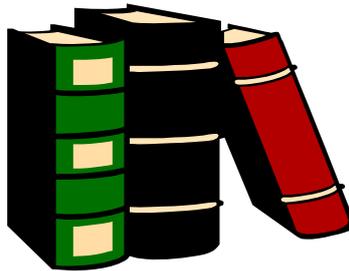




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LAW ON THE PROCEDURE BEFORE THE CONSTITUTIONAL COURT OF THE FEDERATION OF BOSNIA HERZEGOVINA

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NOTE: Changes and Amendments of the Law on Procedure Before the Constitutional Court of the Federation of Bosnia and Herzegovina, published in the “Official Gazette of the Federation of Bosnia and Herzegovina”, 37/03, are not included in this translation.

LAW ON THE PROCEDURE BEFORE THE CONSTITUTIONAL COURT OF THE FEDERATION OF BOSNIA HERZEGOVINA

I – GENERAL PROVISIONS

Article 1

This law shall regulate the rules of procedure by which the Constitutional Court of the Federation of Bosnia and Herzegovina (hereinafter: the Constitutional Court) is exercising its function under the Constitution of the Federation of Bosnia and Herzegovina (hereinafter: the Constitution).

Article 2

The Constitutional Court shall be independent and autonomous in exercising the court function and shall pass decisions based on the Constitution and rules of procedure stipulated by this Law.

Article 3

Proceedings before the Constitutional Court shall be public and decisions shall be announced publicly.

The publicity of the procedure before the Constitutional Court shall be excluded during the session and voting, and the Constitutional Court may exclude the public while discussing and passing decisions on matters which have characteristics of a state, military or other secret stipulated by the law or other regulations.

Article 4

In the Constitutional Court, Bosnian and Croat language shall be in official use and other languages may be used as communication means.

In exercising its function the Constitutional Court shall ensure equal use of Bosnian and Croat language.

The Latin alphabet shall be the official alphabet.

II – COMMON RULES OF PROCEDURE

Article 5

The Constitutional Court shall conduct the procedure based on the regulations of this Law, and in the matters which are not regulated by this Law shall apply accordingly the appropriate rules of laws of procedure.

Rules of procedure, which are not established by this Law, shall be regulated by the Book of Rules of the Constitutional Court.

Article 6

The procedure before the Constitutional Court shall be considered as initiated with the date of the reception of the request or some other act by which, in accordance with the Law, the procedure shall be initiated before the Constitutional Court (hereinafter: the request), which is directly submitted to the Constitutional Court by the authorized applicant, or with the date when it is sent by registered mail.

Article 7

The request for initiation of the procedure before the Constitutional Court contains certain claim, as well as facts and evidences on which the request is based on.

The applicant of the request shall attach to the request written evidences at his/hers disposal.

Article 8

The Constitutional Court may request necessary data and information of importance from other courts and state bodies, as well as from incumbents of public and other functions.

Article 9

The party to the procedure, in the sense of this Law, shall be considered the authorized applicant of a request for dispute resolution, constitutionality evaluation, establishment of the existence of the vital interest of a constitutional nation, replacement of the President of the Federation and Vice-President of the Federation, and the authorized complainant against the decision of the highest Cantonal Court on the existence of the vital interest of a constitutional nation in a Canton with a special regime, on one hand and the body, or the person in respect to which the request has been submitted, on the other hand.

Article 10

A party to the procedure has a right and duty to give the necessary data and information to the Constitutional Court in the course of the procedure and to take other actions of importance for decision making of the Constitutional Court.

Article 11

Parties to the procedure and other interested individuals may in the course of the procedure examine files of the case, except for files, which have been determined as a secret in the sense of Article 3 of this Law.

The secretary of the Constitutional Court shall approve examination of files of the case, and it shall be done in the offices of the Constitutional Court and in the presence of the authorized worker of the Constitutional Court.

Article 12

Federal, Cantonal, or Municipal authorities and other state bodies, as well as parties to the procedure, shall be represented by their representatives authorized by the Law or some other regulations.

