



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

**RULES OF PROCEDURE
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**

I. Organization of the Constitutional Court

Rule 1

General Provisions

The Rules of Procedure shall supplement the relevant provisions of the Constitution of the Republic of Kosovo and the Law on the Constitutional Court of the Republic of Kosovo in governing the organization of the Constitutional Court of the Republic of Kosovo ("Court"), procedures before the Court and other matters related to the functioning of the Court.

Rule 2

Seat of the Court

(1) The Seat of the Court is in Pristina where the Court shall conduct its meetings and hearings; the Court may conduct meetings and hearings in other suitable locations within the Republic of Kosovo.

(2) At the request of the Court, the Secretariat shall prepare and submit to the President of the Constitutional Court ("President") a list of locations which are suitable for conducting meetings and hearings for the Court.

(3) The decision to conduct meetings outside of the Seat of the Court shall be made by majority vote of all Judges of the Court ("Judges") present and voting. The Court shall consider the views of the parties before making the decision.

Rule 3

Symbol and Stamp of the Court

- (1) The symbol of the Court shall be decided by 2/3 majority vote of all Judges.
- (2) The stamp of the Court shall contain the coat-of-arms of the Republic of Kosovo encircled by the inscription "Gjykata Kushtetuese e Republikës së Kosovës -- Ustavni Sud Republike Kosova."

Rule 4

Precedence of Judges

- (1) The Court is composed of nine Judges appointed in accordance with Article 114 of the Constitution and Articles 6 and 7 of the Law on the Constitutional Court.
- (2) Unless otherwise provided in these Rules, the Judges, in the exercise of their responsibilities, are of equal status, regardless of age, priority of appointment, length of service or duration of mandate.
- (3) When determining the order of voting, Judges shall take precedence according to the date and time on which their mandate began, with the most recently appointed voting first. If the Judges have been appointed at the same time, the Judges shall vote in the order of the youngest Judge first.
- (4) When determining the assignment or replacement of Judges as Rapporteur and as Presiding Judge of the Review Panel, the precedence of Judges is established by a system of random draw with the President making the resulting appointment.

Rule 5

Resignation of Judges

- (1) A Judge shall submit a letter of resignation to the President of the Republic of Kosovo with copies submitted to the President of the Court and to the Secretariat.
- (2) The Secretariat shall immediately communicate a copy of the letter of resignation to all other Judges and to other appropriate parties.
- (3) The resignation of a Judge is irrevocable and does not depend on acceptance to be effective.
- (4) Unless a different date is stated in the letter of resignation, the resignation of a Judge shall become effective on the day it is submitted to the President of the Republic of Kosovo.

Rule 6

Dismissal Procedures

- (1) A Judge of the Constitutional Court may be dismissed only on the grounds of (a) commission of a serious crime, (b) serious neglect of duties, (c) permanent loss of the ability

to act, or (d) illness or any other health problem which makes it impossible to exercise the responsibilities and functions of a Judge.

(2) Dismissal may be proposed in a written document setting forth the grounds for dismissal and signed by one or more Judges and submitted to the President. Documents containing any relevant facts shall be attached to the proposed dismissal. The dismissal proposal shall be confidential and must be provided as soon as possible to all Judges.

(3) The President shall inform in writing the Judge who is proposed to be dismissed regarding the grounds for the proposed dismissal and provide to the Judge the written proposed dismissal and all attached relevant facts. If the President is proposed for dismissal, the Deputy President shall provide the same notice to the President.

(4) The Judges shall convene a confidential meeting to discuss the proposed dismissal. The Judge proposed for dismissal shall have the right to be present at the confidential meeting and shall have the right to respond to the proposed dismissal, furnish any explanations or information and answer questions from the Judges.

(5) The Judges shall convene a subsequent confidential meeting at which the Judge proposed for dismissal shall be excluded. The Judges shall determine at this meeting whether to propose dismissal to the President of the Republic of Kosovo. The President of the Court shall preside over this meeting and the discussion of the Judges shall remain confidential. To propose dismissal to the President of the Republic of Kosovo, a 2/3 majority vote of all remaining Judges on the Court must vote affirmatively for the dismissal. The Judges shall have the right, also by a 2/3 majority vote, to impose sanctions or discipline that is less severe than dismissal if circumstances warrant.

Rule 7

Exclusion procedures

(1) As soon as a Judge learns of any of the reasons for his exclusion foreseen in Article 18 of the Law on Court or if a Judge believes that other circumstances exist that raise a reasonable suspicion as to his or her impartiality, he or she shall inform in writing the President of the Court. A copy of that information shall be delivered to all Judges.

(2) Any party to the proceedings may file a petition for exclusion of a Judge as soon as they learn of a reason for exclusion, and in any event not later than one week before the oral hearing, if any, or before a decision being taken by the Court.

(3) In the information or in the petition, a Judge or party shall set forth the facts and circumstances justifying the exclusion. The reasons stated in a previous petition for disqualification that was refused cannot be included in a new petition for exclusion. Copies of the petition shall be delivered to all Judges.

(4) Before rendering a decision on exclusion requested by any party, a statement shall be taken from the Judge whose disqualification is sought and, if need be, other clarifications shall be obtained. The requested Judge may not participate in the issuance of the decision.

(5) The Court, by majority vote of the Judges, shall decide on the exclusion, if it concludes that the exclusion is well grounded and reasonably founded.

Rule 8

Appointment of Judge Rapporteur

- (1) The Judge to be assigned a referral shall be chosen by a system of random draw and appointed by the President.
- (2) If replacement of the Judge assigned as Judge Rapporteur is necessary, another Judge shall be assigned the referral by random draw and appointed by the President.
- (3) All Judges shall receive, over time, an equal distribution of assignment of referrals as Judge Rapporteur.

Rule 9

Appointment of Review Panels

- (1) For each referral registered by the Court a Review Panel of three Judges to review the admissibility of the referral shall be chosen by a system of random draw and appointed by the President.
- (2) The President shall designate one of the Judges assigned to the Review Panel to serve as Presiding Judge of the Review Panel.
- (3) All Judges shall receive, over time, an equal distribution of assignments as Judges on Review Panels and as Presiding Judges of Review Panels.
- (4) The Judge Rapporteur assigned to prepare a report on the referral to be considered by the Review Panel shall not be a member of the Review Panel.

Rule 10

Election of President and Deputy President

- (1) The President and Deputy President of the Court shall be elected by the Judges of the Court and the terms of office shall commence on the effective date stated in the election decision of the Court.
- (2) The election for President and the election for Deputy President shall be held one month prior to the expiration of the term of the incumbent President or the incumbent Deputy President. The President of the Court, if still a Judge and when possible, shall continue to exercise the functions of the President until a new President has been elected and has taken office. In case of an immediate vacancy in the office of President, the election for President shall be held as soon as possible, and the Deputy President shall serve as interim President until the effective date of the new President's term. If there is no Deputy President, the most senior Judge on the Court shall serve as interim President. If one or more Judges on the Court have equal seniority with the Court, then the oldest judge shall be considered the most senior Judge for purposes of this Rule.
- (3) The President shall conduct the election of a President and Deputy President. If the President is no longer a Judge or is unable to act, the Deputy President shall conduct the elections. If the Deputy President is no longer a Judge or unable to act, the most senior Judge shall conduct the elections.

(4) The elections for President and for Deputy President shall be held separately, in the same manner, and shall be by secret ballot. All Judges must be given sufficient notice of the election in order to participate in the elections. At least seven Judges shall be present at the meeting at which the elections are conducted. A Judge obtaining the majority of all Judges participating and voting in the election shall be declared elected and the Court shall determine the date the Judge assumes the responsibilities of the position.

