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

**LAW**

**No 8577, dated  
10.02.2000**

**ON THE ORGANIZATION AND FUNCTIONING OF  
THE CONSTITUTIONAL COURT OF  
THE REPUBLIC  
OF ALBANIA**

**L A W<sup>1</sup>**  
**THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

**No 8577, dated  
10.02.2000**

**“ON THE ORGANIZATION AND FUNCTIONING OF THE CONSTITUTIONAL COURT OF  
THE REPUBLIC  
OF ALBANIA”**

In reliance on Article 6 and 81, Article 83, point 1, of the Constitution of Albania and upon the proposal of a group of Members of the Assembly,

**DECIDED:**

**CHAPTER I GENERAL PROVISIONS**

**Article 1 Aim of the law**

This Law provides for the rules on the organization and functioning of the Constitutional Court, status of its members, presentation and review of the applications, principles and rules of constitutional adjudication, taking of decisions and their execution.

Regarding the issues related to procedures, which are not provided for by this law or by the Regulation of the Constitutional Court, the Constitutional Court shall take account also of the legal provisions, which regulate the other procedures, taking into consideration the legal nature of the matter.

**Article 2**

**Functioning of the Constitutional Court**

The Constitutional Court shall resolve the constitutional disputes and make the final interpretation of the Constitution.

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<sup>1</sup> Amended by the Law no. 99/2016 ‘On some addend and amendments to the Law no. 8577, dated 10 02 2000 “On organization and functioning of the Constitutional Court in the Republic of Albania” and the Law no.45/2021 ‘On some addend and amendments to the Law no. 8577, dated 10.02.2000 “On organization and functioning of the Constitutional Court in the Republic of Albania”

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### **Article 3 Independence of the Constitutional Court**

The Constitutional Court is dependent only on the Constitution.

The Constitutional Court enjoys complete organizational, administrative and financial independence in fulfilling the tasks provided for by the Constitution and this Law.

### **Article 4**

#### **Seat of the Constitutional Court**

The seat of the Constitutional Court is in Tirana, the capital city of the Republic of Albania.

### **Article 5**

#### **Symbols displayed at the Constitutional Court**

Displayed at the courtroom of the Constitutional Court shall be the coat-of-arms of the Republic, the National Flag, the logo and a view of the Constitution of Albania.

During the conduct of the plenary sessions, the judge of the Constitutional Court shall wear a special robe; the description and form thereof being determined by the Court.

### **Article 6 Financial resources**

The Constitutional court shall administer its own budget, which being part of the state budget, shall be drafted by the Court and submitted for adoption to the Assembly of the Republic of Albania.

Any other revenues being not prohibited by law shall be included into the financial resources.

The High State Audit shall audit the financial accounts of the Constitutional Court.

## **CHAPTER II**

### **APPOINTMENT, ELECTION AND END OF THE MANDATE OF THE MEMBERS OF THE CONSTITUTIONAL COURT**

### **Article 7**

#### **Composition of the Constitutional Court**

The Constitutional Court is composed of nine members, whereof three members shall be appointed by the President of the Republic, three members shall be elected by the Assembly of Albania and three members shall be elected by the High Court. The judges of the Constitutional Court shall be appointed for 9 years, without the right to reappointment.

The composition of the Constitutional Court shall be renewed every 3 years, by one third of its composition. The new members shall be appointed on rotation basis, respectively by the President of the Republic, the Assembly, and the High Court. This rule shall be followed even in the event of early termination of the mandate of the Constitutional Court member.

## Article 7/a

### Criteria and Conditions of Appointment of the Constitutional Court Judge

Member of the Constitutional Court can be elected the Albanian citizen meeting the following conditions:

Having full capacity to act;

Having completed the higher education in law, Second Level Diploma;

Having assumed no political functions in the public administration and having assumed no leadership positions in political parties during the past 10 years from the date of application; ç)

Not being subject to criminal proceedings and not being sentenced to imprisonment for the commission of a criminal offence;

Not having been dismissed from office due to disciplinary grounds and not being subject to any current disciplinary measure;

dh) Having successfully passed the process of auditing and verification of his/her personal assets and those of his/her family members, in accordance with the law.

The candidate meeting the conditions set out in paragraph 1 of this Article, shall meet the following further criteria:

Having a professional experience not less than 15 years as a judge, prosecutor, advocate, law professor or lecturer, high-level jurist in the public administration;

Having a renowned activity in the field of constitutional law, human rights or other spheres of law;

Being appreciated for his/her professional skills and ethical and moral integrity.

Fulfilment of the criteria above shall be assessed on the basis of:

tenure in profession;

Specific experience of the candidate in a certain field of law or as legal advisor at the Constitutional Court or High Court;

Post university qualifications and training in the field of constitutional law, human rights or another sphere of law;

ç) Scientific indicators, including publications and scientific articles in the field of law;

Performance during the higher legal education, with an average of scores of not less than 8, or equivalent to it, in case the higher education has been completed abroad or the final evaluation of the School of Magistrates;

dh) Information received from other public institutions.

The appointing bodies shall take account of the composition of the Constitutional Court at the moment of appointing the candidate for guaranteeing the balance among professional experiences of the members and observation of gender equality.

## **Article 7/b**

### **Procedure of Appointment by the President of the Republic**

The Chairperson of the Constitutional Court shall, under this law, notify the President of the Republic on the vacancy, who shall, within 7 days of receiving the notification, announce on public information media and on the official internet website the opening of the application procedure. The applications of the candidates along with the documents establishing the fulfilment of conditions and criteria set out in Article 7/a shall be submitted to the President of the Republic, who shall forward them to the Justice Appointments Council.

The Chairperson of the Justice Appointments Council shall, within 5 days of the publication of the list of candidates, convene the meeting of the Council, which shall examine the legal conditions and criteria met by the candidates for judges of the Constitutional Court. The notification for convening the meeting shall be public and it shall contain the date, time and venue of holding the meeting. Public institutions related to the justice system, civil society organisations being active in the protection of human rights and established for the protection of interests of the users of the justice system may submit their opinion regarding the candidacies to the Justice Appointments Council.

The Justice Appointments Council shall, following the evaluation of the appointment conditions and criteria, within 10 days of holding the meeting, draft a final list by ranking the candidates. The list shall be associated with a written report, thus analysing the meeting of the legal conditions and criteria for each candidate. The reasoned report, upon approval by a majority vote of all members of the Justice Appointments Council, shall be published.

The President shall, within 30 days of receiving the list from the Justice Appointments Council, appoint the member of the Constitutional Court from the candidates ranked on the three first positions of the list. The appointment decree shall be announced associated with the reasons of selection of the candidate. Where the President does not appoint a judge within 30 days of list being submitted by the Justice Appointments Council, the candidate ranked first shall be considered as appointed.

## **Article 7/c**

### **Procedure of Appointment by the Assembly of the Republic of Albania**

The Chairperson of the Constitutional Court shall, under this law, notify the Assembly of the Republic on the vacancy, which shall, within 7 days of receiving the notification, announce on the official internet website the opening of the application procedure. The applications of the candidates along with the documents establishing the fulfilment of the conditions and criteria set out in Article 7/a shall be submitted to the Assembly of Albania.

The Assembly of Albania shall, within 30 days of the opening of the application procedure, publish the list of candidates and send it to the Justice Appointments Council.

The Chairperson of the Justice Appointment Council shall, within 5 days of the publication of the list of candidates, convene the meeting of the Council, which shall examine the meeting of legal conditions and criteria by the candidates for judges of the Constitutional Court. The notification for convening the meeting shall be public and it shall contain the date, time and venue of holding the meeting. The candidates' files, with the application and relevant

documentation, shall be made available to the Justice Appointments Council by the Assembly of Albania.

The Justice Appointments Council shall, within 10 days following the evaluation of meeting the appointment conditions and criteria, draft a final list by ranking the candidates. The list shall be associated with a report in writing, analysing the meeting of legal conditions and criteria for each of the candidates. The reasoned report, upon approval by a majority vote of all members of the Justice Appointments Council, shall be published.

The Committee of Legal Affairs, Public Administration and Human Rights shall, within a reasonable period referring to the ranking, organise the hearings with the candidates. Public institutions related to the justice system, civil society organisations being active with the protection of human rights or established for the protection of the users of the justice system, may submit their opinions regarding the candidacies to the Justice Appointments Council. Following these hearings, the Committee shall send to the Assembly the names of three candidates for each vacancy along with the grounded report for each candidate selected.

The Constitutional Court judges shall be elected upon 3/5 of the votes of all members of the Assembly. Where the Assembly does not elect a judge within 30 days of submission of the list by the Justice Appointments Council, the candidate ranked first in the list shall be considered as appointed.

Where more than one vacancy exists at the same time, at least one member of the Constitutional Court shall be elected out of the candidates with legal education, with not less than 15 years of experience in the legal profession, law professor or lecturer, high-level jurist in the public administration.

