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**CONSTITUTIONAL COMPLAINT – THE EFFECTIVENESS OF INDIVIDUAL
CONSTITUTIONAL COMPLAINTS: A COMPARATIVE ANALYSIS**

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS	3
INTRODUCTION	4
CHAPTER 1: HISTORICAL DEVELOPMENT.....	9
1.1. Historical development of constitutional judicial review as a form of individual rights protection.	9
1.2. The emergence and development of the individual constitutional complaint as a legal instrument for individual rights protection.	11
CHAPTER 2: THE CONCEPT AND THEORETICAL FOUNDATIONS OF INDIVIDUAL CONSTITUTIONAL COMPLAINTS	15
2.1. The constitutional complaint as a legal institution.	15
2.2. The definition of individual constitutional complaint.	16
2.3. Types of individual constitutional complaints.	20
2.4. Models and forms of direct individual constitutional complaints.	22
CHAPTER 3: A COMPARATIVE ANALYSIS OF INDIVIDUAL CONSTITUTIONAL COMPLAINTS IN UKRAINE, THE REPUBLIC OF LITHUANIA AND THE FEDERAL REPUBLIC OF GERMANY.....	29
3.1. Individual constitutional complaint in Ukraine.	29
3.1.1. Legal nature and evolution of individual access to constitutional justice in Ukraine.....	29
3.1.2. Legal standing and the subject matter of constitutional complaint under Ukrainian legislation.	31
3.1.3. Preliminary review of complaints under Ukrainian legislation.	34
3.1.4. Admissibility criteria and grounds for refusing to open constitutional proceedings under Ukrainian legislation.	36
3.1.5. Analysis of selected decisions of the Constitutional Court of Ukraine adopted based on the constitutional complaint.	41
CONCLUSION.....	49
3.2. Individual constitutional complaint in the Republic of Lithuania.	50
3.2.1. Historical background of the individual constitutional complaint in Lithuania.....	50
3.2.2. Legal basis of the individual constitutional complaint in Lithuania.	52
3.2.3. Main characteristics of the individual constitutional complaint in Lithuania.	55
3.2.4. Analysis of selected decisions of the Constitutional Court of the Republic of Lithuania adopted based on the constitutional complaint.	61

CONCLUSION.....	69
3.3. Individual constitutional complaint in the Federal Republic of Germany.....	71
3.3.1. Historical background of the individual constitutional complaint in the Federal Republic of Germany. Legal basis.....	71
3.3.2. Subject matter of individual constitutional complaint under German constitutional law.	74
3.3.3. Persons entitled to file an individual constitutional complaint under German constitutional law.	77
3.3.4. Admissibility criteria: peculiarities of the exhaustion of legal remedies and the deadline in German constitutional law.	82
3.3.5. Analysis of selected decisions of the Federal Constitutional Court of the Federal Republic of Germany adopted based on the constitutional complaint.	86
CONCLUSION.....	93
CONCLUSIONS	95
RECOMMENDATIONS.....	98
BIBLIOGRAPHY	99
ABSTRACT	115
SUMMARY.....	116
ANNEXES.....	117
HONESTY DECLARATION	127

LIST OF ABBREVIATIONS

CJEU – Court of Justice of the European Union

ECB – European Central Bank

EU – European Union

OMT – Outright Monetary Transactions

TFEU – Treaty on the Functioning of the European Union

VR – Verkhovna Rada of Ukraine

INTRODUCTION

1. Problem of research. The institution of individual constitutional complaint is, itself, quite a young mechanism, compared to constitutional control, as a general phenomenon. Due to various historical events and societal demands, each country has developed this institution differently. The most consistent guidelines for the individual constitutional complaint are formulated in the documents of the European Commission for Democracy through Law (Venice Commission). However, even in these sources, the emphasis is mainly on recommendations regarding models of access to constitutional justice and procedural filters, rather than on a comprehensive definition of the criteria for the effectiveness of this mechanism.

The research problem of this study lies in the need for a more in-depth analysis of the institution of the individual constitutional complaint and its functioning within different models of constitutional justice in Europe. Particular attention is paid to the application of this mechanism in selected jurisdictions, namely Ukraine, the Republic of Lithuania and the Federal Republic of Germany. The research examines the legal nature of the individual constitutional complaint, considers possible approaches to assessing its effectiveness and the criteria that may be applied for such evaluation. It explores whether the effectiveness of this mechanism is influenced by the model of constitutional complaint applied (the full or the normative model).

The presence of different models of individual complaints in Ukraine, Lithuania, and Germany creates a basis for comparative analysis and allows to examine the problem of effectiveness not in the abstract way, but through the prism of specific legal systems.

2. Relevance of the master thesis. The institution of an individual constitutional complaint is a relatively “young” mechanism for protecting fundamental rights (approximately a century of existence in its classical form). For Ukraine (since 2016–2017) and the Republic of Lithuania (since 2019), this institution is relatively new and is in the process of formation, especially in comparison with the Federal Republic of Germany.

Constitutional rights and freedoms constitute the foundation of a legal state and are the core of the principle of the rule of law. Ensuring their real, rather than declarative, protection requires effective mechanisms for a person’s access to constitutional justice. An individual constitutional complaint is precisely such a direct access mechanism.

The relevance of this study lies in the importance of further examining the institution of the individual constitutional complaint in the context of its development within different national systems of constitutional justice. The study is pertinent not only because it analyzes the legal nature and

functioning of this mechanism, but also provides a comparative analysis of its practical application in selected countries. It needs to assess the functioning of the relatively new institution of the individual constitutional complaint in Ukraine and Lithuania to determine its strengths and weaknesses in comparison with the established German model. It is important in the context of the European integration vector of Ukraine's development, which requires the consistency of national mechanisms for the protection of rights with European standards. In addition, the study has practical significance for improving legislation and mechanisms for implementing decisions of constitutional courts.

3. Scientific novelty and overview of the research on the selected topic. The institution of individual constitutional complaint has been actively studied by scholars from different countries around the world. There are numerous works devoted to the history of the formation of constitutional control, various models of constitutional justice, as well as the analysis of the practice of constitutional courts. Researchers have examined various aspects of its application and functioning, including but not limited to the legal nature of this institution, procedural features and practical functions. Among the famous scientists who have made a significant contribution to the study of this topic, it is worth noting, including, but not limited to A. Abramavičius, V. Ahmadov, T. Birmontienė, V. Bonyak, N. Brovko, L. Hahn, M. Hultai, E. Kūris, M. Leonenko, L. Linke, I. Mahnovskyi, L. Medvid, D. Pūraitė-Andrikienė, O. Rusetskyi, M. Stavnichuk, Y. Yermolenko, J. Yun, V. Zaporozhets, A. Zinchenko.

At the same time, ongoing dynamic developments in constitutional adjudication and differences in national models demonstrate that continued analysis of individual constitutional complaints remains relevant.

Most scientific research on the individual constitutional complaint focuses either on a general description of this institution or on the characteristics of its individual models in different countries. In contrast, this study provides a comparative analysis of the institution of the individual constitutional complaint in Ukraine, Lithuania and Germany.

The scientific novelty of the research lies in the fact that it examines these three jurisdictions within a single analytical framework, which makes it possible to identify common features and differences in the functioning of this mechanism. Particular attention is paid not only to the procedural characteristics of the individual constitutional complaint, but also to the assessment of its practical effectiveness as a mechanism for the protection of constitutional rights.

4. Significance of research. The theoretical significance of this work lies in clarifying the understanding of an individual constitutional complaint as an independent legal institution and

determining its place in the system of constitutional law. The practical value of the study lies in the possibility of using the formulated conclusions to improve the legislative regulation of an individual constitutional complaint in Ukraine, in the activities of bodies of constitutional jurisdiction, as well as in further scientific research devoted to the issues of constitutional justice and the protection of fundamental rights.

5. The aim of research. The aim of the study is a comprehensive analysis of the individual constitutional complaint as a mechanism for protecting constitutional rights and determining the criteria for its effectiveness based on a comparative study of the models of Ukraine, the Republic of Lithuania and the Federal Republic of Germany. The work examines why different states choose a full or normative model of a constitutional complaint, whether the criteria for admissibility affect its real effectiveness, and how the practice of Constitutional Courts shapes the actual effectiveness of this institution in protecting human rights.

The choice of these three states is due to the logic of comparing different models and legal contexts. Germany is a classic example of a full constitutional complaint, which has been operating for over 75 years, has a stable and consistent practice and is used not only as a means of internal protection of rights, but also as a tool for interaction with supranational institutions, in particular within the European legal space. It makes it a significant reference point for imitation. Ukraine and Lithuania, in turn, have a common post-Soviet past and have introduced a model of normative constitutional complaint, but are in different integration conditions. Lithuania is a member state of the European Union, while Ukraine is only moving towards European integration. This allows us to trace how a model that is the same in form functions in different political and legal environments, as well as to carry out a broader comparison of the normative model (on the example of Ukraine and Lithuania) with the full model (on the example of Germany) in terms of their real effectiveness.

6. The objectives of research. The aim of the study is pursued through the following tasks: to clarify the concept and essential characteristics of an individual constitutional complaint as an independent legal institution; to analyze the features of its models in Ukraine, the Republic of Lithuania and the Federal Republic of Germany; to assess the impact of admissibility criteria on the real effectiveness of the functioning of this mechanism through case analysis; to formulate a system of criteria for assessing the effectiveness of an individual constitutional complaint; and to propose possible directions for improving the relevant mechanism in Ukraine, taking into account the comparative experience of the studied states.

7. Research methodology. The study is based on the comprehensive application of general scientific and special legal methods. The comparative legal method was used to compare the normative model operating in Ukraine and the Republic of Lithuania with the full model of a constitutional complaint in the Federal Republic of Germany. Doctrinal (dogmatic) analysis was used while studying the provisions of Constitutions and special legislation, as well as when interpreting the approaches formed in the decisions of the Constitutional Court of Ukraine, the Constitutional Court of the Republic of Lithuania and the Federal Constitutional Court of Germany. The analysis of judicial practice made it possible to assess how an individual constitutional complaint actually affects the protection of rights, in particular in cases regarding pension restrictions in Ukraine, quarantine measures in Lithuania or multi-level protection of fundamental rights in Germany. The system method was used to consider the institution not in isolation, but in the broader constitutional and European legal environment, including issues of the correlation of national and supranational levels of rights protection. The statistical method made it possible to analyze the dynamics of complaints, the percentage of their admissibility and the share of satisfied applications in each of the studied countries.

During preparation of this dissertation, artificial intelligence was used only as an additional technical tool for certain limited text-related purposes, including translating sources into English and improving the English version of the thesis. Artificial intelligence has not replaced the independence of the research, legal analysis, and evaluation of sources. Legal terms, references, case titles, documents, and any other relevant information have been checked for accuracy. All inaccuracies and unconfirmed facts have been removed. The final version of thesis is the product of the author's independent research.

8. Structure of research. The work consists of three main sections.

The first chapter examines the historical development of constitutional control as a form of human rights protection, traces the formation of various models of constitutional justice and analyzes the formation of the institution of individual constitutional complaint in the European context.

The second chapter is devoted to the theoretical foundations of individual constitutional complaint. It is considered its place as a legal institution in the system of constitutional law. The author formulates the definition of individual constitutional complaint and distinguishes its main features, types, as well as models and forms of direct complaint.

The third chapter has an applied and comparative nature and contains a detailed analysis of the functioning of the institution of individual constitutional complaint in Ukraine, the Republic of

Lithuania and the Federal Republic of Germany. It provides the historical background of the introduction of this mechanism in each state, its legislative regulation, the range of scope of complaint, the criteria for admissibility, and the analysis of selected decisions of Constitutional Courts.

9. Defence statements.

1. An individual constitutional complaint is an independent legal institution that combines the function of protecting constitutional rights of an individual and the function of ensuring the supremacy of the Constitution.

2. The effectiveness of the institution is not determined primarily on the type of model of individual constitutional complaint (full or normative). Rather it depends on how this instrument functions in practice, namely, on the Constitutional Courts' genuine commitment to constitutional standards and the rule of law, on the consistency and stability of its case-law, and on its capacity to apply this mechanism in a way that produces real and lasting effects within the legal system.

3. In Ukraine, increasing the effectiveness of the institution of an individual constitutional complaint is associated not with expanding its subject matter, but with improving the mechanisms for implementing the decisions of the Constitutional Court and ensuring the stability of its legal positions.

CHAPTER 1: HISTORICAL DEVELOPMENT

1.1. Historical development of constitutional judicial review as a form of individual rights protection.

The concept of constitutional judicial review emerged relatively recently and was based on English law. The core idea of examining whether laws align with the basic law originated in the United States, which was later adopted by European countries. However, the implementation of this concept across European countries had significant structural and doctrinal differences.¹ Historically, scholars identify two primary models of constitutional review: the “diffuse” or “American” model; and the “concentrated” or “European” model.²

The oldest model of constitutional review is the “American” one, which appeared at the beginning of the 19th century. The U.S. Constitution does not explicitly grant courts the power of constitutional review.³ The courts were granted this right in 1803 by the cornerstone Supreme Court case *Marbury v. Madison*.⁴ Chief Justice John Marshall declared that the Court has the power to cancel laws that go against the Constitution, which set a crucial precedent under Article III.⁵ This ruling laid the groundwork for the practice of judicial review in the United States and became a foundational moment for constitutional democracies. Marshall effectively turned Alexander Hamilton’s theory of judicial review into binding legal doctrine.⁶

The American model of constitutional review is characterized by diffuse, incidental control, allowing individual citizens to directly access constitutional justice by raising issues of legal act constitutionality during regular court proceedings. In this system, all ordinary courts have the authority to examine whether a legal norm or individual act aligns with the constitution. Judges can decide not to apply any provision they consider unconstitutional in the case before them. However, even though any court has the power to conduct judicial review, the Supreme Court is still positioned at the top of the judicial hierarchy. When a lower court rules on a constitutional matter, its decision applies only to the parties involved (*inter partes*). If the case is appealed all the way to the Supreme Court, and it issues a ruling on the constitutional issue, the justices decision becomes binding for all

¹ Sinani Blerton, „Global Patterns of Constitutional Judicial Review Systems: Two Major Models of Constitutional Judicial Review in the World,” *Juridical Tribune - Review of Comparative and International Law* 14, no. 1 (2024): 160, <http://dx.doi.org/10.62768/TBJ/2024/14/1/10>.

² *Ibid.*

³ *Ibid.*, 163.

⁴ “United States v. Hudson and Goodwin, 5 U.S. (1 Cranch) 137,” Supreme Court of the United States, accessed 7 January 2026, <https://supreme.justia.com/cases/federal/us/5/137/>.

⁵ Sinani, *op. cit.*, 163.

⁶ Sinani, *op. cit.*, 164.

courts under the principle of precedent (*stare decisis*).⁷ This approach was later adopted by several Latin American countries during the 19th century.⁸

The second model is the centralized model of constitutional review, also referred to as the "Austrian" or "Continental European" model. Its very first prototype appeared in Latin America, specifically in Venezuela in 1858.⁹ But it did not evolve into a lasting or influential framework.

The centralized systems of constitutional judicial review in Europe were introduced in Czechoslovakia and Austria, through the Czechoslovak Constitution of February 29, 1920, and the Austrian Constitution of October 1, 1920, accordingly. Both systems were influenced by the legal theories of Hans Kelsen, a jurist originally from Prague, and are widely regarded as the foundational models for centralized constitutional review, designed as an alternative to the American, decentralized approach.¹⁰

The model of the Constitutional Court and centralized constitutional review developed by Hans Kelsen is considered one of the most successful and widely adopted institutional innovations in constitutional history. Originating in Austria, it was later implemented in other West-European countries: Italy (1947), Germany (1949), France (1958), Spain (1978), and Portugal (1982). After the collapse of the Soviet Union, the model was also adopted by many countries in East-Central Europe and later expanded into parts of Asia. Today, nearly 100 countries worldwide have established Constitutional Courts.¹¹

The power to conduct constitutional review is vested exclusively in a specialized body. For example, a Constitutional Court in Ukraine, Austria and Germany; Constitutional Tribunal in Poland; or Constitutional Council in France.¹² A unique example could also be Estonia, where a separate

⁷ Sinani, *supra note*, 164.

⁸ Gianluca Gentili, "A Comparative Perspective on Direct Access to Constitutional and Supreme Courts in Africa, Asia, Europe and Latin America: Assessing Advantages for the Italian Constitutional Court," *Penn State International Law Review* 29 (2011): 713, <https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1199&context=psilr>. Justin Orlando Frosini and Lucio Pegoraro, "Constitutional Courts in Latin America: A Testing Ground for New Parameters of Classification?" *SSRN* (2008): 45, <https://ssrn.com/abstract=2661380>.

⁹ Frosini and Pegoraro, *op. cit.*, 45.

¹⁰ Jeong-In Yun, "Constitutional Review Complaint as an Evolution of the Kelsenian Model," *Vienna Journal on International Constitutional Law (ICL Journal)* Volume 14 Issue 4 (2021): 424-425, <https://doi.org/10.1515/icl-2020-0024>.

¹¹ *Ibid.*, 425.

¹² "Закон України Про правовий режим воєнного стану 2136-IX [Law of Ukraine On the Legal Regime of Martial Law No. 2136-IX]," Verkhovna Rada of Ukraine, accessed 7 January 2026, <https://zakon.rada.gov.ua/laws/show/389-19#Text>.

"Verfassungsgerichtshofgesetz 1953 [Constitutional Court Act 1953]," Entwurf, accessed 7 January 2026, https://www.wahlbeobachtung.org/wp-content/uploads/2013/09/Constitutional-Court-Act-ERV_1953_85.pdf.

"Bundesverfassungsgerichtsgesetz – BVerfGG [Act on the Federal Constitutional Court]," Federal Ministry of Justice and Consumer Protection, accessed 7 January 2026, https://www.gesetze-im-internet.de/englisch_bverfgg/englisch_bverfgg.html.

Chamber of Supreme Court is responsible for constitutional review.¹³ The Constitutional Court serves as the central institution responsible for reviewing the constitutionality of laws. It holds a monopoly over this function, meaning that ordinary courts are not empowered to engage in constitutional review. Access to the Constitutional Court may occur through indirect channels (referrals from other institutions, for instance, the Ukrainian Parliament Commissioner for Human Rights) or through direct individual access (constitutional complaints).¹⁴

1.2. The emergence and development of the individual constitutional complaint as a legal instrument for individual rights protection.

The constitutional complaint did not occur as an essential or mandatory feature of constitutional review by default. It emerged through a gradual process shaped by historical developments and capricious legal priorities. Its introduction was preceded by a series of the significant evolution of constitutionalism and the rise of individual rights protection. These changes created the conditions under which the constitutional complaint could develop as a distinct legal instrument, aimed at empowering individuals to seek redress for violations of constitutional rights. As such, the constitutional complaint came up as a response to the growing need for the state to effectively protect people's rights and keep government actions in check within democratic systems.

Although the German *Verfassungsbeschwerde* is often regarded as the prototype of the modern individual constitutional complaint, the historical origins of this legal instrument lie earlier in Austria, Switzerland, and Liechtenstein.

In 1868, Austrian citizens were granted the right to file complaints to the newly established *Reichsgericht* (Imperial Court) against administrative acts that violated constitutionally guaranteed political rights. Initially, the *Reichsgericht* could only declare acts unconstitutional but it lacked the power to annul them. In 1920 this limitation was removed, as the jurisdiction of the *Reichsgericht* was transferred to the Constitutional Court (*Verfassungsgerichtshof*), granting it full powers of annulment.

“The Act of 13 December 2016 – Introductory Provisions to the Act on the Organisation of the Constitutional Tribunal and the Mode of Proceedings Before the Constitutional Tribunal and to the Act on the Status of the Judges of the Tribunal,” Journal of Laws 2016 item 2074, accessed 11 September 2025, https://trybunal.gov.pl/fileadmin/content/dokumenty/Akty_normatywne/The_Act_of_13_December_2016_-_the_Introductory_Provisions.pdf.

“Constitution of 4 October 1958,” Conseil Constitutionnel, accessed 11 September 2025, <https://www.conseil-constitutionnel.fr/en/constitution-of-4-october-1958>.

¹³ “Supreme Court of Estonia,” The Estonian Supreme Court, accessed 11 September 2025, <https://www.riigikohus.ee/en/supreme-court-estonia>.

¹⁴ “Закон України Про Уповноваженого Верховної Ради України з прав людини 776/97-ВР [Law of Ukraine On the Ukrainian Parliament Commissioner for Human Rights No. 776/97-VR],” Verkhovna Rada of Ukraine, accessed 7 January 2026, <https://zakon.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80#Text>.

Over time, the scope of complaints remained the same. However, in 1975, the law was expanded: individuals were vested with the right to challenge the constitutionality of laws and regulations, but only if the person could show that their personal rights were directly affected (*Individualanfechtung*).¹⁵

In 1874, in Switzerland, the staatsrechtliche Beschwerde (public law appeal, or recours de droit public) was introduced. This allowed individuals to challenge cantonal acts (including both laws and administrative decisions) for violations of their constitutionally protected rights. However, the key point is that the responsible authority was not the Constitutional Court, but the Swiss Federal Supreme Court. Similarly, in Liechtenstein, the Constitution of 1926 established the State Court (Staatsgerichtshof), granting citizens the right to submit constitutional complaints, modeled closely on the Swiss system.¹⁶

The institution of the modern individual constitutional complaint was established in Germany. Bavaria was the first German state to introduce the individual constitutional complaint concept (*Verfassungsbeschwerde*) in 1919, even before this mechanism existed at the federal level.¹⁷ However, only individual official acts (*Einzelakte*) could be challenged before the Bavarian State Court of Justice (*Bayerischer Staatsgerichtshof*), not laws.

On a federal level the constitutional complaint *Verfassungsbeschwerde* was introduced in 1951 through the Federal Constitutional Court Act (*Bundesverfassungsgerichtsgesetz*) and later, in 1969, was incorporated as individual right into the Basic Law. Nowadays, this type of constitutional remedy can be brought against any kind of act: legislative, judicial, or administrative. After reunification of Germany in 1990, all the new federal states (including Berlin) have also incorporated the individual constitutional complaint into their legal systems.^{18 19}

Later on, the individual constitutional complaint gained international recognition, inspiring similar mechanisms across Europe. Spain adopted it in 1980 as the *recurso de amparo constitucional*,

¹⁵ ““Der Zugang des Einzelnen zur Verfassungsgerichtsbarkeit im europäischen Raum” Opinion CDL-JU(2001)22” [“Individual access to constitutional jurisdiction in the European area” Opinion CDL-JU(2001)22],” Venice Commission, accessed 8 October 2025, 15-16, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU\(2001\)022-ger](https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU(2001)022-ger).

¹⁶ *Ibid.*, 16.

¹⁷ “Verfassungsbeschwerde [Constitutional complaint],” Rechtsanwalt.com, accessed 7 January 2026, <https://www.rechtsanwalt.com/lexikon/verfassungsbeschwerde/?srsltid=AfmBOoqo0CxXRNGAM88oIzBROV51Y1OL1x4iG4Cg5hoDi-RgFlozvKY1&utm&utm>.

¹⁸ Venice Commission, Opinion CDL-JU(2001)22, *supra* note, 16.

¹⁹ On November 8, 1990, the Constitutional Court of the State of Berlin (Verfassungsgerichtshof des Landes Berlin) was established. The constitutional complaint in Berlin is governed by Article 84(2) No. 5 of the Berlin Constitution (Verfassung von Berlin) and the Verfassungsgerichtshofsgesetz.

Croatia in 1991 as the *ustavna tužba*, the Czech Republic and Slovakia in 1992 as the *ústavní stížnost*, and Slovenia in 1994 as the *ustavna pritožba*.²⁰

In Ukraine, the institution of individual constitutional complaint appeared in the 21st century as part of the judicial reform. By that time, many scholars had given many arguments for the feasibility of introducing this institution of protection of constitutional rights into the legal system of Ukraine. A.O. Selivanov emphasized in his monograph that the right to constitutionally challenge laws that violate human rights is a necessary component of democracy in a state. The Constitutional Court should judge according to law, not facts, and access to it is designed to be a guarantee of compliance and protection by the state of the constitutional rights of citizens. Without the possibility of filing a constitutional complaint, a citizen's access to constitutional justice is ineffective, and the competitive nature of achieving legal justice with other subjects of law is practically absent.²¹

The constitutional complaint as a tool for protecting individual rights was introduced by the Law of Ukraine No. 1401-VIII of June 2, 2016 “On Amendments to the Constitution of Ukraine (Regarding Justice)”, which entered into force on September 30, 2016.²² The next step was the adoption of a law that would regulate the requirements for a constitutional complaint and the procedure for its consideration. This regulation appeared only a year later: the Law of Ukraine dated 13.07.2017 No. 2136-VIII “On the Constitutional Court of Ukraine”, which entered into force on 03 August 2017.²³ The regulations that would establish the procedure for the Court's activities and the formation of the Court's senates were made six months later, by Resolution of the Constitutional Court of Ukraine dated February 22, 2018 No. 1-ps/2018.²⁴ So, despite the fact that the constitutional reform regarding justice took place in 2016, in the end, the Constitutional Court of Ukraine was able to fully consider and conduct proceedings on individual constitutional complaints only after completing all

²⁰ Venice Commission, Opinion CDL-JU(2001)22, *supra note.*, 21-22.

²¹ O. A. Rusetskyi and A. V. Zinchenko, “Functioning of the Institute of Constitutional Complaint in Ukraine and in Foreign Countries,” *Legal Scientific Electronic Journal*, no. 11 (2021): 778, <https://doi.org/10.32782/2524-0374/2021-11/197>.

²² “Закон України Про внесення змін до Конституції України (щодо правосуддя) 1401-VIII [Law of Ukraine On Amendments to the Constitution of Ukraine (Regarding Justice) No. 1401-VIII],” Verkhovna Rada of Ukraine, accessed 7 January 2026, <https://zakon.rada.gov.ua/laws/show/1401-19#Text>.

²³ “Закон України Про Конституційний Суд України 2136-VIII [Law of Ukraine On the Constitutional Court of Ukraine No. 2136-VIII],” Verkhovna Rada of Ukraine, accessed 7 January 2026, <https://zakon.rada.gov.ua/laws/show/2136-19#Text>.

²⁴ “Постанова Конституційного Суду України Про Регламент Конституційного Суду України № 1-пс/2018 [Resolution of Constitutional Court of Ukraine On Approval of the Regulations of the Constitutional Court of Ukraine No. 1-ps/2018],” Verkhovna Rada of Ukraine, accessed 7 January 2026, <https://zakon.rada.gov.ua/laws/show/v0001710-18#Text>.

stages of adopting the regulations and forming the senates, which were supposed to consider constitutional complaints.²⁵

In Lithuania, the mechanism of individual constitutional complaint appeared a little later. The European Commission for Democracy through Law (the Venice Commission) has repeatedly advocated the introduction of this mechanism in Lithuania in particular.²⁶ This position was also supported in June 2016 when the Constitutional Court of Lithuania adopted a decision wherein it strongly advocated in favor of the individual constitutional complaint and its introduction into the constitutional legal order of Lithuania.²⁷ The Court decision notes that the expediency and necessity of establishing the institution of an individual constitutional complaint have been repeatedly proven in judicial practice. Indirect access to constitutional justice is an effective, but insufficient mechanism for protecting rights. As a result, on September 1, 2019, an individual constitutional complaint mechanism was introduced in Lithuania.

²⁵ “Конституційна скарга як засіб юридичного захисту прав і свобод особи: історія запровадження та повноваження КСУ” [The Constitutional Complaint as a Means of Legal Protection of Rights and Freedoms: History of Introduction and Powers of the Constitutional Court of Ukraine].” Higher School of Advocacy, accessed 7 January 2026, <https://www.hsa.org.ua/blog/konstituciina-skarga-iak-zasib-iuridicnogo-zaxistu-prav-i-svobod-osobi-istoriia-zaprovadzennia-ta-povnovazennia-ksu>.

²⁶ “Study on Individual Access to Constitutional Justice CDL-AD(2010)039rev-e,” Venice Commission, accessed 7 January 2026, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)039rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)039rev-e).

²⁷ “Decision KT20-S10/2016: On Explanation of the Petitioner’s Right to Petition in Section 26 of the Constitutional Court’s Judgment of June 26, 2006,” Constitutional Court of the Republic of Lithuania, accessed 7 January 2026, <https://lrkt.lt/en/court-acts/search/170/ta1625/content>.

CHAPTER 2: THE CONCEPT AND THEORETICAL FOUNDATIONS OF INDIVIDUAL CONSTITUTIONAL COMPLAINTS

2.1. The constitutional complaint as a legal institution.

An individual constitutional complaint is a relatively new legal instrument within the system of constitutional protection of fundamental rights. Currently, there is no single, unified definition that could encompass the concept of it across various jurisdictions and legal traditions. The nature of the individual constitutional complaint is not as simple as it may seem at first glance. Despite the single goal (protection of constitutional rights), this instrument in each country covers a different scope of opportunities and powers. The unique historical and political experience of each state forms a different understanding of a single concept among different scholars.

The study of the concept of an individual constitutional complaint should begin with an examination of the general concept of a constitutional complaint as a separate legal institution.

A legal institution can be defined as a separate group of legal norms that regulate homogeneous relations of a specific type within a certain field (subfield of law).²⁸ Each legal institution must have certain characteristics:

1) it does not regulate the entire set of qualitatively homogeneous relations of a certain branch of law, but individual specific features of one type of social relations or performs special tasks, functions in this regulation;

2) it has relatively normative independence, is characterized by stability and autonomy of functioning. It is a logically closed, separate set of norms;²⁹

4) it embodies in its content a special legal construction, some general provisions, uniform principles;

5) it has the ability to form general concepts within its own limits, which help to ensure the absence of gaps in the relations regulated by it;³⁰

6) legal norms form a branch of law not directly, but through institutions.³¹

According to the research of M. M. Hultai, former Judge of the Constitutional Court of Ukraine, the institution of the constitutional complaint possesses a set of defining characteristics that

²⁸ M. V. Tsvik et al., *Загальна теорія держави і права: Підручник для студентів юридичних вищих навчальних закладів* [General theory of state and law: Textbook for students of legal higher education institutions], (Kharkiv: Pravo, 2009): 250.

²⁹ Bilozorov, Ye. V. et al., *Теорія держави та права: навч. посіб.* [Theory of State and Law: Textbook.], (Kyiv: National Academy of Internal Affairs (Osvita Ukrainy, 2017): 140.

³⁰ Tsvik et al., *op. cit.*

³¹ Mykhailo Hultai, Конституційна скарга як інститут конституційного права [The constitutional complaint as an institution of constitutional law], *A word from the National school of judges of Ukraine, no. 1* (2012): 111, http://nbuv.gov.ua/UJRN/cln_2012_1_14.

reflect its systemic place as a legal institution within constitutional law. First, it regulates social relations in the sphere of access to constitutional justice for the purpose of declaring a specific legal act unconstitutional. These relations are homogeneous in nature. Second, it constitutes an integral component of constitutional law as a distinct branch of law. Third, it establishes a special procedural form which, as Hultai notes, “integrates the features of ‘classical’ jurisdictional procedural forms with elements of the law-making process.” Fourth, it represents a logically complete and self-contained set of legal norms. Finally, it functions autonomously within the constitutional-legal framework, regulating social relations relatively independently from other legal institutions.³²

In addition to these structural characteristics, the institution of the constitutional complaint also has a number of features that demonstrates its unique legal nature (in Ukraine particularly). First, it is inherently public-law in character, as it governs relations between legally unequal subjects (between the Constitutional Court and the complainant or the public authority whose act is under constitutional review). These relations are characterized by legal inequality. Second, the institution has a particular set of subjects, with the Constitutional Court as the central and obligatory participant in the proceedings. Third, its normative framework is directed toward the protection of both private and public interests. On the one hand, it secures individual rights at the constitutional level. On the other hand, it produces a broader societal effect by amending the national legal system. Fourth, the regulation of these relations relies primarily on the imperative method of legal regulation. Finally, the institution is functional in character, as it is designed to govern the procedure by which normative legal acts are challenged before the Constitutional Court on the grounds of violating any constitutional right or freedom. This legal institution is not created to protect a single right but encompasses the entire sphere of constitutional rights.³³

Taken together, these characteristics demonstrate that the constitutional complaint is both a structural and functional legal institution. It is structurally autonomous within constitutional law, and functionally directed toward the comprehensive protection of constitutional rights.

2.2. The definition of individual constitutional complaint.

Having clarified the concept of the institution of the constitutional complaint as a general structure, it is now appropriate to turn to the definition of the individual constitutional complaint as a distinct category within it. As it has been noted before, there is no universally accepted definition of the term “individual constitutional complaint” in legal scholarship. In many cases, the notions of

³² *Ibid.*, 112-115.

³³ *Ibid.*, 115-117.

“constitutional complaint” and “individual constitutional complaint” are not clearly distinguished and are used as interchangeable terms. However, for the purposes of this study, maintaining such a distinction is of considerable importance.

As a methodological basis, this research employs the cognitive potential of formal-logical categories such as “definition” and “content of a definition,” which in the scientific literature are generally understood in the following way: (1) a concept is a form of abstract reasoning that reflects objects and phenomena in their essential features; (2) the content of a definition comprises the set of those essential features.³⁴

Accordingly, in order to refine the understanding of the individual constitutional complaint, it is necessary to analyze its defining characteristics.

The term “individual” itself prompts an analysis of the concept of the individual constitutional complaint from two distinct approaches:

1) object-based approach – individual complaints are those lodged in relation to a specific, individual case;

2) subject-based approach – individual complaints are those submitted by a distinct, specifically determined subject (individual).

Object-based approach is highly supported by the European Commission for Democracy through Law (the Venice Commission) in numerous works, namely: Study N° 538 / 2009 (CDL-AD(2010)039rev), Opinion No. 1004 / 2020 (CDL-AD(2021)001), report “Opinion of the Venice Commission on the Draft Law on the Constitutional Court of Ukraine” (CDL-JU(2018)017), Compilation of Venice Commission Opinions, Reports and Studies on Constitutional Justice (CDL-PI(2022)050). Within this framework, an individual constitutional complaint is understood as a legal remedy concerning a specific situation in which a particular law has directly infringed upon the constitutional right of an identifiable individual. Importantly for the general understanding, such a complaint may be lodged not only by the individuals themselves but also by third parties acting on their behalf (further discussed in Chapter 2.3).

