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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON THE CONSTITUTIONAL COURT

Draft

L A W

On the Constitutional Court

Guided by the necessity to improve the organizational and functional basis of the Constitutional Court, to determine the statuses of judges and employees as well as the need to regulate the legal relationships of the Court with other public authorities,

The Parliament adopts the present law.

TITLE I

**STATUTE, ORGANIZATION AND COMPETENCE OF THE
CONSTITUTIONAL COURT**

Chapter I

**GENERAL PROVISIONS. STATUTE OF THE CONSTITUTIONAL
COURT**

Article 1. Constitutional Court - sole authority of constitutional jurisdiction

- (1) The Constitutional Court is the sole public authority vested with functions of constitutional jurisdiction.
- (2) The Constitutional Court:
 - a) guarantees the supremacy of the Constitution;
 - b) enforces the implementation of the principle of separation of powers in the state in the legislative, executive and judicial powers;
 - c) guarantees the responsibility of the state toward the citizen.

Article 2. Autonomy of the Constitutional Court

- (1) The Constitutional Court is independent from any other public authority and is subject only to the Constitution and legal acts that do not run counter it.

- (2) The Constitutional Court has its own budget that shall be included distinctly in the state budget.
- (3) The premises of the Constitutional Court are in the Chisinau municipality.
- (4) The Constitutional Court has its own technical-material base and transportation means required for its functioning.

Article 3. Principles of activity

- (1) The Constitutional Court shall operate based on the principles of:
 - a) independence;
 - b) collegiality;
 - c) publicity;
 - d) legality.

Article 4. Language of the constitutional jurisdiction

- (1) When notified, the Constitutional Court:
 - a) exercises the constitutional control of the normative acts adopted by the central public authorities;
 - b) gives interpretation of the Constitution;
 - c) exercises the *a priori* control of constitutionality of the international treaties;
 - d) decides upon the exceptions of non constitutionality of normative acts invoked by natural persons and law courts;
 - e) makes statements on the initiatives of revising the Constitution;
 - f) expresses its view concerning the observation of the procedure of passing constitutional laws;
 - g) confirms the results of elections of the Parliament and of the President of the Republic of Moldova;
 - h) ascertains the circumstances that justify the dissolution of the Parliament, dismissal of the President of the Republic of Moldova or the interim of the President's office, as well as the impossibility of President of the Republic of Moldova to fully exercise powers more that 60 days;

- i) verifies the observation of the procedure for organization and unfolding of the republican referendum and confirms its results;
 - j) decides upon issues of constitutionality of a party;
 - k) exercises the constitutionality control over the decisions of the Parliament on the issue of removing the immunity of the deputy or about the mandate cessation;
 - l) examines the statements on property and revenues of persons with high public positions at the beginning and at the end of the mandate, allows and study and the publication of these statements;
 - m) makes statements when notified by the Parliament on the issue of dismissal of the of the judges of the Supreme Court of Justice, Prosecutor General and the members of the Court of Audit.
- (2) There shall not be subject to the constitutionality control:
- constitutional laws;
 - acts issued by the central public authorities, that do not contain legal norms;
 - normative acts issued for the enactment of the laws, that are placed on the roll in the administrative jurisdiction.
- (3) The powers of the Constitutional Court may be amended or completed by means of a constitutional law.

Article 6. Functional competence of the Constitutional Court

- (1) The following functional issues fall under competence of the Constitutional Court:
 - a) election of the President and Deputy-president of the Constitutional Court;
 - b) approval of the Regulation on the Constitutional Court Secretariat, its structure and personnel staff, the Regulation of the Scientific-Consultative Council with the Constitutional Court, Regulation on the organization and unfolding of the contest for the position of assistant-judge of the Constitutional Court and the respective attestation procedure, the Regulation on attestation of the employees of the Constitutional Court's Secretariat, Regulation on the working tenure of the judges, assistant-judges and

employees of the Constitutional Court's Secretariat, other regulations related to the exercise of the functional powers of the Constitutional Court;

- c) elaboration the draft budget of the Constitutional Court and its presentation for approval in the Parliament;
 - d) determination of salaries, additional payments to the salaries, indemnities and pensions of the Presidents, deputy-presidents and judges of the Constitutional Court;
 - e) withdrawal of the judge's mandate in cases provided by the present law;
 - f) examination of the appeals on the advice from assistant-judges of the Constitutional Court;
 - g) determination of the main areas of activity with similar institutions from abroad;
 - h) approval of the annual report on the enforcement of constitutional jurisdiction;
 - i) other issues related to the activity of the Court.
- (2) The Constitutional Court issues judgements and decisions on matters indicated in the para. (1) of the present article.

Article 7. Ambit of competence

- (1) The Constitutional Court shall solve only issues placed under its competence.
- (2) The Constitutional Court shall establish for itself the ambit of competence. Exercising the constitutionality review of certain norms from the appealed legal act, the Constitutional Court may deliver a judgement with regard to other provisions from the challenged act as well as related to other normative acts the constitutionality of which depends entirely or partially on the constitutionality of the challenged act.
- (3) The Constitutional Court shall examine exclusively legal issues.

Article 8. Presumption of constitutionality of the normative acts

Any normative acts, as well as any international treaties that Republic of Moldova is a party to shall be considered as constitutional until the Constitutional Court delivers a judgement on the issue of non constitutionality.

Article 9. Structure

- (1) The Constitutional Court comprises 7 judges appointed for a 9 years mandate.
- (2) Two judges are appointed by the Parliament, two-by the Government, two - by the High Council of Magistrates and one - by the President of the Republic of Moldova.
- (3) Within the Constitutional Court are operating a first assistant-judge and 7 assistant judges, that are part of the corpus of magistrates.
- (4) The Secretariat shall be established within the Constitutional Court, which has the task to ensure the activity of the Court.
- (5) A Scientific-Consultative Council shall operate within the Constitutional Court.

Article 10. The mandatory character of the requests of the Constitutional Court

- (1) Public authorities, other legal entities, regardless of their type of property and legal form of organization, are obliged to communicate the information, to submit within a term of 15 days, the documents and acts requested by the Constitutional Court for the exercise of its duties.
- (2) Non-enforcement of par. (1) or its inadequate enforcement, as well as not appearing at the plenary sessions of the court due to reasons considered as ill-founded by the Court, shall be sanctioned according to the present law.

Article 11. Relationships of the Constitutional Court with other public authorities

- (1) The Constitutional Court shall present annually to the competent authorities entitled to appoint judges, reports on the exercise of constitutional jurisdiction in the state.
- (2) The report of the Constitutional Court shall be published in the Official Gazette.
- (3) The Constitutional Court shall inform the society through mass media means about its activity.

CHAPTER II**JUDGE OF THE CONSTITUTIONAL COURT****Article 12. Conditions of appointment of the judge of the Constitutional Court**

- (1) Judge of the Constitutional Court may be any citizen of the Republic of Moldova, who reached the age of 50, who speaks the state official language, with high legal education, high professional competence, with a work-experience of at least 15 years in the legal field within high legal institutions of education or scientific activity.
- (2) The candidates for the position vacancy, not less than three persons, shall be selected by the contest commissions composed by the authorities provided by art.9 para. (2) of the present law, announcing their names publicly. The procedure of proposing candidates may be instituted not earlier than 6 months before the expiry of the mandate of the in service judge.
- (3) The candidates for the position of a judge of the Constitutional Court shall present declarations on their revenues for the last 5 years.
- (4) The judge may be appointed at the Constitutional Court 3 months before the expiry of the mandate of his predecessor.
- (5) In the event of mandate's prior cessation of the Constitutional Court judge, the same authority shall appoint another judge in a one month term.
- (6) The appointment shall occur only with the prior written consent of the candidate. If the candidate holds a position incompatible with that of judge of the Constitutional Court or if he/she is a member of a political party or another social-political organization, the consent shall include the commitment of the candidate to resign on the day of taking the oath, from the previous position and to suspend the activity within the political party or social-political organization.
- (7) The appointment of the judge shall be registered by an act of the Parliament, Government, High Council of Magistrates, President of the Republic of Moldova.

Article 13. Oath

- (1) At the beginning of the office term, the judge of the Constitutional Court shall take, in front of the Parliament, Government, High Council of Magistrates and President of the Republic of Moldova, the following oath:
"I pledge to fulfill honestly and in good faith the obligations of judge of the Constitutional Court, to defend the constitutional order of the Republic of Moldova and to obey during the exercise of my duties to the Constitution only."
- (2) The judge shall start fulfilling his/her duties from the date when the oath was taken.

Article 14. Term of office

- (1) The term of office of the Constitutional Court judge is 9 years.

- (2) The judge of the Constitutional Court may hold this position only during one single mandate.
- (3) The age limit for holding the position of judge at the Constitutional Court is 70 years.
- (4) At the end of the term of office, the judge of the Constitutional Court shall exercise the mandate until the successor in office is sworn in.

Article 15. Qualification degree

The judge of the Constitutional Court shall benefit once appointed for this position, from the superior qualification degree of the judges for life.

Article 16. Independence

- (1) The judge of the Constitutional Court is independent during the mandate and shall be subject to the Constitution only.
- (2) The judge of the Constitutional Court shall not be held legally liable for their votes or opinions expressed during the performing of their mandate, as well as after its cessation.

