

In accordance with its authorizations under Article VI.2 (b) of the Constitution of Bosnia and Herzegovina, the Constitutional Court of Bosnia and Herzegovina, at its session held on 19 December 2003, adopted the Decision on the Amendments to the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina.

Having regard to Article 73 of the Decision on the Amendments to the Rules of Procedure of Bosnia and Herzegovina, No. P-282/03 of 19 December 2003, published in the Official Gazette of Bosnia and Herzegovina, No. 1/04 of 27 January 2004, the Editorial Commission at its meeting held on 12 January 2004, determined the New Amended Text of the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina.

The New Amended Text of the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina contains the provisions of the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, Nos. 2/97, 16/99 and 20/99) as amended by the provisions of the Decisions on the Amendments to the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, Nos. 26/01, 6/02 and 1/04).

**RULES OF PROCEDURE
OF THE CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA
- New Amended Text -**

I. GENERAL PROVISIONS

Article 1

Having regard to the Constitution of Bosnia and Herzegovina (hereinafter: the Constitution) these Rules of Procedure shall regulate the organization of the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Court), the proceedings before the Court and the legal character of its acts.

Article 2

The Court shall be independent of all levels of authorities in Bosnia and Herzegovina. No authorities in Bosnia and Herzegovina shall adopt laws, acts or decisions that concern the activities of the Court and its role as prescribed by the Constitution.

Article 3

The Court shall exercise its rights and obligations in accordance with the Constitution, the Rules of Procedure and other acts.

The Court shall be independent of all State authorities.

The Court shall organize its work and carry out its activities on the basis of the principle of financial independence. The Court shall dispose independently of the approved funds from the Budget of the Institutions of Bosnia and Herzegovina in accordance with its annual budget and the law.

Article 4

The seat of the Court shall be in Sarajevo.

Article 5

The Court shall have its seal and other symbols in accordance with the regulations of Bosnia and Herzegovina.

Article 6

Equal use of the languages and alphabets of the peoples of Bosnia and Herzegovina shall be applied in the work of the Court.

II. GENERAL RULES OF PROCEEDINGS

Article 7

The Court shall decide in the plenary sessions of the Court (hereinafter: the plenary Court), the sessions of Grand Chamber composed of five judges (hereinafter: the Grand Chamber) and in the Chamber composed of three judges (hereinafter: the Chamber).

Article 8

The plenary Court shall decide by a majority of votes of all the members of the Court. The plenary Court shall decide on cases arising out of the competence of the Court under Article VI.3 (a), VI.3 (c) and IV.3 (f) of the Constitution and in cases arising out of the competence of the Court under

Article VI.3 (b) which are put on the agenda of the session of the Court, as well as on other issues established by the Constitution and these Rules of Procedure.

Article 9

The Grand Chamber shall decide on the cases arising out of the competence of the Court under Article VI.3 (b) of the Constitution, which were not put on the agenda of the plenary Court. It shall adopt a unanimous decision. If there is no unanimous decision, the case shall be referred to the plenary Court.

The Grand Chamber shall be composed of: the President of the Court; two Vice-Presidents from among the judges elected by the competent legislative authorities of the Entities; and two judges out of the remaining three judges elected by the abovementioned legislative authorities, according to the principle of priority under Article 99 of these Rules of Procedure, with one member rotated every month. The President of the Court shall preside over the Grand Chamber and in the event that he or she is unable to attend, he or she shall be replaced by one of the Vice-Presidents whom he or she shall designate.

Article 10

The Chamber shall consist of the President of the Court and two Vice-Presidents from among the judges elected by the competent legislative authorities of the Entities. The President of the Court shall preside over the Chamber.

The Chamber shall decide by a majority of votes of the members of the Chamber on the joining or separation of cases and on requests for the adoption of interim measures. The Chamber shall adopt a proposal for a decision on admissibility which shall be submitted to the Grand Chamber or the plenary Court for verification.

The Chamber shall submit a decision on an interim measure to the plenary Court for information.

Article 11

The work of the Court shall be public.

The proceedings before the Court shall be made public:

1. by informing the public of the preparations and holding the sessions of the Court as well as public hearings before the Court;

2. by providing information about the course of the proceedings;
3. by allowing the participants in the proceedings and other interested persons to inspect the case-files relating to cases which are being decided by the Court; by allowing them to be present at the sessions of the Court, unless the President of the Court, in the interest of morals, public order or national security in the democratic society, decides otherwise; or and to be present at other events from which the public is not excluded under the Rules of Procedure;
4. by publishing the adopted decisions;
5. by publishing the Court's Bulletin in which more important decisions, rulings and other acts shall be published;
6. in any other way permitted by the Court.

Article 12

The proceedings of the working sessions of the Court, including the sessions of the deliberation and voting, shall be closed to the public.

The public shall also be excluded when the Court hears and decides upon issues which are confidential in accordance with the law, when this is required by reasons related to the protection of the morals, public order, national security, the right to privacy or personal rights.

The exclusion of the public referred to in paragraph 2 of this Article shall not refer to the parties in the proceedings.

Article 13

Information on sessions and public hearings of the Court (time, place and agenda) shall be announced on the notice board of the Court.

Information referred to in paragraph 1 of this Article may be announced in the media, when it is of particular significance for the public.

Article 14

In proceedings before the Court, the official languages referred to in Article 6 of the Rules of Procedure shall be used. Upon the request of a participant in the proceedings who is a member of other people, the Court may allow the use of other language.

The Court shall provide conditions for everyone to exercise the right referred to in the preceding paragraph.

1) Participants in the Proceedings

Article 15

The participants in the proceedings shall be:

a. the initiators of proceedings referred to in Article VI.3 (a) of the Constitution and the adopters of the acts which are the subject of the dispute;

b. the parties to the proceedings which ended in a decision challenged by the appeal and the court and/or the authority which adopted the judgment or decision which is the subject of an appeal under Article VI.3 (b) of the Constitution;

c. the Chair of the House of Peoples, in case of a dispute according to Article IV.3 (f) of the Constitution;

d. the court which referred the issue to the Court and the adopter of the law the validity of which the court's decision determines under Article VI.3 (c) of the Constitution.