In contrast, the subject-based approach is defined primarily by the status of the complainant, by the person who lodges the complaint. A notable proponent of the first approach is Armanas Abramavičius, a former Judge of the Constitutional Court of the Republic of Lithuania. In his work, he identifies three key features of the individual constitutional complaint:

³⁴ Volodymyr Bonyak and Yaroslav Yermolenko, *Конституційна скарга як юридична гарантія прав і свобод людини в Україні: Монографія* [The Constitutional Complaint as a legal guarantee of human rights and freedoms in Ukraine: Monograph], (Dnipro: Dnipro State University of Internal Affairs, 2022): 58-59.

- 1) the complaint is individual, meaning a specific subject has the right to file a personal constitutional complaint in a specific case;
- 2) the subject of the complaint is only violations of rights and freedoms of a constitutional nature;
- 3) the right to decide on personal constitutional complaints is granted to constitutional courts and the decisions of these courts are mandatory.³⁵

On this basis, Abramavičius distinguishes two main types of individual constitutional complaints in European practice: *actio popularis* and the constitutional complaint itself.³⁶ *Actio popularis*, or popular complaint, is a special remedy that allows an individual to contest a normative act without having to demonstrate a personal and direct impact³⁷. In jurisdictions where it exists (for example, South Africa), any person may lodge such a complaint against a law once it has been enacted.³⁸ From the purely subject-based perspective, *actio popularis* could thus be treated as a type of individual constitutional complaint. This view is also shared by some Ukrainian scholars, who describes *actio popularis* as an instrument granting individual access to constitutional justice.³⁹

However, from the object-based perspective, *actio popularis* falls outside the scope of individual constitutional complaints. While the Venice Commission acknowledges that *actio popularis* may indeed be filed by an individual, it draws a sharper distinction based on the object matter: an individual constitutional complaint, in its proper sense, is the one brought in connection with a specific case concerning a specific person.⁴⁰

For the purposes of this study, the term individual constitutional complaint will therefore be understood in line with the Venice Commission's approach, namely, as a remedy filed in relation to a concrete case, where the complainant claims a violation of his or her constitutional rights.

The definition of an individual constitutional complaint can be examined from both objective and subjective perspectives. From an objective standpoint, it is a form of appeal to the Constitutional Court with the need to declare a law or other legal act unconstitutional. In this sense, the complaint serves as a formal tool for ensuring the supremacy of the constitution and eliminating unconstitutional

³⁵ Armanas Abramavičius, "Konstitucinio skundo samprata ir reikšmė konstitucinėje teisminėje kontrolėje [Definition and meaning of the constitutional complaint in the constitutional judicial control]," *Jurisprudencija*, vol. 101, no. 11 (2007): 16, <https://www.proquest.com/openview/5d478da50cf77851e107a9980b92f12a/1?pq-origsite=gscholar&cbl=2026708>.

³⁶ *Ibid.*

³⁷ "Human Rights Protection with the Help of the Individual Complaint by Arne Mav_i_ no. CDL-JU (97)," Venice Commission, accessed 7 January 2026, 5, [https://www.venice.coe.int/webforms/documents/CDL-JU\(1997\)015-e.aspx](https://www.venice.coe.int/webforms/documents/CDL-JU(1997)015-e.aspx).

³⁸ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 21.

³⁹ Nataliia Brovko et al., "The Role of the Constitutional Complaint in the Legislative Process: Comparative Legal Aspect," *Cuestiones Políticas* 39 (69) (2021): 835, <https://doi.org/10.46398/cuestpol.3969.51>.

⁴⁰ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 16.

norms from the legal order. From a subjective perspective, the terms of constitutional complaint should be understood as the right of a person to seek judicial constitutional review.⁴¹ It provides an opportunity to appeal to the bodies exercising judicial constitutional control in order to verify regulatory and legal acts that violate, in the opinion of this person, his or her constitutional right. From this perspective, a constitutional complaint is not just a formal document, but a guarantee of the rule of law.

The Venice Commission defines the constitutional complaint as the last and ultimate form of legal protection against violations of human rights resulting from judicial decisions or acts of other authorities in concrete proceedings. The key characteristic of individual complaints is that they are brought in relation to specific cases concerning specific persons.

A classical example of definition in Ukrainian legal literature is provided by V.M. Shapoval, who defines a constitutional complaint as a legal instrument that initiates a special procedure for the protection of a specific right before a constitutional jurisdiction body, primarily by an individual. Such a complaint may be filed in response to a violation resulting from an act issued by a state body or an official within the executive branch, or from a decision of a court of general jurisdiction.⁴²

Similarly, under the German Basic Law, a constitutional complaint serves as a safeguard through which citizens may assert their fundamental rights vis-à-vis the state. Any person may lodge such a complaint if they believe that an act of public authority has violated one of their constitutionally guaranteed rights.⁴³

Building on these perspectives, we can formulate our own working definition of the individual constitutional complaint, grounded in its essential characteristics, which will serve as the basis for this study.

Therefore, *an individual constitutional complaint* can be defined as a legal remedy enabling an individual (natural or legal person), directly affected by a specific legal act, judicial decision, or action of a public authority, to petition a Constitutional Court for review on the grounds of an alleged violation of constitutionally guaranteed rights. The defining feature of this instrument is its connection

⁴¹ Organization for Security and Co-operation in Europe, “Матеріали Міжнародної науково-практичної конференції з питань запровадження конституційної скарги в Україні [Proceedings of the International Scientific-Practical Conference on the Introduction of the Constitutional Complaint in Ukraine],” Kyiv: VAITE/OSCE (2016): 32, <https://www.osce.org/sites/default/files/f/documents/d/9/385692.pdf>.

⁴² Maryna Stavnichuk, “Інститут конституційної скарги в механізмі гарантування та розвитку конституційного ладу України: теоретичні та практичні проблеми реалізації [The institute of the constitutional complaint in the mechanism for ensuring and developing the constitutional order in Ukraine: theoretical and practical problems of implementation],” *Chasopys 2* (2019): 38, <https://doi.org/10.30970/jcl.2.2019.4>.

⁴³ “Basic Law for the Federal Republic of Germany,” Federal Ministry of Justice and Consumer Protection, accessed 7 January 2026, https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html.

to a concrete case concerning a specific person, distinguishing it from abstract or general complaints such as *actio popularis*. The dual purpose of this remedy lies both in safeguarding the individual's fundamental rights and in upholding the supremacy of the Constitution by eliminating unconstitutional acts from the legal order.

2.3. Types of individual constitutional complaints.

The entire scope of individual constitutional complaints can be broadly classified into two main categories: direct and indirect individual constitutional complaints.⁴⁴

Indirect complaints arise in situations where individuals cannot submit their claims to the constitutional court by themselves. Instead, these claims are brought before the court through intermediaries such as ordinary courts, ombudspersons or other authorities. Indirect constitutional complaints typically occur through mechanisms like preliminary ruling procedures or objections to the constitutionality of laws raised during ongoing proceedings. For example, according to Article 169 of the Constitution of Armenia the Prosecutor General has the right to address the issue to the Constitutional Court in respect of the constitutionality of provisions of regulatory legal acts related to specific proceedings administered by the prosecutor's office.⁴⁵ In Azerbaijan, Peru, and Ukraine, ombudspersons are authorized to request the review of a legal act in connection with a specific case they are handling at the time. Austria has a comparable mechanism, though it is restricted to the examination of general administrative acts.⁴⁶

Another striking example of an indirect constitutional complaint is Italy. According to Article 23 of Law No. 87/1953, the right to submit a constitutional complaint on behalf of an individual has an ordinary court. During a proceeding before a judicial authority, one of the parties or the public prosecutor may raise a question of constitutionality of the provisions of the law or act. If the proceeding cannot be resolved independently of the resolution of the question of constitutionality or if the court does not deem the question raised to be manifestly unfounded, it shall raise a request to the Constitutional Court and suspend the pending proceeding.⁴⁷

⁴⁴ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 16.

⁴⁵ "Constitution of the Republic of Armenia," The President of The Republic of Armenia, accessed 7 January 2026, <https://www.president.am/en/constitution-2015/>.

⁴⁶ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 19.

⁴⁷ "Legge 11 marzo 1953, n. 87, Norme sulla Costituzione e sul funzionamento della Corte costituzionale [Law No. 87 of March 11, 1953, Provisions on the Constitution and the functioning of the Constitutional Court]," *Gazzetta Ufficiale della Repubblica Italiana*, accessed 7 January 2026, <https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1953-03-14&atto.codiceRedazionale=053U0087>

As noted by the Venice Commission, indirect access to individual justice is a highly important instrument for human rights protection at the constitutional level. The clear advantage of indirect individual access lies in the fact that the bodies entitled to lodge complaints are usually well informed in this field and possess the necessary legal expertise to formulate a well-reasoned application. They also perform a filtering function, helping to prevent Constitutional Courts from becoming overburdened. Their task, as competent authorities, is to screen out applications that amount to an abuse of the right of complaint or that are repetitive in nature. Nevertheless, indirect access has a clear drawback. Its effectiveness depends largely on the ability of responsible bodies to identify potentially unconstitutional legislative acts and on their willingness to bring applications before the Constitutional Court or equivalent bodies. For this reason, the Venice Commission regards a combination of indirect and direct access as preferable, since it creates a balance between the various existing mechanisms.⁴⁸

In contrast to indirect complaints, direct access allows individuals to submit constitutional complaints independently, without the need for referral or approval by another state institution. Direct complaints can be further divided into abstract complaints and complaints, related to a concrete case.

Abstract complaints are considered to be individual constitutional complaints based on the subject-oriented approach mentioned in Chapter 2.2. *Actio popularis*, an example of an abstract complaint, involves challenges to legal norms without reference to a specific personal case. It gives any person a right to file a constitutional complaint against a normative act after its enactment, with no need to prove that this person is currently and directly affected by that act.⁴⁹ The Venice Commission strongly stands against it because this model provides too broad access to constitutional justice for the population, which creates a favorable environment for abuse of law and overloading of Constitutional Courts (or bodies with equivalent jurisdiction).⁵⁰ The Venice Commission cannot regard *actio popularis* as a European standard in constitutional matters. And as a comparative perspective shows that most countries did not choose to introduce this mechanism as a valid means to challenge statutory Acts before the Constitutional Court.⁵¹ This type of the individual constitutional

⁴⁸ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 4.

⁴⁹ Anne Van Aaken, "Making International Human Rights Protection More Effective: A Rational-Choice Approach to the Effectiveness of *Ius Standi* Provisions," *Preprints of the Max Planck Institute for Research on Collective Goods*, no. 2005-16 (2005): 14, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=802424.

⁵⁰ "Draft Revised Report on Individual Access to Constitutional Justice. Opinion No. CDL(2020)041," Venice Commission, accessed 7 January 2026, 12, <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL%282020%29041-e>.

⁵¹ "Compilation of Venice Commission Opinions, Reports and Studies on Constitutional Justice (Updated), CDL-PI(2022)050," Venice Commission, accessed 7 January 2026, 63, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2022\)050-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2022)050-e).

complaint is mentioned to maintain the most objective perspective on the study matter. However, in the subsequent analysis, it is not considered appropriate to treat *actio popularis* as a type of individual constitutional complaint further.

Direct constitutional complaints related to a specific case are tied to concrete situations in which a person alleges a violation of their constitutional rights. In addition to being lodged in connection with the resolution of specific problems arising in the course of applying particular provisions of legislation, these constitutional complaints are submitted directly by the individuals whose constitutional rights have been violated. Such complaints are characterized by the “individual” nature of the constitutional complaint at both levels: the subjective and the objective.

At present, two main types of such constitutional complaints are distinguished:

- 1) against normative acts – normative constitutional complaint.⁵²
- 2) against normative and individual acts of public authority – full constitutional complaint.⁵³

A more detailed examination of these categories will be undertaken in the next chapter. For the present, the typology of individual constitutional complaints may be outlined as followed:

Individual constitutional complaints <i>(related to a specific case)</i>				
Indirect <i>(logged by third authorities)</i>			Direct <i>(files by individuals themselves)</i>	
Co urts	Ombu dsperson	Other authorities	Normative constitutio nal complaint	Full constitutio nal complaint

2.4. Models and forms of direct individual constitutional complaints.

As was mentioned earlier, there are two types of direct individual constitutional complaints related to specific cases. The type of complaint depends on the model of constitutional justice adopted in each country. Two main models are distinguished: the narrow model and the broad one. Roughly

⁵² Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 22.

⁵³ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 23.

speaking, the primary distinction between these models lies in the scope of rights protected and the range of legal acts that may be challenged.

The narrow model of constitutional complaint is defined by its limited material scope. It limits the use of individual constitutional complaints to a specific list of constitutional rights and often allows for appeals only within the framework of final court decisions, excluding the possibility of filing a complaint against general legislation or administrative acts.

This is used in most Central and Eastern European states.⁵⁴ A noticeable example could be Poland. According to Article 79 (1) of the Polish Constitution of 1997, any right or freedom guaranteed by the Constitution may be the subject of a complaint provided that the following conditions are met: it is an individual right of a person (meaning it is not a collective or political right in the general sense); the violation is related to a law applied in a decision against that person.⁵⁵ The former judge of the Constitutional Tribunal, M. Granat, noted that the broad model of constitutional complaint was rejected during the drafting process of the Constitution, as there were concerns that it would enable the Tribunal to interfere with the judiciary's function and invade into the administration of justice. Although the narrow model has faced considerable criticism due to its limited access to constitutional review, the dominant view remained that constitutional complaints should not extend to court judgments themselves, solely based on individual cases. The constitutional complaint mechanism was limited to challenging normative acts that served as the legal basis for an individual decision to prevent an excessive amount of cases to the Constitutional Tribunal. Since its adoption in 1997, this model has generally fulfilled its intended purpose and continues to function effectively within Poland's constitutional framework.⁵⁶

Ukraine is another example of a narrow model. According to Part 1 of Article 55 of the Law of Ukraine "On the Constitutional Court of Ukraine" a constitutional complaint can be submitted to the Constitutional Court to verify the constitutionality of the law that was applied in a final court decision.⁵⁷ Similarly in Lithuania, where a person can file an individual constitutional complaint concerning the compliance of laws with the Constitution or any other higher-ranking legal act (if a

⁵⁴ Dovilė Pūraitė-Andrikienė, "Understanding the Mechanism of Individual Constitutional Complaints in Lithuania: Main Features and Challenges of the First Years of Application," *Access to Justice in Eastern Europe* 4, no. 21 (2023): 205, <https://doi.org/10.33327/AJEE-18-6.4-a000475>. (n1)

⁵⁵ "Constitution of the Republic of Poland of 2 April 1997," Sejm, accessed 7 January 2026, <https://www.sejm.gov.pl/prawo/konst/angielski/konse.htm>.

⁵⁶ Baulin, *supra* note, 140.

⁵⁷ Verkhovna Rada of Ukraine, 2136-VIII, *supra* note.

decision adopted on the basis of these legal acts has violated the constitutional rights or freedoms of this person).⁵⁸

The normative complaint constitutes a form of the narrow model's application. It is a legal mechanism that allows an individual to challenge a law or a normative act before a Constitutional Court, if the individual believes that the regulation has led to a violation of their fundamental rights. However, instead of challenging the individual act itself, the person is actually questioning the constitutionality of the legal rule that served as the basis for that act. Even though the normative constitutional complaint is triggered by something that happened to an individual (for instance, a governmental decision or administrative act), the Constitutional Court does not examine whether that specific act was lawful. Instead, it only reviews the law or regulation that was used as the basis for that act.

The main features characteristic of the normative constitutional complaint can be identified as follows:

- it is a direct instrument;⁵⁹
- the main aim is to provide a judicial protection of violated constitutional rights and freedoms of a person by declaring a law and other regulatory legal acts defined in the legislation unconstitutional;⁶⁰
- it can be filed directly by an individual or legal entity whose rights were violated by the act question;
- the procedure for consideration provides for procedural actions that relate only to the constitutionality of the law or other regulatory legal act being challenged;⁶¹
- it has a subsidiary nature, as, typically, the individual constitutional complaint may only be submitted after all other available legal remedies have been exhausted;
- the decision on an individual constitutional complaint is not a final decision on the merits of the case.

The main goal of normative constitutional complaints is to protect the Constitution itself, by ensuring that laws and regulations correspond to the constitutional principles. Its task is to prevent the Constitutional Court from being overwhelmed. If individuals could bring every unlawful decision

⁵⁸ "The Constitution of the Republic of Lithuania," Lietuvos Respublikos Seimas, accessed 4 February 2026, <https://www.lrs.lt/home/Konstitucija/Constitution.htm>.

⁵⁹ "Report on Constitutional Complaint in Poland and Ukraine," Venice Commission, accessed 7 January 2026, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU\(2018\)014-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU(2018)014-e).

⁶⁰ Bonyak and Yermolenko, *supra note*, 60.

⁶¹ *Ibid.*

directly to the constitutional court, the court would face an unmanageable number of cases.⁶² By limiting complaints to just the constitutionality matter of laws, the workload remains more concentrated and comprehensive. In addition, this type of complaints reduce conflicts between the Constitutional Court and ordinary courts. In full constitutional complaints, the constitutional court might end up reviewing how a lower instance court applied a law, which could be seen as overstepping. But with normative complaints, the Constitutional Court does not interfere with how courts apply the law. It only looks at whether the law itself is constitutional. This helps preserve a clear division of jurisdiction between courts.

Normative constitutional complaints exist (often together with other forms of constitutional complaints) for example in Armenia, Austria, Belgium, Estonia, Georgia, Hungary, Poland, Latvia, Lithuania, Luxembourg, Romania and Ukraine.⁶³

In contrast to a narrow model, the broad model involves a wider material scope, permitting constitutional complaints not only against individual acts of law enforcement but also against the normative legal acts themselves.

In comparison to the narrow model, the broad one has wider subject scope: individuals may challenge both normative and individual acts, including judicial decisions, that infringed their constitutional rights. This creates an additional layer of constitutional control over the public authorities and ensures that all branches of government remain in line with constitutional standards. The public authorities are the authority of the state and its territorial divisions, for example, member states, regions, municipalities.⁶⁴ Acts that can be questioned are court decision, administrative act, real act or omission, and legal norm (parliamentary act, regional and municipal statutes, executive ordinances) that can also directly interfere with the private sphere protected by fundamental rights.⁶⁵

A “full constitutional complaint” is a formal consolidation of a broad model. This is the legal remedy by which individuals can appeal to the Constitutional Court against an act of public authority that directly violates their fundamental rights. Such an act may be unconstitutional either because it resulted from the improper application of an otherwise constitutional legal norm or due to the reason that it was originally based on a legal norm that was unconstitutional itself. The Constitutional Court does not decide on the merits of the case, it considers the constitutionality aspects only. In addition, the Court will in principle not review whether the entire hierarchy of norms has been respected.⁶⁶ This

⁶² Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 58.

⁶³ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 22.

⁶⁴ Venice Commission, CDL-JU (2001) 22, *supra note*, 15.

⁶⁵ Venice Commission, CDL-PI(2022)050, *supra note*, 57.

⁶⁶ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 24.

dual capacity is the main feature that distinguishes the full constitutional complaint from other, narrower forms of constitutional review. Furthermore, the principle of subsidiarity should be applied. It means that complainants must first exhaust all other available legal remedies before approaching the constitutional court.⁶⁷ This principle is common in many countries. For example, according to Art. 51 of the Constitutional Court Act of Slovenia, a constitutional complaint may be filed only after the exhaustion of all legal remedies. Of course, in exceptional situations, the Constitutional Court may decide on a constitutional complaint if the violation is manifestly obvious and if irreparable consequences for the complainant would result from the implementation of the individual act.⁶⁸ Similarly, in Croatia, where according to Article 63 of the Constitutional Act on the Constitutional Court of the Republic of Croatia, the Constitutional Court may initiate proceedings on a constitutional complaint even before all legal remedies have been exhausted. This applies if the court has not made a decision within a reasonable time concerning the rights and obligations of a party, or regarding a suspicion or accusation of a criminal offense, or in cases where the challenged individual act grossly violates constitutional rights and it is evident that the complainant may suffer serious and irreparable consequences if proceedings before the Constitutional Court are not initiated.⁶⁹ However, it is worth remembering that this is an exception to the rule, rather than a general practice.

Generally speaking, the Venice Commission stands up for the full constitutional complaint as it provides the most comprehensive form of individual access to constitutional justice and hence the most thorough protection of individual rights.

The possibility of full constitutional complaints exists, for example, in Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, the Czech Republic, Germany, Liechtenstein, Malta, Montenegro, Peru, Republic of Korea, Serbia, Slovenia, South Africa, Switzerland and Slovakia.⁷⁰

The key characteristics full constitutional complaint are similar to the normative one but represents several peculiarities:

- it is also a direct instrument;

⁶⁷ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 23.

⁶⁸ “The Constitutional Court Act,” Official Gazette of the Republic of Slovenia No. 64/07, accessed 7 January 2026, <https://www.us-rs.si/assets/Datoteke/The-Constitutional-Court-Act.pdf>.

⁶⁹ “The Constitutional Act on the Constitutional Court of the Republic of Croatia,” Narodne novine, accessed 7 January 2026, https://www.usud.hr/sites/default/files/dokumenti/The_Constitutional_Act_on_the_Constitutional_Court_of_the_Republic_of_Croatia_consolidated_text_Official_Gazette_No_49-02.pdf

⁷⁰ “Revised Report on Individual Access to Constitutional Justice CDL-AD(2021)001-e,” Venice Commission, accessed 7 January 2026, 11-12, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)001-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)001-e).

- the main aim remains the same as in narrow model: to provide legal protection to individuals whose constitutional rights and freedoms have been violated by declaring laws, regulatory acts or authority decision unconstitutional;
- it has a subsidiary nature;
- it has a wider range of legal acts and decisions that can be challenged before the Constitutional Court;
- it provides the most thorough form of individual access to constitutional justice.

Despite the fact that full constitutional complaints are generally regarded as preferable to normative complaints by both scholars and practitioners, they possess one notable disadvantage. Individual access to the Constitutional Court through the broad model creates a substantial overload of complaints. As a result, only a small percentage of cases are actually admitted for review and decided on the merits. For example, the German Federal Constitutional Court (*Bundesverfassungsgericht*) received 5,446 constitutional complaints in 2024, but only 113 were admitted for full consideration (approximately 2% of all complaints resolved).⁷¹ Such a high volume of complaints might hinder the Court's effective operation, preventing it from fulfilling its genuine function of protecting individual rights.

It is also worth mentioning a separate kind of individual constitutional complaint from Spain – *recurso de amparo* (writ of protection). It is a subtype of full constitutional complaint but has its own peculiarities. In Spain, the *recurso de amparo* is a constitutional appeal lodged to the Constitutional Court when a person believes their fundamental rights or freedoms have been violated by public authorities. It is regulated by Organic Law 2/1979 of the Constitutional Court, and it protects rights under Articles 14 to 29 and Article 30.2 of the Spanish Constitution.

There are three types of *amparo* depending on the origin of the act of public authority which constituted a violation of rights:

- appeal against parliamentary decisions (defined in Article 42 of Constitutions of Spain);
- appeal against governmental and administrative decisions (Article 43);
- appeal against judicial decisions (Article 44).

In addition to that, the Organic Law on the Electoral System provides two types of *amparo* against acts and decisions of the electoral administration:

- appeal against the agreements of the Electoral Boards on proclamation of candidates and candidates (Article 49.3);

⁷¹ “Annual Report 2024,” Federal Constitutional Court, accessed 7 January 2026, https://www.bundesverfassungsgericht.de/EN/Media/AnnualReports/annualreports_node.html.

- appeal against the agreements of the Electoral Boards on proclamation of elected and election and proclamation of Presidents of Local Corporations (Article 114.2).⁷²

However, it is important to distinguish Spanish writ of amparo from the *recursos de amparo* found in many Latin American countries (e.g. Chile, Peru, Argentina, and Mexico), a specific type of constitutional complaint where the individual is being given a specific action to defend their rights before ordinary courts, not constitutional ones.⁷³

As noted earlier, Spanish amparo is a subtype of a full constitutional complaint, yet it exhibits several distinctive characteristics. Firstly, the Spanish model distinguishes three types of amparo. Full constitutional complaints in other countries may allow challenges against any act of public authority, including administrative, legislative, judicial, or omissions, but not necessarily with such formal categorization. Secondly, in Spain, any natural or legal person with a legitimate interest, as well as the Ombudsman and the Public Prosecutor, can file an amparo. In contrast, full constitutional complaint in general is understood as a direct instrument only, that should be filed the individual whose rights are violated can file directly.

To conclude, direct individual constitutional complaints play a key role in protecting constitutional rights. Both the narrow (normative) and broad (full) models can rightfully be considered genuine individual constitutional complaints, as they are filed by individuals and relate to specific (individual) cases. The narrow model provides precise protection but limits access and the scope of review. The broad model allows challenges to a wider range of acts, strengthening constitutional control. Overall, even though models differ in scope and procedure, both of them aim to ensure effective protection of individual rights and the proper enforcement of constitutional norms.

⁷² “Recurso de amparo,” Tribunal Constitucional, accessed 7 August 2025, <https://www.tribunalconstitucional.es/en/tribunal/Composicion-Organizacion/competencias/paginas/04-recurso-de-amparo.aspx>.

⁷³ Venice Commission, CDL-AD(2010)039rev-e, *supra note*, 23.

CHAPTER 3: A COMPARATIVE ANALYSIS OF INDIVIDUAL CONSTITUTIONAL COMPLAINTS IN UKRAINE, THE REPUBLIC OF LITHUANIA AND THE FEDERAL REPUBLIC OF GERMANY

Before proceeding to a detailed analysis of individual constitutional complaints in each of selected countries, it is advisable to outline the logic of the chosen sequence of research: Ukraine, the Republic of Lithuania, the Federal Republic of Germany. Given the history of the formation of the institution of an individual constitutional complaint, it would be more traditional for a comparative analysis to start with Germany. After all, this mechanism was introduced there earlier than in Ukraine or Lithuania. However, a different methodological approach has been chosen within the framework of this research. It was decided to move from a more limited model to a more expanded one.

The first factor lies in the fact that Ukraine and Lithuania operate within the framework of the normative constitutional complaint, which provides for a narrower scope of appeal compared to the German full model, which covers a much wider range of acts and decisions to challenge.

The second factor stems from the fact that Ukraine is not a Member State of the European Union, and is accordingly limited in the practice of using a constitutional complaint as a tool for interaction within EU jurisdiction. Lithuania is a member of both the Council of Europe and the EU, and accordingly has a broader institutional context for the application of this mechanism, although its history of operation is relatively shorter than in Germany.

This sequence allows to gradually trace the evolution of the model of individual constitutional complaint from a narrower to its most developed version.

3.1. Individual constitutional complaint in Ukraine.

3.1.1. Legal nature and evolution of individual access to constitutional justice in Ukraine.

Before the 2016 judicial reform, individuals could apply to the Constitutional Court with a constitutional appeal (*конституційне звернення*). However, this was not an instrument of constitutional control. It performed a purely interpretative function. According to Article 42 of the Law of Ukraine on the Constitutional Court of Ukraine 422/96-VR, a constitutional appeal was a written petition to the Constitutional Court of Ukraine on the need for an official interpretation of the

Constitution of Ukraine and the laws of Ukraine in order to ensure the implementation or protection of constitutional rights and freedoms of man and citizen, as well as the rights of a legal entity.⁷⁴

The main goal was to eliminate legal uncertainty in the application of norms, not to protect a specific violated right. This instrument lacked a connection with a specific case and a final court decision. As a result, the law as such could not be challenged through a constitutional appeal. Until 2016, it was an abstract mechanism of interpretation, not a means of legal protection.

Before the modern institute of constitutional complaint was introduced in Ukraine, M.M. Hultai, a retired judge of the Constitutional Court of Ukraine (2010-2019), in his scientific works has repeatedly proposed the introduction of an individual constitutional complaint, in particular a normative model. In his opinion, since legal science does not offer a single generally recognized model of a constitutional complaint, when analyzing various aspects of understanding of this instrument as an institution of law, the optimal variant for Ukraine would be an individual normative complaint.⁷⁵ And this request was not ignored.

The 2016 constitutional amendments introduced a direct right for individuals to challenge the constitutionality of a law.⁷⁶ At present, the main normative legal acts regulating the constitutional complaint in Ukraine are the Constitution of Ukraine,⁷⁷ the Law of Ukraine On the Constitutional Court of Ukraine No. 2136-VIII of 13 July 2017,⁷⁸ and the Rules of Procedure of the Constitutional Court of Ukraine, adopted by the Resolution of the Constitutional Court of Ukraine No. 1-пс/2018 of 22 February 2018.⁷⁹

According to Article 151-1 of the Constitution of Ukraine, the Constitutional Court of Ukraine (the Court) decides on the constitutionality of a law of Ukraine upon a constitutional complaint by a person who believes that the law of Ukraine applied in the final court decision in his or her case contradicts the Constitution of Ukraine.

⁷⁴ “Закон України Про Конституційний Суд України 422/96-ВР [Law of Ukraine On the Constitutional Court of Ukraine 422/96-VR],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/422/96-%D0%B2%D1%80/ed20140419#n199>.

⁷⁵ Mykhailo Hultai, “Функціональні характеристики інституту конституційної скарги та модель його впровадження в Україні [Functional characteristics of the institution of the constitutional complaint and the model of its implementation in Ukraine],” *Visnyk Konstytutsiinoho Sudu Ukrainy*, no. 4–5 (2011): 192, http://nbuv.gov.ua/UJRN/Vksu_2011_4-5_26.

⁷⁶ Verkhovna Rada of Ukraine, Law 1401-VIII, *supra* note.

⁷⁷ “Constitution of Ukraine,” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en#Text>.

⁷⁸ “Law of Ukraine On the Constitutional Court of Ukraine 2136-VIII,” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/2136-19?lang=en#Text>.

⁷⁹ “Постанова Конституційного Суду України про Регламент Конституційного Суду України № 1-пс/2018 [Resolution of the Constitutional Court of Ukraine on the Regulations of the Constitutional Court of Ukraine No. 1-пс/2018],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/en/v0001710-18?lang=uk#Text>.

An analysis of the provisions of the legislation makes it clear that, in Ukraine, a normative constitutional complaint was introduced, which ensures that an individual addresses the issue to constitutional jurisdiction in connection with a specific court case in order to protect their constitutional rights and freedoms. The Court does not sit as a fourth-court instance. It does not correct alleged legal or factual errors done by ordinary courts, nor does it address administrative conduct as such. The only subject matter of the individual constitutional complaint is a law itself or statutory provision that was actually applied in the applicant's own case and that allegedly caused a violation of their constitutional right. The main goal is ensuring constitutional legality and supremacy of the Constitution of Ukraine.

3.1.2. Legal standing and the subject matter of constitutional complaint under Ukrainian legislation.

According to Part 1 of Article 55 of the Law of Ukraine On the Constitutional Court of Ukraine, a constitutional complaint is a written request submitted to the Court to verify the constitutionality of the law of Ukraine (or its individual provisions), which was applied in a final court decision in the individual case.⁸⁰

The complaint is limited to the framework of the case where a particular provision of the law was applied. If the complainant refers to provisions of legislation that were not applied in the case, or to provisions of other normative acts (for instance, individual decisions of administrative bodies, resolutions of the Cabinet of Ministers of Ukraine, presidential decrees, etc.), such references are not admissible.

Under Article 56, the person, who believes that the law applied in the final court decision in his case contradicts the Constitution of Ukraine, has the right to submit an individual constitutional complaint, namely, an individual or a legal entity of private law.⁸¹ Despite the seemingly transparent rule, problems arise in practice. To address this matter comprehensively, a closer examination is required.

The right of individuals to submit constitutional complaints is conferred by Paragraph 1 of Part 2 of Article 55 Law of Ukraine On the Constitutional Court of Ukraine. It enshrines that the right to submit a constitutional complaint extends not only to Ukrainian citizens but also to foreign nationals

⁸⁰ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

⁸¹ *Ibid*.

and stateless persons.⁸² The main requirement is that all other essential conditions established by law are met.

Persons entitled to file a constitutional complaint may also include associations of citizens, other non-governmental organizations, associations, or any other groups of persons not formalized as legal entities. For example, in its Decision No. 1-p(II)/2021 of 7 April 2021, the Constitutional Court of Ukraine considered a constitutional complaint filed jointly by 33 individuals.⁸³

However, it should be noted that not all citizen unions are vested with this right. In particular, associations that, by their legal nature, exercise public-authority powers do not possess this right, for instance: territorial communities, which, on the one hand, are the organisation of residents of a village, settlement, or city, and, on the other hand, perform local self-government functions.

The legislator's logic is quite straightforward. Only a person who can hold rights and freedoms guaranteed by the Constitution of Ukraine may act as a individual entitled to file a constitutional complaint. Constitutional rights and freedoms must be compatible with the individual's status by their legal nature. Consequently, it follows that citizen unions, that embody the state in their functions, cannot themselves be bearers of constitutional rights and freedoms. They cannot challenge acts adopted by the state to protect such rights, since the state cannot simultaneously be both the holder of constitutional rights and freedoms and the responsible for protection.⁸⁴

A similar approach applies to legal entities. According to Part 2 of Article 56 Law of Ukraine On the Constitutional Court of Ukraine public legal persons shall not be the holder of the right to constitutional complaint. However, the term "legal entity of public law" is not specifically defined in legislation.⁸⁵ Therefore, the question of whether a legal entity should be classified as a company of

⁸² *Ibid.*

⁸³ "Рішення Конституційного Суду України № 1-п(II)/2021 [Decision of the Constitutional Court of Ukraine No. 1-p(II)/2021]," The Constitutional Court of Ukraine, accessed 9 January 2026, <https://ccu.gov.ua/dokument/1-rii2021>.

⁸⁴ "Окрема думка судді Конституційного Суду України Лемака В.В. стосовно Рішення Конституційного Суду України № 6-п(II)/2022 [Separate opinion of Judge of the Constitutional Court of Ukraine Lemak V.V. regarding the Decision of the Constitutional Court of Ukraine No. 6-r(II)/2022]," Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/nb06d710-22#Text>.