Article 17. Immovability

- (1) The judge of the Constitutional Court is irremovable during the term of office.
- (2) The mandate of the judge of the Constitutional Court shall be suspended and withdrawn only in cases provided by the present law.
- (3) In case of revocation of mandate, the judge shall be dismissed under the terms given by the present Law.

Article 18. Right to resignation

- (1) The judge of the Constitutional Court is entitled to resign, upon request, without being obliged to disclose the reasons of the resignation.
- (2) The competent authority shall satisfy the resignation request of the judge and shall order the selection of another candidate for this position.

Article 19. Incompatibilities

- (1) The position of judge of the Constitutional Court is incompatible with any other public or private remunerated position, except for the didactic or scientific activity.
- (2) The obligations of the position of judge at the Constitutional Court shall be regarded as a priority toward the didactic or scientific activity.

Article 20. Immunity

- (1) The judge of the Constitutional Court may not be apprehended, arrested, searched, sent to the administrative or criminal trial without the prior consent of the Constitutional Court.
- (2) Adjudication competence for criminal and administrative offences committed by the judges of the Constitutional Court belongs to the Supreme Court of Justice.
- (3) Institution of criminal proceedings and request for approving the bringing to trial fall under the competence of the Prosecutor General, with the consent of the Constitutional Court's Plenum.

Article 21. Duties

The judge of the Constitutional Court has the duty:

- a) to keep the secrecy of deliberations and of the votes, and not to take a public attitude or give consultations on issues which are potential objects of notifications at the Constitutional Court;
- b) while adopting the acts of the Constitutional Court, to express an affirmative or negative vote;
- c) to refrain from any deed contrary to the status of judge.

Article 22. Suspension from office

- (1) The judge of the Constitutional Court may be suspended from office in case if:
 - a) the Constitutional Court has approved the institution of criminal proceedings or sending of the judge to the criminal trial;
 - b) due to health reasons (more than 4 months) shall not be able temporary to carry out his duties.
- (2) Suspension from office of the judge shall be done by a decision of the Constitutional Court, adopted at the plenary session, during a period of up to a month from the day when the reasons for suspension have been established. The judge shall be restored in the office according to the

decision of the Constitutional Court, after the exhaustion of the reasons of suspension.

- (3) Suspension from office of the judge shall not annul their personal inviolability, material and social guarantees.

Article 23. Cessation of mandate

- (1) The mandate of judge of the Constitutional Court shall cease in case of:
- a) expiry of the mandate;
 - b) resignation of the judge;
 - c) if judge has lodged a request for resignation, as well as after having reached the ceiling age;
 - d) non observation of the appointment procedure;
 - e) if the judge loses the citizenship of the Republic of Moldova;
 - f) the conviction of the judge based on a final judgement;
 - g) a final judgement of the court that established, the legal incapacity of the judge;
 - h) decease of the judge.
- (2) The mandate of the judge shall cease in case of long and constant incapacity (more than 4 months) to fulfill the functional duties due to health reasons.
- (3) The cessation of the mandate shall be stated by a Constitutional Court decision.
- (4) The reasons for the mandate cessation of a judge, shall be checked by a judge appointed by a decision of the President of the Constitutional Court.

Article 23. Completion of the vacancy

- (1) In the event of the mandate cessation, the President of the Court shall notify in time the competent authority about the vacancy of the office.
- (2) The competent authority shall complete the vacancy as provided for by art. 12 para.(2) of the present law.
- (3) The competent authorities shall appoint an other judge of the Constitutional Court, 3 months prior to the expiry of the mandate.

Chapter III

GUARANTEES FOR THE ENFORCEMENT OF THE MANDATE

Article 25. Resignation of the judge

- (1) Resignation of the Constitutional Court judge is considered to be the honorary leave or removal from office of the judge.

(2) The judge is entitled to resignation:

when a request of resignation has been lodged;

in case the of the mandate expiry;

in case of labor incapacity, confirmed by a medical certificate;

when the legal incapacity has been stated by a final judgement.

(3) The resigned judge shall maintain the personal inviolability.

(4) The procedure of resignation shall cease in case of non fulfillment of the conditions that result from the exercise of the magistrate obligations, loss of the citizenship of the Republic of Moldova, commission of a reprobate act, compromising the honor and dignity of the judge.

(5) In the event that the resigned judge meets all the necessary legal requirements, he may benefit upon his discretion by a life-long monthly allowance exempted from taxation or a pension for the working tenure.

(6) Judges benefiting from the life-long monthly allowance:

a) the resigned judges, who have a work experience in the position of judge of at least 20 years, regardless of their age;

b) the resigned judges, who have a work experience in the position of judge less than 20 years, but have reached 50 years of age.

(7) The work experience of judges, entitling to life-long monthly allowance, pension for work experience or pension based on general principles includes the work experience prior to the legal field within any institution, high legal education or science.

(8) The resigned judge with work experience in the position of judge of at least 20 years, shall be paid a life-long monthly allowance worth of 80 percent; of 25-30 years worth of 85 percent; of 30-35 years worth of 90 percent; of 35-40 years worth of 95 percent; of 40 years and more – worth of 100 percent of the salary of an acting Constitutional Court judge.

(9) The life-long monthly allowance of the resigned judge with work experience in the position of judge of less than 20 years and who has reached 50 years of age, shall be calculated proportionally with the total number of years worked as judge.

(10) The value of the life-long monthly allowance shall be calculated taking into account the value of the average monthly salary for the last 12 months, paid for the relevant position of judge, before the request, taking into account the salary indexation. In such a case, the average salary of the last 12 months of work shall not be smaller than the monthly salary paid for the position of judge at the moment of the request.

- (11) All the payments and benefits shall be taken into consideration when calculating the value of the life-long monthly allowance.
- (12) The resigned or retired judge shall be paid an unique allowance of dismissal, exempted from taxation that is amounted to the multiplication of the average monthly salary with the number of complete years worked in the position of judge, but not less than 6 average monthly salaries.
- (13) The manner of determination and payment of the life-long monthly allowance for the resigned judges shall be established individually by the Constitutional Court. The payment of the life-long monthly allowance shall be performed from the financial means allocated from the State Budget. The allowance is exempted from taxation and shall be paid to the Constitutional Court.
- (14) Re-calculation of the life-long monthly allowance shall occur unconditionally in case of increase of the salaries of the Constitutional Court judges in office or general indexation of the revenues of the people.
- (15) The resigned judge is entitled to work in the following fields: didactic, scientific, creation or justice. In such cases, the life-long monthly allowance and the salary shall be paid to the beneficiary in their entire value.

Article 26. Financing

- (1) The Constitutional Court has its own budget adopted in a plenary session, after being confirmed by the Government, that is presented together with the advisory opinion to be approved by the Parliament and is included distinctly in the state budget.
- (2) The Court determines in the budget for the respective financial year the amount of necessary means that may not be decreased in comparison with the last financial year . The amount of expenses shall be determined taking into account the inflation rate, the prices growth, etc.
- (3) The Constitutional Court administrates and changes independently the amount of expenses from its budget, after the budget was approved by the Parliament.

Article 24. Salaries, allowances and indemnities of the judge

- (1) The judge of the Constitutional Court, including the President and the Deputy-president benefit by the salary provided for the position and the allowances for the qualification degree and work experience, also by a benefit of 50 percent for the fulfillment of the tasks of major importance, by an additional payment for the knowledge of the two or more languages, one of which should be the state language used in the administration of justice,

- also by financial awards, indemnities, additional payments provided by the legislation into force for the budgetary sphere.
- (2) The judge of the Constitutional Court shall benefit by a paid annual leave, by material assistance amounting to 2 monthly salaries.
 - (3) The salary of the President and Deputy-president of the Constitutional Court as well as of the Constitutional Court judges shall be determined in the plenary session within the limits of the budgetary means allocated for the insurance of its activity.
 - (4) When determining the salary of the judge of the Constitutional Court including that of the President and Deputy-president, it should be taken into consideration the high statute of the Constitutional Court conveyed by Constitution, while the salary, additional payments and indemnities shall not be higher than the level of maximal remuneration of the employees of the social budgetary sphere.
 - (5) The judge of the Constitutional Court who withdrew from its composition, having reached the maximal age for this position or due to a long and constant impossibility (more than 4 months) to fulfill his/her tasks due to health problems shall receive one dismissal indemnity equal to the average annual salary of the position.

Article 28. Guarantees for the exercise of judge's mandate

- (1) During the exercise of the mandate of the Constitutional Court judge the labor contract concluded with the prior employer shall be suspended.
- (2) After the expiry of the mandate, the Constitutional Court judge shall be offered the previous position, however, if it is liquidated the judge shall be offered an equivalent position within the same institution or within another state institution.
- (3) The person who substitutes the Constitutional Court judge shall conclude a labor contract for a determined term, which shall be cancelled at the moment when the judge returns. The above-mentioned procedure shall be used also in case when the prior position was completed based on contest or elections.
- (4) The period of exercise of the judge's mandate shall include the entire and uninterrupted work tenure at the former position.
- (5) The judges who have reached 50 years of age and have a tenure of at least 20 years, of which 12 years and 6 months in the position of judge are entitled to a pension for work experience worth of 55 percent of the average monthly salary of the last 12 months of activity in the position of judge, and for each complete year of work over 20 years of work experience – worth of 3 percent, but not more than 80 percent in total from average salary, taking into account the indexation of salaries.
- (6) The judge who do not meet the requirements for pensioning provided for by para.(5) of the present article, but has the position of a judge of the

Constitutional Court not less than 3 years and whose mandate has expired because of the reach of the ceiling age in compliance with the art. 14 of the present law shall be entitled to an established pension and according to the procedure regulated by art. 29 of the Law on the statute of the deputy in the Parliament.

