



# **RULES**

## **of the Constitutional Court of BiH**

### **R U L E S**

### **OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA**

### **(Revised Text)**

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Having regard to Article 103 of the Rules of the Constitutional Court of Bosnia and Herzegovina (*Official Gazette of BiH* no. 22/14) and item XIX of the Decision on Amendments to the Rules of the Constitutional Court of Bosnia and Herzegovina (*Official Gazette of BiH* no. 57/14), the Editorial Commission of the Constitutional Court of Bosnia and Herzegovina hereby determines the Revised text of the Rules of the Constitutional Court of Bosnia and Herzegovina.

Revised text of the Rules of the Constitutional Court of Bosnia and Herzegovina shall include the Rules of the Constitutional Court of Bosnia and Herzegovina (*Official Gazette of BiH* no. 22/14) and Decision on Amendments to the Rules of the Constitutional Court of Bosnia and Herzegovina (*Official Gazette of BiH* no. 57/14) with the dates on which they became effective.

## **R U L E S**

### **OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA**

#### **(Revised Text)**

*Considering the fact* that the institution of the Constitutional Court of Bosnia and Herzegovina has been established by Article VI of the Constitution of Bosnia and Herzegovina, as an independent guardian of the Constitution and as an institutional guarantee for the protection of human rights and fundamental freedoms laid down in the Constitution and the instruments referred to in Annex I to the Constitution,

*Bearing in mind* that the Constitutional Court of Bosnia and Herzegovina is not part of the legislative, executive or ordinary judicial authority, but has been positioned by the Constitution as a special independent and autonomous authority which, on the basis of the Constitution, acts as a remedy for the other three segments of authority,

*Being mindful* of the particular position and the role of the Constitutional Court of Bosnia and Herzegovina in the Constitution of Bosnia and Herzegovina, which imposes an obligation to secure its independence, including full financial and administrative independence and autonomy, which is reflected in the autonomous planning and proposing of a budget, as well as in the autonomous distribution of the approved budget funds, the amount of which must in any case be subject to a corresponding review by a competent body and that the Constitutional Court of Bosnia and Herzegovina must be able to decide on its own organization and functioning, and that only the Constitutional Court of Bosnia and Herzegovina may pass regulations and general acts concerning its work and its role established by the Constitution of Bosnia and Herzegovina,

*Since*, due to the lack of a constitutional basis to regulate a procedure and organization through law, in addition to the Constitution of Bosnia and Herzegovina, the Rules of the Constitutional Court of Bosnia and Herzegovina, which, according to the power referred to in the Constitution of Bosnia and Herzegovina, shall be passed by the Constitutional Court of Bosnia and Herzegovina itself, are the sole legal act regulating these issues relating to the Constitutional Court of Bosnia and Herzegovina,

*Having regard to Article VI(2)(b) of the Constitution of Bosnia and Herzegovina, the Constitutional Court of Bosnia and Herzegovina, sitting in plenary sessions of the Constitutional Court of Bosnia and Herzegovina held on 23 January and 12 February 2014, adopted the following*

## **R U L E S**

### **OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA**

#### **PART I - GENERAL PROVISIONS**

##### **Article 1 (Contents)**

These Rules (hereinafter: the Rules) shall, in accordance with the Constitution of Bosnia and Herzegovina (hereinafter: the Constitution), govern the proceedings before the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Constitutional Court), financial and administrative autonomy, the organizational basis and other issues relevant for the activities of the Constitutional Court.

##### **Article 2 (Independence)**

- (1) The Constitutional Court shall be independent of all other governmental bodies in Bosnia and Herzegovina and of any other external influences.
- (2) The Constitutional Court shall exercise its rights and obligations in accordance with the Constitution, these Rules and other acts of the Constitutional Court.
- (3) The organization of the Constitutional Court shall be exercised under the principle of administrative and financial independence.

##### **Article 3 (Funds)**

- (1) The funds for the operation of the Constitutional Court shall be secured within the Budget of the institutions of Bosnia and Herzegovina.
- (2) The use of the approved funds shall be governed by an internal act of the Constitutional Court.
- (3) The Secretary General of the Constitutional Court shall prepare a Draft Budget of the Constitutional Court and, following the procedure conducted in accordance with these

Rules, shall submit it to the Ministry in charge of the preparation of the Budget of the institutions of Bosnia and Herzegovina.

- (4) The Minister of the competent Ministry referred to in paragraph 3 of this Article shall submit an Opinion with reasoning on the Draft Budget to the Constitutional Court.
- (5) After the competent Commission of the Constitutional Court has considered the previously submitted Opinion, the Constitutional Court shall establish the Proposal of the Budget of the Constitutional Court.
- (6) The Budget Proposal of the Constitutional Court shall be submitted to the Presidency of Bosnia and Herzegovina to be included in the Budget Proposal of the institutions of Bosnia and Herzegovina.
- (7) The Constitutional Court shall be independent in allocating the approved funds from the Budget of the institutions of Bosnia and Herzegovina, in accordance with its annual Budget.

#### **Article 4 (Seat of the Constitutional Court)**

The seat of the Constitutional Court shall be in Sarajevo.

#### **Article 5 (Seal and other symbols)**

- (1) The Constitutional Court shall have its seal and other symbols.
- (2) The appearance and the contents of the seal and other symbols shall be regulated in accordance with the regulations of Bosnia and Herzegovina and the internal acts of the Constitutional Court.

#### **Article 6 (Use of Languages and Alphabets)**

- (1) Equal use of the languages and alphabets in the official use in Bosnia and Herzegovina shall be provided in the work of the Constitutional Court.
- (2) When the judges appointed by the President of the European Court of Human Rights participate in the work of the Constitutional Court the use of English language shall be provided in an appropriate fashion.

#### **Article 7 (Protocol)**

The protocol of the institutions of BiH shall apply to the Constitutional Court.

## **PART II - GENERAL RULES OF PROCEDURE**

### **Article 8 (Sessions)**

- (1) The Constitutional Court shall take decisions sitting in sessions.
- (2) The sessions of the Constitutional Court shall be: the plenary Court, the session of the Grand Chamber and the session of the Chamber.

### **Article 9 (Session of the Plenary Court)**

- (1) The Plenary Court shall be composed of all the judges of the Constitutional Court.
- (2) The Constitutional Court shall take decisions sitting in the plenary session, by a majority of votes of all the judges of the Constitutional Court, in the cases arising out of the competence of the Constitutional Court:
  - a) under Articles VI(3)(a), where instituted by an authorized applicant, VI(3)(c) and IV(3)(f) of the Constitution and Amendment I to the Constitution (hereinafter: Amendment I);
  - b) under Article VI(3)(b), which are included in the agenda of the plenary Court;
  - c) other issues set forth in the Constitution, these Rules and conclusion of the plenary Court.

### **Article 10 (Grand Chamber)**

- (1) The Grand Chamber shall be composed of the judges elected by the competent Entity Legislature.
- (2) The President of the Constitutional Court shall preside at the sessions of the Grand Chamber. If he/she is prevented from sitting, he/she shall be replaced by one of the Vice-Presidents whom he/she shall designate.
- (3) The Grand Chamber shall take decisions, by a majority of votes of all the judges of the Constitutional Court (a minimum of five judges) on the cases arising out of the competence of the Constitutional Court under Article VI(3)(a), when instituted by an unauthorized applicants and Article VI(3)(b) of the Constitution which are not included in the agenda of the plenary Court and on other issues included in the agenda of the session in accordance with the Constitution and these Rules.
- (4) If no decision is taken, the case shall be referred to the Constitutional Court sitting in the plenary session with a text proposed by a Judge Rapporteur, unless the Grand Chamber decides otherwise.

## **Article 11 (Quorum)**

The quorum for holding a session of the plenary Court and of the Grand Chamber shall be the majority of all the judges (a minimum of five judges) of the Constitutional Court. All its members shall constitute the quorum of the Chamber.

## **Article 12 (Chamber)**

- (1) The Chamber shall be composed of the President of the Constitutional Court and two Vice-Presidents from among the judges elected by the competent Entity Legislature. The President of the Constitutional Court shall preside over the Chamber.
- (2) The Chamber shall take decisions, by a unanimous vote, on the requests for interim measures, on administrative issues, which are not decided at the sessions of the Constitutional Court.
- (3) If any member of the Chamber is prevented from sitting, he/she shall be replaced by a judge in the order referred to in Article 88 of these Rules and in accordance with the principles set forth in Article 86(3) and Article 87 of these Rules.

## **Article 13 (Public Character of the Work)**

- (1) The work of the Constitutional Court shall be public.
- (2) The provisions for the proceedings before the Constitutional Court to be public shall be made by means of:
  - a) informing the public of the preparations and holding of the sessions of the Constitutional Court and the public hearings before the Constitutional Court;
  - b) providing notifications as to the course of the proceedings;
  - c) issuing press releases to the media;
  - d) holding press conferences;
  - e) allowing the parties to the proceedings to have access to the cases under consideration before the Constitutional Court, to attend the public hearings of the Constitutional Court, unless the President of the Constitutional Court, in the interest of ethics, public order or national security in a democratic society, decides otherwise;
  - f) publishing the decisions taken;
  - g) publishing the bulletin of the Constitutional Court, containing the significant decisions, rulings and other acts;
  - h) in any other way determined by the Constitutional Court.

**Article 14**  
**(Excluding the Public)**

The public shall be excluded, in the proceedings before the Constitutional Court, from the working sessions, except for a public hearing.

**Article 15**  
**(Press Releases)**

The press releases concerning the sessions and public hearings of the Constitutional Court (time, place and agenda) shall be posted on the notice board and the website of the Constitutional Court and sent to the media.