In each case the Court shall determine other participants in the proceedings according to the principle of adversarial procedure.

The Court may examine an appeal only if all effective legal remedies which are available under the law against the judgment or decision challenged by the appeal have been exhausted and if it is filed within a time limit of 60 days from the date on which the appellant received the decision on the last legal remedy that he or she used.

Article 16

The Chamber shall examine the admissibility of all requests and appeals and it shall adopt a proposal for a decision on admissibility, which shall be submitted to the Grand Chamber.

A request or appeal shall not be admissible in any of the following cases:

1. the Court is not competent to adopt a decision;
2. the request or appeal is anonymous;
3. the applicant or appellant has withdrawn his or her request or appeal;
4. the time-limit for filing the request or appeal expired;
5. the request or appeal was submitted by an unauthorized person;

6. the Court has already decided on the same matter;
7. the request or appeal is manifestly (*prima facie*) ill-founded or the right of appeal has been abused;
8. the legal circumstances have changed;
9. the appeal is *ratione materiae* incompatible with the Constitution;
10. the appeal is *ratione personae* incompatible with the Constitution;
11. the appeal is *ratione temporis* incompatible with the Constitution;
12. the appellant has previously initiated proceedings before the Human Rights Chamber for Bosnia and Herzegovina;
13. the appellant or applicant has failed to amend or provide additional information on the appeal or request within the given time-limit;
14. the appeal is premature;
15. the challenged general Act is no longer in force;
16. the Court has already decided on the issue and, according to the statements or evidence from the request or appeal, it does not appear that there are grounds for a new decision;
17. the appellant has not exhausted all legal remedies available under the law.

In cases referred to in paragraph 2 of this Article, the Grand Chamber shall adopt a decision. If the Grand Chamber adopts the decision unanimously, it shall be deemed final. Otherwise, a decision shall be adopted by the plenary Court.

2) Rules of Proceedings

Article 17

Requests for institution of proceedings before the Court shall be delivered by mail or brought directly to the Court.

Submission referred to in paragraph 1 of this Article shall be deemed to have been received on the day of the receipt in the Court or on the day of delivery by registered mail.

Article 18

A request for institution of proceedings according to Article VI.3 (a) of the Constitution shall contain:

- the title of the disputed act with the title and number of the Official Gazette in which it was published;
- the provisions of the Constitution which are alleged to have been violated;
- statements, facts and evidence on which the request is founded;
- the signature of an authorized person verified by the seal of the applicant;

An appeal according to Article VI.3 (b) of the Constitution shall contain:

- the judgment of the court in Bosnia and Herzegovina;
- the provisions of the Constitution alleged to have been violated;
- statements, facts and evidence on which the appeal is founded;
- in the event that the appeal lacks a challenged judgment, reasons for the appeal;
- the signature of the appellant.

A request according to Article VI.3 (c) of the Constitution shall contain:

- the law whose compatibility with the Constitution the Court is requested to review, with reference to the Official Gazette in which the law was published;
- a specification of the provisions of the Constitution, the European Convention on Human Rights and Fundamental Freedoms and its Protocols and the laws of Bosnia and Herzegovina, with which the law, which is the subject of the review, must be compatible, or the existence or scope of some general rule of public international law which is pertinent to the decision of the court;
- statements, facts and evidence on which the request is founded;
- the signature of an authorized person certified by the seal of the applicant.

Article 19

In event that the request or appeal submitted to the Court is incomplete or it does not contain the information necessary for the proceedings to be conducted, the Registrar shall request that the applicant or appellant rectifies the errors within a specified time limit that shall be no longer than one

month, whereupon the appeal form and the instructions for completing the form shall be sent to the applicant or appellant.

If the applicant or appellant does not rectify the errors within the time-limit referred to in paragraph 1 of this Article, the request or appeal shall be rejected.

Article 20

When the Court is requested to review the procedural regularity of a proposed decision under Article IV.3 (f) of the Constitution, a certified copy of the decision, with an explanation of the procedure, shall be enclosed with the request.

Article 21

The Court shall send the request for institution of proceedings or the appeal to the adopter of the disputed act for the purpose of giving the latter the opportunity to respond or to submit documents.

The Court shall communicate the appeal to the other party in the proceedings that resulted in the judgment challenged by the appeal, for the purpose of giving that party the opportunity to submit a reply.

A failure to submit a reply shall not affect the course of the proceedings before the Court.

The Court may adopt a decision rejecting an appeal without previously having communicated the appeal to the other party for the purpose of allowing him or her to submit a reply.

Article 22

The President of the Court, the Secretary General of the Court and the Registrar shall be informed of the request for the institution of proceedings or the appeal and they shall inform the judges of the same at the sessions of the Chambers and the plenary Court.

The Chambers and the plenary Court shall consider and decide the cases on the basis of a draft decision prepared by the Judge Rapporteur.

Article 23

The Judge Rapporteur, as a rule, shall be assigned cases in alphabetical order after examination of the admissibility in accordance with Article 16 of the Rules of Procedure. In cases which are joined subsequently, the Chamber may designate one Judge Rapporteur. The Chamber shall consider proposals for the release from the cases.

The Court may determine, considering the nature of the cases, to act urgently on the submission.

Article 24

The Judge Rapporteur or Registrar shall specify a time-limit for the submission of replies to the statements from the request or appeal.

Article 25

Participants in the proceedings shall have the right to gain access to the case-files of the Court while this right may also be granted to other interested persons.

The request or appeal and the reply thereto shall be sent to the participants to the proceedings.

Draft decisions, rulings and other acts prepared for deciding, as well as documents designated as confidential under Article 12 of these Rules of Procedure may not be accessed.

Access to the case-files shall be approved by the Secretary General of the Court and it shall be carried out in the official premises of the Court and in the presence of an authorized employee of the Court.

Article 26

Participants to the proceedings and other interested persons may request copies of the documents of the case files save those which may not be made available for access under Article 25 paragraph 3 of the Rules of Procedure.

Persons referred to in paragraph 1 of this Article shall bear the cost of making the copies.

Making copies of documents of a case shall be approved by the Secretary General of the Court and it shall be carried out in the official premises of the Court.

Article 27

The Court shall consider and decide the case on the basis of a draft decision.

