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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**COMMENTS**  
**ON THE DRAFT AMENDMENTS TO THE LAW**  
**ON THE CONSTITUTIONAL COURT**  
**OF LATVIA**

by  
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The specifics of the constitutional developments of Republic of Latvia is conditioned the fact that after reestablishment of independence the Constitution of 1922 which did not contain provisions on constitutional court was reestablished. On June 5, 1996 amendment was made in Chapter 6 of the Constitution. According to newly stipulated Article 85 of the Constitution "In Latvia, there shall be a Constitutional Court, which, within its jurisdiction as provided for by law, shall review cases concerning the compliance of laws with the Constitution, as well as other matters regarding which jurisdiction is conferred upon it by law. The Constitutional Court shall have the right to declare laws or other enactments or parts thereof invalid. The appointment of justices to the Constitutional Court shall be confirmed by the *Saeima* for the term provided for by law, by secret ballot with a majority of the votes of not less than fifty-one members of the *Saeima*."

Both substantial and procedural norms of constitutional justice are stipulated by the Law on the Constitutional Court adopted on June 14, 1996. Further amendments of the mentioned Law were made by the Laws of November 30, 2001 and January 15, 2004.

**The draft of the suggested amendments aims to solve the following problems.**

1) it provides for additional requirements for a candidate for the office of a justice of the Constitutional Court, namely, impeccable reputation, master's degree in law, as well as it provides for the date, which would serve as the starting point of working experience required, and age restrictions;

2) it specifies the non-renewable term of office of a justice of the Constitutional Court providing that one and the same person can hold the position of a justice of the Constitutional Court only once;

3) it provides for the term, within which to submit a proposition regarding confirmation of a new justice of the Constitutional Court;

4) it provides that the institution that issued the disputable act is requested to submit a written reply not exceeding the term of two months. At the same time, the period of preparation of a case is prolonged up to five months;

5) it provides that interpretation of a certain legal provision provided in a judgment of the Constitutional Court shall be binding on all State and municipal institutions (courts included) and officials, as well as natural person and legal entities;

6) it provides for the term, within which the dissenting opinions to the judgment of the Constitutional Court shall be published in the newspaper "Latvijas Vēstnesis" (Official Gazette);

7) it establishes a clear methodology of calculating the amount of monthly salary for justices of the Constitutional Court, the Vice-President and the President of the Constitutional Court by providing a coefficient that shall be applied to the annual average gross salary of employees of the State for the previous year as provided in the official statistical report of the Central Statistical Bureau. The coefficient has been established taking into consideration the present monthly salaries of justices of the Constitutional Court, which requires no additional funding from the State budget;

8) it provides for the duration of the annual vacation and additional vacation of a justice of the Constitutional Court (before it was provided in the Law "On Judicial Power");

9) it provides for the procedure for awarding bonuses and premiums for fulfilling additional duties, for justices of the Constitutional Court, as well as enumerates the cases when allowances shall be case and provides for mandatory health insurance and lists expenses to be reimbursed, i.e., expenses for accommodation expenses, transportation expenses and an allowance after the expiry of the term of office;

10) it provides for forming a new structural unit of the Constitutional Court, namely, Administration of the Court which would organize and ensure administrative functioning of the Court;

11) it establishes that advisors and assistants to justices of the Constitutional Court shall be employed for a term that is equal to the term of office of the justice; it specifies normative acts that shall be applied to officials and employees of the Constitutional Court in the field of social guarantees.

**The following particular suggestions are made to solve the above-mentioned problems:**

**1. It is recommended to re-state Article 4, paragraph 2, of Law on the Constitutional Court of Latvia in the following wording:**

"(2) The following persons may be confirmed a justice of the Constitutional Court:

- 1) a person who is a citizen of the Republic of Latvia;
- 2) a person with an impeccable reputation;
- 3) a person who has reached the age of 40 at the date when a proposition of confirmation of a Constitutional Court justice is submitted to the Saeima Presidium;
- 4) a person who has the second level higher vocational education (or bachelor degree in law) and a master's degree in law;
- 5) a person who has at least ten years working experience in a legal profession or scientific and pedagogical work in law in a scientific institution or a higher education establishment. Only the working period after acquisition of the second level higher vocational education or a bachelor degree in law shall be added to the working experience."