**Article 16**  
**(Parties to the Proceedings)**

- (1) The parties to the proceedings shall be as follows:
  - a) the initiators of disputes referred to in Article VI(3)(a) of the Constitution and Amendment I and the authors of the acts which are the subject of dispute;
  - b) the parties to the proceedings that ended in a decision challenged by an appeal and the court or body that rendered the judgment or the decision challenged by an appeal (Article VI(3)(b) of the Constitution);
  - c) the Chair of the House of Peoples, where a dispute has been initiated under Article IV(3)(f) of the Constitution;
  - d) the court that referred the issue to the Constitutional Court, and the author of the law on which validity a court decision depends (Article VI(3)(c) of the Constitution).
- (2) The Constitutional Court may, in each particular case, designate other parties to the proceedings in respect of whom the principle of adversary procedure will be applied.
- (3) The Constitutional Court, i.e. the Judge Rapporteur may request other bodies and organizations to submit expert opinions in writing or the Registrar may request other information relevant to the decision of the Constitutional Court in each particular case.

**Article 17**  
**(Use of Languages)**

- (1) The official languages and alphabets referred to in Article 6 of these Rules shall be used in the proceedings before the Constitutional Court. At the request of party/parties to the proceedings, member/members of other peoples, the Constitutional Court may grant leave for the use of another language.
- (2) The Constitutional Court shall provide conditions for everyone to exercise the right referred to in paragraph 1 of this Article.

**Article 18**  
**(Admissibility of an Appeal)**

- (1) The Constitutional Court may examine an appeal only if all effective remedies available under the law against a judgment or a decision challenged by the appeal have been exhausted and if the appeal is lodged within a time limit of 60 days as from the date on which the appellant received the decision on the last effective remedy he/she used.
- (2) Exceptionally, the Constitutional Court may examine an appeal where there is no decision of a competent court, if the appeal indicates a grave violation of the rights and fundamental freedoms safeguarded by the Constitution of Bosnia and Herzegovina or by the international documents applied in Bosnia and Herzegovina.
- (3) An appeal shall also be inadmissible in any of the following cases:
  - a) the Constitutional Court is not competent to take a decision;
  - b) the appeal is anonymous;
  - c) the time limit for lodging the appeal has expired;
  - d) the appeal was lodged by an unauthorized person;
  - e) the Constitutional Court has already decided about the issue concerned and the statements or evidence presented in the appeal do not provide sufficient grounds for a new decision;
  - f) the appellant abused the right to lodge an appeal;
  - g) the legal circumstances have changed;
  - h) the appeal is *ratione materiae* incompatible with the Constitution;
  - i) the appeal is *ratione personae* incompatible with the Constitution;
  - j) the appeal is *ratione temporis* incompatible with the Constitution;
  - k) the appellant failed to supplement/specify the appeal within the given time limit;
  - l) the appeal is premature;
  - m) the appellant failed to exhaust legal remedies available under the law.
- (4) The Constitutional Court shall reject an appeal as being manifestly (*prima facie*) ill-founded when it establishes that there is no justified request of the party to the proceedings, or that the presented facts cannot justify the allegation of the existence of a violation of the rights safeguarded by the Constitution and/or when the Constitutional Court establishes that the party to the proceedings has not suffered the consequences of a violation of the rights safeguarded by the Constitution, so that the examination of the merits of the appeal is superfluous.
- (5) The Constitutional Court shall reject an appeal where it establishes that the appellant has not suffered a significant damage unless the respect for the human rights, as defined in the Constitution, requires the consideration of an appeal on the merits.



**Article 19**  
**(Admissibility of Requests under Articles VI(3)(a), VI(3)(c) and IV(3)(f)**  
**of the Constitution and Amendment I)**

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

- a) the Constitutional Court is not competent to take a decision;
- b) the request is anonymous;
- c) the request was lodged by an unauthorized person;
- d) the Constitutional Court has already decided about the issue concerned and the allegations or evidence presented in the request do not provide the basis for a new decision;
- e) the legal circumstances have changed;
- f) the applicant failed to supplement/specify the request within the given time limit;
- g) the challenged general act is not in force.

**Article 20**  
**(Submission of a Request/Appeal)**

- (1) A request for the institution of proceedings/an appeal addressed to the Constitutional Court shall be sent by mail or delivered directly to the Constitutional Court.
- (2) The submission referred to in paragraph 1 of this Article shall be deemed to have been received on the day of its receipt by the Constitutional Court or on the day of the registered mail receipt.
- (3) Electronic mail, written mail sent by fax and telegrams sent to the Constitutional Court shall not be regarded as submissions instituting constitutional proceedings, or such submissions proposing the institution of constitutional proceedings, unless submitted at the request of the Constitutional Court or where approved by the Constitutional Court.

**Article 21**  
**(Contents of a Request/Appeal)**

- (1) A request for the institution of proceedings under Article VI(3)(a) of the Constitution and Amendment I ought to contain:
  - a) the title of the challenged act with the name and number of the official gazette in which it was published;
  - b) the provisions of the Constitution deemed to have been violated;
  - c) statements, facts and evidence on which the request is based;
  - d) the signature of an authorized person or applicant;
- (2) An appeal under Article VI(3)(b) of the Constitution ought to contain:
  - a) the challenged decision of a court in Bosnia and Herzegovina;

- b) the provisions of the Constitution and/or of the international documents on human rights applicable in Bosnia and Herzegovina the appellant deems to have been violated;
  - c) statements, facts and evidence on which the appeal is based;
  - d) in the absence of challenged decision, the reasons for lodging the appeal;
  - e) the signature of the appellant or of the authorized representative;
  - f) special power of attorney for the representation before the Constitutional Court if the appellant has a representative.
- (3) The appeal referred to in paragraph 2 of this Article shall be made on the special form available in the Constitutional Court or on the website of the Constitutional Court. The form shall make an integral part of these Rules. It shall be mandatory to submit the appeal by typing the text either on a computer or a typewriter.
- (4) A request under Article VI(3)(c) of the Constitution ought to contain:
- a) the provisions of the law which are subject of review of compatibility, along with an indication as to the official gazette in which it was published;
  - b) the provisions of the Constitution, the European Convention on Human Rights and Fundamental Freedoms and Protocols thereto and the law of Bosnia and Herzegovina, which is the subject of the review of compatibility, the existence or scope of some general rule of the public international law which is pertinent to the decision of the Constitutional Court;
  - c) statements, facts and evidence on which the request is based;
  - d) the signature of an authorized person.
- (5) In the case where the Constitutional Court examines the procedural regularity of the proposed decision under Article VI(3)(f) of the Constitution, a certified transcript of the decision accompanied by the statement of reasons as to the procedure shall be attached to the request.
- (6) The applicant/appellant shall be obligated to inform the Constitutional Court of all the changes as to his/her address, the legal and factual issues relating to the request/appeal, which occurred after he/she lodged the request or lodged the appeal with the Constitutional Court. Otherwise, the Constitutional Court will take a decision according to the status of the case-file.

## **Article 22**

### **(Supplement to the Request/Appeal)**

- (1) In the event that a request/appeal addressed to the Constitutional Court is incomplete, in terms of Article 21 of these Rules or it does not contain the information necessary for the proceedings to be conducted, the Constitutional Court shall request that the applicant or the appellant make the corrections within a specified time limit not exceeding 15 days.

- (2) If the applicant/appellant fails to make the corrections within the time limit referred to in paragraph 1 of this Article, the request/appeal shall be rejected.
- (3) The appeal/request may not be supplemented beyond the time limit referred to in Article 18(1) of these Rules without a request of the Constitutional Court.

**Article 23**  
**(Reply to the Request/Appeal)**

- (1) The Judge Rapporteur, or the Registrar, shall specify the time limit for the submission of a reply to the allegations given in the request/appeal.
- (2) The Constitutional Court shall send the request/appeal to the author of the challenged act for the purpose of giving the latter an opportunity to reply or submit documents.
- (3) The Constitutional Court shall submit the appeal to the respondent party to the proceedings that resulted in the judgment/decision challenged by the appeal, for the purpose of giving that party an opportunity to submit a reply.
- (4) Failure to submit a reply to the request/appeal shall not affect the course of the proceedings before the Constitutional Court, which will, in that case, base its decision on the submitted information which were not challenged by other parties to the proceedings.
- (5) In case of the rejection of the request/appeal, the Constitutional Court may take a decision without submitting beforehand the request/appeal to the respondent party for the purpose of stating their respective opinion.
- (6) In case that the same issue is involved, the Constitutional Court shall not send the request/appeal for reply and shall take into account the previous replies.

**Article 24**  
**(Judge Rapporteur)**

- (1) As a rule, following the examination of admissibility, a case shall be assigned to the Judges Rapporteurs in an alphabetical order of the judges' surnames. The President of the Constitutional Court may decide to assign cases to the Judges Rapporteurs in a different manner.
- (2) The cases concerning the same factual and legal issues may be assigned to a single Judge Rapporteur.
- (3) When deciding on a case the Constitutional Court may, on a proposal of the Judge Rapporteur, decide on his/her discharge from the case.
- (4) A Judge Rapporteur shall give his/her approval for a proposal of the decision to be brought before the session of the Constitutional Court.

**Article 25**  
**(Urgent Procedure)**

- (1) An urgent procedure shall be compulsory in cases concerning the requests lodged on the basis of Article IV(3)(f) of the Constitution, electoral rights and the decisions on interim measures.
- (2) In determining the order in which to deal with the cases, the Constitutional Court will have regard to the importance and urgency of the issues raised on the basis of the criteria it has established itself.
- (3) The President of the Constitutional Court may give priority to a particular request/appeal.