- (7) In the event of a growth of the average salary of the in office judge and based upon a request of the resigned judge, the pension shall be recalculated according to the state of affaires from January 1 of the next year.
- (8) The pension for the tenure shall be paid integrally to the judge in office.
- (9) After retirement the judge is entitled to work and receive the pension as well as the entire salary.
- (10) The judge is entitled to annual paid leave for a period of 45 working days (the week of six working days) and to unpaid leave for personal interests.
- (11) In case if the Constitutional Court judge does not have a dwelling or his dwelling conditions need to be improved, or he/she was not granted additional floor surface of 20 m², the local public administration authority is obliged within at most 6 months from the day when the above-mentioned circumstance arose to provide a dwelling (apartment or house) for the judge, taking into account the additional dwelling surface of 20 m².
- (12) After 10 years of activity as judge, the dwelling shall be transmitted for free to the judge as private property.
- (13) At the judge's request, in case if the latter has worked as judge for at least 10 years, he/she can receive a loan without an interest rate from the State Budget in stead of the dwelling in order to buy or build a cooperative apartment or house, the loan being reimbursed from the local budget.
- (14) If the judge did not receive the dwelling based on article 10 herein, he/she is entitled to a compensation from the budget for renting costs and payment of facilities until he/she is provided with dwelling.
- (15) The family of the deceased judge is entitled to receive a dwelling based on the grounds existing at the moment of the decease.
- (16) The judge and his/her family members shall benefit from medical assistance free of charge and other social guarantees regulated under the Law on Public Service, as well as other normative acts that regulate the conditions and type of medical assistance and recovery within the institutions subordinated to the Association of Treatment and Leisure of the State Chancellery of the Republic of Moldova.

Article 29. State insurance and compensation payments

- (1) Life, health and assets of judges are subject to state insurance on mandatory bases from the State Budget.
- (2) The insurance policy shall be paid in the following cases:

- a) decease of the judge - to his/her family, as an unique indemnity, equal to the number received after the multiplication of the average annual salary to the number of years worked as judge, but not less than 15 average annual salaries. This kind of payment shall also apply to the resigned or retired judges;
 - b) violent death or decease of the judge in office, if the decease occurred as a consequence of bodily injuries or other health injuries - to his/her successors, as one allowance, resulting from the average monthly salary of the deceased during the last 12 months of work, for each full year of work, but not less than 15 average annual salaries.
 - c) mutilation of the judge or another health injury, which impedes the further professional activity - as one unique indemnity equal to the average salary for 15 years;
 - d) bodily injuries or other health injuries to the judge in office, which did not lead to the loss of labor capacity, however impeding the further professional activity - as an unique indemnity equal to the average salary for one year;
 - e) mutilation of the judge in office or another health injury, impeding the further professional activity - as one monthly allowance equal to his/her average salary in the position of judge. The invalidity pension or other types of pension, established before or after the loss of capacity to continue the professional activity shall not be taken into consideration when calculating the compensation for the caused damage. The salary received by the judge after the injury and the compensations provided based on the state insurance shall not be included when calculating the recompense of the caused damage;
 - f) violent death or decease of the judge as a result of bodily injuries or another health injury - to his/her family members not capable to work, who were maintained by him/her, as one monthly allowance equal to the difference between the part of the salary of the deceased meant for them and the pension established for the loss of the breadwinner, not taking into account the unique allowance.
- (3) The material damage inflicted to the judge through deterioration or destruction of his/her assets, or of his/her family members connected to the professional activity of the judge shall be fully compensated from the State Budget.

Chapter IV

LEADERSHIP OF THE CONSTITUTIONAL COURT

Article 30. Leadership of the Constitutional Court

The leadership of the Constitutional Court shall be performed by the President and Deputy-president of the Constitutional Court.

Article 31. President of the Constitutional Court

- (1) The President of the Constitutional Court is elected by secret suffrage, for a term of 3 years, with the majority of votes of the Court's judges.
- (2) The number of candidates to the position of the President of the Constitutional Court is unlimited.
- (3) If after the first ballot, none of the candidates gathered the majority of votes, it shall be proceeded to the second ballot with only two candidates, who gathered the biggest number of votes. The judge, who gathered the biggest number of votes shall be elected as President .

Article 32. Deputy-president of the Constitutional Court

The Deputy-president of the Constitutional Court is elected according to the manner and term provided for in the art. 31.

Article 33. Right to resignation

- (1) The President and the Deputy-president of the Constitutional Court are entitled to resign anytime from these positions, without being obliged to disclose the reasons of the resignation.
- (2) The judges of the Constitutional Court shall examine in plenary session, the requests for resignation from the position of President and Deputy-president and shall confirm the resignation.

Article 34. Dismissal from position

- (1) The dismissal from the position of the President and the Deputy-president may occur anytime on the ground on non-fulfillment of the obligations prescribed by the present law.
- (2) The initiative for the dismissal may be launched by at least two judges. The grounds for the dismissal shall be supported by arguments in a written form, being set afterwards under discussion at the plenary session in a 10 days term. The person regarding whom the initiative for the dismissal was launched shall participate at the session having full rights and may bring explanations.

- (3) The dismissal from the position shall take place by means of secret vote and is to be considered valid if a number of five judges have voted in its favor.
- (4) The election of a new President or Deputy-president shall take place according to the manner regulated by art. 31 and respectively 32 of the present law.

Article 35. Powers of the President of the Constitutional Court

- (1) The President of the Constitutional Court shall have the following powers:
 - a) to exercise the general management and to coordinate the activity of the Constitutional Court;
 - b) to convoke and to preside the plenary sessions of the Constitutional Court;
 - c) to represent the Constitutional Court before of the public authorities from the country and from abroad;
 - d) to ascertain the cases of cessation of the judge's mandate, provided by the present law and inform the public authority which appointed him/her, so that this authority appoints an other judge to fill in the vacancy;
 - e) to appoint and dismiss the employees of the Secretariat Constitutional Court, ensures the observation of their labor discipline and applies upon the case, disciplinary sanctions toward them in accordance with the labor legislation;
 - f) to present for approval at the sessions of the Constitutional Court the Regulations of the Constitutional Court Secretariat, of the Scientific-Consultative Council with the Constitutional Court on the tenure of judges, assistant-judges and employees of the Constitutional Court Secretariat, other regulations related to the functional powers of the Constitutional Court, the draft budget of the Constitutional Court, makes proposals regarding the salaries, additional payments, indemnities and pensions of the President, Deputy-president, judges, assistant-judges, regarding the main directions of activity in the area of external affairs with similar institutions from abroad ;
 - g) carries out other powers provided by the present law and other normative acts;
- (2) The President of the Constitutional Court is the coordinator of the Court's financial means, within the limits of the approved budget.
- (3) The President of the Constitutional Court shall issue orders and dispositions.
- (4) The Deputy-president of the Constitutional Court shall exercise the powers of President of the Constitutional Court in the event of absence of the latter. The Plenum of the Constitutional Court shall determine by virtue of a decision certain powers of the Deputy-president of the Constitutional Court.

Chapter V

THE ASSISTANT-JUDGE

Article 36. Statute of the assistant-judge

- (1) As an assistant judge of the Constitutional Court shall be elected the citizen of the Republic of Moldova having high legal education, and has a work experience of at least 10 years in the legal field, in high legal education or in scientific activity and speaks the state language.
- (2) The first assistant-judge and assistant-judges shall be elected in their office on a context basis, by a special committee established based on disposition of the President of the Constitutional Court and shall be appointed by the Plenum of the Constitutional Court.
- (3) The first assistant-judge and assistant-judges shall be considered as part of the corpus of magistrates and shall be equated in their statute with the judges of the Court of Appeal. The first assistant-judge shall be equated respectively with the prime assistant-judge of the Supreme Court of Justice.
- (4) The conditions for the guarantee of the independence of the first assistant-judge and assistant-judges, their material and social ensurance, their disciplinary liability, restrictions for being in office, suspension and dismissal from office shall be regulated by the Law on the status of judge, by the present law and other normative acts.

Article 37. The Oath

- (1) At the beginning of the office, the assistant-judge of the Constitutional Court shall take before the Plenum of the Constitutional Court the following oath:
I pledge to observe the Constitution and other laws of the Republic of Moldova, to defend the interests of the Motherland, the human rights and liberties, to fulfil my duties with honor, conscience and impartially.
- (2) The President of the Constitutional Court and the person who took the oath shall counter-sign the minutes.

Article 38. Attestation

- (1) Assistant-judges depending on their position, tenure and professional experience shall be awarded for life, II or I degree of qualification for judges.
- (2) The degrees of qualification shall be awarded to the assistant-judges during the plenary session of the Constitutional Court, after they pass the attestation according to the established procedure.

Article 39. Powers of the first-assistant judge

- (1) The first assistant-judge is subordinated to the President of the Constitutional Court and shall have the following powers:
 - a) coordinates the activity of the assistant-judges and personnel of the Court;
 - b) organizes the preliminary examination of the notification, the drawing up of the reports, designation of the cases for examination; holding sessions and the enforcement of the Court's decision;
 - c) carries out other tasks related to the ensurance of the Court's activity assigned by the President of the Constitutional Court.