Draft decision on merits shall contain:

- a) Introduction
- b) Operative part
- c) Reasons
- d) Conclusion

The introduction shall contain: the constitutional grounds and relevant provision of the Rules of Procedure; the designation “Constitutional Court of Bosnia and Herzegovina”; the case number; the first and last name or the designation of the applicant or appellant; the composition of the body making the decision; the date of the session of the Court; the results of the voting; and the type¹ of the decision.

The operative part shall contain: the decision of the Court on the subject for decision; and a note as to whether that decision shall be published in the Official Gazettes.

The reasons for a decision adopted on the basis of Article VI.3 (b) shall contain: an introduction; proceedings before the Constitutional Court; the facts of the case; the appeal - (a) statements from the appeal, and (b) statements from the reply to the appeal; the applicable laws; admissibility; merits; and conclusion.

The reasons for a decision adopted on the basis of Articles VI.3 (a), VI.3 (c) or IV.3 (f) shall contain: an introduction; proceedings before the Constitutional Court; the request - (a) statements from the request, and (b) statements from the reply to the request; applicable laws; admissibility; merits; and conclusion.

Reasons of other draft decisions of the Court shall contain appropriate elements depending on the type of the decision.

Article 28

Information on the course of the proceedings before the Court shall be given by the President of the Court or the Secretary General of the Court.

Article 29

Acts of the Court, writs of summons etc., shall be delivered to the persons they refer to by registered mail or directly with a delivery slip.

Article 30

When the Court receives several requests within its competence concerning the same matter, the Chamber shall, in principle, adopt a decision on joining the cases in which the Court or the Chambers shall conduct one set of proceedings and adopt one decision.

¹ TN phrase ‘the type of decision’ refers to the possible types of decision listed in Article 59

Joining of requests, as referred to in paragraph 1 of this Article, shall not be done if this would prolong the proceedings to a considerable extent.

Article 31

When taking a decision, the Court shall examine the existence of only those violations alleged in the request.

Article 32

The Court may review the constitutionality of only those general acts that are in force.

Article 33

The institutions of Bosnia and Herzegovina, those of the Entities, legal and natural persons and others have, upon the request of the Court, the duty to submit data and information necessary for the work of the Court and undertake, upon the directive of the Court, actions in the interests of the conduct of the proceedings.

3) Court Sessions

Article 34

Sessions of the Chamber and of the plenary Court shall be held as necessary.

Sessions of the Grand Chamber, as a rule, shall be held twice a month on dates as decided by the President of the Grand Chamber.

As a rule, the sessions of the Court shall be held at the seat of the Court although the Court may decide to hold the session outside the seat of the Court.

Article 35

The sessions of the plenary Court shall be attended by the judges, the Secretary General of the Court and the Registrar.

The judges and the Registrar shall attend the sessions of the Chambers. The President of the Court or the President of the Chamber may decide to have the Secretary General and other experts attend the session.

The sessions of the plenary Court or the sessions of the Chambers may be attended by the legal advisor to a judge who worked on the case which is the subject of the deliberation as well as by other experts as decided by the President of the Court or President of the Chamber.

The Assistant Secretary General may attend the session of the Court or the sessions of the Chambers, if administrative and financial issues are to be discussed.

Article 36

The President of the Court or the President of the Chambers shall convene the session, propose the agenda and chair the session of the plenary Court or the Chambers. The President of the Court may authorize one of the Vice-Presidents to chair the sessions of the Chambers.

The President of the Court or the President of the Chambers shall convene a session when:

1. the plenary Court or the Chambers decide to hold a session;
2. a judge requests a session to be held in order to consider matters within the jurisdiction of the Court;
3. a working body of the Court or the Chambers requests that a session be held.

The President of the Court or the Presidents of the Chambers shall propose the agenda and chair the sessions.

A judge may propose amendments to the session's agenda.

The agenda of the session shall be determined by the plenary Court or the Chambers.

The President of the Court shall convene an extraordinary session in the event that:

1. the plenary Court or the Chambers decide to hold the session;
2. a judge requests a session of the plenary Court to be held in order to consider matters within the jurisdiction of the Court.

In the event referred to in paragraph 2, item 2 and paragraph 6, item 2 of this Article, a request in writing with an explanation shall be submitted to the President of the Court.

Article 37

Invitations to a session of the plenary Court, and the cases and other documents to be considered at the session, shall be delivered to the judges no later than eight days before the date of the session.

Exceptionally, in urgent cases, invitations to the session of the plenary Court, or cases or other documents to be considered at the session may be delivered within a shorter period.

The invitations to the sessions of the Chambers, cases and other documents to be considered at the sessions of the Chambers, may be delivered within a time limit shorter than the one referred to in paragraph 1 of this Article.

Article 38

When a case is on the agenda of the session of the plenary Court or the Grand Chamber, the Judge Rapporteur shall, prior to the consideration and voting, outline the factual and legal issues that are relevant for the consideration and deciding and give a proposal of the decision.

The judge Rapporteur may request that the Registrar presents the facts of the case and information on the relevant laws and constitutional jurisprudence.

If a legal advisor to the judge is present at the session of the plenary Court or the Chambers, he or she may answer questions with regard to the facts of the case being considered and provide information on relevant laws which are significant for the case being considered.

After the presentation of the Judge Rapporteur or the Registrar, the floor shall be given to the judges in the order in which they request the floor.

In the consideration referred to in paragraph 1 of this Article, the Secretary General of the Court may also participate, if so requested by the judges.

Article 39

The Court may adjourn or discontinue the consideration of a case in order to obtain new data and information or for other reasons.

Article 40

After the consideration of the case concludes, the plenary Court or the Chambers shall adopt a decision.

Decisions of the plenary Court shall be adopted by a majority of votes of all nine judges of the Court.

Decisions of the Grand Chamber shall be adopted unanimously.

Decisions of the Chamber shall be adopted by a majority of votes of members of the Chamber.

The voting shall be done publicly by a show of hands.

The Court may decide to adopt a decision by secret voting.

The voting shall be conducted in the order in which the proposals were presented. Before the voting takes place the preliminary voting may be conducted. The proposal that receives the most votes in the preliminary voting shall be the first proposal on which a final vote is held.