⁸⁵ The criteria for distinguishing between legal entities of private and public law are partially reflected in the Civil Code of Ukraine (the CCU). According to Part 2 of Article 81 of the CCU, the primary criterion for this distinction is the manner in which the legal entity is established. A private law legal entity is created on the basis of founding documents in accordance with Article 87 of the CCU. In contrast, a public law legal entity is established by an administrative act of the President of Ukraine, a state authority, an authority of the Autonomous Republic of Crimea, or a local self-government body.

Also the law itself can directly indicate whether the entity is of public or private nature. For example, according to the provisions of Part 2 of Article 167 and Part 2 of Article 169 of the CCU, public entities are, in any case, state and communal enterprises, educational institutions, and joint communal enterprises, regardless of the purpose of their activities. Under the Law of Ukraine "On Central Bodies of State Executive Power," ministries, territorial bodies of ministries, central executive authorities, and territorial bodies of central executive authorities are recognized as public law legal entities. See also: "The Civil Code of Ukraine," Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/en/435-15#Text>; Закон України Про центральні органи виконавчої влади [Law

public or private law sometimes becomes a pivotal issue of dispute, even among the judges of the Constitutional Court of Ukraine.

A notable opinion is provided by Vasyl Lemak, Judge of the Constitutional Court of Ukraine, concerning the Decision in the case of the constitutional complaint filed by the Joint-Stock Company “State Savings Bank of Ukraine” (“Oschadbank”) dated 22 June 2022, No. 6-p(II)/2022.⁸⁶ The determination of the status of a subject of a constitutional complaint was not as straightforward as it might initially appear.

According to Clause 12 of the Charter of the JSC “Oschadbank”, the bank was a legal entity established in accordance with the law that operates in private law.⁸⁷ However in practice, the bank's activity was fully subjected to the criteria characteristic of public law, namely:⁸⁸

1) the bank was established pursuant to the Order of the President of Ukraine “On the Incorporation of the State Specialized Commercial Savings Bank of Ukraine” of 20 May 1999, No. 106/99-пн, through the transformation of the State Specialized Commercial Savings Bank of Ukraine into the Open Joint-Stock Company “State Savings Bank of Ukraine.” The Charter of Oschadbank was approved by a separate Resolution of the Cabinet of Ministers of Ukraine. It reflects the implementation of a state will;

2) according to Clause 8 of the Charter of JSC “Oschadbank”, 100 percent of the shares in the Bank’s authorized capital are owned by the state;

3) the activities of the bank are based on the pursuit of public interest;

4) the Cabinet of Ministers of Ukraine exercises decisive influence over the Oschadbank. Pursuant to Clauses 8 and 9 of the Charter of JSC “Oschadbank”, the Cabinet of Ministers of Ukraine

of Ukraine On Central Bodies of Executive Power],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/en/3166-17#Text>.

⁸⁶ Verkhovna Rada of Ukraine, Separate opinion on Decision No. 6-r(II)/2022, *supra note*.

⁸⁷ “Постанова Кабінету Міністрів України від 25 лютого 2003 р. № 261 Про деякі питання діяльності акціонерного товариства “Державний ощадний банк України” [Resolution of the Cabinet of Ministers of Ukraine dated February 25, 2003 No. 261 On some issues of the activities of the Joint-Stock Company “State Savings Bank of Ukraine”],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/261-2003-%D0%BF/ed20191123#Text>.

⁸⁸ The constitutional case law has established a number of criteria that are analyzed when examining the nature of public law legal entities seeking to exercise fundamental rights and their protection by constitutional courts:

- 1) purpose of establishment: whether the entity represents the state will or a will by equal subjects;
- 2) share of state ownership in the entity’s assets;
- 3) pursuit of public or private interests by the legal entity;
- 4) degree of direct control by the state;
- 5) degree of independence of the legal entity from political authorities (parliament, government, president), including in legal, organizational, and financial aspects;
- 6) affiliation with a foreign state or establishment by a foreign state. In certain cases, a legal entity established by a foreign state and governed by private law may be entitled to rights and freedoms guaranteed by the Constitution of Ukraine (for example, the right to property for a foreign investor, the right to a fair trial, the right to engage in entrepreneurial activity) within the territory of Ukraine.

See also: Verkhovna Rada of Ukraine, Separate opinion on Decision No. 6-r(II)/2022, *supra note*.

manages the state's corporate rights in the Bank and performs the functions of its supreme governing body;

5) the Oschadbank functions as a market instrument of state support;

6) finally, the Oschadbank was not established by a foreign state, and therefore Ukraine, as the state that created it and exercises its governance through the Cabinet of Ministers of Ukraine, cannot simultaneously be responsible for ensuring the observance of fundamental rights and freedoms of individuals, on the one hand, and be the beneficiary of those rights and freedoms, on the other.

Lemak emphasizes that it is not decisive how a legal entity identifies itself, by just designating itself as a “private law legal entity”. What is crucial is that, in each case, the Constitutional Court of Ukraine must thoroughly examine the nature of the legal entity. This is essential in determining whether such an entity may be the bearer of constitutional rights and freedoms and, consequently, a subject entitled to file a constitutional complaint.

Overall, the findings indicate that constitutional complaints in Ukraine are strictly limited both in subject matter and legal standing. Only laws applied in a final judicial decision may be challenged. The access is granted exclusively to persons capable of holding constitutional rights and freedoms.

3.1.3. Preliminary review of complaints under Ukrainian legislation.

Constitutional complaint may be sent to the Court by post or filed directly with the Secretariat, which, according to Article 57 of Law of Ukraine On the Constitutional Court of Ukraine, conducts a preliminary examination of the submission.⁸⁹

The admissibility criteria for a constitutional complaint can be divided into formal requirements and substantive requirements.

Formal requirements set out in Articles 55 and 56.⁹⁰ They are the following:

1. The complaint must be a written request submitted in Ukrainian.
2. It must include the necessary information about the complainant; a description of the proceedings in the courts of general jurisdiction and a brief summary of the final decision; and it must also specify the provisions of the legislation that are alleged to be unconstitutional, along with the reasoning supporting the claim of their unconstitutionality.

⁸⁹ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

⁹⁰ *Ibid*.

The key point here is the requirement to substantiate claims regarding the unconstitutionality of a law of Ukraine, the application of which allegedly resulted in a violation of an individual's constitutional right. Non-compliance with this requirement occurs in such cases when:

- 1) the applicant failed to demonstrate a causal link between the content of the challenged law and the alleged violation of his constitutional right;⁹¹
- 2) or the applicant failed to provide sufficient arguments to demonstrate that the specific legal provision he cited causally led to an infringement of his constitutional right.⁹²

If a constitutional complaint does not comply with the formal requirements established by the Law, the Head of the Secretariat returns it to the complainant. The return notice specifies the particular deficiencies that must be corrected. Returning the complaint does not prevent the complainant from resubmitting it, provided that the requirements of the Law are met.⁹³

Within seven working days, the Secretariat prepares a preliminary conclusion on whether there are grounds to open or refuse to open a constitutional proceeding. The complaint, together with the preliminary conclusion, is then submitted to the Panel for consideration in order to make a final decision on whether to open or refuse to open proceedings in the case.⁹⁴

Under part 3 of Article 61, the decision to initiate constitutional proceedings on a constitutional complaint is made by the Panel or, in the event of disagreement with a non-unanimous ruling of the Panel refusing to open proceedings, by the Senate.⁹⁵ During the consideration of the case,

⁹¹ By the Ruling of the Second Senate of the Constitutional Court of Ukraine No. 36-u(II)/2023 of 10 May 2023 in case No. 3-65/2021(154/21), the Court refused to initiate proceedings because the applicant did not provide any explanations as to how exactly his constitutional right to judicial protection, guaranteed by Article 55 of the Constitution of Ukraine, had been violated by the provisions of Part 1 of Article 400 of the Civil Procedure Code of Ukraine.

See also: “Ухвала Другого Сенату конституційного Суду України № 36-у(II)/2023 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 36-y(II)/2023],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/va36u710-23#Text>.

⁹² By the decision of the Third Panel of Judges of the First Senate of the Constitutional Court of Ukraine № 230-3(I)/2024 dated December 4, 2024, in case №3-198/2024(398/24), the Court refused to open proceedings on the constitutional complaint, as the applicant did not substantiate his claims regarding the unconstitutionality of the law. The petitioner just cited constitutional provisions and essentially expressed disagreement with the legislative regulation on the calculation (recalculation) of pensions.

See also: “Ухвала Третьої колегії суддів Першого Сенату Конституційного Суду України № 230-3(I)/2024 [The Ruling of the Third Panel of Judges of the First Senate of the Constitutional Court of Ukraine No. 230-3(I)/2024],” The Constitutional Court of Ukraine, accessed 9 January 2026, https://ccu.gov.ua/sites/default/files/docs/230_31_2024.pdf.

⁹³ For example, by the ruling of the Third Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 57-3(II)/2023 of April 13, 2023, in Case No. 3-48/2023, proceedings were opened on a constitutional complaint after it was resubmitted, once the applicant had addressed the previously identified errors.

See also: “Ухвала Третьої колегії суддів Другого Сенату Конституційного Суду України № № 57-3(II)/2023 [The Ruling of the Third Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 57-3(II)/2023],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/v057u710-23#Text>.

⁹⁴ Verkhovna Rada of Ukraine, Resolution No. 1-ps/2018, *supra note*.

⁹⁵ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

the Panel or Senate examines the substantive requirements and issues the final decision on whether to open or refuse to open constitutional proceedings.

3.1.4. Admissibility criteria and grounds for refusing to open constitutional proceedings under Ukrainian legislation.

Analyzing the latest Annual Reports of the Constitutional Court, one can see a growing trend in the number of constitutional complaints filed per year.⁹⁶ However, most of them do not reach the consideration of the merits of the complaint, as refusive rulings are issued on them.

The grounds on which the Constitutional Court of Ukraine may refuse to initiate constitutional proceedings are set out in paragraph 1 of Article 62 and Article 77 of Law of Ukraine On the Constitutional Court of Ukraine.⁹⁷ They can be divided into two main categories: formal and substantive grounds.

Failure to comply with formal requirements is manifested in the following situations:

1. Filing a constitutional complaint by an improper applicant.

As noted in Chapter 3.1.2. of this research, a constitutional complaint may be filed only by a subject who can be a holder of individual constitutional rights and whose constitutional rights have been violated in a case in which a final decision has been made. Such subjects may only be individuals and legal entities of private law. Following that, an illustrative example would be the case, when the Constitutional Court of Ukraine refused to initiate proceedings on a constitutional complaint filed by an authorized representative of the Deposit Guarantee Fund for Individuals in the liquidation of the joint-stock company “VTB Bank,” since, pursuant to the Law of Ukraine “On the Deposit Guarantee System for Individuals,” the Fund is a legal entity of public law and therefore does not qualify as a proper applicant entitled to lodge a constitutional complaint.⁹⁸

In addition, a constitutional complaint cannot be filed by a third party intending to protect the rights of another individual. For instance, by Resolution No. 41-1(I)/2019 of 26 February 2019, the Constitutional Court of Ukraine refused to open proceedings because the complaint was filed on behalf of two subjects, one of whom turned out to be a representative of the complainant, and not the

⁹⁶ “Щорічна інформаційна доповідь КСУ [Annual information report CCU],” The Constitutional Court of Ukraine, accessed 26 January 2026, <https://ccu.gov.ua/storinka/shchorichna-informaciyna-dopovid-ksu>.

⁹⁷ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

⁹⁸ “Ухвала Другого Сенату Конституційного Суду України № 15-у(II)/2019 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 15-y(II)/2019],” The Constitutional Court of Ukraine, accessed 9 January 2026, <https://ccu.gov.ua/docs/2662>.

actual holder of the violated rights.⁹⁹ It is worth emphasizing that the presence of a representative in constitutional proceedings is not prohibited per se. However, the law clearly requires compliance with formal requirements, and therefore the filing of a complaint by a representative in the role of the direct subject of the right to file a constitutional complaint is considered to be a violation of the formal requirement and, as result, provides grounds for refusing to open the constitutional proceeding.

2. Failure to comply with the requirement of exhaustion of all domestic remedies.

This category concerns judicial remedies. An appellate decision must have been issued, and, if the law provides for the possibility of cassation review, a decision rendered in the course of cassation proceedings. Appeals to the parliament or administrative bodies are not considered part of remedies that must have been exhausted.

However, in this regard, it is worth mentioning that the Court has, on multiple occasions, treated decisions of first-instance courts as final decisions in a for constitutional rights procession purposes (for example, orders of investigating judges pursuant to the Criminal Procedure Code of Ukraine). Similarly, the decisions addressed by investigating judges allows an individual to submit a constitutional complaint even in situations where the case has not yet been fully examined on the merits by court. An example of such a decision is Constitutional Court of Ukraine Decision No. 5-p/2020 of 17 March 2020 in Case No. 3-358/2018, concerning the constitutionality of the provisions of the Criminal Procedure Code of Ukraine, which prohibit appealing an investigating judge's ruling authorizing detention for the purpose of bringing in a person.¹⁰⁰

In addition to mentioned above, according to part 2 of Article 77, as an exception, a constitutional complaint may be admitted without exhaustion of all domestic remedies if the Court considers its examination necessary on the grounds of public interest.¹⁰¹

Although the Court has invoked the mentioned provision multiply times, it has never defined what “public interest” actually means. Nor has it provided clear criteria that should guide its determination.¹⁰²

⁹⁹ “Ухвала Першої колегії суддів Першого сенату Конституційного Суду України № 41-1(I)/2019 [The Ruling of the First Panel of Judges of the First Senate of the Constitutional Court of Ukraine No. 41-1(I)/2019],” The Constitutional Court of Ukraine, accessed 14 April 2026, https://ccu.gov.ua/sites/default/files/docs/41_11_2019.doc

¹⁰⁰ “Рішення Конституційного Суду України № 5-п/2020 [Decision of the Constitutional Court of Ukraine No. 5-r/2020],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/v005p710-20#Text>.

¹⁰¹ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra* note.

¹⁰² Vitalii Zaporozhets, “Умови прийнятності конституційних скарг: законодавче регулювання та практика Конституційного Суду України [Admissibility of constitutional complaints: legislative regulation and practice of the Constitutional Court of Ukraine],” *UKRAYINSKYI CHASOPYS KONSTYTUTSIINOHO PRAVA* 3 (2020), 39, doi.org/10.30970/jcl.3.2020.2.

Mykhailo Savchyn identifies three factors that may lead the Court to decide to examine a constitutional complaint on the grounds of public interest:

1) the subject matter of the constitutional complaint concerns a specific institutional problem, the unresolved nature of which leads to recurring violations of human rights and freedoms;

2) the violation of a fundamental right guaranteed by constitutional means produces consequences so severe and irreversible for the applicant that it requires the Court's urgent intervention through the examination of the constitutional complaint;

3) there is a need to unify or modify the Court's established practice.¹⁰³

3. The failure to comply with a three-month deadline.

No more than three months must have elapsed from the date on which the final judicial decision entered into legal force. However, according to paragraph 3 part 2 of Article 77, if the complainant has missed the deadline for filing a constitutional complaint due to the absence of the full text of the judicial decision, he or she is entitled to request the renewal of the missed deadline within the constitutional complaint itself.

One illustrative case is the Ruling of the Second Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 137-2(II)/2023 of 5 September 2023 (Case No. 3-123/2023). The constitutional proceedings were initiated on the complaint of V. I. Atamanchuk, notwithstanding the fact that the three-month time limit from the date on which the applicant's final judicial decision entered into force had been observed. The Panel considered that the issue raised in the complaint (concerning the pension system and the social protection of citizens affected by the Chornobyl disaster) was of public interest and therefore required examination within constitutional proceedings. Accordingly, the complaint was declared admissible.¹⁰⁴

The second category of grounds for refusal is refusal based on the content of the constitutional complaint itself (substantive grounds). In particular:

1. The Court refuses to open proceedings if the issues raised in the constitutional complaint do not fall within its jurisdiction (Article 147 of the Constitution of Ukraine and Article 8 of Law of Ukraine On the Constitutional Court of Ukraine). The Court does not examine the constitutionality of acts of state authorities in general, nor does it resolve conflicts or gaps in legislation, as these matters fall within the jurisdiction of the courts of general jurisdiction and the

¹⁰³ *Ibid.*

¹⁰⁴ “Ухвала Другої колегії суддів Другого Сенату Конституційного Суду України № 137-2(II)/2023 [the Ruling of the Second Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 137-2(II)/2023],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/v137u710-23#Text>.

Verkhovna Rada (as the legislature), respectively. As well, the Constitutional Court does not assess the application of legislation.¹⁰⁵

2. The Court refuses to open proceedings if the law or its individual provisions have lost their legal force. In the Court's practice, this ground for refusal is generally applied to constitutional petitions submitted by members of parliament rather than to individual complaints. However, an exception is provided in Part 2 of Article 8 of Law of Ukraine On the Constitutional Court of Ukraine.¹⁰⁶ In order to protect and restore individual rights, the Court may examine the constitutionality of an act or its provisions that are no longer in force but continue to be applied to legal relations that arose during their validity. Therefore, the application of such provisions to individual cases remains possible.

3. The Court refuses to open proceedings if a decision or opinion has already been issued by the Court concerning the same subject matter of the constitutional complaint. Such decisions also include rulings refusing to initiate proceedings or decisions to close proceedings where they were adopted on the grounds that the constitutional complaint was filed by an improper applicant or that the issues raised in the complaint do not fall within the jurisdiction of the Constitutional Court.

4. The Court refuses to initiate proceedings if it deems the constitutional complaint inadmissible (*неприйнятною*).¹⁰⁷ According to paragraph 4 of Article 77 of Law of Ukraine On the Constitutional Court of Ukraine, complaints should be deemed not eligible for consideration if their substance and claims are manifestly ill-founded, or if there is an abuse of the right to submit a complaint.¹⁰⁸ The Court's case law has established that a constitutional complaint is considered inadmissible when its analysis reveals no indication of a violation of the human rights guaranteed by

¹⁰⁵ In case No. 3-226/2021(466/21), the applicant argued that the provisions of the law in question were inconsistent with the Constitution of Ukraine because, in his view, the Supreme Court had incorrectly applied those provisions in its final decision. The Constitutional Court noted that law enforcement activity consists in the individualization of legal norms with respect to specific subjects and specific circumstances, meaning, in establishing the factual circumstances of a case and selecting the legal norms applicable to those circumstances. The search for and analysis of such norms for the purpose of their application to a particular case is an element of law enforcement and does not fall within the powers of the Constitutional Court. Accordingly, by its Ruling No. 35-u(II)/2023 of 10 May 2023, the Second Senate of the Constitutional Court of Ukraine refused to open constitutional proceedings on the grounds that the issues raised in the constitutional complaint did not fall within the Court's jurisdiction.

See also: "Ухвала Другого Сенату Конституційного Суду України № 35-у(II)/2023 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 35-y(II)/2023]," Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/v035u710-23#Text>.

¹⁰⁶ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

¹⁰⁷ The term "inadmissible" here should be understood as not eligible for consideration.

¹⁰⁸ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

the Constitution as a result of the application, in the applicant's final judicial decision, of a law whose constitutionality is being challenged.¹⁰⁹

In practice, the concept of the inadmissibility of a constitutional complaint is rather broad and may cover a variety of situations. For example:

– the applicant fails to provide a justification of the causal link between the contested provision of the law and the alleged violation of their constitutional right. Especially in view of the fact that the courts of general jurisdiction established that the applicant's constitutional right to housing had not been violated;¹¹⁰

– the applicant attempted to justify the unconstitutionality of the contested law merely by expressing disagreement with the final court decision in their case. However, the disagreement with a court ruling does not constitute a valid justification for declaring legal provisions unconstitutional.¹¹¹

Overall, the grounds for refusing to initiate constitutional proceedings based on a constitutional complaint are as follows:

- 1) the complaint is submitted by an improper applicant;
- 2) not all domestic legal remedies were exhausted;
- 3) the three-month deadline was missed, and there were no grounds to restore it;
- 4) the issue raised in the constitutional complaint does not fall within the jurisdiction of the Constitutional Court;
- 5) the law whose constitutionality is being challenged has lost its legal force;
- 6) there is already a decision of the Constitutional Court on the same subject matter of the constitutional complaint;
- 7) the constitutional complaint is not eligible for consideration due to being manifestly ill-founded or constituting an abuse of the right to submit a constitutional complaint.

¹⁰⁹ “Неприйнятність конституційної скарги [Inadmissibility of a constitutional complaint],” The Constitutional Court of Ukraine, accessed 9 January 2026, <https://ccu.gov.ua/storinka-knygy/332-nepriynvatnist-konstytuciynoyi-skargy>.

¹¹⁰ “Ухвала Другого Сенату Конституційного Суду України № 1-у(ІІ)/2025 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 1-u(II)/2025],” Verkhovna Rada of Ukraine, accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/v001u710-25#Text>.

¹¹¹ “Ухвала Другого Сенату Конституційного Суду України № 294-2(ІІ)/2019 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 294-2(II)/2019],” The Constitutional Court of Ukraine, accessed 9 January 2026, https://ccu.gov.ua/sites/default/files/docs/294_22_2019.pdf.

3.1.5. Analysis of selected decisions of the Constitutional Court of Ukraine adopted based on the constitutional complaint.

As was noted previously, the institution of an individual constitutional complaint began to fully function in Ukraine in 2017. This year marked a qualitatively new stage in the development of the national system for the protection of constitutional rights and freedoms. Since then, the Constitutional Court of Ukraine has received an average of about 450 constitutional complaints annually.¹¹² Although statistical data demonstrate that the majority of constitutional complaints are declared inadmissible at the preliminary stage, this circumstance alone does not allow to make a definitive conclusion regarding the ineffectiveness of this mechanism. On the contrary, an assessment of effectiveness requires a qualitative rather than purely quantitative approach.

For the purposes of this study, the effectiveness of an individual constitutional complaint would be assessed through several interrelated criteria:

- the ability of individuals to initiate constitutional review in connection with a concrete case;
- the capacity of the Constitutional Court to address legislative problems affecting fundamental rights;
- the practical impact of constitutional decisions on legislation and judicial practice;
- and the integration of national constitutional review into the broader European human rights framework.

An analysis of the Constitutional Court's case law demonstrates that constitutional complaints frequently concern areas characterised by systemic legislative deficiencies and a high risk of periodic violations of fundamental rights. In particular, two fields stand out in this regard: pension provision and criminal proceedings.¹¹³

The concentration of constitutional complaints in these spheres is not incidental. It reflects structural issues between legislative policies and constitutional guarantees, which cannot be fully resolved through ordinary judicial review. In such circumstances, the individual constitutional complaint operates as a corrective mechanism to restore the balance between public interests and individual rights.

¹¹² The Constitutional Court of Ukraine, Annual information report CCU, *supra note*.

¹¹³ “Щорічна інформаційна доповідь 2024 [Annual information report 2024],” Constitutional Court of Ukraine, accessed 26 January 2026, https://heyzine.com/flip-book/fb8f6c4493.html?fbclid=IwY2xjawM40MdleHRuA2FlbQIxMABicmlkETewT09oYU5vU1FWSzINbUtuAR5MQ-hu7Hv7qYr0n8YGptRfZkBPt0tnFGNI7hYRh4lAdSE6lewCjO6ykuOmXg_aem_25lInuLjwmFdNXgBfnCCfg#page/16.

3.1.5.1. Individual constitutional complaint as a mechanism for protecting pension rights in Ukraine.

The topic of pension issues was not chosen by chance, since, in Ukraine, it has a systemic and critical social nature. First, a significant number of people acquire the right to pensions due to their health or length of service, which causes an increased need for effective social protection mechanisms.¹¹⁴ Second, a specific factor for Ukraine is the consequences of the Chernobyl disaster, which led to a separate category of people entitled to special pensions and social payments.¹¹⁵ Third, according to official statistics of the State Statistics Service of Ukraine, the age structure of the population has been characterized by profound demographic aging for a long period. The share of the elderly (65 years and older) during 1991-2022 years was about a quarter of the population and exceeded the share of children, which directly affects the sustainability of the pension system nowadays as well.¹¹⁶ Fourth, the full invasion against Ukraine by the Russian Federation has led to the emergence of a huge number of servicemen and their family members who, in accordance with the legislation, have acquired or may acquire the right to pension benefits.¹¹⁷ In these conditions, the Constitutional Court of Ukraine plays a key role in interpreting the norms of the Constitution and reviewing the constitutionality of legislation in the field of pension benefits.

In order to ensure comprehensive analysis, it should be noted that the main part of the Court's decisions on this issue were adopted following the results of constitutional appeals (filed by members of parliament, the Ombudsman or the president), rather than individual constitutional complaints.¹¹⁸ At the same time, constant social, demographic and political changes lead to the transformation of legislation and do not exclude the active role of individuals in influencing it.

Representative in this context would be one of the cases regarding the limitation applied to the amount of pension. Zhydenko V.V. and Petrenko V.O. filed a constitutional complaint to declare the provisions of Article 2 of the Law of Ukraine No. 3668-VI as inconsistent with the Constitution of Ukraine.¹¹⁹ The essence of the problem was that amendments were made to the legislation, as a

¹¹⁴ “Закон України Про пенсійне забезпечення 1788-XII [Law of Ukraine On Pension Provision 1788-XII],” Verkhovna Rada of Ukraine, accessed 26 January 2026, <https://zakon.rada.gov.ua/laws/show/1788-12#Text>.

¹¹⁵ *Ibid.*

¹¹⁶ “Чисельність та склад населення [Population size and composition],” State Statistics Service of Ukraine, accessed 26 January 2026, <https://stat.gov.ua/uk/explorer?md5=30df02fac78aa00e6dab55c58fd222b2>.

¹¹⁷ Verkhovna Rada of Ukraine, Law 1788-XII, *op.cit.*

¹¹⁸ “Каталог юридичних позицій Конституційного Суду України - Пенсії [Catalog of legal positions of the Constitutional Court of Ukraine - Pensions],” The Constitutional Court of Ukraine, accessed 26 January 2026, <https://ccu.gov.ua/storinka-knygy/4461-pensiyi>.

¹¹⁹ “Рішення Конституційного Суду України № 7-п(II)/2022 [Decision of the Constitutional Court of Ukraine № 7-p(II)/2022],” Verkhovna Rada of Ukraine, accessed 27 January 2026, <https://zakon.rada.gov.ua/laws/show/v007p710-22#Text>.

result of which the maximum pension amount was established, while at the time of its appointment there was no corresponding restriction. This case is given special importance by the status of the applicants: Zhydenko was a former participant in hostilities who served in the National Police of Ukraine, and Petrenko was a former military serviceman. The Constitutional Court of Ukraine once again concluded that limiting the size of the pension by establishing its maximum level, as well as suspending the payment of an already assigned pension, violates the very essence of the constitutional guarantees of unconditional social protection of persons who served in bodies related to ensuring public security and defense of the state.

Another standing example in this context is one of the recent decisions, adopted following the results of an individual constitutional complaint in the field of social protection of persons affected by the Chernobyl disaster. Atamanchuk V. I. asked the Constitutional Court of Ukraine to examine the constitutionality of the first sentence of Part Three of Article 67 of the Law of Ukraine “On the status and social protection of citizens affected by the Chernobyl disaster” No. 796-XII in conjunction with of Article 2 of the Law No. 3668-VI.¹²⁰ The applicant challenged the limiting the maximum amount of state pension to victims of the Chernobyl disaster in the amount of no more than ten subsistence minimums for persons who have lost their ability to work. The pension limitation narrowed the content of social guarantees enshrined by law and the Constitution. The Court emphasized that the state social protection of victims of the Chernobyl disaster should be considered as a special form of compensation for the damage caused. It, in its essence, cannot be a subject to the general limit on the maximum amount of pension, determined by the Law No. 3668-VI. On this basis, the Constitutional Court of Ukraine recognized the regulations in question as inconsistent with the Constitution of Ukraine.

In addition to what was said above, it is worth mentioning a special feature of this particular decision. It is that the Court emphasizes the repetition of this issue in the practice of the Constitutional Court. And the repetition is caused not only by the uniformity of complaints, but also by the fact that the Verkhovna Rada, as a parliament – the legislative branch, repeatedly makes the same mistakes when drafting laws.

These cases demonstrate that even under the conditions of the long-term operation of the relevant legislative provisions, as well as the presence of previous legal positions of the Constitutional Court on the unconstitutionality of establishing a maximum limit on pensions, the practice of

¹²⁰ “Рішення Конституційного Суду України № 2-р(II)/2024 [Decision of the Constitutional Court of Ukraine No. 2-r(II)/2024],” Verkhovna Rada of Ukraine, accessed 26 January 2026, <https://zakon.rada.gov.ua/laws/show/v002p710-24#Text>.

restricting the constitutional rights of citizens continues to take place. It is especially threatening that such restrictions apply to individuals that belong to socially vulnerable and unprotected segments of the population and for whom pension provision is often the only source of livelihood.

Therefore, these decisions reveal several important aspects of effectiveness and role of individual constitutional complaint in similar situations. First, they confirm that individual constitutional complaints may function as a mechanism of last resort for vulnerable groups whose interests are insufficiently protected through political or ordinary judicial processes. Without the existence of this instrument, a lot of questions remain open: whether such violations would have been eliminated at all; within what time frame; and how effective the corresponding protection would have been from the standpoint of timeliness and efficiency. Second, decisions produced a clear normative outcome by examining a legislative provision that contradicted the special constitutional status of social protection for victims of the Chernobyl disaster and state servants. Third, cases demonstrate that constitutional review initiated by individuals is capable of addressing not only isolated violations, but also broader legislative patterns that undermine the substance of social rights. Forth, the fact that decisions were made in the context of armed aggression and full-scale war, when the burden on the social security system is extremely high and the risks of narrowing social rights are significantly increasing, gives special weight to this case.

An individual constitutional complaint is not only a formal element of the constitutional control system, but also a real and effective tool for responding to violations of social rights in a difficult socio-political situation. At the same time, one important fact should not be overlooked – the issue of practical implementation of the decisions of the Constitutional Court of Ukraine remains open. Despite the established practice and the established legal position of the Court in cases regarding pension provision and social payments, relevant issues occupy a significant share among individual constitutional complaints from year to year. In itself, the recognition of legislative provisions as constitutional or unconstitutional does not eliminate the problem at the level of real life. In this regard, the need to introduce actual legislative and administrative changes aimed at stopping violations of rights, as well as preventing similar legislative errors in the future, becomes particularly important.

3.1.5.2. Individual constitutional complaint as a mechanism for cooperation with international institutions.

The second most common category of issues that become the subject matter for constitutional complaints in Ukraine are the provisions of criminal procedural legislation. The problems in this area are systemic and are observed not only at the national but also at the international level. This is

evidenced, in particular, by the practice of the European Court of Human Rights, according to which, violations of Articles 3 and 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms are most often found in cases against Ukraine.¹²¹ A significant part of such violations is related to the issues of the application of preventive measures, the justification of detention and compliance with the principle of proportionality.

One of the illustrative example would be a case of Kovtun M.A., Savchenko N.V., Kostoglodov I.D., and Chornobuk V.I., who filed a constitutional complaint regarding the unconstitutionality of part five of Article 176 of the Criminal Procedure Code of Ukraine.¹²² The provision in question established a presumption of mandatory application of only one type of preventive measure, namely detention, to persons suspected or accused of committing crimes specified in crimes against the foundations of national security of Ukraine and public security.¹²³ Complainants argued that this approach was discriminatory because it placed a person suspected or accused of committing certain crimes in an unequal position compared to other people who were charged with crimes of a similar degree of severity but for whom alternative preventive measures were permitted (personal commitment, personal guarantee, house arrest, and bail).

The Court noted that detention is the most severe preventive measure. It could be applied only if the prosecutor proves that procedural risks cannot be prevented by applying a less severe measure. But based on Part 5 of Article 176, the choice of a detention was linked exclusively to the legal classification of the crime. In essence, it was the result of just a formal decision rather than a comprehensive analysis of the case. The investigating judge and courts were deprived of the opportunity to issue a reasoned decision, provide adequate justification for detention or choose another type of preventive measure. This approach was inconsistent not only with fundamental principles, but also with international practice (for example, “Kornichuk v. Ukraine,” “Kharchenko v. Ukraine”).

The Constitutional Court recalled that restrictions on constitutional rights and freedoms cannot be arbitrary, must pursue a legitimate goal, be dictated by social necessity, and be proportionate and justified. A formal court decision negated the purpose and essence of justice, which “is recognized as such only if it meets the requirements of fairness and ensures effective restoration of rights.”

¹²¹ “Рішення щодо України, винесені Європейським Судом з прав людини [Judgments on Ukraine issued by the European Court of Human Rights],” Ministry of Justice of Ukraine, accessed 27 January 2026, <https://minjust.gov.ua/m/rishennya-schodo-ukraini-vineseni-evropeyskim-sudom-z-prav-lyudini>.

¹²² “Рішення Конституційного Суду України № 7-п/2019 [Decision of the Constitutional Court of Ukraine No. 7-r/2019],” Verkhovna Rada of Ukraine, accessed 26 January 2026, <https://zakon.rada.gov.ua/laws/show/v007p710-19#Text>.

¹²³ Articles 109–114-1, 258–258-5, 260, and 261.

See also: “The Criminal Code of Ukraine,” Verkhovna Rada of Ukraine, accessed 27 January 2026, <https://zakon.rada.gov.ua/laws/show/2341-14?lang=en#Text>.

Therefore, establishing a single preventive measure for a certain category of crimes did not comply with the provisions of the Constitution of Ukraine.

The significance of this decision goes beyond the national legal order, as it was directly cited by the ECHR in case “Grubnyk v. Ukraine”.¹²⁴ Although, in view of the factual circumstances of the case, the ECHR did not establish a violation of the requirements of Part 5 of Article 176 of the Criminal Procedure Code and Paragraph 3 of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms, respectively, the ECHR positively assessed the approach of the Constitutional Court of Ukraine and in fact supported its reasoning regarding the standards for justifying detention:

“117. ... It is a matter of satisfaction for the Court that the Constitutional Court’s decision eliminated the risk (also stressed by the OHCHR – see paragraph 57 above) that the Bail Exclusion Clause would have such a negative effect in future cases.”¹²⁵

Another standing example of judicial dialogue between national and international jurisdictions would be the case of the Limited Liability Company "Ukrkava". The company filed a constitutional complaint to declare the provisions of Part One of Article 88 of the Law of Ukraine "On Notaries" No. 3425-XII inconsistent with the Constitution of Ukraine.¹²⁶ According to the provisions of the contested law, a notary makes executive inscriptions if the submitted documents confirm the indisputability of the debt or other liability of the debtor to the collector and provided that no more than three years have passed since the date of the emergence of the right of claim, and in relations between enterprises, institutions and organizations – no more than one year. In its decision, the Constitutional Court of Ukraine recognized this provision as constitutional.