**It is suggested to include the following new wording in Paragraph 2.**

"(2<sup>1</sup>) A person who may not be nominated for the office of a justice under Section 55 of the Law "On Judicial Power" must not be nominated for the office of a justice of the Constitutional Court.

**The difference between the Law in force and new one is the following:**

- a) the wording form is changed, i.e. numerations are made,
- b) new requirements are added: a person with an impeccable reputation; a person who has reached the age of 40 at the date when a proposition of appointment of a justice of the Constitutional Court is submitted; a requirement of higher legal education is clarified; a definite requirement of definition of seniority (employment history) is suggested, emphasizing that "Only the working period after acquisition of the second level higher legal education or a bachelor degree in law shall be added to the working experience.";

**The groundings are following:**

Under the Second Paragraph of Article 4 of the Constitutional Court Law, a person with higher legal education and at least ten years working experience in a legal profession or scientific and pedagogical work in law in a scientific institution or a higher education institution can be confirmed a justice of the Constitutional Court. At present, in higher education institutions it is possible to acquire academic education, bachelor, master and doctor's degree, as well as professional qualification of the fourth and the fifth levels and that of bachelor and master degree. A college is an educational establishment that works according to the first level higher vocational education program (college education) and provides for the possibility to acquire the fourth level of professional qualification. In each of these programs, this is the term of acquisition of the education program that differs. Taking into consideration the jurisdiction of the Constitutional Court, it is necessary to increase requirements regarding education acquired, which would comply more with the real situation of nowadays. It is also necessary to establish the date which would serve as the starting

point of working experience of a person that is necessary for holding a position of a justice of the Constitutional Court. It should not be allowed that work that requires no education as a prerequisite to work independently (the work during the course of studies) is included into the length of service (working experience) required.

The requirements set for candidates for the position of a justice of the Constitutional Court set forth in the Constitutional Court Law do not provide for any age restriction. After having examined the practice abroad, it can be concluded that one of the criteria for candidates of a justice of a constitutional court is reaching of a certain age - 40 - 45 years (Hungary, Slovenia).

Since the position of a justice of the Constitutional Court is regarded as the highest peak of carrier in institutions of judicial power, this requires not only knowledge and professional experience but also life experience and personal maturity; like the Satversme (Constitution) provides for the minimum age for the State President, the requirement of the age of 40 years is also planned to apply to a justice of the Constitutional Court.

### **In our opinion,**

a) The proposals are well-grounded and aim to form a constitutional court which applies with great public authority, necessary experience and relevant level of qualification,

b) age census is adopted in the legislation on constitutional courts of a number of countries and it drives from the reality that the members of the constitutional courts are required not only knowledge and professional experience, but also life experience and maturity. Such a requirement, for example, faces also the Head of the State.

c) taking into account that countries in transition face very serious problems in the sphere of reforms of educational systems and also taking into consideration the attempts made in Latvia in that field, particularly requirements on the Law on education and the Regulation 481 adopted by the Cabinet of Ministers on November 21, 2001 (Regulations regarding the State Standard for the Second Level Higher Professional Education), the requirements made on the educational census are well-grounded and necessary.

d) We believe that supplement ( 2<sup>1</sup> ) is also essential taking into account as the position of the justice of the constitutional court is the pick of the career of the justice in the system of judicial power.