(5) In case no Judge receives a majority after three ballots, the Judges shall choose between the two Judges receiving the highest number of votes, and the Judge receiving the most votes on the fourth ballot shall be elected. In determining whether a Judge has received a majority of the votes, only the votes for the two final candidates shall be counted. If, on the third ballot, three Judges each receive three votes, the final two candidates shall be determined by drawing lots. If, on the fourth ballot, no Judge receives a majority of the vote, the election shall be determined by drawing lots.

Rule 11

Resignation of President or Deputy President

(1) The President shall submit a letter of resignation as President to the Deputy President and to the Secretariat. The Deputy President shall submit a letter of resignation as Deputy President to the President and to the Secretariat.

(2) In either case the Secretariat, shall immediately communicate a copy of the letter of resignation to all other Judges and to other appropriate parties.

(3) The resignation shall be effective on the date indicated in the letter of resignation, or if no date is indicated, the resignation shall be effective immediately. The resignation shall not be dependent on acceptance.

(4) The interim administration of the Court and the election of a new President or Deputy President shall occur in accordance with the terms of Rule 10.

Rule 12

Functions of the President

(1) In addition to the functions provided by the Constitution and the Law on the Constitutional Court and other provisions in these Rules, the President shall:

(a) take all necessary and appropriate measures to ensure the efficient and effective functioning of the Court;

(b) coordinate the work of the Judges, and summon judicial and administrative sessions of the Court;

(c) coordinate and supervise the administration of all Court activities;

(d) represent the Court and establish and ensure cooperation with other institutions and public authorities at national and international level;

(e) establish working groups to discuss and make recommendations on subjects which warrant wide or interdisciplinary consideration;

(f) preside over all judicial and administrative meetings of the Court;

(g) ensure compliance with the Code of Conduct and maintain order within the premises and during proceedings of the Court;

(h) inform all Judges of all ongoing and forthcoming issues, processes and actions related to the Court.

(2) The Deputy President shall perform the duties of the President when the President is absent or for any other reason is unable to perform the duties of President.

(3) The President may delegate duties and responsibilities to the Deputy President or to other Judges.

Rule 13

Professional Attire

Judges shall wear professional attire in the form of a judicial robe when publicly performing responsibilities and functions as a Judge. If appropriate, Judges may wear a judicial robe when participating in other public events. The Judges shall approve the design and color of the judicial robe.

Rule 14

Administrative Sessions

(1) The Judges shall meet in administrative session to discuss and decide on matters of policy related to the administration of the Court. When necessary, at the direction of the President, the Secretariat shall draft policy proposals for review and approval by the Court.

(2) Administrative sessions of the Court shall be called by the President, who shall chair the meetings. The Court shall meet in administrative session at least twice yearly, or upon the written request of any Judge or the Secretariat.

(3) Matters of policy related to the administration of the Court shall include, but are not limited to:

(a) the Court's budget;

(b) personnel;

(c) use and maintenance of the building premises;

(d) national and international cooperation;

(e) fines for infractions committed during proceedings;

(f) internal organization and functioning of the Court;

(g) status and contractual matters involving the Secretariat and Legal Advisors;

(h) employment conditions, working schedules, remuneration and code of conduct for the civil service staff of the Secretariat;

(i) adoption of the Annual Report.

(4) Decisions at administrative sessions shall be made by majority vote of the Judges present and voting, provided that at least seven Judges are present.

Rule 15

Secretariat

(1) In addition to the functions required by the Law on the Constitutional Court, the Secretariat of the Constitutional Court ("Secretariat") shall have overall responsibility for the provision of administrative, technical and other related support services to the Court, including, but not limited to:

- (a) support services for hearings of the Court;
- (b) printing of documents and other materials;
- (c) interpretation and translation services;
- (d) budgetary, payment, internal auditing, procurement and personnel services;
- (e) building management services, technical services, office facilities, vehicle services, post services, fire precaution and other security measures;
- (f) support services in drafting and publishing the Annual Report, and
- (g) other support services required by the Court.

(2) The organizational structure of the Secretariat shall be determined by the Judges in administrative session upon approval of a written proposal by the Secretary General. The Secretary General, with the approval of the Judges, may establish or eliminate departments, sections or units as necessary for the effective and efficient discharge of the functions and responsibilities of the Secretariat.

Rule 16

Secretary General

(1) The Secretary General shall be the chief executive officer of the Secretariat, shall report to the President, and shall be responsible for:

- (a) overall administration and management of the Secretariat to ensure that all functions are performed in an effective and efficient manner;
- (b) issuance of regulations and instructions on matters relating to the functioning of the Secretariat and related administrative matters;
- (c) implementation in a timely and efficient manner of the decisions of the Court related to administrative matters;
- (d) efficient and effective management of resources;
- (e) organization and staffing of the Secretariat, ensuring that recruitment for staff is based on professional qualifications, competence and merit and is undertaken through open and fair competition, and

(f) implementation of non-discriminatory personnel policies within the Secretariat, including equitable gender representation and ensuring that the composition of personnel reflects the multi-ethnic character of the Republic of Kosovo.

(2) The Secretary General shall be appointed by a majority vote of the Judges present and voting at an administrative session. The appointment must be based on a transparent, open and competitive selection process.

(3) The Secretary General must possess the following minimum qualifications:

(a) an advanced university degree in law, economics, management or administration;

(b) a minimum of five years experience, of which at least two years includes professional leadership experience in administration and management; and

(c) be a person of highest personal and moral integrity.

(4) A vacancy in the position of Secretary General shall be advertised in at least three newspapers widely circulated in Kosovo. Applications shall be reviewed by a selection panel consisting of three Judges appointed by the President. The selection panel shall submit to the Judges a list of the persons who have applied and who fulfill the requirements set forth in paragraph (3).

(5) The Secretary General may be dismissed or temporarily suspended by majority vote of the Judges present and voting at an administrative session of the Court.

(6) When the Secretary General is absent or unable to exercise the functions of the position, the President shall appoint a high ranking official responsible for general administration to perform the duties of the Secretary General on an interim basis.

Rule 17

Staffing of the Secretariat

(1) The Secretariat shall have staff that is required to enable the Secretariat to fulfill its functions in an efficient and effective manner within the budgetary resources allocated to the Court.

(2) Once employed by the Court, staff of the Secretariat shall be civil servants. The Secretary General shall ensure that hiring of staff is based upon professional qualifications, competence and merit, and is undertaken through fair and open competition in accordance with the Law on Civil Servants.

(3) The Secretary General, upon request by the Judges, may enter into contracts with experts and other professionals to perform services for the Court.

(4) All staff hired by the Secretariat must take an oath to comply with the Code of Ethics.

Rule 18

Legal Advisors

(1) Legal Advisors shall support the professional work of the Judges by conducting legal research and analysis. The Legal Advisors shall assist in drafting decisions, reports and other legal materials produced by the Court. The Judges shall determine the number of Legal Advisors to be employed based upon the Court's needs and available budgetary resources.

(2) Legal Advisors shall not be civil servants. The terms of contract of Legal Advisors shall be determined by the Court in accordance with relevant law.

(3) Legal Advisors shall be appointed by majority vote of the Judges present and voting, based upon a transparent, open and competitive selection process. A Legal Advisor may be appointed only if the following qualifications are met:

(a) An advanced university degree in law, preferably with specialization in constitutional law, human rights law, public international law, or any other branch of public law;

(b) A minimum of five years of relevant professional experience in legal affairs; and

(c) A person of highest personal and moral integrity.

