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REPORT

**“THE ROLE AND THE COMPETENCES OF THE SECRETARY
GENERAL OF THE CONSTITUTIONAL COURT OF THE REPUBLIC
OF MACEDONIA”**

**Ms Milica NIKOLOVSKA
(Secretary General, Constitutional Court of “The former Yugoslav
Republic of Macedonia”)**

Legal Basis of the Status of the Secretary General

In accordance with Article 113 of the Constitution of the Republic of Macedonia, the functioning and the procedure before the Constitutional Court are determined by an act of the Court. This act, known as the "Rules of the Procedure of the Constitutional Court of the Republic of Macedonia"¹, determines that the Court has a Secretary General who is appointed for four years term and can be reappointed on the same position.

The Secretary General is responsible for its work and for the operation of the Court's professional service (Court's staff) before the Court, and for duties assigned by the President the Secretary General is accountable to/before the President of the Constitutional Court.

With respect to working relations and the management of the Court professional service of the CC, the Secretary General has the rights and duties of the head of state administrative body (under the Rules of Procedure of the Court).

On the other hand, under the Law on Public Servants, the Secretary General is a public servant with a highest rank. As a public servant, the Secretary General has the same rights and status with other public servants with respect to the salary, social rights and pension.

The Court appoints the Secretary General from among the public servants employed with the Court on the managing positions. The candidate for the Secretary General must be a lawyer, with at least 10 years of previous experience in performing the most complex professional and analytical duties, as well as organizational and managing abilities. There are neither special conditions, nor requirements for the performance of this position concerning the gender or the age of the candidate.

Upon the appointment by the Court, the Secretary General takes a solemn oath before the Constitutional Court.

The term of office of the Secretary General is 4 years, with the right to reappointment.

In addition to retirement, the function of the Secretary General may cease by way of election to other position, discharge before the end of the term of office, or if she/he is not reappointed to this position. In the latest cases the Secretary General is assigned on the position in the Court that he/she has held before the appointment as the Secretary General.

The Secretary General does not have a deputy. However, the Court, from among the state advisers of the Court, determines a person who is a second signatory of the Court's account. This allows, in case of absence of the Secretary General, undisturbed exercise of the financial duties of the Secretary General, i.e. the use and disposing of the budgetary resources necessary for the operation of the Court. In accordance with the Act on the internal division of the work of the Court, each employee of the Court is obliged to exercise all other tasks assigned to him/her by the Secretary General.

¹ Published in the "Official Gazette of the Republic of Macedonia" No. 70/1992; full text can be found of the web page of the Court: www.constitutionalcourt.mk

The functions of the Secretary General

Secretary General and non-judicial functions

1. The functions of the Secretary General are determined by the Rules of Procedure of the Constitutional Court. Under Article 96 of the Rules, the Secretary General of the Constitutional Court:

- manages the professional service of the Constitutional Court (Court's staff) and takes care about the promotion of its operation;
- takes care about the regularity and promptness in the work upon cases and preparations of other materials and for that purpose schedules and runs the working meetings of the professional service and professional board meeting;
- follows the execution of decisions and conclusions of the Constitutional court and informs the Court thereof;
- is responsible for executing the accounting of revenues and expenditures of the Constitutional court, and
- performs other activities and duties regulated by the acts for the Court organization, which will be assigned by the Court and the president of the Court.

2. In the Constitutional Court of the Republic of Macedonia, there is a Department composed of state advisors who are directly charged with the working on the cases brought before the Court. State advisors are responsible for drafting of so called "*referat* for the Court session" (written presentation of the legal and factual background of the case and the legal opinion – proposal how the case should be decided by the Court), they make a research from the perspective of international and comparative law and international and comparative jurisprudence, they also draft decisions and resolutions of the Court. In addition there is a Department for international co-operation and information (composed of state adviser and advisers), Financial Department, Library and Documentation Department, and technical staff. The Secretary General is responsible for the management and the organization of the work of all these departments. Or in numbers, the professional service of the Constitutional Court consists of 10 state advisers, 2 advisers, 1 junior expert associate, 1 accountant, 1 librarian, 1 register, 3 secretaries, one typist and one courier. This means that the Secretary General has under its responsibility 21 employees of the Court (this number excludes the judges of the Court, whose number is 9).

3. The Secretary General is responsible for the recruitment, evaluation and promotion in the carrier, transfer and termination of the working relations of the public servants upon previously conducted procedure, and in consultation with the Court, i.e. the judges of the Constitutional Court. The Secretary General decides also on the professional training of the Court's staff (participation at training sessions, seminars, foreign language learning courses etc)

4. The Secretary General is responsible for the execution of the Court's account - Court's incomes and expenditures, i.e. the Budget of the Court. The Secretary General is signatory of all the documents related to the salaries of the employees, invoices, accounts related to professional trips in the country and abroad, contracts etc.).