### **2. The following amendments are suggested in Article 7 of the Law.**

„ ...to supplement the words "duties of office" of the First Paragraph with the words "except for the cases provided for in the Third and the Fourth Paragraph of Article 11 of this Law";

to provide for the following wording of the Third Paragraph:

**"(3)** One and the same person may be a justice of the Constitutional Court only once."

### **The grounds are the following:**

The Third Paragraph of Article 7 the Constitutional Court provides that one and the same person may not be a justice of the Constitutional Court for more than ten years running, however it does not provide for the number of offices of a justice of the Constitutional Court per one person. Latvia has one of the longest terms of office of a justice of a constitutional court in Europe. In order to ensure and to reinforce the independence and impartiality of a justice the term of office can not be renewed [like Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms provides for single term of nine years, as desired notably by the Parliamentary Assembly in its Recommendation 1649 (2004)]. Moreover, contrary to a court of general jurisdiction, no confirmation of justices for life is allowed in a constitutional a court in order to prevent turning of a parliamentary and democratic state into a power of constitutional judges (*J.Pleps, E.Pastars, I.Pakalne Konstitucionālās tiesības - Latvijas Vēstnesis, 2004. pp. 599*).

**In our opinion,**

- a. the suggested supplement of Part 1 of the Article drives from the general logics of ensuring the activity and permanent quorum of the Constitutional Court stipulated in Parts 3 and 4 of Article 11 and thus grounded.
- b. In a number countries (Albania, Azerbaijan, Bulgaria, France, Georgia, Italy, Latvia, Poland, Portugal, Rumania, Slovakia, etc) the legislation on the constitutional courts stipulates that the same person cannot hold the office of the justice of the constitutional court more than once. Some countries consider it as possible. For instance, Article 8 of the Law on the Constitutional Court of Hungary stipulates that the members of the constitutional court can be re-elected once. In Spain (Article 16 of the Law on the Constitutional Court) and in Germany (Article 4 of the Law on Federal Constitutional Court of Germany) prescribes that the judges cannot be re-elected **continuously**. In another group of the countries (Austria, Belgium, Turkey, Russian Federation, Armenia, etc.) the justices of the constitutional court are appointed by the principle of irrevocability until achieving age of 65 or 70. The same order acts in the countries where the constitutional justice is implemented by the supreme instances of general jurisdiction. The latter is considered as one of the most essential guarantees of structural independence of the court.

Naturally, the approaches to the institution of term, order and rotation of the appointment of the justice of the constitutional court is conditioned by the certain peculiarities of the judicial system of a country. Although, the general approaches of the international development state that strengthening of the structural guarantees of independence of the constitutional courts now prevail over the fear which used to circulate in 1960-70s, when at the first stage of formation of the constitutional courts, the political authorities were anxious about the prevention of the possible danger of establishment of the so-called "power of the constitutional court". We are sure, that this threat is exaggerated in the current conditions of the constitutionalization of the constitutional culture and public relations,. There are more productive gears which guarantee the constitutional court not to be involved in political processes. Thus, restoration of this ban is not grounded. At the best the German or Spanish model might be adopted, i.e. **prevention of continuous appointment**.

Besides, it is desirable that the authorities and order of formation of the constitutional court is defined by the Constitution while the order of activity by the Law on the Constitutional Court. We have some concerns towards the suggested supplement in Article 7, Paragraph 3 of the Law.

**3. It is suggested to supplement Article 11, part 2 with the following wording:**

"(2<sup>1</sup>) The institution mentioned in the First Paragraph of Article 4 of this Law shall submit a proposition, not later than within one month before the expiry of the term of office of a justice of the Constitutional Court, to the Saeima Presidium regarding confirmation of a new justice of the Constitutional Court."

**The grounds are the following:**

Article 11 of the Constitutional Court Law provides for the procedure of confirming a new justice of the Constitutional Court if the term of office of the previous justice has expired and provides for a term, within which the Constitutional Court must inform the institution, which would recommend a new candidate for a position of a justice for confirmation. The norms, however, does not provide for the term, within which the institution submits the proposition regarding confirmation of a new justice of the Constitutional Court to the Saeima,

which thus creates a situation when the Constitutional Court would not work in a full body. It is also important that timely nomination of candidates would allow the society to express their opinions regarding the candidate. The regulatory framework effective at present does not allow sometimes, even due to certain substantial reasons, to recognize a candidate as non-compliant with the position.