(4) Vacancies for Legal Advisor shall be advertised in at least three newspapers widely circulated in the Republic of Kosovo. Applications shall be reviewed by a selection panel consisting of three Judges appointed by the President. The selection panel shall submit to the Judges a list of persons who fulfill the requirements in paragraph (3).

(5) A Legal Advisor may be dismissed or temporarily suspended by a majority of the Judges present and voting in accordance with relevant law.

(6) The Legal Advisors shall be supervised by the Chief Legal Advisor who shall be appointed by the Judges from among the Legal Advisors employed by the Court. The Chief Legal Advisor shall be appointed on a rotation basis among the Legal Advisors unless otherwise determined by the Court. The Chief Legal Advisor shall report to the President. After consultation with the President and the Judges, the Chief Legal Advisor may be dismissed as Chief Legal Advisor at any time by majority vote of the Judges present and voting at an administrative session.

Rule 19

Confidentiality

All Judges, the Secretary General and staff of the Secretariat, and the Legal Advisors shall not express in public any comments or opinions on matters related to cases that have or may come before the Court , unless otherwise provided for in these Rules.

Rule 20

Budget and Fees

(1) The Secretary General shall prepare a budget proposal, in consultation with the President, and submit it to the Judges for review and approval.

(2) The Judges in administrative session shall review, amend if necessary, and approve the final budget proposal. The President shall sign the approved budget proposal and the Secretary General shall submit the budget proposal in accordance with the Law on the Constitutional Court and the Law on Public Financial Management and Accountability.

(3) The Secretary General shall propose to the Judges a schedule of fees for administrative services.

Rule 21

Domestic and International Cooperation

(1) The Court, under the direction of the President, shall establish and maintain cooperation with institutions established in Kosovo, with foreign Constitutional Courts, and with domestic and international organizations active in the rule of law.

(2) Cooperation shall be conducted in a manner that preserves the independence of the Court as mandated by the Constitution of the Republic of Kosovo.

Rule 22

Accessibility

(1) The work of the Court shall be transparent, open and accessible to the public to the greatest extent possible, consistent with the Constitution, the law and confidentiality requirements of the Court, including, but not limited to:

- (a) informing the public about the date and time of hearings;
- (b) providing information on the course of proceedings;
- (c) permitting viewing of files and documents;
- (d) publication of all Judgments and decisions;
- (e) any other form of communication as authorized by the Court.

(2) The Secretary General shall publish Judgments and decisions on the Court's webpage immediately following the approval of the final text, and shall ensure regular publication of printed Judgments and decisions.

(3) When necessary, the Court may issue press releases or hold press conferences. Press releases issued by the Court shall be issued by the Secretary General only after approval of content by the President. Judges shall receive copies of all press releases as soon as possible.

Rule 23

Access to Files and Documents

(1) Parties shall have the right to view official files and documents in the case in which they are a party, unless the file or document is confidential as determined by the Court. Parties shall request viewing the document at least 24 hours in advance. The viewing shall be conducted at the Court during regular working hours in the presence of Secretariat staff.

(2) Parties shall have the right to obtain copies of files and documents in the case in which they are a party, unless the file or document is confidential as determined by the Court. The Court may charge an administrative fee for such copies.

(3) The Report of the Judge Rapporteur, the draft decision by the Review Panel, any information on Judges' discussions or voting, draft decisions, and any notes made by Judges during case proceedings and deliberations, and any other material designated by the Court shall be considered confidential and shall not be accessible to parties or the public. The Court may authorize release of any confidential document if the Court determines that such release is necessary in the public interest.

Rule 24

Information on Status of Proceedings

Upon a written request by any person, the Secretary General shall provide information on the status of any proceedings before the Court.

II. Service of Documents and Time Periods

Rule 25

Address for Service of Documents

(1) The address for service of documents in any case shall be the address of the party's representative or, if the party is not represented, the home address of the party. The party shall state the address for service of documents in the referral and any opposing party shall state the address for service of documents in the reply.

(2) Any party may agree in writing that service of documents shall be effected by using telefax or other electronic means of communication. Such party shall submit to the Secretariat all information necessary to effect service using telefax or other electronic means of communication.

Rule 26

Effecting Service of Documents

(1) When the law or these Rules require that a document be served on a party, the Secretariat shall ensure that service is effected at the address for service of that party, by either:

(a) sending of a copy of the document by registered mail with acknowledgement of receipt, or

(b) personal service of the copy.

(2) When service is effected by telefax or other electronic means of communication, any document other than a Judgment or a decision of the Court shall be served on the party by such means. If service by electronic means is impractical, the party shall be served with the document in accordance with paragraph (1), and the party shall be so advised by telefax or other electronic means of communication.

(3) Service of a document shall be deemed to have been effected:

(a) when a document is sent by registered mail, the day on which the addressee acknowledged receipt or, if the addressee has refused to accept the document or sign the receipt, on the fifth day following the mailing of the registered letter at the post office;

(b) when a document is personally served, the day on which the addressee acknowledged receipt or, if the addressee has refused to accept the document or sign the receipt, on the day of attempted personal service. The person attempting to serve the document shall record the fact of service or the refusal on the document.

(c) when a document is served by telefax or by other electronic means of communication, the day on which the transmission was successfully completed and documented. If the transmission was unsuccessful due to deliberate fault of the receiver, service is complete and effective on the day that the attempt to transmit was made and recorded.

Rule 27

Calculation of Time Periods

A time period prescribed by the Constitution, the law or these Rules shall be calculated as follows:

1 When a period is expressed in days, the period is to be calculated from the day an event takes place; the day during which the event occurs shall not be counted as falling within the time period;

- 2 When a period is expressed in weeks, the period shall end at the close of the same day of the week as the day during which the event or action from which the period to be calculated occurred;
- 3 When a period is expressed in months, the period shall end at the close of the same day of the month as the day during which the event or action from which the period to be calculated occurred or when appropriate the first day of the following month;
- 4 When a period is expressed in months and days, the period shall be first calculated in whole months and then in days;
- 5 When a period is to be calculated, periods shall include Saturdays, Sundays and official holidays.
- 6 When a time period would otherwise end on a Saturday, Sunday or official holiday, the period shall be extended until the end of the first following working day.

III. Initiation of Proceedings

Rule 28

Initiation of proceedings

- (1) Proceedings before the Court shall be initiated by the filing of a referral with the Secretariat. When all necessary documents are filed, the referral shall be assigned a registration number by the Secretariat. The referral shall be considered a pending case before the Court when the referral is assigned a registration number.
- (2) Documents filed by parties before the referral is completed may be assigned numbers to confirm reception, but the registration number shall not be assigned until documentation of the referral is complete.

Rule 29

Filing of Referrals and Replies

- (1) A referral shall be filed in writing in one of the official languages in the Republic of Kosovo. The referral shall be addressed to the Secretary General, shall include the date of filing, and the signature of the person filing the referral.
- (2) The referral shall also include:
 - (a) the name and address of the party filing the referral;
 - (b) the name and address of representative for service, if any;
 - (c) a power of Attorney for representative, if any;
 - (d) the name and address for service of the opposing party or parties, if known;
 - (e) a statement of the relief sought;

- (f) a succinct description of the facts;
- (g) the procedural and substantive justification of the referral; and
- (h) the supporting documentation and information.

(2) Copies of any relevant documents submitted in support of the referral shall be attached to the referral when filed. If only parts of a document are relevant, only the relevant parts are necessary to be attached.