Article 40. Powers of the assistant-judge

- (1) The assistant-judge has the following powers:
 - a) to participate at the preliminary consideration of the notifications;
 - b) to assist the judges-raptor of the Constitutional Court in all the activities for preparing the files for consideration;
 - c) to draw up the draft of the judgements, decisions and advisory opinions of the Court;
 - d) to carry out other tasks assigned by the President of the Constitutional Court and by the judge of the Court whom he assists and by the first assistant-judge.
 - e) to assist in the deliberations chamber at the examination of the draft report, which was prepared by the latter.

Article 41. Obligations

- (1) The assistant-judge of the Constitutional Court is obliged to:
 - a) carry out impartially and conscientiously the duties in compliance with the Constitution;
 - b) keep the service secret;
 - c) not to express himself in public or to give consultations on issues related to the competence of the Constitutional Court;
 - d) not to use the held position with propaganda purposes;
 - e) refrain from any action which run counter with the status of judge.
- (2) The office of the assistant-judge is incompatible with any other remunerated public or private office, except for didactic or scientific activity.

CHAPTER VI

THE PERSONNEL

Article 42. Secretariat of the Constitutional Court

- (1) The Secretariat of the Constitutional Court shall provide the informational, scientific and other kinds of support, shall organize the hearing of the citizens, shall consider preliminarily the notifications of the Constitutional Court, which are not mandatory to be considered by the judges of the Court, shall assist the judges and the assistant-judges at the preparation, examination and enforcement of decisions.
- (2) The first assistant-judge shall exercise the leadership over the Secretariat of the Constitutional Court.
- (3) The Secretariat of the Constitutional Court shall unfold its activity based on the present law and its Regulation.

Article 43. Rights and obligations of the staff members of the Constitutional Court's Secretariat

The staff members of the Constitutional Court's Secretariat shall complete their positions by employment or on a context basis in the capacity of public servants. They shall enjoy rights and responsibilities in compliance with the provisions of the Law on the public service and the labor legislation.

TITLE II**THE EXERCE OF CONSTITUTIONAL JURISDICTION****CHAPTER VII****NOTIFICATION OF THE CONSTITUTIONAL COURT****Article 44. Subjects entitled to submit the notification**

- (1) The Constitutional Court shall exercise constitutional jurisdiction when notified by:
 - a) President of the Republic of Moldova;
 - b) Parliamentary fraction;
 - c) A parliamentary group comprising at least 5 deputies;
 - d) Government;
 - e) Supreme Court of Justice and the other law courts;
 - f) High Council of Magistrates;
 - g) Prosecutor General;
 - h) People's Assembly of Gagauzia (Gagauz-Yeri);

- i) Ombudsman;
 - j) Citizens of the Republic of Moldova and their associations;
- (2) The subjects provided by para. (1) may notify on the issues related to their competence, except for:
- a) revision of the Constitution, which may be made by the subjects provided by art. 141 of the Constitution;
 - b) establishing the circumstances which justify the dissolution of the Parliament, which may be submitted only by the President of the Republic of Moldova;
 - c) establishing the circumstances which justify the suspension from office of the President of the Republic of Moldova or the interim of position of President of the Republic of Moldova, which can be submitted based on the decision of Parliament;
 - d) the constitutionality review of a political party that can be submitted by the Government;
 - e) the constitutionality review of international treaties that can be made by the President of the Republic of Moldova, Government, parliamentary fraction, a group of 5 deputies, High Council of Magistrates;
 - f) dismissal of the judges of the Supreme Court of Justice, Prosecutor General and members of the Court of Audit that can be done when notified by the Parliament.
- (3) The issues related to the republican referendum, Parliamentary or elections of the President of the Republic of Moldova shall be examined in accordance with the procedure established by the Election Code and other laws.
- (4) The declarations on property and the revenues of persons with high public positions, their list being determined by law shall be examined based on the reports of the Central Election Commission, the Department of Privatization and Administration of State Property and State Fiscal Inspectorate.
- (5) The documents for the declaration of a candidate as substitute for the position of the deputy in the Parliament shall be presented to the Constitutional Court by the Central Elections Commission attaching the decision of the political organization whose mandate of deputy has become vacant.

Article 45. The term of submitting the notification

- (1) The notification of the constitutionality review of a normative act may be lodged in a 6 months term from the date of publication of the act.

- (2) In case of invoking the exception of non-constitutionality of normative acts, the term of lodging the notification shall be unlimited.

Article 46. The term of examination of the notification

- (1) The Constitutional Court shall examine the notification within a reasonable term, but not longer than 6 months. The 6 months term may be prolonged, as an exception, by a decision of the Constitutional Court.
- (2) The notification lodged by law courts that invoke the issue of exception of non constitutionality shall be examined within a reasonable term, but not longer than 4 months.
- (3) The term shall be calculated beginning with the registration date of the notification and shall expire at the date of adoption of the judgement (decision, advisory opinions) by the Court.

Article 47. Requirements with regard to the notification

- (1) The notification shall be submitted in written in Moldovan language.
- (2) The notification shall be motivated and shall include the following:
 - a) the name of the Constitutional Court as the notified court;
 - b) the name and address of the subject of notification;
 - c) the object of notification;
 - d) the grounds on the basis of which the subject submits the request (articles from the Constitution, norms of international treaties, other laws, previous decisions of the Constitutional Court, etc.);
 - e) the claims of the notification;
 - f) other data related to the object of notification;
- g) the list of the attached documents;
- h) the signature of the subject, code and stamp.

Article 48. Mandatory documents attached to the notification

The following mandatory issues shall be attached to the notification:

- a) the text of the act subject to constitutionality control, indicating the date of their coming into force in case of challenged normative acts and other documents that relate directly to the powers of the Constitutional Court.
- b) The power of attorney or other document, which confirms the prerogatives of the representative, except for the cases when the representation is *ex officio*.
- c) Translations into the official language of all of the documents and materials submitted in other languages.

Article 49. Waiving notification

- (1) The notification can be withdrawn by its author at any stage of its consideration;
- (2) The notification inserted in the agenda shall be restituted to the subject by virtue of a decision of the Constitutional Court.

Article 50. Repeated notification

- (1) Repeated notification shall not be allowed in case the Constitutional Court has once decided upon a normative act (partially or totally).
- (2) In the event the subject has withdrawn the notification, a repeated notification lodged by the same subject shall be allowed within the term provided for by art. 45 para. (1) of the present law.

Article 51. Connecting cases

Each notification is considered regularly, a separate case. If the notifications invoke the same issue, the Constitutional Court can issue a decision to connect the cases.

Chapter VIII

ADMISSIBILITY OF THE NOTIFICATION

Article 52. Admissibility of the notification

- (1) The President of the Constitutional Court shall appoint by an order an assistant-judge for the purpose of examination the admissibility of the notifications lodged by the subjects indicated in the present law.
- (2) The assistant-judge shall examine the admissibility of the notification in a 10 days term and shall propose the acceptance or the rejection, including it in an advisory note.
- (3) The advisory note on the admissibility of the notification shall be examined at the plenary session of the Constitutional Court where the decision on the acceptance for the examination of the merits of the notification.

Article 53. Rejection of notification

- (1) The assistant-judge of the Constitutional Court shall issue an advisory opinion to reject the notification in the following cases:
 - a) the Constitutional Court is not competent to consider the issues raised in the notification;
 - b) the notification lacks an object, or the notification does not contain legal issues;
 - c) the Constitutional Court has previously ruled on the issue contained in the notification;
 - d) the notification does not meet the general requirements with regard to the content regulated in articles 47 and 48 of the present law.
- (2) The advisory opinion on the rejection of the notification may be appealed by the subject of the notification at the Plenum of the Constitutional Court within a 7 days term from the moment of handing in the advisory opinion and shall be examined in a 10 days term without summoning the parties.

Chapter IX

SESSIONS OF THE CONSTITUTIONAL COURT

Article 54. Plenum of the Constitutional Court

- (1) The Constitutional Court shall exercise jurisdiction in plenary sessions (plenum).
- (2) Beside the exercise of jurisdiction, the Constitutional Court' Plenum leads the activity of the Court in general.
- (3) The sessions of the Constitutional Court shall be public. The President may order a secret session, in a situation when the public character may damage the state interests and the public order.

Article 55 . Convening sessions

- (1) The Constitutional Court shall convene in sessions upon the initiative of the President or at the request of at least two judges of the Court.
- (2) Except for extraordinary cases, the date, hour and place of the session shall be brought to the knowledge of the parties 10 days before, the latest.
- (3) The parties shall be handed summons signed by the first assistant- judge and materials necessary for the examination of the notification.