## **Article 7/ç**

### **Procedure of Appointment by the High Court**

The Chairperson of the Constitutional Court shall, under this law, notify the Chairperson of High Court on the vacancy, who shall announce on the public information media and on the official internet website the opening of the application procedures. The Chairperson of the High Court shall admit the candidacies within 30 days of the notification, make them public and send them to the Justice Appointments Council. Public institutions related to the justice system, civil society organisations being active in the protection of human rights or established for the protection of the interests of the users of the justice system may submit their opinions regarding the candidacies to the Justice Appointments Council.

The Justice Appointments Council shall, within 10 days following the evaluation of appointment conditions and criteria, rank the candidates and submit the report approved by a majority of all the members along with the list and the accompanying documentation for each candidate to the Chairperson of High Court. The reasoned report, once approved by a majority vote of all the members of the Justice Appointments Council, shall be published.

The Chairperson of High Court, shall convene the special meeting of the judges of the High Court. The meeting shall be valid if not less than 3/4 of all judges of the High Court are attending. The list of candidates shall be made known first to the participants in the meetings.

For each vacancy, it shall be voted for each of the candidates ranked in the top three places of the list. The candidate obtaining 3/5 of the votes of the present judges shall be declared

elected. Where no necessary majority is attained, the candidate ranked first by the Justice Appointments Council shall be considered elected.

The name of the elected judge shall be notified immediately to the Speaker of Parliament, President of the Republic and Chairperson of the Constitutional Court.

#### **Article 7/d**

##### **Election of the Chairperson of the Constitutional Court**

The Chairperson of the Constitutional Court shall be elected upon secret voting, by the majority vote of all judges of the Constitutional Court, for a period of three years, with the right to only one re-election.

The hearing for the election of the Chairperson shall be presided over by the most senior judge in office. Where more than one candidate is running and during the voting none of them took the foreseen number of votes, a new voting occurs and, following this, voting shall occur among the candidates having obtained the highest number of votes. Upon the completion of this voting, the candidate having obtained the majority of the votes shall be announced elected. Where none of the candidates obtains the majority of votes or the votes are divided equally, the chairperson shall be chosen by lot. The procedure for drawing the lot shall be provided for by decision of the Meeting of Judges.

The elected Chairperson shall notify the President of the Republic and the Speaker of Parliament.

#### **Article 7/dh**

##### **Renewal of the Composition of the Constitutional Court**

The composition of the Constitutional Court shall be renewed on a regular basis, every three years, to one third thereof.

In case of an early termination of the mandate of a judge, the election of the new judge, who shall stay in office until the expiry of the mandate of the outgoing judge, shall follow the sequence foreseen for his replacement, under Article 7, paragraph 2, of this law.

#### **Article 8 Assumption of Office**

The judge of the Constitutional Court shall assume office after being sworn in before the President of the Republic of Albania.

The oath wording is: "I solemnly swear that I shall always be loyal to the Constitution of the Republic of Albania in fulfilling my duties".

The mandate of the judge of the Constitutional Court starts on the day of his\her swearing in and ends on the same date of that month, of the ninth year, unless otherwise provided for by the Constitution.

The judge of the Constitutional Court shall stay in office until the appointment of his\her successor.

### **Article 9 End of Mandate**

The mandate of the judge of the Constitutional Court shall end in the following cases:

Upon reaching 70 years of age;

Upon completing the 9-year mandate;

Upon his\her resignation;

ç) Upon being dismissed under the provisions of Article 128 of the Constitution;

Upon establishing the conditions of non-electability and incompatibility in assuming the function;

dh) Upon establishing the fact of inability to perform his/her duties.

The end of mandate of a judge shall be declared by decision of the Constitutional Court. The request for the declaration of the end of the mandate of a judge shall be made by the Chairperson of the Constitutional Court. The Chairperson of the Constitutional Court, no later than 3 months before the end of the mandate of a Constitutional Court judge, under paragraph 1, letter "a" and "b" of this Article, as well as after the early termination of the mandate, shall notify the appointing body regarding the vacancy. The procedure for the appointment of the new judge shall be completed no later than 60 days from the decision of the Constitutional Court that declared the end of the mandate.

The President of the Republic and the Assembly of Albania shall in any case be notified about the end of the mandate of a judge.

## **CHAPTER II/1**

### **DISCIPLINARY LIABILITY OF THE CONSTITUTIONAL COURT JUDGE**

#### **Article 10 Disciplinary Misconducts**

A Constitutional Court judge shall be subject to disciplinary liability, particularly because of:

Failure to submit a request for recusal from proceedings or trial of a case, where this is mandatory under the procedural law and the judge is aware of such circumstances;

Behaviour, acts and other actions of the judge that create unfair benefit or damage for litigants;

Failure to inform the Chairperson of the Court or competent authorities, under the law, regarding the interfering in or exercise of other forms of improper influence by advocates, political officials, public officials and other entities;

Interference in or any other improper influence on the assumption of duties of another judge.

Failure to inform the Chairperson and the responsible institutions on the existence of a reasonable doubt, of instances of incompatibility with the assumption of his/her function.

Unjustified, intentional or repeated failure to fulfil respectively his/her function;

Submission of a request for recusal and commission of those actions which are not based on grounds provided in law or are taken intentionally to create undue benefits for the litigants and



third parties, or with a view of preventing the judge from the legal obligation to examine the case or intending to establish the possibility that the case be reviewed by other judges, or when the resignation is delayed, regardless of being aware of the fact for which he/she resigns;

Repeated or serious breach of the rules of solemnity and rules of conduct in relations with litigants, as well as with judges and personnel of the administration of the Constitutional Court;

Repeated and unjustified lengthy delays of procedural actions in assuming the function;

Public disclosure of opinions delivered by the judge himself or by other judges during the proceedings that has not yet taken the form of an act being made public;

Breach of the obligation of confidentiality and non-disclosure of information, resulting from the ongoing or completed investigation or trial, including the facilitation of publication and distribution, as well as due to negligence, of confidential or procedural acts or confidential information resulting from the matters under a process of investigation or trial.

Public disclosure of statements and in media on matters, except for press communications within the limits of his duty.

Distorted submission of facts on the acts issued.

Using the mandate of the judge, with a view of deriving unjustified benefits or benefits for oneself or for others.

Being in the company of persons being subject to criminal prosecution or subject to a criminal proceeding or persons criminally convicted, save the cases of the rehabilitation of convicts, or in company of persons who are relatives of blood-related or in-law-related with the judges and having improper business relations with these persons;

Unfair direct or indirect benefit of gifts, favours, promises or preferential treatments of any kind, either by lawful actions, granted due to the function he/she is assuming or as a result of his use of position of the magistrate;

Improper behaviour in fulfilling the obligations in relations and in communication with state institutions and their officials, and other cases of improper unjustified behaviour.

## **Article 10/a**

### **Commencement and conduct of Disciplinary Proceedings**

Where there is sufficient evidence that a Constitutional Court judge has committed a misconduct provided for in Article 128 of the Constitution and Article 10 of this Law, upon the request of the Chairperson or of any Constitutional Court judge, the Chairperson or the most senior judge in office, when the Chairperson is subject to proceedings, shall take measures to initiate disciplinary proceedings.

Disciplinary proceedings shall be instituted immediately after the ascertainment of the misconduct. The disciplinary proceedings shall be terminated if the judge resigns. In this case, he/she shall not be entitled to be any longer appointed in public functions for a period of 15 years.

Two judges assigned by lot shall collect facts, evidence and other data regarding the misconduct attributable to the judge and they shall, within 30 days, prepare the respective report and send it to the Disciplinary Committee for examination.

The Disciplinary Committee shall be composed of three Constitutional Court judges assigned by lot, without the participation of the judges involved in collection of facts and evidence under paragraph three of this Article. The Committee shall examine the submitted report and decide to impose disciplinary measures, under Article 10/d of this law or the termination of the proceedings, upon the misconduct not being established.

The judge being subject to proceedings shall have a right to complain against the decision of the Disciplinary Committee. The complaint shall be examined by the Ad Hoc Committee consisting of three Constitutional Court judges, who have not taken part in the proceedings, under paragraph three and four of this Article.

### **Article 10/b Disciplinary Measures**

The following disciplinary measures may be imposed on the judge:

Written reprimand;

Public reprimand;

Temporary reduction of salary up to 50% for a period not longer than 1 year, ç) Suspension from office for a period from 3 months up to six months;

Dismissal from office.

During the period of disciplinary proceedings, the judge shall be suspended from office, under Article 10/ç of this law and shall obtain 50% of his/her salary.

### **Article 10/c**

#### **Examination of Disciplinary Misconduct**

The Disciplinary Committee shall examine the case within 10 days from the submission of the report and shall decide on:

Imposing the disciplinary measure;

Rejecting the proposal for disciplinary measure;

Remitting the case for collection of other evidence and facts;

ç) Termination of proceedings, when the judge resigns from office, or his mandate ends;

The decision shall be notified to the judge being proceeded against and in each case it shall be published. When dismissal from office has been decided against the judge being proceeded against, the decision shall be forwarded to the appointing body.