However, the key element of the legal position of the Constitutional Court was the distinction between the constitutionality of the law and the practice of its application. For "Ukrkava", the main reason for filing a constitutional complaint was not the law itself, but its incorrect application by courts of general jurisdiction. Despite the clear provision of the law, the Grand Chamber of the Supreme Court concluded that the general term for applying to a notary with an application for the execution of an executive inscription would be three years, regardless of the subjective composition of the parties

¹²⁴ “CASE OF GRUBNYK v. UKRAINE,” HUDOC, accessed 26 January 2026, <https://hudoc.echr.coe.int/eng?i=001-204604>.

¹²⁵ HUDOC, “CASE OF GRUBNYK v. UKRAINE,” *supra* note.

¹²⁶ “Рішення Конституційного Суду України № 7-р(І)/2020 [Decision of the Constitutional Court of Ukraine № 7-p(I)/2020],” Verkhovna Rada of Ukraine, accessed 27 January 2026, <https://zakon.rada.gov.ua/laws/show/va07p710-20#Text>.

to the legal relationship.¹²⁷ This interpretation directly contradicted the will of the legislator. Namely, the Supreme Court, in interpreting the provisions of the law, actually exceeded its powers and gave the norms a new meaning.

Since the Constitutional Court is not a fourth instance, and the provision of the law was itself recognized as constitutional (i.e. there are no grounds for reviewing the case under exceptional circumstances in courts of general jurisdiction), the case reached the European Court of Human Rights.¹²⁸ ECHR agreed with the position of the Constitutional Court and criticized the case law of the Supreme Court, which, through an expansive and formalistic interpretation, transformed a normatively permissible regulation into a *de facto* violation of the essence of the right to effective protection. The Supreme Court violated the fundamental principle of the rule of law and the principle of the separation of powers, which led to a violation of Article 6 of the Convention.

In this case, a constitutional complaint was an effective and important element of the protection of rights, primarily because it clearly established the true source of the violation. The Constitutional Court of Ukraine showed that the problem was not in the norm of the law itself (which was recognized as constitutional), but in its ambiguous interpretation by the courts of general jurisdiction. Thus, it was confirmed that the constitutionality of the law in itself does not legitimize any judicial practice, since even a formally permissible norm can be applied in a way that violates constitutional rights. Moreover, the constitutional complaint performed the role of a kind of constitutional “filter” before appealing to the international level. It testified that the applicant had used the national mechanism of constitutional control properly, and the decision of the Constitutional Court created a clear normative framework within which the ECHR could focus specifically on the problem of judicial practice, and not on legislative regulation as such. As a result, this case clearly demonstrated not competition, but consistent and complementary interaction between the Constitutional Court of Ukraine and the European Court of Human Rights. It confirmed the practical value of an individual constitutional complaint even in cases where the law is not repealed. Its effectiveness lies not only in recognizing norms as unconstitutional, but also in the formation of constitutional standards of law enforcement, which are important both for national judicial practice and for international control over the observance of human rights.

¹²⁷ “Постанова Великої Палати Верховного Суду від 02 липня 2019 року у справі № 916/3006/17 [Resolution of the Grand Chamber of the Supreme Court of July 2, 2019 in case No. 916/3006/17],” Unified State Register of Court Decisions, accessed 27 January 2026, <https://reyestr.court.gov.ua/Review/83589983>.

¹²⁸ “CASE OF UKRAINE, TOV v. UKRAINE,” HUDOC, accessed 27 January 2026, <https://hudoc.echr.coe.int/eng?i=001-241576>.

3.1.5.3. Enforcement of decisions adopted on individual constitutional complaint during martial law in Ukraine.

As a general rule, in accordance with part two of Article 152 of the Constitution of Ukraine,¹²⁹ as well as Article 91 of the Law of Ukraine On the Constitutional Court of Ukraine,¹³⁰ laws, other acts or their individual provisions that are recognized as unconstitutional shall cease to be valid from the date of adoption by the Constitutional Court of Ukraine of a decision on their unconstitutionality, unless otherwise established by the decision itself, but not earlier than the date of its adoption.

In present time, in Ukraine it is possible to observe a unique aspect of law enforcement in the field of enforcement of decisions of the Constitutional Court of Ukraine on constitutional complaints. Namely, the postponement of the enforcement of decisions in connection with the introduction of martial law in the territory of Ukraine by the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine” dated 24 February 2022 No. 64/2022, as amended.¹³¹

For example, Rulings of the Constitutional Court of Ukraine No. 2-r(II)/2022 of April 6¹³², 2022 or No. 3-r/2022 of December 23, 2022.¹³³ Despite the fact that the norms of the laws were recognized as unconstitutional, the Constitutional Court of Ukraine considered it appropriate to postpone the implementation of the decisions and noted that unconstitutional norms will cease to be valid only three months from the date of termination or abolition of martial law.

At the time of preparing this research, martial law is still in effect on the territory of Ukraine. That is, despite the fact that the norms of the laws were formally recognized as unconstitutional, they continue to violate the constitutional rights of individuals for the fifth year in a row. Formally, the requirements of Article 152 of the Constitution of Ukraine have been met. However, in practice, a conflict arises, and the violation of rights that should be protected by a constitutional complaint continues. Since, unfortunately, it is impossible to foresee the exact end date of martial law, and accordingly, the moment when unconstitutional norms will be abolished.

¹²⁹ Verkhovna Rada of Ukraine, Constitution of Ukraine, *supra note*.

¹³⁰ Verkhovna Rada of Ukraine, Law 2136-VIII, *supra note*.

¹³¹ “Указ Президента України Про введення воєнного стану в Україні No. 64/2022 [Decree of the President of Ukraine On the introduction of martial law in Ukraine No. 64/2022],” Verkhovna Rada of Ukraine, accessed 14 April 2026, <https://zakon.rada.gov.ua/laws/show/64/2022#Text>.

¹³² “Рішення Конституційного Суду України № 2-п(II)/2022 [Decision of the Constitutional Court of Ukraine No. № 2-п(II)/2022],” Verkhovna Rada of Ukraine, accessed 14 April 2026, <https://zakon.rada.gov.ua/laws/show/v002p710-22#Text>.

¹³³ “Рішення Конституційного Суду України № 3-п/2022 [Decision of the Constitutional Court of Ukraine No. № 3-п/2022],” Verkhovna Rada of Ukraine, accessed 14 April 2026, <https://zakon.rada.gov.ua/laws/show/va03p710-22#Text>.

CONCLUSION

Summarizing the above, it can be stated that the institution of an individual constitutional complaint as a separate mechanism of constitutional control in Ukraine, as a whole, functions and has real practical significance. Individuals have received direct access to the Constitutional Court of Ukraine, and the mechanism itself does not remain purely declarative. It is applied in practice and influences the formation of constitutional jurisprudence.

An important positive feature also is the consistency of the legal positions of the Constitutional Court of Ukraine with the practice of the European Court of Human Rights, which has the fundamental importance for Ukraine given its place in the international legal space and obligations in the field of human rights protection. The presence of an effective internal mechanism of constitutional control that meets international standards is a necessary prerequisite for the proper protection of rights and freedoms at the national level, and future European integration.

At the same time, one of the most problematic areas remains the sphere of implementation of decisions adopted as a result of the consideration of constitutional complaints. This problem should not be reduced solely to the relative “youth” of the constitutional complaint institution, especially in comparison with established models, in particular the German one. It is complex in nature and is generally manifested in the mechanisms for implementing the decisions of the Constitutional Court of Ukraine. Indicative in this context is the issue of pension provision, on which the legal positions of the Court were formulated even before the introduction of the constitutional complaint institution. However, legislative and law enforcement practice still demonstrates the presence of unconstitutional restrictions established in new laws. The situation complicates by adoption of martial law on the territory of Ukraine, namely, the postponing of decisions enforcement.

Thus, the key problem lies not in the constitutional complaint itself as a tool, but in the general state of the system of compliance with and implementation of constitutional decisions. On the contrary, an individual constitutional complaint acts as an additional and important means of protection that strengthens the legal position of an individual, ensuring direct and prompt access to the body of constitutional jurisdiction without the need for mediation by other entities.

3.2. Individual constitutional complaint in the Republic of Lithuania.

3.2.1. Historical background of the individual constitutional complaint in Lithuania.

Constitutional control in the Republic of Lithuania has existed since 1993, following the adoption of the Constitution of the Republic of Lithuania in 1992 and the establishment of the Constitutional Court. However, the institution of individual constitutional complaint is one of the most recent developments in the Lithuanian system of constitutional justice, compared to other European countries. Unlike most Central and Eastern European countries, where the possibility of an individual to address the Constitutional Court directly was introduced back in the 1990s, Lithuania until 2019 remained among the few countries of the Council of Europe in which this form of direct access of citizens to constitutional justice was not available.¹³⁴

Until 1 September 2019, individuals in Lithuania did not have the right to apply to the Constitutional Court directly. Under the Constitution of the Republic of Lithuania 1992, proceedings before the Constitutional Court could be initiated only by specific state bodies, namely the courts of general jurisdiction, the president of the Republic, the Government, and a group of members of the Seimas. As a result, individuals could raise issues of constitutionality only indirectly, primarily through ordinary courts requesting the Constitutional Court to review constitutionality of legal acts.¹³⁵

It was assumed that constitutional rights could be ensured through mechanisms of general and administrative jurisdiction (including through the activities of ombudsmen – controllers of the Seimas). In parallel, the Constitutional Court performed a predominantly abstract normative control function. However, over time, practical shortcomings (limitations) of this model became obvious. If a court of general jurisdiction refused to refer a case to the Constitutional Court, a person lost the opportunity to obtain a review of the constitutionality of a norm. This created a gap between the formally proclaimed right to judicial protection and the real possibility of challenging unconstitutional legislation, as provided for in Article 30 of the Constitution of the Republic of Lithuania.

In 2005–2006, there were active discussions on the introduction of an individual constitutional complaint. A working group was formed to prepare a concept for reforming the system of constitutional control. The result of its activities was the adoption by the Sejm on July 4, 2007 of Resolution No. X-1264 “On Approval of the Concept for the Introduction of the Institute of an

¹³⁴ Toma Birmontienė et al, “Konstituciniai ginčai [Constitutional disputes]” (Monograph, Mykolas Romeris University, 2019), 420, <https://repository.mruni.eu/handle/007/16240>.

¹³⁵ *Ibid*, 425.

Individual Constitutional Complaint”.¹³⁶ This document became the first comprehensive political and legal step towards opening direct access to the Constitutional Court for individuals. The Concept directly stated that the main goal of the reform is to implement the constitutional right of an individual to judicial protection in the Constitutional Court. The legislator proceeded from the fact that Article 30 of the Constitution guarantees everyone the right to apply to the court in the event of a violation of their rights, and therefore the logical continuation of this principle should be the possibility of applying to a body of constitutional justice. It was planned to implement the reform in two stages: first, to make changes directly to the Constitution (approximately in 2008), and then to make changes to procedural legislation, reorganize the work of the Constitutional Court, and provide additional funding (during the second half of 2009).¹³⁷

Already at this stage, a narrow, “normative” model of the complaint was proposed. It provided the possibility of appealing only those laws or other acts of the Sejm, the President or the Government that directly became the basis for the decision that violated the rights of the applicant.¹³⁸ The concept also contained a number of procedural filters: mandatory exhaustion of all other remedies, a filing period of no more than three months, initial selection of complaints by a judge or a panel of judges, a requirement for professional legal assistance (advocate) and a minimum court fee.¹³⁹

However, two years later, the actual implementation of this program was stopped. By the Resolution of the Sejm of December 17, 2009 No. XI-577, the deadlines for the introduction of the institute were postponed.¹⁴⁰ The official motive was the difficult economic and financial situation after the global crisis of 2008 and the lack of funds for the reorganization of the Constitutional Court and the provision of mechanisms to overcome the additional workload. However, many scholars argue that the main reason, in contrast, was the lack of political will, rather than budgetary limitations.¹⁴¹ As a result, the idea of an individual complaint remained unrealized for almost ten years.

A new impulsion to the reform was given by the government’s political program, approved by the Sejm on December 13, 2016 (Resolution No. XIII-82). It directly declared the intention to consolidate the right of every citizen to apply to the Constitutional Court. In 2017, new draft amendments to Articles 106 and 107 of the Constitution were prepared, as well as relevant

¹³⁶ Egidijus Kūris and Dovilė Pūraitė-Andrikienė, “Individualus konstitucinis skundas ir „Romuvos“ byla [Individual constitutional complaint and the “Romuva” case],” Vilnius University Press 9, 2023, 203, <https://doi.org/10.15388/KJL.2023.9>.

¹³⁷ Birmontienė et al, *op. cit.*, 421.

¹³⁸ Kūris and Pūraitė-Andrikienė, *op. cit.*, 205.

¹³⁹ Birmontienė et al, *op. cit.*, 421-422.

¹⁴⁰ Kūris and Pūraitė-Andrikienė, *op. cit.*, 203.

¹⁴¹ Birmontienė et al, *op. cit.*, 422.

amendments to the Law on the Constitutional Court. However, during the first vote on June 29, 2017, only 90 deputies voted for them, while at least 94 votes are required to introduce constitutional amendments. Thus, the attempt failed again.¹⁴²

Despite this, the work did not stop. In 2018, an updated, narrower draft was prepared, which provided for the right to address the issue to the Constitutional Court only to the individuals themselves to protect their own rights (the idea of extending this right to other control bodies was abandoned). After two mandatory votes, the Sejm adopted constitutional amendments on March 21, 2019, which entered into force on September 1, 2019.¹⁴³

As a result, Article 106 of the Constitution was supplemented with a new Part 4, which established that every person has the right to apply to the Constitutional Court if, on the basis of a relevant act, a decision was made that violated his constitutional rights or freedoms, and if he has exhausted all other legal remedies. Article 107 was supplemented with a provision according to which the decision of the Constitutional Court on the unconstitutionality of the act is the basis for resuming proceedings in the applicant's case.¹⁴⁴ In parallel, amendments were made to the procedural legislation: the Law on the Constitutional Court, the Rules of Court, the Code of Administrative Procedure, the Code of Civil Procedure, the Code of Criminal Procedure, the Code of Administrative Offenses, and the Law on State Guaranteed Legal Aid. As a result, a comprehensive integration of the new mechanism into the justice system finally took place.

Thus, the formation of the institution of individual constitutional complaint in Lithuania was not a quick or straightforward process. It was a long and rather complicated path that stretched for almost two decades. It was accompanied by discussions, preparation of concepts, several unsuccessful legislative attempts, political skepticism and even a *de facto* “freezing” of the reform for a long time. The result was a mechanism that opened up direct access to constitutional justice for individuals and became a reliable guarantee of the protection of constitutional rights and freedoms.

3.2.2. Legal basis of the individual constitutional complaint in Lithuania.

The legal basis of the individual constitutional complaint in Lithuania is not limited to a single normative act. It is formed by a coherent system of interrelated legal sources that collectively ensure its functioning within the national legal order.

¹⁴² *Ibid.*, 422-423.

¹⁴³ *Ibid.*, 423-424.

¹⁴⁴ *Ibid.*, 424-425.

The starting point for the formation of the institution of a constitutional complaint is the Constitution of the Republic of Lithuania.¹⁴⁵ First of all, it is worth referring to Article 30 of the Constitution, which directly enshrines the basic right that a person, whose constitutional rights or freedoms have been violated, has the right to apply to a court. This norm does not establish a special procedure for individual complaint, but it is it that establishes the fundamental principle of access to justice as an inherent constitutional guarantee. It follows from the article that the protection of constitutional rights cannot be limited only to courts of general jurisdiction and, under certain conditions, must include the possibility of applying to the Constitutional Court.

The institution of an individual constitutional complaint was directly enshrined in the Constitution by making amendments in 2019. Part five of Article 106 is of key importance. It, at the constitutional level, recognizes persons' right to appeal to the Constitutional Court. As well as Part three of Article 107 of the Constitution. It stipulates that the recognition of an act as unconstitutional is a basis for the restitution of proceedings regarding the exercise of the violated rights or freedoms of an individual.

However, constitutional provisions in themselves could not ensure the functioning of the institution of a constitutional complaint without their further specification. Even the provisions of the Constitution directly refer to a special law that should establish the procedure for the exercise of this right, thereby recognizing the need to detail constitutional provisions at the legislative level. This role is performed by the Law on the Constitutional Court on the Republic of Lithuania.¹⁴⁶ It defines including, but not limited to the circle of individuals entitled to file a complaint, deadlines for filing, conditions for its admissibility, requirements for the form and content of the complaint, as well as grounds for its return or refusal to initiate proceedings. It also establishes the legal consequences of the decisions of the Constitutional Court adopted on individual complaints and creates a normative link between constitutional proceedings and the further review of cases in courts of general jurisdiction. This law is a procedural "framework" of the institution of a constitutional complaint, without which the implementation of the constitutional provisions of Articles 106 and 107 would remain declarative.

¹⁴⁵ Lietuvos Respublikos Seimas, "The Constitution of the Republic of Lithuania," *supra note*.

¹⁴⁶ "The Law on the Constitutional Court of the Republic of Lithuania," The Constitutional Court of the Republic of Lithuania, accessed 4 February 2026, <https://lrkt.lt/en/about-the-court/legal-information/the-law-on-the-constitutional-court/193>.

An important supplementary source is the Rules of the Constitutional Court of the Republic of Lithuania.¹⁴⁷ It defines the practical aspects of the consideration of cases, the procedure for carrying out procedural actions and the internal organization of the Court's work. In the context of an individual constitutional complaint, these rules ensure predictability and unity of practice, which is a necessary condition for the effective functioning of any judicial mechanism.

A separate place among the legal sources for the individual constitutional complaint institution is also occupied by procedural codes and special laws, which were amended in connection with the 2019 reform. In particular, amendments were made to the Law on Administrative Procedure, the Code of Administrative Offenses,¹⁴⁸ the Criminal Procedure Code,¹⁴⁹ the Civil Procedure Code,¹⁵⁰ as well as the Law on State Guaranteed Legal Aid.¹⁵¹

In the context of legal basis, it is also worth mentioning decisions of the Constitutional Court of the Republic of Lithuania themselves. Decisions of the Constitutional Court are final and binding in their nature. Usually, in its decisions, especially in those where a norm is recognized as unconstitutional, the situation prompts the Court to interpret and disclose specific legal consequences. This means that the Court, taking into account the circumstances of a particular case, can specify what legal regulation should be applied after the decision enters into force, what positive and negative obligations arise for legislative and law enforcement bodies, as well as how the Constitution itself is directly applied.¹⁵² Taking into account all these characteristics, it can be declared that the decisions of the Constitutional Court can also be recognized as a legal source in matters of individual constitutional complaint.

All in all, the main legal sources of the institution of an individual constitutional complaint in Lithuania consist of the Constitution of the Republic of Lithuania, the Law on the Constitutional

¹⁴⁷ "The Rules of the Constitutional Court of the Republic of Lithuania," The Constitutional Court of the Republic of Lithuania, accessed 4 February 2026, <https://lrkt.lt/en/about-the-court/legal-information/the-rules-of-the-constitutional-court/1973>.

¹⁴⁸ Articles 630-1, 658, 660.

See als: "Lietuvos Respublikos Administracinių Nusižengimų Kodekso Nr. XII-1869 [Administrative Offences Code of the Republic of Lithuania Nr. XII-1869]," Lietuvos Respublikos Seimas, accessed 4 February 2026, <https://www.e-tar.lt/portal/en/legalAct/4ebe66c0262311e5bf92d6af3f6a2e8b/QFJGMLduBv>.

¹⁴⁹ Articles 234, 281, CHAPTER XXXV.

See also: "Lietuvos Respublikos Baudžiamojo Proceso Kodekso Nr. IX-785 [Code of Criminal Procedure of the Republic of Lithuania No. IX-785]," Lietuvos Respublikos Seimas, accessed 4 February 2026, <https://www.e-tar.lt/portal/lt/legalAct/TAR.EC588C321777/asr>.

¹⁵⁰ Articles: 366 and 367.

See also: "Lietuvos Respublikos Civilinio Proceso Kodekso Nr. IX-743 [Code of Civil Procedure of the Republic of Lithuania No. IX-743]," Lietuvos Respublikos Seimas, accessed 4 February 2026, <https://www.e-tar.lt/portal/lt/legalAct/TAR.2E7C18F61454/asr>.

¹⁵¹ Kūris and Pūraitė-Andrikienė, *supra note*, 204.

¹⁵² Birmontienė et al, *supra note*, 368; 527-538.

Court and its Rules of Procedure, procedural codes, laws and practice of the Constitutional Court. This system of sources is very multi-level, which indicates a high level of integration of the institution of individual constitutional complaint into reality.

3.2.3. Main characteristics of the individual constitutional complaint in Lithuania.

Lithuania has introduced a model of a normative constitutional complaint. It generally corresponds to the classical characteristics of this legal instrument, but with its own characteristics determined by the national legislation and the practice of the Constitutional Court. In this context, it is important to analyze the key elements of such a complaint, in particular its legal standing, subject matter and the main procedural requirements for its submission.

3.2.3.1. Persons entitled to file an individual constitutional complaint.

The list of individuals who have the right to file an individual constitutional complaint with the Constitutional Court of the Republic of Lithuania is defined in Article 106 of the Constitution of Lithuania and is formulated as “every person”. Such a formulation is quite broad and may cause certain issues from a practical point of view, since neither the Constitution nor other regulatory legal acts contain a detailed explanation of it. At the same time, a systematic analysis of constitutional provisions and legislation allows us to outline the circle of persons who may have the right to file an individual constitutional complaint.¹⁵³

Firstly, these are natural persons (individuals). This category includes citizens of the Republic of Lithuania, foreigners and stateless persons. The use of the concept of “person” and not “citizen” in Article 106 of the Constitution is conceptually determined by the basic principles of the constitutional order of Lithuania. In particular, the Constitution enshrines the right of everyone to protect their rights, directly referring to the Constitution (Part 2 of Article 6), as well as the right of a person whose constitutional rights or freedoms have been violated to apply to court (Part 1 of Article 30).¹⁵⁴ In scientific literature and law enforcement practice, such a broad formulation is assessed positively, since it provides the possibility of protecting the constitutional rights of the widest possible range of individuals.¹⁵⁵ At the same time, it should be emphasized that an individual constitutional

¹⁵³ Pūraitė-Andrikienė (n 1), *supra note*, 215.

¹⁵⁴ Lietuvos Respublikos Seimas, “The Constitution of the Republic of Lithuania,” *supra note*.

¹⁵⁵ Pūraitė-Andrikienė (n 1), *supra note*, 216.

complaint may be filed solely for the purpose of protecting the applicant's own constitutional rights and freedoms. An appeal to the Constitutional Court in the interests of other persons is not allowed.¹⁵⁶

Secondly, legal entities also have the right to file an individual constitutional complaint in Lithuania. This aspect is particularly interesting in comparison with the Ukrainian model, since Lithuanian law does not limit such a right only to legal entities of private law. The complainant could be both legal entities of private law (in particular, closed and open joint-stock companies, individual enterprises) and legal entities of public law, including state and municipal enterprises, state and municipal institutions, public institutions, trade unions, religious communities, associations, etc.¹⁵⁷ Thus, the approach inherent in Ukrainian legislation, according to which legal entities of public law are considered as personifications of the state and, accordingly, cannot be appellant to the Constitutional Court, is not applied in the Lithuanian legal system.¹⁵⁸

Despite the wide list of persons who can file an individual constitutional complaint, certain categories of persons have specific features in the exercise of this right. For instance, foreigners and stateless persons cannot appeal against violations of those constitutional rights that by their nature belong exclusively to citizens of the Republic of Lithuania, in particular political rights, such as the right to vote in elections to the Seimas or the President of the Republic. Similarly, legal entities of public law are characterized by their own specifics of participation in the constitutional complaint mechanism. In this context, a discussion is ongoing in Lithuanian constitutional law scholarship on the possibility of recognizing, for example, the Judicial Council as a self-governing body of the

¹⁵⁶ *Ibid.*

¹⁵⁷ Dovilė Pūraitė-Andrikiienė, "Lietuvos individualaus konstitucinio skundo modelio privalumai ir trūkumai [Advantages and disadvantages of the Lithuanian individual constitutional complaint model]," *Vilnius University Press* 2020, Vol. 114, 56, <https://doi.org/10.15388/Teise.2020.114.3> (n 2).

Birmontienė et al, *supra* note, 425.

¹⁵⁸ During 2019–2025, nine individual constitutional complaints were filed by legal entities of public law (Cases No. 1A-6/2020, 1A-40/2021, 1A-48/2021, 1A-96/2021, 1A-73/2023, 1A-78/2023, 1A-49/2024, 1A-12/2025, 1A-43/2025).

Following the consideration of one of them, the Constitutional Court adopted a decision of September 26, 2024 (KT76-A-N10/2024), adopted on the constitutional complaint of a political party. In this case, the Court found that the legal regulation, according to which state budget allocations are provided to new political parties only until the first elections to the Sejm after their registration, is not contrary to Article 35(3) of the Constitution, emphasizing the broad discretion of the legislator in the field of financing political parties.

Another complaint (Case No. 1A-12/2025) was declared admissible and accepted for consideration. The decision in this case is expected in 2026.

The remaining complaints were rejected on the grounds of inadmissibility.

See also: "Annual report 2024," The Constitutional Court of the Lithuanian Republic, Vilnius 2025, 87-89, <https://lrkt.lt/data/public/uploads/2025/06/annual-report-2024-web.pdf>.

"Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2024 m. rugsėjo 26 Nr. KT76-A-N10/2024 [Resolution of the Constitutional Court of the Republic of Lithuania of 26 September 2024 No. KT76-A-N10/2024], The Constitutional Court of the Republic of Lithuania", accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta3056/content>.

judiciary as an entity that has the right to apply to the Constitutional Court with an individual constitutional complaint.¹⁵⁹

In general, it can be concluded that the broad interpretation of the holders of right to file an individual constitutional complaint in Lithuania indicates the legislator's orientation towards maximum provision of access to constitutional justice. It tends to maintain the necessary balance between effective protection of individual rights and the functional limits of the competence of the Constitutional Court.

3.2.3.2. Subject matter of the individual constitutional complaint.

According to Article 65 of the Law On the Constitutional Court of the Republic of Lithuania, an individual or legal person has the right to apply to the Constitutional Court with a request to verify the compliance with the Constitution or laws not only of laws, but also of other acts of the Seimas, acts of the President of the Republic and acts of the Government.¹⁶⁰ Unlike Ukraine, where the subject matter of an individual constitutional complaint is limited exclusively to laws, the Lithuanian model provides for a much broader list of acts that may be challenged in an individual constitutional complaint.¹⁶¹

This list does not include decisions of courts of general jurisdiction of any instance. Thus, as in Ukraine, the Constitutional Court of Lithuania does not act as a “fourth instance” and does not interfere in the administration of justice by courts of general jurisdiction.¹⁶² This point is particularly important in order to avoid a conflict in subject-matter jurisdiction with the Supreme Court. In addition, the scope of constitutional review does not extend to legal acts of ministers, other state bodies

¹⁵⁹ Pūraitė-Andrikienė (n 1), *supra note*, 216.

¹⁶⁰ The Constitutional Court of the Republic of Lithuania, “The Law on the Constitutional Court of the Republic of Lithuania,” *supra note*.

¹⁶¹ The practice of the Constitutional Court of the Republic of Lithuania demonstrates that not only laws or codes, but also other regulatory legal acts may be challenged within the framework of an individual constitutional complaint. Thus, in the case of May 31, 2023 (No. KT49-A-N5/2023), the applicant challenged the provisions of Government Resolution No. 1226 of November 4, 2020, on declaring quarantine in the territory of the Republic of Lithuania, in particular the norms on limiting the number of persons having close contacts in enclosed spaces following the declaration of quarantine. Another example would be the Decision of the Constitutional Court made on April 14, 2021 (No. KT58-A-N4/2021). The subject matter of constitutional review was the provisions of The Statute of Internal Service (wording of 29 June 2018), approved by the Law on the Approval of the Statute of Internal Service, which provided for an indefinite ban on persons convicted of intentional crimes from holding statutory civil service positions.

See also: “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. gegužės 31 d. Nr. KT49-A-N5/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 31 May 2023 No. KT49-A-N5/2023], The Constitutional Court of the Republic of Lithuania”, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2857/content>.

“Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2021 m. balandžio 14 d. Nr. KT58-A-N4/2021 [Ruling of the Constitutional Court of the Republic of Lithuania of 14 April 2021 No. KT58-A-N4/2021], The Constitutional Court of the Republic of Lithuania”, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2406/content>.

¹⁶² Pūraitė-Andrikienė (n 1), *supra note*, 213.

Pūraitė-Andrikienė (n 2), *supra note*, 53.

and local self-government bodies. The legality of regulatory administrative acts and their compliance with the Constitution and laws are reviewed by administrative courts.¹⁶³

All in all, the list of acts that can be appealed significantly increases the effectiveness of the protection of an individual's constitutional rights by applying to the Constitutional Court.

3.2.3.3. Admissibility requirements for individual constitutional complaints.

Article 65 of the Law on the Constitutional Court establishes three main conditions for the admissibility of an individual constitutional complaint, which are also referred to as constitutional filters. Their functional purpose is to distinguish a constitutional complaint from abstract constitutional control (*actio popularis*) and to preserve the subsidiary nature of this institution.¹⁶⁴

The first condition for the admissibility of an individual constitutional complaint in Lithuania is to challenge a law or other regulatory act that was directly applied in the applicant's case and became the basis for the adoption of a final court decision. In this case, the applicant must prove that it was the application of the relevant norm that led to the violation of his constitutional rights or freedoms.

This requirement directly follows from Part four of Article 106 of the Constitution of Lithuania, which links the right to appeal to the Constitutional Court with the presence of a final (one that can no longer be appealed) decision adopted on the basis of the contested normative act.¹⁶⁵ Thus, the Lithuanian model excludes the possibility of submitting abstract constitutional complaints. At the same time, practice shows that applicants often misunderstand this condition. During the first years of the functioning of the institution of an individual constitutional complaint (2019 – 2022), the Constitutional Court refused to consider 125 complaints or parts thereof precisely because of the abstract nature of the arguments or the lack of a connection between the contested norm and a specific court decision.¹⁶⁶ A similar problem is observed in Ukrainian practice, where a significant number of constitutional complaints are declared inadmissible on the grounds that the applicants are actually challenging the court decision as such or disagreeing with its reasoning, rather than raising the question of the unconstitutionality of the applied rule of law.

The second condition for filing an individual constitutional complaint in Lithuania is the exhaustion of all legal remedies provided for by law. A constitutional complaint does not replace

¹⁶³ Pūraitė-Andrikienė (n 2), *supra note*, 54.

¹⁶⁴ Pūraitė-Andrikienė (n 1), *supra note*, 218.

¹⁶⁵ Lietuvos Respublikos Seimas, "The Constitution of the Republic of Lithuania," *supra note*.

¹⁶⁶ Pūraitė-Andrikienė (n 1), *supra note*, 219.

judicial protection, but acts as a complementary mechanism that is applied only after the completion of all other procedures.

The approach, however, has some differences from the Ukrainian model. On the one hand, in Ukraine, a constitutional complaint is also of a subsidiary nature and can be filed only after the adoption of a final court decision. On the other hand, Lithuanian practice contains a more detailed interpretation of the concept of “all legal remedies”.

The Constitutional Court of Lithuania noted in its decisions that this concept covers not only appeal and cassation decisions of courts of general jurisdiction, but also the use of mandatory pre-trial dispute resolution procedures, if they are expressly provided for by law.¹⁶⁷ In addition, a person is considered to have exhausted all remedies only after the adoption of a final and unappealable court decision that did not ensure the protection of his constitutional rights.

The third condition for the admissibility of an individual constitutional complaint in Lithuania is compliance with the four-month period from the date of entry into force of the final decision. The introduction of such a period corresponds to European trends and recommendations of the Venice Commission.¹⁶⁸ It should be remind, that in Ukraine the time limit for filing a constitutional complaint is shorter and is three months. At the same time, both legal systems provide for procedural guarantees related to the moment of filing a complaint, as well as the possibility of renewing the missed deadline if there are good reasons.

Along with the substantive and procedural conditions of admissibility, filing an individual constitutional complaint in Lithuania requires compliance with technical and formal requirements, which are enshrined in Article 67-1 of the Law on the Constitutional Court.¹⁶⁹ Failure to comply with them has independent legal consequences: a complaint that does not meet the established requirements is not registered and returned to the applicant.

The law provides that the complaint must contain information about the Constitutional Court as the addressee; the full identification of the applicant (and, if any, his/her representative); as well as information about the state body that adopted the contested regulatory act. It is mandatory to accurately identify the contested act: its title, number, date of adoption and source of publication, as well as to indicate the decision adopted on its basis, which, in the opinion of the applicant, led to a violation of constitutional rights or freedoms.

¹⁶⁷ Pūraitė-Andrikienė (n 2), *supra note*, 60-61.

¹⁶⁸ Pūraitė-Andrikienė (n 1), *supra note*, 221.

¹⁶⁹ Lietuvos Respublikos Seimas, “The Law on the Constitutional Court of the Republic of Lithuania,” *supra note*.

In addition, the applicant is obliged to set out the circumstances confirming the exhaustion of all legal remedies, as well as compliance with the established deadline for applying to the Constitutional Court or the presence of valid reasons for its renewal. The complaint must indicate the provisions of the Constitution and the Law on the Constitutional Court, which provide for the right to appeal, the grounds for considering the case, legal arguments regarding the unconstitutionality of the contested act and a clearly formulated request to the Constitutional Court.

