

Regulations on the Organization of the Activities of the Constitutional Court

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Chapter One

GENERAL PROVISIONS

Article 1

These Regulations shall regulate the organization and activities of the Constitutional Court of the Republic of Bulgaria.

Article 2

The Constitutional Court shall ensure the supremacy of the Constitution.

Article 3

The Constitutional Court shall be independent from the Legislative, Executive and Judicial branches and in its activities shall be guided only by the Constitution and the Constitutional Court Act.

Chapter Two

RIGHTS AND OBLIGATIONS OF THE CONSTITUTIONAL COURT JUSTICES

Article 4

(1) The status of a Constitutional Court justice shall be incompatible with:

1. an elective office;
2. holding a state or public office;
3. membership in a political party or trade union;
4. performing independent, commercial or other paid professional activities;

(2) The Constitutional Court justices shall within 7 days of their appointment or choosing vacate the posts occupied by them and de facto cease the activities set out in paragraph 1, which shall be de-clared in writing.

(3) The Constitutional Court justices shall assume their duties upon taking an oath of office as pre-scribed by law, which shall be certified in writing.

Article 5

(1) (Amended, SG No. 8/2001) The justices in the Constitutional Court shall have an equal status and shall be equal in powers.

(2) (New, SG No. 8/2001) The seating of the justices in the Constitutional Court shall be deter-mined by the length of their term of service in the same court. When the term of service is equal, their age shall be decisive.

Article 6

(1) The Chairman of the Constitutional Court shall be its administrative head. He shall have the following powers:

1. to represent the Court;
2. to chair the Court's sessions;
3. to administer the budget;
4. to allot the work among the justices;
5. to appoint the Chief Secretary and the Court employees;
6. to carry out the administrative management of the Court;

7. to publish the acts of the Court.

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

Article 7

(1) The Constitutional Court justices shall enjoy:

1. the same immunity as members of the National Assembly;
2. the status of the Chairman of the National Assembly.

(2) The justices shall have the right to visit all state organs, business and public organizations and to receive all information requested by them.

(3) The state organs in the country must provide full assistance to the Constitutional Court justices in the exercise of their powers.

(4) The justices shall perform their duties conscientiously, shall observe the confidentiality of Court sessions in deciding cases, as well as state and official secrets which have come to their knowledge in the performance of their functions.

Article 8

The Constitutional Court shall inform officially the mass media as to its activities.

Chapter Three

DEPARTMENTS AND EMPLOYEES OF THE CONSTITUTIONAL COURT

Article 9

(1) The Constitutional Court employees shall perform their obligations conscientiously, shall safe-guard state and official secrets which have come to their knowledge in the performance of their functions. The preceding shall be declared in writing upon assuming their duties.

(2) The Constitutional Court employees shall not participate in the leaderships of political parties, trade unions or associations.

(3) The Constitutional Court employees shall not exercise commercial or other regularly paid pro-fessional activities.

(4) The Constitutional Court employees shall not make statements to the mass media regarding the activities of the Constitutional Court.

Article 10

The Constitutional Court employees shall enjoy the same status as the respective positions in the National Assembly.

Article 11

The Chief Secretary shall carry out the directions of the Chairman of the Constitutional Court and shall exercise the day to day management of the Court's departments.

Article 12

(1) The Constitutional Court shall have the following structural units:

1. Court Activities and Legal Information;
2. International Cooperation;
3. Finance and Accounting.

(2) Other units may be established according to needs.

(3) The rights and obligations of the heads and employees shall be determined in their job descriptions by the Chairman of the Constitutional Court.

Article 13

The Constitutional Court justices shall be entitled to assistants in accordance with their status as determined in article 10, paragraph 3 of the Constitutional Court Act.

Article 14

(1) The Constitutional Court shall have an independent budget which shall be adopted by the National Assembly.

(2) The draft budget shall be introduced for debate by the Chairman of the Constitutional Court.

(3) Changes may be made within the framework of the endorsed by the National Assembly budget when circumstances so require.

Article 15

Periodically the Chairman shall inform the Constitutional Court as to the administration of the budget and as to the changes in it.

Chapter Four

INITIATION AND REVIEW OF CASES

Article 16

(1) The Constitutional Court shall:

1. give binding interpretations of the Constitution;

2. rule on motions for establishing the unconstitutionality of laws and other acts of the National Assembly, as well as of acts of the President;

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

4. rule on 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 universally recognized rules of international law and with the 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 the exercise by them of other functions;

10. rule on motions to impeach the President or the Vice President brought by the National Assembly;

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

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

Article 17

The Constitutional Court shall act on the motion of:

1. at least one fifth of the members of the National Assembly;

2. the President of the Republic;

3. the Council of Ministers

4. the Supreme Court of Appeals;

5. the Supreme Administrative Court;

6. the Chief Prosecutor;

7. the parties to disputes concerning competence pursuant to article 149, paragraph 1, item 3 of the Constitution, including municipal councils.