### **Article 10/ç**

#### **Suspension of a Judge from Office**

A judge shall be suspended from office upon the decision of the Meeting of Judges, where:

A personal security measure of "arrest in prison" or "house arrest" is imposed on him;

Upon obtaining the capacity of the defendant;

A disciplinary proceeding is initiated under this law.

The Chairperson or the most senior judge in office, where the Chairperson is subject to proceedings, shall, within 3 days of becoming aware of the causes provided for in paragraph 1 of this Article, convene the Meeting of Judges, which decides on the measure of suspension of the judge. The decision of the Meeting of Judges shall be final.

The suspended judge shall not attend the examination of cases up to the lifting of the suspension measure by the Meeting of Judges.

The Chairperson shall take measures for appointing a new rapporteur for the cases assigned to the judge suspended.

### **Article 11 (repealed)**

## **CHAPTER II/2**

### **ORGANIZATION OF THE CONSTITUTIONAL COURT**

#### **Article 12**

##### **Powers of the Chairperson**

The Constitutional Court activity is organized and led by its Chairperson, and in his/her absence, by the most senior judge in office, unless the issue falls under the competence of the Meeting of Judges.

The Chairperson of the Constitutional Court has the following powers:

Prepare, convene and lead the plenary sessions of the Constitutional Court;

Represent the Constitutional Court in relations with third parties;

Coordinate the work among the judges;

ç) Sign the acts of the Constitutional Court, except for the decisions that are signed by all judges;

appoint and dismiss from duty the administrative staff as well as take disciplinary measures against them.

#### **Article 13**

##### **Powers of the Meeting of Judges**

The Meeting of Judges of the Constitutional Court has the following powers:

determine the main directions of the expenses of budgetary means;

to be informed on the budgetary expenses by way of reports every 6 (six) months;

decide on the organizational structure of the Constitutional Court;

ç) decide on the number of administrative staff, the Legal Service Unit and other employees, as well as on the professional criteria to be met by them and respectively on their salaries;

approve the regulation for judicial proceedings of the Constitutional Court, as well as the internal rules of procedure for the activity of the Constitutional Court administration;

dh) appoint and dismiss the Secretary General;

appoint the chambers in the beginning of each calendar year based on the Rules of Procedure of the Constitutional Court;

ë) examines at last instance the complaints of civil servants and other employees for their dismissal from office;

decide on disciplinary measures against legal advisors.

## **Article 14**

### **Administration of the Constitutional Court**

The administration of the Court shall be composed of civil servants and other employees. The Chairperson when performing his functions shall be assisted by the Cabinet.

The Secretary General is the highest civil servant and is appointed by the Meeting of Judges of the Constitutional Court, upon the proposal of the Chairperson, from the ranks of the jurists of not less than 10 years of professional experience.

The Secretary General shall be dismissed by decision of the Meeting of Judges, upon the proposal of a judge of the Constitutional Court, in accordance with the rules provided by the Meeting of Judges for that purpose.

The Secretary General shall manage the administrative activity of the Constitutional Court under the authority and instructions of the Chairperson of the Constitutional Court.

The civil servants of the Constitutional Court administration shall be subject to Civil Service regulations, as long as this does not run counter to this law, and they shall be treated financially similarly as the administrative staff of the Assembly of the Republic of Albania.

The rights and duties of the Secretary General, civil servants and other employees shall be provided by this Law and the Internal Rules of Procedure.

### **Article 14/a Legal Service Unit**

The Legal Service Unit operates attached to the Constitutional Court and it constitutes the scientific legal nucleus of the Constitutional Court. It carries out advisory and supporting activity in the decision-making process of the Constitutional Court, including: the preparation of cases for trial, submitting legal opinions and undertaking scientific research on legal cases being examined by the Constitutional Court, as well as any other tasks assigned by the Chairperson or the Meeting of Judges.

The Legal Service Unit shall consist of legal advisors appointed by the Chairperson from among the jurists who fulfil the criteria for being a judge, a prosecutor or a jurist of not less than 10 years of professional experience as lecturers of law, lawyers, or senior employee in the public administration. Not less than half of the total number of legal advisors shall be appointed from among the ranks of magistrates. The legal advisor who comes from among the ranks of jurists shall receive the salary equal to the "gross starting salary" of the first

instance court judge, without the other financial benefits in accordance with the Law 'On the Status of Judges and Prosecutors in the Republic of Albania'.

The Legal Service Unit shall be under the authority of the Chairperson, who for each court case assigns the legal advisor, based on his professional experience and legal expertise, in accordance with the rules of procedure of the Constitutional Court. The number of legal advisors shall be determined upon the decision of the Meeting of Judges.

Legal advisors shall be disciplinary liable. Disciplinary measures shall be decided by the Meeting of Judges, in accordance with the rules of procedure.

Legal advisors shall be subject to the rules provided in this law, the Internal Rules of Procedure of the Constitutional Court and the law on the status of magistrates, as far as applicable.

### **Article 15 Guaranteeing order**

The Constitutional Court has the right of access to police forces at its service to maintain order and security of the Court.

The number and duties of these police forces are approved by the Minister of Public Order upon the proposal of the Chairperson of the Constitutional Court.

## **CHAPTER III**

### **STATUS OF THE JUDGE OF THE CONSTITUTIONAL COURT**

#### **Article 16 Immunity**

The Constitutional Court judge shall enjoy immunity regarding the opinions expressed and decisions made in the course of assuming his functions, except for the cases of intentionally rendering a decision, as a consequence of a personal interest or malice.

#### **Article 16/a Incompatibility**

Being a Constitutional Court judge is not compatible with any other state activity, or professional activity carried out against payment, except for teaching, academic and scientific activity for the development of doctrine. The duration of the professional permitted activity shall be decided upon the decision of the Meeting of Judges. The assumption of the function of judge is not compatible with being a member of a political party or participation in public activities organised by political parties, as well as other activities incompatible with the functions of the Constitutional Court Judge.

The newly elected judge shall take the measures for avoiding any situation of incompatibility, within 10 days from the oath taking.

Where the Constitutional Court member, in the course of assuming his office, is in a situation of incompatibility, he shall immediately take measures for avoiding it. Otherwise, the rules of Article 10 and of the following articles of this law shall be applied.

### **Article 17 Remuneration**

The salary of the judge of the Constitutional Court is equal to the salary of the Chairperson of the High Court.

The salary of the Chairperson of the Constitutional Court is 20 percent higher than the salary of the judge of the Constitutional Court.

The salary and other benefits of the judge of the Constitutional Court may neither be reduced nor be affected in any way.

### **Article 18**

#### **Other rights of the judge of the Constitutional Court**

The judges of the Constitutional Court should:

have special protection for themselves, their family and property, when such a thing is required by them for serious circumstances or it is considered as necessary. Relevant bodies, charged with the protection of high personalities are obliged to respond to every request of this kind;

benefit paid annual leave of 40 days. The annual leave is taken during the months August

– September;

receive the Official Gazette, legal newspapers and magazines free of charge;

ç) enjoy equal rights with members of the Assembly of Albania as provided in Article 16; point 1, 19, 20, 23, 25 and 26 of Law No. 8550, date 18.11.1999 “On the Status of the deputy”.

The tenure of the judge of the Constitutional Court may not be limited, unless thus provided in the Constitution and in this Law.

At the end of term, with the exception of the case when dismissed according to the procedures provided by in the law, the judge of the Constitutional Court is appointed to another equal or nearly equal job and as well as benefits transitional remuneration and/or supplementary pension according to the legislation in force. In case when before the appointment the judge of the Constitutional Court enjoyed the status of magistrates, at the end of the mandate as a judge of the Constitutional Court he/she has the right of appointment at least in an appeal level, respectively in a court or prosecution office, provided that he/she meets the criteria for that position, conform the legislation in force for the status of judges and prosecutors.

### **Article 19 Official relations**

The chairperson and the judges of the Constitutional Court have a special formal status.

In regard to official relations, the chairperson of the Constitutional Court comes directly after the Prime Minister and the judges of this Court are equal with the minister as regards their formal treatment.

The judges of the Constitutional Court are invited to participate in official delegations, ceremonies, receptions and various activities of cultural, social and sports character in conformity with the protocol provided in this Article.

## **CHAPTER IV**

### **PRINCIPLES OF CONSTITUTIONAL TRIAL**

#### **Article 20 Panel examination**

The Constitutional Court reviews cases in a panel of judges. The decision is taken only by those judges who have participated in the examination of the case.

#### **Article 21 Public process**

The Constitutional Court examines cases in open plenary hearings or based on documents. In any case, it is the Chamber or the Meeting of Judges that decides.

The Constitutional Court may exclude the public from the plenary session, or part of the plenary session, on the grounds of protection of public morality, public order, national security and the right of privacy or personal rights.

#### **Article 22**

##### **Use of the Albanian language**

Albanian language shall be used to examine cases.

Participants in trial, who do not speak Albanian, shall use their mother language. They shall be informed of the whole development of the process through an interpreter, who as a rule shall be provided by the Constitutional Court, upon the request of the party.

#### **Article 23**

**(repealed)**

#### **Article 24**

##### **Defence in Constitutional trial**

Parties at the constitutional trial may be defended by themselves or through their legal representative. Where the case is admitted for adjudication and the subject-matter of the application is a law or a normative act, the applicant shall be represented in trial by a defence counsel or specialised legal representative.