Parties to the procedure may be represented by attorneys on the basis of the letter of attorney, issued for the representation before the Constitutional Court.

Apart from the parties in the procedure, other persons may be called by the Constitutional Court for their expertise to participate to the procedure before the Constitutional Court.

To persons from the Paragraph 3 of this Article, the Constitutional Court may compensate costs for the participation in the procedure and reward them for their expertise and opinion.

Article 13

The Constitutional Court shall decide within the limits of the request stressed in the procedure.

Article 14

Every party to the procedure shall bear its costs, unless the Constitutional Court, for justified reasons decides in another manner.

Article 15

In the procedure before the Constitutional Court stamp duties shall not be paid.

Article 16

A judge of the Constitutional Court designated according to the distribution of duties (hereinafter:

reporting judge) shall deliver the copy of the request to the other party in the procedure and shall set the deadline for the delivery of replies to the statements from the request and evidences that the request contains.

Article 17

The reporting judge, for explanation of the situation, may request information from the applicant of the request and other parties in the procedure, as well as from the state bodies. The judge can may for the opinion of appropriate experts, hear witnesses and experts, establish evidences, as well as request I certain evidences to be established before the other Court or body.

Article 18

The Constitutional Court shall decide on the hearing in all cases except when by this Law it is regulated that it can decide on a session without hearing.

Article 19

The president of the Constitutional Court shall fix the time of the hearing Chair the hearing. Subpoena shall be delivered to the parties in to procedure and other persons called for the hearing no later than seven days prior to the hearing.

Article 20

Hearing shall be public, but the Constitutional Court may, for the reasons regulated in Article 3 of this Law, decide for the hearing to be closed for public.

Parties to the procedure shall be called for the hearing, and necessary representatives of the authorities and other institutions, scientists and other experts who can give their opinion and information to the Constitutional Court of importance for decision-making shall be called.

Default of appearance of the party in the procedure and other persons called for the hearing shall not prevent the Constitutional Court to implement the procedure and to make the decision.

Article 21

The president of the Constitutional Court shall open the hearing and present the subject of the hearing.

After that, the reporting -judge shall present the situation without his opinion, and after that the parties in the procedure shall have the right to present and explain their attitudes and requests.

Article 22

In the course of the hearing, judges of the Constitutional Court, with a permission of the president of the Court, may ask questions and explanations from the present parties in the procedure and other called persons on the matter that is the subject of the hearing.

Article 23

If necessary, the Constitutional Court, may postpone, or adjourn the hearing on a certain matter, in order to collect necessary data and information, as well as in other justified cases.

Article 24

The Constitutional Court shall start its session and voting after the president of the Constitutional Court concludes the subject of the hearing.

Article 25

The president of the Constitutional Court shall verbally announce the decision, pointing out essential

reasons for the decision, after the session and voting has been completed.

The passed and announced decision shall be delivered to the parties to the procedure in writing.

Article 26

The Constitutional Court at the session without hearing shall decide on rejection of the request when it is not competent to decide on the request, in the case when the applicant is not authorized to initiate the procedure, in the case when the request is not submitted within the period stipulated by the Law, in the case when the Constitutional Court has already decided on that matter or in the case when there are no other process suppositions for the decision on the essence of the matter.

When the Constitutional Court by the decision rejects the request due to the fact that it is not competent to decide, the request can be sent to the competent Court or other body and to inform the party on that.

Article 27

Designated judge shall present legal issues of importance for discussion and voting, as well as the proposal of the decision on the matter, which is discussed at the session without hearing.

Article 28

The Constitutional Court shall decide by the majority of votes of all judges of the Constitutional Court.

In the course of decision-making at the session only judges and a court reporter shall be present.

The judge shall have a right to ask for his separate opinion to be recorded or attached to the record.

Article 29

The Constitutional Court shall pass a sentence and decisions.

The Constitutional Court shall pass a sentence when it is deciding on the essence of the matter, and in all other cases it shall pass the decision.

Sentence and decision shall have to be explained.

Article 30

Sentences of the Constitutional Court shall be published in the Official Gazette of the Federation of Bosnia and Herzegovina, as well as in the appropriate official gazette of the Canton or municipality.

