

**THE CONSTITUTIONAL ACT
ON THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF CROATIA**

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I. GENERAL PROVISIONS

Article 1

This Constitutional Act regulates conditions and procedure for the election of judges of the Constitutional Court of the Republic of Croatia (hereinafter referred to as: the Constitutional Court) and termination of their office, conditions and terms for instituting proceedings for the review of constitutionality and legality, procedure and legal effects of its decisions, protection of human rights and fundamental freedoms guaranteed by the Constitution and other issues of importance for the performance of duties and functions of the Constitutional Court.

Article 2

(1) The Constitutional Court shall guarantee compliance with and application of the Constitution of the Republic of Croatia and shall base its work on provisions of the Constitution of the Republic of Croatia and the Constitutional Act on the Constitutional Court of the Republic of Croatia.

(2) The Constitutional Court shall be independent of all state bodies, and shall independently distribute the assets approved in the state budget for the functioning of the activities of the Constitutional Court, in accordance with its annual budget and the law.

(3) The internal organisation of the Constitutional Court shall be regulated in the Rules of Procedure of the Constitutional Court of the Republic of Croatia (hereinafter: Rules).

(4) The President of the Constitutional Court shall be in charge of the application of the Rules. The Rules shall be interpreted by the Constitutional Court.

Article 3

The work of the Constitutional Court shall be public.

Article 4

(1) Judges of the Constitutional Court shall enjoy the same immunity as the members of the Croatian Parliament.

(2) No judge of the Constitutional Court shall be responsible under the criminal law, detained or

punished for an opinion expressed or vote cast in the Constitutional Court.

(3) No judge of the Constitutional Court shall be detained, nor shall criminal proceedings be instituted against him/her without the approval of the Constitutional Court.

(4) A judge of the Constitutional Court may be detained without the approval of the Constitutional Court only if he/she has been caught in the act of committing a criminal offence for which a penalty of imprisonment of more than five years is prescribed by law. In such a case the state body which has arrested the judge shall instantly notify the President of the Constitutional Court thereof.

(5) The Constitutional Court may decide that the judge against whom criminal proceedings have been instituted may not perform his/her duties at the Constitutional Court during the proceedings.

II. CONDITIONS FOR THE ELECTION OF JUDGES OF THE CONSTITUTIONAL COURT, ELECTION OF JUDGES OF THE CONSTITUTIONAL COURT AND TERMINATION OF THEIR OFFICE

Article 5

(1) Judges of the Constitutional Court shall be elected from among Croatian citizens, jurists with at least 15 years of experience in the legal profession, who have been distinguished by their scientific or professional work or public activity.

(2) A person who has obtained a doctoral degree in legal science and fulfils all the conditions stated in the paragraph 1 of this Article may be elected as a judge of the -Constitutional Court if he/she has at least 12 years of experience in the legal profession.

Article 6

(1) The procedure for electing a judge of the Constitutional Court shall be instituted by the Committee of the Croatian Parliament competent for the Constitution (hereinafter: competent committee), which shall publish an invitation in the Official Gazette *Narodne novine* to judicial institutions, law faculties, the chamber of attorneys, legal associations, political parties, and other legal persons and individuals to propose candidates for the election of one or more judges of the Constitutional Court (hereinafter: invitation). An individual may propose himself as candidate.

(2) The invitation shall set down the conditions for electing a judge of the Constitutional Court determined by the Constitution and this Constitutional Act, the deadline for proposing a candidate to the competent committee, and the enclosures that shall be delivered with the proposal.

(3) After the deadline in paragraph 2 of this Article expires, the competent committee shall investigate whether the candidates comply with the conditions for being elected judge of the Constitutional Court as determined by the Constitution and this Constitutional Act, and shall reject invalid candidacies.

(4) The competent committee shall perform a public interview with each of the candidates who comply with the conditions for being elected judge of the Constitutional Court and on the basis of presented data and interview results shall compose a short list of candidates for judges of the Constitutional Court. As a rule the short list shall include more candidates than the number of judges of the Constitutional Court who will be elected.

(5) The competent committee shall submit to the Croatian Parliament, together with its proposal, the list of all the candidates who comply with conditions for being elected judge of the Constitutional Court. The proposal of the competent committee shall include the reasons showing

why the committee gave a particular candidate priority over the other candidates.

(6) Representatives in the Croatian Parliament shall vote for each proposed candidate individually.

(7) A candidate proposed for judge of the Constitutional Court shall be considered to have been elected judge of the Constitutional Court if a majority of the total number of representatives in the Croatian Parliament vote for him.

Article 7

(1) The elected judges of the Constitutional Court shall enter their office on the day of expiry of the term of office of their predecessors.

(2) The judge of the Constitutional Court who has been elected in place of the judge relieved of his/her office before the expiry of his/her term of office shall enter his office at the time determined by the Croatian Parliament.

Article 8

Before entering their office judges of the Constitutional Court shall take the following oath before the President of the Republic of Croatia: "I do solemnly swear that I will faithfully execute the office of the judge of the Constitutional Court of the Republic of Croatia in accordance with the Constitution and laws of the Republic of Croatia".

Article 9

(1) The mandate of the judge of the Constitutional Court shall begin on the day of entering his office.

(2) Six months before the expiry of the mandate of a judge of the Constitutional Court, the President of the Constitutional Court shall notify the Speaker of the Croatian Parliament thereof.

Article 10

(1) Judges of the Constitutional Court shall not perform any other public or professional duty.

(2) A university teacher of law (assistant professor, associate professor and full professor) elected as a judge of the Constitutional Court may, on a part-time basis and to a lesser extent, continue performing educational and scientific work as a university teacher of law.

(3) According to this Constitutional Act, neither other scientific or expert activities, nor membership of institutes and associations of lawyers, as well as of other humanitarian, cultural, sports and other associations, shall be considered to be public or professional duties.

Article 11

(1) A judge of the Constitutional Court may be relieved of office before the expiry of the term for which he/she has been elected:

- at his/her own request,
- if he/she has been sentenced to imprisonment for a criminal offence,
- if he/she has become permanently incapable of performing his/her duty.