(3) Documents may be submitted in either official language of Kosovo or in one of the languages in official use in Kosovo. When a document is not in one of the official languages or the other languages in official use in Kosovo, the document shall be accompanied by a certified translation into one of the languages in use in Kosovo. The translation may be only of relevant parts of a document, but in such case, it must be accompanied by an explanation indicating what parts of the document are translated. The Court may require a more extensive or complete translation to be provided by the party.

(4) The Secretariat shall develop a procedure to check the authenticity of the translations presented.

(5) A referral shall be filed in person at the office of the Secretariat of the Court during regular working hours, or shall be filed by mail or by means of electronic communication.

(6) The Court shall establish referral forms to assist parties in submitting referrals and shall publish such forms on the Court web page.

(7) Replies to referrals shall be filed by opposing parties in the same manner as the filing of referrals under this Rule.

Rule 30

Registration of Referrals and Replies

(1) The Secretary General shall register a referral only when all necessary documents are filed. The Secretariat shall maintain a checklist of necessary documents and may assist parties by explaining what is missing from a referral.

(2) The Secretariat shall maintain a register in which all filings of referrals and replies are recorded with the following information:

- (a) date and time of filing;
- (b) name of person or persons filing the referral;
- (c) registration number assigned to the referral;
- (d) Judge Rapporteur appointed to referral; and
- (e) Review Panel appointed to the referral.

(3) The Secretariat shall establish a case file for each registered referral, which shall include all documents and materials related to a referral, a reply, if any, and any other documents and materials produced during the proceedings.

Rule 31

Correction of Referrals and Replies

- (1) At any time before the Judge Rapporteur has submitted the report, a party that has filed a referral or a reply, or the Court acting *ex officio*, may submit to the Secretariat a correction of clerical or numerical errors contained in the materials filed.
- (2) The Secretariat shall notify all other parties of any corrections that are made.

Rule 32

Withdrawal of Referrals and Replies

- (1) A party may withdraw a filed referral or a reply at any time before the beginning of a hearing on the referral or at any time before the Court decision is made without a hearing.
- (2) Notwithstanding a withdrawal of a referral, the Court may determine to decide the referral.
- (3) The Court shall decide such a referral without a hearing and solely on the basis of the referral, any replies, and the documents attached to the filings.
- (4) The Court may dismiss a referral when the Court determines a claim to be moot or does not otherwise present a case or controversy.
- (5) The Secretariat shall inform all parties in writing of any withdrawal, of any decision by the Court to decide the referral despite the withdrawal, and of any decision to dismiss the referral before final decision.

Rule 33

Appointment of Judge Rapporteur

- (1) When a referral has been registered with the Secretariat, the referral shall be forwarded to the President who shall appoint the Judge Rapporteur in the manner provided in Rule 8. The Secretariat shall notify the person who filed the referral and any opposing party or other interested party of the registration and the registration number.
- (2) Following appointment of the Judge Rapporteur, the Secretariat shall forward the referral including all attached documents to the Judge Rapporteur. When received by the Secretariat, any reply to the referral, including all attached documents, shall be forwarded to the Judge Rapporteur.

Rule 34

Report of Judge Rapporteur

- (1) The Report of the Judge Rapporteur shall contain:
 - (a) a description of the facts of the case;
 - (b) a presentation of facts that are disputed and facts that are undisputed;
 - (c) an indication of which party bears the burden of proof on disputed facts;
 - (d) a presentation of the legal arguments presented by all parties;
 - (e) a tentative assessment of the admissibility of the referral; and
 - (f) a tentative assessment of the substantive legal aspects of the referral.
- (2) The thirty (30) day time period specified in Article 22.5 of the law for the Judge Rapporteur to submit the Report does not commence until the Judge Rapporteur has received all documents in the file, including a translation, when necessary, of all documents that are required to be translated.
- (3) The Judge Rapporteur shall submit the Report to the Secretariat which shall forward to the Review Panel copies of the Report and copies of the case file, which includes the referral and any reply, including attachments. All Judges shall receive a copy of the Report submitted by the Judge Rapporteur.

Rule 35

Review Panels

- (1) The Review Panel in each case shall be chaired by the Presiding Judge assigned under the provisions of Rule 9.
- (2) The Review Panel may request the party submitting a referral or a party submitting a reply to present additional facts, documents or information if this is necessary to determine the admissibility of the referral.
- (3) The Review Panel shall submit its resolution on admissibility within thirty (30) days after receiving the Report of the Judge Rapporteur and the case file. If additional information is requested from the parties, the resolution shall be submitted within thirty (30) days after receiving all the additional information.
- (4) If the Review Panel concludes that a referral is inadmissible, the Presiding Judge shall prepare a draft resolution stating the reasons for inadmissibility and forward the resolution to the Secretary General. The Secretary General shall forward the draft resolution to all Judges for further consideration in accordance with Article 22 of the Law on the Constitutional Court.
- (6) If the Review Panel concludes that a referral is admissible, the Presiding Judge shall prepare a draft resolution stating the reasons for admissibility and forward the resolution to the Secretary General. The Secretary General shall forward the recommendation to all Judges.
- (7) Written dissents by a Judge on the Review Panel to a decision of the Panel concerning admissibility shall not be permitted.

(8) A Judge who objects to the conclusion of the Review Panel that a referral is inadmissible shall submit objections to the Secretary General within the time period established in the Law on the Constitutional Court. The Secretary General shall inform all Judges of the objection.

Rule 36

Admissibility Criteria

1. The Court may only deal with Referrals if:
 - a) all effective remedies that are available under the law against the Judgment or decision challenged have been exhausted, or
 - b) the Referral is filed within four months from the date on which the decision on the last effective remedy was served on the Applicant, or
 - c) the Referral is not manifestly ill-founded.
2. The Court shall reject a Referral as being manifestly ill-founded when it is satisfied that:
 - a) the Referral is not *prima facie* justified, or
 - b) when the presented facts do not in any way justify the allegation of a violation of the constitutional rights, or
 - c) when the Court is satisfied that the Applicant is not a victim of a violation of rights guaranteed by the Constitution, or
 - d) when the Applicant does not sufficiently substantiate his claim;
3. A Referral may also be deemed inadmissible in any of the following cases:
 - a) the Court does not have jurisdiction in the matter;
 - b) the Referral is made anonymously;
 - c) the Referral was lodged by an unauthorised person;
 - d) the Court considers that the Referral is an abuse of the right of petition;
 - e) the Court has already issued a Decision on the matter concerned and the Referral does not provide sufficient grounds for a new Decision;
 - f) the Referral is incompatible *ratione materiae* with the Constitution;
 - g) the Referral is incompatible *ratione personae* with the Constitution; or
 - h) the Referral is incompatible *ratione temporis* with the Constitution.
4. In the event that a Referral to the Court is incomplete or it does not contain the information necessary for the conduct of the proceedings, the Court shall request that the Applicant make the necessary corrections within a specified time-limit, not exceeding 30 days.

5. If the Applicant fails, without good cause, to make the necessary corrections within the time-limit referred to in paragraph 5 of this Rule, the Referral shall be proceeded with.

Rule 37

Joinder and Severance of Referrals

(1) The Secretariat shall provide notice to the President and the Judge Rapporteur that the referral may be related in subject matter to another referral before the Court and directed against the same act of a public authority. The President, upon the recommendation of the Judge Rapporteur may order the joinder of those separate referrals.

(2) If a referral addresses two or more laws or other acts of public authority, the Judge Rapporteur shall notify the Secretariat and the President. Upon the recommendation of the Judge Rapporteur, the President may order a separate consideration of the respective elements of the referral if joint consideration does not favor a fair and expeditious determination of the issues.

