



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO  
**GJYKATA KUSHTETUESE**  
**УСТАВНИ СУД**  
**CONSTITUTIONAL COURT**

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**Prishtina, on 13 June 2018**  
**No. ref.: KK 67/18**

**RULES OF PROCEDURE**  
**OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**  
**No. 01/2018**  
(Adopted on 31 May 2018)

**I. Organization of the Constitutional Court**

**Rule 1**  
**General Provisions**

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

**Rule 2**  
**Independence of the Court**

- (1) The Court is independent in its decision making and operations and is subject only to the Constitution and the Law.
- (2) The Court is independent in relation to all state institutions.
- (3) The Court independently manages and distributes all funds in accordance with the

applicable legal provisions on public financial management.

- (4) The Court decides its internal organization which is governed by the Rules of Procedure of the Court (the Rules) and other internal acts established by the Court.
- (5) The interpretation of the Rules is exclusively made by the Court and the President of the Court (the President) ensures the application of the Rules as interpreted by the Court.

### **Rule 3 Seat of the Court**

- (1) The Seat of the Court is in Pristina where the Court shall conduct its sessions and hearings. The Court may conduct sessions and hearings in other suitable locations within the Republic of Kosovo.
- (2) At the request of the Court, the Secretariat of the Court (the Secretariat) shall prepare and submit to the President a list of locations which are suitable for conducting sessions and hearings for the Court.
- (3) The decision to conduct sessions 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 4 Symbol, Stamp and Protocol 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 - Уставни суд Републике Косово.”
- (3) The rules of State Protocol shall be applied to international conferences or events organized by the Court.

### **Rule 5 The Public Character of the Activity of the Court**

- (1) The activities of the Court are transparent and are communicated through:
  - (a) Publication of Court decisions in the Official Gazette of the Republic of Kosovo;
  - (b) Publication of all other decisions, or information to the public through the Court’s website, Bulletin and other forms of social media;
  - (c) Participation of representatives of the media in all public hearings of the Court;
  - (d) Press conferences by the President or the spokesperson of the Court.
- (2) The Court may implement other public outreach activities, to promote transparency and understanding of the activities of the Court.

**Rule 6**  
**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.
- (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) The President shall be the most senior and the Deputy President of the Court shall be the second most senior.
- (4) The remaining Judges shall take precedence according to the date of their appointment to the Court. If Judges are appointed on the same date, the order of appointment shall determine seniority. If the Judges are appointed simultaneously, the older Judge shall be the most senior.
- (5) The order of voting shall follow this rule of precedence with the least senior Judge voting first.

**Rule 7**  
**Resignation of Judges**

- (1) A Judge who intends to resign at some future date should inform the President in advance for the planned resignation.
- (2) A Judge shall submit a letter of resignation to the President, who shall immediately submit that letter to the President of the Republic of Kosovo.
- (3) The resignation of a Judge is irrevocable and does not depend on acceptance to be effective.
- (4) The resignation of a Judge shall become effective when the letter of resignation is submitted to the President of the Republic of Kosovo.
- (5) The President shall immediately send a copy of the letter of resignation to the Judges and the Secretariat.
- (6) The resignation of a Judge shall constitute immediate vacancy on the Court. The President of the Court, based on Article 8 paragraph 2 of the Law shall notify the Assembly of the vacancy.

**Rule 8**  
**Dismissal Procedures**

- (1) A Judge may be proposed for dismissal only on the grounds of:
  - (a) conviction for a serious crime under the Criminal Code of the Republic of Kosovo;
  - (b) serious neglect of duties provided in Article 10 of the Law;
  - (c) serious violation of the Code of Ethics of the Court;

- (d) permanent loss of the ability to act; or
  - (e) 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 quorum for this meeting shall be all the remaining Judges. The Court 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. If the President of the Court is proposed for dismissal the Deputy President of the Court shall preside the meeting. 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. All remaining Judges must be present and vote either affirmatively or in the negative.
  - (7) The Court may impose, by a 2/3 majority vote, a written admonishment to the Judge if circumstances do not warrant a recommendation for dismissal. A written admonishment shall not be submitted to the President of the Republic of Kosovo and, by 2/3 majority vote decision of the remaining Judges, it may or may not be made public.

### **Rule 9 Recusal Procedures**

- (1) As soon as a Judge learns of any of the reasons for recusal as foreseen in Article 18 of the Law or if a Judge believes that other circumstances exist that raise a reasonable suspicion as to the Judge's impartiality, he shall request recusal from participating in the proceedings and explain the reason in writing to the President.
- (2) If a Judge learns of any reason for recusal of another Judge as foreseen by Article 18 of the Law, the learning shall inform the President, who shall require a written response from the other Judge.
- (3) Any party to the proceedings may file a request for recusal of a Judge as soon as they learn of a reason for recusal, but in any event not later than one week before the oral hearing, if any, or before a decision being taken by the Court.
- (4) The President shall approve or reject the request for recusal. The President's decision shall be communicated immediately to all Judges. The President may consult with Judges in

deciding the request for recusal.