(2) Grounds for relieving a judge of the Constitutional Court from his office before the expiry of the

term of his/her office shall be determined by the Constitutional Court, which shall notify the Speaker of the Croatian Parliament thereof.

Article 12

(1) If a judge of the Constitutional Court requests to be relieved of his/her office and if the Croatian Parliament does not decide upon the request within the period of three months, the office of judge of the Constitutional Court shall terminate by force of the Constitutional Act when the period of three months from making the request expires.

(2) The court of justice which has pronounced the sentence of imprisonment shall deliver without delay the final judgment to the Constitutional Court, which shall notify the Speaker of the Croatian Parliament forthwith.

(3) Proceedings for determining permanent incapacity of a judge of the Constitutional Court to perform his/her office shall be instituted at the proposal of the President of the Constitutional Court to the Constitutional Court.

(4) Proceedings for determining permanent incapacity of the President of the Constitutional Court shall be instituted at the proposal of three judges of the Constitutional Court to the Constitutional Court.

(5) The decision on the proposal stated in paragraph 4 of this Article shall be made by the Constitutional Court by the majority of votes of all its judges.

Article 13

(1) During the proceedings regulated by the provisions of Articles 10 and 11 of this Constitutional Act, the Constitutional Court judge may be suspended from performing duty.

(2) The decision on suspension, at the proposal of the President of the Constitutional Court, shall be made by the Constitutional Court by the majority of votes of all its judges.

(3) Proposal for the suspension of the President of the Constitutional Court shall be made by three judges.

(4) The decision on the proposal for the suspension of the President of the Constitutional Court shall be made by the Constitutional Court by the majority of votes of all its judges.

Article 14

(1) The judge of the Constitutional Court whose term of office has expired has the right to retire under the same conditions as the members of the Croatian Parliament.

(2) The judge of the Constitutional Court who has been relieved of his/her office before the expiry of the term of his/her office at his/her own request, or because of permanent incapacity to perform his/her duty has the right to retire under the same conditions as stated for the judge in paragraph 1 of this Article.

Article 15

The Constitutional Court shall elect the President of the Constitutional Court for a term of four years by secret ballot by the majority of votes of all its judges.

Article 16

No judge of the Constitutional Court shall be a member of any political party, nor shall he/she in his/her public activities and behavior express personal support to any political party.

III PROCEEDINGS OF THE CONSTITUTIONAL COURT – GENERAL PROVISIONS

Article 17

(1) Proceedings of the Constitutional Court shall be initiated by a written request, a proposal or a constitutional complaint (hereinafter referred to as: applications).

(2) All applications sent to the Constitutional Court must be signed.

(3) The application is to be submitted to the Constitutional Court directly or sent by mail. The day the application has been sent as registered mail shall be considered the day of submission to the Constitutional Court.

(4) If the application has not been submitted to the Constitutional Court but to another body and has been received by the Constitutional Court after the expiration of the term for submission of the application, it shall be considered as being submitted within the term if the applicant has submitted the application to that body because of ignorance or an apparent mistake.

Article 18

(1) Applications instituting the proceedings, respective those proposing the institution of proceedings, as well as all other written statements, proposals and information shall be submitted to the Constitutional Court in the Croatian language and the Latin script.

(2) In those local units in which, under the conditions specified by law, along with the Croatian language and the Latin script, another language is introduced into official use or Cyrillic or some other script, the participant in proceedings who is a resident, or is seated on the territory of that local unit, may also submit the applications to the Constitutional Court in this other language and the Cyrillic or some other script.

Article 19

(1) Applications submitted to the Constitutional Court must be understandable and must contain all the prerequisites for proceeding upon them.

(2) If an application is not understandable or if it does not contain all the prerequisites for proceeding upon it, the Constitutional Court shall return the application to the applicant for correction, respective a supplement, ordering the term for resubmission of the application.

(3) If the application has been corrected, respective supplemented and resubmitted to the Constitutional Court within the term ordered for correction respective a supplement, it shall be considered as being submitted on the day it was submitted for the first time.

(4) The application shall be considered as withdrawn if not returned to the Constitutional Court within the ordered term. If returned without correction, respective a supplement, it shall be rejected.

Article 20

(1) Proceedings are conducted by a judge of the Constitutional Court.

(2) Proceedings shall be conducted in such a manner to enable the Constitutional Court to make

the decision on the substance of the case.

Article 21

If there exist reasons to exclude the public from the proceedings, a judge of the Constitutional Court shall note it in his/her report.

Article 22

If a delivery is to be done to individuals or legal persons abroad or to the aliens who enjoy the right of immunity, the delivery shall be done through a diplomatic respective a consular path, unless an international agreement provides for something else.

Article 23

Every participant in the Constitutional Court proceedings shall pay his/her own expenses unless decided differently by the Constitutional Court.

Article 24

- (1) Participants may undertake actions in the proceedings in person or through a representative.
- (2) Special authorization for undertaking all or only specific activities in the proceedings shall be grounded on a special authorization.

Article 25

- (1) Everyone is due to present to the Constitutional Court, on its request, documents and information needed for the conduct of proceedings.
- (2) Exceptionally, in the case when repeated requests of the Constitutional Court in paragraph 1 of this Article have not been complied with, the Constitutional Court may order that the documents shall be seized.

Article 26

The written records of the Constitutional Court Sessions shall be made.

Article 27

- (1) The Constitutional Court renders decisions and rulings by a majority vote of all its judges, unless differently provided by the Constitution or this Constitutional Act.
- (2) When deciding on the substance of the case the Constitutional Court renders a decision, and in all other cases a ruling.
- (3) Reasons shall be given for the decision and the ruling of the Constitutional Court.
- (4) The judge of the Constitutional Court who has a separate opinion is due to give the reasons for it in writing.
- (5) The judge of the Constitutional Court who voted against the majority may, within a reasonable time from the day the decision or ruling was written, give reasons for his/her opinion in writing, and publish it.
- (6) The judge of the Constitutional Court shall not abstain from voting, except in the case when

he/she has participated in passing the law, some other regulation or decision which are the matter of the decision in hand.

Article 28

(1) The decision and the ruling of the Constitutional Court shall have an introduction, a dictum and reasons.

