

**LAW**  
**On the Organisation and Operation**  
**of the Constitutional Court**

**The Parliament adopts the present law.**

**CHAPTER I**  
**General Provisions**

**Article 1. Constitutional Court - the authority of constitutional jurisdiction**

1. The Constitutional Court shall be the sole authority of constitutional jurisdiction in the Republic of Moldova.
2. The Constitutional Court shall be independent and it shall be subject only to the Constitution.
3. The Constitutional Court shall:
  - a. guarantee the supremacy of the Constitution;
  - b. ascertain the implementation of the principle of separation of the state powers into legislative, executive and judiciary authority;
  - a. guarantee the responsibility of the state towards the citizen and of the citizen towards the state.

**Article 2. Legislation on the Constitutional Court**

The Constitutional Court shall carry out its activity under the conditions of the present law, as well as under those of the Constitution and the Code of Constitutional Jurisdiction.

**Article 3. Principles of activity**

The Constitutional Court shall operate on the basis of the following principles:

- a. independence;
- b. collegiality;
- c. legality;
- d. publicity;

**Article 4. Prerogatives**

1. The Constitutional Court shall:
  - a. exercise, upon appeal, the constitutionality review of laws, regulations and decisions of the Parliament, the decrees of the President of the Republic of Moldova, the decisions and provisions of the Government, as well as the international treaties the Republic of Moldova is a party to;
  - b. give the interpretation of the Constitution;

- c. pronounce itself upon the initiatives of revising the Constitution;
  - d. confirm the results of the republican referenda;
  - e. confirm the results of elections of the Parliament and President of the Republic of Moldova, and it shall validate the mandates of the Parliament's members and of the President of the Republic of Moldova;
  - f. ascertain the circumstances which justify the dissolution of the Parliament, dismissal from office of the President of the Republic of Moldova, the interim office of the President, the impossibility of the President of the Republic of Moldova to fully exercise its powers for more than 60 days, as well as it shall ascertain the circumstances which lead to the withdrawal of the Parliament's member mandate, dispose the withdrawal of the latter and it shall pronounce as vacant the mandate of the Parliament's member;
  - g. settle the plea of unconstitutionality of the judicial acts having been claimed by the Supreme Court of Justice;
  - h. decide upon issues dealing with the constitutionality of a political party;
2. The competence of the Constitutional Court shall be stipulated by the Constitution and no public authority shall dispute it.

#### **Article 5. Mandate length**

1. The term of office of the Constitutional Court shall not be limited.
2. The judge of the Constitutional Court may hold this position within the term of two mandates.

#### **Article 6. Structure**

1. The Constitutional Court shall consist of six judges, appointed for a term of office of six years.
2. Two judges shall be appointed by the Parliament, two- by the President of the Republic of Moldova and the other two by the Superior Council of Magistracy.
3. The Constitutional Court shall also include the Secretariat, which has the task to ensure the Court's activity.
4. An Advisory-Scientific Board shall operate within the Constitutional Court.

#### **Article 7. President of the Constitutional Court**

1. The President of the Constitutional Court shall be elected by secret ballot for a term of three years, with the majority of votes of the Court's judges.
2. The number of candidates to the office of the President of the Constitutional Court shall be unlimited.
3. If after the first ballot no candidate gets a majority of votes, it shall be proceeded to the second ballot and the judge who gathered the biggest number of votes shall be elected as the President.
4. If after the second ballot the candidates have gathered the same number of votes, the President shall be elected between the two selected candidates by drawing of lots.
5. The Constitutional Court shall elect a judge to perform the functions of the President during his absence.

