

The Constitutional Court of Bosnia and Herzegovina, sitting, in accordance with Article VI (3) of the Constitution of Bosnia and Herzegovina, Article 19 (1) (a) and Article 57 (2) (a) and Article 58 of the Rules of the Constitutional Court of Bosnia and Herzegovina – Revised Text (*Official Gazette of Bosnia and Herzegovina*, 94/14), in plenary and composed of the following judges: Mr. Mato Tadić, President and Mr. Miodrag Simović and Mr. Mirsad Ćeman, Vice-Presidents, Ms. Valerija Galić, Ms. Seada Palavrić, Mr. Zlatko M. Knežević, Ms. Angelika Nussberger, Ms. Helen Keller and Mr. Ledi Bianku, Judges, having deliberated on the request of **Mr. Aljoša Čampara, Minister of the Ministry of the Interior of the Federation of Bosnia and Herzegovina**, in the case no. U-11/21, at its session held on 2 December 2021, adopted the following

DECISION ON ADMISSIBILITY

The Request of **Aljoša Čampara, Minister of the Ministry of the Interior of the Federation of Bosnia and Herzegovina**, is rejected as inadmissible. Minister Aljoša Čampara requested that the Constitutional Court initiates a procedure for determining the temporary in/capacity of Milorad Dodik, a member of the Presidency of Bosnia and Herzegovina, to perform the office he holds, in accordance with Article 8.8. of the Election Law of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 48/11 – Decision of the Constitutional Court of BiH, 63/11 – Decision of the Constitutional Court of BiH, 15/12 - Ruling of the Constitutional Court of BiH, 11/13 - Ruling of the Constitutional Court of BiH, 18/13, 7/14, 31/16, 1/17 - Decision of the Constitutional Court of BiH, 54/17 - Ruling of the Constitutional Court of BiH and 41/20), due to the lack of jurisdiction of the Constitutional Court of Bosnia and Herzegovina to decide.

This Decision shall be published in the *Official Gazette of Bosnia and Herzegovina*, the *Official Gazette of the Federation of Bosnia and Herzegovina*, the *Official Gazette of the Republika Srpska* and the *Official Gazette of the Brčko District of Bosnia and Herzegovina*.

REASONING

1. On 11 October 2021, Mr. Aljoša Čampara, Minister of the Interior of the Federation of Bosnia and Herzegovina (“the applicant”), submitted a request to the Constitutional Court of Bosnia and Herzegovina (“the Constitutional Court”) for the Constitutional Court, in accordance with Article 8.8 of the Election Law of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13, 7/14 and 31/16)¹, to initiate a procedure for the determination of temporary in/capacity of Milorad Dodik, a member of the Presidency of Bosnia and Herzegovina, to perform the office he holds.

I. Allegations stated in the Request

2. The applicant refers to the relevant provisions of the Election Law of Bosnia and Herzegovina (“the Election Law”), specifically Article 8.8, and states that the Election Law and other legal acts do not prescribe the procedure for the initiation of the process for determining the temporary incapacity of a member of the Presidency of Bosnia and Herzegovina to perform his/her office.

3. The applicant states: “Given the fact that Milorad Dodik blocks the functioning of the institutions of the system, brings the country into conflicts and divisions and has become a direct threat not only to peace and security but also to the international relations of Bosnia and Herzegovina, I request the Constitutional Court of Bosnia and Herzegovina to initiate, in accordance with the applicable regulations, the procedure for determination of Milorad Dodik’s temporary in/capacity to perform the office he holds.”

¹ The Election Law of Bosnia and Herzegovina has been cited here and the publication in the Official Gazette of Bosnia and Herzegovina has been referred to in the same manner as stated by the applicant. However, the Constitutional Court observes that the numbers of the official gazette in which the amendments to the Election Law were published have not been correctly indicated.