(2) The introduction of a decision, respective a ruling contains: the title of the Constitutional Court, names and surnames of the president and judges who have participated in rendering the decision, respective the ruling, a brief note on the case being decided and the date of the decision, respective the ruling.

(3) The dictum contains judgment of the Constitutional Court in the case.

(4) In the reasons, the Constitutional Court shall explain the content of the application which proposes the institution of proceedings, respective the one by which the proceedings have been instituted, present the reasons for deciding as in the dictum and the legal foundation upon which the decision has been grounded.

Article 29

(1) Decisions and important rulings of the Constitutional Court, passed in the proceedings for reviewing the constitutionality of laws and the constitutionality and legality of other regulations, and decisions and rulings passed in Constitutional Court proceedings for the protection of human rights and fundamental freedoms guaranteed by the Constitution, shall be published in the Official Gazette *Narodne novine*. If more decisions or rulings are grounded on the same legal foundation or the same or similar facts of the case, only one decision or ruling shall be published.

(2) The Session of the Constitutional Court shall decide on the publication of other acts of the Constitutional Court.

Article 30

(1) The Constitutional Court shall deliver an official copy of its decision, respective the ruling, to the participants in the proceedings.

(2) If the summons, decisions or rulings of the Constitutional Court may not, for whatever reason, be delivered to the participants in the proceedings, the delivery for them is done by affixing the summons, the decision or the ruling up to the notice board of the Constitutional Court.

(3) The delivery is considered done after the expiration of eight days from the day the summons, the decision or the ruling has been affixed up to the notice board of the Constitutional Court.

(4) In case of publishing the decision or the ruling in the Official Gazette *Narodne novine*, the delivery is considered done on the day of publication.

Article 31

(1) The decisions and the rulings of the Constitutional Court are obligatory and every individual or legal person shall obey them.

(2) All bodies of the central government and the local and regional self-government shall, within their constitutional and legal jurisdiction, execute the decisions and the rulings of the Constitutional Court.

(3) The Government of the Republic of Croatia ensures, through the bodies of central

administration, the execution of the decisions and the rulings of the Constitutional Court.

(4) The Constitutional Court might determine which body is authorized for the execution of its decision, respective its ruling.

(5) The Constitutional Court may determine the manner in which its decision, respective its ruling shall be executed.

Article 32

The Constitutional Court shall by its ruling reject a request, a proposal or a constitutional complaint if it is not competent for deciding upon it or if they have been late and in all other occasions when there exist no conditions to decide on the substance of the case.

Article 33

The Constitutional Court shall render the decision upon the request, the accepted proposal and the constitutional complaint, as a rule, within the term not longer than one year.

Article 34

If not differently provided by this Constitutional Act, the Constitutional Court shall subsidiarily meaningfully apply the provisions of the relevant procedural legislation of the Republic of Croatia.

IV. REVIEW OF THE CONSTITUTIONALITY OF LAWS AND THE CONSTITUTIONALITY AND LEGALITY OF OTHER REGULATIONS

Article 35

The request by which the proceedings before the Constitutional Court are instituted may be presented by:

- one fifth of the members of the Croatian Parliament,
- a committee of the Croatian Parliament,
- the President of the Republic of Croatia,
- the Government of the Republic of Croatia, to review the constitutionality and legality of regulations,
- the Supreme Court of the Republic of Croatia or another court of justice, if the issue of constitutionality and legality has arisen in proceedings conducted before that particular court of justice,
- the People's Ombudsman in proceedings provided by Article 92 of the Constitution of the Republic of Croatia.

Article 36

(1) If the representative body of the unit of local and regional self-government in the Republic of Croatia considers that a law regulating the organisation, competence or financing of units of local and regional self-government is not in accordance with the Constitution, it may present a request

with the Constitutional Court to review the constitutionality of that law or some of its provisions.

(2) The Constitutional Court shall decide on the request in paragraph 1 of this Article using emergency procedure within a term of 30 days after the request was filed.

Article 37

(1) If a court of justice in its proceedings determines that the law to be applied, or some of its provisions, are not in accordance with the Constitution, it shall stop the proceedings and present a request with the Constitutional Court to review the constitutionality of the law, or some of its provisions.

(2) If the court of justice in its proceedings determines that another regulation to be applied, or some of its provisions, are not in accordance with the Constitution and the law, it shall directly apply the law to that specific case and shall present a request with the Constitutional Court to review the constitutionality and legality of the disputed regulation or some of its provisions.

(3) The Constitutional Court shall inform the Supreme Court of the Republic of Croatia about the requests lodged in paragraphs 1 and 2 of this Article.

Article 38

(1) Every individual or legal person has the right to propose the institution of proceedings to review the constitutionality of the law and the legality and constitutionality of other regulations.

(2) The Constitutional Court itself may decide to institute proceedings to review the constitutionality of the law and the review of constitutionality and legality of other regulations.

Article 39

(1) The request for review of the constitutionality of the law or the constitutionality and legality of other regulations shall contain the naming of the provisions the constitutionality, respective the legality, of which is being disputed, the naming of the provisions of the Constitution or the law for which the request asserts to be violated, the reasons to assert that the disputed regulation was not in accordance with the Constitution, respective the law, and the signature and seal of the presenter.

(2) In the request, the presenter may include the other evidence of significance for adjudication of the matter, and his/her opinion whether the disputed regulation should be repealed or annulled.

(3) The request for review of the constitutionality and legality of another regulation shall enclose the disputed act.

Article 40

(1) The proposal to institute proceedings to review the constitutionality of the law or the constitutionality and legality of other regulations contains, as a rule, the same as the request.

(2) The Constitutional Court shall institute proceedings within a term of one year after the proposal has been lodged.

Article 41

Every request, respective a proposal to institute the proceedings to review the constitutionality of the law or the constitutionality and legality of the other regulation shall be assigned to the reporting

judge for elaboration by the president of the Constitutional Court.

Article 42

(1) On the proposal of the reporting judge the Constitutional Court may send the request, respective the proposal to the body which had brought the disputed regulation for a response.

(2) If the body mentioned in paragraph 1 of this Article does not respond during the term of 60 days, the Constitutional Court shall forward the proceedings.