In other cases, the proposal of the Judge Rapporteur shall be considered as the first proposal unless he or she proposes differently.

Article 41

Judges may not abstain from voting.

Any judge who has taken part in the consideration of the case shall be entitled to annex to the judgment either a separate opinion, concurring with or dissenting from that judgment, or a bare statement of dissent.

The judge has the right and obligation to present and explain reasons for his or her separate opinion, in writing within fifteen days.

A separate opinion of the judge shall be attached to the minutes of the session, enclosed with the case file it refers to and noted in the adopted decision and ruling.

A separate opinion shall be attached to the decision as an annex. The decision shall be published in the Bulletin of the Court together with the separate opinion.

Article 42

Only the judges who participated in the hearing may participate in the adoption of the decision of the Court.

A session of the plenary Court shall be adjourned if none of the judges from one of the constituent peoples is present, but the following session shall be held if the same situation is repeated without a justified reason.

The provision of paragraph 2 of this Article shall not be applied in cases where a request is to be rejected and the case that is being considered does not affect the constituent people represented by the absent judges.

Article 43

The sessions of the plenary Court shall be recorded.

The Minutes of the session of the plenary Court and Chambers shall be taken.

The shorthand or tape recording shall be attached to the Minutes and it shall form an integral part of them.

Article 44

The minutes of the Court's session shall contain:

1. the date of the session;
2. the names of present and absent judges;
3. the names of other persons present at the session;
4. each subject of consideration and decision-making;
5. the operative part of each decision;
6. the result of the voting indicating who of the judges voted against each decision or delivered a separate opinion;
7. other conclusions adopted with regard to the consideration of each case.

A brief account of the consideration of the case and the questions that were most relevant to the decision-making process in the case shall be included in the minutes.

If the public was excluded from the session or parts of it, a statement on this fact shall be included in the minutes as well.

Article 45

The minutes of the session of the Court shall be adopted at the next session of the Court.

The verified Minutes of the session of the plenary Court shall be signed by the President or Vice-President of the Court and the Secretary General of the Court while the verified Minutes of the session of the Chambers shall be signed by the President of the Chambers and the Registrar.

The Minutes shall form an integral part of the archives of the Court and they shall be safeguarded in accordance with the Law on Archives.

4) Public Hearings

Article 46

When, during proceedings before the Court, it becomes necessary to discuss an issue with the parties to the proceedings relevant to the adoption of the decision, the plenary Court shall hold a public hearing.

The plenary Court shall decide on the need to hold a public hearing.

Article 47

The participants in the proceedings shall be invited to the public hearing.

If necessary, the Court shall also invite to the public hearing the persons who may submit expert opinions and statements relevant to the adoption of a decision.

The Court shall decide whether to invite persons referred to in paragraph 2 of this Article upon the proposal of the Judge Rapporteur.

Article 48

The invitations for the public hearing and the appropriate materials shall be delivered no later than eight days before the date of the public hearing.

Exceptionally, the invitations for the public hearing may be served within a shorter period.

Article 49

Public hearings shall be held at the seat of the Court.

In case of special reasons, the Court may decide to hold the public hearing outside the seat of the Court.

Article 50

The absence of participants to the proceedings from a public hearing shall not prevent the Court from holding the public hearing and adopting a decision.

Article 51

When necessary, the Court may adjourn or discontinue the public hearing in order to obtain necessary data and information or for other justified reasons.

In situations referred to in paragraph 1 of this Article, the President of the Court shall inform the participants present and other invited persons as to when the public hearing shall be held or continued.

Article 52

The President of the Court shall open the public hearing and announce the subject of the hearing.

The Secretary General of the Court shall inform the Court on the presence of the participants to the proceedings and other persons invited.

Article 53

At the public hearing, the Judge Rapporteur shall outline the factual situation and the disputed legal issues relevant to the consideration of the case, without stating his or her position on the decision which should be adopted.

After the statement of the Judge Rapporteur, the participants to the proceedings shall present and support their positions and give replies to the statements made at the hearing while other persons invited shall present their opinions relevant to the clarification of the factual situation.

Article 54

The President of the Court shall ensure that order at the public hearing is maintained.

In maintaining order he or she may:

- warn any person who disturbs order;
- take the floor away from a person who offends the Court or someone else or who is, in any other way, abusing the floor given to him or her;
- remove from the public hearing any person who, although warned, continues to disturb the course of the public hearing.

Article 55

When the presentations of the participants in the proceedings and other invited persons are completed and there are no questions for clarification of the factual situation, the President of the Court shall conclude the public hearing and inform the participants to the proceedings and other invited persons of the time and manner of the announcement of the Court's decision.

Article 56

The Court shall, in principle, hold a session for deliberation and voting immediately upon the conclusion of the public hearing.

In the procedure for deliberation, the Judge Rapporteur shall be the first to present his or her opinion and position on the case at issue.

After the statement of the Judge Rapporteur, the judges of the Court shall present their opinions and positions in the order in which they requested the floor.

After the completion of the deliberation, the voting shall take place.

The sessions for deliberation and voting shall be attended by the judges who participated in the public hearing, the Secretary General, the Registrar and the recording secretary.

Article 57

After completing the session for deliberation and voting, the President of the Court shall, as a rule, orally announce the decision of the Court, indicating the principal reasons for its adoption.

The decision of the Court shall be delivered to the participants to the proceedings within 30 days from the day of its adoption.

Article 58

Minutes shall be drawn up at the public hearing.

The minutes at the public hearing shall include information on the session for deliberation and voting.

If there was no shorthand or taped record at the public hearing, the minutes shall include a summary of the statements of the participants in the proceedings and the other persons present.

The written statement of the Judge Rapporteur as well as the statements of the participants to the proceedings and other persons present, who may submit their written statements to the Court, shall be attached to the minutes of the public hearing.

5) Acts of the Court

Article 59

After deliberation and voting, the Court shall adopt decisions.

Decisions of the Court shall be:

- On the admissibility of the request or appeal;
- On the merits of the request or appeal (complete or partial);
- On the cessation of the application of the provision which is incompatible with the Constitution;
- On the termination of the proceedings;
- On an interim measure.