4. The applicant points out that the latest statements by Milorad Dodik, Member of the Presidency of Bosnia and Herzegovina, on derogating the competencies of the State of Bosnia and Herzegovina, which have all the elements of a planned and targeted attack on the constitutional order of Bosnia and Herzegovina, are a clear indicator that he acts in contravention of the Constitution although he undertook upon assuming the office, *inter alia*, to perform his duties conscientiously, to comply with the Constitution of Bosnia and Herzegovina and to implement the General Framework Agreement for Peace in Bosnia and Herzegovina and its annexes in full. Furthermore, the applicant alleges that the unconstitutional statements of Milorad Dodik, a member of the Presidency of Bosnia and Herzegovina, endanger peace, coexistence, political and economic stability of Bosnia and Herzegovina and the General Framework Agreement for Peace in Bosnia and Herzegovina, and the Constitutional Court should not (according to the applicant's opinion) tolerate that. The applicant especially points out that "announcements of withdrawal and prohibition of activities of the Armed Forces of BiH, the State Investigation and Protection Agency (SIPA), the Intelligence and Security Agency (OSA) of BiH, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC) of BiH, the Border Police of Bosnia and Herzegovina (GP) of BiH and the Indirect Taxation Authority (ITA) of BiH represent a direct attack on the constitutional and legal order of Bosnia and Herzegovina, because the Parliamentary Assembly of BiH, and not the National Assembly of the RS – the BiH Entity, passed the Law on Defence of BiH, the Law on Service in the BiH Armed Force, the Law on the State Investigation and Protection Agency, the Law on the Intelligence and Security Agency of BiH, the Law on the High Judicial and Prosecutorial Council (HJPC) of BiH, the Law on Border Control of BiH and the Law on Indirect Taxation Authority of BiH.

5. Furthermore, the applicant points out that Milorad Dodik, a member of the Presidency of Bosnia and Herzegovina, signed a solemn declaration upon taking office, the content of which has been stated by the applicant.

II. Relevant Law

6. The **Constitution of Bosnia and Herzegovina** as far as relevant reads:

Article IV (3) (f)

When a majority of the Bosniac, of the Croat, or of the Serb Delegates objects to the invocation of paragraph (e), the Chair of the House of Peoples shall immediately convene a Joint Commission comprising three Delegates, one each selected by the Bosniac, by the

Croat, and by the Serb Delegates, to resolve the issue. If the Commission fails to do so within five days, the matter will be referred to the Constitutional Court, which shall in an expedited process review it for procedural regularity.

Article VI (3) of the Constitution of Bosnia and Herzegovina

3. *Jurisdiction*

The Constitutional Court shall uphold this Constitution.

a) The Constitutional Court shall have exclusive jurisdiction to decide any dispute that arises under this Constitution between the Entities or between Bosnia and Herzegovina and an Entity or Entities, or between institutions of Bosnia and Herzegovina, including but not limited to:

- Whether an Entity's decision to establish a special parallel relationship with a neighbouring

state is consistent with this Constitution, including provisions concerning the sovereignty and territorial integrity of Bosnia and Herzegovina.

- Whether any provision of an Entity's constitution or law is consistent with this Constitution.

Disputes may be referred only by a member of the Presidency, by the Chair of the Council of Ministers, by the Chair or a Deputy Chair of either chamber of the Parliamentary Assembly,

by one-fourth of the members of either chamber of the Parliamentary Assembly, or by one-fourth of either chamber of a legislature of an Entity.

[...]

b) The Constitutional Court shall also have appellate jurisdiction over issues under this Constitution arising out of a judgment of any other court in Bosnia and Herzegovina.

c) The Constitutional Court shall have jurisdiction over issues referred by any court in Bosnia and Herzegovina concerning whether a law, on whose validity its decision depends, is compatible with this Constitution, with the European Convention for Human Rights and Fundamental Freedoms and its Protocols, or with the laws of Bosnia and Herzegovina; or

concerning the existence of, or the scope of a general rule of public international law pertinent to the court's decision.

Article X:

Amendment

1. Amendment Procedure

This Constitution may be amended by a decision of the Parliamentary Assembly, including a two-thirds majority of those present and voting in the House of Representative.

AMENDMENT I

TO THE CONSTITUTION OF BOSNIA AND HERZEGOVINA²

In the Constitution of Bosnia and Herzegovina, after Article VI (3), a new Article VI (4) shall be added and shall read:

“4. The Brčko District of Bosnia and Herzegovina

The Brčko District of Bosnia and Herzegovina, which exists under the sovereignty of Bosnia and Herzegovina and is subject to the responsibilities of the institutions of Bosnia and Herzegovina as those responsibilities derive from this Constitution, whose territory is held in condominium by the Entities, is a unit of local self-government with its own institutions, laws and regulations, and with powers and status definitively prescribed by the awards of the Arbitral Tribunal for the Dispute over the Inter-Entity Boundary in the Brčko Area. The relationship between the Brčko District of Bosnia and Herzegovina and the institutions of Bosnia and Herzegovina and the Entities may be further regulated by law adopted by the Parliamentary Assembly.