III – DISPUTE RESOLUTION

Article 31

Dispute resolution on rights and obligations between institutions of the Federal authorities or within the certain institutions of the Federal authorities, Canton or municipality shall be initiated before the Constitutional Court by the request of that institution, Canton or municipality whose right was infringed, or on which, in contravention of the Constitution, Federal law, Cantonal law or some other regulation some obligation has been imposed on.

Article 32

The request for dispute resolution shall have to contain the name of the institution of the Federal authorities or organizational form of the institution of the Federal authorities, Canton or municipality between which the dispute occurred, the subject of the dispute and evidences which imply that with the document or action of the other party its right has been violated, legal consequences which appeared or can appear because of the dispute and the manner of resolution of the dispute.

Article 33

Parties to the procedure of dispute resolution are the institution of the Federal authorities, or organizational form of that institution, Canton or municipality which submitted the request for dispute resolution and the institution of the Federal authorities, or the organizational form of that institution, Canton or municipality related to which the submitted request concerns.

The Constitutional Court can approve the participation to the procedure of other state bodies, which are considered to be interested parties.

Article 34

Resolving the dispute between the parties in the procedure from Article 31 of this Law, the Constitutional Court may establish that with a certain document or action of one party the right of the other party in the dispute is violated, may establish the existence or non-existence of a certain obligation and decide that consequences of such document or action shall be eliminated.

IV – VALUATION OF CONSTITUTIONALITY

Article 35

The procedure for valuation of constitutionality referred to Article IV.C.10 (2) and decision-making on constitutional issues referred to in Article IV.C.10. (3) of the Constitution shall be initiated on the basis of a request submitted by the authorized applicant.

Article 36

Request for assessment of constitutionality should contain the title of Cantonal Constitution, law or other regulation of a Federal, Cantonal or Municipal body (hereinafter: Constitution of a Canton, law or other regulation), and indication of provisions being disputed, as well as a constitutional matter arisen in the procedure before the Supreme Court of Bosnia and Herzegovina, Court for Human Rights or Cantonal court and, if a regulation was published, title and number Official Gazette it was published in, provision of the Constitution considered violated; statements, facts and evidences the request is based on; other data and enclosures significant for assessment of the constitutionality and signature of an authorized person, certified by the stamp of an applicant.

Article 37

If it is to assess the constitutionality of the proposed Constitution of a canton, law or other regulation, or adopted regulations, which were not published, a certified copy of the regulation concerned should be attached to the request.

Article 38

When more requests for assessment of the constitutionality of the same regulation are submitted to the Constitutional Court, the Constitutional Court shall conduct one procedure, as a rule, and shall pass one ruling.

A combination of files in terms of Paragraph 1 of this Article shall not be made if that would effect on considerable delay of the procedure.

Article 39

Parties to the procedure of assessment of the constitutionality shall be the authorized applicants as per Article IV.C.10. (2) and (3) of the Constitution and the Federal, Cantonal and Municipal body which proposed or passed the Cantonal Constitution, law or other regulation.

If the Constitutional Court is to decide on constitutional matters presented by the Supreme Court of the Federation of Bosnia and Herzegovina, the Court for Human Rights or Cantonal Court, the parties to the procedure shall be all the parties in that judicial procedure.

Article 40

Adopted or proposed law or other regulation of the Federal, Cantonal or Municipal body determined by the Constitutional Court as inconsistent with the Constitution shall not be enforceable as of the date of publishing the Constitutional Court judgment in the “Official Gazette of the BiH Federation”, in other words, the proposed law or some other regulation shall not become effective.

Law or other regulation from Paragraph I. of this Article shall be enforceable, i.e. shall become effective as of the date specified in the regulation concerned if it has been amended as stipulated by the Constitutional Court.

Taking into consideration all circumstances being of interest for protection of the constitutionality, in particular the consequences as the result of determined inconsistency, relations established on the basis of such law or other regulation, as well as the interest of legal security, the Constitutional Court may determine interim solutions which cannot be in effect more than six months from the date of publishing the Constitutional Court judgment in the “Official Gazette of the BiH Federation” on determined inconsistency of the law or other regulation with the Constitution and on interim solutions as well.