**Article 26**  
**(Access to Cases)**

- (1) Parties to the proceedings shall have the right to inspect the case-files kept by the Constitutional Court in accordance with the acts of the Constitutional Court and the law regulating the matter relating to the access to information.
- (2) The drafts and proposals of decisions, rulings and other acts prepared for decision-making, as well as acts designated as secret within the meaning of these Rules shall not be available for inspection.
- (3) Inspection of the case-files shall be approved by the Secretary General of the Constitutional Court. It shall be carried out at the official premises of the Constitutional Court and in the presence of an authorized employee of the Constitutional Court, in accordance with the general act of the Constitutional Court.

**Article 27**  
**(Copies of Acts)**

- (1) Parties to the proceedings and other interested parties may request copies of documents from the case-files with the exception of those which shall not be made available in accordance with Article 26(2) of these Rules.
- (2) Making copies of documents from the case-files shall be approved by the Secretary General of the Constitutional Court. It shall be carried out at the official premises of the Constitutional Court in accordance with the general act of the Constitutional Court.

**Article 28**  
**(Notification of the Course of the Proceedings)**

- (1) Notification of the course of the proceedings before the Constitutional Court shall be given by the President of the Constitutional Court, or the Registrar of the Constitutional Court, upon the instruction of the President.

- (2) No one shall have the right to give information regarding the Judge Rapporteur and the Legal Advisor whom the case has been assigned to, or information pertaining to the decision-making in the case concerned.

**Article 29**  
**(Delivery of Acts)**

Acts of the Constitutional Court, summonses and other documents, shall be served on the persons concerned either by registered mail or in person accompanied by a note of delivery.

**Article 30**  
**(Basis for Decision-Making)**

- (1) The Constitutional Court shall deliberate and take decisions on the basis of a decision proposed by a Judge Rapporteur, or by the Office of the Registrar.
- (2) For the purpose of taking a preliminary position, the Constitutional Court may discuss certain issues of relevance for adopting a decision, on the basis of a memorandum prepared either by the Judge Rapporteur or by the Office of the Registrar.
- (3) Upon a proposal of the Judge Rapporteur or another Judge, a draft decision may be preliminary discussed without a vote on it or an indicative vote may be taken in order to facilitate the preparation of the draft decision.

**Article 31**  
**(Scope of Decision-Making)**

As a rule, during the decision-making procedure, the Constitutional Court shall examine the existence of only those violations that are stated in the request/appeal.

**Article 32**  
**(Joinder and Separation of Cases)**

- (1) When the Constitutional Court receives several requests/appeals from within its competence concerning the same issue, the Constitutional Court shall, as a rule, take a decision on the joinder of cases in which the Constitutional Court shall conduct one set of proceedings and take a single decision.
- (2) Requests will not be joined, within the meaning of paragraph 1 of this Article, if this implies considerable prolongation of the proceedings.

**Article 33**  
**(Contents of Decisions)**

- (1) A decision on the merits shall contain:
  - a) Introduction;
  - b) Enacting clause;
  - c) Reasoning;
  - d) Conclusion.

- (2) The introduction shall contain the following: the constitutional grounds and the relevant provision of the Rules of the Constitutional Court, title „Constitutional Court of Bosnia and Herzegovina”, case number, the name and surname, or the designation of the applicant or appellant, the composition of the deciding body (the names and surnames of the judges who participated in the decision-making according to the order referred to in Article 88 of these Rules without stating their respective academic titles), the date of the session and the type of the decision.
- (3) The enacting clause shall contain the following: the decision of the Constitutional Court on the subject-matter concerned and the note as to whether the decision shall be published in the official gazettes.
- (4) The reasoning adduced for the decisions taken on the basis of Article VI(3)(b) shall contain the following: introduction, proceedings before the Constitutional Court, facts of the case, allegations of the appeal, allegations given in the reply to the appeal, relevant law, admissibility, merits and conclusion.
- (5) The reasoning adduced for the decisions taken on the basis of Article VI(3)(a), VI(3)(c), IV(3)(f) and Amendment I shall contain the following: introduction, proceedings before the Constitutional Court, allegations of the request, allegations of the reply to the request, relevant law, admissibility, merits and conclusion.
- (6) Exceptionally, the Constitutional Court may take a decision on the merits containing solely the enacting clause, brief reasoning and a reference to the decision adopted previously in the same legal and factual situation.
- (7) The reasoning adduced for the rest of the decisions of the Constitutional Court shall contain the relevant elements, depending on the type of the decision concerned.

### **Article 34** **(Obligations of Other Institutions)**

At the request of the Constitutional Court, the institutions of Bosnia and Herzegovina, the Entities, Brčko District of Bosnia and Herzegovina and legal and physical persons and others shall be obligated to submit data and information necessary for the work of the Constitutional Court. They shall also be obligated to carry out, on an order of the Constitutional Court, actions relevant for conducting the proceedings.

## **Chapter I.**

### **SESSIONS OF THE CONSTITUTIONAL COURT**

#### **Article 35 (Venue)**

- (1) The Constitutional Court shall work sitting in sessions.
- (2) The sessions of the Constitutional Court shall be held at the seat of the Constitutional Court.
- (3) Exceptionally, sessions of the Constitutional Court may be held outside the seat of the Constitutional Court.

#### **Article 36 (Scheduling Sessions)**

- (1) The President of the Constitutional Court shall convene a session, propose the agenda and chair the session of the Constitutional Court. The President of the Constitutional Court may authorize one of the Vice-Presidents to preside over the sessions of the Constitutional Court within the meaning of Article 88 of these Rules.
- (2) The President of the Constitutional Court shall schedule a session when:
  - a) the Constitutional Court has decided to hold a session;
  - b) a judge requests a session to be convened to discuss issues arising under the jurisdiction of the Constitutional Court.
- (3) The President of the Constitutional Court shall propose the agenda and chair the sessions.
- (4) The agenda of the session shall be determined by the Constitutional Court at a session.
- (5) In case referred to in paragraph 2 line b of this Article, a written request accompanied by a statement of reasons shall be submitted to the President of the Constitutional Court.
- (6) After the President of the Constitutional Court has announced that the Constitutional Court is in session and has proposed the agenda, each judge shall have the right to propose amendments thereto, or the removal of an individual case from the agenda accompanied by an oral explanation of the proposal.
- (7) If the removal of the case from the agenda has been proposed and explained orally by a judge who is the Judge Rapporteur in the case concerned, such a proposal may not be discussed or voted on, rather it shall be noted in the minutes that the case has been removed from the agenda.
- (8) If the removal of the case from the agenda has been proposed and explained orally by a judge who is not the Judge Rapporteur in the case concerned, and the Judge Rapporteur has accepted the proposal, paragraph 7 of this Article shall be applied accordingly.

- (9) If the removal of the case from the agenda has been proposed and explained orally by a judge who is not the Judge Rapporteur in the case concerned, and the Judge Rapporteur has not accepted the proposal, a decision removing the case from the agenda shall be taken by a majority vote of all the judges.

**Article 37**  
**(Summons for a Session)**

- (1) The summons for a session of the Constitutional Court, the cases and other materials to be considered at the session, shall be submitted to the judges not later than eight days before the session.
- (2) Exceptionally, in urgent cases, the summons for a session of the Constitutional Court, the cases and other materials to be considered at the session, may be submitted within a shorter period of time.
- (3) The Office of the Registrar will make timely submissions of draft decisions to a Judge Rapporteur in the cases in which a Judge Rapporteur has been designated.

**Article 38**  
**(Attendance of the Sessions)**

- (1) The sessions of the Constitutional Court shall be attended by the judges, the Secretary General, the Registrar, the Heads of Departments and the person responsible for public relations.
- (2) The President of the Constitutional Court may decide for other qualified persons to attend the session.

**Article 39**  
**(Mandatory Adjournment of a Session)**

The session of the Constitutional Court sitting as a plenary Court not attended by a minimum of three judges elected by the House of Representatives of the Federation of Bosnia and Herzegovina and by a minimum of one judge elected by the National Assembly of the Republika Srpska shall be adjourned, whereby the next session will be held in the event that the same situation repeats itself without justified reasons.

**Article 40**  
**(Course of a Session)**

- (1) The President of the Constitutional Court shall chair the session of the Constitutional Court according to the agreed Agenda.
- (2) Prior to opening the deliberation, the President of the Constitutional Court shall be authorized to do the following:
  - a) specify the duration of the entire deliberation on a case;
  - b) determine the duration of the presentation of the first speaker;



- c) determine the number and duration of rebuttals during a given deliberation.
- (3) In determining the duration of the actions referred to in paragraph (2) of this Article the President of the Constitutional Court shall have regard to the complexity of the case, the clarity, easy referencing and comprehensiveness of the explanation of the proposal of the decision, ruling or the report and the opening oral explanation by the Judge Rapporteur.
  - (4) Prior to the deliberation and voting, regarding a particular case on the agenda of the session of the Constitutional Court, the Judge Rapporteur will outline a brief account of the factual and legal issues relevant to the deliberation and decision-making and will give a proposal of the decision.
  - (5) The Judge Rapporteur may request that the Registrar presents the facts of the case and provides information as to the relevant law and case-law.
  - (6) Following the presentation made by the Judge Rapporteur or the Registrar, the floor shall be given to the judges in the order in which they have asked for the floor.
  - (7) After the judges who asked for the floor have completed their presentation, the floor shall be given for rebuttals or comments.
  - (8) The Secretary General or the Registrar of the Constitutional Court may also take part in the deliberation, and, upon the invitation of a President of the Constitutional Court, the Heads of Departments of the Constitutional Court and the Legal Advisors to the judges of the Constitutional Court may do likewise.
  - (9) The President of the Constitutional Court shall have the right to warn the speaker of the duration of his/her oral presentation, if he/she finds it unjustifiably lengthy.
  - (10) In the event that a judge fails to complete his/her presentation within the specified time, the President of the Constitutional Court shall warn him/her of the elapsed time and shall give one minute to summarize and complete the presentation. After the expiry of the time given, the President of the Constitutional Court shall be authorized to interrupt the presentation of the judge and give the floor to the next speaker.