When needed, the Court may adopt rulings and conclusions in proceedings before the Court as well on the internal issues of the Court.

Article 60

The Court shall adopt a decision on admissibility rejecting the request or appeal in accordance with conditions provided for by Article 15 and 16 of the Rules of Procedure.

Article 61

The Court shall adopt a decision on merits when it grants or dismisses a request or an appeal.

The Court shall grant a request or appeal when, in accordance with its competences under Articles VI.3 (a), VI.3 (b), VI.3 (c) and IV.3 (f), it establishes a violation of the Constitution.

The Court shall dismiss a request or appeal when, in accordance with its competence under Articles VI.3 (a), VI.3 (b), VI.3 (c) and IV.3 (f), it establishes that there is no violation of the Constitution.

Article 62

The Court may adopt a partial decision if the request contains several issues and if the nature of the case makes that possible.

Article 63

The Court shall, in the decision granting a request, decide on its legal character (*ex tunc, ex nunc*).

In a decision establishing incompatibility of an act, in accordance with Article VI.3 (a) or (c), the adopter of the act may be granted a time-limit, that shall not exceed three months from the date when the decision is published in the Official Gazette of Bosnia and Herzegovina, for achieving compatibility with the Constitution.

If the established incompatibility is not removed within the set period, the Court shall by a further decision declare that the incompatible provisions cease to be in force.

The incompatible provisions shall cease to be in force on the day of the publication of the decision of the Court referred to in paragraph 3 of this Article in the Official Gazette of Bosnia and Herzegovina.

Article 64

If the Court finds that an appeal is well-founded, it may exceptionally, depending on the nature of the constitutionally established rights and fundamental freedoms, decide on the merits of the case and deliver the decision to the competent authority in order that that authority may secure the appellant's constitutional rights that have been violated

The Court may decide on the merits only if an opportunity was given to the other party to the proceedings to present its views under Article 21, paragraph 2 of these Rules of Procedure.

The Court may annul a challenged decision by a decision granting the appeal and refer the case back to the court or authority that adopted the challenged decision, for renewed proceedings.

In the reasons for the decision, the Court shall state which constitutional right has been violated and how it has been violated.

The court or the authority whose decision has been annulled is obliged to adopt another decision whereby it is bound to observe the legal opinion of the Court concerning the violation of the rights guaranteed under the Constitution and the fundamental freedoms of the appellant.

The proceedings before the court or before the authority referred to in paragraph 5 of this Article shall be urgent.

Article 65

The Court shall adopt a decision to terminate the proceedings when during the proceedings:

1. the unconstitutionality of the challenged act is removed;
2. the challenged general act is no longer in force;
3. the applicant or appellant has subsequently withdrawn the request or appeal; and
4. in other circumstances when there is no longer a need for the proceedings to be conducted.

In the cases referred to in items 1 and 2 of paragraph 1 of this Article, the Court shall continue proceedings if there is an apparent violation of the provisions of Article II of the Constitution or if the consequences of violated rights and fundamental freedoms have not been removed.

Article 66

A decision on an interim measure shall be adopted in the cases referred to in Article 78 of these Rules of Procedure.

Article 67

Everyone whose right is violated by a final or null and void individual act, which was adopted in accordance with provisions that ceased to be in force in accordance with Article 63 of the Rules of Procedure, shall have the right to request the competent authority to alter that individual act while the competent authority is obliged to renew the proceedings and put the act in conformity with the decision of the Court.

Article 68

A request for altering a final or null and void individual act referred to in Article 67 of the Rules of Procedure may be submitted within a period of six months from the date of the publication of the decision in the Official Gazette of Bosnia and Herzegovina, provided that no more than five years have elapsed from the adoption of the act until the adoption of the decision of the Court.

Article 69

The Court may adopt a supplementary decision if all relevant issues have not been decided upon in the previous proceedings.

Article 70

Every draft decision of the Court shall be examined at a session of the plenary Court or the Grand Chamber.

The proofreading of the text of the decision shall be done by the Editorial Commission.

The President of the Editorial Commission and the Registrar shall certify the final text of all decisions by their signatures.

The decisions that are being published shall be proofread and published in all three official languages of Bosnia and Herzegovina while more

significant decisions shall be translated into the English language after being proofread.

The decisions and rulings that are not being published shall be submitted to the parties in the language and alphabet of Bosnia and Herzegovina requested by the party concerned.

Article 71

When a new fact has been discovered which could have a decisive influence on the outcome of the dispute, and which, when the decision was adopted, was unknown to the Court and could not have been reasonably known to a party, that party may submit a request for a review of that decision to the Court within six months from the time the party learned of that fact.

The request referred to in paragraph 1 of this Article should refer to the decision of which review is requested, as well as to the necessary information which points to the fact that the conditions set out in paragraph 1 of this Article have been met. The evidence supporting the request shall be submitted with the request. The request and the documents shall be submitted to the Secretariat of the Court.

A judge may, on his or her own motion, submit in writing the reasoned request referred to in paragraph 1 of this Article.

A request for a review of a decision shall first be examined by the Chamber, which shall forward the proposal to the plenary Court.

When the plenary Court decides to review its decision, the subject of review shall be considered in accordance with the regulations applied in the regular proceedings before the Court.

A review of a decision of the Court shall not be possible if more than one year elapsed since its adoption.

Article 72

The original decision of the Court shall be signed by the President and the Registrar; it shall be published with the signature of the President of the Court only.

The legal advisor to the judge shall, through the Registrar, submit the decisions to the President of the Court for his or her signature.

The Secretary General of the Court shall certify copies of the decision.

Article 73

If the original of the decision contains clerical errors or if the published text is not identical with the original, the Secretary General of the Court shall rectify the errors based on the conclusion of the Court.

The rectification shall be submitted to the participants to the proceedings and it shall be published in the same manner as the decision.

Article 74

The decisions of the Court on the merits shall be published in the Official Gazette of Bosnia and Herzegovina and in the official gazettes of the Entities.

The Court may decide to publish other decisions in the manner referred to in paragraph 1 of this Article.

In decisions on appeals, published according to paragraphs 1 and 2 of this Article only the initials of the appellant and other party to the proceedings referred to in Article 21, paragraph 2 of these Rules of Procedure shall be published.

