

Constitutional Court Act

Promulgated State Gazette No. 67/16.06.1991 Supplemented, SG No. 25/16.03.2001, effective 1.09.2000, amended and supplemented, SG No. 45/30.04.2002, SG No. 114/30.12.2003, effective 1.01.2004

Chapter One

GENERAL PROVISIONS

Article 1

(1) The Constitutional Court shall guarantee the supremacy of the Constitution.

(2) The Constitutional Court shall be independent from the Legislature, the Executive and the Judiciary. In its work the Constitutional Court shall be guided exclusively by the provisions of the Constitution and this Act.

Article 2

The seat of the Constitutional Court shall be in the city of Sofia.

Article 3

The Constitutional Court shall have an independent budget.

Chapter Two

ORGANIZATION, STRUCTURE AND COMPOSITION

Article 4

(1) The Constitutional Court shall be composed of 12 members, 1/3 of which shall be appointed by the National Assembly, 1/3 shall be appointed by the President of the Republic and 1/3 shall be chosen at a General Meeting of the justices of the Supreme Court of Appeals and the Supreme Administrative Court.

(2) The term of each justice shall be 9 years.

(3) Eligible for membership in the Constitutional Court shall be Bulgarian citizens who have no other citizenship and who meet the requirements of article 147 of the Constitution.

Article 5

(1) Three months before the expiration of the term of the respective justices the Chairman of the Constitutional Court shall propose to the Chairman of the National Assembly, the President and the Chairmen of Supreme Court of Appeals and the Supreme Administrative Court to respectively choose or appoint new justices.

(2) The members of the Constitutional Court shall continue to perform their obligations until their successors have assumed their duties.

Article 6

(1) The Constitutional Court justices shall assume their duties upon taking the following oath of office: "In assuming my duties as a justice of the Constitutional Court, I do solemnly swear to observe faithfully my duties as assigned to me by the Constitution and the Constitutional Court Act. I have sworn."

(2) Each justice shall take the oath of office not later than one month after his appointment or choosing in the presence of the Chairman of the National Assembly, the President and the Chairmen of Supreme Court of Appeals and the Supreme Administrative Court.

(3) (Supplemented, SG No. 114/2003) Justices of the Constitutional Court shall vacate any posts occupied by them and shall cease all activities incompatible with their position, in

accordance with article 147, paragraph 5 of the Constitution within the time period stipulated in paragraph 2, except as lecturers in higher education institutions. Members of the Constitutional Court who are lecturers in higher education institutions shall take unpaid leave until termination of their powers.

(4) The act for appointing or choosing a justice shall be published in the State Gazette within a term of 15 days.

Article 7

(1) The first session of the Constitutional Court, at which the Chairman shall be chosen, shall be chaired by the most senior justice.

(2) The justices of the Constitutional Court shall choose the Chairman in accordance with article 147, paragraph 4 of the Constitution. The candidate who has received more than half of the votes of all justices shall be Chairman.

(3) Where during the first ballot no candidate has obtained the required majority a second ballot shall be held in which the two candidates receiving the highest number of votes shall participate. In the second ballot the candidate who has received the higher number of votes shall be Chairman; if the votes are evenly split the Chairman shall be the candidate with longer professional experience; where the professional experience is equal the older of the two shall be Chairman.

Article 8

(1) The Chairman of the Constitutional Court shall:

1. represent the Court;
2. chair the Court's sessions;
3. administer the budget;
4. allot the work among the justices;
5. appoint the chief secretary and the Court employees;
6. carry out the administrative management of the Court;
7. publish the acts of the Court.

(2) In the absence of the Chairman his duties shall be performed by the oldest justice.

Article 9

(1) No criminal proceedings may be instituted against a Constitutional Court justice before his immunity has been revoked.

(2) A justice's immunity shall be revoked upon the submission of sufficient evidence as to the commission of a grave premeditated criminal offence to the Constitutional Court by the Chief Prosecutor.

Article 10

(1) The Chairman of the Constitutional Court shall receive a monthly compensation equal to the arithmetical mean of the compensations of the President of the Republic and the Chairman of the National Assembly.

(2) The Constitutional Court justices shall receive a monthly compensation equal to 90 per cent of that of its Chairman.

(3) The Constitutional Court justices shall enjoy the same status as the Chairman of the National Assembly.

(4) (Amended, SG No. 25/2001 - effective 1.09.2000) The Constitutional Court justices shall be entitled to retirement benefits after the expiration of their term regardless of whether they have reached retirement age or not, as well as reimbursements under the terms and up to the amount, stipulated in Art. 106, paragraph 3 and Art. 109 of the Civil Servants Act.

Article 11

(1) The term of a Constitutional Court justice shall be terminated in accordance with article 148 of the Constitution.