Article 56. Powers of the judge-rapporteur

- (1) Based on the decision for acceptance of the notification for examination the judge-rapporteur shall undertake the following measures:
 - a) remits to the other party a copy of the notification and attached documents;
 - b) studies the written objections of the other party regarding the notification;
 - c) requires from the relevant bodies, case related documents;
 - d) solicits the performance of expertise;
 - e) undertakes other measures for the case consideration.
- (2) All the actions of the judge-rapporteur for the preparation of the case for consideration shall be taken on behalf of the Court. The requirements of the judge-rapporteur shall be mandatory.
- (3) After having prior prepared the case for examination within the relevant subdivision of the Secretariat, the judge-rapporteur supervises the drawing up of the report that shall include the following:
 - a) the advisory opinion on the preliminary examination of the notification;
 - b) the decision of the Constitutional Court to accept for examination the lodged notification and to include it on the agenda;
 - c) the notification and the attached documents;
 - d) the request for the performance of expertise;
 - e) informative notes and reports drawn up during the preliminary examination of the notification;
 - f) expertise reports and other documents.
- (4) The judges of the Constitutional Court shall be entitled to take knowledge at any stage of preparation of the case for consideration of the file documents.
- (5) After the preparation of the case for examination at the latest 10 days before the Constitutional Court session, the judge-rapporteur shall be obliged:
 - a) to bring to the knowledge of the judges and participants at the trial about the place, date, and hour of the session;
 - b) to remit to the judges and parties copies of the notification;
 - c) to present to the participants at the trial , if requested, the file documents.
- (6) In cases when the exception of non constitutionality is invoked with regard to legal acts addressed by law courts or citizens that derive from concrete cases, the persons who are parties in these respective cases shall be entitled to take knowledge of all the file documents.

Article 57. Drafting the agenda (putting cases on the roll)

- (1) The Constitutional Court determines the issues that have to be examined during the session and approves the agenda upon the request of the President or the judges of the Constitutional Court.
- (2) The drafts of judgements, decisions and advisory opinions and if the case, the informative notes on cases inserted in the agenda (put on the roll) shall be handed in to the judges with at least 3 days before the session.

- (3) The works of the sessions shall be registered in a report.

Article 58. Ensuring order and security of the session

- (1) The order and security during the session shall be ensured by the administrator of the Constitutional Court.
- (2) The Constitutional Court may order the control of the persons willing to assist at the session, including the check control of identification cards, objects and bodily search.
- (3) The participants at the trial, other persons that attend the session shall manifest a respectful attitude toward the Constitutional Court.
- (4) The disregard toward the Constitutional Court shown by non following the orders of the president of the session, by breaching the discipline during the session as well as the committal of other acts that denote obvious disregard toward the Court or the procedure of constitutional jurisdiction entail the liability provided for in the art. 107 of the present law.

Article 59. Administrator of the Constitutional Court

- (1) The preservation of order within the premises of the Constitutional Court shall be the task of the administrator whose legitimate requirements are binding.
- (2) During the session of the Constitutional Court, the administrator shall carry out properly the rules of the constitutional jurisdiction procedure and the orders of the president of the session.
- (3) The administrator shall be wearing a gown, the model of which is approved by the of Constitutional Court's Plenum.

Chapter X

THE COURT OF CONSTITUTIONAL JURISDICTION

Article 60. The quorum

- (1) The quorum of the Constitutional Court Plenum shall be formed of two thirds from the number of judges.
- (2) The judge shall not be entitled to refrain from attending sessions.

Article 61. The court composition

(1) The case shall be considered by the Constitutional Court in the same composition.

(2) In case that the judge cannot participate for well-founded reasons at the trial already started, the examination of the case shall continue if the quorum provided under Article 60 of the present law is maintained.

Article 62. Recusation

(1) The judge of the Constitutional Court may not take part at the examination of the case and is to be recused if:

- a) he has participated as a decision factor at the adoption of the challenged act, save the elaboration and adoption of the Constitution;
- b) has publicly expressed his opinion on the constitutionality of the challenged act.

(2) If there exist the conditions provided under para. (1), the Constitutional Court judge shall be obliged to declare self-recusation.

(3) Due to the same reasons, recusation may also be requested by the parties.

(4) The recusation shall be grounded and declared at the session opening. The declaration of recusation may be drawn up also later, if the party found out during the case examination that there are recusation reasons.

(5) The recusation of the Constitutional Court judge shall be performed after hearing him and by means of a well-founded Court decision.

Chapter XI

**THE PARTICIPANTS AT THE TRIAL.
THEIR RIGHTS AND DUTIES**

Article 63. The participants at the trial

Participants at the trial shall be considered the parties, their representatives, experts, and interpreters.

Article 64. The parties

(1) The parties at the jurisdiction trial shall be:

a) the bodies or officials that, according to Article 44 of the present law, are entitled to address notifications to the Constitutional Court;

b) the bodies or officials the acts of which are challenged.

(2) The officials, party at trial, may exercise their procedural rights personally or through a representative.

(3) The public authorities, the institutions and organizations shall be represented as a party at trial by their steering bodies, that act in the limit of their ambit of competence granted to them by law, or by their representatives.

Article 65. The representatives of the parties

(1) As representatives of parties may participate, on the basis of a power of attorney, lawyers, specialists in the respective domain and other persons. On the behalf of a party may participate several representatives.

(2) The powers of the representative and his rights shall be indicated in the power of attorney.

Article 66. The rights and duties of parties

(1) The parties at the constitutional jurisdiction trial shall enjoy equal procedural rights.

(2) The parties shall have access to the file documents, may present arguments and may participate at their examination, may ask questions to other participants at the trial, may make declarations, present explanations, either in writing or orally, may object against declarations, arguments and opinions of other trial participants.

(3) The subject that addressed the notification shall be entitled to modify its ground or object, to withdraw the notification, partially or totally.

Article 67. The expert. His rights and obligations

(1) While preparing the case for examination, the judge-rapporteur, and in a session- the Constitutional Court, may order an expertise to be performed. The order to perform the expertise shall be legalized by the nominal request of the judge-rapporteur or by the decision of the Constitutional Court, establishing the term for the written presentation of the expertise report.

(2) In case that several experts have been designated, they shall be entitled to consult between themselves. If they reach the same conclusion, they shall sign a single expertise report.

(3) The expert shall have access to the file documents, may ask, if necessary for additional documents, with the consent of the session chairman may ask question to parties.

(4) The expert shall present himself when summoned by the Constitutional Court and shall present the expertise report.

(5) The expertise report shall not be binding for the Constitutional Court. The Court shall assess it, taking into consideration its own belief, formed while examining under all aspects the circumstances of the case, being guided only by the Constitution.

(6) In case the expert does not carry out his duties, he shall be held liable according to the provisions of the Criminal Code and the Administrative Offences Code.

Article 68. The interpreter. His rights and obligations.

(1) The interpreter shall be appointed by the Constitutional Court or by the judge-rapporteur in order to interpret for the trial participants that do not understand the official state language.

(2) The interpreter shall present himself when summoned by the Constitutional Court or by the judge-rapporteur.

(3) In case the interpreter does not carry out his duties, he shall be held liable according to the provisions of the Criminal Code and the Administrative Offences Code.

Chapter XII

CONSIDERATION OF THE NOTIFICATION IN SESSION

Article 69. Opening of the session

The session shall start with the court clerk saying: "Please rise, the judges of the Constitutional Court are entering". After that, the chairman of the session shall present the case to be considered.

Article 70. The ethics of the constitutional jurisdiction's procedure

(1) The sessions of the Constitutional Court shall take place in a solemn manner, with observance of the ethics of the constitutional jurisdiction's procedure.

(2) In the courtroom there shall be placed the State Coat of Arms, the State Flag and the Constitution of the Republic of Moldova.

(3) During the session, the judges of the Constitutional Court shall wear gowns, the model of which shall be approved by the Court.

(4) While the judges of the Constitutional court enter or exit the courtroom, the public shall rise.

(5) The participants to the trial shall stand while addressing to the Constitutional Court, addressing requests and declarations, presenting explanations and answering questions.

(6) The participants to the trial shall not be entitled to ask questions to the judges of the Constitutional Court.

(7) The breach of the procedural ethics of the constitutional jurisdiction shall represent a lack of respect for the Constitutional Court and shall entail responsibility according to the current code.

Article 71. The chair of the session

(1) The session of the Constitutional Court shall be chaired by the President or by the deputy-president of the Court - the chairman of the session.

(2) The chairman's indications shall be binding for all participants to the trial and for other persons present in the courtroom.

(3) The chairman of the session shall exclude from the proceedings everything, which is not related to the consideration of the case and to the exercise of the Constitutional Court's functions. He shall be entitled to interrupt, after warning, any participant to the trial, to reject any question and explanation, which do not refer to the case, do not relate to the trial or to the competence of the Constitutional Court; he may deprive of the right to take the floor the person that breaches the debate order, does not behave correctly, breaches other procedural rules of the constitutional jurisdiction; shall be entitled to order the removal from the courtroom of any person, that breaches the order and ignores his orders.

Article 72. Taking the attendance to the session

(1) The chairman of the session shall ascertain the attendance of the participants to the trial, the reason for their absence, shall verify, if the necessary, the powers of attorney of the parties' representatives and of other participants to the trial.

(2) The chairman of the session shall present the composition of the Constitutional Court, the name of the court clerk, of the experts and of the interpreter.

Article 73. Explanation of their rights and obligations to the participants to the trial

The chairman of the session shall explain to the participants to the trial their procedural rights and obligations, shall bring to the attention of the experts and of the interpreters the liability they may entail for the unsatisfactory execution of their obligations.

Article 74. The non-presentation of parties to the session

(1) The non-presentation to the session of the Constitutional Court of a party, informed about the date, the hour and the place of the session.

(2) In case the party who declared that intends to take part at the session, but did not attend because had not received the writ of summons or had received it with delay, or in case the Constitutional Court does not detain the confirmation that the writ of summons reached its destination, the session of the Court shall be adjourned.

