry of resolution into the force and procedure of its publication;

The resolution of Constitutional Court shall be well-reasoned

#### **Article 92. Announcement of Resolutions of Constitutional Court**

After adoption of resolution, the Judges shall return to the hall of court session and the Judge presiding over the session shall announce the resolution.

#### **Article 93. Legal Force of Resolutions of Constitutional Court**

According to Article 130.6 of the Constitution of Azerbaijan Republic, the resolutions of Constitutional Court shall have binding force through out the territory of Azerbaijan Republic.

Resolutions of Constitutional Court shall be binding after their adoption. Persons who do not comply with resolutions of Constitutional Court shall bear the responsibility according to Article 51 of the present Law as well as the criminal responsibility via the procedure specified by the legislation of Azerbaijan Republic.

#### **Article 94. Terms of Entry Into Force of Resolution of Constitutional Court.**

The resolutions of Constitutional Court shall enter into legal force at the following periods of time:

1) resolutions adopted in connection with the cases specified by Article 130.3.1-6 and 130.3.8 of the Constitution of Azerbaijan Republic shall enter into force from the date specified in the resolutions themselves;

2) resolutions on elimination of political parties and other public associations, separation of powers between the Legislature, Executive and Judiciary as well as on

interpretation of the Constitution and laws of Azerbaijan Republic shall enter into force from the date of their publication;

3) Resolutions on other matters within the jurisdiction of Constitutional Court shall enter into force from the date of their announcement;

**Article 95. Loss of Legal Force or Non-Entry Into Legal Force of Laws and Other Acts upon Resolutions of the Constitutional Court of Azerbaijan Republic.**

According to Article 130.7 of the Constitution of Azerbaijan Republic, laws, other legal acts or their specific provisions and intergovernmental agreements of Azerbaijan Republic shall lose their legal force and the interstate agreements of Azerbaijan Republic shall not enter into force in terms specified in the resolution of Constitutional Court.

**Article 96. Inadmissibility of Official Interpretation of Resolutions of Constitutional Court**

No person or body shall be enabled to interpret officially the resolutions of the Constitutional Court.

**Article 97. Rulings of the Constitutional Court**

The Constitutional Court shall adopt rulings in order to accept the matters for examination, settle matters arising during sessions of the Constitutional Court as well as in other cases specified by the present Law.

Rulings of the Constitutional Court shall be adopted by a majority of 5 Judges.

Rulings of the Constitutional Court adopted during examination of the constitutional case shall be entered into the Minutes of the sessions of Constitutional Court while other rulings of the Constitutional Court shall be published.

**Article 98. Publication of Acts of Constitutional Court**

The Resolutions of Constitutional Court as well as the rulings to be promulgated shall be published in the official newspaper of Azerbaijan Republic.

All resolutions and rulings of Constitutional Court, shorthand reports of public sessions of Constitutional Court and other materials connected with the activity of the Constitutional Court shall be published in "Азәрбайжан Республикасы Конституция Мящкмясинин Мялуматы" (Newsletter of the Constitutional Court of Azerbaijan Republic).

**CHAPTER X. ARRANGEMENT AND SUPPLIES FOR THE ACTIVITIES OF CONSTITUTIONAL COURT**

### **Article 99. Internal Regulations of the Constitutional Court.**

With a view to arrange its activities, the Constitutional Court shall adopt the Internal Regulations to be approved by a resolution.

On the basis of the present Law, the Internal Regulations of Constitutional Court shall determine: the procedure of assignation of the personal composition of Chambers, distribution of cases among them; determination of the sequence of consideration of cases at the sessions of Plenum and Chambers; some rules of procedure and etiquette during the sessions; peculiarities of record keeping in Constitutional Court; requirements to the staff of Constitutional Court and other matters of the internal activities of the Constitutional Court.

### **Article 100. Symbols of Constitutional Court.**

The State flag of Azerbaijan Republic, State coat of arms of Azerbaijan Republic and the official emblem of Constitutional Court shall be the symbols of Constitutional Court.

Judges of Constitutional Court shall wear special uniform (cloak) at the sessions of the Court and special official clothing at the ceremony of adjuration of the President and other public measures.

Images of the official emblem of Constitutional Court and special uniform of Judges of Constitutional Court as well as Regulations on them shall be approved by a resolution of Constitutional Court.

### **Article 101. The Badge and Identity Documents of Judges of Constitutional Court.**

Judges of the Constitutional Court shall be provided with the badges and identity documents.

Image of the badge and identity documents as well as Regulations on them shall be approved by a resolution of Constitutional Court

### **Article 102. The Seal of the Constitutional Court.**

The Constitutional Court shall possess the seal depicting the State coat of arms of Azerbaijan Republic and denomination of Constitutional Court.

Description of the seal of Constitutional Court shall be approved by a decision of Constitutional Court.

### **Article 103. Location of Constitutional Court**

The Constitutional Court shall be located in Baku city.

Sessions of Constitutional Court shall be held in the building of Constitutional Court. In case if for any reasons the session of Constitutional Court cannot be held in the building of Constitutional Court, the sessions may be held at another place following instructions of the Chairman of Constitutional Court.

Order in the building of the Constitutional Court shall be determined by the Internal Regulations of the Constitutional Court.

#### **Article 104. Financial Support for the Activities of Constitutional Court**

Activities of the Constitutional Court shall be financed from the State budget of Azerbaijan Republic. The means allocated annually for the activities of Constitutional Court shall not be reduced as compared to those ones allocated for the previous fiscal year.

The annual means allocated for the activities of Constitutional Court shall provide for the means to cover the expenses directed at ensuring the normal activities of Constitutional Court.