### **Article 8. Prerogatives of the President of the Constitutional Court**

1. The President of the Constitutional Court shall have the following prerogatives:
  - a. to summon and preside over the plenary sessions of the Constitutional Court;
  - b. to co-ordinate the activity of the Constitutional Court, and to distribute the cases for settlement;
  - c. to represent the Constitutional Court before public authorities from the country and from abroad;
  - d. to establish the cases of cessation of the judge's mandate, as provided for by the present law, and to inform the public authority which has appointed him/her for filling the vacant post;
  - e. to exercise the general administration of the Secretariat activity of the Constitutional Court, as well as to employ and suspend from office the Secretariat staff, under the conditions of the individual labour contract;
  - f. to lodge for approval at the Constitutional Court the Regulations of the Secretariat, its administrative chart and staffing schedules, the Regulations of the Advisory-Scientific Board, as well as the Regulations of the Secretariat departments;
  - g. to fulfil other powers as provided for by the present law and the Code of Constitutional Jurisdiction;
2. The President of the Constitutional Court shall be the co-ordinator of the Court's financial means, within the limits of the approved budget.
3. The President of the Constitutional Court shall issue dispositions and orders.

### **Article 9. Obligatory character of the implementation of the Constitutional Court claims**

1. For the purpose of exercising the Court's prerogatives, the public authorities or other legal persons, regardless the type of their property and the nature of the judicial organisation shall be compelled to deliver, within the term of 15 days at the most, the information, or other official documents and normative acts they hold, to the Constitutional Court.
2. The cases of non-performance of the paragraph (1) or its inadequate fulfilment, as well as the judge's absence at the plenary sessions under the conditions considered by the Court as being groundless, shall be sanctioned pursuant to the Code of Constitutional Jurisdiction.

### **Article 10. Official reports of the Constitutional Court**

The Constitutional Court shall annually present to the competent authorities, which are empowered to appoint judges, the reports concerning the implementation of constitutional jurisdiction.

## **CHAPTER II**

### **Status of the judge of the Constitutional Court**

### **Article 11. Appointment**

1. The judge of the Constitutional Court may be any citizen of the Republic of Moldova, who possesses outstanding legal education, high professional competence, and a length of service of at least fifteen years in legal field, as well as within high legal education institutions or scientific activity in law.
2. The age limit for holding the office of the Constitutional Court judge shall be 70 years old.
3. The appointment shall occur only with the prior consent of the candidate, expressed in written form. In case the candidate holds an office incompatible with that of judge of the Constitutional Court, or he/she is a member of a political party, or another social-political organisation, the consent shall contain the candidate's pledge to resign on the day of taking the oath from the previous office and to suspend the activity within the political party or other social - political organisation.

### **Article 12. Oath**

1. At the beginning of the term office, the judge of the Constitutional Court shall take, in front of the Parliament, the President of the Republic of Moldova, and the Superior Council of Magistracy, the following oath:  
"I swear to faithfully and without partiality fulfil my obligations as judge of the Constitutional Court, to defend the constitutional order of the Republic of Moldova, and to abide, while exercising the office, only by the Constitution".
2. The judges shall start fulfilling his/her duties from the date of their taking the oath.

### **Article 13. Independence**

1. The judges of the Constitutional Court shall be independent while performing their mandate and shall abide only by the Constitution.
2. The judges of the Constitutional Court shall not be held legally responsible for their votes and opinions expressed during the exercise of their mandate.

### **Article 14. Immovability**

1. The judge of the Constitutional Court shall be irremovable during the term of office.
2. The mandate of the judge of the Constitutional Court shall be suspended and withdrawn only in cases provided for by the present law.
3. In case of the exclusion de jure of the mandate, the judge shall be dismissed from office, under the conditions foreseen by the present law.
4. The judge of the Constitutional Court may resign from office at his/her own initiative.

### **Article 15. Incompatibilities**

The position of the judge of the Constitutional Court is incompatible with any other public or private remunerated stand, except for the didactic and academic activities.