6) Execution of Decisions

Article 75

The decisions of the Court shall be final and binding and they shall be respected by every person and legal entity.

All authorities shall be obliged to implement the decisions of the Court, within the competencies established by the Constitution and the law.

Every person who has a legal interest may seek to have the decision of the Court executed.

In its decision, the Court may specify the manner of and time-limit for the execution of its decision.

Within the time-limit referred to in paragraph 4 of this Article, the authority obliged to execute the decision of the Court shall be obliged to submit information about the measures taken to execute the decision of the Court, as required by the decision.

In the event of a failure to execute a decision, or a delay in execution or in giving information to the Court about the measures taken, the Court shall adopt a ruling by which it shall establish that the decision of the Court has not been executed. This ruling shall be submitted to the competent

prosecutor or another authority competent to execute the decision, as designated by the Court.

Article 76

The execution of final or null and void individual acts which have been adopted in accordance with provisions which ceased to be in force pursuant to Article 63 of the Rules of Procedure can neither be ordered nor carried out, and in the event that execution has began it shall be discontinued.

Article 77

If it appears that the consequences of the application of provisions which were declared incompatible cannot be remedied by changing an individual act, the Court may, at the request of an interested person, decide to remedy the consequences by ordering *restitutio in integrum*, payment of compensation by way of damages, or in any other way.

In a decision granting an appeal, the Court may exceptionally award compensation for non-pecuniary damages.

7) Interim measures

Article 78

The Chamber may, until the adoption of a final decision, upon a request of a party, issue any interim measure it deems necessary in the interest of the parties or the correct conductance of the proceedings before the Court.

Exceptionally, the President of the Court may, if it is not possible to convene a session of the Chamber, issue an interim measure such as is referred to in paragraph 1 of this Article.

The plenary Court may, on its own motion, issue an interim measure such as is referred to in paragraph 1 of this Article.

A decision on an interim measure such as is referred to in paragraph 1 of this Article shall be submitted immediately to the adopter of the challenged act and to the parties to the proceedings.

The Chamber or President of the Court, if they find it appropriate, may also decide to forward a decision on a measure such as is referred to in paragraph 1 of this Article to other authorities.

The Chamber or the President of the Court shall submit a decision on an interim measure referred to in paragraph 1 of this Article to the plenary Court for information.

A decision on an interim measure such as is referred to in paragraph 1 of this Article shall have legal effect, until the plenary Court decides otherwise.

The Chamber or the President of the Court may request information from the parties on every issue relating to an interim measure.

In the event that an interim measure is no longer justified, the Chamber or the President of the Court shall annul it.

Proceedings for the adoption of an interim measure shall be urgent.

8) Special provisions

Article 79

If invitations, decisions or rulings of the Court, other than a request for a reply referred to in Article 21 paragraph 2 of the Rules of Procedure, cannot be delivered to the participants in proceedings for any reason, the delivery shall be effected by putting the invitations, decisions or rulings on the notice board of the Court.

Delivery shall be deemed to have been effected after eight days from the date when the invitation, decision or ruling was put on the notice board of the Court.

Article 80

The Court shall decide in each individual case on any issue regarding the proceedings before the Court which is not regulated by the Rules of Procedure.

III. THE ORGANIZATION OF THE COURT

1) Rights and Obligations of the Court

Article 81

The Court, in addition to performing its functions in accordance with the provisions of the Constitution, shall decide on:

- the election of the President and Vice-Presidents;
- the status and immunity rights of the President and judges;

- the internal organization of the Court and the Secretariat of the Court;
- the establishment of working bodies of the Court;
- status issues with respect to the Secretary General of the Court, the Registrar, the Assistant Secretary General of the Court, a legal advisor to a judge, and the Chief of the Cabinet of the President of the Court;
- the work schedule of the Court and its execution;
- the financial needs of the Court;
- adoption of the annual budget;
- other issues within the competence of the Court.

In the exercise of its financial independence, the Court shall:

- draw up a draft budget required for the performance of the Court's judicial tasks and submit it to the Presidency of Bosnia and Herzegovina for the purpose of having it included in the draft budget pursuant to Article VIII of the Constitution;
- adopt a financial plan for the Court, which sets out the expected revenues and expenditures for the current year;
- adopt an annual budget;
- decide on the use of donations and other sources of revenue.

Article 82

Apart from the President of the Court and the judges, the Secretary General of the Court and the Registrar shall also attend the sessions of the Court when issues under Article 81 of the Rules of Procedure are decided.

In the event that the issue referred to in paragraph 1, lines 3, 4, 6, 7 and 8 and paragraph 2 of Article 81 of the Rules of Procedure are discussed, the Assistant Secretary General and the persons designated by the President of the Court shall also attend the session of the Court.

Article 83

The Court shall cooperate with other constitutional courts.

The Court may organize meetings and conferences and participate in meetings and conferences when issues of interest for the work of the Court are discussed.

2) The President of the Court and judges

Article 84

The Judges of the Court shall be elected in accordance with Article VI.1 of the Constitution.

The judges shall be outstanding lawyers of high moral standing. Every person with the right to vote and such qualifications may become a judge of the Court. The judges elected by the President of the European Court for Human Rights may not be citizens of Bosnia and Herzegovina or the neighbouring states.

Each judge shall act in the Court in his or her own capacity.

Article 85

The Court shall elect the President and Vice-Presidents of the Court from among the judges.

Article 86

Before taking up office, each elected judge shall, at the first sitting of the plenary Court at which the judge is present or, in case of need, before the President of the Court, take the following oath or make the following solemn declaration:

“I solemnly declare that in the performance of my functions as a Judge of the Constitutional Court of Bosnia and Herzegovina, I shall uphold the Constitution and the Laws of Bosnia and Herzegovina and that I will exercise my functions as a judge honorably and impartially and that I will keep secret all deliberations and voting.”

Article 87

The Court shall elect the President of the Court by secret ballot, by a majority of votes of all judges.

If no judge receives an absolute majority of the elected judges present, a ballot shall take place between the two judges who have received most votes and the judge who received most votes of the two shall be elected.

In the event that no judge receives a majority of votes, lots shall be drawn.