Article 18

(1) Motions before the Constitutional Court shall be made in writing and reasons shall be stated.

(2) Motions shall be written in the Bulgarian language and shall contain:

1. indication of the Court;
2. (Amended, SG No. 35/1999) the name, seat (principal office) of the organs or persons who have made the motion. When the motion is presented by a group of members of the National Assembly, the first in the list shall be deemed their representative unless another has been designated;

3. the name, seat (address) of the interested institutions and persons which in the view of the person making the motion must take part in the proceedings;

4. a statement of the circumstances on which the motion is based;

5. the essence of the motion;

6. reference number and seal of the organ making the motion;

7. signature of the person filing the motion.

(3) Evidence of the circumstances on which the motion is based shall be indicated in and presented with the motion.

(4) In case of disputes pursuant to article 149, paragraph 1, item 3 of the Constitution evidence in writing that the requirements set out in article 17, paragraph 3 of the Constitutional Court Act have been observed shall be attached to the motion.

(5) The motion shall be filed with the Court's office or shall be sent by mail with copies and attachments in accordance with the indicated number of interested institutions and persons.

Article 19

(1) When the motion does not conform to the requirements of article 18 the Chairman of the Court shall set a deadline for eliminating the deficiencies.

(2) If the petitioning organ or persons do not eliminate the deficiencies by the set deadline the Chairman shall submit the motion for review by the Constitutional Court which shall rule whether to return it or not.

(3) The Constitutional Court may ask for the elimination of deficiencies at any time during the full course of the Constitutional proceedings.

Article 20

(1) The Chairman of the Constitutional Court shall initiate the Constitutional proceedings through an order, shall designate one or more rapporteurs and the date of the hearings.

(2) The rapporteur shall prepare the case for review in hearings and shall prepare a decision and resolution and the respective reasons.

Article 21

(1) The Court shall determine the interested institutions and persons. They shall be informed in accordance with the Code of Civil Procedure.

(2) Required notices and announcements shall be reviewed by the rapporteur and if there are deficiencies he shall order their elimination. If that proves impossible the rapporteur shall inform the Chairman of the Constitutional Court.

Article 22

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

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

(3) The Court shall rule on the admissibility of the motion and on other procedural issues with a resolution.

(4) The Chairman shall rule with an order in the instances provided for by the law and the Regulations; the rapporteur shall rule with an order on the status and preparation of the case to be re-viewed.

Article 23

(1) Decisions and resolutions of the Constitutional Court shall contain:

1. the date and place of their rendering;
2. indication of the Court, the names of the justices, the rapporteur and the secretary record-keeper;
3. the parties to the proceedings;
4. the record number of the case on which the ruling was given;
5. the Court ruling.

(2) Reasons shall be provided with the acts set out in paragraph 1.

(3) Acts of the Constitutional Court shall be signed by all justices who have participated in their passing. When one of the justices is unable to sign an act the Chairman shall elucidate the reason.

Article 24

The Constitutional Court shall be deemed in session when at least two thirds of the justices are pre-sent; and in the cases set out in Article 23 of the Constitutional Court Act it shall be deemed in session if at least three quarters of all members are present.

Article 25

(1) A Constitutional case shall be heard in two stages:

1. the first stage shall consist of resolving the issues related to the admissibility of the motion;
2. the second stage shall be the hearing and adjudication of the case on its merits.

(2) The Court may rule on the admissibility of the motion at each stage of the Constitutional process.

Article 26

(1) (Corrected, SG No. 3/1992) When the Constitutional Court establishes that the motion originates from organs or persons other than those enumerated in article 17 of these Regulations, or that it has been seized with a motion outside the sphere of its competence, or that there exist other procedural impediments it shall refuse hearing of the motion with a resolution stating reasons and shall terminate proceedings. In this case the motion shall be returned to the addressee.

(2) The interested institutions and persons who have been notified of the initiation of proceedings shall be informed in writing of this.

Article 27

(1) Constitutional Court sessions shall be held without participation of the interested institutions and parties with the exception of those provided for in articles 23 and 26 of the Constitutional Court Act.

(2) (Amended, SG No. 35/1999) The Constitutional Court may decide that the case be heard in an open session.

Article 27a

(New, SG No. 35/1999)

(1) Open shall be those sessions of the Constitutional Court (CC) on the merits of the dispute, which it holds in compliance with the participation of the parties (filers of the motion and

interested parties), regulated by Art. 27b, para 2. These may be attended by representatives of the mass media, accredited with the Constitutional Court, and by citizens unless the Court decides that important considerations require the case to be reviewed without their attendance.

(2) The justices shall wear in the open session togas and a necklace, carrying a medallion with the image of the state coat of arms and an inscription: "Constitutional Court of the Republic of Bulgaria".

