

# **Constitutional Court Act**

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## **I. GENERAL PROVISIONS**

### **Article 1**

(1) The Constitutional Court is the highest body of the judicial power for the protection of constitutionality, legality, human rights and fundamental freedoms.

(2) In relation to other state authorities, the Constitutional Court is an autonomous and independent state authority.

(3) The decisions of the Constitutional Court are binding.

### **Article 2**

(1) The seat of the Constitutional Court is in Ljubljana.

(2) The Constitutional Court regulates its organisation and work by its Rules of Procedure and other general acts.

### **Article 3**

(1) The work of the Constitutional Court is public where provided by this Act.

(2) In order to decide matters in its jurisdiction, the Constitutional Court collects and processes personal data on participants\* in proceedings or data communicated to the Court by participants or state authorities, local community authorities, or bearers of public authority that is needed for the Constitutional Court to decide.

(3) With regard to the processing and protection of the personal data referred to in the preceding paragraph, the Constitutional Court applies the law which regulates the protection of personal data.

\*Any reference in this Act to a person of the male sex shall be deemed to also constitute a reference to a person of the female sex, unless the context clearly indicates otherwise.

### **Article 4**

(1) Participants in proceedings before the Constitutional Court have the right to inspect the case file at all times during the proceedings, while other persons may do so if the President of the Constitutional Court allows such.

(2) If the inspection of a case file is denied, an objection may be lodged within three days of the service of such denial. The objection is decided upon by the Constitutional Court at a closed session.

### **Article 5**

State authorities, local community authorities, and bearers of public authority must provide to the Constitutional Court for inspection any data, files, and documents requested, whereas the courts must additionally provide the Constitutional Court with legal assistance.

### **Article 6**

(1) For procedural questions which are not regulated by this Act, the Constitutional Court applies *mutatis mutandis* the statutory provisions regulating court proceedings with due consideration of the legal nature of the case.

(2) By its Rules of Procedure, the Constitutional Court regulates in more detail the rules of procedure determined by law.

### **Article 7**

(1) The Constitutional Court appoints a Secretary General of the Constitutional Court, who carries out the tasks determined by this Act and the Rules of Procedure of the Constitutional Court.

(2) The Constitutional Court appoints advisors to the Constitutional Court from among legal and other experts.

(3) The Constitutional Court may accept interns and trainees in accordance with the law.

### **Article 8**

(1) Funds for the work of the Constitutional Court are determined by the National Assembly upon the proposal of the Constitutional Court and constitute a part of the budget of the Republic of Slovenia.

(2) The Constitutional Court decides on the use of the funds referred to in the preceding paragraph.

(3) Supervision of the use of the funds referred to in the first paragraph of this article is performed by the Court of Audit.

## **II. PRESIDENT AND JUDGES OF THE CONSTITUTIONAL COURT**

### **Article 9**

Any citizen of the Republic of Slovenia who is a legal expert and has reached at least 40 years of age may be elected a Constitutional Court judge.

### **Article 10**

(1) The President of the Constitutional Court is elected by secret ballot by the judges of the Constitutional Court from among their own number for a term of three years. The election must be held prior to the expiry of the term of office of the incumbent President of the Constitutional Court.

(2) When absent from office, the President of the Constitutional Court is substituted for by the Vice-President of the Constitutional Court, who is elected for the same term and in the same manner as determined in the preceding paragraph.

### **Article 11**

The President of the Constitutional Court notifies the President of the Republic and the National Assembly of the expiry of the term of office of a Constitutional Court judge no later than six months before the expiry of the term of office.

### **Article 12**

(1) Within 30 days of receiving the notice referred to in the preceding article, the President of the Republic publishes a call for candidates for the office of Constitutional Court judge in the Official Gazette of the Republic of Slovenia.

(2) Proposed candidatures must be submitted within a period which may not be shorter than 30 days, or in the event of early termination of office, not shorter than 15 days of the publication of the call for candidates. Proposed candidatures must include a statement of reasons and the written consent of candidates that they accept their candidature.

### **Article 13**

(1) The President of the Republic proposes candidates for vacant positions on the Constitutional Court from among the candidates proposed in the manner determined in the preceding article, and he may additionally propose other candidates.

(2) The President of the Republic may propose more candidates than there are vacant positions on the Constitutional Court. Each proposed candidature must include a statement of reasons and the written consent of the candidate.

### **Article 14**

(1) The National Assembly elects Constitutional Court judges by secret ballot by a majority vote of all deputies.

(2) If no Constitutional Court judge is elected, the President of the Republic conducts a new procedure in accordance with Article 12 of this Act no later than 14 days after the day of voting in the National Assembly, or within the same period of time proposes candidates for vacant positions on the Constitutional Court from among the candidates who applied to the previous call or from among other candidates in accordance with the first paragraph of Article 13 of this Act.

(3) If also on the basis of a new proposal no Constitutional Court judge is elected, the election is held on the basis of a new procedure in accordance with Article 12 of this Act, for which the President of the Republic publishes a call no later than eight days after the day of voting in the National Assembly. The period for collecting proposals for possible candidates may not be shorter than 15 days after the call is published.

(4) If the President of the Republic proposes more candidates than there are Constitutional Court judges to be elected, the order of candidates on the ballot paper is determined by lot. If none of the candidates receives the required majority or if an insufficient number of judges is elected, those candidates who received the highest number of votes are voted on again. As many candidates are voted on as the number of judges required to be elected to the Constitutional Court. If, even after a

repeated election, an insufficient number of candidates are elected to the Constitutional Court, a new election is held on the basis of new candidatures.

(5) Candidates may withdraw their candidatures until voting begins.

### **Article 15**

After being elected, a Constitutional Court judge takes the following oath before the National Assembly:

"I swear that I shall judge according to the Constitution, the law, and my conscience and that I shall strive with all my power for constitutionality, legality, and the protection of human rights and fundamental freedoms."\*

\*"Prisegam, da bom sodil po ustavi in zakonu in po svoji vesti in si z vsemi svojimi močmi prizadeval za ustavnost in zakonitost ter za varovanje človekovih pravic in temeljnih svoboščin."