Article 43

(1) Upon the proposal that the Constitutional Court institutes proceedings for review of the constitutionality of the law and the review of constitutionality and legality of other regulations, the Constitutional Court at its Session adopts the ruling whether to accept the proposal and institute proceedings.

(2) The Constitutional Court shall inform the applicants on the institution of proceedings, respective the refusal of the proposal as might be the case.

(3) The ruling to institute the proceedings to review the constitutionality of the law shall be published in the Official Gazette *Narodne novine*.

Article 44

(1) The proceedings to review the constitutionality of the law or the constitutionality and legality of other regulations shall be considered instituted on the day the request was received by the Constitutional Court, respective on the day of handing it to the post office as registered mail.

(2) The proceedings to review the constitutionality of the law and the constitutionality and legality of other regulations upon the proposal shall be considered instituted on the day the ruling to institute the proceedings was brought.

Article 45

The Constitutional Court may, until the final decision, temporarily suspend the execution of the individual decisions or actions undertaken on the grounds of the law or the other regulation, the constitutionality respective the legality of which is being reviewed, if their execution might cause grave and irreparable consequences.

Article 46

(1) When the case has been elaborated in such a manner as to enable the Constitutional Court to decide the substance of the matter, the reporting judge submits the draft decision or ruling on the case to the president of the Constitutional Court.

(2) The draft decision or ruling shall contain the information on the request or the proposal, on the procedural actions undertaken, on principal facts and legal matters, the opinions received and the opinion whether the case may be decided at the Session without a public hearing or the public hearing should be convoked.

Article 47

(1) The president of the Constitutional Court puts the received draft decision or ruling on the schedule of the Constitutional Court Session in order to decide the case.

(2) Unless the Constitutional Court decides differently, the secretary general and the legal advisers of the Constitutional Court and the head of the Office of Records and Documentation are present at the Session and may take part in deliberations.

(3) Journalists and the media reporters may be present at the Session and the public hearing as well as the other gatherings in the Constitutional Court.

(4) Permission of the president of the Constitutional Court is required for television transmission and radio broadcasting from the Constitutional Court.

Article 48

(1) At the Session, the reporting judge orally explains the draft decision or ruling and gives additional clarifications if necessary.

(2) The judge may authorize a legal adviser to present the case to the Session.

(3) After that, the president of the Constitutional Court opens the floor for a discussion.

(4) When the discussion of the case is completed, the president puts the proposal of the reporting judge on for deciding, and then the other proposals presented in the discussion of the case as well.

(5) If the Constitutional Court does not accept the proposal of the reporting judge, it may return the draft decision or ruling to the reporting judge for a supplement or authorize the other judge to elaborate another opinion.

Article 49

(1) The Constitutional Court holds a consultative session if it considers that a discussion with participants in the proceedings, governmental bodies, bodies of local and regional self-government, associations, scientists and other experts, is needed before deciding on the substance of the matter.

(2) The consultative session may be also convoked by the reporting judge, about which he is due to inform the president of the Constitutional Court.

Article 50

(1) The Constitutional Court in Session may conclude to make the decision on the substance of the matter on the grounds of a public hearing.

(2) A public hearing is convoked by the president of the Constitutional Court.

(3) The participants in the proceedings and the representatives of the state bodies, the bodies of local and regional self-government and associations, as well as the persons whose participation at the public hearing is needed, are summoned to the public hearing.

(4) Failure of the summoned participants in the proceedings and other persons to appear does not prevent the Constitutional Court from continuing the proceedings and making the decision if it is of an opinion that the conditions for this exist.

(5) In justified circumstances the Constitutional Court may postpone a public hearing and convoke the new one.

Article 51

(1) The president of the Constitutional Court conducts the public hearing, while the reporting judge reports on the principal facts and the legal matters of the case.

(2) The written record of the public hearing is conducted. The written record is conducted by the counselor of the Constitutional Court who has cooperated with the judge in the elaboration of the case. The public hearing is stenotyped or audio recorded unless the president of the Constitutional Court decides differently. The audio record of the public hearing is enclosed with the written record.

(3) The written record of the public hearing shall be signed by the president of the Constitutional Court and the legal adviser who has conducted the record.

Article 52

When the Constitutional Court holds that the case has been discussed to the extent, which enables rendering the decision, the president of the Constitutional Court shall proclaim the hearing concluded.

Article 53

(1) The Constitutional Court renders the decision at a separate Session.

(2) The Session of the Constitutional Court may be held if the majority of all judges are present.

(3) The summary of the case, the decision on the case and the result of voting (who has voted "for" and who "against") are entered into the written record of the Session.

Article 54

The Constitutional Court may review the constitutionality of the law, respective the constitutionality and legality of other regulations even in the case when the same law or regulation has already been reviewed by the Constitutional Court.

Article 55

(1) The Constitutional Court shall repeal a law, or some of its provisions, if it finds that it is not in accordance with the Constitution; or another regulation, or some of its provisions, if it finds that it is not in accordance with the Constitution and the law.

(2) The repealed law or other regulation, or their repealed separate provisions, shall lose legal force on the day of publication of the Constitutional Court decision in the Official Gazette *Narodne novine*, unless the Constitutional Court sets another term.

(3) The Constitutional Court may annul a regulation, or its separate provisions, taking into account all the circumstances important for the protection of constitutionality and legality, and especially bearing in mind how seriously it violates the Constitution or the law, and the interest of legal security:

- if it violates the human rights and fundamental freedoms guaranteed by the Constitution,
- if, without grounds, it places some individuals, groups or associations in a more or a less privileged position.

Article 56

(1) The Constitutional Court may review the constitutionality of a law, and the constitutionality and legality of another regulation, or some of their provisions, even though they are no longer in legal force, if no more than a year elapsed between the date they went out of force and the date when the request or proposal to initiate proceedings was lodged.

(2) If in its proceedings of review it establishes that the act in paragraph 1 of this Article is not in accordance with the Constitution or the law, the Constitutional Court shall pass a decision declaring the unconstitutionality of the law, or the unconstitutionality and illegality of another regulation, or some of their provisions.

(3) In the case of paragraph 2 of this Article the provisions of Articles 56 and 56a of this Constitutional Act shall accordingly be applied.