- (5) If the request for recusal of the Judge requesting recusal is not approved by the President or if the Judge for whom recusal is requested by another Judge or a party does not agree to recuse, or if any of the Judges opposes the recusal, the President will refer the matter to the Court. The Court, by majority vote of the Judges, shall decide on the request for recusal. Before deciding on a recusal request, a statement shall be taken from the Judge whose disqualification is requested or sought and, if need be, other clarifications shall be obtained.
- (6) The Judge who requests recusal or for whom recusal is requested may not participate in the decision. The decision of the Court shall be notified to the parties to the proceedings.
- (7) When a Judge is recused from a proceeding, the Court shall note in any written decision that the recused Judge did not take part in the proceedings.
- (8) The requests for recusal may not be considered by the Court if and when they affect a greater number of Judges than the one required to take a decision.

### **Rule 10 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. However, the President shall have the discretion to assign a specific referral to a particular Judge.
- (2) If replacement of the Judge assigned as Judge Rapporteur is necessary, as stipulated in Rule 9, the referral shall be assigned to another Judge either by a random draw or by appointment by the President in accordance with paragraph 1 of this Rule.
- (3) A Judge who is assigned as Judge Rapporteur may request, due to illness, that the President reassigns the duties to another Judge. The President may approve or deny the request, after consultation with the other Judges.
- (4) All Judges shall receive, over time, a balanced number of assigned referrals as Judge Rapporteurs.

### **Rule 11 Appointment of Review Panels**

- (1) A Review Panel of three Judges shall be chosen by a system of random draw and appointed by the President to review the admissibility of the referral. The President shall have the discretion to assign particular Judges to the Review Panel.
- (2) The President shall designate the most senior Judge 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.
- (4) The Judge Rapporteur appointed to prepare a report on the referral shall not be a member of the Review Panel.

**Rule 12**  
**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. The President and Deputy President may be re-elected.
- (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, if still a Judge and whenever 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 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 shall serve as interim President. If one or more Judges 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 unable to act, the Deputy President shall conduct the elections. If the Deputy President is 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 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.
- (6) 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 13**  
**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 election of a new President or Deputy President shall occur in accordance with the terms of Rule 12. If both the President and the Deputy President resign, the most senior

Judge shall serve as interim President until the new President is elected by the Court.

#### **Rule 14 Functions of the President**

- (1) In addition to the functions provided by the Constitution, the Law and other provisions in these Rules, the President shall:
  - (a) take measures for safeguarding the independence of the Court;
  - (b) take all necessary and appropriate measures to ensure the efficient and effective functioning of the Court;
  - (c) coordinate the work of the Judges, and summon judicial and administrative sessions of the Court;
  - (d) coordinate and supervise the administration of all Court activities;
  - (e) represent the Court and establish and ensure cooperation with other institutions and public authorities at national and international level;
  - (f) establish working groups to discuss and make recommendations on subjects which warrant wide or interdisciplinary consideration;
  - (g) preside over all judicial and administrative meetings of the Court;
  - (h) ensure compliance with the Code of Conduct and maintain order within the premises and during proceedings of the Court;
  - (i) inform all Judges of all ongoing and forthcoming issues, processes and actions related to the Court.
- (2) The Deputy President shall exercise the duties of the President when the President is absent or for any other reason he is unable to exercise the duties of the President.
- (3) The President may delegate duties and responsibilities to the Deputy President or to other Judges. When the Deputy President exercises the duties of the President, the Deputy President signs all decisions in his or her name.

#### **Rule 15 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 16 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 related to policy of 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 the Legal Unit;
  - (h) employment conditions, working schedules, remuneration and code of ethics for the constitutional administrative 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 five Judges are present. Each present Judge is obliged to vote for or against a decision.

#### **Rule 17 Professional Meetings**

The Court shall hold at least two professional meetings each year to review or discuss the practices and the jurisprudence of the Court, as a means for improving the quality of the performance of the Court and for ensuring that the Rules fully reflect the practices of the Court.

#### **Rule 18 Secretariat**

- (1) In addition to the functions required by the Law, the 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 sections or units as necessary for the efficient and effective discharge of the functions and responsibilities of the Secretariat.

**Rule 19**  
**Secretary General and Acting 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 efficient and effective 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 effective 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 at an administrative session. The appointment must be based on a transparent, open and competitive selection process.
- (3) Terms and conditions of employment and salary:
- (a) the employment term for the Secretary General is for an indefinite period of time;
  - (b) the performance evaluation shall be conducted at the end of each year based on the annual plan that is presented by the Secretary General;
  - (c) the salary of the Secretary General is determined by the decision of the Court.
- (4) 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 the highest personal and moral integrity.
- (5) 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 (4).
- (6) The Secretary General may be dismissed or temporarily suspended by majority vote of the Judges at an administrative session of the Court.
- (7) In the cases where the Secretary General is absent or is not able to perform the functions of the position, the President appoints an Acting Secretary General from among the Directors of the Secretariat, who shall perform the duties of the Secretary General on a temporary basis.

#### **Rule 20 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) 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.
- (3) Once hired by the Court, staff of the Secretariat shall be constitutional administrative staff.
- (4) The legal provisions foreseen for civil servants, as referred by Article 12 of the Law shall be applied to the constitutional administrative staff only to the extent that such legal provisions do not impact on the independence of the Court as guaranteed in Article 112.2 of the Constitution and Article 2 of the Law.
- (5) Rules established by other laws which govern the employment relationship, for recruitment of staff, salaries, allowances, working hours, holidays and others, shall be applied in the Court, in so far they do not infringe upon the constitutionally guaranteed independence of the Court.
- (6) Classification and grading of jobs including titles and descriptions of job duties for the filling of systemized positions in the Court are determined by the Regulation for classification and grading of jobs and description of job duties which is approved at the administrative session of the Court.
- (7) The Secretary General, upon the request of the President or other Judges, may enter into contracts with experts and other professionals to perform services for the Court.