**Our opinion.**

The grounding is complete and the suggestion provides with certain clarification in the process of filling the vacancy of a judge. The same order is implemented in the Republic of Armenia and Venice Commission has expressed its positive attitude towards it (See CDL-AD (2006)017 and CDL (2006)050):

**4. It is suggested to replace the words “one month” with the words “two months” in Article 20, Paragraph 9, Part 3.**

**The grounding lacks.**

**In our opinion.**

Taking into consideration the fact that within the term to two months the constitutional court (the judge) can assign also another time frame for submitting the application, then this amendment can assist the better preparation of the review of the case and will not become a reason for unnecessary prolonging of the case.

**5. It is suggested to replace the word “three” with the word “five” in the first sentence Article 22, Part 1.**

**The grounding lacks.**

**Our opinion.**

In most of the European countries the preparation of a case for review and taking the decision in the constitutional court takes in average from 5 to 6 months. This term can be considered as optimal especially for such courts where the institute of individual appeal is available. The shorter term could influence negatively on the quality of preparation of the case.

In most countries the differentiated approach is available: different time terms are prescribed for abstract and concrete control, for written and oral procedures of reviewing the cases, in the case of implementation of different authorities.

Suggested amendments could support the increase of effectiveness of the consideration of cases and it is in the framework of so called limit of consideration of cases in the reasonable terms.

**6. It is suggested to set forth Article 32, Part 2 in the following wording.**

**"(2) A judgment of the Constitutional Court and interpretation of respective legal provision provided therein shall be binding on all State and municipal institutions (courts included) and officials, and also on natural persons and legal entities."**

**Grounding lacks.**

**Our opinion:**

The amendment is very essential and urgent. It is suggested to submit a normative requirement that not only operative provisions of the decision of the constitutional court, but also legal positions stipulated thereto are obligatory. That is, the implementation of the decision is obligatory in its complicity: This provision applies with great importance for ensuring the implementation of the court decisions as well as for effective serving of these decisions as sources of law. We welcome such a suggestion.

**7. it is suggested to set forth Article 33, Part 1 in the following wording.**

"(1) The judgment of the Constitutional Court shall be published in the newspaper "Latvijas Vēstnesis" not later than within five days of being reached, as well as forwarded to the participants of the case in accordance with the Rules of Procedure of the Constitutional Court. If a dissenting opinion of a justice is attached to the case, the opinion shall be published in the newspaper "Latvijas Vēstnesis" not later than within two months after reaching the judgment of the Constitutional Court."

**The grounds are the following:**

The First Paragraph of Article 33 of the Constitutional Court Law provides that a judgment of the Constitutional Court shall be published in the newspaper "Latvijas Vēstnesis" (Official Gazette) and in the gazette "Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs" not later than within five days of being reached. At present dissenting opinions of justices of the Constitutional Court are not published in the Official Gazette. With a view to favor scientific discussions and contribute into development of legal doctrine, dissenting opinions till now are published only in the compilation of judgment of the Constitutional Court once per year. It cannot be regarded as efficient way of distributing the dissenting opinions.

**Our opinion.**

The presented grounding is very definite. The institution of separate opinion not only possesses with doctrine importance but also sufficiently aids the comprehensive review of circumstances of the case, strengthening the independence of the judge, ensuring the effective participation of all judges in the stages of preparation and review of the case. As a rule, the separate opinions shall be announced together with the decision of the constitutional court.