### **Article 16**

(1) The office of Constitutional Court judge is not compatible with:

- office in state authorities, in local community authorities, in the bodies of political parties, and in the bodies of trade unions;
- work in state authorities, in local community authorities, and work for bearers of public authority;
- membership in the management and supervisory bodies of companies, institutions, and cooperatives;
- the pursuit of an occupation or gainful activity, except for the position of higher education teacher, researcher, or associate of a higher education institution.

(2) From the day a Constitutional Court judge takes office, he ceases to hold the office or perform the work referred to in the first and second indents of the preceding paragraph.

(3) No later than three months after being elected, the Constitutional Court judge elected must cease to perform the activities referred to in the third and fourth indents of the first paragraph of this article. If he does not do so, his office of Constitutional Court judge terminates.

### **Article 17**

(1) An elected Constitutional Court judge takes office after taking the oath of office.

(2) If the term of office of the outgoing judge has not yet expired, the elected

Constitutional Court judge takes office on the day the term of office of the outgoing judge expires.

(3) In the instance referred to in the third paragraph of the preceding article, the elected Constitutional Court judge takes the office of Constitutional Court judge on the day he ceases to perform the incompatible activity.

#### **Article 17a**

(1) If the President of the Republic proposes candidates for more than one vacant position on the Constitutional Court held by judges whose term of office expires on the same day, and the National Assembly does not elect candidates for all vacant positions, in instances in which the election of new judges is no longer possible before the expiry of the term of office of outgoing judges, which of the judges whose term of office is due to expire should perform such office after the expiry of their term of office until the required number of new judges are elected is determined by lot.

(2) The drawing of lots referred to in the preceding paragraph is carried out at a Constitutional Court session in a manner determined by the Rules of Procedure of the Constitutional Court in the presence of the President of the National Assembly.

(3) The drawing of lots is carried out no later than ten days before the expiry of the term of office of the Constitutional Court judge; if such is not possible, it is carried out no later than the next day after the result of the voting in the National Assembly is made public.

(4) After the drawing of lots referred to in the preceding paragraphs, the Constitutional Court publishes the name of the Constitutional Court judge who is to continue to perform office in the Official Gazette of the Republic of Slovenia.

#### **Article 18**

(1) Constitutional Court judges enjoy the same immunity as deputies of the National Assembly.

(2) The National Assembly decides on a request submitted by a competent authority to initiate criminal proceedings against a Constitutional Court judge, after obtaining the opinion of the Constitutional Court, no later than 30 days after the day the request is submitted. The Constitutional Court must provide such opinion no later than eight days after the day it was notified of the request of the competent authority to initiate criminal proceedings.

### **Article 19**

(1) Upon the proposal of the President of the Republic, the National Assembly dismisses a Constitutional Court judge before the expiration of his term of office in the instances determined by the Constitution.

(2) The President of the Constitutional Court notifies the President of the Republic of the occurrence of an instance referred to in the preceding paragraph.

(3) If a Constitutional Court judge himself requests dismissal, the President of the Constitutional Court sends his request to the President of the Republic. The President of the Republic proposes the dismissal of the Constitutional Court judge to the National Assembly, which dismisses the Constitutional Court judge on the day proposed by the Constitutional Court judge.

(4) When a Constitutional Court judge is dismissed due to a final conviction for a criminal offence and punished by imprisonment or due to permanent loss of capacity to perform his office, the office of the Constitutional Court judge is terminated the next day after the publication of the decision on dismissal in the Official Gazette of the Republic of Slovenia.

### **Article 20**

(1) Constitutional Court judges have professional attire, that is, the judicial robe.

(2) The type of professional attire and the manner of wearing such are prescribed by the Rules of Procedure of the Constitutional Court.

## **III. POWERS OF THE CONSTITUTIONAL COURT**

### **Article 21**

(1) The Constitutional Court decides:

- on the conformity of laws with the Constitution;
- on the conformity of laws and other regulations with ratified treaties and with the general principles of international law;
- on the conformity of regulations with the Constitution and with laws;
- on the conformity of local community regulations with the Constitution and with laws;
- on the conformity of general acts issued for the exercise of public authority with the

Constitution, laws, and regulations;

- on constitutional complaints stemming from the violation of human rights and fundamental freedoms by individual acts;
- on jurisdictional disputes between the state and local communities, and among local communities themselves;
- on jurisdictional disputes between courts and other state authorities;
- on jurisdictional disputes between the National Assembly, the President of the Republic, and the Government;
- on the accountability of the President of the Republic referred to in Article 109 of the Constitution, and of the President of the Government and ministers referred to in Article 119 of the Constitution;
- on the unconstitutionality of the acts and activities of political parties;
- on appeals in the procedure for confirming the election of deputies;
- on other matters vested in the Constitutional Court by laws.

(2) In the process of ratifying a treaty, the Constitutional Court issues an opinion on the conformity of such treaty with the Constitution in the manner provided by this Act.

(3) When deciding on the matters referred to in indents one to five of the first paragraph of this article, the Constitutional Court also decides on the constitutionality and legality of the procedures by which these acts were adopted.

#### **Article 21a**

(1) Applications addressed to the Constitutional Court for which the Constitutional Court does not have jurisdiction in accordance with the provisions of the preceding article, are resolved by the Secretary General of the Constitutional Court.

(2) In the instances referred to in the preceding paragraph, the Secretary General explains to the applicant why the application is not among the types of cases which the Constitutional Court has jurisdiction to decide and states the conditions under which it is possible in accordance with the law to initiate proceedings before the Constitutional Court.

(3) The Secretary General of the Constitutional Court responds with explanations also to complaints and objections against Constitutional Court decisions and to applications regarding which the Constitutional Court so decides.

#### **IV. REVIEW OF THE CONSTITUTIONALITY AND LEGALITY OF REGULATIONS AND GENERAL ACTS ISSUED FOR THE EXERCISE OF PUBLIC AUTHORITY**

## **1. Requests and Petitions to Initiate the Review Procedure**

### **Article 22**

(1) The procedure for the review of the constitutionality and legality of regulations and general acts issued for the exercise of public authority is initiated by the submission of the written request of an applicant or by a Constitutional Court order on the acceptance of a petition to initiate a review procedure.

(2) The review of the constitutionality and legality of regulations and general acts issued for the exercise of public authority also extends to a review of the conformity of laws and other regulations with ratified treaties and with the general principles of international law.

### **Article 23**

(1) When in the process of deciding a court deems a law or part thereof which it should apply to be unconstitutional, it stays the proceedings and by a request initiates proceedings for the review of its constitutionality.