The complaint must be presented clearly and clearly and signed by the applicant or his representative, and in the case of electronic submission – certified by a qualified electronic signature. It must be accompanied by the text of the contested act, the relevant court decision, documents confirming the exhaustion of remedies, as well as other materials substantiating the complaint. Documents drawn up in a foreign language shall be submitted together with a duly certified translation into Lithuanian.

Summarizing all characteristics analyzed above, it is possible to define the main features of an individual constitutional complaint that meets the requirements for admissibility under the legislation of the Republic of Lithuania:

1) the scope of the complaint may be laws and other regulatory acts adopted by the Seimas, acts of the President of the Republic, as well as acts of the Government, which are appealed for their compliance with the Constitution or another legal act of higher legal force;

2) the complaint may be filed by any natural person, regardless of citizenship, as well as any legal entity, regardless of its legal form or location;

3) a complaint may be filed provided that a final decision was adopted on the basis of the appealed regulatory act, which led to a violation of the constitutional rights or freedoms of the applicant, and not of a third party;

4) before filing an individual constitutional complaint, the applicant must exhaust all legal remedies provided for by law;

5) the four-month deadline for filing an appeal with the Constitutional Court established by law must be observed or, in case of missing it, the applicant must justify the existence of good reasons for renewing such a deadline;

6) the filing of a complaint must be carried out in compliance with all technical and formal requirements.

3.2.4. Analysis of selected decisions of the Constitutional Court of the Republic of Lithuania adopted based on the constitutional complaint.

The introduction of the institution of individual constitutional complaint in Lithuania was accompanied by a significant number of complaints during the first years of the functioning of this new mechanism. At the same time, statistical data reveal a clear downward trend in the number of individual constitutional complaints submitted to the Constitutional Court of Lithuania. During the initial four months following the introduction of this mechanism in 2019, the Court received 94 individual constitutional complaints;¹⁷⁰ in 2020, this number increased to 231,¹⁷¹ but subsequently declined to 150 in 2021,¹⁷² 118 in 2022,¹⁷³ 85 in 2023,¹⁷⁴ and 61 in 2024.¹⁷⁵

This research suggests that the systematic decrease in the number of individual constitutional complaints filed constitutes a positive development. During the first years of the introduction of this institution, applicants could not always fully understand the nature and key purpose of the individual constitutional complaint as a mechanism for the protection of violated rights. Especially considering that the legislator chose not to introduce as a mandatory requirement that the complaint should be necessarily submitted with the assistance of a lawyer.¹⁷⁶ The observed trend therefore primarily indicates that the constitutional filters are functioning effectively and regulating the workload of the Constitutional Court, which allows it to focus on the substantive examination of cases.

3.2.4.1. Individual constitutional complaint as a mechanism for national legislation adjustment.

An analysis of the subject matter of individual constitutional complaints shows that the most frequently challenged provisions are in the field of administrative, civil and civil procedural law. Of particular interest in this context are cases related to the restriction of constitutional rights during the COVID-19 pandemic. This is a particularly sensitive and complex issue, especially within the legal framework. Due to the global emergency situation, states were compelled to introduce far-reaching restrictions, including limitations on fundamental constitutional rights, such as the right to respect

¹⁷⁰ “Annual report 2019,” The Constitutional Court of the Lithuanian Republic, Vilnius 2020, 45, <https://lrkt.lt/data/public/uploads/2020/06/annual-report-2019-web.pdf>.

¹⁷¹ “Annual report 2020,” The Constitutional Court of the Lithuanian Republic, Vilnius 2021, 38, <https://lrkt.lt/data/public/uploads/2021/07/annual-report-2020-web.pdf>.

¹⁷² The Constitutional Court of the Lithuanian Republic, “Annual report 2021,” *supra note*, 44.

¹⁷³ “Annual report 2022,” The Constitutional Court of the Lithuanian Republic, Vilnius 2023, 40, <https://lrkt.lt/data/public/uploads/2023/12/annual-report-2022-web.pdf>.

¹⁷⁴ The Constitutional Court of the Lithuanian Republic, “Annual report 2023,” *supra note*, 50-51.

¹⁷⁵ The Constitutional Court of the Lithuanian Republic, “Annual report 2024,” *supra note*, 52.

¹⁷⁶ Birmontienė et al, *supra note*, 421.

private life, the right to freedom of movement, right to personal data protection, etc. As a result, a special legal regime was established in which maintaining a fair balance between public interest and individual rights became especially challenging, and the risk of exceeding constitutionally permissible limits of state interference significantly increased.

This topic is also interesting from a comparative perspective with Ukraine. During the COVID-19 pandemic, Ukraine adopted two Laws (No. 530-IX¹⁷⁷ and 533-IX¹⁷⁸), that introduced amendments to certain legislative acts aimed at preventing the emergence and spread of coronavirus disease.

However, the core pandemic-related restrictions were primarily established by the Presidential Decree No. 88/2020¹⁷⁹ and by resolutions of the Cabinet of Ministers of Ukraine dated December 9, 2020 No. 1236¹⁸⁰ and dated March 11, 2020 No. 211¹⁸¹. And under Ukrainian legislation, such acts cannot be in the scope of a constitutional complaint. An analysis of the case-law of the Constitutional Court of Ukraine reveals that only one decision addressing pandemic-related restrictions was adopted, and it was delivered on the basis of a constitutional submission by the Supreme Court.¹⁸² As a result, in Ukraine, a legal situation emerged in which fundamental rights and

¹⁷⁷ “Закон України Про внесення змін до деяких законодавчих актів України, спрямованих на запобігання виникненню і поширенню коронавірусної хвороби (COVID-19) № 530-IX [Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19) No. 530-IX],” Verkhovna Rada of Ukraine, accessed 7 February 2026, <https://zakon.rada.gov.ua/laws/show/530-20#Text>.

¹⁷⁸ “Закон України Про внесення змін до Податкового кодексу України та інших законів України щодо підтримки платників податків на період здійснення заходів, спрямованих на запобігання виникненню і поширенню коронавірусної хвороби (COVID-19) 533-IX [Law of Ukraine On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine Regarding Support for Taxpayers for the Period of Implementation of Measures Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19) 533-IX],” Verkhovna Rada of Ukraine, accessed 7 February 2026, <https://zakon.rada.gov.ua/laws/show/533-20#Text>.

¹⁷⁹ “Указ Президента України Про Координаційну раду з протидії поширенню COVID-19 [Decree of the President of Ukraine On the Coordination Council for Countering the Spread of COVID-19],” Verkhovna Rada of Ukraine, accessed 7 February 2026, <https://zakon.rada.gov.ua/laws/show/88/2020#Text>.

¹⁸⁰ “Постанова Кабінету Міністрів України Про встановлення карантину та запровадження обмежувальних протиепідемічних заходів з метою запобігання поширенню на території України гострої респіраторної хвороби COVID-19, спричиненої коронавірусом SARS-CoV-2 № 1236 [Resolution of the Cabinet of Ministers of Ukraine On the establishment of quarantine and the introduction of restrictive anti-epidemic measures to prevent the spread of acute respiratory disease COVID-19, caused by the SARS-CoV-2 coronavirus, in the territory of Ukraine],” Verkhovna Rada of Ukraine, accessed 7 February 2026, <https://zakon.rada.gov.ua/laws/show/1236-2020-%D0%BF#Text>.

¹⁸¹ Постанова Кабінету Міністрів України Про запобігання поширенню на території України гострої респіраторної хвороби COVID-19, спричиненої коронавірусом SARS-CoV-2 № 211 [Resolution of the Cabinet of Ministers of Ukraine On preventing the spread of acute respiratory disease COVID-19, caused by the SARS-CoV-2 coronavirus, in the territory of Ukraine № 211],” Verkhovna Rada of Ukraine, accessed 7 February 2026, <https://zakon.rada.gov.ua/laws/show/211-2020-%D0%BF#Text>.

¹⁸² “Рішення Конституційного Суду України № 10-п/2020 [Decision of the Constitutional Court of Ukraine No. 10-r/2020],” Verkhovna Rada of Ukraine, accessed 7 February 2026, <https://zakon.rada.gov.ua/laws/show/v010p710-20#Text>.

freedoms were substantially restricted, while, at the same time, the available constitutional mechanisms for the protection of violated rights for individuals were significantly narrowed.

In Lithuania, the legal regulation is fundamentally different. Individuals have the right to challenge the constitutionality of not only laws, but also subordinate regulatory legal acts, which the applicants used during the quarantine restrictions.

In particular, it is worth mentioning as an example the decision of May 31, 2023.¹⁸³ The Constitutional Court considered an individual constitutional complaint of persons held administratively liable for violating the quarantine ban on close contact of more than five people in closed places. The applicants argued that the relevant provision of the government resolution No 1226 of 4 November 2020 on declaring quarantine in the territory of the Republic of Lithuania violated Article 32 of the Constitution, since the restriction on freedom of movement was established by a by-law, not by law.

The Court noted that in the conditions of an emergency situation associated with a threat to the health and life of the population, the legislator has the right to provide for measures to combat the spread of infectious diseases in the law and allow their detailing in by-laws. The Constitutional Court emphasized that the ban on close contact in closed premises regulated the issue of interpersonal communication, and not freedom of movement within the meaning of Article 32 of the Constitution. In this regard, the Court concluded that the contested situation did not contradict Article 32 of the Constitution of the Republic of Lithuania.

For the purposes of comprehensive research, it should be noted that the position according to which such measures are necessary and proportionate under conditions of a state of emergency (quarantine restrictions in particular) had been consistently upheld in the case-law of the Constitutional Court, including in decisions adopted on the basis of not only individual constitutional complaints, but other petitions.¹⁸⁴ On the one hand, this approach may give the impression that the

¹⁸³ “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. gegužės 31 d. Nr. KT49-A-N5/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 31 May 2023 No. KT49-A-N5/2023], The Constitutional Court of the Republic of Lithuania”, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2857/content>.

¹⁸⁴ The Constitutional Court’s decision (No KT8-N1/2023) of 24 January 2023.

The Constitutional Court’s decision (No KT83-N9/2023) of 04 October 2023.

See also: The Constitutional Court of the Lithuanian Republic, “Annual report 2023,” *supra note*, 78-83; 85-91.

“Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. sausio 24 d. Nr. KT8-N1/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 24 January 2023 No. KT8-N1/2023]”, The Constitutional Court of the Republic of Lithuania, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2797/content>.

“Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. spalio 4 d. Nr. KT83-N9/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 4 October 2023 No. KT83-N9/2023]”, The Constitutional Court of the Republic of Lithuania, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2905/content>.

Constitutional Court acts in close alignment with the legislator, since declaring such restrictions unconstitutional could have resulted in a legal collapse and generated significant retrospective consequences. On the other hand, a comparative analysis of the practice of the Constitutional Court of Lithuania shows that the decisive factor for recognizing restrictions on rights as constitutional (or not) is not the fact of interference itself, but its nature. In cases related to COVID-19, the Court proceeded from temporaryity, proportionality and the presence of legislative limits. However, in cases where restrictions were indefinite, automatic, or devoid of effective guarantees, the relevant provisions were declared unconstitutional. Here are some of the examples.

In the decision of 7 June 2023, adopted on the basis of an individual constitutional complaint, the Constitutional Court of Lithuania reviewed the constitutionality of the provisions of the Law on the Legal Status of Aliens, which provided that in the event of the declaration in the event of a declared extraordinary situation, a state of emergency, or a state of war due to a mass influx of foreigners, all asylum seekers were automatically subject to placement in specially designated places without granting them the right to free movement within the territory of Lithuania, for a period of up to six months.¹⁸⁵ The Constitutional Court, referring to Article 20 of the Constitution of the Republic of Lithuania (inviolability of personal freedom), in conjunction with Article 30 of the Constitution (right to judicial protection), noted that constitutional guarantees of personal freedom encompass not only protection from formal detention or arrest, but also from any other-restrictions on freedom that, in terms of their intensity and duration, may in fact be equated to deprivation of liberty. The Court emphasized that even in a state of emergency, the public interest cannot automatically prevail over individual rights, and a fair balance must be ensured between them.

The Court recognized that the contested norms pursued a legitimate goal – ensuring public order, protecting the state border and state security. But simultaneously it established that the legislator applied the most severe measure of restriction of freedom to all asylum seekers without an individual assessment of their situation; did not provide for alternative, less restrictive measures; and did not guarantee the possibility of judicial review of the legality and justification of such a restriction of freedom.

The Constitutional Court concluded that the mere fact of declaring a state of emergency cannot serve as a sufficient basis for the automatic and prolonged restriction of the personal freedom

¹⁸⁵ “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. birželio 7 d. Nr. KT53-A-N6/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 7 June 2023 No. KT53-A-N6/2023]”, The Constitutional Court of the Republic of Lithuania, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2861/content>.

of all asylum seekers without assessing the real threat they pose. In this regard, the Court found that the following provisions were contrary to Article 20 of the Constitution.

In another decision of 20 May 2024, adopted on the basis of an individual constitutional complaint, the Constitutional Court of Lithuania reviewed the constitutionality of paragraph 7 of Article 3.269 of the Civil Code of the Republic of Lithuania (as amended on 18 July 2000 and 23 December 2021), which prohibited the appointment of a person aged 65 or older as a guardian of a child in the case of temporary guardianship of a child under 10 years of age, except in cases where such a person is a close relative of the child.¹⁸⁶ The Constitutional Court, interpreting Part 2 of Article 38 of the Constitution of the Republic of Lithuania (the duty of the State to protect childhood and ensure the priority of the interests of the child), noted that the State has broad discretion in the field of child protection, but it is limited by the constitutional imperative of the priority of the interests of the child. The legislator is obliged to create such a legal regulation that allows assessing the real readiness of a particular person to ensure proper upbringing, care and representation of the interests of a particular child.

The Court recognized that the questioned regulation established an automatic and absolute age ban, which was applied without any individual assessment of the personal qualities, state of health, life circumstances or ability of the person to ensure the interests of a particular child. Such an approach, in the opinion of the Court, did not allow to find out whether the candidate for guardian meets the individual interests of the child and creates unjustified obstacles to the appointment of guardianship even in cases where this would be the best solution for the child.

The Constitutional Court emphasized that the age of a person can and should be taken into account, but cannot be the only and automatic ground for refusal. Establishing a maximum age limit as an absolute criterion led to ignoring the priority of the interests of the child, which contradicted Part 2 of Article 38 of the Constitution.

The analyzed decisions demonstrate the consistency and predictability of the position of the Constitutional Court of Lithuania. Individual constitutional complaint in Lithuania is not a declarative institution. Individuals use it as a real and effective mechanism that is capable of protecting violated constitutional rights in practice.

¹⁸⁶ “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2024 m. gegužės 20 d. Nr. KT44-A-N6/2024 [Ruling of the Constitutional Court of the Republic of Lithuania of 20 May 2024 No. KT44-A-N6/2024]”, The Constitutional Court of the Republic of Lithuania, accessed 14 March 2026, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta3004/content>.

3.2.4.2. Individual constitutional complaint as a mechanism for cooperation with international institutions.

As in the case of Ukraine, international judicial cooperation between the Constitutional Court and international institutions is particularly important. This is especially relevant given that Lithuania, unlike Ukraine, is a Member State of the European Union and therefore operates within a closely integrated European legal framework. In this context, the case of *Ruminas v. Lithuania* provides an illustrative example.¹⁸⁷ This case concerns the right of access to a court, which constitutes a fundamental constitutional and procedural guarantee.

In February 2016, police stopped the applicant for suspected drunk driving. Although a hospital blood test later showed no alcohol, the applicant was charged with an administrative offence. On 7 November 2016, the Vilnius City District Court discontinued the proceedings, finding no violation, but refused to reimburse the applicant's expenses for the advocate's assistance and hospital blood test (EUR 529) because the Code of Administrative Law Violations did not allow such compensation. The Supreme Administrative Court, on 29 October 2019, dismissed his appeal, finding no unlawful conduct by the police and no ground for reimbursement. So the Mr. Ruminas decided to file an individual constitutional complaint.

The provisions of the Constitution, in particular, paragraph 1 of Article 30 and paragraph 6 of Article 31, give rise to the requirement to protect the rights of the individual not formally, but really and effectively, in particular, by using legal aid provided by a lawyer. The right of an individual to apply to a court cannot be artificially restricted, and the exercise of this right cannot be unreasonably burdened. Taking this into account, the Constitutional Court noted that legislator is obliged to establish such legal regulation under which the right of an individual to protect his rights in court is exercised in a real and effective manner, and to provide that a person who is not held legally liable, is compensated for the necessary and justified expenses incurred in exercising this right. According to the contested Article 302-1 of the Code of Administrative Offenses, a person against whom an administrative offense case was discontinued due to the absence of elements of the offense was not compensated in any case for the lawyer's expenses incurred during the consideration of the case in court. Such legal regulation created the conditions for a situation where a person who applied to the court to protect his violated rights could find himself in a worse position due to the fact that he used the assistance of a lawyer to protect his violated rights. Thus, on 19 March 2021, the Constitutional

¹⁸⁷ "Case of *Ruminas v. Lithuania*," HUDOC, accessed 7 February 2026, <https://hudoc.echr.coe.int/eng?i=001-243080>.

Court held that Article 302-1 of the Code of Administrative Violations conflicted with Articles 30(1) and 31(6) of the Constitution and the rule-of-law principle.¹⁸⁸

The core difficulty in this case arose from the fact that, following the decision of the Constitutional Court, the Supreme Court refused to reopen the proceedings, reasoning that no violation of the applicant's substantive rights had occurred.

The European Court of Human Rights held that, in these particular circumstances of the case, the individual constitutional complaint was a logical continuation of the proceedings and a necessary element for the effective protection of the applicant's constitutional right. The Court emphasized that the contested provision, which imposed unjustified restrictions on the effective exercise of the right to judicial protection, was inevitably applied by the courts of general jurisdiction. The submission of the constitutional complaint made it possible to identify a structural deficiency in the legislation.

The Strasbourg Court agreed with the reasoning of the Constitutional Court of Lithuania and concluded that the courts of general jurisdiction had violated the applicant's right of access to a court.

Another example of judicial dialogue between national and supranational systems would be the case of *Misiūnas v. Lithuania*.¹⁸⁹ Judge Misiūnas was appointed in 2015, but dismissed in 2016 due to his transfer to the position of minister. After completing his service, he had the right to return to the judicial position without a competition, as provided for by law. However, the President of the Republic of Lithuania refused his reinstatement and refused to issue an official decree. As a result, the applicant did not have a formal decision that could be challenged in court.

The case law of the Constitutional Court and the legal positions at that time determined the limits within which the domestic courts acted. And domestic courts repeatedly cited the judgment of the Constitutional Court of 13 May 2010, which established that:

- the President, the Seimas and the Government have special constitutional powers in the sphere of state power;
- the courts cannot go beyond these powers and cannot oblige the President to adopt a certain act related to the exercise of state power;
- as a result, the failure of the President to appoint a judge cannot be the subject of judicial review.

¹⁸⁸ “The Constitutional Court’s decision (No KT45-A-N3/2021) of 19 March 2021.” the Constitutional Court of the Republic of Lithuania, accessed 7 February 2026, <https://lrkt.lt/en/court-acts/search/170/ta2415/content>.

¹⁸⁹ “CASE OF MISIŪNAS v. LITHUANIA,” HUDOC, accessed 14 March 2026, <https://hudoc.echr.coe.int/fre?i=001-245087>.

So in addition to that, courts also refused to make a request to the Constitutional Court. The applicant repeatedly asked the courts to refer the issue to the Constitutional Court regarding the legislative loophole that deprives the possibility of appealing the “unofficial” decision of the President. But the Supreme Court refused, referring to the logic of the Constitutional Court: the issue of appointing judges is the sphere of the President’s constitutional discretion; the court cannot review it on its merits; respectively, there was no reason to apply to the Constitutional Court with a request about the constitutionality of the law.

Thus, it turned out that the practice of the Constitutional Court restricted the applicant’s access to both ordinary courts and the Constitutional Court itself. The Constitutional Court formulated the principle that the court cannot interfere with the prerogatives of the head of state.

The ECHR generally agreed with the position of the Constitutional Court of Lithuania that the President has a constitutional prerogative. However, the ECHR critically assessed the consequences of the practice of the Constitutional Court, which led to the *de facto* lack of access to justice.

The problem was that, based on the decisions of the Constitutional Court, the national courts refused to accept the claim and consider the applicant’s case. Due to the practice of the Constitutional Court, there was a “legal lacuna”: the applicant could not file a constitutional complaint, because the President had not issued a formal decision. Thus, neither the general courts nor the Constitutional Court could (or would) not consider the case.

The ECHR emphasized that a constitutional prerogative cannot create absolute immunity from judicial review. Even if the area is constitutional, even if the President has discretion, there must still be a minimum procedure that allows for effective challenge of violations of rights. In conclusion, the ECHR recognized a violation of Article 6 of the ECHR due to the consequences created by the practice of the Constitutional Court.

The analysed cases illustrate the role of constitutional adjudication in the interaction between the national system of constitutional justice and international human rights protection mechanism. In *Ruminas v. Lithuania*, the decision of the Constitutional Court contributed to strengthening procedural guarantees of the right of access to a court, which was subsequently supported by the European Court of Human Rights. It demonstrated how constitutional review may function as an effective domestic mechanism for constitutional rights protection. At the same time, the case of *Misiūnas v. Lithuania* reveals that certain constitutional doctrines and interpretations may, in practice, create limitations in access to judicial protection. In such circumstances, the review carried out by the ECHR performs a corrective function to identify structural deficiencies in the national legal framework. An individual

constitutional complaint therefore plays an important role in enabling individuals to challenge legislative gaps or constitutional obstacles directly before the Constitutional Court. It potentially prevents situations in which access to justice becomes effectively unavailable.

CONCLUSION

Summarizing the analysis, we can state the following. The establishment of the institution of individual constitutional complaint in the Republic of Lithuania was a long and complex process. Its implementation was accompanied by political resistance, the consequences of the financial and economic crisis, repeated unsuccessful legislative attempts and long postponement of constitutional amendments. As indirect complaints existed, courts of general jurisdiction frequently applied to the Constitutional Court on their own initiative in order to safeguard the rights of individuals whose cases were pending before them. However, as a result of almost twenty years of discussions, a model was formed that opened direct access to the constitutional jurisdiction for individuals and legal entities and became an important component of the national system of constitutional rights protection.

Despite the relative "youth" of this institution, the practice of its application testifies to its viability and effectiveness. The constitutional filters introduced by the legislator allowed to regulate the workload on the Constitutional Court. And as a result, the Court has the opportunity to focus on considering those complaints that truly raise constitutionally significant issues. It has a positive impact on the quality and soundness of its decisions.

An important feature of the Lithuanian model is the consistency and stability of the legal positions of the Constitutional Court. An analysis of the decisions adopted as a result of the consideration of individual constitutional complaints demonstrates that the Court develops a predictable and reasoned practice based on the principles of the rule of law, proportionality and the reality of judicial protection. This indicates that the individual constitutional complaint in Lithuania is not a purely formal procedural right enshrined at the normative level, but acts as a real and effective mechanism for protecting violated constitutional rights.

The diversity of issues raised in individual constitutional complaints deserves special attention. Although a significant part of the cases concern administrative and civil law, the directly challenged provisions are different in their content and nature. This indicates the absence of a narrow range of "chronic" problems that would be repeated from year to year, and the ability of the institution of individual constitutional complaint to respond to a wide range of constitutional conflicts. Accordingly, the decisions of the Constitutional Court adopted on such complaints have the potential to introduce specific, but at the same time systemically significant changes to the legislation.

Thus, the key conclusion is that the individual constitutional complaint in Lithuania functions as an effective instrument for protecting violated constitutional rights. It complements the system of judicial protection, ensures direct access of an individual to a constitutional jurisdiction and contributes to improving the quality of legislative regulation. The Lithuanian experience convincingly demonstrates that even in the conditions of late implementation, this institution can quickly acquire real practical significance and become an important element of the constitutional control mechanism.

3.3. Individual constitutional complaint in the Federal Republic of Germany.

3.3.1. Historical background of the individual constitutional complaint in the Federal Republic of Germany. Legal basis.

The history of the development and establishment of an individual constitutional complaint (*Verfassungsbeschwerde*) in Germany differs significantly from the ways in which this institution was formed in Ukraine and Lithuania. The key point is that Germany was one of the founding states of this mechanism as a way for constitutional rights protection. The development of this institution dates back to the 19th century and has a long, complex and fragmented history.

At the beginning, it is necessary to emphasize two fundamental features that determined the specificity of the German model. First, in the early stages there was no fixed and exhaustive list of fundamental rights that could be under the scope of protection through a constitutional complaint. Second, given the federal structure, the institution of an individual constitutional complaint was not introduced simultaneously throughout the entire territory of the state, but was formed gradually at the level of individual states.

The first prototype of the modern *Verfassungsbeschwerde* appeared in Bavaria. The Bavarian Constitution of May 26, 1818 laid the initial elements of constitutional justice, even though, at that time, it did not yet create an independent judicial mechanism. According to Title VII § 21 of the Constitution, every individual citizen of the state, as well as every community, could file complaints about violations of constitutional rights with the Estates Assembly. If both chambers of the assembly recognized the complaint as justified, it was forwarded to the king. Although the final decision remained with the monarch, it was here that the right of the individual to initiate constitutional control was first institutionalized.¹⁹⁰

In addition, there was a mechanism for estate complaints (*Ständebeschwerde*), aimed at protecting constitutional rights. According to Title X § 5 of the Constitution, the estates could complain to the king about violations of the Constitution by royal ministries or other state bodies. The king had the right either to resolve the issue himself or to entrust its consideration to the Council of State or the highest court. A similar procedure applied to civil complaints submitted by estate bodies.¹⁹¹

¹⁹⁰ "Geschichte [History]," Bayerischer Verfassungsgeschichtshof, accessed 10 February 2026, <https://www.bayern.verfassungsgeschichtshof.de/bayverfgh/geschichte/geschichte.php>.

¹⁹¹ *Ibid.*

Thus, already at the beginning of the 19th century, a dual system of complaints had been formed in Bavaria: individual and class-based. This can be considered the historical basis of the modern constitutional complaint.

The next stage of development is associated with the activities of the Frankfurt National Assembly, which first met on May 18, 1848 in St. Paul's Church. It was they who initiated an attempt to create a pan-German system for the protection of fundamental rights. On December 21, 1848, the Law on the Fundamental Rights of the German People was adopted, which became an integral part of the Imperial Constitution. The law acquired direct binding force for the Empire and all German states. At that time it was an unprecedented step for Europe. Despite the fact that after the failure of the Imperial Constitution in 1851, this act was repealed by a decision of the Bundestag of the German Confederation, the importance of the Frankfurt Assembly cannot be diminished by this.¹⁹² After all, for the first time in German history, an attempt was made to enshrine fundamental rights as directly applicable law and to ensure their protection through constitutional complaints to the state court.

Unfortunately, Germany then moved away from the concept of a “fixed list of fundamental (constitutional) rights” as such for several decades. For example, the Imperial Constitution of 1871 (Bismarckian) did not contain a catalogue of fundamental rights at all, which indicated a lack of political readiness to implement the idea of their protection, and especially to grant this right directly to individuals.¹⁹³

A new stage in the development of the institution of individual constitutional complaint is again associated with Bavaria, namely with the Bavarian Constitution of 1919 (Bamberg Constitution). For the first time, the existence of the State Court (*Staatsgerichtshof*) as a body of constitutional justice was directly established. Its competence, in addition to constitutional disputes between state bodies, also included the authority to consider constitutional complaints. The right to file a constitutional complaint was held by individuals and legal entities located in Bavaria, if they believed that the activities of the authorities had caused them harm in violation of the Constitution. At the same time, this model had significant limitations. In particular, in the scope of such a constitutional complaint could not be final court decisions (since interference with justice was considered inadmissible) nor acts of the legislative branch (basically laws).¹⁹⁴ That is, only individual

¹⁹² Jurgen Harbich, "Die Verfassungsbeschwerde zum Bundesverfassungsgericht [The constitutional complaint to the Federal Constitutional Court]," *Studia Iuridica Auctoritate Universitatis Pecs Publicata* 135 (2005), 32, <https://heinonline.org/HOL/Page?handle=hein.journals/studial135&id=32>.

¹⁹³ *Ibid.*, 32-33.

¹⁹⁴ Bayerischer Verfassungsgerichtshof, *supra note*.

administrative acts could be challenged.¹⁹⁵ And, unfortunately, this institution would later be abolished with the coming to power of the National Socialists. The experience of the Weimar Republic and the period of the National Socialist dictatorship led to a profound rethinking of the role of fundamental rights and the mechanisms for their protection after World War II.¹⁹⁶ Thus, in 1946, the institution of constitutional complaint was restored in the Constitution of the Free State of Bavaria, as well as in the Constitution of the State of Hesse, where the *Grundrechtsklage* (constitutional rights complaint) was introduced.¹⁹⁷ Article 131 of the Hesse Constitution provided for the possibility of appealing to the State Court in cases concerning the constitutionality of laws, violations of fundamental rights and constitutional disputes.¹⁹⁸

All of the above-mentioned history and evolution of individual constitutional complaints in Germany ultimately led to the establishment of the institution that we are dealing with nowadays.

During the preparation of the Basic Law of the Federal Republic of Germany, at the end of the first half of the 20th century, the issue of introducing a constitutional complaint was actively discussed in the Parliamentary Council.¹⁹⁹ Although the relevant provisions were contained in the Chiemsee Project, they were not immediately included in the text of the Constitution.

The Basic Law of the Federal Republic of Germany of May 23, 1949 declared the fundamental rights directly binding on the legislative, executive and judicial branches, and also created the Federal Constitutional Court as the guarantor of their observance.²⁰⁰

And only with the adoption of the Federal Law on the Federal Constitutional Court of March 12, 1951, the institution of an individual constitutional complaint was fully established.²⁰¹ Its subject matter became fundamental rights (Articles 1–17 of the Basic Law) and rights equivalent to them (Articles 33, 38, 101, 103, 104).

¹⁹⁵ Venice Commission, Opinion CDL-JU(2001)22, *supra note*, 18.

¹⁹⁶ Harbich, *supra note*, 33.

¹⁹⁷ Bayerischer Verfassungsgerichtshof, *supra note*.

¹⁹⁸ “Verfassung des Landes Hessen vom 1. Dezember 1946 [Constitution of the State of Hesse of December 1, 1946],” Land Hessen, accessed 10 February 2026, <https://starweb.hessen.de//cache/GVBL/1946/00034.pdf#page=10>.

¹⁹⁹ “Chiemseer Entwurf eines Grundgesetzes für einen Bund deutscher Länder (1948) [Chiemsee Draft of a Basic Law for a Federation of German States (1948)],” Verfassung der Bundesrepublik Deutschland, accessed 10 February 2026, <https://www.verfassungen.de/de49/chiemseerentwurf48-i.htm>.

²⁰⁰ “Milestones in the history of the Federal Constitutional Court,” Bundesverfassungsgericht, accessed 10 February 2026, https://www.bundesverfassungsgericht.de/EN/TheFederalConstitutionalCourt/History/history_node.html.

Federal Ministry of Justice and Consumer Protection, “Basic Law for the Federal Republic of Germany,” *supra note*.

²⁰¹ Federal Ministry of Justice and Consumer Protection, “Act on the Federal Constitutional Court,” *supra note*.

The final consolidation of the institution of an individual constitutional complaint took place in 1969 by amending Article 93 of the German Constitution, which gave the constitutional complaint a full status.²⁰²

Within the framework of this study, the institution of an individual constitutional complaint in Germany is analyzed at the federal level, as a legal institution of the entire country as a whole. Nowadays, the main regulatory acts that determine the procedure for filing and considering an individual constitutional complaint are:

1) First of all, the Basic Law (*Grundgesetz*), namely, the Constitution of the Federal Republic of Germany. It establishes the basic constitutional principles of protecting rights.

2) The Federal Constitutional Court Act (*Bundesverfassungsgerichtsgesetz, BVerfGG*). It lays down the organization and procedures of the Federal Constitutional Court.

3) The Rules of Procedure of the Federal Constitutional Court, which regulate the internal organization of the Court's activities and establish auxiliary procedural provisions.

The totality of these acts forms the regulatory framework for the functioning of an individual constitutional complaint at the federal level.

3.3.2. Subject matter of individual constitutional complaint under German constitutional law.

As has already been observed in Chapter 2, Germany has established a model of full constitutional complaint, in contrast to Ukraine and Lithuania, where the institution of a normative complaint operates. The German model, in a broad sense, enables an individual to challenge not only the constitutionality of law or subordinate legislation, but also judicial decisions and administrative acts of public authorities. Hence, the scope of constitutional review within the framework of a full individual constitutional complaint is significantly wider.

To begin with, it is worth noting that not every constitutional provision can be addressed in an individual constitutional complaint. In accordance with Article 93, paragraph 1, point 4a of the Basic Law and Section 13, No. 8a, Sections 90 et seq. of the Federal Constitutional Court Act, the Federal Constitutional Court reviews constitutional complaints regarding a violation by a public authority of one of person's fundamental rights (*Grundrechte*, as referred to in Articles 1 to 17 of the

²⁰² Harbich, *supra note*, 34.

Venice Commission, Opinion CDL-JU(2001)22, *supra note*, 18.

Basic Law) or of one of the rights equivalent to fundamental rights as provided for in Articles 20, Paragraph 4, 33, 38, 101, 103 and 104 of the Basic Law.²⁰³

Such rights include, in particular:

- the right to resistance (Article 20, paragraph 4),
- the right to equal access to public service (Article 33),
- electoral rights (Article 38),
- the right to be heard in court (Article 103, paragraph 1),
- guarantees of freedom and personal integrity (Article 104).

Therefore, the matter of protection within the framework of a constitutional complaint is a closed list of constitutional rights and freedoms that are directly defined in the Basic Law.

Following that, the subject of a constitutional complaint in Germany is a very broad one, and could be any act of public authority (*der Akt der öffentlichen Gewalt*). It may be an action or inaction of the legislative, executive or judicial authorities. Consequently, not only a law or a subordinate regulatory legal act, but also individual administrative acts, court decisions and other forms of exercise of public authority power (that directly concern a specific person) may be questioned regarding their compliance with the Constitution.