*8. Article 38 is suggested to be submitted in the following wording.*

*"Article 38. Remuneration of justices of the Constitutional Court*

***A justice of the Constitutional Court shall receive a monthly salary. It shall be calculated by applying the following coefficient to the average gross salary (rounded sum to lats) of employees of the State for the previous year as provided in the official statistical report of the Central Statistical Bureau:***

- 1) for a justice of the Constitutional Court – 9.8;***
- 2) for the Vice President of the Constitutional Court – 10.8;***
- 3) for the President of the Republic of Latvia – 12.2.***

**The grounds are the following:**

The mechanism for determining a monthly salary of a justice of the Constitutional Court is very complex and unclear. The effective regulation regarding social guarantees of justices of the Constitutional Court, like the duration of vacation, bonus awarding system, allowances and health insurance, that is already established in other normative acts can be regarded as inefficient.

**Our opinion:**

***Any issue concerning the salary of the justice of the Constitutional Court first shall be considered from the point of view of guarantees of social independence of the justice and the court. Thus, the order of deciding the order and amount of salary shall be defined distinctively; it must be protected from the possible subjective interference of the legislative and executive bodies and must provide s judge with adequate worthy conditions.***

*9. It is suggested to supplement Article 39 with the following wording.  
Article 39. Vacation of justices of the Constitutional Court*

(1) Justices of the Constitutional Court shall be granted an annual paid vacation of not less than five calendar weeks.

(2) A justice of the Constitutional Court shall be assigned a paid additional vacation – three calendar days for each five years of office of a justice in any court, which would it total not exceed two calendar weeks.

(3) If it is necessary for a justice of the Constitutional Court and working conditions permit, a justice of the Constitutional Court shall be granted an unpaid vacation."

**No special substantiation is provided.**

**Our Opinion.**

We welcome that the issues concerning the social guarantees of the justice of the Constitutional Court are regulated by the Law on the Constitutional Court. Nevertheless, in the case when the bonus of the salary of a justice of the Constitutional Court concerning long service contains definite logics, guarantees definite link between the experience and productivity of the work, in the case of vacation, the issue of variation contains an element of discrimination and it is not desirable. So we have some concerns towards the amendment supplemented in Article 39, Paragraph 2.

**10. It is suggested to supplement Chapter 5 of the Law with Articles 39<sup>1</sup>, 39<sup>2</sup> and 39<sup>3</sup> with the following wording:**

*"Article 39.<sup>1</sup>. Bonus and premium system for justices of the Constitutional Court*

(1) A justice of the Constitutional Court can be awarded a bonus in accordance with contribution to the work using for this the financial resources at the amount up to 15 percent out of the planned salary fund, as well as resources saved from the salary fund.

(2) A justice of the Constitutional Court, for fulfilling the duties of a justice of the Constitutional Court on leave or duties of a vacant position in addition to his or her direct duties of the position, shall be paid a premium at the amount up to 20 percent of his or her monthly salary using the financial resources saved from the salary fund. The total amount of bonuses shall not exceed a monthly salary of a justice of the Constitutional Court on leave or that of a vacant position.



(3) If several justices of the Constitutional Court fulfill the duties of a justice of the Constitutional Court on leave or those of a vacant position, the total sum of bonuses shall not exceed a monthly salary of a justice of the Constitutional Court on leave or that of a vacant position.

*Article 39.<sup>2</sup>. Other social guarantees for justices of the Constitutional Court*

(1) A justice of the Constitutional Court, when being granted an annual vacation, shall be paid an extraordinary allowance at the amount of one month's salary.

(2) A justice of the Constitutional Court that has been injured in a serious accident shall be paid an extraordinary allowance in the amount of one month's salary. The allowance shall not be paid if the accident has occurred due to an unseemly or undignified behavior of the justice, which would thus discredit the judicial power.

(3) A justice of the Constitutional Court shall be paid an allowance in the amount of one month's salary in the event of the death of a family member or a dependant. A justice of the Constitutional Court shall not be paid the allowance if another family member of the justice of the Constitutional Court who is employed in a public institution and has the right, according to an external normative act, to receive an allowance due to a death of a family member or a dependant has already applied for the allowance or received it.