Proposals of Constitutional Court regarding the volume of expenses for maintenance of Constitutional Court for the next year shall be submitted to the relevant body of Executive with the view to be included into the draft of the State budget.

#### **Article 105. Salary and Allowances of the Judges of Constitutional Court**

The material security of Judges of Constitutional Court shall consist of salary, rise, quarterly premium and other cash benefits established by the present Law.

Chairman of Constitutional Court shall receive the monthly salary equal to the official salary of Chairman of the Milli Mejlis of Azerbaijan Republic.

Deputy Chairman of the Constitutional Court shall receive the monthly salary equal to the official salary of first Deputy Chairman of the Milli Mejlis of Azerbaijan Republic.

Judge of the Constitutional Court shall receive the monthly salary equal to the official salary of Deputy Chairman of the Milli Mejlis of Azerbaijan Republic.

Judge of the Constitutional Court shall be paid monthly the tax-free allowances with the view of compensation of expenses connected with execution of their duties.

#### **Article 106. Vacation of Judges of Constitutional Court.**

A Judge of Constitutional Court shall be annually granted a vacation for a period of 40 calendar days.

Judges of the Constitutional Court shall be paid the tax-free cash benefits at the rate of two-month salary for the medical treatment or rest for the period of vacation.

Judges of the Constitutional Court and members of their families shall be rendered free-of-charge medical care at the clinics of relevant body of Executive of Azerbaijan Republic.

Not more than once per year, the relevant body of the Executive of Azerbaijan Republic shall ensure the right of Judges of Constitutional Court and members of their families to rest for free-of-charge at sanatoriums, rest homes, dude ranches and tourist centres of Azerbaijan Republic.

The rate of travel expenses of Judges of Constitutional Court shall be equal to the rate of expenses of the Chairman of Milli Mejlis of Azerbaijan Republic, provided for by the legislation of Azerbaijan Republic.

Vacation for Judge of the Constitutional Court shall be granted by the Chairman of the Constitutional Court.

#### **Article 107. Other Guarantees for Judges of the Constitutional Court.**

Judge of Constitutional Court shall be free from the military call-up and musters.

Health and life of Judge of the Constitutional Court shall be insured at the expense of the State budget on sum equal to his/her 5 years salary.

The detriment caused to the Judge of Constitutional Court or members of his/her family in connection with Judge's activity, as a result of destruction or damage of his/her property shall be indemnified to the Judge or members of his/her family in full. This detriment shall be indemnified for the expenses of State budget of Azerbaijan Republic via the procedure specified by the legislation of Azerbaijan Republic with further deduction of means from guilty persons.

With the view of ensuring the security of Judges of Constitutional Court the relevant body of the Executive of Azerbaijan Republic shall distribute office weapons to each Judge of the Constitutional Court via the procedure determined by the legislation of Azerbaijan Republic.

In case of real threat to life, health or property of the Judge of Constitutional Court or members of his/her family in connection with the Judge's activity, the relevant body of Executive of Azerbaijan Republic shall ensure the security of Judge of the Constitutional Court or members of his/her family on the basis of Judge's application.

Judge of the Constitutional Court who has no dwelling in Baku city shall be provided with the well-equipped apartment.

The place of permanent residence of a Judge of Constitutional Court shall be provided with the telephone communication.

#### **Article 108. The Staff of the Constitutional Court.**

The staff of the Constitutional Court shall provide legal, organizational, informational, material and technical, financial support and logistics for the activities of Constitutional Court.

The staff of Constitutional Court shall act according to the Internal Regulations on the Staff of Constitutional Court to be approved by the Chairman of the Constitutional Court.

With a view to ensuring its work the Constitutional Court may create a library, printing-office and scientific research centre.

The structure, list of staff members of Constitutional Court as well as the estimate of costs and salaries of employees shall be determined by the Chairman of the Constitutional Court.

The staff of the Constitutional Court shall pass attestation. The staff employers of the Constitutional Court shall be conferred the relevant rank upon the results of attestation. Procedure of passing attestation and conferring the rank shall be determined by the legislation of Azerbaijan Republic.

Staff of the Constitutional Court shall receive the monthly salary equal to the monthly salary of the staff of Milli Mejlis of Azerbaijan Republic as well as the rise to salaries for the class rank.

The Chairman of Constitutional Court shall manage the staff of Constitutional Court.

#### **Article 109. Obligations of the Staff of the Constitutional Court.**

The staff of Constitutional Court shall:

- ensure the activities of Constitutional Court and its Judges;
- prepare the reference papers and other informational materials necessary for the activities of Constitutional Court;
- provide the Constitutional Court with Clerks of court sessions;
- arrange shorthand reports of the sessions of the Constitutional Court;
- conduct the clerical work of Constitutional Court;
- ensure the registration and storage of the documents of Constitutional Court;
- resolve the material, technical, financial and domesticity matters connected with the activities of Constitutional Court and its Judges;
- fulfil various instructions of the Chairman, Deputy Chairman and Judges of the Constitutional Court connected with the activities of Constitutional Court;
- implement other duties arising in connection with the activities of Constitutional Court;

#### **Article 110. Rights and Liabilities of the Staff of Constitutional Court.**

Employees of the staff of Constitutional Court shall be recruited and dismissed by the Chairman of Constitutional Court.

The rights, liabilities and responsibilities of the employees of staff of Constitutional Court shall be regulated by the labour legislation of Azerbaijan Republic and the Internal Regulations on the Staff of Constitutional Court.

#### **Article 111. Entry Into Force of the Present Law**

The present Law shall come into force from the date of its publication.