#### **Article 16. Immunity**

1. The judge of the Constitutional Court cannot be apprehended, arrested, searched except for the cases of a flagrant offence, nor can he/she sent to trial for criminal or petty offences, unless preliminary approved by the Constitutional Court.
2. The legal competence for the administrative offences and misdemeanours committed by the judges of the Constitutional Court shall belong to the Supreme Court of Justice.
3. The initiation of the criminal proceedings and the request for the consent of suing at law shall fall under the competence of the Prosecutor General.
4. The judge of the Constitutional Court shall be legally suspended from office from the date of endorsing the consent of suing at law. In case of a final sentence, the judge mandate shall be withdrawn, under the terms of the present law.

#### **Article 17. Obligations**

The judge of the Constitutional Court shall be under an obligation:

- a. to perform his/her prerogatives unbiassedly and respecting the Constitution;
- b. to keep the secrecy of deliberations and of the votes, and not to take a public stand or give consultations on matters within the Constitutional Court competence;
- c. to express the affirmative or negative vote, while adopting the rulings of the Constitutional Court;
- d. to inform the President of the Constitutional Court of any activity incompatible with the exercised powers;
- e. to forbid the use of the performed function for purpose of any kind of propaganda;
- f. to refrain from any activity contrary to the status of judge.

#### **Article 18. Vacancy of the office**

1. The mandate of judge of the Constitutional Court shall cease and the vacancy of office is declared in the following cases:
  - a. mandate expiration;
  - b. resignation;
  - c. mandate withdrawal;
  - d. demise.
2. The cessation of the mandate and the vacancy of the office in cases stipulated by the paragraph (1) letters: (a), (b), (d) shall be decided by a provision of the President of the Constitutional Court, but in the case foreseen by letter (c) - by the Constitutional Court.

#### **Article 19. Withdrawal of the mandate**

1. The mandate of the judge of the Constitutional Court shall cease through the withdrawal of the judge's immunity in case of:
  - a. a long and uninterrupted incapacity (more than 4 months) to fulfil the functional duties

due to health reasons;

b. an infringement of the oath and office duties;

c. the conviction delivered by a law court for committing an offence;

d. an incompatibility;

1. The Constitutional Court shall be empowered to decide over issues on the withdrawal of judge's immunity and the cessation of judge's mandate, as provided for by the paragraph (1).

2. A panel of two judges designated through a provision by the President of the Constitutional Court, shall carry out the control over cases of infringement of the judges' obligations and their oath.

#### **Article 20. Completion of the vacancy**

1. In the event of the mandate cessation, in pursuance to Article 18, the President of the Constitutional Court shall notify the competent authority, within three days at the most from the date of the vacancy assertion, soliciting to appoint a new judge.

2. The competent authority shall appoint a new judge within a period of 15 days from the date of the President of the Constitutional Court appeal.

#### **Article 21. Qualification degree, salary, indemnities and pensions**

1. The judges of the Constitutional Court, specialists of a high legal education and professional competence, shall benefit for life, from the moment of his/her appointment for this position, by the superior qualification degree of the judges.

2. The President of the Constitutional Court shall be assimilated with the position of the President of the Supreme Court of Justice, regarding the salary, indemnities and pension.

3. The judges of the Constitutional Court shall be assimilated with the position of the Vice-President of the Supreme Court of Justice, regarding the salary, indemnities and pension.

4. The wages and indemnities of the judges and the President of the Constitutional Court shall be established by a decision of the Constitutional Court and included in its budget.

5. In case the judge of the Constitutional Court has resigned the office, having reached the ceiling age for this position or due to a long and constant incapacity (more than 4 months) to exercise the office due to health reasons, he/she shall be entitled to a dismissal indemnity equal to the average annual salary of the position. The Constitutional Court shall have the right to grant to the resigned judge a dismissal indemnity amounting to 3 monthly salaries of the position at the most.

6. The manner of pension insurance of the judge of the Constitutional Court shall be fixed under the law.

#### **Article 22. Guarantees for exercise of the judge mandate**

1. The labour contract of the previous office shall be cancelled while exercising the mandate of the Constitutional Court judge.