Article 57

(1) In case when the proceedings to review the constitutionality of the law, respective of the constitutionality and legality of the other regulation have been instituted before the Constitutional Court, and the competent body repeals or amends this law, respective the other regulation prior to the proceedings before the Constitutional Court have been concluded, the Constitutional Court shall complete the instituted proceedings.

(2) In case when the unconstitutionality of the repealed or amended law, respective the unconstitutionality or illegality of another regulation mentioned in paragraph 1 of this Article is ascertained, the Constitutional Court shall bring the decision on its unconstitutionality or illegality, upon which everyone whose right has been violated by a final individual act grounded on the repealed or amended law or another regulation, has the right to request from the competent body to change this individual act by an analogous application of the provisions of Article 56 of this Constitutional Act.

Article 58

(1) The final sentence for a criminal offence grounded on a legal provision that has been repealed because it is not in accordance with the Constitution does not produce legal effects from the date when the Constitutional Court decision repealing the provision of the law on the basis of which the sentence was passed enters into force, and the final sentence may be changed by the appropriate application of the provisions on renewing criminal proceedings.

(2) Every individual or legal person who lodged with the Constitutional Court a proposal to review the constitutionality of the provision of a law, or the constitutionality and legality of the provision of another regulation, and the Constitutional Court accepted the proposal and repealed the provision of the law, or the provision of another regulation, has the right to submit a request to the competent body to change the final individual act whereby his/her right was violated, and which was passed on the basis of the repealed provision of the law, or the repealed provision of the other regulation, by the appropriate application of the provisions on renewing proceedings.

(3) Every individual or legal person whose right has been violated by a final individual act grounded upon the repealed provision of another regulation has the right to submit a request to the competent body to change that individual act by the appropriate application of the provisions on renewing proceedings.

(4) The request for changing the final individual act in paragraphs 2 and 3 of this Article may be submitted within a term of six months from the day when the Constitutional Court decision was published in the Official Gazette *Narodne novine*.

(5) In proceedings in which no final decision was passed before the date of the entry into force of the Constitutional Court decision repealing the law, or annulling or repealing another regulation, or

some of their provisions, and this law or other regulation were to be directly applied in the legal matter, the repealed law or annulled or repealed other regulation, or their repealed or annulled provisions, shall not be applied from the date when the Constitutional Court decision enters into force.

Article 59

If the final court sentence for a criminal act grounded on a legal provision that has been repealed has produced legal effects, or if by changing the final individual act in Article 56, paragraphs 2 and 3, of this Constitutional Act the damaging effects that are the consequence of the violation of the party's rights cannot be redressed, the party may within the term in Article 56, paragraph 4, of this Constitutional Act lodge a request with the competent court to redress these effects by compensation for damage.

Article 60

When the court of justice by the final judgment has refused to apply the regulation because of its unconstitutionality or illegality, but the Constitutional Court finds that such unconstitutionality, respective illegality does not exist, everyone whose right has been violated may request a change of the final judgment of the court during the term of one year from the publication of the Constitutional Court decision.

Article 61

The Constitutional Court may end the proceedings if the applicant withdraws the request, respective the proposal, and shall do so in the cases when the requirements for the conduct of proceedings cease to exist.

V. PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Article 62

(1) Everyone may lodge a constitutional complaint with the Constitutional Court if he deems that the individual act of a state body, a body of local and regional self-government, or a legal person with public authority, which decided about his/her rights and obligations, or about suspicion or accusation for a criminal act, has violated his/her human rights or fundamental freedoms guaranteed by the Constitution, or his/her right to local and regional self-government guaranteed by the Constitution (hereinafter: constitutional right).

(2) If some other legal remedy is provided against violation of the constitutional rights, the constitutional complaint may be lodged only after this remedy has been exhausted.

(3) In matters in which an administrative dispute is provided, respective a revision in civil or extra-litigation procedure, remedies are exhausted after the decision has been rendered upon these legal remedies.

Article 63

(1) The Constitutional Court shall initiate proceedings in response to a constitutional complaint even before all legal remedies have been exhausted in cases when the court of justice did not decide within a reasonable time about the rights and obligations of the party, or about the suspicion or accusation for a criminal offence, or in cases when the disputed individual act grossly violates constitutional rights and it is completely clear that grave and irreparable consequences may arise for the applicant if Constitutional Court proceedings are not initiated.

(2) If the decision is passed to adopt the constitutional complaint for not deciding in a reasonable time in paragraph 1 of this Article, the Constitutional Court shall determine a deadline for the competent court of justice within which that court shall pass the act meritoriously deciding about the applicant's rights and obligations, or the suspicions or accusation of a criminal offence. Such deadline for passing the act shall begin to run on the day following the date when the Constitutional Court decision is published in the Official Gazette *Narodne novine*.

(3) In the decision in paragraph 2 of this Article, the Constitutional Court shall determine appropriate compensation for the applicant for the violation of his/her constitutional right committed by the court of justice by not deciding within a reasonable time about his/her rights and obligations, or about the suspicions or accusations of a criminal offence. The compensation shall be paid from the state budget within a term of three months from the date when the applicant lodged a request for its payment.

Article 64

The constitutional complaint may be submitted during the term of 30 days from the day the decision was received.

Article 65

(1) The constitutional complaint shall contain the name and surname, the personal identification number of the citizen, the domicile or temporary residence, respective the firm and the seat of the applicant of the constitutional complaint, the name and surname of his/her representative, the title of the disputed decision, the title of constitutional right that is claimed to have been violated, with indication of the relevant constitutional provision guaranteeing this right, the evidence that the legal remedies have been exhausted and that the complaint is timely submitted as well as the signature of the applicant.

(2) The disputed act in original or in a certified copy shall be enclosed with the constitutional complaint.

Article 66

(1) The Constitutional Court shall permit restitution into the previous state to the person who for the justified reasons has omitted the term for submission of the constitutional complaint, if during the term of 15 days after the cessation of the reason which has caused the omission he submits the proposal for restitution into the previous state and at the same time submits the constitutional complaint.

(2) After the expiration of three months from the day of omission, the restitution into the previous state may not be sought.

(3) Restitution into the previous state shall not be permitted if the term for submission of the proposal for permission of restitution into the previous state has been omitted.