(2) The termination of the term pursuant to article 148, paragraph 1, items 2, 3, 4 and 5 of the Constitution shall be operational following a decision of the Constitutional Court.

(3) The termination of the term pursuant to article 148, paragraph 1, items 1 and 6 of the Constitution shall be announced by the Chairman.

(4) The decisions and resolutions for terminating a Constitutional Court justice's term shall be published in the State Gazette within a period of 15 days.

Chapter Three

COMPETENCE OF THE COURT

Article 12

(1) The Constitutional Court shall:

1. give binding interpretations on the Constitution;
2. rule on motions for establishing the unconstitutionality of laws and other legislative acts of the National Assembly, as well as of Presidential acts;

3. settle disputes regarding competence as between the National Assembly, the President and the Council of Ministers, as well as between organs of local government and the central executive bodies;

4. rule as to the conformity with the Constitution of treaties concluded by the Republic of Bulgaria before their ratification, as well as on the conformity of laws with regard to the universally recognized rules of international law and with treaties to which Bulgaria is a party;

5. rule on disputes concerning the constitutionality of political parties and associations;

6. rule on disputes concerning the legality of the election of the President and the Vice President;

7. establish the circumstances under article 97, paragraph 1, items 1 and 2 and paragraph 2 of the Constitution;

8. rule on disputes as to the legality of the election of a member of the National Assembly;

9. establish the ineligibility for election or incompatibility of a member of the National Assembly with regard the exercise of other functions;

10. rule on impeachment brought by the National Assembly against the President or the Vice president;

11. revoke the immunity and establish the inability to discharge his duties and the incompatibility of a Constitutional Court justice.

Article 13

The Constitutional Court itself shall decide whether an issue addressed to it is within its competence.

Article 14

(1) The Constitutional Court shall rule through decisions, resolutions and orders.

(2) The Court shall rule on the merits of a dispute with a decision.

(3) Decisions shall be published in the State Gazette within 15 days of their adoption and shall enter into force 3 days after publication.

(4) Decisions on disputes concerning the legality of the election of the President, the Vice President or a member of the National Assembly, on establishing ineligibility for election or incompatibility of a member of the National Assembly, as well as on the inability to discharge his duties and incompatibility of a Constitutional Court justice, shall enter into force from the date of the ruling.

- (5) The Court's acts are final.
- (6) The Court's decisions are binding upon all state organs, juridical persons and citizens.
- (7) The Court's acts, together with their reasons, shall be issued in a year-book.

Article 15

(1) The Constitutional Court shall be deemed in session when at least 2/3 of the justices are present.

(2) The decisions and the resolutions of the Court shall be adopted by a majority of all justices.

(3) Abstentions are not acceptable.

Article 16

The Constitutional Court shall act on the initiative of the organs and persons set out in article 150, paragraph 1 of the Constitution.

Article 17

(1) Motions before the Constitutional Court shall be made in writing, shall be reasoned and shall be accompanied by evidence set out in writing.

(2) Motions for declaring the unconstitutionality of the laws and acts stipulated in article 12, paragraph 1, item 2 may be made as of the date of their publication.

(3) Motions for settling disputes concerning competence envisaged in article 149, paragraph 1, item 3 of the Constitution shall be made only after discussion as to the subject of the dispute between the respective interested institutions.

(4) Motions for settling disputes concerning the legality of the election of the President, the Vice President or a member of the National Assembly shall be made within 15 days from the date of the decision of the Central Electoral Commission.

Article 18

(1) The Chairman of the Court shall, with an order, initiate proceedings, designate a rapporteur and fix the date for the hearings.

(2) The interested institutions shall be informed of the initiation of the proceedings and shall be given a deadline for presenting in writing their positions and evidence.

Article 19

(1) The Constitutional Court shall rule on the admissibility of motions under article 17 with a resolution in camera.

(2) When a motion is not granted review it shall be returned to the applicant with a reasoned resolution.

Article 20

(1) The Constitutional Court may request additional evidence in writing and may commission the presentation of expert opinions.

(2) (Amended, SG No. 45/2002) No one shall have the right to refuse presentation of requested information or documentary evidence regardless of whether these are classified information, constituting state or official secret.

(3) (New, SG No. 45/2002) In the cases under para. 2, the terms and procedure of the Protection of Classified Information Act shall apply.

Article 21

(1) The Constitutional Court's sessions shall be held without the participation of the interested parties with the exception of cases explicitly stipulated in this Law or when the Court itself decides otherwise.

(2) The Court may order the personal appearance and hearing of an expert witness.

(3) Minutes shall be kept at the Court's sessions and shall be signed by the Chairman and a secretary record-keeper.

(4) When it finds that the evidence gathered is sufficient the Court shall rule with a decision within two months.

(5) When the Constitutional Court has ruled with a decision or with a resolution on the inadmissibility of a motion further motions on the same subject may not be presented.