(4) A justice of the Constitutional Court shall be paid an allowance in the amount of three monthly salaries in the event of a child birth. If both parents are employed in public institutions, the normative acts of which, regulating their functioning, provide for the rights to a childbirth allowance, only one of the parents shall have the rights to receive the allowance.

(5) The State shall mandatorily insure the life and health of a justice of the Constitutional Court at the amount up to 15 monthly salaries.

(6) A justice of the Constitutional Court, at the end of the term of office or after dismissal from the position due to health conditions shall be paid an extraordinary allowance at the amount of three monthly salaries in accordance with the First Paragraph of Article 10 of this Law.

(7) The following shall be reimbursed for a justice of the Constitutional Court:

1) accommodation expenses if a justice of the Constitutional Court does not live in Riga and if in order to fulfill his duties as a justice of the Constitutional Court he needs to pay for accommodation in Riga. Accommodation expenses shall be reimbursed according to the actual expenditure but not exceeding the average gross salary (rounded sum to lats) of employees of public sector of the State for the previous year as provided in the official statistical report of the Central Statistical Bureau by applying a coefficient of 1.26;

2) transport expenses according to the actual expenditure by applying the following coefficients:

a) for a justice of the Constitutional Court living in Riga or within 60 km of Riga – 0.43,

b) for a justice of the Constitutional Court living from 60 to 150 km from Riga – 0.67,

c) for a justice of the Constitutional Court living farther than 150 km from Riga – 0.9.

(8) Actual expenditure for the purpose of Item 2 of the Seventh Paragraph of this Article shall be the expenses for the use of inter-city public transport and the expenses for the use of a vehicle owned or possessed by a justice of the Constitutional Court.

(9) transportation expenses shall not be reimbursed for those justices of the Constitutional Court who have been assigned a car for needs related to fulfilling their duties.

(10) the reimbursements mentioned in the Seventh Paragraph of this Article are tax exempt. The transportation expenses mentioned in Item 2 of the Seventh Paragraph of this Article shall be reimbursed after submitting documents attesting the factual expenses.

**Article 39.<sup>3</sup>. Long service pensions**

A justice of the Constitutional Court and a person who held the office of a justice of the Constitutional Court shall have the right to a long service pension under the Law on Long Service Pensions for Judges."

**Substantiation is the following:**

When assessing the "basket" of social guarantees for justices and higher officials of the State, as well as the social guarantees of justices of other constitutional courts, it can be concluded that it is necessary to improve the social guarantees system of justices of the Constitutional Court by ensuring social guarantees for those officials who "impersonate the judicial system and constitutional values of the respective State", including the time after the end of the term of office.

The fact that the Latvian labor market is comparatively small, whereas normative acts provide for a range of restrictions for State officials (Constitutional Court justices included) after the end of the term of office, whilst a justice of the Constitutional Court is not provided with compensation after leaving the position, is also of great importance. Under such circumstances, at the final stage of the term of office, a state official starts looking for another employment, which, in turn, can cause the risk of adopting not objective decisions and can affect independence of the justice.

The Draft Amendment provides for the same social guaranties (Article 39<sup>2</sup>) as members of the Parliament have been enjoying.

**Our Opinion.**

In different countries (particularly, in Austria, Russian Federation, etc.) a bulky system of guarantees for social independence of the judges of the constitutional courts is prescribed by the law where the adequate solutions, which are suggested in this draft, are included. As a general rule strengthening of these guarantees is essential. It has a certain concern also with the term of service. Moreover, also in the case when the term of 10 years service is prescribed without the right of re-appointment, in this case the guarantees of social independence must be more efficient. On the other hand the solution of this issue must be harmonic with the social policy implemented in the country and legislative regulations for provision of guarantees of social independence for other state officials (especially for judges, parliamentarians) must be taken into consideration. Though the main principle must be the following – the guarantees of the social independence of the judges of the constitutional court can not be weaker than any guarantee prescribed for any official of the country.