(3) The session of the Constitutional Court may be adjourned also in case of non-presentation of both parties, the reasons of their non-presentation being unknown, but both parties have expressed in advance their intention to take part at the trial, or in case when both parties ask the court to adjourn the session.

Article 75. Examination of requests

(1) The requests of the participants to the trial presented in written form shall be attached to the file, after being read during the session. The oral requests shall be registered in the minutes of the session.

(2) The requests shall be examined during the session, by a decision of the Constitutional Court.

(3) The Constitutional Court may dispose by means of a decision or an order, to summon a new person to the trial.

Article 76. The information resented by the judge-rapporteur

(1) The examination of the case shall start with the presentation of the information of the judge-rapporteur on the essence of the case, on the reason for which the Constitutional Court shall examine it, on the documents, on the preparation of the case for examination.

(2) The judges may ask questions the judge-rapporteur.

Article 77. The explanations of parties

(1) After the judge-rapporteur has presented his information, the chairman of the session shall propose to the parties to express their position.

(2) First shall take the floor the subject that notified the court, after that the floor is given to the other party.

(3) In case that the party insists that all its representatives be heard, the Constitutional Court shall offer them this opportunity, if the representatives have well determined powers.

(4) The parties shall not make use of their right to take the floor before the Constitutional Court for political declarations. They shall be bound to be well disciplined and to observe the procedural rules of the constitutional jurisdiction.

(5) After the party has expressed its point of view, the judges of the Constitutional Court and the other party may address questions.

(6) The experts shall be entitled to ask questions necessary for the elaboration of the expertise report.

(7) The chairman of the session shall reject the questions that suggest the answer.

Article 78. Hearing the experts

(1) The Constitutional Court shall hear, if necessary, the experts. The order in which the experts are heard shall be established by the Court.

(2) The judges of the Constitutional Court and the participants to the trial may address questions to the expert.

Article 79. The closure of parties

(1) Each party shall hold its closure, where may be analyzed the materials examined before the Constitutional Court.

(2) The Constitutional Court may offer to the parties, at their request, time necessary for the preparation of the closure, for which the interruption of the session shall be announced.

Article 80. Deliberation

(1) The judges of the Constitutional Court shall deliberate in the council chamber.

(2) The deliberation shall be secret. The judges of the Constitutional Court shall not be entitled to disclose the content of the deliberation.

(3) The chairman of the session shall offer to the judges of the Constitutional Court the opportunity to express freely their opinion on the examined issue. During the deliberation, the judges may determine their positions.

(4) After the deliberation, the chairman of the session shall submit to vote the proposals of the judge-rapporteur and of other judges, the drafts of the Constitutional Court acts.

Article 81. Resumption of the case examination

In case that after the closure of parties or in the council chamber is ascertained the need to examine new arguments or circumstances, essential for the consideration of the case, the Constitutional Court shall decide on the resumption of the case examination. In such cases the Constitutional Court shall announce the interruption of the session or shall adjourn the examination of the case.

Article 82. The minutes

(1) Minutes shall be drawn up regarding the sessions of the Constitutional Court and it shall contain:

- a) the place and the date of the session, the time of its opening and closure;
- b) the name of the session chairman, of the present judges and of the court clerk;
- c) the agenda;
- d) information about the parties and the other participants at the trial;
- e) the actions of the Constitutional Court in the order of their performance, the delivered decision;
- f) the requests, declarations and explanations of parties;
- g) the expertise report, questions and answers;
- h) other persons' presentations;
- i) the facts and the circumstances requested to be registered in the minutes by the participants to the trial;
- j) warnings, fines and other actions of the session chairman;
- k) issues submitted to vote and the vote results;
- l) the protocolar decisions delivered by the Constitutional Court.

(2) The minutes shall be drawn up by the court clerk. The court clerk shall validate each page of the minutes and shall bear personal responsibility for its correctness.

(3) The minutes shall be drawn up and signed by the chairman of the session and by the court clerk during 5 days at most from the closure date of the session.

Article 83. Adjournment of the session

- (1) The session of the Constitutional Court may be adjourned in case that:
 - a) the Court ascertains that the file is not ready for examination;
 - b) the parties, a party, the expert, whose presence is mandatory, did not present themselves to the session;

- c) the adjournment is requested by a judge, by a party, and the Court shall consider the motivation of the request convincing;
- d) there is not the necessary quorum for holding the session, for reasons of illness or for the motivated absence of a judge;
- e) there are other circumstances that cannot be removed during the break between sessions and that intervene in its usual order.

(2) The decision about the adjournment shall be taken with the majority of vote of the Constitutional Court judges. In this case, the Court may hear experts in the presence of the parties.

(3) The Constitutional Court shall resume the examination of the case after the removal of the circumstances that had determined the adjournment of the session.

Article 84. Interruption of the trial

The Constitutional Court shall order the interruption of the trial, in case that:

- a) the notification was withdrawn;
- b) the notification is not related to the competence of the bodies and of the persons that addressed it;
- c) the consideration of the notification does not fall under the competence of the Constitutional Court;
- d) the challenged normative act was cancelled;
- e) the exception of non-constitutionality of the challenged normative act was solved;
- f) there is a previous judgment of the Constitutional Court on the given issue;
- g) at the moment of the case examination the author of the notification has lost his competence as subject entitled to notify the Constitutional Court.

Chapter XII THE ACTS OF THE CONSTITUTIONAL COURT

Article 85. The acts of the Constitutional Court

(1) The Constitutional Court shall deliver judgments, decisions and shall issue advisory opinions.

(2) Examining the merits of the notification falling under the competence of the Constitutional Court, there shall be delivered a judgment or shall be issued an advisory opinion.

(3) In case the merits of the notification are not examined, there shall be delivered a decision, drawn up as a separate act or it shall be registered in the minutes.

Article 86. The judgments

By a judgment the Constitutional Court:

- a) shall rule on the constitutionality control of normative acts and of international treaties;
- b) shall interpret the Constitution;
- c) shall confirm the results of the republican referendums;
- d) shall confirm the results of parliamentary and presidential elections;
- e) shall solve the exceptions of non-constitutionality;
- f) shall rule on other issues, the merits of which have been examined.

Article 87. The advisory opinions

By advisory opinions the Constitutional Court shall deliver on:

- a) the initiatives to review the Constitution;
- b) the observance of the adoption procedure for constitutional laws;
- c) the circumstances that justify the dissolution of the Parliament;
- d) issues concerning the constitutionality of a political party;
- e) the circumstances that justify the dismissal from position of the President of the Republic of Moldova;
- f) the circumstances that justify the ad interim position of the President, as well as concerning the impossibility of the President of the republic of Moldova to exercise his functions for more than 60 days;
- g) the judgments concerning the withdrawal of deputy's immunity or concerning the cessation of his mandate;
- h) the declarations regarding the property and the revenues of public officials at the beginning and the cessation of their mandate;
- i) the dismissal of judges from the Supreme Court of Justice, of Prosecutor General and of Court of Audit members.

Article 88. Adoption of Constitutional Court acts

(1) The acts of the Constitutional Court shall be adopted, as a rule, in the council chamber with the vote of the majority of judges present at the session.

(2) The vote shall be performed by open vote. By the decision of the Court Plenary, some acts may be submitted to a secret vote.

(3) The open vote shall be performed by the nominal hearing of judges. The chairman of the session shall be the last one to vote.

(4) The chairman of the session shall submit to vote the proposals of judges in the order of their presentation. In the end, the entire act shall be voted upon.

(5) The judge shall not be entitled to refrain from deliberation and from vote.

(6) In case that for the adoption of the judgment on the constitutionality of a normative act or of a international treaty there is a parity of votes, the normative act or the international treaty shall be presumed constitutional, and the procedure shall be interrupted. In other cases of parity the judgment, the advisory opinion or the decision shall be considered as not adopted, and the session shall be adjourned.

(7) The judgment on the interpretation of the Constitution, the advisory opinion concerning the initiative to review the Constitution and the advisory opinion concerning the observance of the adoption procedure for constitutional laws shall be adopted with two thirds of votes of the Constitutional Court judges.

(8) The acts of the Constitutional Court shall be signed by the President of the court and by judges.

(9) Besides judges, in the council chamber shall assist the assistant judge, that had prepared the draft of the act, and not entitled to take part at deliberation, and the Court's clerk, who draws up minutes of the debates and of the voting process.

Article 89. The dissenting opinion of a judge

(1) The judge that does not agree with the delivered judgment or the issue advisory opinion or decision may express in written his dissenting opinion.

(2) The judge's dissenting opinion shall be attached to the adopted act and shall be published along with it.

Article 90. The elements of the judgment and of the advisory opinion

The judgment and the advisory opinion shall contain:

- a) the name, the date and place of its adoption;
- b) the composition of the Constitutional Court, the name of the court clerk;
- c) information about the parties and their representatives;
- d) the provision of the Constitution according to which the notification is examined;
- e) the requirements of the subject that addressed the notification;
- f) the name of the normative act, the constitutionality of which is considered;

- g) the circumstances ascertained by the Court;
- h) the arguments in favor of the delivered judgment or issued advisory opinion, and, if the case, the arguments that reject the parties' opinions;
- i) the resolute part;
- j) the manner and the term for its enforcement;
- k) indication that is final and binding;
- l) date of entry in force.

Article 91. Drawing up a judgment and an advisory opinion

(1) The judgment and the advisory opinion, as a rule, shall be drawn up as separate acts.