Article 67

(1) The constitutional complaint, as a rule, does not prevent the application of the disputed act.

(2) The Constitutional Court may, on the proposal of the applicant, postpone the execution of court of justice decision until the decision is made, if the execution would cause to the applicant such damage, which could hardly be repaired, and the postponement is not contrary to the public interest nor would the postponement cause to anyone greater damage.

Article 68

(1) A council composed of six judges shall decide about a constitutional complaint.

(2) A council composed of three judges shall decide about constitutional complaints when procedural requirements for deciding upon them do not exist (late, unauthorized to lodge a constitutional complaint, inadmissible etc.).

(3) The council shall decide unanimously and with all its members present.

(4) If the council does not reach a unanimous decision, or if the council holds that the matter of the constitutional complaint is of broader significance, the Session of the Constitutional Court shall decide on the constitutional complaint.

Article 69

The reporting judge:

- invites the applicant, ordering the term, to supplement the constitutional complaint or to correct it if not understandable, respective if after the evidence and the enclosures it cannot be ascertained from the constitutional complaint which act is disputed or if the constitutional complaint has not been signed (incomplete constitutional complaint),

- delivers, as may be needed, a copy of the constitutional complaint to the interested persons and invites them to respond to it,

- demands, as may be needed, the delivery of the file which relates to the matter of the constitutional complaint, respective the report on the violations of the constitutional rights done by the disputed act.

Article 70

During the ordered term, the body which had brought the disputed act is due to deliver to the Constitutional Court all the documents related to the matter of the constitutional complaint.

Article 71

(1) The council, respective the Session of the Constitutional Court shall examine only the violations of constitutional rights which are stated in the constitutional complaint.

(2) A constitutional complaint shall not be considered in cases when it does not deal with the violation of a constitutional right.

(3) A council composed of three judges shall pass the decision in paragraph 2 of this Article. If the council does not reach a unanimous decision, a council composed of six judges, i.e. the Session of the Constitutional Court, shall pass the decision.

Article 72

The Constitutional Court shall reject the constitutional complaint by a ruling if it is not competent, if the constitutional complaint has not been timely submitted, or if it is incomplete, not understandable or not permissible. The constitutional complaint is not permissible: if the provided legal remedies are not exhausted, respective if the applicant has omitted to use the provided legal remedy in the previous procedure, with the exception provided for in Article 63 of this Constitutional Act; if the complaint has been submitted by the person not entitled to submit it, and if the complaint has been submitted by a legal person who cannot be entitled to the constitutional rights.

Article 73

- (1) The Constitutional Court resolves the constitutional complaint by the decision.
- (2) By the decision, the constitutional complaint shall be accepted or refused as not grounded.

Article 74

If ascertained that the constitutional right of the applicant has been violated not only by the disputed, but also by some other act brought in this matter, the Constitutional Court shall repeal by the decision, as a whole or in part, and this act as well.

Article 75

The constitutional complaint shall be refused by the decision when the Constitutional Court ascertains that the reasons for which the act has been disputed do not exist.

Article 76

- (1) By its decision to accept a constitutional complaint, the Constitutional Court shall repeal the disputed act by which a constitutional right has been violated.
- (2) If the competent judicial or administrative body, body of a unit of local and regional self-government, or legal person with public authority, are obliged to pass a new act to replace the act that was repealed by the decision in paragraph 1 of this Article, the Constitutional Court shall return the matter to the body that passed the repealed act for renewed proceedings. If the law regulating competency for proceeding in that legal matter was changed before the Constitutional Court had passed its decision, the body that conducted the proceedings and passed the repealed act shall without delay refer the matter to the competent body.
- (3) If the disputed act that violated the constitutional right of the applicant no longer produces legal effect, the Constitutional Court shall pass a decision declaring its unconstitutionality, and state in the dictum which constitutional right of the applicant had been violated by that act.

Article 77

- (1) When the constitutional complaint is accepted and the disputed act repealed, the Constitutional Court shall state in the reasons for the decision which constitutional right has been violated and what makes the violation.
- (2) When passing the new act from Article 72, paragraph 2, of this Constitutional Act, the competent judicial or administrative body, body of a unit of local and regional self-government, or legal person with public authority, is obliged to obey the legal opinion of the Constitutional Court expressed in the decision repealing the act whereby the applicant's constitutional right was violated.

Article 78

- (1) The original of the decision, respective the ruling, shall be signed by the president of the council (if the constitutional complaint has been decided by the council), respective the president of the Constitutional Court (if the constitutional complaint has been decided by the Session of the Constitutional Court) as well as the reporting judge and the legal adviser.
- (2) The Constitutional Court shall deliver the official copy of its decision, respective the ruling to the applicant of the constitutional complaint, to the body which has brought the disputed act and to the person whom the Constitutional Court has invited to respond.

Article 79

The proceedings instituted by the constitutional complaint shall end:

- when the applicant dies,
- when the applicant, who is a legal person ceases to exist,
- in case the constitutional complaint is withdrawn.

Article 80

The Constitutional Court may order that the applicant of the constitutional complaint who has not succeeded with his/her complaint reimburses the expenses of the proceedings before the Constitutional Court if he/she has caused them intentionally.

VI. RESOLVING JURISDICTIONAL DISPUTES BETWEEN THE LEGISLATIVE, THE EXECUTIVE AND THE JUDICIAL BRANCHES

Article 81

(1) If a jurisdictional dispute between the bodies of the legislative, the executive or the judicial branches occurs, because a certain body of the legislative, the executive or the judicial branch accepts jurisdiction in the same matter, each of these bodies may require that the Constitutional Court resolve the jurisdictional dispute.

(2) The request to resolve the jurisdictional dispute may also be submitted by a party whose interest has been violated or could be violated because of the dispute.

(3) The request is to be submitted during the term of 30 days from the day of learning that the other body has accepted the jurisdiction.

(4) The Constitutional Court may order that the procedure before the bodies between whom the jurisdictional dispute has occurred be standstill until its decision.