Article 41

After publishing the Constitutional Court judgment in the “Official Gazette of the BiH Federation” determining that the law or other regulation of the Federal, Cantonal or Municipal body, which has become effective, is not consistent with the Constitution, regulation passed for its enforcement shall not be applied either.

V – DETERMINATION OF EXISTENCE OF VITAL INTERESTS OF THE CONSTITUENT PEOPLE

Article 42

The procedure for determination of vital interests of one of the constituent people pursuant to Article IV.A.18 of the Constitution shall be initiated on the basis of a notice sent by the speaker or deputy speaker of the House of Peoples notifying that the Joint Commission of the Bosniak and Croat delegates failed to solve the issue concerning the vital interests of respective constituent people.

The procedure for determination of existence of vital interests of one of the constituent people pursuant to Article IV.B.6. (10) of the Constitution shall be initiated on the request of the Prime Minister or a Deputy Prime Minister if the issue of existence of vital interests is encountered in the work or the Government of the Federation of Bosnia and Herzegovina.

The procedure specified in Paragraph 2. of this Article shall involve, in addition to a notice submitter, the Bosniak or the Croat delegate in the House of Peoples who consider the decision to be of vital interest of respective constituent people, as well as the delegates of the House of Peoples who do not consider it to be as claimed.

The procedure specified in Paragraph 2. of this Article shall involve in addition to an applicant, the ministers who consider the decision of the Government of the Federation of Bosnia and Herzegovina to be of vital interest as well as the ministers who do not consider it to be as claimed.

Article 43

A notice or request respectively for determination of existence of vital interests of one of the constituent people should contain a decision, or issue respectively, related to the vital interest of the constituent people, circumstances and facts the request for determination of existence of vital interests is based on, other data and attachments being important for determination of vital interests, as well as the signature of an authorized person, certified by the stamp of an applicant.

Article 44

The procedure for determination of existence of vital interests of the constituent people shall be urgent.

VI – PROCEDURE FOR RELEASE OF THE FEDERATION PRESIDENT AND VICE PRESIDENT

Article 45

Request of the Federation Parliament for release of the Federation President or Vice President should contain facts of the case and evidences on the break of an oath or reasons for unworthiness of performing the function concerned.

The Constitutional Court shall obtain an answer from the President and Vice President respectively on the statements presented in the request for release.

Article 46

The parties to the procedure for release shall be the House of the Federation Parliament, which sent the request for release of the Federation President and Vice President respectively, as well as the Federation President and Federation Vice President respectively.

Article 47

The Constitutional Court shall decide by its judgment on the release of the President or Vice President respectively, or refuse unfounded request for release.

VII – DECISION-MAKING ON APPEAL AGAINST RULING OF THE HIGHEST COURT OF A CANTON WITH A SPECIAL REGIME

Article 48

The Constitutional Court shall apply appropriate rules of respective law of procedure in the appeal proceedings against the ruling of the highest cantonal court, deciding whether the decision by a legislative body in a canton with a special regime refers to the vital interests of the constituent people.

An appeal against the ruling of the highest cantonal court mentioned in Paragraph I. of this Article may be filed by the Club of the Bosniak or the Club of the Croat delegates in the cantonal legislative body within 30 days after the date of submission of the ruling of the highest cantonal court to the Club.

Article 49

The procedure of decision-making on the appeal before the Constitutional Court shall involve, in addition to a complainant, the delegates of the cantonal legislative body who consider or do not consider respectively the decision to be of vital interest of the constituent people.

Article 50

The procedure of decision-making on the appeal against the ruling of the highest cantonal court shall be urgent.

VIII – TRANSITIONAL AND FINAL PROVISIONS

Article 51

Until the first session of the House of Peoples, its functions as specified by this Law shall be performed by the Constitutional Assembly.

Article 52

This Law shall become effective on the eighth day after being published in the “Official Gazette of the BiH Federation”.