#### **Article 41** **(Adjournment of Deliberation)**

The Constitutional Court may adjourn or discontinue the deliberation of a case for the purpose of obtaining new data and information, as well as for any other purpose.

#### **Article 42** **(Decision-Making)**

- (1) Following the conclusion of the deliberation of a case, the Constitutional Court shall take a decision.
- (2) Only a judge who has attended the session at which the deliberation has been held on the case on which a decision is to be taken, may take part in the decision-making of the Constitutional Court.

- (3) A judge may not abstain from voting.
- (4) A decision of the Constitutional Court sitting as a plenary Court or as a Grand Chamber shall be taken by the majority of votes of the total of nine judges of the Constitutional Court.
- (5) Exceptionally, in the event where less than the total of nine judges take part in the decision-making by a plenary Court, for the reasons referred to in Article 90 paragraph 1 or Article 98 of these Rules and in the event where not all judges have been elected, or where a judge/judges have been prevented from discharging their office due to illness for a prolonged period of time, unless at least five judges vote identically on the proposal of a decision on a request/appeal, in the case referred to in Article 98, the decision-making procedure shall be postponed for one of the next sessions or until the election of an absent judge provided that this period is no longer than six months, and if the same situation occurs again after the expiry of that time limit, the President's vote *i.e.* the vote of the judge replacing the President shall carry a weight of two votes.
- (6) The decisions of the Chamber shall be taken unanimously.
- (7) The voting shall be done by show of hands.
- (8) The voting shall be done in the order in which the proposals have been presented. Before the vote, a preliminary non-binding vote on a proposed decision or parts of it may be held. The proposal that receives the majority during the preliminary vote shall be considered to be the first proposal to be voted on in accordance with paragraph 1 of this Article.
- (9) In other cases, the proposal of the Judge Rapporteur shall be considered to be the first proposal to be voted on, unless the Judge Rapporteur has proposed otherwise.

**Article 43**  
**(Separate Opinions)**

- (1) Any judge who has taken part in the consideration of the case shall be entitled to state his/her opinion, concurring with or dissenting from the decision, or give a bare statement of dissent or joining a separate opinion.
- (2) Any judge shall have the right and obligation to present and explain his/her separate opinion in writing not later than 15 days after the edited decision has been sent to him/her.
- (3) A separate opinion of a judge shall be attached to the minutes of the session and enclosed with the case-file concerned. This shall be duly noted in the rendered decision and the ruling.
- (4) A separate opinion shall be annexed to the decision. The decision, together with the separate opinion, shall be published in the Official Gazettes and the Bulletin of the Constitutional Court.

- (5) A decision shall not be remitted before a separate opinion has been submitted or before the time limit referred to in paragraph 2 of this Article has expired. If a separate opinion has not been submitted before the expiry of the time limit referred to in paragraph 2 of this Article, the decision shall be remitted, and the separate opinion submitted subsequently shall be enclosed with the case-file and shall make an integral part thereof.

**Article 44**  
**(Recording Sessions)**

- (1) The sessions of the Constitutional Court shall be recorded.
- (2) A recording/audio recording shall be attached to the Minutes and shall make an integral part thereof.
- (3) The manner of using a recording/audio recording shall be governed by the general act of the Constitutional Court.

**Article 45**  
**(Minutes of the Sessions)**

- (1) The sessions of the Constitutional Court shall be entered into the Minutes.
- (2) The Minutes of a session of the Constitutional Court shall contain the following:
  - a) the date and venue of the session;
  - b) the names of the judges who are present and those who are absent;
  - c) the names of other persons present at the session;
  - d) the subject-matter of deliberation and decision-making;
  - e) the enacting clause of the decision taken;
  - f) the voting results, indicating a judge/judges who voted against the decision, or who announced a separate opinion;
  - g) other conclusions reached with regard to the deliberation on the case.
- (3) When the public is excluded from a session or a part of it, this shall be also noted in the Minutes.
- (4) As a rule, the Minutes of a session of the Constitutional Court shall be adopted at the next session.
- (5) The adopted Minutes of the sessions of the Constitutional Court shall be signed by the President of the Constitutional Court and the Secretary General of the Constitutional Court.
- (6) The Minutes shall make an integral part of the archives of the Constitutional Court and shall be safeguarded in accordance with the general act of the Constitutional Court.

**Article 46**  
**(Public Hearing)**

- (1) When necessary to directly deliberate on an issue relevant for taking a decision during the proceedings before the Constitutional Court, the plenary Court shall hold a public hearing.
- (2) The Constitutional Court shall take a decision on the need to hold a public hearing, on a proposal of a Judge Rapporteur or another judge.

**Article 47**  
**(Summons for Public Hearing)**

- (1) The parties to the proceedings shall be summoned to attend the public hearing.
- (2) If necessary, the Constitutional Court shall also summon the persons who may provide expert opinions and explanations relevant for taking a decision.
- (3) The Constitutional Court shall decide whether to invite the persons referred to in paragraph 2 of this Article on a proposal of a Judge Rapporteur. The participants shall not be granted honorarium.

**Article 48**  
**(Time Frame)**

- (1) A summons to attend a public hearing and the corresponding materials shall be served not later than eight days prior to the public hearing.
- (2) Exceptionally, a summons to attend a public hearing may be served within a shorter period of time.

**Article 49**  
**(Venue)**

- (1) A public hearings shall be held at the seat of the Constitutional Court.
- (2) In the event of special reasons, the Constitutional Court may decide to hold a public hearing outside the seat of the Constitutional Court.

**Article 50**  
**(Consequences of a Failure to Attend the Public Hearing)**

The absence of the parties to the proceedings at a public hearing shall not prevent the Constitutional Court from holding a public hearing and taking a decision.

**Article 51**  
**(Adjournment and Discontinuation)**

- (1) When necessary, the Constitutional Court may adjourn or discontinue a public hearing in order to obtain the necessary data and information, as well as in other justified cases.
- (2) In cases referred to in paragraph 1 of this Article, the President of the Constitutional Court shall inform the parties to the proceedings and other summoned persons as to when the public hearing shall be held or resumed.

**Article 52**  
**(Presiding over a Public Hearing)**

- (1) The President of the Constitutional Court shall open a public hearing, announce the subject matter of the hearing and chair the session within the meaning of Article 40 of these Rules.
- (2) The Secretary General of the Constitutional Court shall inform the Constitutional Court of the presence of the parties to the proceedings and other persons summoned.

**Article 53**  
**(Role of the President of the Court)**

- (1) At a public hearing, the President of the Constitutional Court shall present the facts and the disputable legal issues relevant for the deliberation, without stating his/her position on taking a decision.
- (2) Following the presentation made by the President of the Constitutional Court, the parties to the proceedings shall present reasons for their respective positions and give replies to the allegations made at the hearing, while other summoned persons shall present their opinions relevant for the clarification of the state of affairs.

**Article 54**  
**(Maintenance of Order)**

- (1) The President of the Constitutional Court shall maintain order at a public hearing.
- (2) For that purpose he/she may:
  - a) warn a person who disturbs the order;
  - b) take the floor away from a person offending the Constitutional Court or someone else, or who is abusing in any other way the floor given to him/her;
  - c) remove from a public hearing a person who, despite the warning, continues to disrupt the course of a public hearing.

**Article 55**  
**(Conclusion of Public Hearing)**

When the presentations made by the parties to the proceedings and other summoned persons have been completed and there are no issues to be clarified, the President of the Constitutional Court shall conclude the public hearing and inform the parties to the proceedings and other persons in attendance of the time and manner of announcing the decision of the Constitutional Court.

**Article 56**  
**(Minutes)**

- (1) A public hearing shall be entered into the Minutes.
- (2) The Minutes of a public hearing shall include the data referred to in Article 45 of these Rules.
- (3) If there was no audio recording of a public hearing, the Minutes shall include a summary of the statements of the parties to the proceedings and of other persons in attendance.
- (4) Statements of the parties to the proceedings and of other persons in attendance, who may submit their written statements to the Constitutional Court, shall be attached to the Minutes of a public hearing.

**Chapter II.**

**DECISIONS AND OTHER ACTS OF THE CONSTITUTIONAL COURT**

**Article 57**  
**(Types of Decisions)**

- (1) The Constitutional Court shall take decisions following the deliberation and voting.
- (2) The decisions of the Constitutional Court are as follows:
  - a) on the admissibility of a request/appeal;
  - b) on the admissibility and the merits of a request/appeal (full or partial);
  - c) rendering ineffective a provision/general act, which is incompatible with the Constitution;
  - d) on the discontinuation of the proceedings;
  - e) on an interim measure.
- (3) If need be, the Constitutional Court may render rulings and conclusions both in the proceedings before the Constitutional Court and on the internal matters of the Constitutional Court.