### **Article 25 Impartiality in Constitutional trial**

The judge of the Constitutional Court shall be impartial when examining the cases and shall be subject only to the Constitution and laws while exercising the duty.

In his/her activity, the judge of the Constitutional Court shall act under his\her own capacity and shall not represent any state authority, social organization, political party or association, ethnic or social group.

### **Article 26**

#### **Publication of Final Decision and Entry into Effect**

Decisions of the Constitutional Court shall be published in the Official Gazette as well as in other means of public information. The decisions of the Constitutional Court shall be published no later than 15 days after their submission for this purpose with the Official Publications Centre. The dissenting opinion shall be published along with the final decision.

Decisions, as a rule, shall enter into effect on the day of publication, unless otherwise provided by this law. Where the decision brings about consequences for the constitutional rights of the individual, the Constitutional Court may decide for it to enter into effect on the day of its announcement. In this case, the decision shall be associated with a summarised reasoning, while the fully reasoned decision shall be published within 30 days.

The Constitutional Court may make an order that its decision, by which it has examined the act, yields its effects on another date. In such a case, the Constitutional Court may order the suspension of the implementation of the act it has repealed against the applicant in the judicial proceedings, up to the time when the decision becomes effective.

The Constitutional Court shall prepare and publish a periodic summary of its decisions.

## **CHAPTER V**

### **SUBMISSION AND PRELIMINARY DELIBERATION OF APPLICATION**

#### **Article 27 Content of the application**

The application to the Constitutional Court is submitted by the applicant or the representative chosen by him/her. Where the applicant has chosen to be represented by a defence counsel, he/she shall attach to the application the act of representation. In such a case, all the notifications of the Court shall be addressed to the applicant's representative.

The request shall be submitted in a written form in Albanian language, in clear and understandable language, in as many copies as the number of participants in trial and it shall include:

The name and address of the Constitutional Court;

The name, surname or denomination, residence or domicile of the applicant and/or representative;

The name, surname or denomination, residence or domicile of interested subjects and/or their representatives;



ç) The subject-matter of the applicant and the legal basis;

submission of causes and alleged violations of a constitutional nature; dh) documents, evidence or other exhibits associating the application;

certified copies of all the decisions which are the subject matter of the application, as well as complaints and recourses submitted to other judicial instances;

ë) signature of the applicant or his/her representative, as well as the act of representation of the latter.

The application may be delivered in person or via mail. In the event of mail delivery, the date of submission shall be the date of handover to the post office. Where the application has been sent erroneously to another institution and the application has been filed with the Constitutional Court following the expiry of the legal timing, the application shall be considered to have been filed within the legal time period as long as it can be established that this has occurred in good faith.

The application meeting the criteria provided for in paragraph 2 of this Article shall be registered with a special registry book kept by the Judicial Directorate at the Constitutional Court.

The application that does not meet the criteria provided for in paragraph 2 of this Article shall be considered incomplete and it shall not be registered with the registry-book of application. The Judicial Directorate shall inform the applicant to make the necessary changes within 10 days. Where the applicant does not submit the revised application or fails to submit it within the time period set out by the Judicial Directorate, the application shall be archived.

The application registered with the registry book of applications shall be submitted to the Chairperson of the Constitutional Court, who takes measures for appointing the rapporteur of the case by lot, in accordance with the Regulation of the Court.

### **Article 28 Judicial Expenses**

Costs of judicial proceedings before the Constitutional Court shall be subject to regulations provided for in the law on court fees.

Upon the Constitutional Court deciding the admission of the constitutional individual complaint, it may also rule on the representation expenses in part or in full, where sought by the applicant.

### **Article 29 (repealed)**

### **Article 30 (repealed)**

### **Article 31**

#### **Preliminary Examination of the Application**

The application shall be preliminary examined by a chamber composed of three judges of the Constitutional Court, including the rapporteur.

Where the application, although within the competences of the Constitutional Court and submitted by a legitimate entity, is not complete due to a cause other than those provided for in Article 27 of this Law, the chamber sends it back to the applicant for completion indicating the reasons for the return and the deadline of its completion. When the application is submitted

complete within the deadline set out for rectification, it passes again for preliminary examination to the chamber. In such a case, the date of submission of the application shall be considered the date of its submission for the first time to the court. When the application is submitted within the deadline set out for rectification, but incomplete, the chamber shall decide not to pass it over for adjudication.

Where the application does not meet the criteria set out in Article 31/a, paragraph 2, of this Law, the chamber shall decide not to pass the case over to the plenary hearing. In all the cases, where one of the judges of the chamber is not of the same opinion with the others, the application shall be passed over for preliminary examination to the Meeting of Judges.

The chamber or the Meeting of Judges shall not examine the merits of the case at this stage.

The complaints, requests or any other correspondence not containing the elements of an application in the sense of Article 27 of this Law shall be registered in a separate register and disposed of administratively.

### **Article 31/a Decision not to Transfer a Case for Examination to the plenary session**

The decision not to transfer a case for examination to the plenary session shall be taken unanimously by the Chamber, while the decision of the Meeting of Judges shall be taken by a majority vote.

The decision not to transfer a case to the plenary session shall be taken when:

the searches contained in the application do not fall under the powers of the Constitutional Court;

the application has not been filed by the legitimate person;

the application has been filed by an unauthorised person;

ç) it is established that the application has been filed beyond the legal time limits;

the applicant has not exhausted the effective legal remedies prior to approaching the Constitutional Court, or the legislation in force provides for available effective remedies;

dh) the searches contained in the application are subject of a previous decision of the Constitutional Court or the reinstatement of the infringed right is no longer possible ;

the application is manifestly ungrounded.

### **Article 31/b**

#### **Waiver of application**

The applicant may waive the application before the Constitutional Court commences examining it. In such a case, the Constitutional Court shall decide to dismiss the case.

The Constitutional Court shall decide not to accept the waiver, when it considers that the examination of the case is of public interest. In such a case, the Constitutional Court shall provide the grounds for decision rejecting the waiver.

## **Article 31/c**

### **Abuse of the Right to File an application**

The Constitutional Court, upon finding that the applicant or his/her legal representative submits an abusive or repeated application for the same cause and subject-matter, although being examined once by the Constitutional Court, or upon finding that the applicant or the legal representative has hidden or distorted facts and circumstances connected to the case, shall order that the applicant or his legal representative be fined in the amount from 100 000 to 500 000 ALL. Upon the Constitutional Court finding that it encounters cases of forgery of documents or another criminal offence, it shall simultaneously send the materials to the prosecution office for investigation.

The decision shall, in the cases provided for in paragraph 1 of this Article, be taken by the Meeting of Judges, upon the proposal of the Chairperson or rapporteur of the case.

The fine imposed by the Meeting of Judges shall be an executive title.

## **CHAPTER VI**

### **FUNCTIONING OF THE CONSTITUTIONAL COURT**

#### **Article 32 Examination in the Plenary Session**

The Constitutional Court examines cases in plenary sessions with the participation of all the judges of the Constitutional Court, however, never with the attendance of less than two thirds.

The rules on the plenary hearings held in camera shall be set out upon the decision of the Meeting of Judges.

The rules of solemnity and security shall be observed during the hearing, which are set out in the rules of procedure of the Court.

The radio, TV, audio or video recordings by the media representatives during the plenary hearing shall be allowed only upon the consent of the Court, depending on the concrete case.

#### **Article 33**

##### **Calling and chairing a Plenary session**

The Chairperson of the Constitutional Court shall call and chair the plenary session of the Constitutional Court. Where the Chairperson is not able to attend trial, he/she shall assign the most senior judge in office to preside over the hearing.

The chair of the plenary session shall assume the following tasks:

make arrangements for a full and impartial investigation of the circumstances of the case;

guide the dialogue among the parties and avoid any deliberation that is irrelevant for the case;

Interrupt the participating parties if their discussion is irrelevant to the case, or does not fall under the jurisdiction of the Constitutional Court;

ç) deprive the parties of the right to speak if their discussion is arbitrary, insulting, and contrary to the rules of ethics and moral;

The presiding judge of the hearing may order persons to leave the courtroom, as long as they do not observe the orders of the presiding judge, as well as if they fall short of showing respect for the judicial panel and the Constitution.

The hearing shall, as a rule, be conducted without interruption. In specific cases, the presiding judge may, following consultation with the members of the panel, interrupt the plenary session, when necessary.

### **Article 34**

#### **Rights of the judge in constitutional trial**

The judge of the Constitutional Court enjoys the right to:

participate in the deliberation of every application, except in cases prohibited by law,

be informed of the content of the application and all the relevant materials of the case being examined;

ask questions and explanations by the parties involved in the case and the experts or witnesses during the hearing session,

ç) participate in the final deliberation and express his opinion freely on the final settlement of the case at hand.

### **Article 35**

#### **Duties of the judge during the constitutional trial**

The judge of the Constitutional Court shall:

prepare the case for trial and take the respective measures for the holding of the plenary session,

vote for the settlement of the case,

maintain confidentiality of the deliberation and voting process.