**Rule 21**  
**Legal Unit of the Constitutional Court**

- (1) The Court established the Legal Unit as a special organizational structure which directly responds to the President and Judges of the Court.
- (2) The Regulation on the Legal Unit defines the terms of appointment, dismissal and status of the Constitutional Legal Advisors and other Legal Unit members. The Regulation also includes rules on the recruitment procedures, salaries, promotion, disciplinary procedures, performance evaluation and termination of the employment relationship. The Regulation shall be approved by the Court.
- (3) The members of the Legal Unit shall not be civil servants. Their status and term of contract shall be determined by the Court in accordance with the Law, the Rules of Procedure and the Regulation on the Legal Unit.
- (4) The members of the Legal Unit shall be appointed by majority vote of the Judges, based upon a transparent, open and competitive selection process.
- (5) The Legal Unit shall be supervised by the Chief Constitutional Legal Advisor. The Chief Constitutional Legal Advisor will be assisted by two Deputy Chief Constitutional Legal Advisors. The three appointments shall be guided by the core values expressed in Article 7 of the Constitution of the Republic of Kosovo. The mandate of the Chief Constitutional Legal Advisor and Deputy Chief Constitutional Legal Advisors is 3 (three) years.
- (6) The Chief Constitutional Legal Advisor and the Deputy Chief Constitutional Legal Advisors shall report to the President and the Judges of the Court. Upon the proposal of the President or any other Judge, the Chief Constitutional Legal Advisor or the Deputy Chief Constitutional Legal Advisors may be dismissed from their positions by majority vote of the Judges.
- (7) The salary and allowances for the members of the Legal Unit shall be determined by the decision of the Court in Administrative session. During their mandate, the salary of the Chief Constitutional Legal Advisor shall be increased by 10% and the salary of the Deputy Chief Constitutional Legal Advisors shall be increased by 5 %.
- (8) The Senior Constitutional Legal Advisors and Constitutional Legal Advisors should be professional lawyers with a proven expertise in public law, constitutional law, constitutional justice and human rights and with a good command of the English language or other foreign languages.
- (9) The Senior Constitutional Legal Advisors and Constitutional Legal Advisors shall support the professional work of the Judges by conducting legal research and analysis as further specified in the Regulation on the Legal Unit. The Judges shall determine the number of Senior Constitutional Legal Advisors and Constitutional Legal Advisors to be employed based upon the Court's needs and available budgetary resources. The Senior Constitutional Legal Advisors and Constitutional Legal Advisors work under the direction of the President, Judge Rapporteur, Presiding Judge of the Review Panel and Judges of the Court.
- (10) The Members of the Legal Unit may be dismissed or temporarily suspended for just cause by a majority vote of the Judges.

**Rule 22**  
**Confidentiality**

- (1) All Judges of the Court, the staff of the Secretariat, and the members of the Legal Unit are bound by confidentiality and shall not express in public any comments or opinions on confidential matters and informations related to cases that have or may come before the Court, unless otherwise provided for in these Rules or required by the law. This Rule shall apply to all former Judges, former staff of the Court and former members of the Legal Unit.
- (2) The Report of a Judge Rapporteur, the draft decision by the Review Panel, any information on the 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. The Court by majority vote may authorize release of any confidential material if the Court determines that such release is in the public interest.
- (3) A breach of this Rule constitutes violation of these Rules, the Code of Ethics and other laws or relevant legal acts.
- (4) A former Judge or a former member of the Legal Unit shall not represent a party before the Constitutional Court in any case on which they were involved before leaving the Court.

**Rule 23**  
**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 shall review, amend if necessary, and approve the final budget proposal.
- (3) The President shall sign the approved budget proposal and the Secretary General shall process the budget proposal in accordance with the Law and the Law on Public Financial Management and Accountability.
- (4) The Secretary General shall propose to the Judges a schedule of fees for administrative services.

**Rule 24**  
**Domestic and International Cooperation**

- (1) The Court, under the direction of the President, shall establish promote and maintain close cooperation with other institutions established in Kosovo, with foreign Constitutional Courts, and with other professional institutions.
- (2) Cooperation shall be conducted in such a manner that preserves the independence of the Court as mandated by the Constitution and the Law.

**Rule 25**  
**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 the confidentiality requirements of the Court, and other applicable laws, 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 that are not confidential;
  - (d) publication of all decisions and other acts of the Court as decided;
  - (e) any other form of communication as authorized by the Court.
- (2) The Secretary General shall publish Judgments, Resolutions and other Decisions on the Court's webpage immediately following their signature, and shall ensure regular publication of printed Judgments, Resolutions and other 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 the content by the President. Judges shall receive copies of all press releases as soon as possible.