The Secretary General in co-operation with the Financial Department, prepares the Draft Annual Budget of the Court, presents it and defends it before the Ministry of Finance. The Secretary General is signatory i.e. responsible for the closing of the annual budget of the Court. Within the approved Court Budget, there are no limitations as to the amount of certain expenditure, or its kind. The Secretary General decides on the public procurements of the Court.

5. The Secretary General assists the President of the Court in the preparation and organization of the working meeting (meeting of all the judges and the Secretary General) which are held every week or when needed. The Secretary General attends these meetings and has the right to give information on issues that are on the agenda. The Secretary General prepares the agenda of the meeting and takes notes-minutes of the meeting. During these meeting usually current issues related to the functioning of the Court, are discussed, upon which the Court takes conclusions. The conclusions are to be enforced by the Secretary General.

The Secretary General is a member of the Committee on organizational and personnel issues and participates at its meeting. The Secretary General attends the meetings of the Committee on information and international co-operation.

6. The state advisor for public information, i.e. the spoke-person of the Court is responsible for the regular contacts with the press and the media. However the Secretary General assists in the preparation of the official press releases and attends the press conferences of the Court that are held occasionally. In addition, the Secretary General is responsible for giving information to the parties of the proceedings in cases that are pending before the Court.

The Secretary General is responsible for the international relations of the Constitutional Court, for the contacts with organizations from other countries and international organizations and assists the President in his contacts with other constitutional courts. The Secretary General is also responsible for organization of the protocol during meetings on international level.

7. The Secretary General as a member of the editing board is responsible for publishing the Court's decisions and rulings in special publications (the Court publishes annually Bulletin of decisions and rulings of the Court), assists in the preparation of all the other publications published by the Court occasionally. The Secretary General is responsible for the content of the Court's web page, the maintenance of the computer network and for the Court's case law data base.

Secretary General and the judicial phases of the Court

1. The Secretary General registers the petitions and forms case files, and dispatches the cases among the judges and the state advisors. Approximately, the number of cases annually is 320 cases.

2. If the petition is not complete, the Secretary General shall inform the petitioner in writing and shall determine a time limit, (no longer than 30 days) for elimination of deficiencies of the petition. If the petitioner does not correct the petition, it shall be deemed that petition has not been submitted, for which the Secretary General makes note on the petition.

The Secretary General is authorized to dismiss the petitions when it is obvious that the issue in the petition falls out of the competences of the Constitutional Court.

If in the petition the citizen request an opinion, clarification or intervention before other state bodies, the Secretary General shall inform the petitioner in writing that the Constitutional Court is not competent for these issues.

Annually, the total number of these inadmissible complaints is 60-80, and the decision of the Secretary General for their dismissal is not subsequently confirmed by the Court.

3. According to the Court's Rules of Procedure, upon receiving the case, the judge-rapporteur and the state advisor, within 10 days (or within 3 days in cases for protection of rights and freedoms) conduct the preliminary proceedings. This include: request of opinions, clarifications,

acts and documents, research into the case law, conduct comparative law analysis and collection of other information necessary for drafting of "referat" for Court session.

Upon completion of the preliminary proceedings, and within time limit of 3 months from the day the case was received by the judge rapporteur and the state advisor, the case is brought at the session of the Court. If there are some problems due to which the case can not be brought before the Court (ex. the body which has enacted the disputed law or other act, fails to submit the act to the Court), the Court shall be informed in writing about the state of the affairs. In case of petitions for protection of rights and freedoms, the time limit for hearing the case before the Court is 30 days.

The average duration of procedure between the registering the complaint and the final decision of the Court is between 2 and 6 months. In exceptional cases, the procedure may take longer, more months or even years.

4. The Secretary General attends the sessions of the Court and is authorized to give his/her own opinion upon the cases discussed by the Court. The sessions of the Court are held every week (each Wednesday), except during holidays and during the summer break. The number of Court hearings is between 40 and 45 per year. The Secretary General assists the President in the preparation and the organization of the hearings (preparation of the schedule of the hearings, timely distribution of all the materials to the judges etc.)

5. Upon completion of the procedure, the Secretary General is in charge of notifying the Court decisions to the petitioner and other parties in the proceedings (the body that has enacted the law/act) official gazette, etc.

The Secretary General follows the execution of the decisions of the Court and informs the Court thereof. Upon the authorization by the Court, the Secretary General may request the executive power (the Government) to ensure the execution of Court's decisions.