### **Article 36**

#### **Waiving from reviewing the case**

The Constitutional Court judge shall request to waive from the review of a concrete case when:

He/she has participated in drafting the act subject to reviewing;

He/she has publicly declared the attitude regarding the case;

The impartiality of the judge is called into question due to family or other relations with either of the parties involved,

c) His/her impartiality is called into question due to other causes.

In case the subject of review is a law or normative act, which may have effects even for the judge of the Constitutional Court, his waiving or request to be excluded for this reason is not accepted.

In the cases provided for in paragraph 1 of this Article, the judge shall, within a reasonable time limit, submit in writing the request to waive from the case to the Chairperson of the Constitutional Court. The request for waiving or disqualification from the hearing shall be immediately examined by the Meeting of Judges, which shall decide on its admission or rejection.

### **Article 37 Recusal of judge**

The involved parties have the right to request the recusal of the judge at any stage of the trial, when there is one of the cases provided by in Article 36 of this law and the judge does not withdraw from the examination of the case.

Regarding the recusal of the judge, the decision is made by the majority of the judges participating in the examination of the case. The judge, whose recusal is requested, after being heard, does not take part in voting. When the votes are divided equally, the judge is considered recused.

### **Article 38**

#### **Notification, Submission of Documents and Participation in a Plenary Hearing**

The notification about the time and date of conducting the plenary hearing, open to the public or based on documents, shall be made by the Judicial Directorate, as a rule, 30 days prior to the date set for the plenary hearing, except for the cases where the Constitutional Court decides otherwise.

The notification of the applicant, interested entity or their representatives or, as appropriate, the witness, expert or other persons whose participation is necessary to conduct the constitutional adjudication effectively, shall be made via an official letter, via mail summons, a telegram, as well as an e-mail as long as the parties have agreed on this means of notification at the moment of filing the application to the Constitutional Court.

In case any of the participants in the constitutional proceedings does not have a precise residence or is permanently abroad, the notification shall occur by way of a letter rogatory, under the rules of the Civil Procedure Code, and by a notification at the Constitutional Court, at least 30 days prior to the date set out for conducting the plenary hearing.

Failure to make an appropriate notification shall adjourn the plenary hearing, thus setting out another date to hold the hearing and making the respective notifications.

When the applicant, the interested entity or their representatives, despite being notified, do not appear in the plenary hearing or do not send additional documents, the plenary hearing shall occur in absentia.

When the hearing is held based on documents, the failure to forward the submissions within the specified time limit and without good reasons by the applicant, and the objections by the interested entity/ies, shall entail the conduct of the adjudication only on the basis of the application and/or associating documents submitted at the moment of registration.

### **Article 39**

#### **Participants in the constitutional adjudication**

The participants of the constitutional adjudication are:

The entity that has presented the application or the respective representative,

Entities against which the application is submitted or which have a direct interest in the case under adjudication,

The body that has issued the act, ç) State bodies in dispute for power.

In cases when state bodies are parties at the constitutional adjudication, they are represented by their respective leaders and at their absence by persons authorized in writing.

The representatives of the participants in the constitutional adjudication may be the defence counsels, who are equipped with a power of attorney or assigned as such upon a declaration at the plenary hearing session.

The National Chamber of Advocates issues the list of advocates who may take part in the review of cases in the Constitutional Court.

### **Article 40 Summon of the expert**

Upon the request of the parties under adjudication or ex-officio, the Constitutional Court may summon persons with the quality of the experts who have special knowledge in a certain field of science, technique or art for finding and clarification of facts related to the case under review.

The expert provides his opinion in writing, but he may be heard during the hearing session, as well.

### **Article 41 Summon of the witness**

When the evidence related with the case under review is necessary to be clarified, upon the request of the parties involved and/or ex-officio, the Constitutional Court may summon and question persons with the quality of the witnesses during the plenary hearing.

### **Article 42**

#### **Requesting Documents and the Obligation to Present Them**

When considered necessary, upon the request of the participants under adjudication or ex-officio, the Constitutional Court may request documents that are related with the case under reviewing.

The respective requested documents are administered during the plenary hearing.

Each state body, natural or legal person, has an obligation to provide to the Constitutional Court documents, data and information, if these are requested or considered necessary for the examination of the case.

### **Article 43 Proceedings of the plenary session**

The examination of the case during the plenary hearing follows the following rules:

The session is declared open by the chairperson,

The presence of participants is verified,

The legitimacy of the parties, or their representatives is verified,

ç) The parties are asked to present any preliminary requests, if any, and decisions are made accordingly.

The rapporteur judge reads the application,

dh) The involved parties are invited to present their requests and objections starting from the entity that has presented the application,

The involved parties provide their respective explanations or provide explanations to the questions asked by the judges,

ë) The respective evidence is administered and the participants are invited to comment on their content,

The participants are invited to pose their final requests,

The chairperson declares the closing of the plenary hearing and the court withdraws to take a decision.

### **Article 43/a**

#### **Procedure during a Public Hearing**

Persons present in the courtroom must respect the solemnity of the Court. They must abide by the orders of the hearing chairperson for maintaining order.

The smooth running of the hearing shall be guaranteed by an employee of the Court. His requests to maintain order or to implement instructions of the hearing chairperson shall be mandatory for all participants in the process.

### **Article 43/b**

#### **Rights of Participants in a Court Hearing**

Participants in an adjudication proceeding before the Constitutional Court shall have the following rights to:

Get acquainted with the documents of the file, take extracts or photocopies thereof;

Participate in reviewing the evidence;

Present evidence;

ç) Ask questions to each other, to the witnesses, experts and specialists;

Submit requests;

dh) Provide explanations in writing or orally;

Present their conclusions;

ë) Object other parties' requests, their findings and explanations, as well as to submit their final claims.

The applicant, at any stage of the process until the decision of the Constitutional Court, may request in writing the limitation and extension of the subject of the application or the waiving from the claim.

## **Article 44**

### **Reopening of the plenary hearing**

If after the closure of the plenary hearing, the additional explanation of circumstances, which are of particular importance to the case under review, is deemed necessary, it is decided to reopen the hearing.

The decision to reopen the plenary hearing is taken upon the majority of votes of the judges present at the hearing session.

The decision to reopen the hearing session is announced to the involved participants in the constitutional adjudication, who have the right to participate at the hearing and take the floor, if they ask to speak, to provide any explanations that they consider in their own interests.

### **Article 44/a Adjournment of the Hearing**

The court may adjourn the review of a case, if it considers that the appearance of witnesses and experts of the field, the obtaining of additional evidence, the further investigation of the case or the full establishment of the panel is necessary. The review of the case shall resume from the moment of termination.

### **Article 44/b Suspension of Adjudication**

If the Constitutional Court, during the review of a case, decides to seek an advisory opinion from the European Court of Human Rights regarding the implementation of rights and freedoms provided by the European Convention of Human Rights and additional protocols thereof, or require *amicus curia* from other organizations, it shall decide to suspend the examination of the case.

The hearing session shall reopen immediately after the receipt of the advisory opinion of the European Court of Human Rights or *amicus curiae*. The parties shall be notified on the opinion received and on the date of the hearing.



### **Article 45 Suspension of a law or act**

The Constitutional Court, ex-officio or with the request of the party, when it considers that the implementation of the law or legal act may consequently affect the state, social or individual interests, according to the case, upon the decision of the Meeting of the Judges or at the plenary hearing decides upon the suspension of the respective law or legal act. The suspension lasts until the final decision of the Constitutional Court has entered into effect.

The decision regarding the measure of suspension is announced to the respective entity, which has issued the law/legal act, and it is made public, as well.

The Constitutional Court may withdraw the suspension at any stage of the review upon a decision of the plenary hearing.

The Constitutional Court should pronounce a final decision for the continuation or termination of the suspension.

In any case, the decision of the Constitutional Court shall be reasoned and published immediately.

### **Article 46 (repealed)**

### **Article 47**

#### **The Time Limit for Reviewing a Case**

The review of a case by the chambers or the Meeting of Judges shall end within 3 months from the submission of the petition, except for cases when this law stipulates other time limits. In any case, the deliberations and decisions of the chambers or the Meeting of Judges shall be made on the basis of a draft decision prepared by the rapporteur.

The review of the case in a plenary hearing shall be made only after the parties have submitted in advance all the necessary documents required for adjudication and after the case has been fully prepared by the rapporteur. The rapporteur of the case shall submit the respective draft decision during deliberations, whereon shall vote all the judges who have taken part in the voting.

The final decision shall be announced reasoned no later than 30 days from the end of the hearing session, unless otherwise provided for in this law.

### **Article 48**

#### **Terms of the review of the case**

The terms of reviewing the case are within the subject of the application and the grounds provided in it.

Exceptionally, the Constitutional Court decides in any case when there is a link between the object of the application and the other normative acts.