**Article 58**  
**(Decision on Admissibility)**

The Constitutional Court shall take a decision on admissibility rejecting a request/appeal under the conditions laid down in Articles 18, 19 and 22 of these Rules.

**Article 59**  
**(Decision on Admissibility and Merits)**

- (1) The Constitutional Court shall take a decision on admissibility and merits when granting or dismissing a request/appeal.
- (2) The Constitutional Court shall grant a request/appeal when, in accordance with its competences arising under Article VI(3)(a) and (b) of the Constitution and Amendment I, it finds that there is a violation of the Constitution, or when it finds, within the meaning of the competence of the Constitutional Court arising under Article VI(3)(c) of the Constitution, that a law on whose validity depends a decision of any court of Bosnia and Herzegovina, is incompatible with this Constitution, with the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, or with the laws of Bosnia and Herzegovina, or concerning the existence or the scope of a general rule of public international law pertinent to the court's decision.
- (3) The Constitutional Court shall dismiss a request/appeal when, in accordance with its competences under Article VI(3)(a) and (b) of the Constitution and Amendment I, it finds that there is no violation of the Constitution, or that there is no violation within the meaning of the competence of the Constitutional Court arising under Article VI(3)(c) of the Constitution.
- (4) The Constitutional Court shall grant a request by its decision when it finds that the procedural regularity of the request, lodged in accordance with Article IV(3)(f) of the Constitution, exists.
- (5) The Constitutional Court shall dismiss a request by its decision when it finds that the procedural regularity of the request, lodged in accordance with Article IV(3)(f) of the Constitution, does not exist.

**Article 60**  
**(Partial Decision)**

The Constitutional Court may take a partial decision if a request/appeal contains a number of issues and if the nature of the case makes that possible.

**Article 61**  
**(Effects of the Decisions on Request)**

- (1) The Constitutional Court shall, in the decision granting a request, decide on its legal effect (ex tunc, ex nunc).

- (2) In a decision establishing the incompatibility under Article VI(3)(a) and VI(3)(c) of the Constitution, the Constitutional Court may quash the general act or some of its provisions, in full or partly.
- (3) The quashed general act, or its quashed provisions, shall be rendered ineffective on the next day following the date of the publication of the decision in the *Official Gazette of Bosnia and Herzegovina*.
- (4) Exceptionally, the Constitutional Court may, by its decision finding the incompatibility under Article VI(3)(a) and VI(3)(c) of the Constitution, grant a time-limit for harmonization, which may not exceed six months.
- (5) If the established incompatibility is not removed within the time-limit referred to in paragraph 4 of this Article, the Constitutional Court will, by its decision, establish that the incompatible provisions are rendered ineffective.
- (6) The incompatible provisions shall be rendered ineffective on the first day following the date of publication of the decision referred to in paragraph 4 of this Article in the *Official Gazette of Bosnia and Herzegovina*.

## **Article 62**

### **(Effects of Decisions on Appeal)**

- (1) In a decision granting an appeal, the Constitutional Court shall quash the challenged decision and refer the case back to the court or to the body which took that decision, for renewed proceedings, unless the consequences of violation of the constitutional rights may be removed in some other manner.
- (2) If the law regulating the competence for acting in the respective legal matter was amended prior to taking of a decision by the Constitutional Court, the court or the body which took the quashed decision is obligated to refer the case to the competent court or body without delay.
- (3) In reasoning adduced for its decision, the Constitutional Court shall specify which constitutional right has been violated and it shall give an explanation of the violation.
- (4) The court or the body whose decision has been quashed is obligated to take another decision and, in doing so, it shall be bound by the legal opinion of the Constitutional Court concerning the violation of the appellant's the rights and freedoms guaranteed under the Constitution.
- (5) Exceptionally, if the authority, the decision of which was quashed in terms of the aforesaid, takes a new decision without complying with the legal views of the Constitutional Court, the Constitutional Court itself may decide on the merits of the case, if there is a decision of a body that is not in violation of the constitutional rights, so that such decision shall remain in effect.
- (6) The proceedings before the court or before the authority referred to in paragraph 4 of this Article shall be expedited.



- (7) In a decision granting an appeal due to the violation of Article II(3)(e) of the Constitution for failure to take a decision within a reasonable time limit, the Constitutional Court may order urgent termination of the proceedings.
- (8) A decision on appeal shall take legal effect as of the service of the decision on the person having the competence to enforce it, unless otherwise decided by the Constitutional Court.

**Article 63**  
**(Decision to Terminate the Proceedings)**

- (1) The Constitutional Court shall take a decision to terminate the proceedings when, during the proceedings:
  - a) the unconstitutionality of the challenged act is removed;
  - b) the challenged general act is rendered ineffective;
  - c) the appellant died or, in case when the appellant is a legal person, the appellant no longer exists;
  - d) the applicant/appellant has withdrawn the request/appeal;
  - e) the prerequisites for the proceedings to be conducted no longer exist (the appellant/ the applicant has no longer interest in) or the Constitutional Court finds that it would be irrelevant to proceed with further procedure provided that human rights are complied with;
- (2) In cases referred to in items (a) and (b) of paragraph 1 of this Article, the Constitutional Court shall continue the proceedings if there is a manifest violation of the provisions of Article II of the Constitution or if the consequences of the violation of the rights and fundamental freedoms have not been removed and, in case referred to in item (c) of paragraph 1 of this Article, if the heir or legal successor submits a request in writing to charge oneself with the continuation of the proceedings within 30 days from the date of death or cessation of the existence of the legal person or change of its status.

**Article 64**  
**(Decision on Interim Measure)**

- (1) The Constitutional Court may, of its own motion or at the request of an applicant or appellant, adopt any interim measure it deems necessary in the interest of the parties or the proper conduct of the proceedings before the Constitutional Court.
- (2) Exceptionally, the President of the Constitutional Court may, if it is not possible to convene a session, adopt an interim measure such as is referred to in paragraph 1 of this Article.
- (3) A decision on an interim measure such as is referred to in paragraphs 1 and 2 of this Article shall be submitted immediately to the enactor of the challenged act and to the parties to the proceedings for enforcement.

- (4) The proceedings concerning the adoption of an interim measure shall be expedited and a decision granting a request for the adoption of an interim measure shall be binding until the Constitutional Court takes a final decision.
- (5) A request for interim measure may be lodged by the party to the proceedings before the Constitutional Court referred to in Article 16 of these Rules, provided that he/she previously requested, in accordance with the possibilities prescribed by the law, postponement of enforcement of decisions made by the ordinary courts or administrative authorities in the proceedings conducted before those courts or authorities.

**Article 65**  
**(Legal Effects of Decision on Request)**

Everyone whose right was violated by a final or legally binding individual act, which was issued in accordance with provisions that were rendered ineffective within meaning of Article 61 of these Rules, shall have the right to request the competent body to alter that individual act while the competent body is obligated to renew proceedings and harmonize the act with the decision of the Constitutional Court.

**Article 66**  
**(Deadline for Submission of a Request)**

A request for altering a final or legally binding act referred to in Article 65 of these Rules may be lodged within six months as from the date of the publication of the decision in the *Official Gazette of Bosnia and Herzegovina*, provided that not more than five years have elapsed between the enactment of the act and the decision of the Constitutional Court.

**Article 67**  
**(Editing of Decisions)**

- (1) Editing of the texts of the Constitutional Court's decisions shall be carried out by the Editorial Commission.
- (2) The President of the Editorial Commission and the Registrar shall confirm the final texts of all decisions by their respective signatures.
- (3) Decisions to be published shall be proofread and published in the official languages and alphabets of Bosnia and Herzegovina in accordance with the decision of the Constitutional Court taking account of the equal representation, whereas more significant decisions shall be translated into the English language after being proofread.
- (4) The decisions and rulings not to be published shall be served on parties in one of the official languages and alphabets of Bosnia and Herzegovina.
- (5) As a rule decisions are remitted within a time limit of 30 days from the date of the adoption thereof.

**Article 68**  
**(Review of Decisions)**

- (1) In the event of discovery of a fact which might by its nature have a decisive influence on the outcome of the dispute concerned and which, when a decision was taken, was unknown to the Constitutional Court and could not reasonably have been known to the party, the party may, within a period of six months after that party acquired knowledge of the fact, request the Constitutional Court to review that decision, and at the latest within the time limit of one year from the date of receipt of the decision.
- (2) Exceptionally, if the European Court of Human Rights finds that human rights relating to the access to a court have been violated in the proceedings before the Constitutional Court and if the decision of the Constitutional Court is based on such a violation, the Constitutional Court shall renew proceedings not later than three months from the finality of the judgment of the European Court of Human Rights.
- (3) The request referred shall mention the decision which is subject of review and shall contain information necessary to show that the requirements laid down in paragraph 1 of this Article have been met. The request shall be accompanied by the copies of all supporting documents. The request and supporting documents shall be lodged with the Constitutional Court.
- (4) The original Chamber shall dismiss the request if there are no reasons warranting the consideration thereof. In such event, the Office of the Registrar shall inform the applicant in writing. If it is not possible to constitute the original Chamber, the President of the Constitutional Court shall fill in the Chamber or shall compose the Chamber.
- (5) If the original Chamber decides to review its decision, the subject of review shall be examined in accordance with the rules applicable to the regular proceedings before the Constitutional Court.

**Article 69**  
**(Signing of Decisions)**

- (1) The original decision of the Constitutional Court shall be signed by the President and the Registrar. The decision shall be published with the signature of the President of the Constitutional Court only.
- (2) The Secretary General of the Constitutional Court shall certify copies of the decisions that are being submitted.