(2) The judgment and the advisory opinion shall be drawn up in written form by the judge-rapporteur or by another judge, at the proposal of the session chairman.

(3) The Constitutional Court may postpone the drawing up of the judgment and of the advisory opinion for another day, but not later than 15 days from the moment of session closure. The resolute part of the adopted act shall be drawn up in written form, shall be delivered at the same session and shall be attached to the file. After elaborating the judgment and the advisory opinion, the Constitutional Court shall bring them to the knowledge of the participants.

Article 92. Delivering the judgment and the advisory opinion

The judgment and the advisory opinion shall be delivered, as a rule, during the same session after judges' deliberation. While delivering the chairman shall communicate the number of votes "pro" or "counter" and the dissenting opinion.

Article 93. The action of the judgment

(1) The judgment of the Constitutional Court shall be official acts and writs of execution on the entire territory of the state, for all public authorities, for local and central public administration bodies, for companies, institutions, organizations, officials, citizens and their associations, persons without citizenship and stateless persons.

No body of the state power shall be entitled to adopt normative acts or other legal acts that run counter to the judgments of the Constitutional Court.

(2) Normative acts declared non-constitutional shall be null and may not be applied from the moment when the respective judgment of the Constitutional Court was adopted.

(3) The legal consequences of the normative act declared non-constitutional shall be removed according to the legislation in force.

(4) On the basis of the Constitutional Court judgment all acts issued for the execution of the normative act declared non-constitutional shall be cancelled.

Article 94. The action of the advisory opinion

The advisory opinions of the Constitutional Court shall be binding.

Article 95. The final character of the judgment and of the advisory opinion

The judgments and the advisory opinions of the Constitutional Court shall be final, shall not be susceptible to any remedy, shall enter in force at their adoption date and shall be executed in the term established by the Court.

Article 96. Review of the judgment and of the advisory opinion

(1) The review of the judgment and of the advisory opinion shall be performed only at the initiative of the Constitutional Court, with the majority of judges' vote, in case that:

- a) there appeared new circumstances, unknown at the delivery date of the judgment and issuing date of the advisory opinion, if these or other circumstances may essentially change the judgment and the advisory opinion;
- b) the provisions of the Constitution, of laws and of other normative acts, based on which the judgment had been delivered and the advisory opinion issued, have been modified.

(2) The review of the judgment and of the advisory opinion shall be performed in observance with the provision of the present law.

Article 97. Correction of errors

(1) The Constitutional Court shall be entitled to correct *ex officio* or at the request of participants to the trial, the inaccuracies in names, designation and misprints.

(2) The correction of inaccuracies and of misprints shall be performed only during the session of the Constitutional Court with the delivery of the respected decision.

Article 98. The publication of Constitutional Court acts

(1) The judgments and the advisory opinions of the Constitutional Court shall be published in the Official Gazette of the Republic of Moldova during 10 days from their adoption.

At the Court's decision, in the Official Gazette may be published and some rejection acts of notifications or of trial cessation.

(2) The judgments and the advisory opinions may be published also in other mass-media means.

Chapter XIV

THE ENFORCEMENT OF JUDGMENTS AND OF ADVISORY OPINIONS

Article 99. Sending judgments and advisory opinions

(1) The judgments and the advisory opinions of the Constitutional Court shall be sent to:

- a) parties;
- b) public authorities and key decision factors, the acts of which have been examined by the Constitutional Court.

(2) The judgments and the advisory opinions of the Constitutional Court shall also be sent to:

- a) the President of the Republic of Moldova;
- b) the Parliament;
- c) the Government;
- d) the Supreme Court of Justice;
- e) the High Council of Magistrates.

Article 100. The enforcement of judgments and of advisory opinions

(1) The judgments and the advisory opinions shall be enforced in the terms established by the Constitutional Court.

(2) The damage caused to natural persons and legal entities by the enactment of a normative act acknowledged as non-constitutional shall be repaired under the terms of the law.

(3) The enforcement of the judgment and of the advisory opinion shall be brought to the knowledge of the Constitutional Court in the term indicated by it.

Article 101. The control over the enforcement of judgments and advisory opinions

The control over the enforcement of judgments and advisory opinions of the Constitutional Court shall be performed by the Constitutional Court.

Article 102. The non-enforcement of Constitutional Court acts

The non-enforcement, the inappropriate enforcement, hindering the enforcement of Constitutional Court acts shall bring about the liability provided for in the legislation in force.

Chapter XV

COURT EXPENSES

Article 103. Court expenses

(1) Court expenses comprise the amounts of money paid to experts and to interpreters and other expenses related to the examination of the case.

(2) Court expenses shall be covered from the budget of the Constitutional Court.

(3) The experts' work shall be remunerated under the terms of the law.

(4) Experts shall be paid the transportation and accommodation costs and per diem as provided for by the law.

(5) The interpreter shall be paid for his work if it does not part of his professional duties.

(6) The expenses related to the examination of notifications shall be restituted to the Constitutional Court budget by the party the act of which was declared non-constitutional.

(7) Court expenses shall be cashed in by the decision of the judge-rapporteur. This decision may be challenged before the Constitutional Court.

(8) The expenses related to the enforcement of Constitutional Court judgments shall be covered by the public authorities, institutions and organizations indicated in the Court's judgment.

Chapter XVI

ADDRESS. REPORTS

Article 104. Address

(1) In case that during the examination of the case, the Constitutional Court ascertains the existence of some legislative deficiencies related to the non-implementation of some constitutional provisions, it shall bring to the

attention of the respective bodies, by means of an address, in order to remove these deficiencies.

(2) The notified bodies shall inform the Constitutional Court in the established term about the results of the address.

Article 105. Reports

(1) The report on the constitutional jurisdiction shall be elaborated by the Secretariat of the Constitutional Court under the direct monitoring of the prime-assistant-judge, on the basis of the documents examined by the Court. After being elaborated, the report shall be transmitted to the judges of the Constitutional Court. The final report shall be examined in the session of the Court till January 20th of the respective year.

(2) The report must contain:

- a) its name, the date and the place of its approval;
- b) the provisions of the Law on the Constitutional Court, based on which it has been elaborated;
- c) the analysis of the examined documents;
- d) the circumstances ascertained during the examination of documents;
- e) conclusions and recommendations.

(3) The report on the constitutional jurisdiction shall be approved by means of a Constitutional Court judgment and shall be signed by its President.

Chapter XVII

ENSURANCE OF THE CONSTITUTIONAL JURISDICTION EXERCISE

Article 106. The ensurance of the constitutional jurisdiction exercise

In order to ensure the exercise under the terms of the law of the constitutional jurisdiction procedure, of the rights and duties of the participants to the trial, as well as in order to defend the high status of the Constitutional Court and the honor of the Constitutional Court judges, the Court shall be entitled to apply the measures provided under Article 107 of the present law.

Article 107. The liability for breaching the constitutional jurisdiction procedural rules

(1) In order to ensure the exercise under the terms of the law of the constitutional jurisdiction, there shall be established an administrative liability, in the form of a fine amounting up 25 minimal salaries, for:

- a) deliberate non-constitutional declarations, notwithstanding the way they have been presented;
- b) interference in the procedural activity of Constitutional Court judges, attempt to exercise pressure on them by means of non-procedural methods;
- c) ill-founded non-fulfillment in the established manner and terms of the requirements of the Constitutional Court judges, the non-enforcement of Court's judgments and advisory opinions;
- d) manifestation of contempt towards the Constitutional Court by disregarding the orders given by the session chairman, by breaching the session order, as well as by committing other acts that show deliberate disregard of the Court and of the constitutional jurisdiction.

(2) Measures to ensure normal conditions for the exercise of the constitutional jurisdiction shall be taken by means of orders of the Constitutional Court President.

(3) The orders of the Constitutional Court President regarding the administrative liability may be challenged before the Plenum of the Constitutional Court during 7 days since when the order was given. The decision of the Constitutional Court Plenum shall be final.

(4) The fine shall be paid during 15 days from the moment the sanctioned person acknowledged it. If the person refuses to pay the fine or does not pay it during this term, the order of the President or the decision of the Constitutional Court shall be enforced according to the provisions of the Civil Procedure Code.

TITLE III

SPECIAL PROCEDURES

Chapter XVIII

THE EXAMINATION OF NOTIFICATIONS ON THE INTERPRETATION OF THE CONSTITUTION

Article 108. Subjects entitled to address notifications

The President of the Republic of Moldova, the Government, a parliamentary fraction, a parliamentary group of at least 5 persons, the Supreme Court of Justice shall be entitled to address a notification to the Constitutional Court on the interpretation of the Constitution.

Article 109. The admissibility of the notification

(1) The notification on the interpretation of the Constitution shall be declared admissible in case that:

- a) there is a need to apply some provisions of the Constitution at the consideration of a case before a court of law or another public institution;
- b) there is a need to adopt a normative act, to elaborate an international treaty, to propose a political act;
- c) there exists a contradiction between constitutional provisions;
- d) there exist some other cases related to specific circumstances.

(2) The notification shall contain arguments in favor of the notification object, as well as different opinions of unofficial interpretations of the respective constitutional provision.

Article 110. The official and enforcement character of the interpretative judgment of the Constitutional Court

(1) The interpretative judgment delivered by the Constitutional Court shall be official and enforceable on the entire territory of the state, for all central and local public authorities, for companies, institutions, organizations, for officials, as well as for all natural persons and legal entities from the Republic of Moldova.