(2) If the Supreme Court deems a law or part thereof which it should apply to be unconstitutional, it stays proceedings in all cases in which it should apply such law or part thereof in deciding on legal remedies and by a request initiates proceedings for the review of its constitutionality.

(3) If by a request the Supreme Court initiates proceedings for the review of the constitutionality of a law or part thereof, a court which should apply such law or part thereof in deciding may stay proceedings until the final decision of the Constitutional Court without having to initiate proceedings for the review of the constitutionality of such law or part thereof by a separate request.

### **Article 23a**

(1) The procedure for the review of the constitutionality or legality of regulations or general acts issued for the exercise of public authority can be initiated by a request submitted by:

- the National Assembly;
- one third of the deputies;
- the National Council;
- the Government;

- the ombudsman for human rights if he deems that a regulation or general act issued for the exercise of public authority inadmissibly interferes with human rights or fundamental freedoms;
- the information commissioner, provided that a question of constitutionality or legality arises in connection with a procedure he is conducting;
- the Bank of Slovenia or the Court of Audit, provided that a question of constitutionality or legality arises in connection with a procedure they are conducting;
- the State Attorney General, provided that a question of constitutionality arises in connection with a case the State Prosecutor's Office is conducting;
- representative bodies of local communities, provided that the constitutional position or constitutional rights of a local community are interfered with;
- representative associations of local communities, provided that the rights of local communities are threatened;
- national representative trade unions for an individual activity or profession, provided that the rights of workers are threatened.

(2) The applicants referred to in the preceding paragraph may not submit a request to initiate the procedure for the review of the constitutionality or legality of regulations and general acts issued for the exercise of public authority which they themselves adopted.

#### **Article 24**

(1) Anyone who demonstrates legal interest may lodge a petition that the procedure for the review of the constitutionality or legality of regulations or general acts issued for the exercise of public authority be initiated.

(2) Legal interest is deemed to be demonstrated if a regulation or general act issued for the exercise of public authority whose review has been requested by the petitioner directly interferes with his rights, legal interests, or legal position.

(3) In instances in which regulations or general acts issued for the exercise of public authority have direct effects and interfere with the rights, legal interests, or legal position of the petitioner, a petition may be lodged within one year after such act enters into force or within one year after the day the petitioner learns of the occurrence of harmful consequences.

#### **Article 24a**

(1) If a participant in proceedings before the Constitutional Court is represented by an authorised representative, he must submit an authorisation which is provided especially for proceedings before the Constitutional Court.

(2) An authorised representative who is not a lawyer must have a special authorisation to transfer the authorisation in proceedings before the Constitutional Court to another person.

#### **Article 24b**

(1) A request must contain the following information:

- a list of the articles of the regulation which is challenged by the request;
- the number of the Official Gazette of the Republic of Slovenia or other official publication in which the challenged regulation is published;
- a statement of reasons of the inconsistency with the Constitution or law;
- information on the fulfilment of the conditions determined by law for lodging a request; and
- other information determined by the Rules of Procedure of the Constitutional Court.

(2) In addition to the information referred to in the preceding paragraph, a petition must also contain information from which it is evident that the challenged regulation directly interferes with the petitioner's rights, legal interests, or legal position, and proof of the petitioner's legal status in instances in which the applicant is not a natural person. The petitioner must also submit the relevant documents to which he refers to support his legal interest.

(3) If the circumstances which are significant for the existence of a legal interest change after the petition is lodged, the Constitutional Court summons the petitioner to demonstrate within a determined period of time the circumstances from which it is evident that the regulation continues to directly interfere with his rights, legal interests, or legal position.

#### **Article 25**

(1) The Constitutional Court rejects a request if the procedural conditions referred to in Articles 21, 23, 23a, 24a, the first paragraph of Article 24b, and Article 47 of this Act have not been fulfilled.

(2) The Constitutional Court stays procedure for the review of constitutionality or legality if an applicant withdraws his request before a decision is adopted.

(3) The Constitutional Court rejects a petition if the procedural conditions referred to in Articles 21, 24, 24a, the second paragraph of Article 24b, and Article 47 of this Act have not been fulfilled.

(4) The Constitutional Court stays the procedure for the review of a petition or the procedure for the review of constitutionality or legality:

- if a petitioner withdraws his petition before a decision is adopted;
- if a petitioner fails to submit the information needed by the time limit determined for such.

## **2. Procedure for Examining a Petition**

### **Article 26**

(1) A petition is first examined by the Constitutional Court judge determined by the work schedule, who collects information and obtains clarifications necessary for the Constitutional Court to decide whether to initiate a procedure.

(2) The Constitutional Court dismisses a petition if it is manifestly unfounded or if it cannot be expected that an important legal question will be resolved.

(3) The Constitutional Court decides by an order on the acceptance or dismissal of a petition by a majority vote of judges present. The order to dismiss a petition must include a statement of reasons.

(4) If the Constitutional Court accepts a petition, it may immediately proceed to decide on the merits of the case if the state of the facts has been clarified and if during the examination of the petition the opposing party was given the opportunity to make statements.

## **3. Preparatory Procedure**

### **Article 27**

Requests for the review of the constitutionality and legality of regulations and general acts issued for the exercise of public authority and petitions on the basis of which the Constitutional Court has initiated a review procedure, are considered by the Constitutional Court in a preparatory procedure.

### **Article 28**

(1) The Constitutional Court sends the request or petition as well as the order on the acceptance of the petition to the authority which issued the regulation or general act issued for the exercise of public authority (the opposing party), and determines an appropriate period of time for a response or for a supplementary response if a

response has already been submitted in the procedure for examining the petition.

(2) The Constitutional Court may obtain necessary clarifications also from other participants in proceedings and from state authorities, local community authorities, and bearers of public authority; it may also obtain opinions from experts, expert and other organisations, examine witnesses and expert witnesses, and examine other evidence, or obtain evidence from other courts or other authorities.

(3) If the applicant of a request or a petitioner fails to submit the information needed for the continuation of the proceedings by the time limit determined for such, the proceedings may be stayed by a Constitutional Court order.

### **Article 29**

When the preparatory procedure is completed, the Constitutional Court decides whether to consider the case at a closed session or a public hearing.