Article 82

(1) If a jurisdictional dispute between the bodies of the legislative and the executive or the judicial branch occurs, because a certain body of the legislative, the executive or the judicial branch refuses the jurisdiction in the same matter, the request to resolve the jurisdictional dispute may be submitted after entering into force of the court decision, respective the final decision of the body of the executive branch or the corresponding decision of the legislative body, who has first decided on its jurisdiction.

(2) The request mentioned in the previous paragraph may also be submitted by the party who, because of the rejection of jurisdiction, could not effectuate its right, as well as each of the bodies of the legislative, the executive and the judicial branch between whom the dispute occurred.

(3) The request shall be submitted within the term of 30 days from the date when the court decision entered into force, from the date of the final decision of the body of the executive branch, or from the date of the corresponding decision of the legislative body from paragraph 1 of this Article whereby the other body of state authority declared non-competent.

VII. PROCEEDINGS ON THE IMPEACHMENT OF THE PRESIDENT OF THE REPUBLIC OF CROATIA

Article 83

(1) The act of the Croatian Parliament concerning the impeachment of the President of the Republic shall contain the description of facts and the legal qualification as well as the evidence of the violation of the Constitution for which the President of the Republic is charged.

(2) The Constitutional Court shall obtain the statement of the President of the Republic about the act of impeachment of the Croatian Parliament and shall enable him to participate in the proceedings.

Article 84

The Constitutional Court shall by the decision refuse the ungrounded act of impeachment or determine the responsibility of the President of the Republic.

VIII. CONTROL OF THE CONSTITUTIONALITY OF PROGRAMS AND ACTIVITIES OF POLITICAL PARTIES

Article 85

The Constitutional Court controls the constitutionality of programs and activities of political parties and shall ban their work if ascertained that the requirements provided by the Constitution and law exist.

Article 86

The request to ban the work of a political party or its section may be submitted by the President of the Republic of Croatia, the Croatian Parliament, the Government of the Republic of Croatia, the Supreme Court of the Republic of Croatia, the body authorized for registration of the parties and the Attorney General of the Republic of Croatia.

IX. CONTROL OF THE CONSTITUTIONALITY AND LEGALITY OF THE ELECTIONS AND THE NATIONAL REFERENDUM AND THE ELECTORAL DISPUTES

Article 87

The Constitutional Court:

- controls the constitutionality and legality of elections,
- controls the constitutionality and legality of the national referendum,

- decides on the electoral disputes, which are not within the jurisdiction of the courts of justice, acting as a court of appeal against the rulings of the competent electoral commission.

Article 88

Political parties, candidates, not less than 100 voters or not less than 5 percent of voters of the constituency in which the elections are held are authorized during the elections, respective not later than the expiry of the term of 30 days from publishing the results of the elections, to request from the Constitutional Court to undertake relevant measures, performing the control of the constitutionality and legality of the elections, if the electoral activities are being carried out in discordance with the Constitution and the law.

Article 89

When the Constitutional Court ascertains that the participants in the elections act contrary to the Constitution and the law, it shall inform the public over the media, if needed warn the competent bodies, and in case of violation which influenced or might have influenced the results of the elections, shall annul all or separate electoral activities and decisions, which preceded such violation.

Article 90

(1) The proceedings of control of the constitutionality and legality of elections may be instituted during the term mentioned in Article 85 of this Constitutional Act, counting from the day the results of the elections were published in the Official Gazette *Narodne Novine*.

(2) The term mentioned in paragraph 1 of this Article shall begin to expire on the day the Official Gazette *Narodne Novine* has been issued, and in this matter the Constitutional Court is authorized to ascertain the actual day of the issuance of the Official Gazette *Narodne Novine*.

Article 91

(1) Political parties, candidates, not less than 100 voters or not less than 5 percent of voters of the constituency in which the elections are held, have the right to submit an appeal against the ruling of the competent electoral commission to the Constitutional Court (electoral dispute).

(2) The appeal is to be submitted to the Constitutional Court through the competent electoral commission during the term of 48 hours from the expiration of the day when the disputed ruling was received.

(3) The Constitutional Court is due to render the decision on the appeal during the term of 48 hours from the day it was received.

(4) The appeal does not postpone the performance of the electoral acts prescribed by the electoral legislation.

(5) The decision of the Constitutional Court on appeal excludes the right to lodge a constitutional complaint.

Article 92

(1) In control of the constitutionality and legality of the elections and the national referendum the Constitutional Court decides in Session.

(2) The Constitutional Court shall decide on the electoral disputes in the council composed of three judges appointed on the proposal of the president of the Constitutional Court by the

Constitutional Court in Session.

Article 93

(1) The council shall examine the disputed act in its disputed part being restrained, as a rule, to the examination of the violations pointed out by the applicant.

(2) The council shall decide in a closed Session.

Article 94

(1) The council shall make the decision only unanimously.

(2) If the unanimous decision may not be reached in the council, or if the council holds that there exist reasons to present the matter to the Session of the Constitutional Court, the file shall be delivered to the president of the Constitutional Court in order to be presented to the Session and decided.

Article 95

(1) At the request of the Croatian Parliament, the Constitutional Court shall, in the case when ten percent of the total number of voters in the Republic of Croatia request calling a referendum, establish whether the question of the referendum is in accordance with the Constitution and whether the requirements in Article 86, paragraphs 1-3, of the Constitution of the Republic of Croatia for calling a referendum have been met.

(2) The Constitutional Court shall pass the decision in paragraph 1 of this Article within a term of 30 days after it filed the request.

Article 96

The Constitutional Court shall control the constitutionality and legality of the national referendum and undertake measures by an analogous application of the provisions of Articles 84 to 92 of this Constitutional Act.

X. PROCEDURE IN CONNECTION WITH AN APPEAL AGAINST THE DECISION TO RELIEVE A JUDGE OF OFFICE, AND THE DECISION ABOUT THE DISCIPLINARY RESPONSIBILITY OF A JUDGE

(CONSTITUTIONAL COURT PROCEDURES OF APPEAL)

Article 97

(1) A judge (hereinafter: the appellant) may appeal to the Constitutional Court against the decision to relieve him of office within a term of 15 days after the disputed decision has been delivered.

(2) The appeal in paragraph 1 of this Article shall be decided by majority vote by a Council of the Constitutional Court composed of six judges.