**Rule 26**  
**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.

**Rule 27**  
**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 28**

#### **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 29**

#### **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, Resolution 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 30**  
**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 starting from the following day after an event takes place;
- (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 calendar date of the month as the day during which the event or action from which the period to be calculated occurred;
- (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 31**  
**Initiation of proceedings**

- (1) Proceedings before the Court shall be initiated by the filing of a referral with the Secretariat. When the referral or any initial documents are filed, the referral shall be assigned a registration number by the Secretariat.
- (2) The initiation of proceedings before the Court, under Article 62. 4, and Article 113, of the Constitution are regulated under chapter VII of these Rules.

**Rule 32**  
**Filing of Referrals and Replies**

- (1) A referral shall be filed in writing in either official language of the Republic of Kosovo or in one of the languages in official use in Kosovo. The referral form provided by the Court on its webpage or its equivalent shall be used. 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 the representative;
  - (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.
- (3) If a party is represented, the representative shall submit with the referral a valid power of attorney for the referral to the Court.
  - (4) 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.
  - (5) 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.
  - (6) Parties to a referral who do not wish their identity to be disclosed to the public shall so indicate and shall state the reasons justifying such a departure from the rule of public access to information in the proceedings before the Court. The Court by majority vote authorizes non-disclosure of identity or grants it without a request from a party. When non-disclosure of identity is granted by the Court, the party should be identified only through initials or abbreviations or a single letter.
  - (7) The Secretariat shall develop a procedure to check the authenticity of the translations presented.
  - (8) 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.
  - (9) The Court provides referral forms for parties to submit referrals. Referral forms are available on the Court web page.
  - (10) Replies to referrals shall be filed within forty-five (45) days by the opposing parties in the same manner as the filing of referrals under this Rule.

### **Rule 33**

#### **Registration of Referrals and Filing Deadlines**

- (1) The Secretary General shall register a referral immediately when the referral or any documents are filed, even when all necessary documents are not included with the referral. The Secretariat shall maintain a checklist of necessary documents and may assist parties by explaining what is missing from a referral.



- (2) If a referral does not contain all necessary documents, the Judge Rapporteur through the Secretariat shall notify the applicant whose contacts are known that the referral should be supplemented with the documents specified in the referral and specify that such documents shall be filed within fifteen (15) days from the filing of the referral.
- (3) Unless requested by the Court or unless written permission is received from the Court, a party shall not file any documents more than fifteen (15) days after the filing of the referral. The Court may order a shorter deadline when a referral requires expedited handling.
- (4) 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.
- (5) 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 34 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 35 Withdrawal, Dismissal and Rejection of Referrals**

- (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) If the Court determines to decide such a referral, it shall decide 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 that a claim is no longer an active controversy, does not present a justiciable case, and there are no special human rights issues present in the case.
- (5) The Court may decide to summarily reject a referral if the referral is incomplete or not

clearly stated despite requests by the Court to the party to supplement or clarify the referral, if the referral is repetitive of a previous referral decided by the Court, or if the referral is frivolous.

- (6) The Secretariat shall inform all parties in writing of any withdrawal; of any decision by the Court to decide the referral despite the withdrawal; of any decision to dismiss the referral and any decision to summarily reject the referral.

### **Rule 36** **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 10. 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 the 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.
- (3) The Judge Rapporteur may also 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.

### **Rule 37** **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) an assessment of the admissibility of the referral; and
  - (f) if applicable an 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, and may have access, when requested, to all documents in the case.

### **Rule 38 Review Panels**

- (1) The Review Panel shall be chaired by the Presiding Judge assigned under the provisions of Rule 11 of these Rules.
- (2) The Review Panel may also 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) If the Review Panel concludes that a referral is inadmissible, the Judge Rapporteur shall prepare the draft Resolution on Inadmissibility or Decision on Withdrawal, Rejection or Dismissal stating the reasons for the proposal and shall send the decision to the Secretariat. The Secretariat shall circulate the draft Resolution or Decision to all Judges for further consideration in accordance with Article 22 (7 and 8) of the Law.
- (4) If within a period of ten (10) days from the circulation of the draft Resolution on Inadmissibility and five (5) days from the circulation of the Decision on Withdrawal, Rejection or Dismissal, the Judges who are not members of Review Panel do not oppose the proposal, then it is considered that the Resolution or Decision was adopted unanimously and the President and Judge Rapporteur sign and issue the respective Resolution or Decision.
- (5) If, within the period of ten (10) days from the circulation of the draft Resolution on Inadmissibility and within the period of five (5) days from the circulation of the Decision on Withdrawal, Rejection or Dismissal, one or more Judges who are not members of the Review Panel oppose the inadmissibility, the referral shall be referred to the Court for a decision. The Court during the deliberations then assesses the admissibility of the referral and, if declared admissible, the merits of the claim on its entirety and decides according to the provisions of the Law and the Rules.
- (6) If the Review Panel concludes that a referral is admissible, the Court during the deliberations then assesses the admissibility of the referral and, if declared admissible, the merits of the claim on its entirety.
- (7) Following the procedures foreseen under paragraph 4 and 5 of this Rule, the Judge Rapporteur, based on the decision of the Court, shall prepare respectively a draft Resolution on Inadmissibility; or a Decision on Withdrawal, Rejection or Dismissal; or a Judgment, within a reasonable period of time from the date of its adoption by the Court.
- (8) If the Court declares the referral admissible, the draft Judgment shall be circulated for consideration to all Judges for a period of ten (10) days, unless the Court agrees unanimously to a shorter period of time. The judges may also decide to meet and approve the final text of the Judgment. The President and Judge Rapporteur then sign the Judgment, which will be published.
- (9) If the Court declares the referral inadmissible, the Judge Rapporteur prepares respectively a draft Resolution on Inadmissibility or a Decision on Withdrawal, Rejection or Dismissal, within a reasonable period of time from the date of its adoption by the Court. The judges may decide to meet and approve the final text of the Resolution or Decision. The President and Judge Rapporteur then sign the Resolution or Decision, which will be published.