## CHAPTER VII SPECIAL PROCEDURES

Procedures on the review of the compatibility of the laws or other normative acts with the Constitution and with International Agreements

### Article 49

#### **Subjects that have Recourse to the Constitutional Court**

The right to have recourse to the Constitutional Court on the conformity of the law or other normative acts with the Constitution or international agreements shall be given to:

The President of the Republic, Prime Minister, not less than one-fifth of Members of the Assembly, and the Ombudsman.

The President of the Republic and not less than one fifth of the members of the Assembly shall be entitled to have recourse to the Constitutional Court to control only the conformity with the procedure provided for by the Constitution under Article 131 paragraph 2, and Article 177 of the Constitution.

The right to initiate a check on the conformity of the laws and other normative acts with the Constitution or international agreements shall also be given to :

The Head of High State Audit;

Local government bodies, when they claim that their rights provided for in the Constitution or their constitutional position have been violated;

The commissioners established by law for the protection of fundamental human rights, when during their activity they conclude that a law or normative act has violated fundamental rights and freedoms of individuals;

ç) The High Judicial Council and High Prosecutorial Council, when they claim that a law or normative act is violating their constitutional activity or the legal position of judges and prosecutors;

The bodies of religious communities, political parties, organizations, when claiming that a law or normative act is violating their activities and the rights and freedoms of their members;

dh) Courts of all levels, where, in the course of adjudication of a case, they find out that the law or the normative act contradicts the Constitution or international agreements;

Individuals, when they claim that their rights and freedoms provided for in the Constitution have been violated directly and substantially, after having exhausted all legal remedies for this purpose and when the act they are opposing is directly applicable and does not provide for the issuance of bylaws for its implementation.

Subjects referred to in paragraph 3 of this Article shall, in any case, have an obligation to prove that the issue is directly related to the rights and freedoms provided for by the Constitution or to the purposes of their activity.

## **Article 50**

### **Time Limit to submit an application**

The applications to the Constitutional Court to check the conformity of a law or other normative acts with the Constitution or international agreements ratified, according to paragraph 1, and paragraph 3 letters “a”, “b”, “c”, “ç” and “d” of Article 49 of this Law, can be submitted within two years from the entry into force of the act.

The applications regarding the constitutionality of the law for the revision of the Constitution may, in the procedural aspect, be submitted within 60 days from the entry into effect of the law.

The courts may submit a petition at any time, where in the course of examining a concrete judicial case, under Article 145 paragraph 2 of the Constitution, they have found the anti-constitutionality of a law or normative act.

Individuals may submit an application to check the conformity of a law or other normative acts with the Constitution or international agreements ratified, within four months of the finding of violation.

## **Article 51**

In reviewing the applications provided by Articles 49 and 50 of this Law, the Constitutional Court considers:

the content of the law and normative acts,

the form of the laws and normative acts,

the procedure of their approval, announcement and entry into force.

When a law or normative act, or parts thereof, that are subject to review before the Constitutional Court are repealed or amended before the Constitutional Court makes the decision, the case is dismissed, except for cases when it considers that the proceedings should continue due to public or state interest.

### **Article 51/a Constitutional Court Decision Making**

The Constitutional Court, while concluding the review of a case, shall decide to:

Reject the petition;

Accept the petition completely or partially and repeal the law or normative act;

In any case, in the ordering provision, the Constitutional Court shall explain the effect of the decision and its consequences.

Procedures on the compatibility of the International Agreements with the Constitution

## Article 52

The Constitutional Court considers the compatibility of the International Agreement with the Constitution before their ratification.

The recourse to the Constitutional Court to consider such cases shall be established only upon the request of the entities provided in letter “a”, “b”, “c” and “ç” of Article 134 of the Constitution. The recourse to the Court may also be established by the entities provided in letters “d”, “dh”, “e”, “ë”, “f”, “g” “gj”, “h” and “i” of Article 134 of the Constitution, for issues relating to their interests.

The ratification procedures of the agreement are suspended if the case is at the plenary session. The review shall be concluded within three months from the presentation of the application.

When the Constitutional Court decides on the incompatibility of the International Agreement with the Constitution, the agreement cannot be ratified.

### Article 52/a Constitutional Court Decision Making

The Constitutional Court, while concluding the review of a case, shall decide to:

Declare the international agreement in conformity with the Constitution and allow its ratification by the Assembly.

Declare the international agreement as not in conformity with the Constitution and ban its ratification by the Assembly.

The decision of the Constitutional Court shall be notified immediately to the President, the Assembly and the Council of Ministers and shall be submitted for publication to the Official Journal.

## Article 53

**International agreements** adopted prior to the entry into force of the Constitution

International agreements that are ratified before the entry into force of the Constitution and are incompatible with it, shall be presented to the Constitutional Court only by the Council of Ministers.

In case the Constitutional Court concludes that an International Agreement ratified by law includes provisions, which are incompatible with the Constitution, the Constitutional Court decides on the abrogation of the act of its ratification.

## Article 54

In compliance with Article 131, letter “ç” of the Constitution, the Constitutional Court treats the competence disputes between powers, as well as between the central and local authorities when the disputes are directly related with the exercise of their activities.

The Constitutional Court reviews such conflicts when the respective entities consider themselves as competent to decide on a concrete case and, according to the case, have

issued acts for its procedures, or when the entities have not considered themselves as competent to decide on certain cases.

The application is presented to the Constitutional Court by the entities in conflict or by the entities directly affected by the conflict.

Any kind of legal or normative acts, action or omission by bodies of the three powers or local authorities that have led to disputes on competences between them, constitute the basis to commence the review of such cases.

#### **Article 55**

The application to review such disputes should be submitted within 6 (six) months from the time the conflict started.

#### **Article 56**

The Constitutional Court decides on which is the competent body to solve the concrete case the dispute has originated from.

When the solution of the constitutional dispute is related with legal or normative acts issued by the parties in the conflict, the Constitutional Court reviews the constitutionality or legality of the act in order to solve the dispute.

Procedure to review constitutionality of the parties and other political organizations.

#### **Article 57 Requesting authorities**

In order for the Constitutional Court to review the constitutionality of political parties and organizations, as well as their activity, it is established into recourse through the application of the President of the Republic, Prime Minister or no less than one fifth of the deputies of the Assembly, the Ombudsman and the Head of the High State Audit.

The application may be presented to the Constitutional Court at any time.

#### **Article 58 Scope of review**

The Constitutional Court reviews and decides:

whether the political party or organization is founded in accordance with the constitutional provisions,

whether the activity of the political party or organization is in conformity with the Constitution.

#### **Article 59**

When the Constitutional Court considers that there is evidence that the further activity of a political party or organization violates the constitutional order or state and public interests, as the case may be, the Court upon a special decision of the Meeting of the Judges or through

the plenary session may decide to suspend the activity of the political party or organization until the provision of a final decision.

### **Article 60 Constitutional Court decision making**

When the Constitutional Court concludes that the founding of a political party or organization violates the Constitution, it decides on the abrogation of the foundation act.

When the Constitutional Court concludes that the activity of a political party or organization is in violation with the Constitution, the Court decides, as the case may be, either to cancel the activity or to deprive it from legitimacy.

Procedures of dismissal from office of the President of the Republic and proof of impossibility of exercising the functions.

### **Article 61**

#### **Recourse to the Constitutional Court**

The Assembly of Albania, which after deciding on the dismissal of the President of the Republic establishes the recourse to the Constitutional Court, which declares the respective dismissal.

The decision of the Assembly of Albania should include an interpretation of the serious violation of the Constitution or of the serious crime accompanied by respective evidence.

The Constitutional Court forwards a copy of the decision of the Assembly and respective evidence to the President of the Republic, who enjoys the right to present in written his respective explanations, as he would consider necessary.

### **Article 62 Holding the Session**

The Constitutional Court, in order to transfer a case to a plenary hearing, shall decide by a majority of its members. In this case, a public plenary hearing shall be held.

The President of the Republic shall be invited to attend the plenary hearing, who can be represented by a counsellor chosen by him or by the Assembly. The Constitutional Court, as appropriate, may decide to call other persons in the hearing.

The absence of the President of the Republic or of his representative in the plenary hearing, without cause, shall not constitute a reason not to hold the hearing.

### **Article 63 Constitutional Court Decision Making**

Where the Constitutional Court concludes that the President of the Republic has seriously violated the Constitution or has committed a serious crime, it shall declare his dismissal from office. In this case, the decision of the Constitutional Court shall enter into force on the day of announcement and it shall be published right away in the Official Journal.

Where the Constitutional Court does not conclude that the President of the Republic has seriously violated the Constitution or has committed a serious crime, it shall decide to repeal the decision of the Assembly of Albania.

Resignation of the President of the Republic or the completion of his mandate, after the Constitutional Court has commenced reviewing the case, shall not constitute a reason to dismiss the case.

Where the declaration of dismissal from office of the President of the Republic is decided on, the President shall not benefit the special treatment provided to senior officials.

Rules laid down in Article 61, paragraph 1, 2 and 3, shall also apply in case of final verification of the fact of permanent inability of the President of the Republic to perform duties. In this case, the Constitutional Court shall decide on the establishment of the fact of inability to perform the duty or shall overturn the decision of the Assembly.