The Constitutional Court of Bosnia and Herzegovina shall have jurisdiction to decide in any dispute relating to protection of the determined status and powers of the Brčko District of Bosnia and Herzegovina that may arise between an Entity or more Entities and the Brčko District of Bosnia and Herzegovina or between Bosnia and Herzegovina and the Brčko

² Amendment I to the Constitution of Bosnia and Herzegovina published in the *Official Gazette of Bosnia and Herzegovina*, 25/95.

District of Bosnia and Herzegovina under this Constitution and the awards of the Arbitral Tribunal.

[...]

7. The **Election Law of Bosnia and Herzegovina** (*Official Gazette of BiH*, 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 48/11 - Decision of the CC BiH, 63/11 - Decision of the CC BiH, 15/12 – Ruling of the CC BiH, 11/13 - Rulings of the CC BiH, 18/13, 7/14, 31/16, 1/17 - Decision of the CC BiH, 54/17 - Ruling of the CC BiH and 41/20), as relevant reads:

Article 8.7

It shall require a decision of the Constitutional Court of Bosnia and Herzegovina to determine that a Member of the Presidency is unable to permanently carry out his or her functions due to incapacitation.

Article 8.8

(1) The Constitutional Court of Bosnia and Herzegovina may decide that a Member of the Presidency is unable to carry out his or her functions due to temporary incapacitation.

(2) In the event that a Member of the Presidency is unable to carry out his or her functions due to temporary incapacitation, as determined under paragraph 1 of this article, then the Member's replacement shall assume the rights, duties, and responsibilities of the incapacitated Member of the Presidency until a decision is made by the Constitutional Court of Bosnia and Herzegovina that this Member is no longer temporarily incapacitated.

8. Article 19 (1) (a) of the Rules of the Constitutional Court reads:

A request shall be inadmissible in any of the following cases:

a) The Constitutional Court is not competent to take a decision.

9. As it follows from the wording of the Constitution of Bosnia and Herzegovina, there are seven competencies conferred on the Constitutional Court. The enumeration of the seven competences is exclusive not allowing for the addition of further competences on the basis of law.

Thus, the Constitutional Court has exclusive jurisdiction to decide on all disputes arising from the Constitution between two Entities, or between Bosnia and Herzegovina and one or both Entities, or between the institutions of Bosnia and Herzegovina (Article VI (3) (a)). The Constitutional Court decides on positive or negative conflicts of jurisdiction, as well as on any other disputes that may arise in the relations between the State and Entity government structures, i.e. the institutions of Bosnia and Herzegovina. The Constitutional Court is also competent to examine whether the Entity's decision to establish a special parallel relationship with a neighbouring state is in accordance with the Constitution of Bosnia and Herzegovina, including provisions relating to the sovereignty and territorial integrity of Bosnia and Herzegovina. In addition, the Constitutional Court has jurisdiction to decide whether any provision of the constitution or law of an Entity is in accordance with the Constitution of Bosnia and Herzegovina, which means (and is derived from the Constitutional Court's case law) that the laws of Bosnia and Herzegovina are not excluded from constitutional review. The Constitutional Court shall also have appellate jurisdiction over issues under this Constitution arising out of a judgment of any other court in Bosnia and Herzegovina (Article VI (3) (b)) and shall have jurisdiction over issues referred by any court in Bosnia and Herzegovina concerning whether a law, on whose validity its decision depends, is compatible with this Constitution, with the European Convention for Human Rights and Fundamental Freedoms and its Protocols, or with the laws of Bosnia and Herzegovina; or concerning the existence of or the scope of a general rule of public international law pertinent to the court's decision (Article VI (3) (c)). Within the scope of the jurisdiction prescribed by Article IV (3) (f) of the Constitution of Bosnia and Herzegovina, the Constitutional Court shall resolve a dispute in which, in the opinion of the majority of delegates of one of the constituent peoples, the proposed decision of the Parliamentary Assembly is destructive to the vital national interest and, in the House of Peoples, all "parliamentary instruments" have been exhausted to address this issue. Finally, the Constitutional Court has jurisdiction to decide on any dispute concerning the protection of the established status and powers of the Brčko District of Bosnia and Herzegovina that may arise between one or more Entities and the Brčko District of Bosnia and Herzegovina, or between Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina under the Constitution of Bosnia and Herzegovina and the decisions of the Arbitration Tribunal (Article VI (4)). The mentioned jurisdiction is the result of the amendment procedure under Article X (1) of the Constitution of Bosnia and Herzegovina, and the aforementioned Amendment I was adopted by the Parliamentary Assembly of Bosnia and Herzegovina.