**Rule 39**  
**Admissibility Criteria**

- (1) The Court may consider a referral as admissible if:
  - (a) the referral is filed by an authorized party,
  - (b) all effective remedies that are available under the law against the judgment or decision challenged have been exhausted,
  - (c) the referral is filed within four (4) months from the date on which the decision on the last effective remedy was served on the Applicant, and
  - (d) the referral accurately clarifies and adequately sets forth the facts and allegations for violation of constitutional rights or provisions.
- (2) The Court may consider a referral as inadmissible if the referral is manifestly ill founded because the Applicant has not sufficiently proved and substantiated the claim.
- (3) The Court may also consider a referral inadmissible if any of the following conditions are present:
  - (a) the Court does not have jurisdiction in the matter;
  - (b) the Referral is incompatible *ratione materiae* with the Constitution;
  - (c) the Referral is incompatible *ratione personae* with the Constitution;
  - (d) the Referral is incompatible *ratione temporis* with the Constitution;
  - (e) the Referral is incompatible *ratione loci* with the Constitution.

**Rule 40**  
**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 or directed against the same act of a public authority. The President, upon consultation with the appointed Judge Rapporteur may order the joinder of those separate referrals.
- (2) If a referral addresses two or more laws or other acts of a public authority, the Judge Rapporteur shall notify the Secretariat and the President. Upon consultation with 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) When the joinder of referrals is ordered, the President shall assign the Judge Rapporteur and Review Panel assigned to the referral filed first to handle the joined referrals. When severance of referrals is ordered, the President may assign all severed referrals to the Judge Rapporteur and Review Panel assigned to the original referral.
- (4) 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 receipt of the President's Order to join or sever referrals.

**Rule 41**  
**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 Evidence**

**Rule 42**  
**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) The Court hearings shall be open to the public, unless the Court orders otherwise when good cause is shown, namely protection of the safety of any of the parties or their representatives or of the public safety and order.

**Rule 43**  
**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 44**  
**Participation in Hearings**

- (1) Any party, representative, witness or other participant at a hearing 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.
- (2) 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 45 Notice of Hearing**

- (1) The parties shall be summoned to the hearing by written notice served by the Secretariat on the parties. The hearing notice shall contain the date, time and venue of the hearing and shall be served no later than two (2) weeks before the date scheduled for the hearing, unless in cases of urgency the Court sets a shorter 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 46 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 receive and hear evidence.
- (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 which shall be signed by the President.

**Rule 47**  
**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 48**  
**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 summon 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, without a valid reason, the Court may impose on the witness a financial penalty not to exceed five

hundred (500) Euro and may order other summons to be served on the witness at their expense.

- (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 49 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 to make 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 to the witness at any time during the testimony.
- (9) The Secretariat shall ensure that minutes are drafted and reflect accurately the testimony of each witness. The minutes shall then be signed by the President.



## **Rule 50 Experts**

- (1) The Court engages experts in the following manner:
  - (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.”*
- (10) 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 51**  
**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 within fifteen (15) 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.
- (3) 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 52**  
**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 53**  
**Documents**

- (1) A document is admissible if the document is authentic, pertinent 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 a copy of 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 this third-party to produce the document. The Court shall order the third party 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 54** **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 55** **Amicus Curiae**

- (1) The Judge Rapporteur, upon consultation with the Review Panel may, if necessary or helpful for the proper analysis and determination of the case, invite or approve the request by an organization or person to appear as *Amicus Curiae* before the Court and present oral or written submissions on any issue specified by the Judge Rapporteur. All Judges shall be notified of any decision to allow amicus curiae participation.
- (2) For persons, institutions or organizations from which an *Amicus Curiae* is required, the Court decides in regular session following the proposal of the Judge Rapporteur and consideration of the Review Panel.

## **V. Interim Measures**

### **Rule 56 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, any party to the proceeding may request interim measures, or the Court may consider interim measures without a request, as determined by Article 27 of the Law.
- (2) Any 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 Secretariat shall forward a copy of the request to all Judges and to all other relevant parties.

### **Rule 57 Decision on Interim Measures**

- (1) If the Judge Rapporteur considers that the Referral submitted is inadmissible, then the request for interim measures will be reviewed along with the basic referral following the order of deciding the referrals in the Court. If the Judge Rapporteur considers that the referral is admissible, then the request for interim measures shall proceed expeditiously, with a summary report by the Judge Rapporteur.
- (2) The summary report of the Judge Rapporteur shall include:
  - (a) the basic facts of the case and the alleged constitutional violations;
  - (b) the reasonably foreseeable consequences if this relief is not granted;
  - (c) the legal justification for either granting or denying the request; and
  - (d) the relief sought.
- (3) The Review Panel may request additional facts or documents from the party requesting interim measures and may order a reply or additional facts and documents 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, following the summary report of the Judge Rapporteur, the Review Panel shall recommend 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.