Article 27b

(New, SG No. 35/1999)

(1) All parties to the case, which are collective state organs, state institutions or legal entities, shall participate in the open session through their chairman, head or chairman of the managing board. They may authorize a third person as their representative. The President, the Chief Prosecutor, as well as the other single-person state organs, when they are parties to the case, may also participate in it through a representative. When the filer of the motion is a group of members of the National Assembly, Art. 18, para 2, it. 2, sentence two shall be applicable.

(2) The parties shall participate in the open session with brief verbal statements. They may submit written statements, as well as evidence in writing.

Article 27c

(New, SG No. 35/1999)

(1) The parties shall be summoned to the open session in writing in exchange for a receipt or via telex, fax, telegram or e-mail.

(2) The summons shall inform the parties:

1. of the date and the time of the session;
2. of the time allocated to them for verbal statements as per Article 27b, paragraph 2;
3. that they have to acquaint the representatives authorized by them with the data set out in it. 1 and 2, as well as inform them that they have to present their powers of attorney to the Court at least three days prior to the session.

(3) The failure to appear by a duly summoned party or its representative, when the party has been duly informed to designate a representative, shall not constitute an impediment for the initiation of the case proceedings.

Article 27d

(New, SG No. 35/1999)

(1) The Chief Secretary shall issue permits for attendance at the open session to representatives of the mass media, accredited with the Constitutional Court, as well as to citizens.

(2) Upon entrance of the justices, led by the Chairman of the Court, the Chief Secretary shall ask the attendees in the court-room to rise until the justices take their seats. The Chief Secretary shall also ask the attendees to rise when the Court leaves the court-room.

Article 27e

(New, SG No. 35/1999)

(1) The Chairman shall declare open the session. He shall announce the number of record of the case to be reviewed, as well as the parties that have appeared whereupon he shall give the floor to the rapporteur to report briefly on the case.

(2) After the conclusion of the report, the Chairman shall give the floor to the parties to make verbal statements in accordance with Art. 27b, para 2, beginning with the filer of the motion.

(3) When the verbal statements are concluded, the Chairman shall declare the case clarified and the Constitutional Court shall adjourn for deliberation for rendering a ruling.

(4) The parties shall be summoned in accordance with Art. 27c to the session for announcing the ruling.

Article 28

(Amended SG No. 35/1999)

During the session for announcing the ruling, the Chairman of the Court shall read out the disposition of the ruling and name the justices who have signed it with a dissenting opinion. The rapporteur shall read the reasons in their entirety or in a resume.

Article 29

(1) Only documentary evidence, with the exception of cases pursuant to article 23 of the Constitutional Court Act, is admissible in Constitutional Court proceedings.

(2) No one may refuse to hand over the requested information, documentary or material evidence, regardless of whether they may or may not constitute state or official secrets.

(3) The Court may commission various institutes or persons to prepare expert opinions.

(4) The Court shall provide an opportunity to the interested institutions and persons to acquaint themselves with the evidence gathered.

(5) The Constitutional Court shall warn the participants in the Constitutional proceedings of the criminal liability which they bear if such liability is envisaged in the Penal Code.

Article 30

(1) When the Court finds that the evidence gathered is sufficient and the case has been clarified, it shall rule within a period of two months.

(2) The session devoted to the adoption of a decision on the admissibility of the motion and a decision on the merits shall be held in camera.

Article 31

(1) The Constitutional Court shall render its decisions by a majority vote of all justices.

(2) When revoking the immunity and establishing the inability of the Constitutional Court justices to perform their duties the decisions shall be adopted by a majority of at least two thirds of all justices.

(3) Abstentions are not acceptable.

Article 32

(1) The Constitutional Court shall render its decisions by open vote.

(2) The decisions of the Constitutional Court pursuant to article 148, paragraph 2 and article 149, paragraph 1, item 8 of the Constitution shall be adopted by secret ballot.

(3) The justices who do not agree with an adopted decision or with a resolution with which a motion is denied review may sign them with a dissenting opinion and must set out their opinion in writing.

(4) When a decision is adopted by secret ballot the signing of a dissenting opinion shall not be permitted.

(5) Each justice may state in writing and attach his opinion to an act of the Constitutional Court.

Article 33

(1) Constitutional Court decisions, together with the reasons, the dissenting opinions and opinions, shall be published in the State Gazette within fifteen days of their adoption.

(2) The decisions shall enter into force three days after their publishing.

(3) 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 in-compatibility of a Constitutional Court justice, shall enter into force as of the date of the ruling.

(4) The Court's acts are final.

Article 34

(1) Minutes shall be kept at Constitutional Court hearings in which the place and time of the hearing, the composition of the Court, the participants in the proceedings and the procedural acts performed shall be recorded.