2. After the mandate expiration, the judge of the Constitutional Court shall be restored to the previous position, but whether the latter has been liquidated the judge shall be offered

an equivalent stand within the same or another institution.

3. It shall be concluded a labour contract for a determined term with the person who is supposed to hold the previous judge position, which shall be cancelled on the judge's return. The similar procedure shall be enforced in case the prior judge office has been completed either by election or contest examination.

4. The period of exercising the judge mandate shall be included in the whole and uninterrupted length of service of the previous stand.

5. The judge, who has, at the date of the mandate expiration, attained the ceiling age and has the necessary length of service for retirement, shall resign from the judge office, under the law.

6. The judge shall be entitled to an annual paid leave for a period of 36 working days (taking into account 6 working days week) and to an unpaid leave for personal interests.

7. The judge unsecured with dwelling place shall be entitled, under the law, to the improvement of his/her dwelling conditions within 6 months at the most from the date of his/her appointment.

### **CHAPTER III**

## **THE EXERCISE OF CONSTITUTIONAL JURISDICTION**

#### **Article 23. Plenum of the Constitutional Court**

1. The Constitutional Court shall exercise jurisdiction in plenary sessions (plenum).
2. The plenum, besides the exercise of jurisdiction, shall rule the activity of the Court on the whole.
3. The quorum of the Constitutional Court plenum shall be formed of two thirds of the number of the Court judges.
4. The plenum of the Constitutional Court shall be convoked after the competent authorities have appointed at least 4 judges.

#### **Article 24. Appeal of the Constitutional Court**

1. The Constitutional Court shall exercise its jurisdictional power upon the appeal lodged by the subjects foreseen by the present law and under the conditions of the Code of Constitutional Jurisdiction.
2. The appeal shall be well grounded and it shall meet the requirements provided for by the Code of Constitutional Jurisdiction.
3. The appeal shall be signed by the head of the authority on behalf of which it has been lodged.
4. The pattern of the appeal and the manner of its laying down shall be stipulated by the Code of Constitutional Jurisdiction.

#### **Article 25. Subjects entitled to submit the appeal**

The right to petition the Constitutional Court shall have:

- a. President of the Republic of Moldova;
- b. Government;
- c. Minister of Justice;
- d. Supreme Court of Justice;
- e. Court of Audit;
- f. Prosecutor General;
- g. Member of the Parliament;
- h. Parliamentary fraction;
- i. Ombudsman;
- j. People's Assembly of Gagauzia (Gagauz-Yeri) - in cases of exercising the review of constitutionality over laws, regulations and decisions of the Parliament, decrees of the President of the Republic of Moldova, decisions and orders of the Government, as well as the international treaties the Republic of Moldova is a party to, which infringes upon the powers of Gagauzia.

#### **Article 26. The acts of the Constitutional Court**

1. The Constitutional Court shall deliver judgments, decisions and it shall issue advisory opinions.
2. The judgments and advisory opinions shall be adopted on behalf of the Republic of Moldova.
3. The acts of the Constitutional Court shall be delivered in plenary sessions after they have been handed down.
4. The judgments and advisory opinions of the Constitutional Court shall be published in "Monitorul Oficial" (Official Gazette) of the Republic of Moldova in term of 10 days following the date of their adoption.
5. The acts of the Constitutional Court are final, cannot be appealed against and shall enter into force from the date of their adoption. Upon the decision of the Court, some acts shall enter into force from the date of their publishing, or at the date mentioned thereof.
6. The acts of the Constitutional Court shall be signed by the President of the Court or by the substitute judge.
7. The judgments of the Constitutional Court shall produce effect only for the future.