- (5) If the party requesting interim measures has not made this necessary showing, the Court shall deny the request for interim measures.
- (6) If the request for interim measures has made this necessary showing either in whole or in part, the Court shall grant the request, stating the facts and the legal reasons supporting the decision and the time during which the interim measures will be effective. No decision granting interim measures may be taken unless the expiration date is specified; however, expiration dates may be extended by further decision of the Court.
- (7) If the admissibility of the referral has not yet been determined, the decision shall state that interim measures will expire immediately if the Court determines the referral to be inadmissible.
- (8) The Secretariat 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 Secretariat within three (3) days. If one or more Judges object to the recommendation, the application will be forwarded to the Court for consideration.
- (9) 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.
- (10) At the request of a party, or *ex officio*, and at any time prior to a final decision, the Court may revoke or modify any decision concerning interim measures if a change in the situation justifies such revocation or modification.
- (11) 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.
- (12) 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 decision on a referral.
- (13) The President, in his/her absence the Deputy President, or in his/her absence the Judge Rapporteur may exceptionally decide to grant interim measures in order to stop extradition or expulsion proceedings, or in other exceptional situations, if there is imminent danger to the life and limb of an applicant. Such a decision must be approved by the Court within seven (7) days.

## **VI. Decisions**

### **Rule 58 Deliberations and Voting**

- (1) As soon as possible, where no hearing was necessary or 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 Constitutional Legal Advisor shall be present at the deliberations, and other staff of the Secretariat or Constitutional 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 Secretariat shall prepare the minutes of the deliberations, recording the title or nature of the subjects discussed, the major professional arguments and opinions 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 decision of the Court. If the Judge Rapporteur is not among the majority, the President may 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 may assign any Judge who is among the majority to prepare a draft of the decision of the Court.
- (5) If the votes of the Judges present at the deliberations are divided proportionally and the voting result is equal, then the referral is considered to be inadmissible.

### **Rule 59 Types of Decisions**

The Court shall adopt the following types of decisions:

- (1) Judgments, when the Court decides on the merits of a referral;
- (2) Resolutions, when the Court decides on the inadmissibility of the referral;
- (3) Decisions, when the Court decides on requests for interim measures, on withdrawal, dismissal or summarily rejection of the referral;
- (4) Administrative Rulings, when the Court decides on administrative matters in administrative sessions of the Court; and
- (5) Orders when the Court decides on other matters.

**Rule 60**  
**Content of Decisions**

- (1) Judgments, Resolutions, Decisions and Orders of the Court shall contain the following minimum details: the names of the Judges of the Court; an introduction; a statement of facts; the reasoning of the Court with the legal basis for deciding the matter; and the operative provisions.
- (2) The statement of the composition of the Court which adopted the Judgment, Resolution or Decision shall indicate the result of the vote by majority or unanimity, unless Judges ask to have their vote or their separate opinion specifically noted in the decision.
- (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 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 Decision and when the decision shall take effect and on whom the decision shall be served.
- (6) Judgments, Resolutions and Decisions are signed by the President of the Court and the Judge Rapporteur.
- (7) When a Judge is unable to sign the Decision of the Court due to end of mandate, leave, resignation, dismissal or recusal, the Judgment or Resolution shall be signed by the President of the Court and the Presiding Judge of the Review Panel or the next senior member of the Review Panel.

**Rule 61**  
**Dissenting Opinions**

- (1) A Judge of the Court shall have the right to prepare a written dissenting opinion to a Judgment of the Court. 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.
- (2) A Judge of the Court shall not have the right to prepare a dissenting opinion to a Resolution on Inadmissibility or a Decision of the Court. Any Judge shall have the right to indicate in such a Resolution on Inadmissibility or a Decision that the Judge disagreed with the majority.

**Rule 62**  
**Concurring Opinions**

- (1) A Judge of the Court shall have the right to prepare a concurring opinion to a Judgment of the Court. 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.

- (2) A Judge of the Court shall not have the right to prepare a concurring opinion to a Resolution on Inadmissibility or a Decision of the Court. Any Judge shall have the right to indicate in such a Resolution on Inadmissibility or a Decision that the Judge disagreed with the majority.

**Rule 63**  
**Timelines for filing Dissenting and Concurring Opinions**

- (1) Any Judge preparing a dissenting or concurring opinion as to a Judgment shall indicate the Judge's intent to file such a separate opinion. The separate opinion shall be written within the circulation period of the final text of the Judgment among Judges.
- (2) All separate opinions shall be an integral part of the Judgment and shall be published together with and at the same time as the Judgment of the Court.

**Rule 64**  
**Final Text of decisions and separate opinions**

- (1) The Judge preparing the final text of a Decision shall finalize the text within a reasonable period of time from the date of its adoption; the final text shall be circulated among the Judges for review and each Judge may submit comments.
- (2) The circulation period for the Court's Decisions is ten (10) days for Judgments and Resolutions, unless the Court agrees during deliberations by unanimous vote to a lesser period time; five (5) days for decisions on rejection, withdrawal and dismissal; and three (3) days for decisions on interim measures.
- (3) After considering the changes suggested by other Judges, the Judge preparing the final text shall propose a final version. The Judges may meet again to approve the final version of the Decision.
- (4) The final text shall be submitted for signing, service on the parties, publishing and archiving.
- (5) Any Judge preparing a dissenting or concurring opinion as to a Judgment shall inform the other judges of the intent to file such a separate opinion. The separate opinion shall be written within the period of circulation of the final text of the Judgment.
- (6) All separate opinions shall be an integral part of the Judgment and shall be published together with and at the same time as the Judgment of the Court.