(2) The minutes shall be prepared within seven days of the date of the hearing. If the minutes cannot be prepared within this period the Chairman shall set a new deadline.

(3) The minutes shall be signed by the Chairman and the secretary record-keeper.

(4) Each justice and participant in the hearing may request a rectification or amendment of the minutes within seven days of their preparation. This request shall be reviewed by the Constitutional Court which shall rule on it by open vote.

Article 35

(1) The Court's decisions are binding upon all state organs, legal persons and citizens.

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

Chapter Five

COURT RECORDS

Article 36

The Records Office shall serve the activities of the Constitutional Court.

Article 37

For each justice and employee of the Court an official file shall be kept in which the documentation related to his employment, changes in his official position, leaves and other circumstances related to his employment relationship shall be kept.

Article 38

(1) The following books of record shall be kept with the Constitutional Court:

1. incoming and outgoing correspondence register;
2. alphabetical index of initiated cases;
3. inventory book on initiated cases;
4. Court sessions book;
5. confidential materials book;
6. fines book;
7. material evidence book;
8. archives book for entering the resolved cases from the Records Office to Archives;
9. library records book.

(2) All record books shall be numbered, stamped with the Court's seal and certified with the signature of the Chairman.

Article 39

(1) Incoming documents shall be recorded in the incoming correspondence register on the date of arrival; the date and reference number shall be noted upon them.

(2) The envelope with the stamps and postage seal of documents received by mail shall also be pre-served.

(3) For correspondence on the same issue only the first letter shall be recorded in the incoming register, while the date of arrival of subsequent letters shall be recorded in the special column of the register.

Article 40

Documents which do not relate to Constitutional cases shall be kept in office files.

Article 41

All documents issuing from the Court shall be recorded in the outgoing register.

Article 42

(1) Initiated Constitutional cases shall be recorded in an inventory book and an alphabetical index.

(2) The documentation on initiated cases shall be placed in folders, arranged according to a model approved by the Chairman of the Constitutional Court.

Article 43

(1) When a file is to be removed from the premises where it is kept the respective employee shall make a note to whom it was given in a book kept by him.

(2) Constitutional case files may be given only to Constitutional Court justices.

(3) On order of the Chairman of the Constitutional Court, files of cases may be given to other persons in the Court's office for reference purposes.

(4) Writing down notes, signs and underlining texts in Court documents is not allowed.

Article 44

Evidence in writing and material evidence presented for the case may be returned only on the basis of a Constitutional Court resolution.

Article 45

(1) Files of Constitutional cases may not be sent to other organizations and institutions.

(2) In exceptional cases they may be given to high state organs with a resolution of the Constitutional Court.

Article 46

(1) If a case file has been lost or destroyed the Chairman of the Court shall order it restored. For the purpose an act shall be prepared by the chief secretary and all documentation concerning the case which is with the Court, with other institutions and with the parties shall be used.

(2) After the gathering of the materials has concluded and a statement has been prepared on the re-stored documents, the Constitutional Court shall in open session, after informing the parties, rule on the restoration with a resolution.

(3) When the case has not been restored and the Court has ruled so with a resolution a new motion may be made, and it shall be deemed that the motion was made within the prescribed time period if such is required by law.

Article 47

(1) Each year a verification for the presence of the case files in the Records Office shall be carried out.

(2) The Chairman of the Constitutional Court shall be informed of case files which have not been discovered during the verification.

Article 48

Material evidence which is received by the Court shall be registered in the material evidence book and shall be kept in an appropriate manner as determined by the Court.

Article 49

Documents presented as evidence on cases may on the order of the Chairman be kept in the Court's safe.

Article 50

When material evidence, valuables and money are attached, with its decision the Constitutional Court shall rule which of them shall be returned to the parties, which shall be set aside towards the state budget or destroyed, for which a statement shall be drawn up.

Article 51

Constitutional case-files and correspondence concluded during the current year shall be delivered to Archives not later than March of the following year.

Article 52

(1) When delivered to Archives the Constitutional case files, the books and the office files shall be recorded in the archives book. Each file shall be given an archive number and cross reference num-ber.

(2) The case-file's archive number shall be recorded in the inventory book.

Article 53

(1) Archive materials shall be kept in special premises.

(2) Access of outside persons to these premises shall be restricted.

(3) The removal of case-files, office files and other documentation from the archives for official use shall be permitted only by the Chairman of the Constitutional Court.

Article 54

(1) Concluded Constitutional case-files shall be kept in the Constitutional Court's archives.

(2) Constitutional case-files may be handed over to the Central State Archives only with the explicit permission of the Constitutional Court.

FINAL PROVISIONS

§ 1. These Regulations are issued pursuant to § 1 of the Transitional and Final Provisions of the Constitutional Court Act (State Gazette No. 67 of 1991).

§ 2. These Regulations shall enter into force three days after publication in the State Gazette.