

Constitutional court act

Prom. SG. 67/16 Aug 1991, amend. SG. 45/30 Apr 2002, amend. SG. 114/30 Dec 2003, amend. SG. 23/17 Mar 2006, amend. SG. 50/3 Jul 2012, amend. SG. 19/5 Mar 2014

Chapter one. GENERAL PROVISIONS

Art. 1. (1) The Constitutional Court shall guarantee the supremacy of the Constitution.

(2) The Constitutional Court shall be independent from the Legislature, the Executive and the Judiciary. In its work the Constitutional Court shall be guided exclusively by the provisions of the Constitution and this Act.

Art. 2. The seat of the Constitutional Court shall be in the city of Sofia.

Art. 3. The Constitutional Court shall have an independent budget.

Chapter two. ORGANISATION, STRUCTURE AND COMPOSITION

Art. 4. (1) The Constitutional Court shall be composed of 12 members, 1/3 of which shall be appointed by the National Assembly, 1/3 shall be appointed by the President of the Republic and 1/3 shall be chosen at a General Assembly of the justices of the Supreme Court of Appeals and the Supreme Administrative Court.

(2) The term of each justice shall be 9 years.

(3) Eligible for membership in the Constitutional Court shall be Bulgarian citizens who have no other citizenship and who meet the requirements of Art. 147 of the Constitution.

Art. 5. (1) Three months before the expiration of the term of the respective justices the Chairman of the Constitutional Court shall propose to the Chairman of the National Assembly, the President and the Chairmen of Supreme Court of Appeals and the Supreme Administrative Court to respectively choose or appoint new justices.

(2) (declared anti-constitutional by constitutional court decision No. 1 from 2006 – SG 23/06) The members of the Constitutional Court shall continue to perform their obligations until their successors have assumed their duties.

Art. 6. (1) The Constitutional Court justices shall assume their duties upon taking the following oath of office: „In assuming my duties as a justice of the Constitutional Court, I do solemnly swear to observe faithfully my duties as assigned to me by the Constitution and the Constitutional Court Act. I have sworn.“

(2) Each justice shall take the oath of office not later than one month after his appointment or choosing in the presence of the Chairman of the National Assembly, the President and the Chairmen of Supreme Court of Appeals and the Supreme Administrative Court.

(3) (suppl., SG 112/03) Justices of the Constitutional Court shall vacate any posts occupied by them and shall cease all activities incompatible with their position, in accordance with Art. 147, para 5 of the Constitution within the time period stipulated in para 2. The Constitutional Court Justices who are lecturers in higher schools shall use unpaid leave until the termination of their legal capacities.

(4) The Act regulating appointing or choosing a justice shall be promulgated in the „State Gazette“ within 15 days.

Art. 7. (1) The first session of the Constitutional Court, at which the Chairman shall be chosen, shall be chaired by the most senior justice.

(2) The justices of the Constitutional Court shall choose the Chairman in accordance with Art. 147, para 4 of the Constitution. The candidate who has received more than half of the votes of all justices shall be Chairman.

(3) Where during the first ballot no candidate has obtained the required majority a second ballot shall be held in which the two candidates receiving the highest number of votes shall participate. In the second ballot the candidate who has received the higher number of votes shall be Chairman; if the votes are evenly split the Chairman shall be the candidate with longer professional experience; where the professional experience is equal the older of the two shall be Chairman.

Art. 8. (1) The Chairman of the Constitutional Court shall:

1. represent the Court;
2. chair the Court's sessions;
3. administer the budget;
4. allot the work among the justices;
5. appoint the chief secretary and the Court employees;

6. carry out the administrative management of the Court;

7. publish the laws of the Court.

(2) In the absence of the Chairman his duties shall be performed by the oldest justice.

Art. 9. (1) No criminal proceedings may be instituted against a Constitutional Court justice before his immunity has been revoked.

(2) A justice's immunity shall be revoked upon the submission of sufficient evidence as to the commission of a grave premeditated criminal offence to the Constitutional Court by the Chief Prosecutor.

Art. 10. (1) The Chairman of the Constitutional Court shall receive a monthly compensation equal to the arithmetical mean of the compensations of the President of the Republic and the Chairman of the National Assembly.

(2) The Constitutional Court justices shall receive a monthly compensation equal to 90 per cent of that of its Chairman.

(3) The Constitutional Court justices shall enjoy the same status as the Chairman of the National Assembly.

(4) (amend. and suppl. – SG 50/12) The Constitutional Court justices shall be entitled to retirement after the expiration of their term of office regardless of whether they have reached retirement age or not and without cancelling their insurance elsewhere, and to retirement benefits amounting to twenty monthly payments according to procedure set out in the Rules of organization and procedure of the Constitutional Court.