**Rule 65**  
**Correction of Decisions**

- (1) The Court may, correct any clerical and calculation errors in the judgment or decision.
- (2) The Correction of decisions may be made *ex officio*, or upon request of a party filed within two weeks of the service of a decision.
- (3) A correction order shall be attached to the original decision.



**Rule 66**  
**Enforcement of decisions**

- (1) The decisions of the 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 Court within their competences established by the Constitution and law.
- (3) All natural and legal persons are obligated to respect and to comply with the decisions of the Court.
- (4) The Court may specify in its decision the manner of and time-limit for the enforcement of the decision of the Court.
- (5) The body under the obligation to enforce the decision of the Court shall submit information, if and as required by the decision, about the measures taken to enforce the decision of the Court.
- (6) In the event of a failure to enforce a decision, or a delay in enforcement or in giving information to the Court about the measures taken, the Court may issue a ruling in which it shall establish that its decision has not been enforced. This ruling shall be published in the Official Gazette.
- (7) The State Prosecutor shall be informed of all decision of the Court that have not been enforced.
- (8) The Secretariat, under the supervision of the Judge who, in accordance with Rule 58, drafted the decision, shall follow up on the implementation of the decision and, if necessary, report back to the Court with recommendation for further legal proceedings to be taken.

**VII. Special Provisions on the Procedures under Article 113 of the Constitution**

**Rule 67**  
**Referral pursuant to Article 113.2 (1) and (2) of the Constitution**  
**and Article 29 and 30 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.2 (1) and (2) of the Constitution and Articles 29 and 30 of the Law.
- (2) When filling a referral pursuant to Article 113. 2 of the Constitution, an authorized party shall indicate, *inter alia*, whether the full content of the challenged act or which parts of the said act are deemed to be incompatible with the Constitution.
- (3) The referral shall specify the objections put forward against the constitutionality of the contested act.
- (4) The referral under this Rule must be filed within a period of six (6) months from the day of entry into force of the contested act.

**Rule 68**  
**Referral pursuant to Article 113.3 (1) of the Constitution and Article 31 and 32 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.3 of the Constitution and Articles 31 and 32 of the Law.
- (2) When filing a referral pursuant to this Rule, 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.
- (3) 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.
- (4) The referral under this Rule must be filed within a period of six (6) months from the day the alleged conflict started.
- (5) The Secretariat shall provide notice to the authority whose act is challenged. They may respond within fifteen (15) days from the date of notification, unless good cause is shown for a longer time and the respective extension is granted.

**Rule 69**  
**Referral pursuant to Article 113.3 (2) of the Constitution and Articles 33 and 34 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.3 (2) of the Constitution and Articles 33 and 34 of the Law.
- (2) A referral filed pursuant to this Rule, shall include any relevant information in relation to the alleged incompatibility with the Constitution and the proposed referendum.
- (3) When filing a referral pursuant to this Rule an authorized party shall also clearly state why and how the challenged referendum is incompatible with the Constitution.

**Rule 70**  
**Referral pursuant to Article 113.3 (3) of the Constitution and Article 35 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.3 (3) of the Constitution and Article 35 of the Law.
- (2) A referral pursuant to Article 113.3 (3) of the Constitution shall include any relevant information in relation to the declaration of a State of Emergency and the contested actions taken during the State of Emergency.

**Rule 71**  
**Referral pursuant to Article 113.3 (4) of the Constitution**  
**and Articles 36 and 37 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.3 (4) of the Constitution and Articles 36 and 37 of the Law.
- (2) A referral filed pursuant to this Rule will have a suspensive effect.
- (3) If the Court concludes in its Judgment that, 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.
- (4) The Court in its Judgment may advise on the type of modifications that could be made to the amendment 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 72**  
**Referral pursuant to Article 113.3 (5) of the Constitution**  
**and Articles 38 and 39 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.3(5) of the Constitution and Articles 38 and 39 of the Law.
- (2) A referral pursuant to this Rule must, *inter alia*, include the following information:
  - (a) description of facts of the alleged violation;
  - (b) concrete provisions of the Constitution allegedly violated; and
  - (c) presentation of evidence that supports the allegation for violation of the Constitution.
- (3) The referral under this Rule must be filed within thirty (30) days from the day when all other legal remedies are exhausted.

**Rule 73**  
**Referral pursuant to Article 113.4 of the Constitution**  
**and Articles 40 and 41 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.4 of the Constitution and Articles 40 and 41 of the Law.
- (2) In a referral pursuant to this Rule, a municipality must submit, *inter alia*, the following information:
  - (a) relevant information in relation to the law or act of the government contested;
  - (b) the specific provision of the Constitution which is allegedly infringed; and
  - (c) the municipality responsibilities or revenues that are affected by such law or act.

- (3) The referral under this Rule must be filed within one (1) year following the entry into force of the provision of the law or act of the Government being contested.