Article 22

(1) With its decision the Court shall rule only on the motion as presented. It shall not be limited to the indicated grounds for non-conformity with the Constitution.

(2) Acts which have been declared unconstitutional shall not be implemented.

(3) When an act has been issued by an incompetent organ the Constitutional Court shall declare it null and void.

(4) The legal effects which have occurred on the basis of the act set out in paragraph 2 shall be resolved by the organ which has issued it.

(5) Decisions ruling as to the illegality of the election of the President, the Vice President and a member of the National Assembly and on establishing ineligibility for election or incompatibility of a member of the National Assembly shall be sent to the Central Electoral Commission and the interested organs and parties.

Article 23

(1) Decisions with regard to impeachment of the President or Vice President shall be sent to the Constitutional Court accompanied by the reasons, documentary evidence and minutes of the sessions in accordance with the stipulations of article 103, paragraph 2 of the Constitution.

(2) The Chairman of the Court shall initiate the proceedings, shall designate three rapporteurs, shall set the date of the hearing and shall inform the official subject to impeachment.

(3) Copies of the decision, the documentary evidence and the minutes shall be sent to the official subject to impeachment who within 15 days may present or request the gathering of further evidence.

(4) All evidence is admissible in the course of the proceedings. The official subject to impeachment shall be entitled to participate in the proceedings with legal counsel.

(5) The Court shall inform the Chairman of the National Assembly of the date of the hearing. A member designated by the National Assembly shall take part in the proceedings in support of the impeachment.

Article 24

(1) The Constitutional Court shall hold the hearing when at least 3/4 of all members are present.

(2) The official subject to impeachment shall be entitled to provide personal explanations before the Court.

(3) The Court shall pass its judgement by secret ballot.

(4) With its decision the Court shall terminate or refuse to terminate the powers of the President or the Vice President.

(5) The official impeached, the Chairman of the National Assembly, the President or the Vice President and the Prime Minister shall be immediately informed of the decision.

(6) When the Court terminates the powers of the President or the Vice President on grounds of treason the record of the hearings shall be sent to Chief Prosecutor.

Article 25

(1) The decision for revoking the immunity of a justice of the Constitutional Court shall be adopted by secret ballot.

(2) The respective justice shall be provided with the opportunity to present a personal account before the Court. He shall not vote.

Article 26

In cases of establishing the incompatibility of a member of the National Assembly he shall be provided with the right set out in article 25, paragraph 2.

Article 27

(Amended, SG No. 114/2003)

A fine not exceeding BGN 5,000 shall be imposed by the Chairman on anyone found guilty of not carrying out a resolution or order of the Constitutional Court. The fine shall not be subject to appeal, but may be reduced or revoked by the Chairman of the Court.

(1) A fine not exceeding BGN 1000 shall be imposed by the Chairman on anyone found guilty of not carrying out a resolution or order of the Constitutional Court.

(2) Before imposing the fine the guilty person shall have the opportunity to submit written explanations within 14 days from the date of announcement.

(3) The Chairman may collect other evidence if he considers it necessary.

(4) The fine shall not be subject to appeal, but may be reduced or revoked by the Chairman of the Court.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. The Constitutional Court shall adopt Rules on its Organization and Activities.

§ 2. (1) The members of the Constitutional Court for its first term shall be determined by lot.

(2) After the expiration of a three year period the membership shall be renewed with two representatives from the National Assembly's quota and with one representative each from the President's and the Judiciary's quota.

(3) After the expiration of a six year period the membership shall be renewed with two representatives from the President's quota and with one representative each from the National Assembly's and the Judiciary's quota.

This Act was adopted by the Grand National Assembly on 30 July 1991 and affixed with the State Seal.

Lev Re-denomination Act

Promulgated, State Gazette No. 20/5.03.1999,

amended, SG No. 65/20.07.1999 (effective 5.07.1999).

TRANSITIONAL AND FINAL PROVISIONS

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§ 4. (1) (Amended, SG No. 65/1999) Upon the entry of this Act into force, all figures expressed in old lev terms as indicated in the laws which will have entered into force prior to the 5th day of July 1999 shall be replaced by figures expressed in new lev terms, reduced by a factor of 1,000. The replacement of all figures expressed in old lev terms, reduced by a factor of 1,000, shall furthermore apply to all laws passed prior to the 5th day of July 1999 which have entered or will enter into force after the 5th day of July 1999.

(2) The authorities, which have adopted or issued any acts of subordinate legislation which will have entered into force prior to the 5th day of July 1999 and which contain figures expressed in lev terms, shall amend the said acts to bring them in conformity with this Act so that the amendments apply as from the date of entry of this Act into force.

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§ 7. This Act shall enter into force on the 5th day of July 1999