For example, the subject of an individual constitutional complaint may be:

- an order prohibiting an assembly that may violate freedom of assembly under Article 8 of the Basic Law;²⁰⁴
- disciplinary decision regarding a civil servant;²⁰⁵

²⁰³ Federal Ministry of Justice and Consumer Protection, “Basic Law for the Federal Republic of Germany,” *supra* note.

²⁰⁴ The case concerned the so called Brokdorf-Beschluss decision (BVerfGE 69, 315; Judgment of 14.05.1985).

The Court was hearing a case concerning individual constitutional complaints concerning the ban on protests that were to take place on 28 February 1981. Before the authorities had been informed of the protests, the responsible head of the district authority had ordered a general and immediate ban on protests on the construction site and in the surrounding area for the period from 27 February to 1 March 1981. The applicants challenged the ban and its immediate implementation, as well as the decision of the Higher Administrative Court upholding that ban.

The Federal Constitutional Court ruled that the Higher Administrative Court had no right to hear the appeal because, under the procedural law in force at the time, public authorities were not entitled to challenge the decision of the administrative court of first instance. Despite this clear legal basis, the Higher Administrative Court found the complaint admissible and thereby exceeded the limits of judicial development of law arising from the principle of the rule of law. The protests in Brockdorf were considered to be less than peaceful. Although the majority of the protesters wanted to assemble peacefully, it could not be ruled out from the outset that some participants would resort to violence. The Federal Constitutional Court ruled that a ban on protests could not be justified on this basis alone. Freedom of assembly must be guaranteed for the majority of peaceful protesters.

See also: “Abstract of the order of 14 May 1985,” Bundesverfassungsgericht, accessed 11 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/1985/05/rs19850514_1bvr023381en.html.

²⁰⁵ In the case BVerfGE 39, 334 (Judgment 22 May 1975) the refusal to accept a candidate for civil service was challenged on the grounds of doubts as to his loyalty to a free democratic constitutional order (the so-called Radikalenerlass practice). The applicant claimed that such a decision violated his right to equal access to the public service under Art. 33(2) of the Basic Law.

– administrative act – approval of the framework mining plan (*Rahmenbetriebsplan*).²⁰⁶

A constitutional complaint may also be filed against a court decision refusing to allow an appeal or classification review, if the applicant believes that such a decision violates his right to, for instance, effective judicial protection or the right to be heard (Article 103, paragraph 1 of the Basic Law).²⁰⁷ The application must clearly define what exactly is the matter of the complaint: the substantive outcome of the case review or the violation of the procedure for its adoption.²⁰⁸ It is important, as the Federal Constitutional Court does not act as a “fourth instance” (*keine Superrevisionsinstanz*) and only reviews constitutionality, not the correct application of the law as such.

Another important criterion emphasized in German doctrine is that only acts of German public authorities may be challenged in a constitutional complaint. This means that measures adopted by bodies, institutions or other entities, including the European Union, cannot be the direct matter of an individual constitutional complaint.²⁰⁹ However, such acts may be considered by the Federal Constitutional Court as a preliminary issue in a complaint if they affect the legal position of an individual due to the actions of German authorities. For example, if an EU act was the legal basis for the actions of a German authority or if it gave rise to obligations for action or inaction on the part of German authorities within the scope of their responsibility for integration (*Integrationsverantwortung*).²¹⁰

The Federal Constitutional Court recognised that the State was entitled to require civil servants to be constitutionally loyal, but that the decision to refuse had to be based on specific facts and had to comply with the principle of proportionality; automatic or formal refusals were not permissible.

See also: “Beschluss vom 22.05.1975 - 2 BvL 13/73 [Decision of 22 May 1975 - 2 BvL 13/73],” openJur, accessed 11 February 2026, <https://openjur.de/u/174502.html>.

²⁰⁶ In case 1 BvR 3139/08 (Judgment 17 December 2013), the Federal Constitutional Court considered a constitutional complaint by a landowner who challenged the approval of the plan to expand the Garzweiler coal mine, alleging a violation of his right to property (Article 14 of the Basic Law).

The complaint was directed against a number of specific individual acts, in particular:

- the decision approving the framework mining plan (Zulassung des Rahmenbetriebsplans) by the mining supervisory authority;
- the decisions of the administrative courts which upheld the plan;
- the final decision of the Federal Administrative Court (Bundesverwaltungsgericht) which dismissed the applicant’s claim.

The Court dismissed the complaint, finding that the planning decision did not infringe constitutional guarantees and met the requirements of proportionality.

See also: “Judgment of 17 December 2013,” Bundesverfassungsgericht, accessed 11 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2013/12/rs20131217_1bvr313908en.html.

²⁰⁷ Lisa Hahn et al., *Grundrechte: Klausur- und Examenswissen [Fundamental rights: Knowledge for exams and tests]*, Berlin/Boston: Walter de Gruyter GmbH (2022), 125.

²⁰⁸ *Ibid.*, 126.

²⁰⁹ *Ibid.*, 127.

²¹⁰ It concerns the decision in case 2 BvR 859/15 of 5 May 2020.

The Court considered constitutional complaints from citizens against the participation of German authorities (Bundestag, federal government and Bundesbank) in the implementation of the European Central Bank’s government bond purchase

Despite the rather broad subject matter of a constitutional complaint in Germany, the legislation excludes the possibility of filing an abstract complaint (*actio popularis*). An individual constitutional complaint cannot be a means of general control over the constitutionality of legislation in an abstract interest. Moreover, according to § 90 para. 1 of the Federal Constitutional Court Act, a complaint is admissible only if there is an individual, concrete and actual interference with the applicant's legal sphere.²¹¹ This means that a hypothetical or potential violation in the future, as well as the protection of third party rights in general, cannot be grounds for the admissibility of a constitutional complaint.

3.3.3. Persons entitled to file an individual constitutional complaint under German constitutional law.

The answer to the question regarding the scope of persons who hold the right to file an individual constitutional complaint in the Federal Republic of Germany is formulated in the legislation quite briefly: the right to file a constitutional complaint is granted to “any person who believes that the public authorities of Germany have violated their fundamental rights.”²¹² In terms of its wording, this norm is similar to the corresponding provisions of the legislation of Ukraine and Lithuania. At the same time, the practical application of the institution of a constitutional complaint in Germany reveals a number of significant features that distinguish the German model from similar ones in other countries.

3.3.3.1. Natural persons.

In general terms, the complainants are individuals and legal entities. Among the common characteristics inherent in all individuals entitled to file a constitutional complaint, it is worth noting that the contested act of state power must violate his fundamental rights personally, i.e. not on

programme. The Federal Constitutional Court concluded that the decision of the Court of Justice of the EU, which declared the programme lawful, was methodologically unfounded (*ultra vires*) and that the German authorities had breached their obligation to verify whether the principle of proportionality had been observed. The Court ordered the federal authorities to ensure that the proportionality of the programme was properly justified, otherwise the Bundesbank could not participate in its implementation.

The Court noted that the subject of a constitutional complaint may be not only an action, but also an inaction of the Bundestag and the federal government, if it consists in a failure to fulfill their duty to monitor compliance with the limits of the powers transferred to the EU, and EU acts may be reviewed by the Federal Constitutional Court as a preliminary issue when they constitute the basis for action by German authorities or give rise to their constitutional duty to react.

See also: “Judgment of 5 May 2020,” Bundesverfassungsgericht, accessed 11 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2020/05/rs20200505_2bvr085915en.html.

²¹¹ Hahn et al., *supra note*, 127.

²¹² Federal Ministry of Justice and Consumer Protection, “Basic Law for the Federal Republic of Germany,” *supra note*.

behalf of another person; directly, without the need to commit additional intermediate acts; and also actual, i.e. the violation has already occurred, is ongoing or is imminent.

At the same time, even at the level of individuals, there can be traced fundamental differences between the German approach and the approaches characteristic of Ukraine and Lithuania. In traditional German doctrine, the concept of “any person” has long been interpreted as covering exclusively citizens of the Federal Republic of Germany.²¹³ Therefore, it was presumed that foreigners and stateless persons do not have the right to file a constitutional complaint with the Federal Constitutional Court.

This approach is reflected, in particular, in the works of famous German constitutionalists: Schlaich, Koriath and Manssen.²¹⁴ According to this doctrinal approach, if a natural person is not a German within the meaning of Article 116(1) of the Basic Law, he or she cannot rely on the so-called “German rights” (*Deutschengrundrechte*). These rights include, in particular, freedom of assembly (Article 8 of the Basic Law), freedom of association (Article 9), freedom of movement (Article 11), and freedom to choose an occupation (Article 12).²¹⁵

At the same time, the position of the Federal Constitutional Court is much more restrained and flexible than the classical doctrine. The Court avoids categorical formulations and does not take a strictly exclusive position on the right of foreigners and stateless persons to file a constitutional complaint. On the one hand, the right of such individuals to apply to the Court is not enshrined directly in law, as is the case, for example, in Ukraine. On the other hand, the Federal Constitutional Court recognizes the possibility of their filing constitutional complaints in the event of a violation of a certain range of rights, primarily those that are universal in nature or are equated with fundamental ones.

Indicative in this context is the Court's judgment in case 1 BvR 23, 155/73, which formulated the approach to the scope of rights guaranteed to foreigners during their stay in the territory of the Federal Republic of Germany.²¹⁶ The Court stated that foreigners enjoy all fundamental rights, with the exception of those which the Basic Law expressly reserves for Germans. It was noted that the freedom of movement enshrined in Article 11 of the Basic Law belongs to the so-called *Deutschengrundrechte* and, accordingly, cannot be directly invoked by foreigners. In this regard,

²¹³ “INTERNATIONAL LEGAL TRAINING WORKSHOP CDL-JU (2004)026,” Venice Commission, accessed 13 February 2026, 2, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU\(2004\)026-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU(2004)026-e).

²¹⁴ Hahn et al., *supra* note, 121.

²¹⁵ *Ibid.*

²¹⁶ “BVerfGE 35, 382 - Ausländerausweisung [BVerfGE 35, 382 - Expulsion of foreigners],” University of Bern, accessed 13 February 2026, <https://www.servat.unibe.ch/dfr/bv035382.html>.

constitutional protection in such cases is provided by the application of Article 2(1) of the Basic Law, which guarantees general freedom of action and functions as a “reserve” fundamental right.²¹⁷

This results in situations where the Court analyzes each case individually, and depending on the nature of the violated rights and the contested act, the person may be granted the status of an individual who has the right to file a constitutional complaint or it may be denied. If it is not possible to protect the violated right, due to the fact that the person by the nature of the right cannot have it, the Court may requalify the fundamental rights to others that are equivalent to them, so that the norm corresponds to the circumstances of the case. Differentiation occurs even at the level of whether the foreigner is a citizen of another EU country or a representative of third-country nationals.²¹⁸

A separate scientific and practical debate in German constitutional law is the question of the possibility of filing a constitutional complaint by unborn or deceased persons. As a general rule, a natural person has procedural legal capacity from the moment of birth to the moment of death.²¹⁹ However, in exceptional cases, the Federal Constitutional Court allows for a departure from this principle.

For instance, in the BVerfGE 39 judgment, the Court recognized that a *nasciturus*²²⁰ can enjoy constitutional protection of the right to life under Article 2, paragraph 2, first sentence, of the Basic Law in conjunction with Article 1, paragraph 1, which guarantees human dignity. The Court proceeded from the fact that *werdendes Leben* (the conception of life) is subject to constitutional

²¹⁷ “Während ihres Aufenthalts im Bundesgebiet genießen die Ausländer alle Grundrechte, soweit sie nicht nach dem Grundgesetz Deutschen vorbehalten sind ...[During their stay in the federal territory, foreigners enjoy all fundamental rights, insofar as these are not reserved for Germans under the Basic Law”

“Das Grundrecht aus Art. 2 Abs. 1 GG auf die freie Entfaltung der Persönlichkeit steht als allgemeines Menschenrecht auch Ausländern in der Bundesrepublik zu. Die Beschränkung des Grundrechts der Freizügigkeit auf Deutsche und auf das Bundesgebiet (Art. 11 GG) schließt nicht aus, auf den Aufenthalt von Menschen in der Bundesrepublik auch Art. 2 Abs. 1 GG anzuwenden Der daraus folgende Schutz ist jedoch nur in dem durch Art. 2 Abs. 1 GG gezogenen Rahmen, besonders nur in den Schranken der verfassungsmäßigen Ordnung gewährleistet; zur verfassungsmäßigen Ordnung gehört jede Rechtsnorm, die formell und materiell mit der Verfassung in Einklang steht Der Gesetzgeber ist danach grundsätzlich zu Regelungen über den Aufenthalt und die Ausweisung von Ausländern befugt [The fundamental right under Article 2 Paragraph 1 of the Basic Law to the free development of one's personality, as a general human right, also applies to foreigners in the Federal Republic. The restriction of the fundamental right of freedom of movement to Germans and to the federal territory (Article 11 of the Basic Law) does not preclude the application of Article 2 Paragraph 1 of the Basic Law to the residence of people in the Federal Republic However, the resulting protection is only guaranteed within the framework established by Article 2 Paragraph 1 of the Basic Law, in particular only within the limits of the constitutional order; the constitutional order includes every legal norm that is formally and materially in accordance with the Constitution The legislature is therefore, in principle, authorized to enact regulations concerning the residence and expulsion of foreigners].”

²¹⁸ Prof. Dr. C. Langenfeld, “Die Verfassungsbeschwerde (Prüfungsschritte im Überblick) [The constitutional complaint (overview of the review steps)],” 1, <https://www.uni-goettingen.de/de/document/download/7f19cc03fe274cd73ae8f751e7b1f138.pdf/Schema%20Verfassungsbeschwerde.pdf>

²¹⁹ Hahn et al., *supra note*, 122.

²²⁰ A conceived but not yet born child.

protection, which, in turn, gives rise to a positive obligation of the state to ensure its protection.²²¹ Additionally, there is also a scholar's position that the guarantee of inheritance (Article 14, paragraph 1 the Basic Law) and the protection of the family, in particular of a pregnant woman (Article 6, paragraph 1) can be applied in such cases.²²² At the same time, a final and universal decision of the Court on this issue has not yet been formulated.²²³

As regards deceased persons, the Federal Constitutional Court developed the doctrine of *postmortaler Persönlichkeitsschutz* (posthumous protection of personality) in the Mephisto case. The court held that Articles 1 and 2(1) of the Basic Law afford a deceased person limited protection of his honour, dignity and reputation in the public memory, as these elements are an integral part of the person's life image.²²⁴ This position was confirmed in later decisions, notably in 2007. The deceased are granted posthumous protection of their personal rights in accordance with Article 1(1) of the Basic Law.²²⁵

Yet, a legal conflict arises between the existence of a right to be protected and the absence of its holder. The Federal Constitutional Court consistently refuses to consider such cases for the following reasons:

- only living persons can in fact be holders of this right;
- a constitutional complaint must be filed personally by the person who has suffered a violation;
- and the constitutional process does not allow for procedural succession.

In theory, the only exception could be a case of fundamental constitutional importance, but in practice, no such cases have been recorded so far.

²²¹ “BVerfGE 39, 1 - Schwangerschaftsabbruch I [BVerfGE 39, 1 - Abortion I],” University of Bern, accessed 13 February 2026, <https://www.servat.unibe.ch/dfr/bv039001.html#Rn165>.

²²² Hahn et al., *Ibid.*

²²³ Langenfeld, *supra note*.

²²⁴ “Durch Art. 1, Art. 2 Abs. 1 GG werde dem verstorbenen Gustaf Gründgens in einem gegenständlich beschränkten Umfang ein postmortaler Persönlichkeitsschutz hinsichtlich solcher Nachwirkungen und Ausstrahlungen gewährt, die wie die Ehre und das Ansehen in der Erinnerung der Nachwelt einen von dem Lebensbild des Verstorbenen nicht zu trennenden Wert darstellten [Article 1 and Article 2, paragraph 1 of the Basic Law grant the deceased Gustaf Gründgens post-mortem protection of his personality to a limited extent with regard to such repercussions and effects as honor and reputation in the memory of posterity, which represent a value inseparable from the deceased's life story].”

See also: “BVerfGE 30, 173 - Mephisto,” University of Bern, accessed 13 February 2026, <https://www.servat.unibe.ch/dfr/bv030173.html>.

²²⁵ “Die in Art. 1 Abs. 1 GG aller staatlichen Gewalt auferlegte Verpflichtung, dem Einzelnen Schutz gegen Angriffe auf seine Menschenwürde zu gewähren, endet nicht mit dem Tod. Ein Verstorbener wird allerdings nicht durch das Grundrecht der freien Entfaltung der Persönlichkeit aus Art. 2 Abs. 1 GG geschützt, weil Träger dieses Grundrechts nur lebende Personen sind (vgl. BVerfGE 30, 173 <194>).”

See also: “Beschluss vom 19. Dezember 2007 [Decision of 19 December 2007],” Bundesverfassungsgericht, accessed 13 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2007/12/rk20071219_1bvr153307.html#abs7.

3.3.3.2. Legal entities.

In the context of persons entitled to file a constitutional complaint, it is worth focusing on the legal status of legal entities as well. Article 19(3) of the Basic Law is of key importance in this regard. According to it, fundamental rights also apply to legal persons governed by private law, provided that the relevant rights can be applied to them by their nature. This provision covers both corporate legal entities and unincorporated associations of persons, as well as commercial companies. Legal entities governed by private law registered in other Member States of the European Union enjoy equal constitutional protection under Articles 18 and 26(2) of the TFEU.²²⁶ In parallel, legal entities that do not belong to the European Union are not completely excluded from the circle of complainants, since they can at least rely on procedural guarantees equivalent to fundamental rights, in particular those enshrined in Article 101, paragraph 1, sentence 2 and Article 103, paragraph 1 of the Basic Law.²²⁷

As regards legal entities of public law, the general rule is that they do not have the right to file a constitutional complaint. This approach is based on the so-called *Konfusionsargument*, according to which a legal entity under public law is a representation of state power, and therefore, filing a complaint with the Constitutional Court by it would mean that the state is turning against itself.

However, there are exceptions to this rule as well. Religious communities are recognized as having unlimited legal capacity with respect to fundamental rights. Broadcasting and broadcasting institutions may invoke freedom of speech in accordance with Article 5, paragraph 1, sentence 2 of the Basic Law. Universities are recognized as bearers of freedom of science in accordance with Article 5, paragraph 3, sentence 1. In general, the Court's case-law tends to expand the possibility of these entities invoking other fundamental rights if the relevant right inherently covers the activity they protect.²²⁸

Summarizing the above, it can be concluded that citizens of the Federal Republic of Germany, as well as legal entities under private law registered on its territory, have the undisputed right to file an individual constitutional complaint with the Federal Constitutional Court of Germany. In all other cases, the question of the admissibility of a constitutional complaint depends on the totality

²²⁶ “Die Zulässigkeit der Verfassungsbeschwerde, Art. 93 I Nr. 4a GG, §§ 13 Nr. 8a BVerfGG [The admissibility of the constitutional complaint, Art. 93 I No. 4a GG, §§ 13 No. 8a BVerfGG],” Lecturi, accessed 13 February 2026, <https://www.lecturio.de/mkt/jura-magazin/verfassungsbeschwerde/?utm>.

²²⁷ Hahn et al., *Ibid*.

²²⁸ Lecturi, *supra* note.

of external factors of a particular case, the nature of the violated rights and the legal status of the applicant and is decided by the Court individually in each individual case.

3.3.4. Admissibility criteria: peculiarities of the exhaustion of legal remedies and the deadline in German constitutional law.

At this stage of the research, it is already possible to systematize the main criteria for the admissibility of an individual constitutional complaint in the Federal Republic of Germany. First of all, the individual (or a legal entity) must be the bearer of the relevant fundamental right and allege its possible violation. The violation must affect the applicant personally, directly and actually. The subject matter of a constitutional complaint can be any act of public authority in Germany (legislative, executive or judicial act), and under certain conditions also acts of the institutions of the European Union, if they affect the sphere of protection of fundamental rights within the framework of the German.

In addition to the above-mentioned prerequisites, two more admissibility criteria are of particular importance. These are the compliance with the established deadline for filing a complaint and the obligation to first exhaust all available legal remedies. These requirements ensure the procedural discipline of constitutional proceedings and define a constitutional complaint as a subsidiary, rather than a primary, means of protection of fundamental rights.

3.3.4.1. The exhaustion of legal remedies.

According to Section 90 (2) of the Federal Constitutional Court Act, a constitutional complaint may be filed only after all available legal remedies have been exhausted.²²⁹

The Federal Constitutional Court has established the so-called principle of subsidiarity of constitutional complaints (as a mechanism of protection). The principle of subsidiarity requires that the applicant exhaust all available procedural possibilities before lodging a constitutional complaint.²³⁰ A constitutional complaint is therefore inadmissible if legal protection can reasonably be obtained by applying to the courts. This is mainly intended to ensure that, as a result of the preliminary examination by the lower courts, the Federal Constitutional Court has access to carefully examined factual circumstances and is also provided with the perspective of the case, namely, the assessment of the factual and legal situation by the lower courts, which are better acquainted with the

²²⁹ Federal Ministry of Justice and Consumer Protection, BVerfGG, *supra note*.

²³⁰ Hahn et al., *supra note*, 133.

subject matter. The Federal Constitutional Court should not be forced to give a decision on an uncertain basis. Nor should it give a decision until a certain issue has been settled by the courts.²³¹

Thus, the Federal Constitutional Court understands “remedy” within the meaning of Section 90 para 2 BVerfGG as any legally provided opportunity for judicial protection.²³² Such remedies therefore do not include appeals to the Ombudsman, complaints to administrative or disciplinary bodies, labour commissions, etc., as they are not judicial procedures in the constitutional procedural sense.²³³

However, there are exceptions to the general rule that legal remedies must be exhausted. The Court may accept a constitutional complaint for consideration before all legal proceedings have been concluded if:

- the complaint is of general (principle) importance, or
- the applicant would suffer serious and irreparable harm if ordinary legal proceedings were to be pursued first.

This power is discretionary and is exercised solely at the Court's choice. In deciding whether to depart from the general rule, the Court shall take into account the objective of the subsidiarity requirement and the specific circumstances of the case, in particular the urgency of the case, the length of possible proceedings in lower courts and the risk of a significant violation of fundamental rights.²³⁴

A constitutional complaint is of general importance in cases where it raises fundamental constitutional and legal issues that require clarification specifically within the framework of constitutional proceedings, or when its resolution is of importance for a large number of similar

²³¹ “Beschluss vom 16. Juli 2015 [Decision of July 16, 2015],” Bundesverfassungsgericht, accessed 13 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/07/rk20150716_1bvr101413.html#abs4.

²³² Hahn et al., *supra note*, 134.

²³³ “... “Rechtsweg” im Sinne dieser Vorschrift ist jede gesetzlich normierte Möglichkeit der Anrufung eines Gerichts. Gerichte sind die von der gesetzgebenden und vollziehenden Gewalt verschiedenen unabhängigen und nur dem Gesetz unterworfenen staatlichen Organe der rechtsprechenden Gewalt. Die Beschwerdemöglichkeit im Sinne des § 9 Abs. 2 Satz 3 G 10 gehört nicht zum Rechtsweg im Sinne des § 90 Abs. 2 Satz 1 BVerfGG, weil sie keinen Weg zu einem unabhängigen Gericht eröffnet. Die Kommission ist ein Kontrollorgan eigener Art außerhalb der rechtsprechenden Gewalt, das als Ersatz gerade für den fehlenden gerichtlichen Rechtsschutz dient [... “Legal recourse” within the meaning of this provision is any legally regulated possibility of appealing to a court. Courts are independent state organs of the judicial branch, separate from the legislative and executive branches and subject only to the law. The possibility of lodging a complaint within the meaning of Section 9 Paragraph 2 Sentence 3 of the G 10 Act does not constitute legal recourse within the meaning of Section 90 Paragraph 2 Sentence 1 of the Federal Constitutional Court Act, because it does not provide access to an independent court. The Commission is a unique type of oversight body outside the judicial branch, serving as a substitute precisely for the lack of judicial protection]”.

See also: “BVerfGE 67, 157 - G 10,” University of Bern, accessed 13 February 2026, <https://www.servat.unibe.ch/dfr/bv067157.html>.

²³⁴ Hahn et al., *supra note*, 135.

cases.²³⁵ At the same time, a precondition for the application of this exception is the absence of the need for additional establishment of factual circumstances or complex proof, which falls within the competence of general courts.²³⁶ Examples of issues of general importance may be cases concerning tax legislation²³⁷ or the legal limits of the state monopoly in the provision of market services.²³⁸

Serious and irreparable harm within the meaning of Section 90 para 2 sentence 2 BVerfGG occurs when there is a risk of a particularly intense and irreversible violation of fundamental rights.²³⁹ In assessing such a risk, account may be taken, in particular, of the age of the applicant, the expected duration of the legal proceedings, and financial or other circumstances that may lead to unavoidable negative consequences.²⁴⁰

²³⁵ “Beschluss vom 9. März 2018 [Decision of March 9, 2018],” Bundesverfassungsgericht, accessed 13 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2018/03/rk20180309_2bvr017418.html#abs15.

²³⁶ Hahn et al., *supra note*, 135.

²³⁷ “... Zwar hat die Beschwerdeführerin den Rechtsweg noch nicht erschöpft; aber die Verfassungsbeschwerde ist von allgemeiner Bedeutung. § 3 KiStO wirft grundsätzliche verfassungsrechtliche Fragen auf; auch schafft die zu erwartende Entscheidung über den Einzelfall hinaus Klarheit über die Rechtslage in einer Vielzahl gleichgelagerter Fälle und über ähnliche Bestimmungen in Kirchensteuergesetzen anderer deutscher Länder. Die Voraussetzungen des § 90 Abs. 2 Satz 2 BVerfGG liegen daher vor [...Although the complainant has not yet exhausted all legal remedies, the constitutional complaint is of general importance. Section 3 of the Church Tax Ordinance raises fundamental constitutional questions; moreover, the anticipated decision will clarify the legal situation in numerous similar cases and similar provisions in church tax laws of other German states, extending beyond the individual case. The requirements of Section 90, Paragraph 2, Sentence 2 of the Federal Constitutional Court Act are therefore met]”.

See also: “BVerfGE 19, 268 - Kirchenlohnsteuer II [BVerfGE 19, 268 - Church Wage Tax II],” University of Bern, accessed 13 February 2026, <https://www.servat.unibe.ch/dfr/bv019268.html>.

²³⁸ “Die Verfassungsbeschwerde ist von allgemeiner Bedeutung, weil sie die Klärung grundsätzlicher verfassungsrechtlicher Fragen erwarten lässt und über den Fall der Beschwerdeführer hinaus zahlreiche gleich gelagerte Fälle praktisch mitentschieden werden. Sie hat Bedeutung auch für diejenigen Unternehmen, die bereit und auf Grund ihrer organisatorischen und finanziellen Voraussetzungen in der Lage sind, einen Teil des Briefversandes zu übernehmen [The constitutional complaint is of general importance because it is expected to clarify fundamental constitutional questions and will effectively decide numerous similar cases beyond the specific case of the complainants. It is also significant for those companies that are willing and able, based on their organizational and financial resources, to take over a portion of mail delivery]”.

See also: “Beschluss vom 07.10.2003 - 1 BvR 1712/01 [Decision of 7 October 2003 - 1 BvR 1712/01],” openJur, accessed 13 February 2026, <https://openjur.de/u/190343.html>.

²³⁹ “Entstünden den Beschwerdeführern - wie im vorliegenden Fall - durch die Verweisung auf den Rechtsweg schwere und unabwendbare Nachteile, so steht der Grundsatz der Rechtswegerschöpfung der Verfassungsbeschwerde einer Entscheidung nicht entgegen (§ 90 Abs. 2 Satz 2 BVerfGG). Wären die Beschwerdeführer gezwungen, das gesamte fachgerichtliche Verfahren zu durchlaufen, so bedeutete dies eine erhebliche zeitliche Belastung, die im Hinblick auf das Lebensalter der Beschwerdeführer und der Bedeutung der verfassungsrechtlichen Rügen unzumutbar erscheint [If, as in the present case, the complainants would suffer serious and unavoidable disadvantages as a result of being referred to the lower courts, the principle of exhausting all legal remedies does not preclude a decision on the constitutional complaint (§ 90 para. 2 sentence 2 BVerfGG). If the complainants were forced to go through the entire lower court procedure, this would entail a considerable time burden, which appears unreasonable in view of the complainants' age and the significance of the constitutional complaints]”.

See also: “Beschluss vom 28. Juni 2004 [Decision of June 28, 2004],” Bundesverfassungsgericht, accessed 13 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2004/06/rk20040628_2bvr137901.html#abs34.

²⁴⁰ Hahn et al., *supra note*, 136.

The principle of subsidiarity thus determines the place of the constitutional complaint in the system of judicial protection as an exceptional means of constitutional control, which is applied only when other procedural mechanisms do not ensure the effective restoration or protection of fundamental rights.

3.3.4.2. The deadline for submission.

According to Section 93 of the Federal Constitutional Court Act, a constitutional complaint must be filed within one month.²⁴¹ The calculation of this period depends on the nature of the act challenged and the procedural rules applicable to the relevant proceedings. The period may start to run from the official service of the decision, its announcement or even the informal notification of the applicant.

If the time limit has been missed through no fault of the applicant, the law provides for the possibility of reinstatement in the previous procedural position, provided that an appropriate application is submitted. At the same time, a request for renewal of the time limit is inadmissible if it is filed later than one year from the date of its expiry. In addition, a special rule is established for cases where the constitutional complaint is directed against a law or other act of public authority for which no prior judicial protection is provided. In such situations, the complaint may be filed within one year from the date of entry into force of the law or the issuance of the relevant act.

Compared to other states, in particular Ukraine (three months) and Lithuania (four months), the German time limit is significantly shorter. In the practical environment, the position has been repeatedly expressed that a one-month time limit can be difficult to comply with, given the need for thorough preparation of the argument, formulation of constitutional and legal arguments and compliance with strict procedural requirements for the form and content of the complaint.²⁴² At the same time, the establishment of such a time limit has a systemic justification. First, an individual constitutional complaint in Germany is an extraordinary and subsidiary mechanism of protection, and not an additional instance of reviewing the case on the merits. Second, a short time limit contributes to ensuring the principle of legal certainty. It makes it impossible to maintain uncertainty regarding the finality of court decisions and the stability of legal relations for a long time. Third, time limits perform the function of procedural discipline and prevent abuse of the right to appeal to the Federal

²⁴¹ Federal Ministry of Justice and Consumer Protection, BVerfGG, *supra note*.

²⁴² “Die Frist für die Verfassungsbeschwerde [The deadline for the constitutional complaint],” Anwalt.de, accessed 13 February 2026, <https://www.anwalt.de/rechtstipps/die-frist-fuer-die-verfassungsbeschwerde-239188.html>.

Constitutional Court.²⁴³ Finally, the promptness of filing a complaint allows the Court to consider the issue of constitutionality in connection with current legal situations, preventing the transformation of constitutional proceedings into a mechanism for reviewing long-term disputes.

Therefore, the short deadline for filing a constitutional complaint is a deliberate legislative decision aimed at maintaining a balance between the effectiveness of constitutional protection of fundamental rights and the stability of the legal order.

3.3.5. Analysis of selected decisions of the Federal Constitutional Court of the Federal Republic of Germany adopted based on the constitutional complaint.

On 28 September 2026, the Federal Constitutional Court will celebrate its 75th anniversary.²⁴⁴ This continuous period of activity is one of the longest among the bodies of constitutional justice in Europe. During this period, hundreds of thousands of cases have been heard by the Court, the vast majority of which were individual constitutional complaints. This institution has become the central mechanism for the protection of fundamental rights in the Federal Republic of Germany and has formed the core of the Court's practice as a "fundamental rights court".

Statistics from recent years confirm the key role of individual constitutional complaints in the Court's work. Over the past decade, the number of new cases has fluctuated between approximately 4,500 and 6,000 each year. In 2024, the Court received 4,640 new cases, of which 4,436 were constitutional complaints.²⁴⁵

At the same time, the success rate of constitutional complaints remains extremely low: around 1.5% of the total number of complaints filed end in a positive decision for the applicant.²⁴⁶ If we compare this figure with the total number of complaints filed, we are talking about approximately 60-70 cases per year out of almost five thousand.

Such a statistical balance allows us to draw two main conclusions. On the one hand, the individual constitutional complaint is in significant demand among the population and is treated as a real and accessible mechanism for protecting violated constitutional rights. The high number of applications indicates trust in the Court as an institution capable of providing final constitutional

²⁴³ According to para 2 Article 34 of the Federal Constitutional Court Act, a fine in the amount of up to 2600 euro can be imposed if the lodging of a constitutional complaint constitutes an abuse of rights.

²⁴⁴ "Celebrating 75 years of constitutional justice," Bundesverfassungsgericht, accessed 17 February 2026, https://www.bundesverfassungsgericht.de/EN/75_Jahre_BVerfG/75_Jahre_Bundesverfassungsgericht_node.html.

²⁴⁵ Bundesverfassungsgericht, "Jahresbericht 2024 [Annual Report 2024]," 51, https://www.bundesverfassungsgericht.de/SharedDocs/Downloads/EN/Jahresbericht/jahresbericht_2024.html?nn=68700.

²⁴⁶ *Ibid.*

control over the activities of public authorities. On the other hand, the extremely low percentage of satisfied complaints can be interpreted as an indicator that the acts of public authorities in the vast majority of cases comply with constitutional principles or at least do not contain obvious and gross violations of the Basic Law that would require the intervention of the Federal Constitutional Court.

At the same time, such statistics also emphasize the specificity of the German model: the constitutional complaint performs not only a corrective, but also a filtering function. The Court carries out a strict preliminary selection of cases, which allows it to focus on those issues that may have fundamental importance for the development of constitutional doctrine and ensuring the unity of constitutional jurisprudence.

Germany is a particularly valuable subject of study in the context of the institution of an individual constitutional complaint. First, almost seven and a half decades of continuous activity of the Federal Constitutional Court have ensured the formation of a large-scale and internally consistent practice, which allows us to trace the evolution of approaches to the protection of fundamental rights in the long term. Such a long period of functioning of the institution creates a unique basis for analyzing both the quantitative and qualitative characteristics of constitutional control.