### **Article 30**

In deciding on the constitutionality and legality of a regulation or general act issued for the exercise of public authority, the Constitutional Court is not bound by the proposal of a request or petition. The Constitutional Court may also review the constitutionality and legality of other provisions of the same or other regulation or general act issued for the exercise of public authority for which a review of constitutionality or legality has not been proposed, if such provisions are mutually related or if such is necessary to resolve the case.

### **Article 31**

(1) In deciding on an individual case, the Constitutional Court may disqualify a Constitutional Court judge by applying, *mutatis mutandis*, the reasons for disqualification in court proceedings.

(2) The following are not reasons for disqualification as referred to in the preceding paragraph:

- participation in legislative procedures or in the adoption of other challenged regulations or general acts issued for the exercise of public authority prior to being elected a Constitutional Court judge;
- the expression of an expert opinion on a legal issue which might be significant for the proceedings.

### **Article 32**

Immediately upon a Constitutional Court judge learning of any reason for his disqualification as referred to in the preceding article, he must stop working on the case and notify the President of the Constitutional Court of such.

### **Article 33**

(1) A motion for disqualification may be submitted by the participants in proceedings until the beginning of the public hearing, if such hearing is scheduled, or respectively until the beginning of the closed session of the Constitutional Court at which the case is to be decided. The motion must include a statement of reasons.

(2) The Constitutional Court judge whose disqualification has been motioned for has the right to state his position regarding the allegations contained in the motion, but may not participate in the decision on his disqualification. The Constitutional Court decides upon the disqualification of a judge at a closed session. In the event of an equal number of votes in favour and against, the presiding judge has the deciding vote.

### **Article 34**

(1) In procedures before the Constitutional Court, each participant bears his own costs, unless the Constitutional Court decides otherwise.

(2) If a participant does not provide the information needed for the Court to decide due to his unexcused absence, unwillingness, or some other reasons, and thus the hearing must be adjourned, the Constitutional Court may decide that the participant bears the costs of the adjournment of the hearing.

### **Article 34a**

(1) The Constitutional Court may punish a participant in proceedings or his authorised representative by a fine amounting from 100 to 2,000 Euros if they abuse the rights enjoyed in accordance with this Act.

(2) The Constitutional Court may punish the authorised representative of a participant in proceedings who is a lawyer by a fine referred to in the preceding paragraph if an application does not contain the essential components determined by law.

## **4. Consideration**

### **Article 35**

(1) The Constitutional Court considers a case at a closed session or a public hearing. A majority of all Constitutional Court judges must be present at the closed session or public hearing.

(2) The President of the Constitutional Court may call a public hearing on his own initiative or upon the motion of the participants in proceedings. The President of the Constitutional Court must call a public hearing upon the proposal of three judges.

### **Article 36**

(1) The Constitutional Court invites to public hearings the participants in proceedings, representatives, and persons authorised by the participants in proceedings, as well as other persons whose presence at the public hearing is deemed necessary.

(2) The absence of participants and other invited persons does not prevent the Constitutional Court from conducting the proceedings and deciding on the case.

### **Article 37**

The Constitutional Court may exclude the public from a hearing or a part thereof when so required in order to protect morals, public order, national security, the right to privacy, or personality rights.

### **Article 38**

(1) The Constitutional Court decides on the exclusion of the public by an order which must include a statement of reasons.

(2) No appeal is allowed against an order on the exclusion of the public.

### **Article 38a**

(1) Constitutional Court decisions and orders state the full names of participants in proceedings, their legal representatives, and persons authorised by the participants, as well as the names of the participating legal entities and authorities and where they reside or are based.

(2) In order to protect the privacy of participants in proceedings, the Constitutional Court may itself or upon the motion of an applicant or a petitioner decide that the personal data of a participant in proceedings or the personal data of other individuals

not be stated in a decision or order. Such motion must be submitted at the same time as the request or petition.

(3) The motion referred to in the preceding paragraph is decided by the Constitutional Court. If the Constitutional Court dismisses the motion, such order must include a statement of reasons.

(4) If the Constitutional Court decides that the personal data of a participant in proceedings or other individual are not to be stated in the decision or order, such data may also not be disclosed to other persons who are allowed to inspect the court file in accordance with this Act, and not communicated to the public. Communicating the aforementioned data to the public is also not allowed before the Constitutional Court decides on the motion referred to in the second paragraph of this article.

### **Article 39**

(1) Until a final decision, the Constitutional Court may suspend in whole or in part the implementation of a law, other regulation, or general act issued for the exercise of public authority if difficult to remedy harmful consequences could result from the implementation thereof.

(2) If a participant in proceedings motions for a suspension referred to in the preceding paragraph, and the Constitutional Court deems the conditions for the suspension not to be fulfilled, it dismisses the motion by an order. If the Constitutional Court does not decide otherwise, the statement of reasons of the order by which the motion was dismissed includes only a statement of the legal basis for the adoption of the decision and the composition of the Constitutional Court.

(3) If the Constitutional Court suspends the implementation of a regulation or general act issued for the exercise of public authority, it may at the same time decide in what manner the decision is to be implemented.

(4) An order by which the implementation of a regulation or general act issued for the exercise of public authority is suspended must include a statement of reasons.

(5) The order referred to in the preceding paragraph is published in the Official Gazette of the Republic of Slovenia as well as in the official publication in which the respective regulation or general act issued for the exercise of public authority was published. Such suspension takes effect the day following the publication of the order in the Official Gazette of the Republic of Slovenia, and in case of a public announcement of the order, the day of its announcement.

## **5. Deciding**

### **Article 40**

(1) After the consideration has been concluded, the Constitutional Court decides at a closed session by a decision.

(2) If necessary, the Constitutional Court determines which authority must implement the decision and in what manner. The decision must include a statement of reasons.

(3) A judge who does not agree with a decision or with the reasoning of a decision may declare that he will write a separate opinion, which must be submitted within the period of time determined by the Rules of Procedure of the Constitutional Court.

### **Article 41**

(1) A majority of all Constitutional Court judges must be present at closed sessions.

(2) The Constitutional Court decides on the merits regarding the matters referred to in Article 21 of this Act by a majority vote of all judges, provided that this Act does not determine otherwise. The Constitutional Court decides on other issues by an order adopted by a majority vote of the judges present. The Constitutional Court judge determined by the work schedule decides on the stay of the procedure due to the withdrawal of a request or petition.