(3) If a party disagrees with the Court's decision to join or sever referrals, it shall request reconsideration of the decision, together with any factual or legal arguments, within fifteen (15) days of the date of the President's Order to join or sever referrals.

Rule 38

Pilot Judgments

(1) When similar or identical referrals are filed that derive from the same challenged action, the Court by majority vote of the Judges may choose one or more of the referrals for priority consideration.

(2) When handling a referral as a pilot Judgment case, the Court may stay examination of all similar or identical cases for a specified period of time. Parties in proceedings that are stayed shall be kept informed of all developments in the pilot Judgment case and the Court may reopen stayed referrals for further examination at any time.

IV. Hearings and Deliberations

Rule 39

Right to Hearing and Waiver

(1) Only referrals determined to be admissible may be granted a hearing before the Court, unless the Court by majority vote decides otherwise for good cause shown.

(2) The Court may order a hearing if it believes a hearing is necessary to clarify issues of fact or of law.

(3) Court hearings shall be public, unless the Court orders otherwise when good cause is shown under law or these Rules.

Rule 40

Schedule of Hearings

- (1) The Secretary General, in consultation with the President, shall schedule hearings in a prompt manner.
- (2) The President may, upon request of a party demonstrating why a referral should be given priority, and with the approval of a 2/3 majority of all Judges, order that a hearing be scheduled in a priority manner.

Rule 41

Participation in Hearings

- (1) All hearings shall be open to the public, except when the Court orders exclusion of the public from a hearing if such exclusion is required to protect the safety of any of the parties or their representatives or such exclusion is required by considerations of public safety and order.
- (2) Any party, representative, witness or other hearing participant whose conduct directed at Judges or the Secretary General is incompatible with the dignity of the Court, or who acts offensively toward another party or that party's representative, may be warned by the President and given an opportunity to present a defense. The President, in consultation with the Judges, may order discipline to be imposed, including the imposition of a fine in accordance with the rates set by the Court or, in exceptional cases, exclusion from the hearing.
- (3) If an observer's conduct is incompatible with the dignity of the Court or if an observer disrupts a hearing, the President may order that the observer be excluded from the hearing.

Rule 42

Notice of Hearing

- (1) The parties shall be summoned to the hearing by written notice served by the Secretariat on the parties in a manner provided in Rule 26. The hearing notice shall contain the date, time and venue of the hearing and shall be served no later than two weeks before the date scheduled for the hearing, unless in cases of urgency the Court sets a lesser period.
- (2) Upon application by a party, the President may postpone a scheduled hearing if the party shows that it will be prevented from appearing at the hearing for an important reason. Other parties shall be given the opportunity to comment on the request for postponement. The President shall decide whether to order postponement of the hearing and the Secretariat shall notify the parties. When granting a request for a postponement, the President may order the party requesting postponement to pay any necessary costs of other parties as a result of the postponement.

Rule 43

Hearing Procedure

- (1) The President shall open the hearing and be responsible for the proper conduct of the hearing. The President shall ascertain the attendance of the parties and their representatives, if any.
- (2) The Court shall ensure that interpretation services are available throughout the hearing for any party or representative requesting interpretation.
- (3) A represented party may address the Court during a hearing through its representative, unless a Judge asks a party to address a question directly.
- (4) The parties may be given an opportunity to make a brief opening statement, which shall consist of an oral presentation of arguments, confining the presentations to facts and issues relevant to the claim. The President may limit the period of time allocated to each party for opening statements.
- (5) During the hearing, the Judges may ask questions of the representatives of the parties or directly to any party.
- (6) After the opening statements, the Court may hear and receive evidence in accordance with Rules 45 – 53.
- (7) After gathering of evidence is completed, the parties shall be given an opportunity to present a closing argument on facts and law relevant to the claim. The President may limit the period of time allocated to each party for closing arguments.
- (8) The President shall adjourn the hearing and additional hearings may be scheduled only if all evidence and submissions could not be presented at one hearing.
- (9) The Secretary General shall ensure that transcripts and minutes of the hearing are prepared and signed by the President.

Rule 44

Deliberations and Voting

- (1) As soon as may be following adjournment of the hearing, the Court shall meet for deliberations on the referral. Deliberations of the Court shall not be open to the public and shall remain confidential.
- (2) Only the Judges may participate in the deliberations of the Court. The Secretary General and the Chief Legal Advisor shall be present at the deliberations, and other staff of the Secretariat or Legal Advisors may be present if required by a Judge and not opposed by any of the other Judges. No persons present at deliberations, other than the Judges, may participate in the deliberations or speak concerning the referral unless so requested by a Judge.
- (3) The Secretary General shall prepare the minutes of the deliberations, recording only the title or nature of the subjects discussed, and the results of any vote taken. The minutes shall not provide any record of the details of the discussions or the views expressed, provided that any Judge shall be entitled to insert a statement in the minutes.
- (4) After the vote is taken, if the Judge Rapporteur is among the majority of the Court, the President shall assign to the Judge Rapporteur the task of preparing the final text of the Judgment of the Court. If the Judge Rapporteur is not among the majority, the President

shall assign any Judge among the majority of the Review Panel to prepare a draft of the decision of the Court. If no member of the Review Panel is among the majority, the President shall assign any Judge who is among the majority to prepare a draft of the decision of the Court.

V. Evidence

Rule 45

Submission of Evidence By Parties

(1) Parties may submit the following types of evidence to the Court:

(a) the name and address of a witness and a summary of the testimony the witness is expected to provide;

(b) a request for an expert witness and a summary that indicates the facts that would be established by the expert report;

(c) copies of documents or other physical items that contain information relevant to the referral;

(d) a description of a document or other physical item that contains information relevant to the referral, but which is not in that party's possession or control, together with the identification of the person believed to possess or control such evidence and the reasons for such belief; or

(e) identification of a site to be visited or an object to be inspected, together with a description of the evidence to be established by such visit or inspection.

(2) The collection of evidence relevant to the referral that does not raise significant problems of fact or law may be delegated by decision of the Court to a Judge of the Court. The collection of evidence by a Judge shall proceed in accordance with the provisions of these Rules.

Rule 46

Summons of Witnesses

(1) The Court shall order the examination at a hearing of a witness proposed by a party, provided that the party shows or proves sufficient cause for the examination of such witness.

(2) If the Court orders examination of a witness, the Court shall issue an order stating

(a) the full name and address of the witness,

(b) an indication of the facts about which the witness is to be examined, and

(c) the date, time and venue of the examination.

(3) If the Court determines that the party has shown insufficient proof for the witness to be summoned, the Court shall inform the party in writing with the reasons for the decision.

(4) The witness may be summoned conditional upon the party requesting the summons paying a deposit to the Secretariat in a sum sufficient to cover expected expenses incurred by the witness. If the summons is not made conditional upon a deposit, the Secretariat shall advance the sums necessary in connection with the examination of a summoned witness.

(5) The Secretariat shall serve parties and representatives with the orders or decisions on the witnesses.

(6) Witnesses properly summoned are required to obey the summons and attend the hearing. If a witness who has been properly summoned fails to appear at the hearing, the Court may impose on the witness a financial penalty not to exceed five hundred (500) Euro and may order another summons to be served on the witness at their expense. If a duly summoned witness refuses to provide evidence or to take the oath to make a solemn declaration, without a valid reason, the Court may impose on the witness a financial penalty not to exceed five hundred (500) Euro.

(7) If the witness subsequently provides a valid excuse for failing to attend the hearing, the financial penalty may be reduced or cancelled by the Court. The witness may request that the financial penalty be reduced by the Court if the penalty is disproportionate to the witness' financial means.