Electability and incompatibility with the assumption of functions of the President of the Republic

#### **Article 64 Case Review**

For issues relating to the election of the President of the Republic, the electability and incompatibility with the assumption of his functions, the recourse to the Constitutional Court shall be established upon the application of no less than 1\5 of the members of the Assembly or of political parties”.

In the case of election procedure and electability, the Constitutional Court shall decide to abrogate the decision of the Assembly or to reject the application.

In case of incompatibility with the assumption of functions, the Constitutional Court shall decide on declaring incompatibility with the function of the President of the Republic or dismissing the application.

#### **Article 65 (repealed)**

Procedure to review electability and incompatibility with the assumption of functions of the deputy

#### **Article 66 Requesting Authorities**

Recourse to the Constitutional Court to review the electability of members of the Assembly shall be established upon the request of the President of the Republic, no less than 1/5 of members of the Assembly or of political parties.

Recourse to the Constitutional Court to review the incompatibility with the assumption of functions of members of the Assembly, shall be established upon the request of the Assembly or 1/5 of the members of the Assembly.

The Constitutional Court shall verify, under the Constitution, the election of members of the Assembly, at the request of a political party or of an independent candidate for member of the Assembly.

#### **Article 66/a Application Deadlines**

Application to review the electability of members of the Assembly shall be submitted to the Constitutional Court within three months of the identification of the fact of inelectability.

The application on the incompatibility with the function of the member of the Assembly may be submitted to the Constitutional Court as long as the mandate of the latter lasts, but no later than six months before the end of the mandate and no later than three months from the finding of the incompatibility.

In such cases, the Constitutional Court shall conclude the consideration of the case within 60 days from submission of the application.

### **Article 67 Constitutional Court Decision Making**

In case the Constitutional Court verifies the eligibility of the deputies, it decides, as appropriate, on rejecting the application or abrogating the act of the Central Election Commission.

After reviewing the application on the eligibility or incompatibility of the deputy, the Constitutional Court delivers the respective decision to the Assembly of Albania.

### **Procedures related to referendum**

#### **Article 67/a Requesting Authorities**

The Assembly, when being under terms of Article 150 paragraph 2 and Article 177 of the Constitution, or an initiating group of 50 thousand citizens eligible to vote, shall be entitled to request the Constitutional Court to carry out a preliminary verification of the constitutionality of the issue put to referendum.

The Constitutional Court shall decide within 60 days from submission of the request.

#### **Article 67/b Case Review**

During the preliminary review of the constitutionality of issues put to referendum, the Constitutional Court shall assess the formal and material validity of the issue put to referendum.

The Constitutional Court cannot check the importance of individual issues or the constitutionality of the act that will be subject to referendum.

#### **Article 67/c Constitutional Court Decision Making**

The Constitutional Court, after the judicial review, shall decide to:

Declare the issue put to referendum as compatible with the Constitution and allow the holding of a referendum;

Declare the issue put to referendum as not compatible with the Constitution.

The referendum shall not be held under conditions where letter "b" of this Article is applicable.



### **Article 67/ç**

#### **Verification of the Final Result of the Referendum**

Within 10 days of the announcement of the final result of the referendum, the entities provided for in Article 134, letter “e”, “f”, “gj” and “h” of the Constitution, when the issue relates to their interests, or the initiating group for holding the referendum, have the right to seek the verification of this outcome from the Constitutional Court.

The Constitutional Court shall decide within 30 days from submission of the request. In specific cases, the Constitutional Court may decide to extend the deadline by not more than 30 days.

#### **Article 67/d Case Review**

The Constitutional Court shall examine the merits of claims of constitutional nature and claims dealing with the exercise of the right to vote by citizens who have taken part in the referendum, the validity of the referendum process and the process of announcing the outcome of the referendum.

Where the Constitutional Court considers the recount of votes as necessary, it shall order the Central Election Commission to conduct such a procedure.

After conducting the procedure in accordance with paragraph 2 of this Article, the Central Election Commission shall notify the Constitutional Court on the outcome.

#### **Article 67/dh Constitutional Court Decision Making**

The Constitutional Court, after the judicial review, shall decide to:

Reject the complaint and uphold the final result of the referendum;

Repeal the decision of the Central Election Commission and declare the law as unchanged or repealed;

Repeal the decision of the Central Election Commission and declare the issue or draft law of special importance as adopted or not adopted;

ç) Repeat the referendum.

Procedures to review the constitutionality of the laws required by courts

### **Article 68**

#### **Recourse to the Constitutional Court**

When a court or the respective judge, during the trial and at any time considers ex officio or through the request of either party, that a certain law is unconstitutional and, if there is a direct link between the law and the solution of the case at hand, that particular law is not implemented and the judge shall decide to suspend the further examination of the case and deliver the file to the Constitutional Court, which on its side should express itself about the constitutionality of the said law.

The decision of the court or of the respective judge should define the provisions of the law they consider incompatible with the said norms or other principles of the Constitution that the

law has not observed or has violated, as well as the reasons for which the abrogation has been requested.

### **Article 69 Case Review**

When the Constitutional Court concludes that the presented file is not complete and conform Article 68 of this law, it delivers it back to the original court. The latter should complete the file within one month from the date it has received the file.

When the respective file is found complete and conform Article 68, the Constitutional Court shall set the date of the hearing to review the case, notifying the court and other interested entities.

### **Article 70 Constitutional Court Decision Making**

The Constitutional Court, when reviewing the cases provided under Article 68 and 69 of this Law, and because of reasons related to the constitutionality of a concrete law, shall publish the fact that such an issue is under adjudication.

Where the case referred to by the High Court is admitted for adjudication in plenary hearing, the other courts shall suspend pending cases for which the law contested before the Constitutional Court applies.

In case the Constitutional Court decides to abrogate a certain law as unconstitutional, the respective decision is announced to the Assembly of Albania and the Council of Ministers.

## **Procedure to review individual constitutional complaint**

### **Article 71**

#### **The Right to Exercise Individual Constitutional Complaint**

Every individual, natural or legal person, being the subject of private and public law, when being a party in a legal process or the holder of fundamental rights and freedoms provided for in the Constitution, is entitled to lodge a complaint before the Constitutional Court against any act that violates his rights and freedoms provided for in the Constitution, under the criteria provided in Article 71/a of this Law.

In specific cases, subject to the individual constitutional complaint can also be a law or a normative act, as provided by Article 49 paragraph 3 of this Law.

The Constitutional Court shall conclusively examine the appeals against decisions of the High Judicial Council and High Prosecutorial Council, under Article 140 paragraph 4 and Article 148/d of the Constitution.

### **Article 71/a**

#### **Criteria to Exercise Individual Constitutional Complaint**

The individual constitutional complaint shall be reviewed by the Constitutional Court when:

The applicant has exhausted all effective legal remedies before addressing the Constitutional Court or when the domestic legal framework does not provide for effective legal remedies available.

The application is submitted within the 4-month period of finding an infringement;

The negative consequences are direct and real to the applicant;

ç) The examination of the case by the Constitutional Court could restore the infringed rights of the individual.

2. In addition to the criteria envisaged in paragraph 1 of this Article, arrangements provided for in this law on preliminary examination, shall apply.

### **Article 71/b**

#### **Review by the Constitutional Court**

The Constitutional Court shall examine whether the act, partially or totally, is in conformity with the Constitution and ratified international agreements. The Constitutional Court may also rule on other provisions that are not the subject of the application, if it deems that they are connected to the issue under review.

When the Constitutional Court reviews the constitutionality of an act and concludes that it is based on an unconstitutional law or normative act, the Court shall simultaneously decide to also repeal the law or the normative act.

In cases where paragraph 2 of this Article is applicable, the effects of the Constitutional Court decision shall not extend to the acts which no longer have effects or to judicial decisions that have become final.

The Constitutional Court shall consider the application within a reasonable time.

### **Article 71/c**

#### **Obligations Arising from Decision Making in International Courts**

For purposes of this law, international courts are the courts whose jurisdiction extends to the Albanian State, because of obligations arising from ratified international agreements.

If an international court finds out that the Republic of Albania has violated the obligation arising from an international agreement and, therefore, the fundamental rights and freedoms of a natural or legal person have been violated through a law or normative act, the Constitutional Court, upon request, may repeal the law or the normative act, if it finds that there is no other effective legal remedy to restore the rights violated.

If the Constitutional Court has previously ruled on a matter, which has been tried by an international court and the latter has concluded that fundamental rights and freedoms of the individual have been violated because of the decision of the Constitutional Court, the subject infringed upon, in whose favour the international court has ruled, shall be entitled to address the Constitutional Court with a request to reopen the judicial process.

The request for reopening the process shall be filed to the Constitutional Court within 4 months of the entry into force of the decision of the international court. It must contain

a summary of the international court's decision, highlights of findings and concrete research made by that court. The applicant must expressly request the reopening of the process and a repeal of the act.

The request for reopening the process shall not be accepted if:

Consequences of violation of fundamental rights and freedoms no longer exist;

The international court has given an indemnity without associating it with a reopening of the process (just satisfaction);

The violation has been avoided by a new legal arrangement or other forms.