Art. 11. (1) The term of a Constitutional Court justice shall be terminated in accordance with Art. 148 of the Constitution.

(2) The termination of the term pursuant to Art. 148, para 1, items 2, 3, 4 and 5 of the Constitution shall be operational following a decision of the Constitutional Court.

(3) (suppl. – SG 50/12) (3) (suppl. – SG 50/12) The termination of the term of office pursuant to Art. 148, para 1, items 1 and 6 of the Constitution shall be announced by the Chairman of the Court, provided that in the cases under Art. 148, para 1, item 1 of the Constitution the termination shall occur with the taking the oath of the newly elected or appointed judge.

(4) The decisions and resolutions for terminating a Constitutional Court justice's term shall be published in the „State Gazette“ within a period of 15 days.

Chapter three.

COMPETENCE OF THE COURT

Art. 12. (1) The Constitutional Court shall:

1. give binding interpretations on the Constitution;
2. rule on motions for establishing the unconstitutionality of laws and other legislative acts of the National Assembly, as well as of Presidential acts;
3. settle disputes regarding competence as between the National Assembly, the President and the Council of Ministers, as well as between organs of local government and the central executive bodies;
4. rule as to the conformity with the Constitution of treaties concluded by the Republic of Bulgaria before their ratification, as well as in the conformity with laws with regard to the universally recognised rules of international law and with treaties to which Bulgaria is a party;
5. rule on disputes concerning the constitutionality of political parties and associations;
6. rule on disputes concerning the legality of the election of the President and the Vice President;
7. establish the circumstances under Art. 97, para 1, items 1 and 2 and para 2 of the Constitution;
8. rule on disputes as to the legality of the election of a member of the National Assembly;
9. establish the ineligibility for election or incompatibility of a member of the National Assembly with regard of the exercising of other functions;
10. (new – SG **19/14**, in force from 05.03.2014) rule on disputes concerning the legality of the election of the member of the European Parliament from the Republic of Bulgaria;
11. (former item 10 – SG **19/14**, in force from 05.03.2014) rule on impeachment brought by the National Assembly against the President or the Vice president;
12. (former item 11 – SG **19/14** in force from 05.03.2014) revoke the immunity and establish the inability to discharge his duties and the incompatibility of a Constitutional Court justice.

Art. 13. The Constitutional Court itself shall decide whether an issue addressed to it is within its competence.

Art. 14. (1) The Constitutional Court shall rule through decisions, resolutions and orders.

(2) The Court shall rule on the merits of a dispute with a decision.

(3) Decisions shall be promulgated in the „State Gazette“ within 15 days of their adoption and shall enter into force 3 days after publication.

(4) Decisions on disputes concerning the legality of the election of the President, the Vice President or a member of the National Assembly, on establishing ineligibility for election or incompatibility of a member of the National Assembly, as well as on the inability to discharge his duties and incompatibility of a Constitutional Court justice, shall enter into force from the date of the ruling.

(5) The Court's ruling shall be final.

(6) The Court's decisions shall be binding for all state bodies, corporate bodies and citizens.

(7) The Court's ruling, together with the considerations, shall be issued in a year-book.

Art. 15. (1) The Constitutional Court shall be deemed in session when at least 2/3 of the justices are present.

(2) The decisions and the resolutions of the Court shall be adopted by a majority of all justices.

(3) Abstentions shall not be acceptable.

Art. 16. The Constitutional Court shall rule on the initiative of the bodies and persons set out in Art. 150, para 1 of the Constitution.

Art. 17. (1) Motions before the Constitutional Court shall be made in writing, shall be reasoned and shall be accompanied by evidence set out in writing.

(2) Motions for declaring the unconstitutionality of the laws and acts stipulated in Art. 12, para 1, item 2 may be made as of the date of their publication.

(3) Motions for settling disputes concerning competence envisaged in Art. 149, para 1, item 3 of the Constitution shall be made only after discussion as to the subject of the dispute between the respective interested institutions.

(4) (amend. – SG **19/14**, in force from 05.03.2014) Motions for settling disputes concerning the legality of the election of the President, the Vice President, a member of the National Assembly and member of the European Parliament from the Republic of Bulgaria shall be made within 15 days from the date of the decision of the Central Electoral Commission.

Art. 18. (1) The Chairman of the Court shall, with an order, initiate proceedings, designate a justice on the report and fix the date for the hearings.

(2) The interested institutions shall be informed of the initiation of the proceedings and shall be given a deadline for presenting in writing their positions and evidence.

Art. 19. (1) The Constitutional Court shall rule on the admissibility of motions under Art. 17 with a resolution in camera.

(2) When a motion is not granted review it shall be returned to the applicant with a reasoned resolution.