Rule 47

Witness Testimony

(1) The Court may order that witnesses shall be excluded from attending the hearing during any oral presentations by the parties or their representatives or during the examination of other witnesses.

(2) Parties shall have a right to be present during the examination of witnesses.

(3) A witness has the right to refuse to testify concerning the following matters:

(a) anything a witness was told during a conversation protected by a religious privilege;

(b) anything a witness has found out, or advice given by the witness, in the witness' capacity as a lawyer or doctor of medicine or through the performance of an occupation or activity which implies a legally required obligation of confidentiality;

(c) facts or information which may tend to incriminate the witness or the witness' spouse or descendants in a direct line, and in a collateral line to the third degree.

(4) When a witness is called to provide testimony, the President shall first establish the identity of the witness. Then the President shall inform the witness of the right to refuse to give evidence as provided in paragraph 3 and of the criminal consequences of giving false testimony and that the witness may be required to take an oath or solemn declaration that the testimony the witness will give is true.

(5) Before giving testimony, the witness shall take the following oath or solemn declaration:

"I, name, swear (or solemnly declare) that I will tell the truth, the whole truth and nothing but the truth."

(6) If a witness refuses without justification to give evidence or refuses to take an oath or a solemn declaration, the Court may impose a financial penalty not exceeding five hundred (500) Euro. The Court shall determine what weight, if any, shall be given to the testimony of witnesses.

(7) Before the witness is questioned, the witness shall present an oral account of the witness' knowledge of the facts that are the subject of the examination.

(8) The President and the Judges may ask questions of the witness, followed by any party not requesting the examination, and then the party requesting the examination. Judges may ask questions of the witness at any time during the testimony.

(9) The Secretary General shall ensure that minutes are drafted and reflect accurately the testimony of each witness. The minutes shall then be signed by the President or by the Judge responsible for conducting the examination of the witness.

Rule 48

Expert Report

(1)

(a) Upon application by a party bearing the burden of proof for a particular fact, the Court may appoint an expert who shall prepare an expert report. The order appointing the expert shall define the scope of the expert's work and shall set a time limitation within which the expert shall submit a report to the Court.

(b) Any expert so appointed shall at the first available opportunity disclose to the Court any possible conflict of interest that he/she may have in relation to their evidence.

(2) A person shall not be appointed as an expert in a referral in which the person

(a) Has previously been involved as a representative or advisor;

(b) Has acted at any time for one of the parties in the case;

(c) Is related by family or marriage to any of the parties; or

(d) Is or was an official, political advisor or contractor of an entity that is a party to the case.

(3) An appointed expert shall receive a copy of the appointment order and all documents necessary for the work. The expert shall be supervised by the Judge Rapporteur appointed to the referral who may be present during the investigation and who shall be kept informed of the progress of the work.

(4) The Court may require the party requesting the expert to pay a deposit to the Secretariat in a sum sufficient to cover the costs of the expert report.

(5) An expert shall give an opinion only on issues and facts which have been expressly referred to the expert.

(6) An expert shall submit the report to the Court and the Secretariat shall provide copies to all Judges and shall serve a copy of the report on each party.

(7) The Court may order that the expert be examined at the hearing on the referral, provided that the parties have been provided notice that the expert will testify. All Judges and all parties may ask questions of the expert.

(8) Before being examined at a hearing or giving testimony, an expert shall take the following oath or solemn declaration before the Court:

“I, name, swear (or solemnly declare) that I have conscientiously and impartially carried out my task; that I have provided to the Court copies of all the evidence on which I have based my opinion; that I believe to be true all the facts on which I have based my opinion; and that I honestly and in good faith hold the opinion which I have stated and will state to the Court.”

(9) If the expert refuses without justification to give evidence or file a report, or refuses to take an oath or solemn declaration, the Court may impose a financial penalty not exceeding five hundred (500) Euro. The Court shall determine what weight, if any, shall be given to the testimony of experts.

Rule 49

Objections Against Witnesses or Experts

(1) Any party may object, by written application to the Court, to the relevance or the competency of a witness, or an expert. Any objection to a witness or to an expert shall be raised no later than fifteen days after service of the order summoning the witness or appointing the expert. The application of objection shall provide the specific grounds for the objection concerning the relevance or competency of the witness or expert and shall provide evidence and legal arguments in support of the objection.

(2) The Court shall give notice of the objection to the other parties who shall have the right to provide the Court with a written reply to the application. The Court shall make its determination on the application after considering the facts and arguments provided in the application and any replies received from the other parties.

Rule 50

Reimbursement of Witnesses and Experts

(1) Witnesses summoned by the Court and experts appointed by the Court shall be entitled to reimbursement of reasonable travel expenses. The Secretariat may make advance payments to witnesses and experts for such expenses.

(2) Witnesses summoned by the Court shall be entitled to compensation for loss of earnings. Experts appointed by the Court shall be entitled to be paid reasonable fees for their services. The Secretariat shall pay witnesses and experts compensation or fees after completion of obligations. The rates payable shall be determined by the Court.

Rule 51

Documents

(1) A document is admissible in a case if the document is authentic and relevant to the claims made in the case. The probative value of an admissible document will be determined by the Court in its assessment of all of the evidence in the case.

(2) A party may offer evidence by producing documents that are in the possession of the party. If the party that bears the burden of proof for a fact has a document in its possession that contains evidence relating to that fact, the party shall submit the document as an attachment to a referral. The Court may order that the original of the document be produced at the hearing.

(3) If evidence for a fact is contained in a document that the party bearing the burden of proof for that fact does not have in its possession, the party may make a written request of another party in the case to produce a certified copy of the document if the requesting party has reason to believe the document is in the other party's possession. A copy of the request shall be filed with the Court.

(4) If the party who receives the request in paragraph (3) refuses to produce the document or fails to respond to the request within a reasonable time, the requesting party may file an application with the Court seeking an Order of the Court to the other party to produce the document. The Court shall order the other party to produce the document if the Court is satisfied that the document is within that party's possession and that production is necessary in the interests of justice. If the party directed by the Court to produce the document fails without reasonable cause to produce the document, the Court may impose a financial penalty not exceeding five hundred (500) Euro or may order other relief. The Court may also strike out the whole or part of a Referral or a Reply as it considers appropriate in the circumstances.

(5) If the party that bears the burden of proof for a fact has reason to believe that a relevant document concerning that fact is in possession of a person who is not a party to the case, the party may file an application with the Court for an Order directing the non-party to produce the document. The Court shall order the other person to produce the document if the Court is satisfied that the document is within that person's possession and that production is necessary in the interests of justice. If the person directed by the Court to produce the document fails without reasonable cause to produce the document, the Court may impose a financial penalty not exceeding five hundred (500) Euro or may order other relief.

Rule 52

Site or Object Inspection

(1) A visit of a site or an inspection of an object may be requested by any party when the fact to be proven cannot be proven through witness examination, expert reports or the presentation of documents.

(2) Evidence provided by a site visit or an object inspection may be offered by the party that bears the burden of proof for a fact that may be proven by a visit to the site or an inspection of the object.

(3) If the site or the object is in possession of a person not a party to the proceedings, the party bearing the burden of proof may apply to the Court for an Order requiring the person to grant access to the site or to the object to be examined. The Court shall grant the Order if the site visit or object inspection is necessary in the interests of justice. If the person directed by the Court to comply fails without reasonable cause to allow access to the site or the document, the Court may impose a financial penalty not exceeding five hundred (500) Euro or may order other relief.