(3) The decision of the Constitutional Court whereby the appeal is adopted as grounded, shall repeal the disputed decision, and the matter shall be returned to the National Judicial Council for

renewed proceedings.

(4) In the event of paragraph 3 of this Article, the National Judicial Council shall pass another decision instead of the one that has been repealed, and in so doing shall be bound by the legal opinion of the Constitutional Court about the violation of the appellant's constitutional rights expressed in its repealing decision.

Article 98

(1) A judge (hereinafter: the appellant) may appeal to the Constitutional Court against the decision of the National Judicial Council on disciplinary responsibility within a term of 15 days from the day when the disputed decision was delivered.

(2) The appeal in paragraph 1 of this Article shall be decided by majority vote by a Council of the Constitutional Court composed of six judges.

(3) The decision of the Constitutional Court whereby the appeal is adopted as grounded shall repeal the disputed decision, and the matter shall be returned to the National Judicial Council for renewed proceedings.

(4) In the event of paragraph 3 of this Article, the National Judicial Council shall pass another decision instead of the one that has been repealed, and in so doing shall be bound by the legal opinion of the Constitutional Court about the violation of the appellant's constitutional rights expressed in its repealing decision.

Article 99

(1) In Constitutional Court proceedings of appeal in Articles 92a and 92b of this Constitutional Act, the appellant may be represented by an attorney, and the National Judicial Council (hereinafter: the decision-maker) shall be represented by the president or such member of the National Judicial Council whom the president authorizes to represent the Council before the Constitutional Court in a special authorization.

(2) In the Constitutional Court proceedings of appeal the appellant and the decision-maker have the right to the delivery of all the applications the other side filed with the Constitutional Court, and to make a declaration in writing about them.

(3) The appellant has the right to propose to the competent Council of the Constitutional Court persons whom he considers may make declarations that would contribute to the Constitutional Court deciding in his/her favour. The Council of the Constitutional Court shall in this case request such persons to make a declaration in writing, to which the decision-maker has the right to reply in writing.

Article 100

The right of the Council of the Constitutional Court to establish the existence or non-existence of facts supporting the finding about the violation of the constitutional right of the appellant is not bound or limited by the special formal rules for giving evidence.

Article 101

(1) The Council of the Constitutional Court shall pass a Constitutional Court decision or ruling on the appeal in Article 92.a and Article 92.b of this Constitutional Act within a term of 30 days from the date when it was received.

(2) In complex constitutional-court proceedings of appeal in which the appellant, or the decision-maker, request an appropriate time period and the possibility to prepare a written declaration in

reply to the application of the other side, or when it is necessary to secure the right of the appellant, or the decision-maker, to make a written declaration in reply to more than one application of the other side, including the written declarations of the persons in Article 92.c, paragraph 3, of this Constitutional Act, the term of 30 days for passing the Constitutional Court decision about the appeal shall begin to run from the day when the last application by the appellant is filed.

Article 102

The Constitutional Court decision or the ruling of the Constitutional Court on the appeals of judges in Articles 92.a and 92.b of this Constitutional Act exclude the right of the appellants to lodge a constitutional complaint.

Article 103

(1) Candidates in the procedure for appointing judges may lodge a constitutional complaint against the decision about appointing judges of the National Judicial Council after they have exhausted all legal remedies before the Administrative Court of the Republic of Croatia through a request grounded on the special provisions of the Administrative Lawsuits Act on the protection of constitutionally guaranteed human rights and freedoms.

(2) Paragraph 1 of this Article shall also be applied to persons who participated in proceedings before the National Council of Public Prosecutions.

XI. MONITORING THE EXECUTION OF CONSTITUTIONALITY AND LEGALITY

Article 104

(1) The Constitutional Court shall monitor the execution of constitutionality and legality and report to the Croatian Parliament about any kind of unconstitutionality and illegality it has observed.

(2) The report in paragraph 1 of this Article shall be established by the Session of the Constitutional Court.

(3) The report in paragraph 1 of this Article shall be delivered in written form to the Speaker of the Croatian Parliament, who shall so inform the Croatian Parliament.

XII. SUPERVISORY CONTROL OVER PASSING REGULATIONS FOR EXECUTING THE CONSTITUTION, LAWS AND OTHER REGULATIONS

Article 105

(1) If the Constitutional Court finds that the competent body has not passed a regulation for executing provisions of the Constitution, laws and other regulations, and was obliged to pass such a regulation, it shall so inform the Government of the Republic of Croatia.

(2) If the Constitutional Court finds that the Government of the Republic of Croatia has not passed a regulation for executing provisions of the Constitution, laws and other regulations, it shall so inform the Croatian Parliament.

(3) The report in paragraph 1 of this Article shall be delivered in written form to the Prime Minister of the Republic of Croatia, and the report in paragraph 2 of this Article to the Speaker of the Croatian Parliament.

(4) The Session of the Constitutional Court shall decide about the publication of the reports in paragraphs 1 and 2 of this Article in the Official Gazette *Narodne novine*.

XIII. TRANSITIONAL AND CONCLUDING PROVISIONS

Article 106

The Rules of Procedure of the Constitutional Court shall be brought into conformity with this Constitutional Act during the term of 90 days of entering into legal force of this Constitutional Act.

Article 107

(1) Proceedings in the matters which have been instituted before entering into legal force of this Constitutional Act shall be completed under the provisions of this Constitutional Act.

(2) The terms determined by this Constitutional Act shall start by its entering into legal force.

Article 108 (42)

This Constitutional Act shall enter into legal force on the day of proclamation.

Class: 711-01/01-01/03

Zagreb, March 18, 2002

THE CROATIAN PARLIAMENT

Speaker of the Croatian Parliament

Zlatko Tomčić, m.p.

Editor's note: Articles 94 and 95 of the Constitutional Act on the Constitutional Court of the Republic of Croatia of 1999 (Narodne novine, no. 99/99) have not been explicitly deleted by the Constitutional Act on Revisions and Amendments of the Constitutional Act on the Constitutional Court of the Republic of Croatia of 2002 (Narodne novine, no. 29/2002), but should be considered to have been consumed when the Constitutional Act from 1999 entered into legal force, because they are of a transitional character and refer to the text of the Constitutional Act from 1999.