Article 88

The President of the Court shall be elected by the method of rotation among the members of the constituent peoples of Bosnia and Herzegovina.

He or she may not be a member of the same constituent people in two consecutive terms.

Article 89

The term of the President of the Court shall be three years and it shall commence upon election.

If a President of the Court ceases to be a member of the Court or resigns from office before its normal expiry, the plenary Court shall elect a successor for the remainder of the term of that office.

Article 90

The President of the Court shall organize, manage and supervise the activities of the Court, convene and chair the sessions and public hearings, represent the Court, sign the decisions of the Court, be responsible for cooperation with other institutions, and carry out other duties specified in these Rules of Procedure and other acts of the Court.

Article 91

The Court shall, at the same session when the President of the Court is elected, elect three Vice-Presidents of the Court.

The Vice-President of the Court shall be elected from among all the judges.

The President of the Court and the Vice-President of the Court may not be elected from among the members of the same people at the same time.

The term of the Vice-Presidents of the Court shall be the same as that of the President of the Court.

The voting for the Vice-Presidents shall be carried out in the same manner as for the President of the Court.

The provisions of Article 89, paragraph 2 of these Rules of Procedure shall also apply to the Vice-Presidents of the Court.

Article 92

The President of the Court shall, in the event that he or she is absent or otherwise prevented from acting, be represented by Vice-President designated by the President of the Court.

In the event that the President of the Court is not able to designate a Vice-President to represent him or her, the Court shall determine which of

the elected Vice-Presidents shall represent the President of the Court in the sense of paragraph 1 of this Article.

Article 93

Each judge shall have the right and obligation to participate in the work and decision-making of the Court and those of its working bodies of which he or she is a member.

In the event that at least two judges live in the same area outside the seat of the Court, the Court may decide to establish an office at the place of their residence.

Article 94

The President of the Court or a judge shall not participate in the work and the decision-making process relating to a request for institution of proceedings or an appeal if:

- he or she has a personal interest in the case;
- he or she was involved in the adoption of the decision which is the subject of the dispute, as a judge, party to the proceedings, or representative of a party, or was involved in the adoption of the judgment which is the subject of the appeal or the law of which review of constitutionality is requested under Article VI.3 of the Constitution, or of a proposed decision of the Parliamentary Assembly of Bosnia and Herzegovina of which review is sought under Article IV.3 (f) of the Constitution; or
- there are other circumstances which raise doubt as to his or her impartiality.

A judge whose exemption is being decided upon may give a reply to the proposal for his or her exemption.

A decision on exemption referred to in paragraph 2 of this Article shall be adopted by a majority of votes of all judges, upon the proposal of the President of the Court or a judge.

Article 95

The judges shall be obliged to perform the functions of a judge conscientiously.

The judges shall uphold the reputation and dignity of the Court and the reputation and dignity of a judge.

Article 96

The judges shall have the right to propose issues for consideration at the sessions of the Court.

Article 97

The judges of the Court shall have the right to be informed regularly about all issues of importance for their performance of the functions of the Court.

The President and the Secretary General of the Court shall be responsible for keeping the judges informed.

Article 98

The position of a judge is incompatible with:

- o membership of a political party or a political organization in Bosnia and Herzegovina,
- o membership of a legislative, executive and other judicial authority in Bosnia and Herzegovina or the Entities,
- o any other position which could affect the impartiality of the judge.

The judges elected by the legislative authorities of the Entities shall not be members of any administrative or supervisory committee of public or private companies or other legal persons.

A university professor (assistant professor, full or associate professor) of law elected as a judge of the Court may, on a reduced scale, continue to teach and work at the university as a professor of law.

For the purpose of this Article, other scientific or professional work or membership in institutes or associations of lawyers as well as humanitarian, cultural, sporting or other associations shall not be considered as a public or professional duty, unless those activities are connected to the work of a political party.

A judge shall inform the President of the Court of every additional activity. In the event that the President of the Court and the above mentioned judge do not agree, the plenary Court shall decide on all issues that may be raised.

Article 99

The judges or Vice-Presidents shall take precedence after the President, according to the date of their election.

Judges elected to office on the same day shall take precedence according to their age.

Article 100

Each judge, in the performance of his or her functions, shall be entitled to immunity.

Issues of immunity of judges shall be regulated by a special act adopted by the Court.

Article 101

A judge may be dismissed from his or her office before his or her term of office of a judge has expired, in the following cases:

- if he or she asks to be allowed to resign;
- if he or she is sentenced to an unsuspended prison sentence for committing a criminal offence that makes him or her unsuitable for the office;
- if he or she permanently loses the ability to perform his or her functions;
- if the circumstances indicated in Article 98 of these Rules of Procedure occur;
- if he or she fails to perform the function of a judge in accordance with Article 95 of these Rules of Procedure.

The Court shall establish the existence of reasons referred to in paragraph 1 of this Article, dismiss the judge on the basis of consensus of the other judges, and inform the authority which elected that judge.

Article 102

The Court shall issue an official identity card to the President and judges.

The form and the mode of issuance of the official identity card shall be prescribed by the Court.

Article 103

The President and judges shall wear official attire at public hearings.

3) Procedure for the election of a new judge

Article 104

The President of the Court shall institute proceedings for the election of a judge in accordance with Article VI.1 (a) of the Constitution not later than six months prior to the expiration of the term of office of a judge due to his or her age.

In the event of the resignation or release of a judge from office, the President of the Court shall institute proceedings for the election of a judge immediately upon receipt of the resignation, or, in relation to release from office, on the date when the decision on release from office becomes legally valid.

In cases referred to in paragraph 1 and 2 of this Article, the President of the Court shall inform the Chair of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina or the People's Assembly of the Republika Srpska, the Presidency of Bosnia and Herzegovina and the President of the European Court of Human Rights.

In cases referred to in paragraph 1 of this Article, a newly elected judge shall assume office after the end of the term of office of the judge whose term ended due to his or her age.

A newly elected judge, who is elected in place of a judge who resigns or is released from his or her office, shall assume office after the decision on the election has been published in the Official Gazettes, or after the appropriate act of the President of the European Court for Human Rights has been received.

Decisions referred to in this Article shall be published in the Official Gazette of Bosnia and Herzegovina and in the Official Gazettes of the Entities and the Brcko District.