**Rule 74**  
**Referral pursuant to Article 113.5 of the Constitution**  
**and Articles 42 and 43 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.5 of the Constitution and Articles 42 and 43 of the Law.
- (2) In a referral made pursuant to this Rule, the following information shall, *inter alia*, be submitted:
  - (a) names and signatures of all deputies of the Assembly contesting the constitutionality of a law or decision adopted by the Assembly of the Republic of Kosovo;
  - (b) provisions of the Constitution or other act or legislation relevant to this referral; and
  - (c) evidence that supports the contest.
- (3) The applicants shall attach to the referral a copy of the contested law or decision adopted by the Assembly, the register and personal signatures of the Deputies submitting the referral and the authorization of the person representing them before the Court.
- (4) The Court, immediately after having received a referral pursuant to Article 113.5 of the Constitution, notifies the Assembly of the Republic of Kosovo about the registration of the referral.
- (5) The referral under this Rule must be filed within eight (8) days from the date of adoption of the contested law or decision.

**Rule 75**  
**Referral pursuant to Article 113.6 of the Constitution**  
**and Articles 44 and 45 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.6 of the Constitution and Articles 44 and 45 of the Law.
- (2) In a referral pursuant to this Rule the following information shall, *inter alia*, be submitted:
  - (a) description of facts of the alleged violation;
  - (b) concrete provisions of the Constitution allegedly violated by the President of the Republic of Kosovo; and
  - (c) presentation of evidence that supports the allegation for serious violation of the Constitution by the President of the Republic of Kosovo.
- (3) Following the filing of a referral pursuant to this Rule, the Court shall immediately notify the President of the Republic and send a copy of the referral no later than three (3) days from its filing with the Court.
- (4) The Court shall request the President of the Republic to reply to the referral within fifteen (15) days from date the referral is served on the President of the Republic, unless good cause is shown for a later reply and the respective permission is granted.

- (5) The Court shall order stay of proceedings initiated pursuant to this Rule in the event that before issuing its decision, the President of the Republic has resigned or has otherwise terminated his/her mandate.
- (6) In the event that the authorized party withdraws the referral, the President of the Republic may request the Court to continue with the proceedings and issue a decision. Such request shall be determined by the Court upon by a majority of Judges.
- (7) The referral under this Rule must be filed within thirty (30) days starting from the day the alleged violation of the Constitution by the President has been made public.

**Rule 76**  
**Referral pursuant to Article 113.7 of the Constitution**  
**and Articles 46, 47, 48, 49 and 50 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.7 of the Constitution and Articles 46, 47, 48, 49 and 50 of the Law.
- (2) A referral under this Rule must accurately clarify what rights and freedoms claimed to have been violated and what concrete act of public authority is subject to challenge.
- (3) If the Court determines that the challenged decision was rendered in violation of the Constitution, it shall declare such decision void and may remand the decision to the issuing authority for reconsideration in conformity with the Judgment of the Court.
- (4) The referral under this Rule must be filed within four (4) months starting from the day upon which the claimant has been served with a challenged decision.

**Rule 77**  
**Referral pursuant to Article 113.8 of the Constitution**  
**and Articles 51, 52 and 53 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.8 of the Constitution and Articles 51, 52 and 53 of the Law.
- (2) Any Court of the Republic of Kosovo may submit a referral under this Rule provided that:
  - (a) the contested law is to be directly applied by the court with regard to the pending case;  
and
  - (b) the lawfulness of the contested law is a precondition for the decision regarding the case pending with the court.
- (3) The referral under this Rule must specify which provisions of the contested law are considered incompatible with the Consitution. The casefile under consideration by the court shall be attached to the referral.
- (4) The referring court may file the referral *ex officio* or upon the request of one of the parties to the case and regardless of whether a party in the case has disputed the constitutionality of the respective legal provision.

- (5) After the filing of the referral, the Court shall order the referring court to suspend the procedure related to the case in question until a decision of the Constitutional Court is rendered.

**Rule 78**  
**Referral pursuant to Article 113.9 of the Constitution**  
**and Article 54 of the Law**

- (1) A referral filed under this Rule must fulfill the criteria established under Article 113.9 of the Constitution and Article 54 of the Law.
- (2) When filing a referral pursuant to this Rule, the President of the Assembly shall submit to the Court a final draft of the proposed amendment or amendments to the Constitution.
- (3) The President of the Assembly may submit explanations with respect to the proposed amendments to the Constitution. The President of the Assembly may also submit or forward any arguments, if applicable, as to whether such proposed amendments diminish the rights and freedoms guaranteed by Chapter II of the Constitution.

**Rule 79**  
**Referral pursuant to Article 62.4 of the Constitution**

- (1) The Vice President of a Municipal Assembly submitting a referral shall indicate which constitutionally guaranteed rights have been violated.
- (2) The referral shall be submitted not later than six (6) months after the final challenged Municipal Assembly decision is made.
- (3) In case the Municipal Assembly does not reconsider the request within reasonable period of time the Court shall consider the final decision to have been made.

## VIII. Final Provisions

### Rule 80 Amendments

These Rules of Procedure may be amended upon proposal of at least two Judges and with the approval of a majority vote of all Judges.

### Rule 81 Entry into Force

- (1) These Rules of Procedure shall be effective upon approval by majority vote of all Judges and fifteen (15) days after publication in the Official Gazette.
- (2) With the approval of the consolidated version of these Rules, the texts of previous amendments shall be deleted, and as such be kept in the archives of the Court.

Prishtina, 13 June 2018

President of the Constitutional Court