**11. It is suggested to set forth Chapter 6 of the Law in following wording:****"Chapter VI****ADMINISTRATION, OFFICIALS AND EMPLOYEES OF THE CONSTITUTIONAL COURT****Article 40. Administration of the Constitutional Court**

(1) Administration of the Constitutional Court is a structural unit of the Constitutional Court that shall organize and ensure functioning of the Constitutional Court.

(2) The head of the Administration of the Constitutional Court shall be employed and dismissed by the President of the Constitutional Court.

(3) Administration of the Constitutional Court:

- 1) shall perform financial management;
- 2) shall ensure material and technical provision;

- 3) shall carry out record keeping;
- 4) shall organize personnel management and training;
- 5) shall ensure communication with the society;
- 6) shall ensure international collaboration.

#### **Article 41. Officials and employees of the Constitutional Court**

- (1) The staff list of the Constitutional Court shall be established by the President of the Constitutional Court within the limits of the Courts' budget.
- (2) The employment relations between the Constitutional Court and its officials and employees shall be regulated by the Latvian Labor Code unless this Law has ruled otherwise.
- (3) An adviser and an assistant to a justice of the Constitutional Court shall be employed for a term that is equal to the term of office of a justice of the Constitutional Court.
- (4) All benefits and social guarantees provided for officials of the State civil service in other normative acts shall apply to the officials and employees of the Constitutional Court,,.

#### **The grounds are the following:**

The Constitutional Court Law does not provide that administrative work of the Constitutional Court shall be organized and ensured by a structural unit formed for this particular purpose. Hence, in addition to the existent duties as a justice and a chairperson, the job responsibilities of the President of the Constitutional Court include a range of additional responsibilities, which requires time that should be devoted to his or her direct duties of the position.

Labor relations of other officials and employees of the Constitutional Court including advisors and assistants to the justices (legal clerks) are regulated by the Latvian Labor Code. The specific cases defined in the Labor Law when it is permitted to conclude a short-time contract do not include a contract of the advisors or assistants to higher officials (justices included). Taking into consideration the specific character of the work, it is clear that it is impossible to guarantee the position of an advisor or assistant to the justices of the Constitutional Court for an unlimited term.

#### **Our Opinion.**

The constitutional Court of Latvia is the rare example of the courts where the court staff as itself almost does not exist. It cannot be considered as a normal phenomenon. As a rule, both in Western and Eastern European countries the constitutional courts have separate staff which not only organize the administrative economical management but also with the assistance of legal departments hold serious expertise in the stage of preparation of the cases. In a number of countries, such as in Armenia, the Staff of the Court is recognized by the law as State administrative institution and implements distinctly defined duties. There are constitutional courts where besides the court staff, the President of the Constitutional Court has its own staff. What we witnessed in Riga, on June 10-15, 2009, during the days of acquaintance with the activity of the Constitutional Court of Latvia, can be certified as a rare and non-encouraging exception. We believe that the power which the Constitutional Court of Latvia is authorized and also the availability of the institution of full value individual appeals simply demands availability of active staff and delay of the solution of this issue can have serious negative influence of the productivity of the activity of the Court.

#### **General Conclusion**

1. In our opinion, all suggested amendments follow legal aims, proceed from necessity of activity and further increase of productivity of constitutional justice in the Republic of Latvia.

They are greeted and mainly correspond to the general logics of provisions on the legislation of the constitutional courts previously expressed by Venice Commission (CDL-AD(2008)030, CDL-AD(2007)036, CDL-AD(2006)017, CDL(2006)050, CDL-JU(2004)056-e):

2. The suggested amendments for Article 7, Paragraph 3 and Article 39, Paragraph 2 can be approached with reservation as they are not convincing and not grounded.