Rule 53

Amicus Curiae

The Court may, if it considers it necessary for the proper analysis and determination of the case, invite or grant leave to an organization or person to appear before it and make oral or written submissions on any issue specified by the Court.

VI. Interim Measures

Rule 54

Request for Interim Measures

- (1) At any time when a referral is pending before the Court and the merits of the referral have not been adjudicated by the Court, a party may request interim measures.
- (2) The request for interim measures must be submitted in writing, must describe the facts related to the request, the arguments in support of the request, the measures requested and the reasonably foreseeable consequences if the request is not granted. The party requesting interim measures may attach to the request other documents and evidence that is relevant and supportive of the request.
- (3) The Secretary shall forward a copy of the request to all Judges and to all other relevant parties.

Rule 55

Decision on Interim Measures

- (1) A request for interim measures shall be given expedited consideration by the Court and shall have priority over all other referrals.
- (2) The President shall assign the request for interim measures to the Review Panel assigned to the referral. If no Review Panel has yet been so assigned, the President shall assign a Review Panel by random draw. If any Judge on the Review Panel is unavailable for expedited consideration, the President shall assign a new Review Panel by random draw.
- (3) The Review Panel may request additional facts, documents or information from the party requesting interim measures and may order a reply or additional facts, documents or information from other parties in the case. The Review Panel shall not make a decision without giving other parties, to the extent possible, an opportunity to present their views on the request for interim measures.
- (4) Within seven (7) days, the Review Panel shall recommend in writing to the Court whether the request for interim measures be granted, either in whole or in part, or denied. Before the Review Panel may recommend that the request for interim measures be granted, it must find that:
 - (a) the party requesting interim measures has shown a prima facie case on the merits of the referral and, if admissibility has not yet been determined, a prima facie case on the admissibility of the referral;
 - (b) the party requesting interim measures has shown that it would suffer unrecoverable damages if the interim relief is not granted; and

(c) the interim measures are in the public interest.

If the party requesting interim measures has not made this necessary showing, the Review Panel shall recommend denying the application.

(5) If the request for interim measures is granted, either in whole or in part, the resolution of the Review Panel shall state the reasons supporting the decision and how the legal standard has been met, and shall state the limited time during which the interim measures will be effective. No decision granting interim measures may be entered unless the expiration date is specified; however, expiration dates may be extended by further decision of the Court. If the admissibility of the referral has not yet been determined, the resolution shall state that interim measures will expire immediately if the Court determines the referral to be inadmissible.

(6) The Secretary shall forward the recommendation to all Judges. The recommendation of the Review Panel on the application for interim measures shall become the decision of the Court unless one or more Judges submit an objection to the Secretary within three (3) days. If one or more Judges object to the recommendation, the application will be forwarded to the Court for consideration.

(7) The President *ex officio* may order additional information from the parties or schedule a hearing when requested by one or more Judges of the Court or the Court may deliberate and decide as soon as possible on the request for interim measures without a hearing. In deciding whether to grant or deny the request for interim measures, the Court must apply the legal standards set forth in this Rule.

(8) At the request of a party, or *ex officio*, the Court may, at any time prior to final Judgment, revoke or modify any decision concerning interim measures if a change in the situation justifies such revocation or modification. Any party requesting such revocation or modification shall specify the change in the situation supporting such change. Before determining whether to grant or deny the request for revocation or modification, or before acting *ex officio*, the Court shall give the parties an opportunity to present their views on the matter.

(9) Unless otherwise stated by the Court, interim measures that are granted by the Court during a proceeding on a referral expire when the Court issues its final Judgment on a referral.

VII. Decisions

Rule 56

Types of Decisions

The Court shall adopt the following types of decisions:

- (1) Judgments, when the Court adjudicates the merits of a referral;
- (2) Resolutions, when the Court adjudicates the admissibility of a referral;
- (3) Decisions, when the Court adjudicates on requests for interim measures;

- (4) Administrative Rulings, when the Court decides on administrative matters in administrative sessions of the Court; and
- (5) Such other Order as from time to time it deems appropriate

Rule 57

Content of Decisions

- 1) Judgment, Resolutions or other Orders of the Constitutional Court shall contain the following minimum details; the names of the Judges of the Court, an introduction, a statement of the legal basis for deciding the matter, a statement containing the reasoning of the Court and the operative provisions.
- 2) The statement of the composition of the Constitutional Court which adopted the Judgment, Resolution or other Order shall state the result of the vote, the names of the Constitutional Court judges who submitted separate opinions.
- 3) The introduction shall state the names of the parties, their legal representatives or other persons authorised by them, if any, the date of the public hearing, if such was held, and the date of the session at which the decision was adopted.
- 4) The statement containing the reasoning of the Court shall contain a summary of the facts and the allegations of the participants in the proceedings and the reasons for the decision of the Court.
- 5) The operative provisions shall state the manner of the implementation of the Judgment, Resolution or other Order and when the decision shall take effect and on whom the decision shall be served.

Rule 58

Dissenting Opinions

- (1) A Judge of the Court shall have the right to prepare a dissenting opinion to the Judgment of the Court on the merits of a referral. A dissenting opinion may be joined by other Judges and shall state specifically the reasons why the Judge disagrees with the opinion of the majority or plurality of the Court. A dissenting opinion to a Judgment of the Court shall be filed, in so far as it is possible to do so, with the Judgment, become part of the case file, shall be published with the Judgment, and shall be served on the parties at the same time as the Judgment.
- (2) A Judge of the Court shall not have the right to prepare a dissenting opinion to a decision of the Court on interim measures. Any Judge shall have the right to indicate in the decision that the Judge voted against the interim measure agreed to by the Court.

(3) A Judge of the Court shall not have the right to prepare a dissenting opinion to a resolution of the Court on the admissibility of a referral. Any Judge shall have the right to indicate in the resolution that the Judge disagreed with the resolution on the admissibility of a referral.

Rule 59

Concurring Opinions

(1) A Judge of the Court shall have the right to prepare a concurring opinion to the Judgment of the Court on the merits of a referral. A concurring opinion agrees with the Court's Judgment, but disagrees with the reasoning utilized. Thus, a concurring opinion may be written by a Judge who supplies a vote in the majority supporting the Court's Judgment. A concurring opinion may be joined by other Judges and shall state specifically the reasons why the Judge agrees with the result but disagrees with the reasoning in the opinion of the majority of the Court. A concurring opinion to a Judgment of the Court shall be filed, in so far as it is possible to do so, with the Judgment, become part of the case file, shall be published with the Judgment, and shall be served on the parties at the same time as the Judgment.

(2) A Judge of the Court shall not have the right to prepare concurring opinions to decisions or resolutions of the Court, but may indicate that the Judge concurs in the decision or resolution.

Rule 60

Final Text of Judgment and Filing

(1) The final text of a Decision of the Court shall be prepared by the Judge Rapporteur in accordance with Rule 44 (4). If the Judge Rapporteur is dissenting from the Judgment or the Presiding Judge of the Review Panel votes against the interim measures, the President shall designate another Judge who voted with the majority to prepare the Judgment or decision of the Court.

(2) The Judge preparing the Judgment, Resolution or Decision of the Court, including a Decision on a request for interim measures, shall finalize the text of the Judgment within a reasonable period of time as determined by the Court from the date of its adoption by the Court. The final text shall be submitted to the Judges for review and each Judge may submit comments within five (5) days. After considering whether to make changes suggested by other Judges, the Judge preparing the Judgment of the Court shall make any necessary changes. The final text shall be submitted to the Judges, who may meet to approve the final version, or may otherwise indicate approval of the final version of the text. Upon final approval by the Judges, the final text shall be submitted to the President for signature and to the Secretary General for filing and service on the parties.