(3) The President and judges of the Constitutional Court may not abstain from voting.

(4) No appeal is allowed against decisions and orders issued in cases within the jurisdiction of the Constitutional Court.

### **Article 42**

Constitutional Court decisions are published in the Official Gazette of the Republic of Slovenia as well as in the official publication in which the respective regulation or general act issued for the exercise of public authority was published. Constitutional Court orders are also published when the Constitutional Court so decides.

## **6. Legal Consequences of Decisions**

### **Article 43**

The Constitutional Court may in whole or in part abrogate a law which is not in conformity with the Constitution. Such abrogation takes effect the day following the publication of the decision on the abrogation, or upon the expiry of a period of time determined by the Constitutional Court.

#### **Article 44**

The abrogation of a law or a part thereof by the Constitutional Court applies to relations that had been established before the day such abrogation took effect, if by that day such relations had not been finally decided.

#### **Article 45**

(1) The Constitutional Court annuls or abrogates regulations or general acts issued for the exercise of public authority that are unconstitutional or unlawful.

(2) The Constitutional Court annuls regulations or general acts issued for the exercise of public authority that are unconstitutional or unlawful when it determines that it is necessary to remedy harmful consequences arising from such unconstitutionality or unlawfulness. Annulment has retroactive effect.

(3) In other instances, the Constitutional Court abrogates regulations or general acts issued for the exercise of public authority that are unconstitutional or unlawful. Abrogation takes effect the day following the publication of the Constitutional Court decision on the abrogation, or upon the expiry of a period of time determined by the Constitutional Court. In instances of abrogation, Article 44 of this Act is applied *mutatis mutandis*.

#### **Article 46**

(1) Any person who suffers harmful consequences due to a regulation or general act issued for the exercise of public authority which has been annulled, is entitled to request that such consequences be remedied. If such consequences occurred as a result of an individual act adopted on the basis of the annulled regulation or general act issued for the exercise of public authority, entitled persons have the right to request that the authority which decided in the first instance change or annul such individual act.

(2) Entitled persons may request a change or annulment of the individual act referred to in the preceding paragraph within three months of the day of the publication of the Constitutional Court decision, provided no more than one year elapsed from the

service of the individual act to the lodging of the petition or request.

(3) If the consequences occurred directly on the basis of a regulation or other general act issued for the exercise of public authority which was annulled by the Constitutional Court, the authority which issued such regulation or general act issued for the exercise of public authority is required to remedy such consequences. The entitled person lodges a request within the periods of time referred to in the preceding paragraph of this article.

(4) If such consequences cannot be remedied in accordance with the preceding paragraphs, the entitled person may claim compensation in a court of law.

#### **Article 47**

(1) If a regulation or general act issued for the exercise of public authority which ceased to be in force when a request or petition is lodged is challenged by the request or petition, and the consequences of its unconstitutionality or unlawfulness were not remedied, the Constitutional Court decides on its constitutionality or legality. In instances of regulations or general acts issued for the exercise of public authority, the Constitutional Court decides whether its decision has the effect of annulment or abrogation.

(2) If during proceedings before the Constitutional Court, a regulation or general act issued for the exercise of public authority ceased to be in force in the challenged part or was amended, the Constitutional Court decides on its constitutionality or legality if an applicant or petitioner demonstrates that the conditions referred to in the preceding paragraph are fulfilled.

#### **Article 48**

(1) If the Constitutional Court deems a law, other regulation, or general act issued for the exercise of public authority unconstitutional or unlawful as it does not regulate a certain issue which it should regulate or it regulates such in a manner which does not enable annulment or abrogation, a declaratory decision is adopted on such.

(2) The legislature or authority which issued such unconstitutional or unlawful regulation or general act issued for the exercise of public authority must remedy the established unconstitutionality or unlawfulness within a period of time determined by the Constitutional Court.

### **7. Mutatis Mutandis Application of the Provisions of this Chapter in Other Procedures**

### **Article 49**

(1) The provisions of Chapter IV of this Act are applied mutatis mutandis for procedures and deciding on other matters in the jurisdiction of the Constitutional Court, unless otherwise provided by this Act.

(2) The Rules of Procedure of the Constitutional Court determine which information must be contained in applications in other matters within the jurisdiction of the Constitutional Court if such is not already determined by law.

## **V. CONSTITUTIONAL COMPLAINT**

### **Article 50**

(1) Due to a violation of human rights or fundamental freedoms, a constitutional complaint may, under the conditions determined by this Act, be lodged against individual acts by which state authorities, local community authorities, or bearers of public authority decided the rights, obligations, or legal entitlements of individuals or legal entities.

(2) The ombudsman for human rights may, under the conditions determined by this Act, lodge a constitutional complaint in connection with an individual case that he is dealing with.

(3) If a complainant in a constitutional complaint procedure is represented by an authorised representative, he must submit an authorisation which is given especially for the constitutional complaint procedure. The authorisation must be given after the individual act against which the constitutional complaint is lodged has been served. The second paragraph of Article 24a of this Act applies regarding the transfer of such authorisation.

### **Article 51**

(1) A constitutional complaint may be lodged only after all legal remedies have been exhausted.

(2) Before all extraordinary legal remedies have been exhausted, the Constitutional Court may exceptionally decide on a constitutional complaint if the alleged violation is

manifestly obvious and if irreparable consequences for the complainant would result from the implementation of the individual act.

### **Article 52**

(1) A constitutional complaint is lodged within 60 days of the day the individual act against which a constitutional complaint is admissible is served.

(2) The ombudsman for human rights lodges a constitutional complaint with the consent of the person whose human rights or fundamental freedoms he is protecting in the individual case.

(3) In especially well founded cases the Constitutional Court may exceptionally decide on a constitutional complaint which has been lodged after the expiry of the time limit referred to in the first paragraph of this article.

### **Article 53**

(1) A constitutional complaint must state the following:

- the individual act which is challenged, the authority which issued it, its reference number, and the date it was issued;
- the human rights or fundamental freedoms allegedly violated;
- the reasons that support the violations;
- the date on which the complainant was served the individual act which he challenges;
- if the complainant is a natural person, the full name of the complainant and the address of his permanent or temporary residence, or, if the complainant is a legal entity, state authority, bearer of public authority, or other legal subject, its name and where it is based, as well as the name and title or position of its representative;
- other information determined by the Rules of Procedure of the Constitutional Court.