4) Working bodies of the Court

Article 105

The working of the Court shall be carried out in both permanent and ad hoc commissions and other bodies of the Court.

Permanent Commissions shall be:

- the Editorial Commission;
- the Commission for Administrative Affairs;

- the Commission for Publications and Information;
- the Commission for Electronic Equipment of the Court and Information Systems.

Ad hoc commissions shall be established for drafting general acts, expert documents, analyses and for other purposes.

Article 106

The Editorial Commission shall carry out the proofreading of the text of decisions and other acts of the Court which are published.

Article 107

The Commission for Administrative Affairs shall supervise and analyze the organization of the work of the Court, prepare the proposal of the financial plan and annual financial statement, and make proposals and deliver opinions for resolving other issues relating to the judges, the Secretary of the Court and persons who are appointed and dismissed by the Court.

Article 108

The Commission for Publications and Information shall publish the Bulletin and other publications of the Court, prepare the appropriate professional literature as well as articles on the work of constitutional courts in the media, scientific and professional publications, and shall decide on the purchase of professional literature.

Article 109

The Commission for Electronic Equipment and Information Systems of the Court shall be responsible for the use and improvement of the information system, for the carrying out of the development program, and for inclusion of the system into information networks in the country and abroad.

Article 110

A permanent commission shall consist of the President and, as a rule, three members.

The President and one member shall always be elected from among the judges.

The commission, whenever required, shall elect a secretary.

The President and the members of permanent commissions shall be elected for two years. Upon expiration of this period, they may be reelected.

5) Secretariat of the Court

Article 111

The Secretariat of the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Secretariat) shall assist the Court in performing its professional and other duties.

Departments, the scope of whose work shall be established by a Decision on the Organization of the Secretariat adopted by the plenary Court, shall be formed within the Secretariat.

The Secretariat shall be managed by the Secretary General who assists the Court in the performance of its functions and is responsible for the organization and activities of the Secretariat under the authorization of the President of the Court.

Article 112

The most complex professional duties relating to the realization of rights and duties of the Court shall be carried out by the Secretary General of the Court, the Registrar, the Assistant Secretary General, legal advisors to the judges, and the Chief of Cabinet of the President of the Court, who are appointed and dismissed by the plenary Court.

The Secretary General of the Court, the Registrar, the Assistant Secretary General, and legal advisors to the judges may be appointed from among distinguished lawyers with the experience in the same or similar legal activities and in accordance with the conditions prescribed by a special act of the Court.

The Registrar shall perform functions of the Deputy Secretary General in the event that he or she is absent or otherwise prevented from performing them.

The categories within the range of post of legal advisor shall be established by a decision to which Article 111, paragraph 2 of these Rules of Procedure refers.

Article 113

Before taking up office, the persons referred to in Article 112, paragraph 1 of the Rules of Procedure shall take the following oath or make the following solemn declaration before the plenary Court or, if necessary, before the President of the Court:

“I solemnly declare that I will exercise loyally, discreetly and conscientiously the functions conferred upon me and that I will keep secret all deliberations and voting.”

Other employees of the Court shall take and sign the oath referred to in paragraph 1 of this Article before the President of the Court and Secretary General of the Court.

Article 114

The decision referred to in paragraph 2 of Article 111 of these Rules of Procedure shall provide a more detailed regulation of the organization and tasks of the Secretariat, the conditions for the realization of the tasks, the number of the employees and other issues of importance for the work of the Secretariat and the realization of the rights, duties and responsibilities of the employees.

Article 115

The President of the Court shall adopt individual acts in accordance with the decision referred to in Article 111 of these Rules of Procedure.

The President of the Court may authorize the Secretary General to adopt individual acts referred to in paragraph 1 of this Article.

Article 116

The Court, within its constitutional competencies, shall maintain the registry of the cases: “U” and “AP”.

The Secretary General shall resolve issues regarding other documents registered in the “SU” registry.

The action upon the cases and documents referred to in this Article shall be regulated by a special act of the Court.

IV. OTHER PROVISIONS

Article 117

The laws applicable to the authorities in Bosnia and Herzegovina shall as such apply to the employment status of the employees of the Secretariat as well as to the material and financial operations of the Court, unless the Rules of Procedure and other acts of the Court, adopted pursuant to the Rules of Procedure, stipulate otherwise.

Article 118

The Court shall, by a separate act, regulate the salaries and other forms of compensation for the judges and the persons whom it appoints.

Upon the proposal of the Secretary General of the Court, the Court shall adopt an act regulating the salaries and other forms of compensation for the employees of the Secretariat.

Article 119

The regulations on office operation, working hours and house rules applicable to the authorities of Bosnia and Herzegovina shall as such be applied to the Court, unless otherwise stipulated by an act of the Court.

Article 120

General acts of the Court shall be adopted by a majority of votes of all judges.

The Rules of Procedure of the Court shall be published in the Official Gazette of Bosnia and Herzegovina and the Official Gazettes of the Entities; other general acts and the act on the election of the President of the Court and the Vice-presidents shall be published in the manner as regulated by the Court.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 121

The proceedings in cases that commenced before the date on which the Decision on the Amendments to the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No. 1/04) entered into force, shall be completed in accordance with that decision.

Article 122

The term of office of the President and Vice-Presidents of the Court shall run from the date of their election and shall last in accordance with Article 55 of the Decision on the Amendments to the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No. 1/04).

Article 123

On the date when the Decision on the Amendments to the Rules of Procedure of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina No. 1/04) enters into force, the current Secretary General of the Court, the Assistant Secretary General for Administrative and Financial Issues and legal advisors of the Court shall continue to perform their functions as the Secretary General of the Court, the Assistant Secretary General of the Court for Administrative and Financial Issues and legal advisors of the judges, in accordance with that decision.

On the date when the Decision on the Amendments to the Rules of Procedure of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina No. 1/04) enters into force, the current Assistant Secretary General for Advisory Issues, Constitutional Jurisprudence and Documentation shall take over the duties of the Registrar of the Court in accordance with that decision.

SU-P broj 6/04
Sarajevo
15 January 2004

Mato Tadic
President
of the Constitutional Court of
Bosnia and Herzegovina