**Article 70**  
**(Correction of Errors)**

- (1) If the original decision contains clerical errors or if the published text is not identical to the original, the Secretary General of the Constitutional Court shall rectify the errors based on a conclusion of the Constitutional Court.

- (2) The correction shall be submitted to the participants to the proceedings and it shall be published in the same manner as the decision.

**Article 71**  
**(Publication of Decisions)**

- (1) When making decisions the Constitutional Court decides on the publication thereof in the *Official Gazette of Bosnia and Herzegovina* and Official Gazettes of the Entities and the Brčko District of Bosnia and Herzegovina.
- (2) A decision referred to in paragraph 1 of this Article shall contain the names of the appellant or legal person and other parties to the proceedings referred to in Article 16 these Rules, unless otherwise requested by the appellant or the respondent party during the proceedings before the Constitutional Court or if the nature of the procedure requires it.

**Chapter III.**

**ENFORCEMENT OF DECISIONS**

**Article 72**  
**(Binding Nature, Manner of Enforcement and**  
**Time-limit for Enforcement)**

- (1) The decisions of the Constitutional Court shall be final and binding. Every physical and legal person shall be obligated to comply with them.
- (2) All bodies shall be obligated to enforce the decisions of the Constitutional Court within their competences established by the Constitution and law.
- (3) Every person who has a legal interest may seek enforcement of a decision of the Constitutional Court.
- (4) The Constitutional Court may specify in its decision the manner of and time-limit for the enforcement of the decision of the Constitutional Court.
- (5) Within the time-limit referred to in paragraph 4 of this Article, the body obligated to enforce the decision of the Constitutional Court shall be obligated to submit information about the measures taken to enforce the decision of the Constitutional Court, as required by the decision.
- (6) In the event of a failure to enforce a decision, or a delay in enforcement or in giving information to the Constitutional Court about the measures taken, the Constitutional Court shall render a ruling in which it shall establish that its decision has not been enforced and it may determine the manner of enforcement of the decision. This ruling shall be transmitted to the competent prosecutor or another body competent to enforce the decision, as designated by the Constitutional Court.

**Article 73**  
**(Discontinuation of Enforcement)**

Enforcement of final or legally binding individual acts which have been enacted in accordance with the provisions that ceased to be in force pursuant to Article 61 of these Rules can neither be ordered nor carried out. The enforcement shall be discontinued in the event it has commenced.

**Article 74**  
**(Compensation for Non-Pecuniary Damage)**

- (1) In a decision granting an appeal, the Constitutional Court may award compensation for non-pecuniary damages.
- (2) If the Constitutional Court considers that compensation for pecuniary damage is necessary, it shall award it on equitable basis, taking into account the standards set forth in the case-law of the Constitutional Court.

**Chapter IV.**

**SPECIAL PROVISIONS**

**Article 75**  
**(Posting on the Notice-board or Website)**

- (1) If summons, decisions or rulings of the Constitutional Court cannot be served for any reason on the participants to the proceedings, the service shall be effectuated by posting summons, decisions or rulings on the notice-board of the Constitutional Court or the website of the Constitutional Court.
- (2) The submission shall be considered effectuated upon expiration of eight days after summons, decisions or rulings have been posted on the notice-board of the Constitutional Court and website of the Constitutional Court.

**Article 76**  
**(Other Issues)**

The Constitutional Court shall decide in each individual case on any issue regarding the proceedings before the Constitutional Court not regulated by these Rules.

## **PART III - ORGANIZATION OF THE CONSTITUTIONAL COURT**

### **Chapter I.**

#### **RIGHTS AND OBLIGATIONS OF THE CONSTITUTIONAL COURT**

##### **Article 77**

##### **(Organizational and Financial Competences)**

- (1) In addition to its functions exercised in accordance with the provisions of the Constitution, the Constitutional Court shall also decide on:
  - a) the election of the President and Vice-Presidents of the Constitutional Court;
  - b) the status and immunity rights of the President and judges of the Constitutional Court;
  - c) the internal organization of the Constitutional Court and the Secretariat of the Constitutional Court;
  - d) the working bodies of the Constitutional Court;
  - e) status issues of the persons appointed and dismissed by the Constitutional Court;
  - f) the work schedule of the Constitutional Court and its execution;
  - g) the financial needs of the Constitutional Court;
  - h) adoption of the annual budget of the Constitutional Court;
  - i) other issues within the competence of the Constitutional Court.
- (2) In the exercise of its financial independence, the Constitutional Court shall:
  - a) draw up a draft budget required to carry out of the Constitutional Court's competences and submit it to the Presidency of Bosnia and Herzegovina for the purpose of having it included in the Draft Budget pursuant to Article VIII of the Constitution;
  - b) adopt a financial plan for the Constitutional Court in which it plans and takes decisions on the expected revenues and expenditures in the current year;
  - c) adopt an annual budget;
  - d) decide on the use of grants and other sources of revenues.

##### **Article 78**

##### **(Additional Attendees)**

- (1) In addition to the President of the Constitutional Court and the judges, the Secretary General of the Constitutional Court and the Registrar shall also attend the sessions of the Constitutional Court when matters under Article 77 of these Rules are being decided upon.

- (2) In the event that the issue referred to in paragraph 1, lines c, d, f, g and h and paragraph 2 of Article 77 of these Rules are discussed, the Assistant Secretary General of the Constitutional Court and the professional persons designated by the President of the Constitutional Court shall also attend the sessions of the Constitutional Court.

**Article 79**  
**(Cooperation with other Courts and Institutions)**

- (1) The Constitutional Court shall cooperate with other constitutional courts or bodies having the same jurisdiction.
- (2) The Constitutional Court may organize and participate at the meetings and conferences when issues of interest to the work of the Constitutional Court are discussed.

**Chapter II.**

**PRESIDENT OF THE CONSTITUTIONAL COURT AND JUDGES**

**Article 80**  
**(Selection of Judges)**

- (1) The judges of the Constitutional Court shall be selected in accordance with Article VI(1) of the Constitution.
- (2) The judges shall be distinguished lawyers of high moral standing. Any eligible voter so qualified may serve as a judge of the Constitutional Court. The judges selected by the President of the European Court of Human Rights shall not be citizens of Bosnia and Herzegovina or of any neighboring state.
- (3) The judges shall act in the Constitutional Court in their personal capacity.

**Article 81**  
**(President and Vice-Presidents)**

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

**Article 82**  
**(Solemn Declaration)**

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

*I solemnly declare that in exercising my functions as a judge of the Constitutional Court of Bosnia and Herzegovina, I will uphold the Constitution and laws of Bosnia and Herzegovina and that I will exercise my functions as a judge conscientiously and impartially.*

**Article 83**  
**(Election of President)**

- (1) The Constitutional Court shall elect its President at the session of plenary Court by secret ballot by a rotation of the judges selected by the legislative authorities of the Entities under Article VI(1)(a) of the Constitution of BiH; the President of the Constitutional Court may not be from among the constituent peoples or Others that the former and the second former President were selected from, in two consecutive terms.
- (2) If no judge receives the majority in the first round of voting, ballot shall take place between the two judges who have received most votes and the judge who receives more votes in the second round of voting shall be elected.

**Article 84**  
**(Term of Office of President)**

- (1) The term of office of President of the Constitutional Court shall be three years and it shall commence upon election.
- (2) If a President of the Constitutional Court ceases to be a member of the Constitutional Court before the end of his/her regular term of office, the plenary Court shall appoint a president for the remainder of the term of office in accordance with the principles set forth in Article 83 of these Rules.

**Article 85**  
**(Representation of the Constitutional Court)**

The President of the Constitutional Court shall represent the Constitutional Court, organize, direct, convene and chair the sessions and public hearings, sign the decisions of the Constitutional Court, be responsible for cooperation with other institutions, issue individual acts and carry out other duties as specified in these Rules and other acts of the Constitutional Court.

**Article 86**  
**(Election of Vice-Presidents)**

- (1) The Constitutional Court shall elect three Vice-Presidents at the same session when President of the Constitutional Court is being elected.
- (2) The Vice-Presidents of the Constitutional Court shall be elected from among all the judges.
- (3) The President of the Constitutional Court and Vice-Presidents of the Constitutional Court shall not be members of the same constituent people or other peoples.
- (4) The term of office of the Vice-Presidents of the Constitutional Court shall be the same as that of President of the Constitutional Court.
- (5) The voting for the Vice-Presidents shall be carried out in the same manner as for the President of the Constitutional Court.



- (6) The provisions of Article 83 of these Rules shall also apply to the Vice-Presidents of the Constitutional Court.

**Article 87**  
**(Replacement of President)**

- (1) In the event of his/her absence or in the event of being otherwise prevented, the President of the Constitutional Court shall designate a Vice-President to act on his/her behalf.
- (2) In the event that the President of the Constitutional Court is unable to designate a Vice-President to represent him or her, the Constitutional Court shall determine which of the elected Vice-Presidents shall represent the President of the Constitutional Court within the meaning of paragraph 1 of this Article.

**Article 88**  
**(Precedence)**

- (1) The judges or Vice-Presidents shall take precedence after the President of the Constitutional Court according to the date of their election.
- (2) The judges elected to office on the same date shall take precedence according to age.

**Article 89**  
**(Rights and Obligations of Judges)**

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

**Article 90**  
**(Disqualification)**

- (1) The President of the Constitutional Court or a judge shall not participate in the work and the decision-making process relating to a request for institution of proceedings or an appeal if:
  - a) he/she has a personal interest in the case;
  - b) he/she was involved in the taking of the decision which is the subject of the dispute, as a judge, party to the proceedings or a representative of a party or was involved in the rendering of the judgment which is the subject of the appeal or the law which is the subject of review of constitutionality (under Article VI(3) of the Constitution) as well as in a review of procedural regularity of the proposed decision of the Parliamentary Assembly of Bosnia and Herzegovina (Article VI(3)(f) of the Constitution); or
  - c) there are other circumstances which raise reasonable suspicion as to his or her impartiality.