(2) The constitutional complaint must be submitted in writing. A copy of the challenged individual act and all other individual acts that were issued in connection with the challenged individual act in proceedings before the competent authorities in the case, as well as the relevant documents on which the constitutional complaint is based, must be enclosed with the complaint.

## **1. Procedure for Examining a Constitutional Complaint**

### **Article 54**

(1) The Constitutional Court decides in a panel of three Constitutional Court judges (hereinafter referred to as a panel) at a closed session whether to initiate proceedings on the basis of a constitutional complaint.

(2) A panel decides in cases of constitutional complaints on the motion referred to in the second paragraph of Article 38a and on the punishment referred to in Article 34a of this Act.

(3) A Constitutional Court judge determined by the work schedule decides on the stay of proceedings due to the withdrawal of a constitutional complaint.

### **Article 55**

(1) If a constitutional complaint is incomplete and the Constitutional Court cannot examine it because it does not contain all the required information or documents referred to in Article 53 of this Act, the Constitutional Court judge determined by the work schedule calls upon the complainant to supplement the constitutional complaint within a determined period of time.

(2) If before lodging a constitutional complaint, the complainant had already received the explanation from the Secretary General of the Constitutional Court referred to in the second paragraph of Article 21a of this Act regarding under which conditions it is possible to lodge a constitutional complaint and what it must contain, the Constitutional Court decides on the constitutional complaint without calling upon the complainant to supplement such.

### **Article 55a**

(1) A constitutional complaint is not admissible if the violation of human rights or fundamental freedoms did not have serious consequences for the complainant.

(2) It is deemed that there has been no violation of human rights or fundamental freedoms which had serious consequences for the complainant with regard to individual acts:

- issued in small-claims disputes in accordance with the act which regulates civil procedure, or in other disputes if the value in dispute for the complainant does not exceed the amount which is determined by the definition of small claims disputes in the act which regulates civil procedure;
- if only a decision on the costs of proceedings is challenged by the constitutional complaint;
- issued in

trespass to property disputes;  
- issued in minor offence cases.

(3) Irrespective of the preceding paragraph, in especially well founded cases the Constitutional Court may exceptionally decide on a constitutional complaint against the individual acts referred to in the preceding paragraph. An instance of an especially well founded case is a decision that concerns an important constitutional question which exceeds the importance of the concrete case.

### **Article 55b**

(1) A constitutional complaint is rejected:

- if it is not an individual act by which a state authority, local community authority, or bearer of public authority decided on the rights, obligations, or legal entitlements of the complainant;
- if the complainant does not have a legal interest for a decision on the constitutional complaint;
- if it is not admissible, except in the instance referred to in the third paragraph of the preceding article;
- if it was not lodged in time, except in the instance referred to in the third paragraph of Article 52 of this Act;
- if all legal remedies have not been exhausted, except in the instance referred to in the second paragraph of Article 51 of this Act;
- if it was lodged by a person not entitled to do so;
- if in the instance referred to in the first paragraph of Article 55 of this Act the complainant does not supplement the application in accordance with a call to do so by the Constitutional Court;
- if in the instance referred to in the second paragraph of Article 55 of this Act it is so incomplete that the Constitutional Court cannot examine it.

(2) The constitutional complaint is accepted for consideration:

- if there is a violation of human rights or fundamental freedoms which had serious consequences for the complainant; or
- if it concerns an important constitutional question which exceeds the importance of the concrete case.

(3) If the complainant withdraws the constitutional complaint, the procedure for examining the constitutional complaint or the proceedings for deciding the constitutional complaint are stayed.

### **Article 55c**

- (1) The panel decides on the rejection or acceptance of the constitutional complaint unanimously by an order.
- (2) If the panel is not unanimous with regard to whether the conditions referred to in the first paragraph of Article 55b are fulfilled, the constitutional complaint is rejected if any five Constitutional Court judges decide in favour of rejection in writing within 15 days.
- (3) If the panel is not unanimous with regard to whether the conditions referred to in the second paragraph of Article 55b are fulfilled, the constitutional complaint is accepted for consideration if any three Constitutional Court judges decide in favour of acceptance within 15 days.
- (4) If the panel does not decide otherwise, the statement of reasons of the order on the rejection or non-acceptance of the constitutional complaint includes only a reason referred to in the first or second paragraphs of the preceding article of this Act and the composition of the Constitutional Court.

## **2. Consideration and Deciding**

### **Article 56**

- (1) If the Constitutional Court accepts the constitutional complaint for consideration, it notifies the authority which issued the challenged individual act thereof. The Constitutional Court judge determined by the work schedule may require information and clarifications necessary for the Constitutional Court to decide from the authority which issued the challenged individual act.
- (2) In the instances referred to in the preceding paragraph, the constitutional complaint is sent to the persons who participated in the proceedings in which the challenged individual act was issued by which their rights, obligations, or legal entitlements were decided, in order for them to make statements within a determined period of time.

### **Article 57**

If a constitutional complaint is accepted, as a general rule it is considered by the Constitutional Court at a closed session, or a public hearing may be held.

### **Article 58**

If a constitutional complaint is accepted, the panel or the Constitutional Court may suspend the implementation of the individual act which is challenged by the constitutional complaint at a closed session if difficult to remedy harmful consequences could result from the implementation thereof.

### **Article 59**

(1) By a decision the Constitutional Court either dismisses a constitutional complaint as unfounded or grants such and in whole or in part annuls or abrogates the individual act, and remands the case to the authority competent to decide thereon.

(2) If the Constitutional Court deems that the challenged individual act is based on a potentially unconstitutional or unlawful regulation or general act issued for the exercise of public authority, it initiates proceedings for the review of the constitutionality or legality of such regulation or general act issued for the exercise of public authority and decides by applying the provisions of Chapter IV of this Act.

(3) If the Constitutional Court has already decided on the same constitutional matter and granted the complaint, a decision by which it grants the constitutional complaint, in whole or in part abrogates or annuls the individual act, and remands the case to the authority competent to decide thereon, is issued by the panel, which may in such instances also decide in accordance with Article 60 of this Act.

### **Article 60**

(1) If the Constitutional Court abrogates or annuls an individual act, it may also decide on a disputed right or freedom if such is necessary in order to remedy the consequences that have already occurred on the basis of the annulled individual act, or if such is required by the nature of the constitutional right or freedom, and if such decision can be reached on the basis of information contained in the case file.