Secondly, the specificity of the German model lies in its functioning as a membership of the European Union. Unlike the classical models of purely national constitutional justice, the activities of the Federal Constitutional Court take place in a multi-level legal space, where the norms of the Basic Law interact with the law of the European Union. In certain categories of cases, the Court considers the issue of the correlation of the national constitution and EU acts (for instance, from the standpoint of the doctrines of *ultra vires* and the protection of constitutional identity). It also assesses the limits of the transfer of sovereign powers to the supranational level. Thus, an individual constitutional complaint in Germany can acquire a dimension that goes beyond the boundaries of the domestic legal order.

In view of this, within the framework of this study, it is proposed to focus attention precisely on those decisions of the Federal Constitutional Court in which active interaction with the law and institutions of the European Union is traced. It would demonstrate how the mechanism of individual constitutional complaint functions in the context of a multi-level system of rights protection, as well as how the national constitutional court determines the boundaries of the relationship between the constitutional autonomy of the state and the obligations arising from EU membership.

The choice of this focus is also due to the comparative logic of the study. In the previous chapters, devoted to Ukraine and Lithuania, the main attention was paid to decisions that primarily affect the development of national legal systems. In contrast, the German case-law allows us to

broaden the analytical perspective and demonstrate the functioning of an individual constitutional complaint in a more complex, integrated legal environment, where constitutional control is carried out in constant dialogue with European Union law.

3.3.5.1. Individual constitutional complaint in the context of multi-level fundamental rights protection per the Federal Constitutional Court practice.

In the case of “Right to be Forgotten I”, the Federal Constitutional Court considered the complaint of a person convicted in 1982 of the murder of two people and sentenced to life imprisonment.²⁴⁷ In 1982 and 1983, the magazine *DER SPIEGEL* published a number of articles about the case, mentioning the name of the convicted person, namely, the complainant. In 1999, these materials were placed in an open online archive, accessible without restrictions. After the applicant’s release in 2002, he reached the publisher with a cease-and-desist letter with request to stop distributing the information. The request was ignored, so he, subsequently, appealed to the court to prohibit publications containing his name in connection with the crime. The Federal Court (*Bundesgerichtshof*) dismissed the application, stating that the public interest and freedom of expression outweighed the complainant’s interest in protecting his identity.

The Federal Constitutional Court cancelled this decision, finding that it violated the applicant’s general right to privacy as guaranteed by Articles 2(1) in conjunction with Article 1(1) of the Basic Law. The Court emphasised that even truthful publications could over time constitute a disproportionate interference with an individual’s private life, particularly in cases when the events concerned had occurred decades earlier and where the person concerned was seeking reintegration into society after serving a sentence.

A special feature of this case is its close connection with European Union law. At the time of the adoption of the contested decision, there was in force the Directive 95/46/EC on the protection of personal data, which provided for the obligation of states to ensure the protection of privacy with regard to the processing of personal data and allowed the introduction of the so-called “media privilege” (Article 9). Since 2018, it has been replaced by the General Data Protection Regulation (GDPR), which in Article 17 enshrines the right to erasure (“right to be forgotten”) and in Article 85 also provides for a certain freedom for Member States to regulate the activities of the media.

The Federal Constitutional Court in this case formulated a fundamentally important position on the relationship between the Basic Law and EU law. It noted that national fundamental rights

²⁴⁷ “Order of the First Senate of 6 November 2019 - 1 BvR 16/13,” Bundesverfassungsgericht, accessed 17 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2019/11/rs20191106_1bvr001613en.html.

remain the standard of review of acts of German authorities even in cases where the case falls within the scope of EU law (unless that law fully harmonises the relevant area). Since Directive 95/46/EC provided for a certain legislative freedom for Member States (in particular in the form of the media privilege), the Court concluded that the application of German fundamental rights as a standard of review was justified. At the same time, such rights must be interpreted in the light of the EU Charter of Fundamental Rights and the case-law of the Court of Justice of the EU and the European Court of Human Rights.

The Court emphasized that the general right to personality does not grant an individual an absolute “right to be forgotten” in the strict sense. Personality is formed in the communicative space, and public interest in information may persist. However, a specific balance is needed between the right to respect for private life and freedom of expression. In this case, the time is the main factor: information that was socially significant at the time of publication may lose its relevance over the course of decades, and its constant availability on the Internet may significantly increase interference with private life. The Court also took into account the principle of reintegration of a person after serving a sentence as a component of human dignity and the right to free development of the personality.

All in all, the decision “Right to be Forgotten I” is fundamentally important for a comparative analysis of the institution of an individual constitutional complaint for several reasons. Firstly, it demonstrates how a constitutional complaint can become a tool for shaping standards in the field of digital rights and the protection of personal data in the context of the development of online communication. The Court adapts traditional guarantees of general individual rights to new technological realities, which is also relevant for other legal orders. Secondly, the case illustrates a special model of interaction between national constitutional justice and EU law. The Federal Constitutional Court does not abandon the application of the Basic Law as the main standard of control, and at the same time integrates the provisions of the EU law into the interpretation process. It shows the complex multi-level system of protection of rights within the European Union and emphasizes the proactive role of the national Constitutional Court in this dialogue. Thirdly, in comparison with the practice of Ukraine and Lithuania (where the analysis focused mainly on the impact of constitutional decisions on national legal systems) the German case allows us to demonstrate another dimension, namely, the functioning of an individual constitutional complaint in the context of an integrated European legal order. This decision shows that an individual constitutional complaint can serve not only as a mechanism of internal constitutional control, but also as a tool for determining

the boundaries of interaction between the national and supranational levels of fundamental rights protection.

3.3.5.2. Individual constitutional complaint as a precondition for judicial dialogue between the Federal Constitutional Court and the Court of Justice of the European Union.

In its Order of 14 January 2014, the Federal Constitutional Court considered constitutional complaints relating to the Outright Monetary Transactions (OMT) programme announced by the European Central Bank on 6 September 2012.²⁴⁸ The programme allowed the ECB to unlimitedly purchase government bonds of individual euro area Member States on the secondary market in order to stabilise the financial system.

This case is unique for practice and doctrine for a couple of points.

The first reason is that the constitutional complaints themselves were primarily directed against not action, but the inaction of the German state authorities. The applicants complained that the Federal Government had failed to take appropriate steps to challenge the ECB's decision, had failed to ensure that Germany's financial obligations were limited to the limits set by the European Stability Mechanism Treaty, and that the Bundestag had refused to exercise its budgetary responsibility properly by agreeing to the relevant programmes without sufficient information on the extent of the bond purchases.

The second reason is that the Federal Constitutional Court expressed serious doubts regarding the compatibility of the OMT programme with European Union law. In particular as to whether the ECB was exceeding the powers conferred on it (*ultra vires*); whether monetary policy was being transformed into economic policy; and whether the prohibition of monetary financing of States enshrined in Article 123 TFEU was being infringed.

Consequently, since the resolution of these questions required a formal interpretation of the Union law, the Federal Constitutional Court of Republic of Germany, for the first time in its history, referred the relevant questions to the Court of Justice of the European Union for a preliminary ruling under Article 267 TFEU.

This case is a demonstration that a constitutional complaint can be used not only to protect individual rights in the classical sense, but also to initiate review beyond the delegation of sovereign powers to the EU level. It is a model of cooperative constitutional dialogue. The Federal Constitutional

²⁴⁸ "Order of the Second Senate of 14 January 2014 - 2 BvR 2728/13," Bundesverfassungsgericht, accessed 17 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2014/01/rs20140114_2bvr272813en.html.

Court recognised the priority role of the CJEU in the interpretation of Union law and referred the relevant questions to it for a preliminary ruling, without giving up its own competence to exercise *ultra vires* review and to protect constitutional identity.

On 16 June 2015, the CJEU heard the case *Gauweiler and Others v Deutscher Bundestag*.²⁴⁹ The CJEU concluded that the OMT programme fell within the sphere of monetary policy, which falls within the exclusive competence of the Union in respect of the euro area countries, and did not infringe the prohibition of monetary financing laid down in Article 123 TFEU. The Court therefore did not find the programme to exceed the powers conferred on the ECB.

Based on this preliminary ruling, the Federal Constitutional Court made its final judgment on 21 June 2016.²⁵⁰ The constitutional complaints were only partially admissible, insofar as they concerned a possible violation of the principle of democracy due to the Federal Government's inaction: in particular, the failure to take measures to challenge the ECB's decision on the OMT programme and the failure to fulfil the obligation to protect the budgetary autonomy of the Bundestag. In its reasoning, the Court referred to the principle of democracy enshrined in Articles 20(1) and 20(2) of the Basic Law. It took into account Article 38 (the right of citizens to participate in elections to the Bundestag), which is interpreted as an individual procedural right to demand compliance with the democratic principle and the budgetary responsibility of the Parliament. Article 88 was also invoked, as it allows Germany to participate in the European System of Central Banks, but only within the framework of a mandate aimed at ensuring monetary stability. However, taking into account the interpretation given by the CJEU, the Court held that, under such a restrictive interpretation, the OMT programme did not constitute a manifest and structurally significant excess of powers.

In addition, the Federal Constitutional Court confirmed that it retains the power to exercise *ultra vires* control and to monitor compliance with Germany's constitutional identity.

This case established the model of cooperative constitutionalism: the Federal Constitutional Court accepted the binding interpretation of EU law by the CJEU, but simultaneously reserved ultimate responsibility for the protection of fundamental constitutional principles.

²⁴⁹ "Peter Gauweiler and Others v Deutscher Bundestag. Case C-62/14," EUR-lex, accessed 17 February 2026, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62014CJ0062>.

²⁵⁰ "Judgment of the Second Senate of 21 June 2016 - 2 BvR 2728/13," Federal Constitutional Court, accessed 17 February 2026, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2016/06/rs20160621_2bvr272813en.html.

3.3.5.3. Individual constitutional complaint as a precondition for judicial dialogue between the Federal Constitutional Court and the European Court of Human Rights.

The case of *Görgülü v Germany* is an illustrative example of the interaction between the European Court of Human Rights and the Federal Constitutional Court.²⁵¹

The circumstances of the case were that the applicant was the biological father of a child born out of wedlock in 1999. After the birth, the mother agreed to the adoption and the child lived with a foster family. After paternity of the applicant was established, he initiated a series of proceedings to obtain custody and access rights to the child. But the domestic courts refused him. In a judgment of 26 February 2004, the ECHR found a violation of Article 8 of the Convention.

Nevertheless, the Naumburg Higher Regional Court refused to change the decision, stating that the ECHR judgment was not binding on the national courts in the sense of automatically setting aside final decisions. In response to that the applicant lodged a constitutional complaint.

The Federal Constitutional Court partially accepted the complaint. It found that the contested decision violated the applicant's fundamental right guaranteed by Article 6(2) of the Basic Law (the right of parents to raise their children) in conjunction with Article 20(3) of the Basic Law (the principle of the rule of law and the binding nature of law and the law).

The Court formulated a fundamental position on the status of ECHR judgments in the German legal order. It stated that although the Convention did not have supra-constitutional status and could not automatically prevail over the Basic Law, all public authorities were obliged to take ECHR judgments into account and to remedy the violations found. National courts must interpret domestic law in the light of the Convention and the case-law of the ECHR, provided that this does not conflict with constitutional principles.

In this case, the Federal Constitutional Court concluded that the Higher Regional Court had failed to properly analyse the ECHR judgment and had in fact refused to take it into account when re-examining the case. It was incompatible with constitutional requirements, in particular with the State's obligation to ensure respect for international legal obligations and the effective protection of parental rights.

To this day, this decision is still key to understanding the place of ECHR decisions in the German legal system. Thus, the constitutional complaint became a mechanism for the formation of fundamental doctrine.

²⁵¹ "CASE OF GÖRGÜLÜ v. GERMANY," HUDOC, accessed 17 February 2026, <https://hudoc.echr.coe.int/eng?i=001-61646>.

CONCLUSION

In Germany, a full model of individual constitutional complaint was established, which in European doctrine is considered one of the most effective forms of individual protection of constitutional rights. The Venice Commission in its reports always advocates the implementation of a full model of individual constitutional complaint. Such a model provides for an extremely broad subject of appeal. The applicant may question not only the constitutionality of the law, but also individual acts of public authority, including decisions of executive and judicial authorities. In fact, the actions of all three branches of government can be put under constitutional control, which ensures a comprehensive and maximum protection for individuals.

The many years of operation of this institution in Germany (almost 75 years) have allowed the formation of a stable and consistent practice of its application. Statistical data show that constitutional complaints constitute the main body of work of the Federal Constitutional Court, i.e. about 80% of all proceedings. At the same time, only about 1.5% of complaints end in a positive decision for the applicant. However, such a low percentage of satisfaction does not indicate a formality or ineffectiveness of the mechanism, but rather demonstrates high standards of admissibility and justification of claims. For German citizens, the constitutional complaint remains a reliable and effective tool of protection, which enjoys stable demand and trust.

The integration potential of this mechanism deserves special attention. The individual constitutional complaint organically fits into both the national legal system and the multi-level European legal order. Through it, the Federal Constitutional Court actively interacts with the Court of Justice of the European Union and the European Court of Human Rights, forming the practice of constitutional dialogue. The Court effectively balances between different legal fields. On the one hand, it consistently emphasizes the priority of the Basic Law as the foundation of the national legal order. On the other hand, it simultaneously demonstrates openness to international and European law. This approach allows for an effective balance between the requirements of national constitutional identity and the obligations arising from membership in the EU and the Council of Europe.

In this context, Germany could be a good role model for Ukraine and Lithuania. In both countries, the institutions of constitutional complaint are relatively new and have a narrower scope of appeal. Against the background of Germany, this may seem like a limitation of their potential in the field of comprehensive protection of rights. Despite this, the German experience demonstrates how an individual constitutional complaint can function effectively as a real mechanism for the protection of constitutional rights that is accessible to the individuals. For Ukraine, it is relevant as an example

of combining constitutional control with the processes of European integration and developing mechanisms for interaction with European Union law. For Lithuania, as an EU Member State, is it important as the experience of institutional dialogue with the Court of Justice of the EU and balancing between national constitutional identity and supranational obligations.

Thus, the German model of individual constitutional complaint combines the breadth of the subject of control, institutional stability, high professional standards of judicial review and the ability to function in a complex multidimensional legal space. It demonstrates that a comprehensive model of constitutional complaint can simultaneously provide effective individual protection of rights and serve as an instrument of constitutional balance between national and supranational levels of legal regulation.

CONCLUSIONS

The results of the research lead to the following conclusions:

1. The research clarified the concept of an individual constitutional complaint as an independent legal institution and determined its place in the system of constitutional law. It was demonstrated that an individual constitutional complaint is a narrow substitute of the general concept of a “constitutional complaint”. A characteristic feature of it is a connection with a specific individual case and the possibility of its submission directly (without a third party) by a person (natural or legal). It was established that the defining feature of this institution is the focus not on abstract control of regulatory acts, but on the protection of violated constitutional rights in a specific case.

The individual constitutional complaint as a legal institution is a product of the European model of constitutional review, not the American one. There are no debates that the constitutional review itself originates with the *Marbury v. Madison* decision of 1803 in the United States. However, the institution of the individual constitutional complaint emerged later and developed within the European centralized model of constitutional justice. Its historical roots trace to Austria, Switzerland, and Liechtenstein in the second half of the 19th century, with the modern one from Germany, introduced at the federal level in 1951 and constitutionalized in 1969. The research demonstrates that the individual constitutional complaint as a distinct legal instrument is a comparatively recent development that emerged out of the growing demand for effective individual constitutional rights protection in democratic states.

Over the decades, this instrument has earned an exceptional reputation. It is now recognized across nearly all European jurisdictions and has become the gold standard of individual access to constitutional justice.

2. A comparative analysis of the models of Ukraine, the Republic of Lithuania and the Federal Republic of Germany showed that despite the external similarity of the general concept of an individual constitutional complaint, its practical content is significantly different.

Common to all three states is the requirement that the contested norm must be applied in the final decision, which is not subject to further appeal in the general procedure; as well as the presence of clear procedural requirements for the form and content of the complaint.

At the same time, there are many significant differences. Firstly, in Ukraine, the subject of appeal is exclusively the law; in Lithuania, laws, acts of the Seimas, the President of the Republic and the Government with the possibility of verifying their compliance not only with the Constitution, but laws themselves; in Germany, any acts of public power that directly affect the rights of an individual. Secondly, the range of legal standings also differs: in Ukraine, individuals and legal entities of private

law; in Lithuania, individuals and legal entities of both private and public law; in Germany, individuals and legal entities of private law, but taking into account the peculiarities of German doctrine. Thirdly, the deadlines for filing a complaint also differ: three months in Ukraine, four months in Lithuania and one month in Germany.

3. The effectiveness of the individual constitutional complaint was assessed through three principal criteria: the accessibility of the mechanism to individual applicants, its normative impact on the domestic legal order, and its interaction with international human rights institutions.

From the point of view of formal accessibility, all three states provide approximately the same level of direct access of an individual to a body of constitutional jurisdiction without the need to involve intermediaries.

Regarding the impact on the domestic legal situation, the experience of Lithuania turned out to be the most indicative. Despite the relative novelty of the institution, practice indicates the diversity of issues submitted for consideration and the absence of systematic repetition of the same legislative errors. In Ukraine, in contrast, a significant part of the cases concern repetitive problems in the field of criminal procedure and pension provision. However, this indicates not the weaknesses of the constitutional complaint itself as a tool, but the problems of the legislator's subsequent reaction and systematic (not)consideration of the legal positions of the Constitutional Court. In the case with Ukraine, decisions are made, individuals receive individual protection, but systemic errors in the legislation are repeated.

In the field of interaction with international institutions, the most developed practice is that of Germany. There, constitutional complaints have repeatedly become the basis for determining the boundaries of the relationship between national and European law. At the same time, positive trends are also observed in Ukraine and Lithuania. Practice shows that the European Court of Human Rights considers an individual constitutional complaint in these states as an effective, and in some cases even as a necessary means of protecting rights.

4. The results of the research found that the effectiveness of an individual constitutional complaint is not determined solely by its model (normative or full). Thus, the subject of the appeal remains one of the key structural elements of effectiveness. The wider the range of acts that can be reviewed, the more opportunities there are for protecting the rights of an individual precisely within the framework of this institution. However, even with a narrow subject, as in Ukraine, an individual constitutional complaint can be an effective tool provided that the Constitutional Court has the proper role and position.

An important component of the effectiveness of the institution is the role of the body of constitutional jurisdiction itself. Consistency and stability of practice, clarity of legal positions, adherence to the standards of the rule of law and the ability to uphold constitutional principles even in complex legal situations are the foundation of the real effectiveness of an individual constitutional complaint. The experience of Germany demonstrates the importance of the institutional strength and authority of the court. The experience of Lithuania shows the importance of clear and systematic decisions that are promptly taken into account by other authorities. Ukrainian experience confirms that with direct access of the person and an active position of the Court, an individual constitutional complaint already performs the function of an effective means of individual protection. However, its full potential depends on the coherence of the actions of the entire legal system.

All in all, the foregoing analysis allows for the following concluding observations. The present study has examined the individual constitutional complaint as an independent legal institution by analysing its essential characteristics and its place within the system of constitutional law. A comparative analysis of the models operating in Ukraine, the Republic of Lithuania, and the Federal Republic of Germany has revealed both the common foundations and the specific differences in the functioning of this mechanism across distinct legal and political contexts. The impact of admissibility criteria on the real effectiveness of each model has been assessed through the analysis of selected decisions of each respective Constitutional Courts. The research concludes that the real effectiveness of the individual constitutional complaint is determined not primarily by the type of model adopted, but by the institutional capacity of the Constitutional Court, the consistency of its case-law, and the existence of adequate mechanisms for the implementation of its decisions.

RECOMMENDATIONS

Based on the results of the research, it is proposed to introduce the following changes in the legislation of Ukraine.

1. Following the example of the Lithuanian and German models, the first recommendation is that it is necessary to provide for the possibility of appealing other governmental acts applied in the final case of an individual (not limiting subject matter solely to laws). Accordingly, it is recommended to expand the subject matter of a constitutional complaint by amending Article 151-1 of the Constitution of Ukraine and corresponding articles of the Law of Ukraine “On the Constitutional Court of Ukraine” (see Annex 1 and 2).

The current model of an individual constitutional complaint in Ukraine limits the subject of an appeal exclusively to the laws of Ukraine. This approach creates an artificial gap between the source of a violation of the law and the possibility of its constitutional control, since in a significant number of cases, a violation of rights is also caused by by-laws that are directly applied by the courts.

Comparative analysis has shown that the effectiveness of the institute of individual constitutional complaint is not reduced solely to the breadth of the model (normative or comprehensive). Therefore, the primary task for Ukraine is not to mechanically copy the full German model, but to eliminate the structural limitations of the subject of the complaint.

2. Supplementing the previous recommendation, it is necessary to make amendments to the Rules of Procedure of the Verkhovna Rada of Ukraine, providing for the mandatory verification of draft laws for compliance with the legal positions of the Constitutional Court of Ukraine as a separate stage of the legislative procedure (see Annex 2).

Practice shows the repetition of legislative provisions that the Constitutional Court of Ukraine previously recognized as unconstitutional. The repeated adoption of norms with similar content indicates the absence of a systematic mechanism for taking into account the legal positions of the Constitutional Court.

It is proposed to supplement the Rules of Procedure of the Verkhovna Rada of Ukraine with a norm that obliges the relevant committee to prepare a written opinion on the compliance of the draft law with the current legal positions of the Constitutional Court of Ukraine. It is also advised to establish that the absence of such an opinion is a basis for not accepting the draft law for consideration in the second reading.

This recommendation does not concern the implementation of the decisions of the Constitutional Court of Ukraine as such, but is aimed at preventing the recurrence of unconstitutional norms.

BIBLIOGRAPHY

Constitutions:

1. “Constitution of Ukraine.” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en#Text>.
2. “The Constitution of the Republic of Lithuania.” Lietuvos Respublikos Seimas. Accessed 4 February 2026. <https://www.lrs.lt/home/Konstitucija/Constitution.htm>.
3. “Basic Law for the Federal Republic of Germany.” Federal Ministry of Justice and Consumer Protection. Accessed 7 January 2026. https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html.
4. “Constitution of 4 October 1958.” Conseil Constitutionnel. Accessed 11 September 2025. <https://www.conseil-constitutionnel.fr/en/constitution-of-4-october-1958>.
5. “Constitution of the Republic of Armenia.” The President of The Republic of Armenia. Accessed 7 January 2026. <https://www.president.am/en/constitution-2015/>.
6. “Constitution of the Republic of Poland of 2 April 1997.” Sejm. Accessed 7 January 2026. <https://www.sejm.gov.pl/prawo/konst/angielski/konse.htm>.
7. “Verfassung des Landes Hessen vom 1. Dezember 1946 [Constitution of the State of Hesse of December 1, 1946].” Land Hessen. Accessed 10 February 2026. <https://starweb.hessen.de//cache/GVBL/1946/00034.pdf#page=10>.

Legislation (Ukraine):

8. “Law of Ukraine On the Constitutional Court of Ukraine 2136-VIII.” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/2136-19?lang=en#Text>.
9. “Закон України Про Конституційний Суд України 422/96-ВР [Law of Ukraine On the Constitutional Court of Ukraine 422/96-VR].” Verkhovna Rada of Ukraine. Accessed 9 January 2026, <https://zakon.rada.gov.ua/laws/show/422/96-%D0%B2%D1%80/ed20140419#n199>.
10. “Закон України Про правовий режим воєнного стану 2136-IX [Law of Ukraine On the Legal Regime of Martial Law No. 2136-IX].” Verkhovna Rada of Ukraine. Accessed 7 January 2026. <https://zakon.rada.gov.ua/laws/show/389-19#Text>.
11. “Закон України Про Уповноваженого Верховної Ради України з прав людини 776/97-ВР [Law of Ukraine On the Ukrainian Parliament Commissioner for Human Rights No. 776/97-VR].” Verkhovna Rada of Ukraine. Accessed 7 January 2026. <https://zakon.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80#Text>.

12. “Закон України Про внесення змін до Конституції України (щодо правосуддя) 1401-VIII [Law of Ukraine On Amendments to the Constitution of Ukraine (Regarding Justice) No. 1401-VIII].” Verkhovna Rada of Ukraine. Accessed 7 January 2026. <https://zakon.rada.gov.ua/laws/show/1401-19#Text>.
13. “The Civil Code of Ukraine.” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/en/435-15#Text>.
14. “Закон України Про центральні органи виконавчої влади [Law of Ukraine On Central Bodies of Executive Power].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/en/3166-17#Text>.
15. “Постанова Кабінету Міністрів України від 25 лютого 2003 р. № 261 Про деякі питання діяльності акціонерного товариства "Державний ощадний банк України" [Resolution of the Cabinet of Ministers of Ukraine dated February 25, 2003 No. 261 On some issues of the activities of the Joint-Stock Company "State Savings Bank of Ukraine"].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/261-2003-%D0%BF/ed20191123#Text>.
16. “Закон України Про пенсійне забезпечення 1788-XII [Law of Ukraine On Pension Provision 1788-XII].” Verkhovna Rada of Ukraine. Accessed 26 January 2026. <https://zakon.rada.gov.ua/laws/show/1788-12#Text>.
17. “The Criminal Code of Ukraine.” Verkhovna Rada of Ukraine. Accessed 27 January 2026. <https://zakon.rada.gov.ua/laws/show/2341-14?lang=en#Text>.
18. “Указ Президента України Про введення воєнного стану в Україні No. 64/2022 [Decree of the President of Ukraine On the introduction of martial law in Ukraine No. 64/2022].” Verkhovna Rada of Ukraine. Accessed 14 April 2026. <https://zakon.rada.gov.ua/laws/show/64/2022#Text>.
19. “Закон України Про внесення змін до деяких законодавчих актів України, спрямованих на запобігання виникненню і поширенню коронавірусної хвороби (COVID-19) № 530-IX [Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19) No. 530-IX].” Verkhovna Rada of Ukraine. Accessed 7 February 2026. <https://zakon.rada.gov.ua/laws/show/530-20#Text>.
20. “Закон України Про внесення змін до Податкового кодексу України та інших законів України щодо підтримки платників податків на період здійснення заходів, спрямованих на запобігання виникненню і поширенню коронавірусної хвороби (COVID-19) 533-IX [Law of Ukraine On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine

Regarding Support for Taxpayers for the Period of Implementation of Measures Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19) 533-IX].” Verkhovna Rada of Ukraine. Accessed 7 February 2026. <https://zakon.rada.gov.ua/laws/show/533-20#Text>.

21. “Указ Президента України Про Координаційну раду з протидії поширенню COVID-19 [Decree of the President of Ukraine On the Coordination Council for Countering the Spread of COVID-19].” Verkhovna Rada of Ukraine. Accessed 7 February 2026. <https://zakon.rada.gov.ua/laws/show/88/2020#Text>.

22. “Постанова Кабінету Міністрів України Про встановлення карантину та запровадження обмежувальних протиепідемічних заходів з метою запобігання поширенню на території України гострої респіраторної хвороби COVID-19, спричиненої коронавірусом SARS-CoV-2 № 1236 [Resolution of the Cabinet of Ministers of Ukraine On the establishment of quarantine and the introduction of restrictive anti-epidemic measures to prevent the spread of acute respiratory disease COVID-19, caused by the SARS-CoV-2 coronavirus, in the territory of Ukraine].” Verkhovna Rada of Ukraine. Accessed 7 February 2026. <https://zakon.rada.gov.ua/laws/show/1236-2020-%D0%BF#Text>.

23. Постанова Кабінету Міністрів України Про запобігання поширенню на території України гострої респіраторної хвороби COVID-19, спричиненої коронавірусом SARS-CoV-2 № 211 [Resolution of the Cabinet of Ministers of Ukraine On preventing the spread of acute respiratory disease COVID-19, caused by the SARS-CoV-2 coronavirus, in the territory of Ukraine № 211].” Verkhovna Rada of Ukraine. Accessed 7 February 2026. <https://zakon.rada.gov.ua/laws/show/211-2020-%D0%BF#Text>.

Legislation (The Republic of Lithuania):

24. “The Rules of the Constitutional Court of the Republic of Lithuania.” The Constitutional Court of the Republic of Lithuania. Accessed 4 February 2026. <https://lrkt.lt/en/about-the-court/legal-information/the-rules-of-the-constitutional-court/1973>.

25. “Lietuvos Respublikos Administracinių Nusižengimų Kodekso Nr. XII-1869 [Administrative Offences Code of the Republic of Lithuania Nr. XII-1869].” Lietuvos Respublikos Seimas. Accessed 4 February 2026. <https://www.e-tar.lt/portal/en/legalAct/4ebe66c0262311e5bf92d6af3f6a2e8b/QFJGMLduBv>.

26. “Lietuvos Respublikos Baudžiamojo Proceso Kodekso Nr. IX-785 [Code of Criminal Procedure of the Republic of Lithuania No. IX-785].” Lietuvos Respublikos Seimas. Accessed 4 February 2026. <https://www.e-tar.lt/portal/lt/legalAct/TAR.EC588C321777/asr>.

27. “Lietuvos Respublikos Civilinio Proceso Kodekso Nr. IX-743 [Code of Civil Procedure of the Republic of Lithuania No. IX-743].” Lietuvos Respublikos Seimas. Accessed 4 February 2026. <https://www.e-tar.lt/portal/lt/legalAct/TAR.2E7C18F61454/asr>.

Legislation (The Federal Republic of Germany):

28. “Verfassungsgerichtshofgesetz 1953 [Constitutional Court Act 1953].” Entwurf. Accessed 7 January 2026. https://www.wahlbeobachtung.org/wp-content/uploads/2013/09/Constitutional-Court-Act-ERV_1953_85.pdf.

29. “Bundesverfassungsgerichtsgesetz – BVerfGG [Act on the Federal Constitutional Court].” Federal Ministry of Justice and Consumer Protection. Accessed 7 January 2026. https://www.gesetze-im-internet.de/englisch_bverfgg/englisch_bverfgg.html.

30. Harbich, Jurgén. “Die Verfassungsbeschwerde zum Bundesverfassungsgericht [The constitutional complaint to the Federal Constitutional Court].” *Studia Iuridica Auctoritate Universitatis Pecs Publicata* 135 (2005): 32-48. <https://heinonline.org/HOL/Page?handle=hein.journals/studia135&id=32>.

Legislation of other countries:

31. “The Act of 13 December 2016 – Introductory Provisions to the Act on the Organisation of the Constitutional Tribunal and the Mode of Proceedings Before the Constitutional Tribunal and to the Act on the Status of the Judges of the Tribunal.” Journal of Laws 2016 item 2074. Accessed 11 September 2025. https://trybunal.gov.pl/fileadmin/content/dokumenty/Akty_normatywne/The_Act_of_13_December_2016_-_the_Introductory_Provisions.pdf.

32. “Legge 11 marzo 1953, n. 87, Norme sulla Costituzione e sul funzionamento della Corte costituzionale [Law No. 87 of March 11, 1953, Provisions on the Constitution and the functioning of the Constitutional Court].” Gazzetta Ufficiale della Repubblica Italiana. Accessed 7 January 2026. <https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1953-03-14&atto.codiceRedazionale=053U0087>

33. “The Constitutional Court Act.” Official Gazette of the Republic of Slovenia No. 64/07. Accessed 7 January 2026. <https://www.us-rs.si/assets/Datoteke/The-Constitutional-Court-Act.pdf>.

34. “The Constitutional Act on the Constitutional Court of the Republic of Croatia.” Narodne novine. Accessed 7 January 2026. https://www.usud.hr/sites/default/files/dokumenti/The_Constitutional_Act_on_the_Constitutional_Court_of_the_Republic_of_Croatia_consolidated_text_Official_Gazette_No_49-02.pdf

Case law (Ukraine):

35. “Постанова Конституційного Суду України Про Регламент Конституційного Суду України № 1-пс/2018 [Resolution of Constitutional Court of Ukraine On Approval of the Regulations of the Constitutional Court of Ukraine No. 1-ps/2018].” Verkhovna Rada of Ukraine. Accessed 7 January 2026. <https://zakon.rada.gov.ua/laws/show/v0001710-18#Text>.

36. “Рішення Конституційного Суду України № 1-p(II)/2021 [Decision of the Constitutional Court of Ukraine No. 1-p(II)/2021].” The Constitutional Court of Ukraine. Accessed 9 January 2026. <https://ccu.gov.ua/dokument/1-rii2021>.

37. “Окрема думка судді Конституційного Суду України Лемака В.В. стосовно Рішення Конституційного Суду України № 6-p(II)/2022 [Separate opinion of Judge of the Constitutional Court of Ukraine Lemak V.V. regarding the Decision of the Constitutional Court of Ukraine No. 6-r(II)/2022].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/nb06d710-22#Text>.

38. “Ухвала Другого Сенату конституційного Суду України № 36-y(II)/2023 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 36-y(II)/2023].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/va36u710-23#Text>.

39. “Ухвала Третьої колегії суддів Першого Сенату Конституційного Суду України № 230-3(I)/2024 [The Ruling of the Third Panel of Judges of the First Senate of the Constitutional Court of Ukraine No. 230-3(I)/2024].” The Constitutional Court of Ukraine. Accessed 9 January 2026. https://ccu.gov.ua/sites/default/files/docs/230_31_2024.pdf.

40. “Ухвала Третьої колегії суддів Другого Сенату Конституційного Суду України № № 57-3(II)/2023 [The Ruling of the Third Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 57-3(II)/2023].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/v057u710-23#Text>.

41. “Рішення Конституційного Суду України № 5-p/2020 [Decision of the Constitutional Court of Ukraine No. 5-r/2020].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/v005p710-20#Text>.