10. The first question to be answered by the Constitutional Court is whether it is competent to decide on a specific request, given that the competence of the Constitutional Court to determine whether a member of the Presidency of Bosnia and Herzegovina is temporarily incapable of performing his duty is not prescribed by the Constitution of Bosnia and Herzegovina. However, the applicant referred to Article 8.8 of the Election Law, which stipulates that the Constitutional Court may decide that a member of the Presidency of Bosnia and Herzegovina is temporarily incapable of performing his office. Therefore, the key question that arises here, and the answer to that question will determine the competence of the Constitutional Court to decide the submitted request, is whether the competences given to the Constitutional Court by the Constitution of Bosnia and Herzegovina allow the Constitutional Court to accept the competences which are not prescribed by this Constitution but are prescribed by the acts of lower legal force than the Constitution of Bosnia and Herzegovina.

11. The Constitutional Court recalls the case law referring to the interpretation of its jurisdiction. In Decision no. U-5/04, (see Decision on Admissibility U-5/04, of 27 January 2006, published in the *Official Gazette of Bosnia and Herzegovina*, 49/06), the Constitutional Court rejected the request for review of the conformity of Articles IV (1), IV (1) (a), IV (3) (b) and V (1) of the Constitution of Bosnia and Herzegovina with Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 3 of Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, for the lack of jurisdiction of the Constitutional Court to take action. In this Decision (paragraph 15), the Constitutional Court emphasized the following: *Although the Constitution of Bosnia and Herzegovina does not expressly provide for the Constitutional Court's jurisdiction as to the interpretation of the Constitution, it is clear that the Constitutional Court cannot exercise its jurisdiction unless it has first interpreted the relevant constitutional provisions and the provisions of the law subject to abstract review by the Constitutional Court on a request lodged with the Constitutional Court, as well as the provisions relating to its own jurisdiction. The Constitutional Court, however, must always adhere to the text of the Constitution of Bosnia and Herzegovina, which in the present case does not allow for wider interpretation of its jurisdiction, in view of the obligation of the Constitutional Court to "uphold this Constitution".*

12. Also, the Constitutional Court refers to the conclusion from the Decision no. U-6/06 (see U-6/06 of 29 March 2008, published in the *Official Gazette of Bosnia and Herzegovina*, 40/08), in which the request is partially granted and the Constitutional Court of BiH found that the Law on

Salaries and Other Compensations in Judicial and Prosecutorial Institutions at the Level of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, 90/05), in the part relating to the Constitutional Court of Bosnia and Herzegovina, is not in conformity with Articles VI (2) (b) and VI (3) and Article I (2) in conjunction with Article IX (2) of the Constitution of Bosnia and Herzegovina. In the said decision, the Constitutional Court concluded the following (paragraphs 23 and 24): [...] *the Constitutional Court notes that the principle of independence of the Constitutional Court, though it is not explicitly enunciated in the Constitution of Bosnia and Herzegovina, represents a general principle which must be complied with even when not explicitly enunciated in the constitutional text, since, as stated above, it is inseparable from the principle of the rule of law laid down in Article I (2) of the Constitution of Bosnia and Herzegovina. However, the principle of the rule of law and the independence of judiciary, as its inseparable part, and, in particular, the principle of separation of powers, by no means imply that the legislator cannot regulate by means of laws and regulations the issues important for the functioning of the State institutions, even when relating to the Constitutional Court, though only as provided for by and in accordance with the Constitution of Bosnia and Herzegovina.*