(2) The decision referred to in the preceding paragraph is implemented by the authority which is competent for the implementation of the individual act which the Constitutional Court abrogated or annulled and replaced by its decision. If there is no competent authority according to the regulations in force, the Constitutional Court determines one.

## **VI. JURISDICTIONAL DISPUTES**

### **Article 61**

(1) A request for a decision on jurisdictional disputes between courts and other state authorities and on jurisdictional disputes between the National Assembly, the President of the Republic, and the Government, may be submitted by an affected authority within 90 days of the day it ascertains that another authority has interfered with or assumed its jurisdiction.

(2) If a jurisdictional dispute arises because several authorities refuse jurisdiction in a particular matter, a decision on such jurisdictional dispute may be requested by the authority to which the matter was assigned, but which is of the opinion that the matter is not within its jurisdiction.

(3) A petition to resolve a jurisdictional dispute may also be lodged by a party in the proceedings due to which the jurisdictional dispute arose.

(4) By a decision the Constitutional Court establishes which authority has jurisdiction, and it may also abrogate or annul a regulation or general act issued for the exercise of public authority whose unconstitutionality or unlawfulness has been established in deciding on such.

### **Article 62**

In jurisdictional disputes between the state and local communities and among local communities themselves, the provisions of the preceding article are applied *mutatis mutandis*.

## **VII. PROCEDURE FOR ESTABLISHING THE ACCOUNTABILITY OF THE PRESIDENT OF THE REPUBLIC, THE PRESIDENT OF THE GOVERNMENT, OR MINISTERS**

### **Article 63**

(1) The National Assembly decides on the impeachment of the President of the Republic by a majority vote of all deputies. The resolution on impeachment is sent by the President of the National Assembly to the President of the Constitutional Court.

(2) The resolution on the impeachment of the President of the Republic must contain a description of the alleged violation of the Constitution or serious violation of the law and the proposed evidence on the violation of the Constitution or serious violation of the law.

(3) During the period from the calling of the election for President of the Republic until the announcement of the election results for President of the Republic, a resolution on impeachment against the President of the Republic may not be submitted.

#### **Article 64**

(1) The Constitutional Court sends the resolution on impeachment to the President of the Republic, who may reply to the impeachment.

(2) The Constitutional Court conducts a public hearing at which the impeachment is presented by the authorised representative of the National Assembly.

(3) The Constitutional Court may decide by a two-thirds majority vote of all judges that pending a decision on impeachment, the President of the Republic may not perform his office.

(4) The President of the Republic has the right to be present at the public hearing.

#### **Article 65**

(1) If the Constitutional Court finds the impeachment to be unfounded, it issues a decision acquitting the accused.

(2) If the Constitutional Court establishes a violation of the Constitution or serious violation of the law, by a decision it establishes that the impeachment is justified and it may also decide that the President of the Republic ceases to hold office. The decision that the impeachment is justified and the decision that he cease to hold office is adopted by the Constitutional Court by a two-thirds majority vote of all judges.

(3) If criminal proceedings are initiated against the President of the Republic, the Constitutional Court may postpone its decision until a decision is reached in the criminal proceedings.

(4) If the President of the Republic resigns or if his term of office expires during the proceedings, the Constitutional Court stays the proceedings. The Constitutional

Court continues the proceedings if the accused or the National Assembly so requests.

#### **Article 66**

The provisions of this Chapter are applied mutatis mutandis in impeachment procedures against the President of the Government or ministers.

#### **Article 67**

In the procedure for establishing the accountability of the President of the Republic, the President of the Government, or ministers, regarding matters that are not regulated in the provisions of this Chapter, the Constitutional Court acts in accordance with the principles of criminal procedure referred to in the Constitution and law.

### **VIII. DECIDING ON THE UNCONSTITUTIONALITY OF THE ACTS AND ACTIVITIES OF POLITICAL PARTIES**

#### **Article 68**

(1) Anyone may lodge a petition, and the applicants referred to in Article 23 of this Act may submit a request to review the unconstitutionality of the acts and activities of political parties.

(2) The petition or request must state the disputed acts or factual circumstances regarding the unconstitutional activities of the political party.

(3) The Constitutional Court abrogates the unconstitutional act of the political party by a decision and prohibits the unconstitutional activities of the political party by a decision.

(4) The Constitutional Court may order that the political party be removed from the register of political parties by a two-thirds majority vote of all judges.

## **IX. DECIDING ON THE CONFIRMATION OF THE ELECTION OF DEPUTIES**

### **Article 69**

(1) A candidate or representative of a list of candidates whose appeal against a decision of the commission for elections which may affect the confirmation of the election of a deputy was dismissed by the National Assembly in the procedure for the confirmation of the election of deputies may lodge an appeal before the Constitutional Court. An appeal may also be lodged by a candidate who was elected on the basis of the decision of the commission for elections and the National Assembly did not confirm his election.

(2) The appeal referred to in the preceding paragraph must be lodged within 8 days of the decision of the National Assembly.

(3) If the Constitutional Court decides that the appeal is justified and that the decision of the National Assembly is not in conformity with the Constitution or law, it abrogates the decision of the National Assembly and decides whether the election of the deputy is confirmed.

## **X. AN OPINION ON THE CONFORMITY OF TREATIES WITH THE CONSTITUTION**

### **Article 70**

In the process of ratifying a treaty, the Constitutional Court, on the proposal of the President of the Republic, the Government, or a third of the deputies of the National Assembly, issues an opinion on the conformity of such treaty with the Constitution. The Constitutional Court adopts such opinion at a closed session.

## **XI. CONDITIONS OF EMPLOYMENT OF JUDGES**

### **a) Salary and Allowances**

### **Article 71**

The President of the Constitutional Court is entitled to a salary and additional allowance based on such office in the amount determined for the President of the National Assembly. A Constitutional Court judge is entitled to a salary and additional allowance based on such office in the amount determined for the Vice-President of the National Assembly. The salary of the Secretary General of the Constitutional Court is determined by the Constitutional Court as a proportion of the salary of a Constitutional Court judge.

### **Article 72**

Constitutional Court judges are entitled to compensation in the amount of their salary for the period of their annual leave.