When the Constitutional Court accepts the request, it shall decide on:

The repeal of its previous decision and admissibility of the application.

The repeal of its previous decision and simultaneously the repeal of the act that has violated fundamental rights and freedoms of the applicant and the obligation of the competent authority to issue a new act or the obligation of the authority not to act, as appropriate.

#### **Article 71/ç**

#### **The Review of Applications on the Undue Prolongation of the Process before the Constitutional Court**

Anyone, who is a party to a process that takes place before the Constitutional Court or a party to a judicial process suspended as a consequence of an incidental check or of the verification of the constitutionality of the law initiated by other entities provided for in Article 134 of the Constitution, who claims that the trial has been conducted beyond a reasonable time, has the right to demand due compensation from the Constitutional Court, if determined that his rights and freedoms provided for by the Constitution have been violated from the undue prolongation of the process.

In any case, regardless of the consequences, the applicant cannot apply without passing at least one year from commencement of the case review.

In any case, the Constitutional Court shall assess the nature of the process and of the case, as well as the circumstances that have influenced the decision-making process of the Constitutional Court. It shall decide on the compensation amount by reference to consequences suffered by the applicant because of the undue prolongation of the process before this court.

If the Constitutional Court concludes that the trial has been extended beyond the deadline without reasonable cause, then, it shall compensate the applicant up to the extent of 100,000 ALL, for each year of delay.

#### **Article 71/d**

#### **The Review of Applications in accordance with Article 179/1 of the Constitution**

The Constitutional Court, at the request of not less than 1/5 of members of the Assembly, shall review cases provided for in Article 179/1 of the Constitution.

In this case, the Constitutional Court shall examine whether it has to do with a situation where bodies, tasked by the Constitution or the law to ascertain the ending or invalidity of the mandate or the dismissal from office of an elected, appointed official or a senior public functionary, fail to act.

At the end of the case review, the Constitutional Court shall decide to:

Reject the application;

Confirm the ending or invalidity of the mandate or the dismissal from office of the senior public official.

## **CHAPTER VIII**

### **DECISIONS OF THE CONSTITUTIONAL COURT**

#### **Article 72**

##### **Decision making and proclamation of decision**

Deliberations and voting for the decision are not public.

The Constitutional Court decisions are made by majority vote of all the judges thereof. Abstention is impermissible.

The decision is signed by all the judges present at the hearing.

Parties in the process are notified about the proclamation of the decision. Their absence does not hinder the proclamation of the decision.

The decision is proclaimed on the name of the Republic of Albania.”

The Constitutional Court decision shall be reasoned. In special cases dealing with matters of public importance, the Constitutional Court may announce ordering provisions immediately after the decision has been made and announce the reasoned decision within five days. In this case, the decision shall enter into force on the day of its announcement together with the reasoning, unless the Court decides otherwise.

The decision of the Constitutional Court has general binding force and it is final.

The judge expressing a dissenting opinion enjoys the right to reason his opinion and thus it is attached to and published together with the court decision.

Copies of the decision are liable to be handed to the involved parties, if thus requested by them and upon the respective fee.

#### **Article 73**

##### **Adjournment of deliberations and voting**

If any of the judges participating at the hearing is absent during the deliberations and voting, the Meeting of the Judges shall be cancelled and adjourned to another date.

If even after that, the participation of the judge cannot be secured within a reasonable period, the Court ultimately decides the case, when the absolute majority of its members is formed.

In case this majority is not formed and there is a possibility to include in this hearing other judges who have not previously been present at the hearing, the hearing shall be reopened and the case heard from the beginning.

Where the majority of five judges is not achieved, the application shall be considered rejected.

#### **Article 74 (repealed)**

#### **Article 75 Consistency of decision**

A decision of the Constitutional Court, after voting, shall be considered valid and cannot be changed.

#### **Article 76**

#### **Legal Effects of Constitutional Court Decisions**

The Constitutional Court decisions are final and mandatory for execution.

The Constitutional Court decision that has repealed a law or a normative act as incompatible with the Constitution or international agreements, as a rule, shall have legal effects from the date of its entry into force, unless otherwise provided by this law.

In any case, the Constitutional Court shall define effects of its decision.

The Constitutional Court may decide that the decision to repeal an act may produce effects on a date different from the date of its entry into force. In this case, the Assembly or any other institution must make necessary changes within the deadline set by the Constitutional Court decision and in accordance with its reasoning.

Where during the review of a case, the Constitutional Court finds out that there is a legal vacuum that has brought negative consequences to fundamental rights and freedoms of the individual, the Constitutional Court, inter alia, shall determine the legislator's obligation to complete the legal framework within a certain deadline.

Decisions of courts of all instances, which have been repealed by the Constitutional Court, shall not have legal force from the moment they were made. The case shall be sent for examination to the court, whose decision has been repealed.

The decision shall have retroactive effect only against:

A criminal sentence, even while it is being executed, if it is directly connected with the implementation of the law or normative act that has been repealed;

Cases being examined by courts, as far as their decisions are not final and irrevocable.

Unexhausted consequences of the law or normative act that has been repealed.

#### **Article 77 (repealed)**

### **Article 78 Notification of Decision**

When deciding on the abrogation of the law or the normative act and the related relationships require legal regulation, the Constitutional Court decision shall be notified to the relevant bodies to take the measures provided for in its decision.

### **Article 79 (repealed)**

### **Article 80**

#### **Accuracy and Completion of Decision**

The Constitutional Court has the right, within 2 months of the announcement of a decision, upon request, to correct errors in writing, in computation or any obvious inaccuracy allowed in the decision, without changing the substance of the decision.

After reviewing these cases, the Constitutional Court shall issue a decision, which shall be published in the Official Gazette.

### **Article 81 Execution of Decisions**

The Constitutional Court decisions are mandatory for execution.

The execution of Constitutional Court decisions is secured by the Council of Ministers through the respective organs of the state administration.

The Constitutional Court, depending on the type of decision and where appropriate, may specify in the ordering provision the body charged with the execution of the decision, as well as the manner of execution, setting concrete deadlines, the relevant manner and procedure of execution.

Failure or obstruction of execution of the Constitutional Court decision shall be punishable in accordance with the relevant provisions of the Criminal Code.

## **CHAPTER IX TRANSITIONAL AND FINAL PROVISIONS**

**Article 82 (repealed)**

**Article 83 (repealed)**

**Article 84 (repealed)**

**Article 85 (repealed)**

### **Article 86 Implementation of the New Law**

The examination of disciplinary misconducts of the Constitutional Court judges, under Article 10 of this Law, for a 9-year period since the entry into force of this law, shall be affected by the Special Chamber of Appeal at the Constitutional Court, under the provisions of Law no 84/2016 "On the Transitional Re-evaluation of Judges and Prosecutors in the Republic of Albania".

The legal advisors appointed prior to the entry into force of this law shall continue to stay in office, after successfully passing the transitional re-evaluation process, under Article 179/b and Annex to the Constitution, as well as Law no.84/2016 "On the Transitional Re-evaluation

of Judges and Prosecutors in the Republic of Albania". Legal advisors who pursue the career of magistrates shall be subject to the rules provided in the law on the status of magistrates. Other legal advisors shall be subject to the rules provided for in this law and the law on the status of magistrates, as far as applicable. Their number is defined in accordance with the structure of the Legal Service Unit.

Regarding the petitions and cases pending on the date of entry into force of this law, the provisions of this law shall apply, except for the cases provided for in Articles 50, paragraph 4, Article 71, 71/a, 71/b, 71/c and 71/ç of this law, for which the implementation shall start on 1 March 2017.

The renewal of Constitutional Court judges until 2022, shall take place under the following scheme:

The judges who will replace the judges whose mandate expires in 2016, shall be appointed as per the sequence, respectively by the President of the Republic and the Assembly.

The judge who will replace the judge whose mandate expires in 2017 shall be appointed by the High Court and shall stay in office until 2025.

The judges who will replace the judges whose mandate expires in 2019 shall be appointed as per the sequence, respectively by the President of the Republic and the Assembly.

ç) The judge who will replace the judge whose mandate expires in 2020, shall be appointed by the High Court and shall stay in office until 2028.

The judges who will replace the judges whose mandate expires in 2022, shall be appointed as per the sequence, respectively by the President of the Republic, the Assembly, and the High Court.

Until the appointment of at least  $\frac{3}{4}$  of all the judges of the High Court, but, in any case, not later than 31.12.2023, the special meeting of judges of the High Court, according to point 3 of Article 7/ç of this Law, is valid if at least half of all judges of the High Court are attending.

#### **Article 87 Repeal of the law**

Upon the entry into force of this law, Law No. 8373, dated 15.07.1998 "On the Organization and Functioning of the Constitutional Court of the Republic of Albania", is repealed.

#### **Article 88**

This law enters into force 15 days after its publication in the Official Gazette.

SPEAKER OF PARLIAMENT

Skënder Gjinushi

Promulgated by Decree No. 2561, dated 22.2.2000 of the President of the Republic of Albania, Rexhep Meidani