The Constitution of Bosnia and Herzegovina does not explicitly provide that the issues pertaining to the functioning of the Constitutional Court shall be regulated by separate laws. The only constitutional reference points related to the legislative solutions of the issues essential for the Constitutional Court are provided for in: (1) Article VI (1) (d) of the Constitution of BiH, which stipulates that for appointments made more than five years after the initial appointment of judges, the Parliamentary Assembly may provide by law for a different method of selection of the three judges selected by the President of the European Court of Human Rights; and (2) Article VI (2) (b) of the Constitution of BiH, which stipulates that the Constitutional Court shall adopt its own rules of court by a majority of all members. The fact that the framer of the Constitution has provided for the rules of court as a constitutional category leads to the conclusion that the allegations of amicus curiae that there is nothing in the Constitution that justifies any significant difference in interpretation between rules of procedures adopted by the Constitutional Court and those adopted by the Presidency or the Parliamentary Assembly. Quite the contrary, the fact that under Article VI (2) (b) of the Constitution of Bosnia and Herzegovina the authorization for adoption of own rules of procedure has been placed within the exclusive jurisdiction of the Constitutional Court, shows the intent of the framer of the Constitution to secure the independence of the Constitutional Court by way of enabling the court to prescribe its own rules of procedure and thereby to prevent any interference with the exercise of its assigned responsibilities, which also indicates that the

Constitutional Court has a special position according to the Constitution of Bosnia and Herzegovina.

13. Further, in the Decision no. U-7/13 (see Decision on Admissibility *U 7/13* of 27 September 2013, published in the *Official Gazette of Bosnia and Herzegovina*, 84/13, paragraph 9), *inter alia*, the Constitutional Court stated: *Accordingly, the competence of the Constitutional Court to independently regulate “the rules of court” ensues directly from the Constitution of Bosnia and Herzegovina with a clear goal to preserve the autonomy and independence of the Constitutional Court to the full extent. Precisely for that reason, the Rules of the Constitutional Court have a specific constitutional position and special constitutional nature. This also means that there is no manner in which that jurisdiction might be performed by any other Institution, including the Parliamentary Assembly of Bosnia and Herzegovina, since the Constitution of Bosnia and Herzegovina does not provide for something like that. In this manner, a clear distinction between the position of the Constitutional Court which draws its competencies directly from the Constitution of Bosnia and Herzegovina and the ordinary courts in relation to which the legislative authorities at the appropriate instances have the competence to pass adequate laws both those regulating organization and operations of these courts and the procedural laws under which these courts conduct their proceedings is established by the Constitution of Bosnia and Herzegovina. Such a distinction, inter alia, is the result of fact that the task of the Constitutional Court, as already stated, is to uphold the Constitution of Bosnia and Herzegovina through the exercise of jurisdictions, which are given exclusively to the Constitutional Court by the Constitution of Bosnia and Herzegovina in particular.*

14. The Constitutional Court refers to Article VI (1) (d) of the Constitution of Bosnia and Herzegovina, which stipulates that the Parliamentary Assembly may provide, by law, for a different manner of election of three judges elected by the President of the European Court of Human Rights. The principle of the rule of law (and the independence of the Constitutional Court as its inseparable part), and especially the principle of separation of powers, does not mean that the legislator cannot regulate issues that are important for the functioning of the State institutions, even if it is about the Constitutional Court. However, that is possible only as provided by and in accordance with the Constitution of Bosnia and Herzegovina. "Functioning" in a broader sense implies, i.e. includes the composition and procedure (rules of operation) and jurisdiction (competence) of the Constitutional Court. In doing so, the Constitutional Court points out that the members of the Constitutional Court are elected by the House of Representatives of the Federation of Bosnia and Herzegovina and the

National Assembly of the Republika Srpska (Article VI (1) (a)). In addition, the Parliamentary Assembly has the authority to determine the budget of the institutions of Bosnia and Herzegovina and to enact relevant laws, but it can do so only in compliance with the Constitution of Bosnia and Herzegovina. However, apart from the provision referred to in Article VI (1) (d) of the Constitution of Bosnia and Herzegovina, there is no constitutional provision that stipulates that issues related to the functioning (the essence of the work) of the Constitutional Court will be regulated by special laws. Neither is there a constitutional provision that prescribes the possibility for legislative authorities to interfere with the functioning of the Constitutional Court (its jurisdiction) by intervening through law. On the contrary, taking into account the special position and role of the Constitutional Court, the framer of the Constitution, by Article VI (2) (b) of the Constitution of Bosnia and Herzegovina, gave the authority to the Constitutional Court to adopt rules of procedure. Thus, the framer of the Constitution separated the Constitutional Court from other authorities in order to ensure the independence of the Constitutional Court and thereby prevent any interference with the exercise of the powers conferred upon it.