- (2) A judge whose disqualification is being decided on may give a reply to the proposal for disqualification.
- (3) A decision on disqualification referred to in paragraph 2 of this Article shall be taken by a majority of the judges, on a proposal of the President of the Constitutional Court or a judge.

**Article 91**  
**(Conscientious Exercise of Judicial Functions,  
Safeguarding Reputation and Dignity)**

- (1) The judges shall perform the function of a judge conscientiously.
- (2) The judges shall uphold the reputation and dignity of the Constitutional Court and the reputation and dignity of a judge.

**Article 92**  
**(Right to Propose Issues)**

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

**Article 93**  
**(Right to be Informed on a Regular Basis)**

- (1) The judges shall have the right to be informed on all issues of importance for carrying out of the functions of the Constitutional Court on a regular basis.
- (2) The President and the Secretary General of the Constitutional Court shall be responsible for keeping the judges informed.

**Article 94**  
**(Official Identity Card)**

- (1) The Constitutional Court shall issue an official identity card to the President of the Constitutional Court and the judges.
- (2) The form and manner of issuance of the official identity cards shall be stipulated by the Constitutional Court.

**Article 95**  
**(Official Attire)**

The President of the Constitutional Court, the judges, the Secretary General and the Registrar shall be obligated to wear official attire at public hearings. At other sessions the attire shall be worn in accordance with the decision of the President of the Constitutional Court.

**Article 96**  
**(Incompatibility of the Office of Judge of the**  
**Constitutional Court)**

- (1) The position of a judge shall be incompatible with:
  - a) a membership in a political party or a political organization in Bosnia and Herzegovina;
  - b) a membership in a legislative, executive and other judicial authority in Bosnia and Herzegovina or the Entities and the Brčko District of Bosnia and Herzegovina;
  - c) any other position which could affect the impartiality of the judge.
- (2) The judges elected by the Entity Legislature shall not be members of an administrative or supervisory committee of public or private companies or other legal persons.
- (3) A university professor (assistant professor, full or associate professor) of law elected as a judge of the Constitutional Court may, on a reduced scale, continue to teach and work at the university as a professor of law.
- (4) For the purpose of this Article, other scientific or professional work or membership of institutes or associations of lawyers as well as humanitarian, cultural, sport or other associations shall not be considered a public or professional duty, unless those activities are associated with the activities of a political party.
- (5) Each judge shall declare to the President of the Constitutional Court any additional activity. In the event of a disagreement between the President of the Constitutional Court and the judge concerned, any question arising shall be decided by the plenary Court.

**Article 97**  
**(Immunity)**

- (1) A judge shall be entitled to immunity in exercising his or her functions.
- (2) A judge of the Constitutional Court shall not be held criminally or civilly liable for any action taken within his/her office. A judge of the Constitutional Court shall not be held criminally liable, detained or sentenced for an opinion expressed or a vote cast at the Constitutional Court.
- (3) A judge of the Constitutional Court may not be prosecuted, held, deprived of liberty or detained without prior consent given by the Constitutional Court. A prosecutor cannot initiate or pursue investigation or bring an indictment if he/she does not submit evidence showing that the consent has been given.
- (4) The plenary Court may decide by the majority of votes that the judge of the Constitutional Court, for whom the Constitutional Court approved the continuation of criminal proceedings and against whom the indictment was confirmed by the competent court, may be temporarily suspended from his/her office at the Constitutional Court pending the proceedings. In such event, that judge shall be entitled to salary.

- (5) If a judge invokes immunity during civil proceedings conducted against the judge claiming that the action constituting the grounds for instituting such civil proceedings has been taken within the scope of his/her duties, the Constitutional Court shall discuss and decide on that issue.

**Article 98**  
**(Termination of Office)**

- (1) A judge may be dismissed from office before the end of his/her term in the following cases:
- a) if he/she requests it;
  - b) if he/she is sentenced to an unsuspended prison sentence for committing a criminal offence that makes him or her unsuitable for the office;
  - c) if he/she permanently loses the ability to perform his or her functions;
  - d) if the circumstances indicated in Article 96 of these Rules occur;
  - e) if he/she fails to perform the function of a judge in accordance with Article 91 of these Rules.
- (2) The Constitutional Court shall establish the existence of reasons referred to in paragraph 1 of this Article and it shall dismiss the judge from office on the basis of a consensus of other judges and inform the body which elected that judge.

**Article 99**  
**(Procedure for the Election of a New Judge)**

- (1) The President of the Constitutional Court shall institute proceedings for the election of a judge in accordance with Article VI(1)(a) of the Constitution not later than six months prior to the expiration of the term of office of a judge due to his/her age.
- (2) In the event of resignation or dismissal of a judge from office, the President of the Constitutional Court shall institute proceedings for the election of a judge as from the date of taking of the decision of the plenary Court.
- (3) In the event referred to in paragraphs 1 and 2 of this Article, the President of the Constitutional Court shall inform the Chair of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina or the Chair of the National Assembly of the Republika Srpska, the Presidency of Bosnia and Herzegovina and the President of the European Court of Human Rights.
- (4) In case referred to in paragraph 1 of this Article, a newly elected judge shall assume office after the end of term of office of the judge whose term ended due to his/her age after the receipt of the acts of the competent body.
- (5) A newly elected judge, who is elected in place of a judge who resigned or was dismissed from office, shall assume office after the decision on the election has been published in the official gazettes or after the appropriate act of the President of the European Court of Human Rights has been received.

- (6) The decisions referred to in this Article shall be published in the *Official Gazette of Bosnia and Herzegovina* and in the Official Gazettes of the Entities and *Official Gazette of the Brčko District of Bosnia and Herzegovina*.

**Article 100**  
**(Working Bodies)**

- (1) The work of the Constitutional Court shall be carried out through permanent and ad hoc commissions and other bodies of the Constitutional Court.
- (2) The permanent commissions shall be:
- a) the Editorial Commission;
  - b) the Commission for Administrative Affairs;
  - c) the Commission for Budget;
  - d) the Commission for Publication, Information and Information Systems.
- (3) The work of the permanent commissions shall be regulated in the Rules.
- (4) Ad hoc commissions shall be established for the purpose of drafting general acts, professional papers, analysis and for other purposes.

**Article 101**  
**(Composition and Organization of Working Bodies)**

- (1) A permanent commission shall, as a rule, consist of the President and three members.
- (2) The President and one member shall always be elected from among the judges.
- (3) If required, the commission shall elect a secretary.
- (4) The President and the members of the permanent commissions shall be elected for a period of three years. They may be re-elected upon expiration of this period.

**Article 102**  
**(Editorial Commission)**

The Editorial Commission shall prepare the final texts of decisions and other acts of the Constitutional Court.

**Article 103**  
**(Commission for Administrative Affairs)**

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

**Article 104**  
**(Commission for Budget)**

The Commission for Budget shall consider the proposal for the budget of the Constitutional Court.

**Article 105**  
**(Commission for Publications and Information)**

The Commission for Publications and Information of the Constitutional Court shall publish the Bulletin and other publications of the Constitutional Court, shall update the appropriate professional literature as well as articles on the work of constitutional courts in the media, scientific and professional publications, shall decide on the purchase of professional literature, shall be responsible for the development and improvement of the information system of the Constitutional Court and inclusion of the system into information network both in the country and abroad.

**Chapter III.**

**SECRETARIAT OF THE CONSTITUTIONAL COURT**

**Article 106**  
**(Organization and Management of the Secretariat)**

- (1) The Secretariat of the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Secretariat) shall assist the Constitutional Court in performing its professional and other duties.
- (2) Departments, the scope of whose work shall be established by a Decision on the Organization of the Secretariat taken by the Constitutional Court sitting in plenary, shall be formed within the Secretariat.
- (3) The Secretariat shall be managed by the Secretary General who shall assist the Constitutional Court in the performance of its functions and be responsible for the organization and activities of the Secretariat under the authorization of the President of the Constitutional Court.

**Article 107**  
**(Requirement for Performing the Most Complex Tasks in the Secretariat)**

- (1) In addition to the Secretary General of the Constitutional Court, the most complex professional duties relating to exercising of the rights and duties of the Constitutional Court shall be carried out by the Registrar, Heads of Departments, Head of Office of the President of the Constitutional Court, Assistant Secretary General of the Constitutional

Court, legal advisors to the judges who are appointed and dismissed by the plenary Court.

- (2) Distinguished lawyers with the experience in the same or similar legal activities and in accordance with the conditions prescribed by a special act of the Constitutional Court may be appointed to the Secretary General of the Constitutional Court, Registrar, Heads of Departments, Head of Office of the President, Assistant Secretary General of the Constitutional Court, legal advisors to the judges.
- (3) The Registrar shall perform duties of the Deputy Secretary General in the event he/she is absent or otherwise prevented.
- (4) The categories within the range of offices of legal advisors shall be established by a decision referred to in Article 106(2) of these Rules.

**Article 108**  
**(Solemn Declaration by Officials and Employees**  
**of the Secretariat)**

- (1) Before taking up office, the persons referred to in Article 107(1) of these Rules shall make and sign the following declaration before the plenary Court or, in case of need, before the President of the Constitutional Court:

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

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

**Article 109**  
**(General Acts on Organization of the Secretariat)**

The decision referred to in Article 106(2) of these Rules shall provide a more detailed regulation of the organization and tasks of the Secretariat, the conditions for carrying out the tasks, the number of the employees and other issues of importance for the work of the Secretariat and exercising the rights, duties and responsibilities of the employees.