#### **Article 27. Voting**

1. The acts of the Court shall be adopted by the majority of the judges' votes.
2. In case that for the adoption of the judgment on the constitutionality of the normative act or international treaty the votes parity is recorded, the normative act at issue or the international treaty shall be presumed constitutional and the case shall be ceased. In other cases of the parity of votes, the judgment, advisory opinion or decision shall not be considered as adopted and the examination of the case at issue shall be adjourned.
3. The voting shall have an open character. Upon the decision of the Constitutional Court plenum, some acts may be submitted to a secret vote.
4. The judge shall not be entitled to shirk or to refrain from voting.



5. Upon request, the judge's separate dissenting opinion shall be attached to the adopted act.

### **Article 28. The action of the Constitutional Court acts**

1. The acts of the Constitutional Court shall be considered as official and enforceable on the entire territory of the state, for all public authorities and all natural and legal persons.
2. The normative acts or some parts thereof delivered as unconstitutional shall become null and void, and unenforceable from the moment the Constitutional Court passes the judgment to that effect.
3. The legal effects of the normative act or some parts thereof handed down as unconstitutional shall be removed pursuant to the legislation in force.

### **Article 28/1 . Liability of public authorities on the enforcement of the Constitutional Court acts**

1. The Government shall, within the term of 3 months at the most from the date of the Constitutional Court judgment publication, lodge with the Parliament the draft law on the amendment or abrogation of the normative act or some parts thereof handed down as unconstitutional. The draft law at issue shall take priority within the Parliament examination.
2. The President of the Republic of Moldova or the Government shall, within the term of 2 months from the date of the Constitutional Court judgment publication, amend and supplement, or repeal the normative act or some parts thereof being acknowledged as unconstitutional and, if necessary, it shall issue or adopt a new act.
3. The acts issued for the purpose of enforcement of normative acts or some parts thereof acknowledged as unconstitutional become null and void and shall be annulled.
4. Remarks delivered by the Constitutional Court on the loopholes of normative regulations due to the non-enforcement of certain constitutional provisions laid down in the address follow to be examined by the referred body, which within the term of 3 months at the most, shall notify the Constitutional Court about the examination outcomes.

### **Article 28/2 . The non-enforcement of the Constitutional Court acts**

The non-enforcement, the inappropriate enforcement, and the hindrance of the Constitutional Court acts enforcement shall bring about the liability as provided for by the legislation in force.

### **Article 29. Publicity of the debates**

The sessions of the Constitutional Court shall be held in public, but the President may order a secret session, in case the publicity could threaten the state security and public order.

### **Article 30. Language of the proceedings**

1. The proceedings and the Secretariat activities of the Constitutional Court shall be performed in the state language. The official documents submitted in a foreign language shall be translated in the state language and delivered in public.
2. Foreign participants at the session shall speak or express their opinions through an interpreter.

#### **Article 31. Ambit of competence**

1. The Constitutional Court shall examine only issues falling within its competence.
2. Only the normative acts adopted following the entrance into force of the Constitution on 29 July 1994 shall be subject to the review of constitutionality.
3. The Constitutional Court shall examine exclusively legal matters.

#### **Article 32. Term for the appeal settlement**

The Constitutional Court shall settle the appeal within the term of 6 months from the date of receiving the materials.

#### **Article 33. Legislation on jurisdictional procedure**

The constitutional jurisdiction procedure shall be laid down in the Code of Constitutional Jurisdiction.

### **CHAPTER IV Specialised and Administrative Staff**

#### **Article 34. Secretariat of the Constitutional Court**

1. The Secretariat of the Constitutional Court shall provide the informational, organisational, scientific and other kinds of assistance, it shall ensure the organisation of the citizens' hearings, the preliminary examination of the Court's appeals, the settlement of which by the judges of the Constitutional Court is not mandatory, as well as it shall assist the judges at the preparation of the case files for examination.
2. The Head of the Constitutional Court Secretariat shall exercise the leadership over its activity.
3. The Regulations of the Constitutional Court Secretariat, as well as its organisation chart and staff schedule shall be approved by the Constitutional Court.
4. The Specialised and Administrative Staff shall fall within the ambit of the labour legislation, except for the cases stipulated by the present law.