Art. 20. (1) The Constitutional Court may request additional evidence in writing and may commission the presentation of expert opinions.

(2) (amend. - SG 45/02) No one shall have the right to refuse presentation of requested information or documentary evidence regardless of whether they may represent classified information representing state or official secret.

(3) (new - SG 45/02) Observed in the cases under para 2 shall be the conditions and the order of the Protection of Classified Information Act.

Art. 21. (1) The Constitutional Court's sessions shall be held without the participation of the interested parties with the exception of cases explicitly stipulated by this Act or when the Court itself decides otherwise.

(2) The Court may order the personal appearance and hearing of an expert witness.

(3) Minutes shall be kept at the Court's sessions and shall be signed by the Chairman and a secretary record-keeper.

(4) When it finds that the evidence gathered is sufficient the Court shall rule by a decision within two months.

(5) (new – SG **19/14**, in force from 11.03.2014) The Constitutional Court shall rule on the legality of elections for Members of Parliament, the election of a single Member of Parliament and the election of a Member of the European Parliament from the Republic of Bulgaria within two months from the receipt of the request.

(6) (former para. 5 – SG **19/14**, in force from 11.03.2014) When the Constitutional Court has ruled by a decision or by a resolution on the inadmissibility of a motion, further motions on the same subject may not be presented.

Art. 22. (1) With its decision the Court shall rule only on the motion as presented. It shall not be limited to the indicated grounds for non-conformity with the Constitution.

(2) Laws which have been declared unconstitutional shall not be implemented.

(3) When an act has been issued by an incompetent organ the Constitutional Court shall declare it null and void.

(4) The legal effects which have occurred on the basis of the law set out in para 2 shall be resolved by the body which has issued it.

(5) (amend. – SG **19/14**, in force from 11.03.2014) Decisions ruling as to the illegality of the election of the President, the Vice President, a member of the National Assembly and the member of the European Parliament from the Republic of Bulgaria and on establishing ineligibility for election or incompatibility of a member of the National Assembly shall be sent to the Central Electoral Commission and the interested bodies and parties.

Art. 23. (1) Decisions with regard to impeachment of the President or Vice President shall be sent to the Constitutional Court accompanied by the reasons, documentary evidence and minutes of the sessions in accordance with the stipulations of Art. 103, para 2 of the Constitution.

(2) The Chairman of the Court shall initiate the proceedings, shall designate three justices for the report, shall set the date of the hearing and shall inform the official subject to impeachment.

(3) Copies of the decision, the material evidence and the minutes shall be sent to the official subject to impeachment who within 15 days may present or request the gathering of further evidence.

(4) All evidence is admissible in the course of the proceedings. The official subject to impeachment shall be entitled to participate in the proceedings with legal counsel.

(5) The Court shall inform the Chairman of the National Assembly of the date of the hearing. A member designated by the National Assembly shall take part in the proceedings in support of the impeachment.

Art. 24. (1) The Constitutional Court shall hold the hearing when at least 3/4 of all members are present.

(2) The official subject to impeachment shall be entitled to provide personal explanations before the Court.

(3) The Court shall pass its judgement by secret ballot.

(4) With its decision the Court shall terminate or refuse to terminate the powers of the President or the Vice President.

(5) The official impeached, the Chairman of the National Assembly, the President or the Vice President and the Prime Minister shall be immediately informed of the decision.

(6) When the Court terminates the powers of the President or the Vice President on grounds of treason the record of the hearings shall be sent to Chief Prosecutor.

Art. 25. (1) The decision for revoking the immunity of a justice of the Constitutional Court shall be adopted by secret ballot.

(2) The respective justice shall be given the opportunity to present a personal account before the Court. He shall not vote.

Art. 26. In cases of establishing the incompatibility of a member of the National Assembly he shall be given the right set out in Art. 25, para 2.

Art. 27. (amend. - SG 114/03) (1) For not carrying out a resolution or order of the Constitutional Court the Chairman of the Court shall impose on the guilty person a fine of up to 1000 levs.

(2) Before imposing the fine the guilty person shall be given an opportunity to offer written explanations within 14 days from the notification.

(3) The Chairman may also gather other proof if he deems it necessary.

(4) The fine shall not be subject to appeal, but may be reduced or revoked by the Chairman of the Court.

Transitional and concluding provisions

§ 1. The Constitutional Court shall adopt Rules for its Organisation and Activities.

§ 2. (1) The members of the Constitutional Court, for its first term, shall be determined by lot.

(2) After the expiration of a three year period the membership shall be renewed with two representatives from the National Assembly's quota and with one representative each from the President's and the Judiciary's quota.

(3) After the expiration of a six year period the membership shall be renewed with two representatives from the President's quota and with one representative each from the National Assembly's and the Judiciary's quota.