**Article 110**  
**(Individual Acts)**

- (1) The President of the Constitutional Court shall issue individual acts in accordance with the decision referred to in Article 106 of these Rules.
- (2) The President of the Constitutional Court may authorize the Secretary General of the Constitutional Court to issue individual acts referred to in paragraph 1 of this Article.

**Article 111**  
**(Registries)**

- (1) The Constitutional Court shall, within its constitutional competencies, maintain the registry of the cases: „U” and „AP”.
- (2) The actions concerning the cases and documents referred to in this Article shall be regulated by a special act of the Constitutional Court.

**PART IV- OTHER PROVISIONS**

**Article 112**  
**(Appropriate Application of Other Laws)**

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

**Article 113**  
**(General Acts on Salaries and Compensations)**

- (1) The Constitutional Court shall, by a separate act, regulate the salaries and other forms of compensation for the judges and the persons it appoints.
- (2) On a proposal by the Secretary General of the Constitutional Court, the Constitutional Court shall issue an act regulating the salaries and other forms of compensation for the employees of the Secretariat.

**Article 114**  
**(Regulations on Office Operation, Working Hours and House Rules)**

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

**Article 115**  
**(Issuance of General Acts and Publication)**

- (1) The general acts of the Constitutional Court shall be issued by the majority of votes of all judges.
- (2) These Rules of the Constitutional Court shall be published in the *Official Gazette of Bosnia and Herzegovina* and the Official Gazettes of the Entities and of the Brčko District of Bosnia and Herzegovina while other general acts and the act on the election of the President of the Constitutional Court and Vice-Presidents shall be published in the manner as regulated by the Constitutional Court.



## **PART V - TRANSITIONAL AND FINAL PROVISIONS**

### **Article 116 (Completion of Commenced Proceedings)**

The proceedings in cases that commenced before the date on which these Rules of the Constitutional Court became effective, shall be completed in accordance with these Rules if the former Rules are not more favorable to the party.

### **Article 117 (Cessation of Validity of Previous Rules)**

On the date when these Rules became effective, the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina*, nos. 60/05, 64/08 and 51/09) shall be rendered ineffective.

### **Article 118 (Gender Equality)**

The terminology in these Rules having gender related meaning shall equally relate to all genders.

No. P 569/14  
27 November 2014  
Sarajevo

Mirsad Ćeman  
President  
Editorial Commission

# APPEAL

Case no. AP \_\_\_\_ / \_\_\_\_

Date of receipt:

(to be filled in by the Court's Registry Office)

## 1. APPELLANT

a) First and last name/Name of legal entity

c) Tel/Fax

b) Address

Contact address for correspondence with the Constitutional Court

d) E-mail

## 2. APPELLANT'S COUNSEL

Fill in this section only if a lawyer or other counsel represents the appellant in proceedings before the Constitutional Court. Attach here a power of attorney.

a) First and last name/Name of legal entity

c) Tel/Fax

b) Address

Contact address for correspondence with the Constitutional Court

d) E-mail

## 3. CHALLENGED DECISION

Attach here a copy of the challenged decision.

a) Court/body that took the decision

Decision no.

Date of adoption

Date of service of the decision on you

b) Timeliness

State the date of service of a decision on the last effective remedy used.

c) Are proceedings terminated or pending?

TERMINATED       PENDING

*Note*

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**4. IN THE ABSENCE OF A CHALLENGED DECISION, SET OUT REASONS FOR LODGING YOUR APPEAL (Article 21 PARAGRAPH 2(4) OF THE RULES OF THE CONSTITUTIONAL COURT) AND ALLEGATIONS INDICATING GRAVE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS SAFEGUARDED BY THE CONSTITUTION OF BOSNIA AND HERZEGOVINA OR THE INTERNATIONAL DOCUMENTS APPLIED IN BOSNIA AND HERZEGOVINA (ARTICLE 18(2) OF THE RULES OF THE CONSTITUTIONAL COURT).**

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**5. PROVISIONS OF THE CONSTITUTION AND/OR INTERNATIONAL DOCUMENTS ON HUMAN RIGHTS APPLIED IN BOSNIA AND HERZEGOVINA DEEMED TO HAVE BEEN VIOLATED**

*The rights protected under the Constitution are listed in Attachment 1 (see the list).*

Constitution of Bosnia and Herzegovina

European Convention for the Protection of Human Rights and Fundamental Freedoms


## **6. FACTS**

*Write a brief account of the allegations, facts and evidence on which your appeal is based (if necessary, continue on a separate sheet of paper).*

## 7. LEGAL REMEDIES

### a) Remedies used (complaint, revision-appeal, etc.)

Court/body that took the decision	Decision no.	Date of adoption	Outcome of proceedings

### b) Failure to use legal remedies

*If there was a possibility of lodging a complaint or revision-appeal that you did not use, set out the reasons why you failed to do so.*

--

## 8. ADDITIONAL INFORMATION AND NOTES

### a) Other decisions

*State in chronological order all other decisions that have a bearing on your appeal.*

	Court/body that took the decision	Decision no.	Date of adoption
1.			
2.			
3.			
4.			
5.			

## 9. LIST OF DOCUMENTS

List all documents attached.

(Attach here copies of all decisions and documents referred to in this appeal)

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

## 10. OFFICIAL LANGUAGE

What official language would you like to use in your communication with the Constitutional Court?

- Bosnian
- Croatian
- Serbian

## 11. CONFIDENTIALITY

Do you wish your identity to be disclosed during the proceedings pending before the Constitutional Court?

YES

NO

\_\_\_\_\_  
Signature of the appellant or his/her counsel  
(seal<sup>1</sup>)

\_\_\_\_\_  
Place and date

**NOTE: As the documents will be scanned, please ensure that documents are not stapled together and not double-sided.**

This form must be sent to the following address:  
**Constitutional Court of Bosnia and Herzegovina**  
**R. Dz. Causevica 6/III**  
**71000 Sarajevo**

<sup>1</sup> Required in the case of a legal entity

## Attachment 1

The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina.

All persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms referred to in paragraph 2 above; these include<sup>2</sup>:

- a) The right to life.
- b) The right not to be subjected to torture or to inhuman or degrading treatment or punishment.
- c) The right not to be held in slavery or servitude or to perform forced or compulsory labour.
- d) The right to liberty and security of person.
- e) The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.
- f) The right to private and family life, home, and correspondence.
- g) Freedom of thought, conscience and religion.
- h) Freedom of expression.
- i) Freedom of peaceful assembly and freedom of association with others.
- j) The right to marry and to establish a family.
- k) The right to property.
- l) The right to education.
- m) The right to freedom of movement and residence.

The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex I to this Constitution shall be guaranteed to all persons in Bosnia and Herzegovina **without discrimination** on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.<sup>3</sup>

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<sup>2</sup> Article II(3) of the Constitution of Bosnia and Herzegovina

<sup>3</sup> Article II(4) of the Constitution of Bosnia and Herzegovina

## **Attachment 2**

### **The Constitutional Court may examine an appeal only**

If all effective remedies available under the law against a judgment or a decision challenged by the appeal have been exhausted and if the appeal is lodged within a time limit of 60 days as from the date on which the appellant received the decision on the last effective remedy he/she used.

### **When to apply to the Constitutional Court?**

The Constitutional Court *shall also have appellate jurisdiction over issues... arising out of a judgment of any other court in Bosnia and Herzegovina.*

### **Who may lodge an appeal?**

Pursuant to the Constitution of Bosnia and Herzegovina, the appellant may be private individual or legal entity. The appellant does not necessarily have to be a national of Bosnia and Herzegovina.

### **How to lodge an appeal?**

An appeal to the Constitutional Court shall be sent by mail or delivered directly to the Constitutional Court. The appeal shall be made on the special form available at the premises of the Constitutional Court or online from the website of the Constitutional Court. The form shall make an integral part of the Rules. It shall be mandatory to submit the appeal by typing the text either on a computer or a typewriter.

The appellant may present his/her case before the Constitutional Court or he/she may designate a person to represent him/her. In the latter case, the appellant is advised to appoint a lawyer to present the case. A representative shall be obligated to present a power of attorney. Electronic mail, written mail sent by fax and telegrams sent to the Constitutional Court shall not be regarded as submissions instituting constitutional proceedings or such submissions proposing the institution of constitutional proceedings, unless submitted at the request of the Constitutional Court or where approved by the Constitutional Court.

### **When should an appeal not be lodged?**

An appeal should be lodged with the Constitutional Court within 60 days as from the date of service of the last judgment or decision. It is also required that the appellant exhausts all legal remedies at his/her disposal prior to applying to the Constitutional Court. This implies that if there is still a possibility to apply to a body or a court at the state or entity level, one should do so. However, it is required that addressing the body or the court is *effective*. If the appellant considers that it would not be effective, it may still be useful for the appellant to apply to the Constitutional Court regardless of the fact that all legal remedies have not been exhausted.

### **What is the procedure before the Court?**

The Constitutional Court decides the cases in a chronological order, except for cases as established by Article 25 of the Rules of the Constitutional Court when acting in urgent procedures.

In the event that the Constitutional Court finds the appeal admissible, it will request the respondent party to submit a reply or the supporting documents. Failure on the part of the respondent party to reply will not interrupt the running of the proceedings before the Constitutional Court.