15. Therefore, in order to prevent interference with the jurisdiction of the Constitutional Court, the framer of the Constitution gave the Constitutional Court the authority to regulate the "rules of the court", with the clear aim of preserving the autonomy and independence of the Constitutional Court to the full extent. Therefore, it is quite clear that the competencies of the Constitutional Court stated in the Constitution of Bosnia and Herzegovina constitute precisely the basis for the specific position and special nature of the Constitutional Court. This also means that there is no way for the competencies given to the Constitutional Court by the Constitution of Bosnia and Herzegovina to be changed by any other institution, including the Parliamentary Assembly of BiH. It is because the Constitution of Bosnia and Herzegovina does not prescribe something like that, except in the amendment procedure prescribed under Article X (1) of the Constitution of Bosnia and Herzegovina. Therefore, the Constitutional Court concludes that no law can "transfer" any type of jurisdiction to the Constitutional Court, because such a possibility does not follow from the text of the Constitution of Bosnia and Herzegovina. The aforementioned would be contrary to the very principle of the rule of law, as the "law" would be placed above the "constitution."

16. In this connection, the Constitutional Court also recalls its case law in the case no. U-8/21 (see Decision on Admissibility and Merits, *U-8/21*, of 23 September 2021, published in the *Official Gazette of Bosnia and Herzegovina*, 63/21), in which it decided on the request for resolving the dispute between the Ministry of Civil Affairs of Bosnia and Herzegovina and the Federation of BiH

Ministry of the Interior in the case of obtaining the citizenship of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The mentioned Decision cites the legal provision of Article 32, paragraph (3) of the Law on Citizenship of Bosnia and Herzegovina - Official Consolidated Text (*Official Gazette of BiH*, 22/16), which reads: *If, following a reconsideration process, a dispute remains between the competent authorities of the Entity and Bosnia and Herzegovina, the matter must be submitted for a final decision to the Constitutional Court of Bosnia and Herzegovina, in accordance with Article VI (3) of the BiH Constitution.* With regard to the admissibility of the request in question, the Constitutional Court pointed out the following: [...] *it follows that the request filed with the Constitutional Court under Article VI (3) (a) of the Constitution of BiH essentially relates to the allegation of a dispute between the authorities at the State level and at the Entity level over conflicting opinions regarding the obtaining of BiH/FBiH citizenship and the legal consequences of not giving consent by the State level of government to the Entity level of government. In the opinion of the Constitutional Court, despite the opinions expressed by the Government of FBiH and the Federation of BiH Ministry as to the inadmissibility of the request, this is especially important, for in the procedure of obtaining citizenship of BiH/FBiH, in the present case, the Ministry as an Institution of BiH and the Federation of BiH Ministry as an Entity body passed two conflicting acts wherein they took different positions regarding the same issue, so it follows that such a dispute, within the meaning of Article VI (3) (a) of the Constitution of BiH, can be resolved only in the proceedings before the Constitutional Court.* Therefore, the issue of "dispute" in the mentioned case was not "transferred" to the Constitutional Court for resolution on the basis of the legal solution referred to in the Law on Citizenship of Bosnia and Herzegovina, but precisely because of the essence of the provision of Article VI (3) (a) of the Constitution of Bosnia and Herzegovina and the existence of a "dispute" or two conflicting acts of the State and Entity authorities adopted on the same issue.

17. Therefore, according to the Constitution of Bosnia and Herzegovina, it is obvious that the jurisdictions conferred by it on the Constitutional Court do not allow the Constitutional Court to accept jurisdiction not prescribed by this Constitution. This, in this particular case, means that the Constitutional Court is not competent to decide on the temporary incapacity of a member of the Presidency of Bosnia and Herzegovina, because such jurisdiction is not prescribed by the Constitution of Bosnia and Herzegovina.

18. In view of the provision of Article 19 (1) (a) of the Rules of the Constitutional Court, according to which a request shall be rejected as inadmissible if the Constitutional Court is not competent to take a decision, the Constitutional Court decided as stated in the enacting clause of this decision.

19. Pursuant to Article VI (5) of the Constitution of Bosnia and Herzegovina, the decisions of the Constitutional Court shall be final and binding.