(3) Judges preparing dissenting or concurring opinions must finalize the text of the opinions within ten (10) days from the submission of the final text to the President. Such opinions will be filed, in so far as it is possible to do so, by the Secretary General at the same time as and with the Judgment of the Court and served on the parties with the Judgment.

Rule 61

Correction of Judgments and Decisions

- (1) The Court may, *ex officio*, or upon application of a party made within two weeks of the service of a Judgment or decision, rectify any clerical and calculation errors in the judgment or decision.
- (2) A rectification order shall be attached to the original of the rectified Judgment or decision.

Rule 62

Request for Review

When filing a referral requesting a review of a law, decree, regulation or municipal statute as specified in Article 113. 2. (1) and (2) of the Constitution, an authorized party shall specify the provision or provisions of the normative instrument which it questions.

VIII. Special Provisions on Certain Procedures under Article 113 of the Constitution

Rule 63

Enforcement of Decisions

- (1) The decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.
- (2) All constitutional organs as well as all courts and authorities are obligated to respect, to comply with and to enforce the decisions of the Constitutional Court within their competences established by the Constitution and law.
- (3) All physical and legal persons are obligated to respect and to comply with the decisions 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) The body under the obligation to enforce the decision of the Constitutional Court shall submit information, if and as required by the decision, about the measures taken to enforce the decision of the Constitutional Court.
- (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 may render a ruling in which it shall establish that its decision has not been enforced and decide about the publication of the ruling in the Official Gazette.
- (7) The Secretariat, under the supervision of the Judge who in accordance with Rule 44 drafted the decision, shall follow up the implementation of the decision and, if necessary, report back to the Court with recommendation for appropriate measures to be taken.

Rule 64

Interim Measures

The Court may order *ex officio* or upon the request of a party, as an interim measure, that the effects of the normative instrument that is being challenged, or any of its parts, be suspended until the Court issues a Judgment on the referral, in accordance with Part VI of these Rules.

Rule 65

Judgment

- (1) If the Court establishes that certain provisions of the normative instrument are not in compliance with the Constitution, it shall declare the respective provisions to be invalid.
- (2) The Court shall declare the entire law, decree, regulation or municipal statute to be invalid, if the Court determines that the normative instrument does not achieve its legislative purpose or is otherwise meaningless without the provisions, which are determined to be incompatible with the Constitution.

Rule 66

Legal Effects of Judgment

- (1) Secondary legislation and administrative acts that have been issued based on a provision of a law, decree, regulation or municipal statute that has been invalidated by the Court shall not be applied from the date the Court's Judgment becomes effective.
- (2) If a court has issued a decision in a criminal case that is based upon a provision of a law, decree, or regulation that the Court has declared unconstitutional, the person against whom the decision was issued may have proceedings reopened in the criminal case.

Rule 67

Referral

- (1) When filing a referral pursuant to Article 113.3. (1), an authorized party shall state precisely what conflict exists between the constitutional competencies of the Assembly of Kosovo, the President of the Republic of Kosovo or the Government of Kosovo.
- (2) The authorized party shall identify the act which violates its competence and the relevant provision of the Constitution which has been violated by such act.

Rule 68

Notification

The Secretary General shall provide notice to the authority whose act is challenged by the authorized party filing the referral. The responding authority shall have up to fifteen (15) days from the date of notification to respond, unless good cause is shown for a longer time.

Rule 69

Referral

When filing a referral pursuant to Article 113.3 (2) of the Constitution, an authorized party shall clearly state why a referendum is incompatible with the Constitution.

Rule 70

Judgment

(1) If the Court concludes in its Judgment that in a Referral made under Article 113.4 of the Constitution the proposal to amend the Constitution is in breach of international agreements that are binding on Kosovo or that have otherwise been ratified pursuant to the Constitution, or respectively with the provisions of the Constitution on the procedure that should be followed for amending the Constitution, the Court shall order that the proposal not be adopted by the Assembly.

(2) The Court in its Judgment may advise on the type of modifications that could be made to the proposal, so that the proposal to amend the Constitution is in compliance with international agreements that are binding on Kosovo or that have otherwise been ratified pursuant to the Constitution, or respectively with the provisions defined in the Constitution for the procedure to be followed for amending the Constitution.

Rule 71

Notification

(1) Following the filing of a referral by an authorized party pursuant to Article 113. 6 of the Constitution, the Court shall immediately notify the President and send a copy of the referral to the President of Kosovo no later than three (3) days from its filing with the Court.

(2) The Court shall request the President of Kosovo to reply to the referral no later than fifteen (15) days from date the referral is served on the President of Kosovo, unless good cause is shown for a later reply.

Rule 72

Cancellation of Proceedings

The Court shall dismiss the proceedings initiated pursuant to Article 113, paragraph 6 of the Constitution in the event that before issuing a Judgment the President has resigned or has otherwise terminated his/her mandate.

Rule 73

Withdrawal

In the event that an authorized party withdraws the referral, the President may request the Court to continue with the proceedings and issue a Judgment. Such request shall be determined by the Court upon by a majority of Judges present and voting.

Rule 74

Judgment

(1) In the case of a Referral made pursuant to Article 113.7 of the Constitution if the Court determines that a court has issued a decision in violation of the Constitution, it shall declare such decision invalid and remand the decision to the issuing court for reconsideration in conformity with the Judgment of the Court.

(2) If the Court determines that a law has violated the Constitution it shall declare the law invalid in accordance with the provisions of Rules 64 and 65 of these Rules.

Rule 75

Filing of Referral

(1) Any Court of the Republic of Kosovo may submit a Referral to the Court pursuant to Article 113.8 of the Constitution, *ex officio*, or upon the request of one of the parties to the case.

(2) The referral shall state why a decision of the court depends on the question of the compatibility of the law to the Constitution. The file under consideration by the court shall be attached to the referral.

(3) Any Court of the Republic of Kosovo may file a referral to initiate the procedure pursuant to Article 113. 8 of the Constitution regardless of whether a party in the case has disputed the constitutionality of the respective legal provision.

Rule 76

Notification

The Court, following filing of the referral, shall order the court to suspend any ongoing procedures with respect to the case in question until the Court has issued a decision or Judgment in the case.

Rule 77

Judgment

Rules 64 and 65 shall apply in like manner to Referrals initiated pursuant to Article 113.8 of the Constitution.

Rule 78

Acceptance for Review

Even when a matter is admissible, the Court may determine whether to accept for review a matter submitted by the Vice President of a Municipal Assembly in accordance with Article 62, paragraph 4, of the Constitution. The Vice President of a Municipal Assembly submitting a matter shall state precisely the constitutionally guaranteed rights that have been violated. The Court shall determine whether to accept a matter for review by majority vote of the Judges present and voting.

Rule 79

Review by the Court

If the Court accepts for review a matter referred under Article 62, paragraph 4 of the Constitution, the Court shall handle the referral in the manner provided under these Rules for all referrals. Rules 64 and 65 shall apply in like manner to Referrals initiated pursuant to Article 62.4 of the Constitution.

IX. Final Provisions

Rule 80

Amendments

These Rules of Procedure may be amended upon the proposal of two or more Judges and with the approval of a majority vote of all Judges present and voting.

Rule 81

Entry into Force

These Rules of Procedure shall be effective upon approval by majority vote of all Judges present and voting and fifteen (15) days after publication in the Official Gazette.

Rules of Procedure no. 185/1/2010
23 November 2010

President of the Constitutional Court
Prof. Dr. Enver Hasani