## **2. Years of Service and Social Insurance**

### **Article 73**

The period a Constitutional Court judge performs his office is counted in his years of service. During the period in which he performs his office, a Constitutional Court judge is covered by social insurance in accordance with the social insurance regulations which apply for persons in employment relationships.

## **3. Other Personal Remunerations and Reimbursements**

### **Article 74**

(1) Constitutional Court judges are entitled to:

- reimbursement of travel expenses to and from work;
- reimbursement of expenses related to business trips (daily allowance, travel expenses, accommodation expenses);
- allowance for meals during work time;
- pay for annual leave;
- allowance for living apart from one's family;
- reimbursement of travel expenses for travelling between a residence provided by the employer and one's permanent residence on non-working days;
- reimbursement of expenses for moving from one's permanent residence to a residence provided by the employer, and vice versa;
- reimbursement of expenses related to education;
- a bonus based on years of service;
- a retirement bonus.

(2) The conditions for and the amounts of the remunerations and reimbursements referred to in the preceding paragraph are determined by the Constitutional Court.

#### **4. Annual and Other Leave**

##### **Article 75**

(1) Constitutional Court judges are entitled to annual leave of 40 working days.

(2) Constitutional Court judges are entitled to up to 7 days of paid extraordinary leave for personal reasons each calendar year.

(3) In exceptional cases, Constitutional Court judges may be approved up to 30 days of extraordinary leave for each calendar year.

(4) The instances and conditions referred to in the preceding paragraphs are determined by the Constitutional Court.

#### **5. The Rights of Constitutional Court Judges after the Termination of Their Term of Office**

##### **Article 76**

A Constitutional Court judge who held the office of court judge or other permanent office in a state authority when he was elected Constitutional Court judge has the right after the termination of his office of Constitutional Court judge to return to his previous office, if he fulfils the conditions for performing such office and if within three months of the termination of his office of Constitutional Court judge he notifies the competent authority that he would like to return to his previous office.

##### **Article 77**

A Constitutional Court judge who was regularly employed in a state authority, public corporation, or public institution when he was elected Constitutional Court judge has the right to return to the position he had held or to another position appropriate to his professional field and level of education within three months of the termination of his office of Constitutional Court judge.

### **Article 78**

(1) A Constitutional Court judge whose office has terminated and who for objective reasons cannot return to his previous position or find other suitable employment, and has not yet fulfilled the conditions for retirement according to the general regulations, has the right to compensation in the amount of the salary which he would receive if he continued to perform his office until he finds new employment or fulfils the conditions for retirement according to the general regulations, but for no longer than one year from the termination of his office of Constitutional Court judge.

(2) The right to compensation referred to in the preceding paragraph may be extended until the conditions for retirement have been fulfilled according to the general regulations, but for no longer than one additional year.

(3) The period referred to in the preceding two paragraphs is added to the years of service of a Constitutional Court judge whose office has terminated. During this period the judge is covered by social insurance in accordance with the social insurance regulations that apply for persons in employment relationships. If he is entitled to annual leave during this period, he is also entitled to pay for annual leave, and he is entitled to a retirement bonus upon retiring.

### **6. Salaries, Allowances, Other Personal Remunerations, and Reimbursements in the Services of the Constitutional Court**

#### **Article 79**

Regarding the rights of the Secretary General of the Constitutional Court to allowances, other personal remunerations, and reimbursements, as well as other rights, the regulations which determine such rights for officials in state authorities are applied *mutatis mutandis*.

## **XII. PROPOSING CANDIDATES FROM THE REPUBLIC OF SLOVENIA FOR THE OFFICE OF JUDGE OF THE EUROPEAN COURT OF HUMAN RIGHTS**

#### **Article 80**

(Repealed)

**The Constitutional Court Act – ZustS (Official Gazette of the Republic of Slovenia, No. 15/94) contains the following transitional and final provisions:**

### **XIII. TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 81**

Procedures that had begun before this Act entered into force continue in accordance with the provisions of this Act, whereby applicants according to the previous regulation retain the status of applicant.

#### **Article 82**

Constitutional complaints lodged before this Act entered into force are deemed to have been lodged in time and are admissible against individual acts issued after the Constitution of the Republic of Slovenia entered into force.

#### **Article 83**

Until the Court of Audit is constituted, the supervision of the use of the funds for the financing of the Constitutional Court is performed by the Public Accounting Service of Slovenia.

#### **Article 84**

On the day of the entry into force of this Act, the hitherto SRS Constitutional Court Procedure Act (Official Gazette of the Socialist Republic of Slovenia, Nos. 39/74 and 28/76), Salaries of Constitutional Court Judges Act (Official Gazette of the Republic of Slovenia, No. 10/93), and Article 8 of the Deputies Act (Official Gazette of the Republic of Slovenia, No. 48/92) cease to apply.

#### **Article 85**

This Act enters into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia.

**The Act Amending the Constitutional Court Act – ZUstS-A (Official Gazette of the Republic of Slovenia, No. 51/07) contains the following transitional and final provisions:**

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 38**

(1) Procedures in cases in which the Constitutional Court did not yet decide before this Act enters into force continue in accordance with the provisions of this Act after its entry into force.

(2) Irrespective of the provision of the preceding paragraph, the third paragraph of Article 24 of this Act does not apply for deciding in cases in which applications were lodged before this Act enters into force.

(3) If the Constitutional Court accepted a constitutional complaint for consideration before this Act enters into force, it decides thereon irrespective of Articles 55a and 55b of this Act.

(4) The Constitutional Court is to harmonise its Rules of Procedure with the provisions of this Act by no later than 30 September 2007. Until then, the provisions of the Rules of Procedure of the Constitutional Court (Official Gazette of the Republic of Slovenia, Nos. 93/03 and 98/03 - correction) and the Rules on the Internal Organisation and Administrative Operations of the Constitutional Court (Official Gazette of the Republic of Slovenia, No. 93/03) are applied insofar as they are not inconsistent with this Act.

### **Article 39**

On the day of the entry into force of this Act the following cease to be in force:

- the second paragraph of Article 48 of the Personal Data Protection Act (Official Gazette of the Republic of Slovenia, Nos. 86/04 and 113/05 - ZInfP);
- Article 13 of the Information Commissioner Act (Official Gazette of the Republic of Slovenia, No. 113/05).

### **Article 40**

This Act enters into force on 15 July 2007.