(2) No body of the state power shall be entitled to adopt normative acts or other legal acts that run counter to the constitutional provision interpreted by the Constitutional Court.

Chapter XIX

**EXAMINATION OF NOTIFICATIONS ON INITIATIVES
TO REVIEW THE CONSTITUTION**

Article 111. Subjects entitled to address notifications

Shall be entitled to address a notification to the Constitutional Court related to the initiative to review the Constitution:

- a) at least 200 000 citizens of the Republic of Moldova entitled to vote. Citizens that initiate the review of the Constitution shall represent at least half of the administrative-territorial units of the second level, and in each of them shall be registered at least 20 000 signatures in the support of this initiative;
- b) at least a third of Parliament deputies;
- c) the Government.

Article 112. The way to present the notification

(1) The notification on the initiative to review the Constitution addressed by citizens, along with the signature lists, collected under the terms of the Elections Code, and other acts shall be presented to the Central Elections Commission, which, after verification of their authenticity, shall transmit them along with its advisory opinion to the Constitutional Court.

(2) The notification addressed by the Government shall be presented along with the Decision of the Government, adopted according to the Law on the government in force, and with other documents (minutes, advisory opinions, expertise reports).

(3) The notification on the review of the provisions under para. (1) Article 142 of the Constitution shall be presented by authors listed under para. (1) Article 141 of the Constitution along with the draft of the constitutional law, the decision of the Central Elections Commission and the minutes of the republican referendum's results and the signatures lists.

(4) The notification on the initiative to review the Constitution shall contain the version of new or modified titles, chapters or paragraphs of the Constitution, the argumentation of proposed or expressed modifications and amendments in the new version. Along with the notification shall be attached the current text of the Constitution proposed for modification or amendment and the draft of the constitutional law. Along with the notification shall be attached also other documents: advisory opinions of some state institutions, expert conclusions, opinions of specialists, polls, etc.

Article 113. Ambit of competence

(1) Examining the draft law to amend the Constitution, the Constitutional Court shall verify its compliance with the provisions on the review limits, compliance of the proposals with the constitutional provisions, international treaties to which the Republic of Moldova is party to, to the previous interpretations of the Constitution given by the Constitutional Court, as well as from the point of view of insuring an unitary character of the constitutional matter.

(2) In its advisory opinion, the Court shall make proposals on the observance of para. (1) of the present article.

(3) The advisory opinion of the Constitutional Court shall be binding, and the proposals on the draft of the constitutional law shall be taken in consideration.

(4) In case that the advisory opinion of the Constitutional Court is negative or in case that it points out the breach of other fundamental provisions and of the constitutional matter uniformity, the Parliament may not examine the proposed the draft law.

The authors may address repeatedly with the initiative to review the Constitution after the removal of deficiencies.

Article 114. The advisory opinion

The Constitutional Court shall adopt one of the following advisory opinions:

- a) the proposal on the constitutional amendment does not run counter to the constitutional provisions;
- b) the proposal on the constitutional amendment runs counter to the constitutional provisions.

Chapter XX

**CONSTITUTIONALITY CONTROL
OF INTERNATIONAL TREATIES**

Article 115. The notification

(1) The President of the Republic of Moldova, the Government, a parliamentary fraction, a group of 5 deputies, the High Council of Magistrates shall be entitled to address notifications.

(2) International treaties subjected to ratification (approval) may represent the object of the constitutionality control.

(3) International treaties entered in force may be subjected to the constitutionality control only by means of the exception of non-constitutionality. Declaring a treaty or a part of it as non-constitutional shall bring about its denunciation.

Article 116. The admissibility of the notification

The notification shall be considered admissible in case that:

- a) the international treaty, the constitutional control of which is solicited by the notification, according to the Constitution and the Law no. 515- XIV of 24 September 1999 on international treaties of the Republic of Moldova, requires to be ratified by Parliament or approved by another public authority.
- b) contains arguments according to which the international treaty runs counter to the Constitution or the constitutional provisions run

counter to the international treaty and it cannot be submitted to ratification.

Article 117. Advisory opinion

(1) On the cases of constitutional control of international treaties to which the Republic Moldova is party to, the Constitutional Court shall deliver one of the following advisory opinions:

- a) to acknowledge the international treaty or some of its provisions as constitutional;
- b) to declare the international treaty or some of its provisions as non-constitutional;
- c) to ascertain the contradictions between the constitutional provisions and the provisions of the international treaty.

(2) The international treaty or some of its provisions, declared non-constitutional by the Constitutional Court, may not be ratified or approved and may not enter in force in the Republic of Moldova.

Chapter XXI

**EXAMINATION OF NON-
CONSTITUTIONALITY EXCEPTIONS**

Article 118. Subjects entitled to address notifications

(1) The Constitutional Court shall examine the non-constitutionality exceptions of normative acts at the notification addressed by:

- a) natural persons;
- b) courts of law of all levels.

(2) The courts of law may bring before the Constitutional Court the non-constitutionality exception of normative acts while examining civil, administrative or criminal cases *ex officio* or at the request of parties according to procedural rules.

Article 119. The right to address notifications

(1) The person, whose rights or freedoms are violated by a normative act, already enacted or to be enacted by a state institution, shall be entitled to address notifications to the Constitutional Court, alleging the violation of constitutional rights and freedoms enshrined under Article 15- 54 of the Constitution.

(2) To notification, besides the acts specified under Article 48 of the present law, shall be attached the copy of the official certificate issued by the state institution, that according to its ambit of competence has applied or is to apply at the examination of a specific case the challenged normative act. The certificate shall be issued at the request of the official or of the court of law before which the case is pending.

Article 120. The admissibility of the notification

(1) The notification alleging the violation of fundamental rights and freedoms shall be considered admissible if:

- a) the challenged normative act provided for constitutional rights and freedoms;
- b) the normative act is being applied or is to be applied in a specific case, the examination of which was completed or is initiated before a court of law or another state institution, the ambit of competence of which includes the application of the normative act.

(2) The refusal to declare admissible the notification may be appealed in the Plenum of the Constitutional Court as provided under Article 53 of the present law.

Article 121. Receival of the notification

(1) The Constitutional Court shall inform the court of law or the other institution, which applied or is to apply the challenged normative act at the examination of the case, about the receival of the notification. The information shall not be binding for the suspension of the case examination.

(2) The court of law or another state institution, which examined the case and which applied or is to apply the challenged normative act, shall be entitled to suspend the examination of the case till the adoption of the Constitutional Court judgment.

Article 122. Delivery of judgment

(1) The Constitutional Court shall deliver on the notification one of the following judgments:

- a) to acknowledge the normative act or some of its provisions as constitutional;
- b) to declare the normative or some of its provisions as non-constitutional.

(2) In case that the normative act is declared non-constitutional, the case shall be reviewed as provided for in the legislation in force.

(3) In case that the normative act or some of its provisions are declared non-constitutional, and based on them a litigation was settled, the person shall be paid all the expenses and damages as provided for in the legislation in force.

Chapter XXII

POWER SYMBOLS

Article 123. The power symbols

(1) In the courtroom of the Constitutional Court there shall be placed the State Coat of Arms, the State Flag and the Constitution of the Republic of Moldova.

(2) During the session, the judges of the Constitutional Court shall wear gown, the model of which shall be approved by the Court.

(3) The judges of the Constitutional Court and the administrative and specialized personnel shall be provided with an identity card. The pattern of the identity card and the manner of providing them shall be regulated by the Regulation of the Secretariat. The President of the Republic of Moldova shall hand in the identity cards to the judges of the Constitutional Court.

Article 124. The seal

The Constitutional Court shall have a seal with the image of the State Coat of Arms and with its name.

Article 125. The guard

The guard of the Constitutional Court premises, and if necessary of the President of the Constitutional Court shall be provided as provided for in the legislation.

TITLE IV

FINAL AND TRANSITORY PROVISIONS

Article I. The present law shall enter in force at the date of its publication.

Article II. At the entrance of the present law into force shall be cancelled:

- the Law no.317-XIII of 13 December 1994 on the Constitutional Court;
- the Code of constitutional jurisdiction no.502-XIII of 16 June 1995.

Article III.

The Government shall present to Parliament during three months from the publication date of the present law proposals on bringing the legislation in force in line with the Law on the Constitutional Court.

Article IV.

(1) The judges of the Constitutional Court at the date of entry of the present law shall maintain their position till the expiry of their 6-year mandate.

(2) The mandate of judges appointed for 6 years may be extended with other three years by the respective bodies provided under Article 9 of the present law.

(3) The seventh judge of the Constitutional Court shall be appointed in position by the President of the Republic of Moldova for a 9-year term in the manner provided by the present law.

(4) The elected judge, that substitutes the President of the Constitutional Court in his absence, shall hold the position of deputy-president of the Constitutional Court till the expiry of a 3-year term from the date of its appointment to the position as substitute judge of the president. At the expiry of this term, the deputy-president of the Constitutional Court shall be elected as provided by the present law.

(5) The assistant judges shall be in position according to the provisions of the Law on the status of judges.

(6) The prime-assistant judge shall be appointed in position during a month from the date of entry into force of the present law.

Article V.

Concerning the modifications in the composition of the Constitutional Court, the Constitutional Court shall present proposals on the modification of the Law on the state budget.

The President of Parliament