#### **Article 35. Assistant - Judge**

1. The President and the judges of the Constitutional Court shall be assisted in their activity by 6 assistant-judges.
2. The assistant-judges must have high legal education and a length of service of at least 10 years in legal field or within the institutions of high legal education. They shall be elected by competitive examination. The President of the Constitutional Court shall designate the examination committee consisting of 3 judges, the Head of the Secretariat and other Court's officers.
3. The office of the assistant-judge shall be assimilated to that of the Court of Appeal judge and shall have the similar status as the judges from other law courts.
4. The assistant-judges shall take the oath before the plenum of the Constitutional Court under the terms provided for by Article 12, paragraphs (1), (4) and (6) of the Law on the status of the judge. The taking of the oath shall be recorded in the minutes of proceedings, signed by the President of the Constitutional Court and the person who has been sworn in.
5. The assistant-judges, depending on their work tenure and professional experience shall be granted for life, II or I qualification degree for judges. Thus, the qualification degree shall be awarded by the Constitutional Court plenum, after the preliminary attestation according to the established procedure.
6. The assistant-judges shall enjoy immunity. They shall be subject to the provisions of Article 16.

#### **Article 36. Advisory-Scientific Board**

1. An Advisory-Scientific Board of scholars and experts-practitioners in legal field shall be formed within the Constitutional Court.
2. The Regulations of the Advisory-Scientific Board shall be approved by the Constitutional Court.

### **CHAPTER V Final Provisions**

#### **Article 37. Financing of the activity**

1. The Constitutional Court shall have its own budget, which shall be a constitutive part of the state budget.
2. The draft budget of the Constitutional Court together with the preliminary advisory opinion of the Ministry of Finance shall be approved by the Parliament simultaneously with the state budget.

#### **Article 38. Power symbols**

1. In the session room of the Constitutional Court there shall be placed the State Coat-of-Arms, the State Flag and the Constitution of the Republic of Moldova.
2. During the plenary sessions the judges of the Constitutional Court shall wear gowns, the design of which shall be approved by the Constitutional Court.
3. The judges of the Constitutional Court and the Specialised and Administrative Staff shall be handed in the identity cards. The pattern of the identity card and the manner of its handing in are stipulated by the Regulations of the Secretariat. The President of the Republic of Moldova shall hand in the identity cards to the Constitutional Court judges.

#### **Article 39. Seal**

The Constitutional Court shall have a seal with the image of the State Coat-of-Arms and its name.

#### **Article 40. Headquarter**

1. The head office of the Constitutional Court shall be in the Municipality of Chisinau.
2. The plenary sessions of the Constitutional Court shall be held in its head office.

#### **Article 41. Guard**

The guard of the Constitutional Court head office and, if necessary of the Court President shall be provided under the law.

### **CHAPTER VI Transitory Provisions**

#### **Article 42.**

1. The Constitutional Court shall be established within thirty days at the most from the date of publication of the present law.
2. The Constitutional Court shall elect its President within five days from its foundation.
3. For the first composition of the Constitutional Court, the judges from the part of the Superior Council of Magistrates shall be appointed by the General Assembly of the People's Judges and the Supreme Court members.
4. The Supreme Court shall have the right to apply to the Constitutional Court on behalf of the Supreme Court of Justice before its foundation, and on behalf of the Court of Audit - by the Court of Arbitration of the Republic of Moldova.
5. Before the setting up of the Superior Council of Magistrates, the judges of the Constitutional Court shall take their oath in front of the Parliament and the President of the Republic of Moldova.
6. Before the election of the President of the Constitutional Court, the plenary sessions

shall be convoked and presided over by the senior judge.

7. Before the setting up of the Supreme Court of Justice and the Court of Appeal, the wages and indemnities of the President, judges and assistant-judges of the Constitutional Court shall be established by the Parliament.

President of the Parliament

Petru LUCINSCHI

Chisinau, December 13, 1994

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