42. “Ухвала Другої колегії суддів Другого Сенату Конституційного Суду України № 137-2(II)/2023 [the Ruling of the Second Panel of Judges of the Second Senate of the Constitutional Court of Ukraine No. 137-2(II)/2023].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/v137u710-23#Text>.
43. “Ухвала Другого Сенату Конституційного Суду України № 15-у(II)/2019 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 15-у(II)/2019].” The Constitutional Court of Ukraine. Accessed 9 January 2026. <https://ccu.gov.ua/docs/2662>.
44. “Ухвала Другого Сенату Конституційного Суду України № 35-у(II)/2023 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 35-у(II)/2023].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/v035u710-23#Text>.
45. “Ухвала Другого Сенату Конституційного Суду України № 1-у(II)/2025 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 1-у(II)/2025].” Verkhovna Rada of Ukraine. Accessed 9 January 2026. <https://zakon.rada.gov.ua/laws/show/v001u710-25#Text>.
46. “Ухвала Другого Сенату Конституційного Суду України № 294-2(II)/2019 [The Ruling of the Second Senate of the Constitutional Court of Ukraine No. 294-2(II)/2019].” The Constitutional Court of Ukraine. Accessed 9 January 2026. https://ccu.gov.ua/sites/default/files/docs/294_22_2019.pdf.
47. “Рішення Конституційного Суду України № 7-р(II)/2022 [Decision of the Constitutional Court of Ukraine № 7-р(II)/2022].” Verkhovna Rada of Ukraine. Accessed 27 January 2026. <https://zakon.rada.gov.ua/laws/show/v007p710-22#Text>.
48. “Рішення Конституційного Суду України № 2-р(II)/2024 [Decision of the Constitutional Court of Ukraine No. 2-р(II)/2024].” Verkhovna Rada of Ukraine. Accessed 26 January 2026. <https://zakon.rada.gov.ua/laws/show/v002p710-24#Text>.
49. “Рішення щодо України, винесені Європейським Судом з прав людини [Judgments on Ukraine issued by the European Court of Human Rights].” Ministry of Justice of Ukraine. Accessed 27 January 2026. <https://minjust.gov.ua/m/rishennya-schodo-ukraini-vineseni-evropeyskim-sudom-z-prav-lyudini>.
50. “Рішення Конституційного Суду України № 7-р/2019 [Decision of the Constitutional Court of Ukraine No. 7-р/2019].” Verkhovna Rada of Ukraine. Accessed 26 January 2026. <https://zakon.rada.gov.ua/laws/show/v007p710-19#Text>.
51. “Рішення Конституційного Суду України № 7-р(I)/2020 [Decision of the Constitutional Court of Ukraine № 7-р(I)/2020].” Verkhovna Rada of Ukraine. Accessed 27 January 2026. <https://zakon.rada.gov.ua/laws/show/va07p710-20#Text>.

52. “Постанова Великої Палати Верховного Суду від 02 липня 2019 року у справі № 916/3006/17 [Resolution of the Grand Chamber of the Supreme Court of July 2, 2019 in case No. 916/3006/17].” Unified State Register of Court Decisions. Accessed 27 January 2026. <https://reyestr.court.gov.ua/Review/83589983>.

53. “Рішення Конституційного Суду України № 10-р/2020 [Decision of the Constitutional Court of Ukraine No. 10-r/2020].” Verkhovna Rada of Ukraine. Accessed 7 February 2026. <https://zakon.rada.gov.ua/laws/show/v010p710-20#Text>.

54. “Ухвала Першої колегії суддів Першого сенату Конституційного Суду України № 41-1(I)/2019 [The Rulling of the First Panel of Judges of the First Senate of the Constitutional Court of Ukraine No. 41-1(I)/2019].” The Constitutional Court of Ukraine. Accessed 14 April 2026. https://ccu.gov.ua/sites/default/files/docs/41_11_2019.doc.

55. “Рішення Конституційного Суду України № 2-р(II)/2022 [Decision of the Constitutional Court of Ukraine No. № 2-p(II)/2022].” Verkhovna Rada of Ukraine. Accessed 14 April 2026. <https://zakon.rada.gov.ua/laws/show/v002p710-22#Text>.

56. “Рішення Конституційного Суду України № 3-р/2022 [Decision of the Constitutional Court of Ukraine No. № 3-p/2022].” Verkhovna Rada of Ukraine. Accessed 14 April 2026. <https://zakon.rada.gov.ua/laws/show/va03p710-22#Text>.

Case law (The Republic of Lithuania):

57. “Decision KT20-S10/2016: On Explanation of the Petitioner’s Right to Petition in Section 26 of the Constitutional Court’s Judgment of June 26, 2006.” Constitutional Court of the Republic of Lithuania. Accessed 7 January 2026. <https://lrkt.lt/en/court-acts/search/170/ta1625/content>.

58. “The Constitutional Court’s decision (No KT45-A-N3/2021) of 19 March 2021.” The Constitutional Court of the Republic of Lithuania. Accessed 7 February 2026. <https://lrkt.lt/en/court-acts/search/170/ta2415/content>.

59. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2024 m. rugsėjo 26 Nr. KT76-A-N10/2024 [Resolution of the Constitutional Court of the Republic of Lithuania of 26 September 2024 No. KT76-A-N10/2024].” The Constitutional Court of the Republic of Lithuania. Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta3056/content>.

60. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. gegužės 31 d. Nr. KT49-A-N5/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 31 May 2023

No. KT49-A-N5/2023].” The Constitutional Court of the Republic of Lithuania. Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2857/content>.

61. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2021 m. balandžio 14 d. Nr. KT58-A-N4/2021 [Ruling of the Constitutional Court of the Republic of Lithuania of 14 April 2021 No. KT58-A-N4/2021].” The Constitutional Court of the Republic of Lithuania.” Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2406/content>.

62. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. gegužės 31 d. Nr. KT49-A-N5/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 31 May 2023 No. KT49-A-N5/2023].” The Constitutional Court of the Republic of Lithuania.” Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2857/content>.

63. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. sausio 24 d. Nr. KT8-N1/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 24 January 2023 No. KT8-N1/2023].” The Constitutional Court of the Republic of Lithuania. Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2797/content>.

64. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. spalio 4 d. Nr. KT83-N9/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 4 October 2023 No. KT83-N9/2023].” The Constitutional Court of the Republic of Lithuania. Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2905/content>.

65. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2023 m. birželio 7 d. Nr. KT53-A-N6/2023 [Ruling of the Constitutional Court of the Republic of Lithuania of 7 June 2023 No. KT53-A-N6/2023].” The Constitutional Court of the Republic of Lithuania. Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2861/content>.

66. “Nutarimas Lietuvos Respublikos Konstitucinio Teismo 2024 m. gegužės 20 d. Nr. KT44-A-N6/2024 [Ruling of the Constitutional Court of the Republic of Lithuania of 20 May 2024 No. KT44-A-N6/2024].” The Constitutional Court of the Republic of Lithuania. Accessed 14 March 2026. <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta3004/content>.

Case law (The Federal Republic of Germany):

67. “Abstract of the order of 14 May 1985.” Bundesverfassungsgericht. Accessed 11 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/1985/05/rs19850514_1bvr023381en.html.

68. “Beschluss vom 22.05.1975 - 2 BvL 13/73 [Decision of 22 May 1975 - 2 BvL 13/73].” OpenJur. Accessed 11 February 2026. <https://openjur.de/u/174502.html>.
69. “Judgment of 17 December 2013.” Bundesverfassungsgericht. Accessed 11 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2013/12/rs20131217_1bvr313908en.html.
70. “Judgment of 5 May 2020.” Bundesverfassungsgericht. Accessed 11 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2020/05/rs20200505_2bvr085915en.html.
71. “BVerfGE 35, 382 - Ausländerausweisung [BVerfGE 35, 382 - Expulsion of foreigners].” University of Bern. Accessed 13 February 2026. <https://www.servat.unibe.ch/dfr/bv035382.html>.
72. “BVerfGE 39, 1 - Schwangerschaftsabbruch I [BVerfGE 39, 1 - Abortion I].” University of Bern. Accessed 13 February 2026. <https://www.servat.unibe.ch/dfr/bv039001.html#Rn165>.
73. “BVerfGE 30, 173 - Mephisto.” University of Bern. Accessed 13 February 2026. <https://www.servat.unibe.ch/dfr/bv030173.html>.
74. “Beschluss vom 19. Dezember 2007 [Decision of 19 December 2007].” Bundesverfassungsgericht. Accessed 13 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2007/12/rk20071219_1bvr153307.html#abs7.
75. “Beschluss vom 16. Juli 2015 [Decision of July 16, 2015].” Bundesverfassungsgericht. Accessed 13 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/07/rk20150716_1bvr101413.html#abs4.
76. “BVerfGE 67, 157 - G 10.” University of Bern. Accessed 13 February 2026. <https://www.servat.unibe.ch/dfr/bv067157.html>.
77. “Beschluss vom 9. März 2018 [Decision of March 9, 2018].” Bundesverfassungsgericht. Accessed 13 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2018/03/rk20180309_2bvr017418.html#abs15.
78. “BVerfGE 19, 268 - Kirchenlohnsteuer II [BVerfGE 19, 268 - Church Wage Tax II].” University of Bern. Accessed 13 February 2026. <https://www.servat.unibe.ch/dfr/bv019268.html>.

79. “Beschluss vom 07.10.2003 - 1 BvR 1712/01 [Decision of 7 October 2003 - 1 BvR 1712/01].” OpenJur. Accessed 13 February 2026. <https://openjur.de/u/190343.html>.

80. “Beschluss vom 28. Juni 2004 [Decision of June 28, 2004].” Bundesverfassungsgericht. Accessed 13 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2004/06/rk20040628_2bvr137901.html#abs34.

81. “Order of the First Senate of 6 November 2019 - 1 BvR 16/13.” Bundesverfassungsgericht. Accessed 17 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2019/11/rs20191106_1bvr001613en.html.

82. “Order of the Second Senate of 14 January 2014 - 2 BvR 2728/13.” Bundesverfassungsgericht. Accessed 17 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2014/01/rs20140114_2bvr272813en.html.

83. “Judgment of the Second Senate of 21 June 2016 - 2 BvR 2728/13.” Bundesverfassungsgericht. Accessed 17 February 2026. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2016/06/rs20160621_2bvr272813en.html.

Case law (Other countries):

84. “United States v. Hudson and Goodwin, 5 U.S. (1 Cranch) 137”. Supreme Court of the United States. Accessed 7 January 2026. <https://supreme.justia.com/cases/federal/us/5/137/>.

85. “CASE OF GRUBNYK v. UKRAINE.” HUDOC. Accessed 26 January 2026. <https://hudoc.echr.coe.int/eng?i=001-204604>.

86. “CASE OF UKRKAVA, TOV v. UKRAINE.” HUDOC. Accessed 27 January 2026. <https://hudoc.echr.coe.int/eng?i=001-241576>.

87. “Case of *Ruminas v. Lithuania*.” HUDOC. Accessed 7 February 2026. <https://hudoc.echr.coe.int/eng?i=001-243080>.

88. “Peter Gauweiler and Others v Deutscher Bundestag. Case C-62/14.” EUR-lex. Accessed 17 February 2026. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62014CJ0062>.

89. “CASE OF GÖRGÜLÜ v. GERMANY.” HUDOC. Accessed 17 February 2026. <https://hudoc.echr.coe.int/eng?i=001-61646>.

90. "CASE OF MISIŪNAS v. LITHUANIA." HUDOC. Accessed 14 March 2026.
<https://hudoc.echr.coe.int/fre?i=001-245087>.

Scientific literature:

91. Blerton, Sinani. „Global Patterns of Constitutional Judicial Review Systems: Two Major Models of Constitutional Judicial Review in the World.” *Juridical Tribune - Review of Comparative and International Law* 14, no. 1 (2024): 156-173.
<http://dx.doi.org/10.62768/TBJ/2024/14/1/10>.

92. Gentili, Gianluca. “A Comparative Perspective on Direct Access to Constitutional and Supreme Courts in Africa, Asia, Europe and Latin America: Assessing Advantages for the Italian Constitutional Court.” *Penn State International Law Review* 29 (2011): 705-757.
<https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1199&context=psilr>.

93. Frosini, Justin Orlando, and Pegoraro, Lucio. “Constitutional Courts in Latin America: A Testing Ground for New Parameters of Classification?” *SSRN* (2008): 39-63.
<https://ssrn.com/abstract=2661380>.

94. Yun, Jeong-In. “Constitutional Review Complaint as an Evolution of the Kelsenian Model.” *Vienna Journal on International Constitutional Law (ICL Journal) Volume 14 Issue 4* (2021): 423-446. <https://doi.org/10.1515/icl-2020-0024>.

95. Tsvik, M. V., Petryshyn, O. V., Avramenko, L. V., et al., *Загальна теорія держави і права: Підручник для студентів юридичних вищих навчальних закладів [General theory of state and law: Textbook for students of legal higher education institutions]*. Kharkiv: Pravo, 2009.

96. Rusetskyi, O. A., and Zinchenko, A. V.. “Functioning of the Institute of Constitutional Complaint in Ukraine and in Foreign Countries.” *Legal Scientific Electronic Journal*, no. 11 (2021): 777-779. <https://doi.org/10.32782/2524-0374/2021-11/197>.

97. Bilozorov, Ye. V., Vlasenko, V. P., Horova, O. B., Zavalny, A. M., Zayats, N. V. et al., *Теорія держави та права: навч. посіб. [Theory of State and Law: Textbook.]*. Kyiv: National Academy of Internal Affairs (Osvita Ukrainy, 2017).

98. Hultai, Mykhailo. Конституційна скарга як інститут конституційного права [The constitutional complaint as an institution of constitutional law]. *A word from the National school of judges of Ukraine*, no. 1 (2012): 111-120. http://nbuv.gov.ua/UJRN/cln_2012_1_14.

99. Bonyak, Volodymyr, and Yermolenko, Yaroslav. *Конституційна скарга як юридична гарантія прав і свобод людини в Україні: Монографія [The Constitutional Complaint*

as a legal guarantee of human rights and freedoms in Ukraine: Monograph]. Dnipro: Dnipro State University of Internal Affairs, 2022.

100. Abramavičius, Armanas. “Konstitucinio skundo samprata ir reikšmė konstitucinėje teisminėje kontrolėje [Definition and meaning of the constitutional complaint in the constitutional judicial control].” *Jurisprudencija*, vol. 101, no. 11 (2007): 15-21. <https://www.proquest.com/openview/5d478da50cf77851e107a9980b92f12a/1?pq-origsite=gscholar&cbl=2026708>.

101. Brovko, Nataliia I., Medvid, Liudmyla P., Mahnovskyi, Ihor Y., Ahmadov, Vusal A., Leonenko, Maksym I., et al. “The Role of the Constitutional Complaint in the Legislative Process: Comparative Legal Aspect.” *Cuestiones Políticas* 39 (69) (2021): 833-851. <https://doi.org/10.46398/cuestpol.3969.51>.

102. Stavniichuk, Maryna. “Інститут конституційної скарги в механізмі гарантування та розвитку конституційного ладу України: теоретичні та практичні проблеми реалізації [The institute of the constitutional complaint in the mechanism for ensuring and developing the constitutional order in Ukraine: theoretical and practical problems of implementation].” *Chasopys* 2 (2019): 36-48. <https://doi.org/10.30970/jcl.2.2019.4>.

103. Aaken, Anne Van. “Making International Human Rights Protection More Effective: A Rational-Choice Approach to the Effectiveness of Ius Standi Provisions.” *Preprints of the Max Planck Institute for Research on Collective Goods*, no. 2005-16 (2005). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=802424.

104. Pūraitė-Andrikienė, Dovilė. “Understanding the Mechanism of Individual Constitutional Complaints in Lithuania: Main Features and Challenges of the First Years of Application.” *Access to Justice in Eastern Europe* 4, no. 21 (2023): 204-227. <https://doi.org/10.33327/AJEE-18-6.4-a000475>. (n1)

105. Hultai, Mykhailo. “Функціональні характеристики інституту конституційної скарги та модель його впровадження в Україні [Functional characteristics of the institution of the constitutional complaint and the model of its implementation in Ukraine].” *Visnyk Konstytutsiinoho Sudu Ukrainy*, no. 4–5 (2011): 185-193. http://nbuv.gov.ua/UJRN/Vksu_2011_4-5_26.

106. Zaporozhets, Vitalii. “Умови прийнятності конституційних скарг: законодавче регулювання та практика Конституційного Суду України [Admissibility of constitutional complaints: legislative regulation and practice of the Constitutional Court of Ukraine].” *UKRAYINSKYI CHASOPYS KONSTYTUTSIINOHO PRAVA* 3 (2020): 25-50. doi.org/10.30970/jcl.3.2020.2.

107. “Неприйнятність конституційної скарги [Inadmissibility of a constitutional complaint].” The Constitutional Court of Ukraine. Accessed 9 January 2026. <https://ccu.gov.ua/storinka-knygy/332-nepryynyatnist-konstytuciynoyi-skargy>.
108. Birmontienė, Toma, Danėlienė, Ingrida, Jarašiūnas, Egidijus, Sinkevičius, Vytautas, Žalimas, Dainius. “Konstituciniai ginčai [Constitutional disputes].” Monograph, Mykolas Romeris University, 2019. <https://repository.mruni.eu/handle/007/16240>.
109. Kūris, Egidijus, and Pūraitė-Andrikienė, Dovilė. “Individualus konstitucinis skundas ir „Romuvos“ byla [Individual constitutional complaint and the "Romuva" case].” Vilnius University Press 9, 2023: 192-336. <https://doi.org/10.15388/KJL.2023.9>.
110. Pūraitė-Andrikienė, Dovilė. “Lietuvos individualaus konstitucinio skundo modelio privalumai ir trūkumai [Advantages and disadvantages of the Lithuanian individual constitutional complaint model].” Vilnius University Press 2020, Vol. 114: 49-70. <https://doi.org/10.15388/Teise.2020.114.3> (n 2).
111. Hahn, Lisa, Petras, Maximilian, Valentiner, Dana-Sophia, und Wienfort, Nora. *Grundrechte: Klausur- und Examenswissen [Fundamental rights: Knowledge for exams and tests]*. Berlin/Boston: Walter de Gruyter GmbH (2022).

Venice Commission’s reports:

112. ““Der Zugang des Einzelnen zur Verfassungsgerichtsbarkeit im europäischen Raum” Opinion CDL-JU(2001)22” [“Individual access to constitutional jurisdiction in the European area” Opinion CDL-JU(2001)22].” Venice Commission. Accessed 8 October 2025. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU\(2001\)022-ger](https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU(2001)022-ger).
113. “Study on Individual Access to Constitutional Justice CDL-AD(2010)039rev-e.” Venice Commission. Accessed 7 January 2026. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)039rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)039rev-e).
114. “Human Rights Protection with the Help of the Individual Complaint by Arne Mav_i no. CDL-JU (97).” Venice Commission. Accessed 7 January 2026. [https://www.venice.coe.int/webforms/documents/CDL-JU\(1997\)015-e.aspx](https://www.venice.coe.int/webforms/documents/CDL-JU(1997)015-e.aspx).
115. “Draft Revised Report on Individual Access to Constitutional Justice. Opinion No. CDL(2020)041.” Venice Commission. Accessed 7 January 2026. <https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL%282020%29041-e>.

116. “Compilation of Venice Commission Opinions, Reports and Studies on Constitutional Justice (Updated), CDL-PI(2022)050.” Venice Commission. Accessed 7 January 2026. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2022\)050-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2022)050-e).

117. “Report on Constitutional Complaint in Poland and Ukraine.” Venice Commission. Accessed 7 January 2026. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU\(2018\)014-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU(2018)014-e).

118. “Revised Report on Individual Access to Constitutional Justice CDL-AD(2021)001-e.” Venice Commission. Accessed 7 January 2026. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)001-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)001-e).

119. “INTERNATIONAL LEGAL TRAINING WORKSHOP CDL-JU (2004)026.” Venice Commission. Accessed 13 February 2026. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU\(2004\)026-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU(2004)026-e).

Other sources:

120. “Supreme Court of Estonia.” The Estonian Supreme Court. Accessed 11 September 2025. <https://www.riigikohus.ee/en/supreme-court-estonia>.

121. “Verfassungsbeschwerde [Constitutional complaint].” Rechtsanwalt.com. Accessed 7 January 2026. <https://www.rechtsanwalt.com/lexikon/verfassungsbeschwerde/?srsId=AfmBOoqo0CxXRNGAM88oIzBROV5IY1OL1x4iG4Cg5hoDi-RgFIozvkY1&utm&utm>.

122. “Конституційна скарга як засіб юридичного захисту прав і свобод особи: історія запровадження та повноваження КСУ [The Constitutional Complaint as a Means of Legal Protection of Rights and Freedoms: History of Introduction and Powers of the Constitutional Court of Ukraine].” Higher School of Advocacy. Accessed 7 January 2026. <https://www.hsa.org.ua/blog/konstituciina-skarga-iak-zasib-iuridicnogo-zaxistu-prav-i-svobod-osobi-istoriia-zaprovadzennia-ta-povnovazennia-ksu>.

123. Organization for Security and Co-operation in Europe. “Матеріали Міжнародної науково-практичної конференції з питань запровадження конституційної скарги в Україні [Proceedings of the International Scientific–Practical Conference on the Introduction of the Constitutional Complaint in Ukraine].” Kyiv: VAITE/OSCE (2016). <https://www.osce.org/sites/default/files/f/documents/d/9/385692.pdf>.

124. “Annual Report 2024.” Federal Constitutional Court. Accessed 7 January 2026. https://www.bundesverfassungsgericht.de/EN/Media/AnnualReports/annualreports_node.html.

125. “Recurso de amparo.” Tribunal Constitucional. Accessed 7 August 2025. <https://www.tribunalconstitucional.es/en/tribunal/Composicion-Organizacion/competencias/paginas/04-recurso-de-amparo.aspx>.
126. “Щорічна інформаційна доповідь Конституційного Суду України [Annual information report of the Constitutional Court of Ukraine].” The Constitutional Court of Ukraine. Accessed 26 January 2026. <https://ccu.gov.ua/storinka/shchorichna-informaciyna-dopovid-ksu>.
127. “Щорічна інформаційна доповідь 2024 [Annual information report 2024].” The Constitutional Court of Ukraine. Accessed 26 January 2026. https://heyzine.com/flip-book/fb8f6c4493.html?fbclid=IwY2xjawM40MdleHRuA2FlbQIxMABicmlkETewT09oYU5vU1FWSzlNbUtuAR5MQ-hu7Hv7qYr0n8YGptRfZkBPt0tnFGN17hYRh4lAdSE6lewCjO6ykuOmXg_aem_25llnuLjwmFdNXgBfnCCfg#page/16.
128. “Чисельність та склад населення [Population size and composition].” State Statistics Service of Ukraine. Accessed 26 January 2026. <https://stat.gov.ua/uk/explorer?md5=30df02fac78aa00e6dab55c58fd222b2>.
129. “Каталог юридичних позицій Конституційного Суду України - Пенсії [Catalog of legal positions of the Constitutional Court of Ukraine - Pensions].” The Constitutional Court of Ukraine. Accessed 26 January 2026. <https://ccu.gov.ua/storinka-knygy/4461-pensiyi>.
130. “Annual report 2024.” The Constitutional Court of the Lithuanian Republic. Vilnius 2025. <https://lrkt.lt/data/public/uploads/2025/06/annual-report-2024-web.pdf>.
131. “Annual report 2023.” The Constitutional Court of the Lithuanian Republic. Vilnius 2024. <https://lrkt.lt/data/public/uploads/2024/09/annual-report-2023.pdf>.
132. “Annual report 2021.” The Constitutional Court of the Lithuanian Republic. Vilnius 2022. <https://lrkt.lt/data/public/uploads/2022/09/annual-report-2021-web.pdf>.
133. “Annual report 2019.” The Constitutional Court of the Lithuanian Republic. Vilnius 2020. https://lrkt.lt/data/public/uploads/2020/06/annual-report-2019-web_.pdf.
134. “Annual report 2020.” The Constitutional Court of the Lithuanian Republic. Vilnius 2021. <https://lrkt.lt/data/public/uploads/2021/07/annual-report-2020-web.pdf>.
135. “Annual report 2022.” The Constitutional Court of the Lithuanian Republic. Vilnius 2023. <https://lrkt.lt/data/public/uploads/2023/12/annual-report-2022-web.pdf>.
136. “Geschichte [History].” Bayerischer Verfassungsgeschichtshof. Accessed 10 February 2026. <https://www.bayern.verfassungsgeschichtshof.de/bayverfgh/geschichte/geschichte.php>.

137. “Chiemseer Entwurf eines Grundgesetzes für einen Bund deutscher Länder (1948) [Chiemsee Draft of a Basic Law for a Federation of German States (1948)].” Verfassung der Bundesrepublik Deutschland. Accessed 10 February 2026. <https://www.verfassungen.de/de49/chiemseerentwurf48-i.htm>.

138. “Milestones in the history of the Federal Constitutional Court.” Bundesverfassungsgericht. Accessed 10 February 2026. https://www.bundesverfassungsgericht.de/EN/TheFederalConstitutionalCourt/History/history_node.html.

139. Prof. Dr. C. Langenfeld. “Die Verfassungsbeschwerde (Prüfungsschritte im Überblick) [The constitutional complaint (overview of the review steps)].” <https://www.uni-goettingen.de/de/document/download/7f19cc03fe274cd73ae8f751e7b1f138.pdf/Schema%20Verfassungsbeschwerde.pdf>.

140. “Die Zulässigkeit der Verfassungsbeschwerde, Art. 93 I Nr. 4a GG, §§ 13 Nr. 8a BVerfGG [The admissibility of the constitutional complaint, Art. 93 I No. 4a GG, §§ 13 No. 8a BVerfGG].” Lecturi. Accessed 13 February 2026. <https://www.lecturio.de/mkt/jura-magazin/verfassungsbeschwerde/?utm>.

141. “Die Frist für die Verfassungsbeschwerde [The deadline for the constitutional complaint].” Anwalt.de. Accessed 13 February 2026. <https://www.anwalt.de/rechtstipps/die-frist-fuer-die-verfassungsbeschwerde-239188.html>.

142. “Celebrating 75 years of constitutional justice.” Bundesverfassungsgericht. Accessed 17 February 2026. https://www.bundesverfassungsgericht.de/EN/75_Jahre_BVerfG/75_Jahre_Bundesverfassungsgericht_node.html.

143. Bundesverfassungsgericht. “Jahresbericht 2024 [Annual Report 2024].” https://www.bundesverfassungsgericht.de/SharedDocs/Downloads/EN/Jahresbericht/jahresbericht_2024.html?nn=68700.

ABSTRACT

The master's thesis examines the legal nature of the individual constitutional complaint, its role as a mechanism of constitutional control, as well as the effectiveness of its adjudication. The work covers both theoretical and practical aspects: starting from the historical aspects of individual constitutional complaint among multiple jurisdictions to the assessment of actual necessity of this instrument and its influence in modern time, based on examples of Ukraine, the Republic of Lithuania and the Federal Republic of Germany. Main attention is paid to applicability of this mechanism in modern legal systems of constitutional control, in conjunction with multinational and supranational institutions.

The work contains the author's recommendations for improving the legislative regulation and mechanisms for the protection of constitutional rights using the mechanism of constitutional control.

Keywords: *individual constitutional complaint, constitutional rights protection, effectiveness, Constitution.*

SUMMARY

The master's thesis “Constitutional complaint – the effectiveness of individual constitutional complaints: a comparative analysis” is devoted to the study of mechanisms for ensuring protection of constitutional rights by individuals directly using the mechanism of individual constitutional complaint in different jurisdictions. The first chapter examines the historical origin of this institution. It provides background for understanding how this mechanism appeared in different countries. The second chapter analyzes legal nature of individual constitutional complaint and provides defining characteristics of it. In the third section, the author provides a comprehensive analysis of practical role of individual constitutional complaint, in comparison between Ukraine, the Republic of Lithuania and the federal Republic of Germany. The work highlights strengths and weakness of this constitutional institution based on case law of each country. The result of analysis makes it possible to define main characteristics of effectiveness of individual constitutional complaint. The author proposes a number of specific amendments to the legislation aimed at improving the effectiveness of individual constitutional complaint in Ukraine.

ANNEXES

ANNEX 1. Amendments to the Constitution of Ukraine.

Annex 1.1. Draft Law.

Draft

LAW OF UKRAINE

On Amendments to the Constitution of Ukraine (regarding the expansion of the subject matter of a constitutional complaint)

The Verkhovna Rada of Ukraine has resolved:

I. To make the following amendments to the Constitution of Ukraine (Vidomosti Verkhovnoi Rada of Ukraine, 1996, No. 30, p. 141):

1) Article 151-1 shall be worded as follows:

“Article 151-1. The Constitutional Court of Ukraine shall decide on the compliance with the Constitution of Ukraine (constitutionality) of the laws of Ukraine and regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine upon a constitutional complaint filed by a person who believes that the relevant regulatory legal act applied in a final court decision in his or her case contradicts the Constitution of Ukraine. A constitutional complaint may be filed if all other national means of legal protection have been exhausted.”

II. This Law shall enter into force on the date of its publication.

Annex 1.2. Comparative Table to the Draft Law.

COMPARATIVE TABLE

to the Draft Law of Ukraine On Amendments to the Constitution of Ukraine (regarding the expansion of the subject matter of a constitutional complaint)

Current edition	Proposed revision
1	2
Article 151-1. The Constitutional Court of Ukraine shall decide on the compliance with the Constitution of Ukraine (constitutionality) of a law of Ukraine upon a constitutional complaint filed by a person who believes that	Article 151-1. The Constitutional Court of Ukraine shall decide on the compliance with the Constitution of Ukraine (constitutionality) of the laws of Ukraine and regulatory legal acts of the Verkhovna Rada of Ukraine, the

the law of Ukraine applied in a final court decision in his or her case contradicts the Constitution of Ukraine. A constitutional complaint may be filed if all other national remedies have been exhausted.	President of Ukraine and the Cabinet of Ministers of Ukraine upon a constitutional complaint filed by a person who believes that the relevant regulatory legal act applied in the final court decision in his case contradicts the Constitution of Ukraine. A constitutional complaint may be filed if all other national means of legal protection have been exhausted.
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Annex 2. Amendments to the Laws of Ukraine.

Annex 1.1. Draft Law.

Draft

LAW OF UKRAINE

"On Amendments to Certain Legislative Acts of Ukraine Regarding Improvement of Constitutional Control Mechanisms"

The Verkhovna Rada of Ukraine has resolved:

I. To make the following amendments to the Law of Ukraine "On the Constitutional Court of Ukraine" (Vidomosti Verkhovnoi Rada (VVR), 2017, No. 35, p. 376):

1) Paragraph nine of part one of Article 7 shall be worded as follows:

"9) resolving issues on the compliance with the Constitution of Ukraine (constitutionality) of laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions) upon a constitutional complaint of a person who believes that the act applied in the final court decision in his or her case contradicts the Constitution of Ukraine."

2) Part four of Article 36 shall be worded as follows:

"4. The Senate shall consider issues regarding the compliance with the Constitution of Ukraine (constitutionality) of laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions) upon constitutional complaints, as well as other issues specified by this Law."

3) Part one of Article 55 shall be worded as follows:

"1. A constitutional complaint is a written petition submitted by the subject of the right to a constitutional complaint to the Court to verify the compliance with the Constitution of Ukraine (constitutionality) of the following acts applied in the final court decision:

1) laws of Ukraine (their individual provisions);

2) regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions)."

4) Paragraph five of part two of Article 55 shall be worded as follows:

“5) specific provisions of the laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, which shall be checked for compliance with the Constitution of Ukraine, and specific provisions of the Constitution of Ukraine, for compliance with which the contested act shall be checked;”

5) Paragraph six of part two of Article 55 shall be worded as follows:

“6) substantiation of the statements regarding the unconstitutionality of the laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions) with an indication of which of the human rights guaranteed by the Constitution of Ukraine, in the opinion of the subject of the right to a constitutional complaint, was violated as a result of the application of the act;”

6) Part one of Article 56 shall be worded as follows:

“1. The subject of the right to a constitutional complaint is a person who believes that the law of Ukraine, a regulatory legal act of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (its individual provisions) applied in the final court decision in his or her case contradicts the Constitution of Ukraine.”

7) Part three of Article 89 shall be worded as follows:

“3. If the Court, when considering a case on a constitutional complaint, has recognized the law of Ukraine, a regulatory legal act of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (its provisions) as complying with the Constitution of Ukraine, but at the same time has found that the court has applied the act (its provisions) by interpreting it in a manner that does not comply with the Constitution of Ukraine, then the Constitutional Court shall indicate this in the operative part of the decision.”

II. To amend the Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” (Vidomosti Verkhovna Rada of Ukraine (VVR), 2010, No. 14-15, No. 16-17, p. 133) as follows:

1) Part one of Article 93 shall be worded as follows:

1. Each draft law, draft of another act after its registration shall be sent no later than within five days by the Chairman of the Verkhovna Rada of Ukraine or, in accordance with the division of responsibilities, by the First Deputy, Deputy Chairman of the Verkhovna Rada of Ukraine to the committee, which, in accordance with the subjects of competence of the committees, is determined as

the main one for the preparation and preliminary consideration of the draft law, draft of another act, as well as to the committee, whose subject of competence includes budget issues, for conducting an expert examination of its impact on budget indicators and compliance with laws regulating budgetary relations, the committee, whose subject of competence includes issues of combating corruption, for preparing an expert opinion on its compliance with the requirements of anti-corruption legislation, the committee, whose subject of competence includes issues of constitutional law and constitutional control, to prepare an expert opinion on its compliance with the legal positions of the Constitutional Court of Ukraine, and to the committee responsible for assessing the compliance of draft laws with Ukraine's international legal obligations in the field of European integration, to prepare an expert opinion. Each draft law shall be sent by the committee responsible for budget issues to the Cabinet of Ministers of Ukraine no later than within three days for an expert assessment of its impact on budget indicators and compliance with laws regulating budgetary relations.

2) Paragraph one of part two of Article 94 shall be worded as follows:

“1) the opinion of the committee responsible for constitutional law and constitutional control that the draft law contradicts the provisions of the Constitution of Ukraine and the legal positions of the Constitutional Court of Ukraine, except in cases where it concerns amendments to the Constitution of Ukraine;”

III. This Law shall enter into force on the date of its publication.

Annex 2.3. Comparative Table to the Draft Law.

COMPARATIVE TABLE

to the Draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Improvement of Constitutional Control Mechanisms"

No.	Current edition	Proposed revision
1. The Law of Ukraine “On the Constitutional Court of Ukraine” (Vidomosti Verkhovnoi Rada (VVR), 2017, No. 35, p. 376)		
1.	Article 7. Powers of the Court 1. The powers of the Court shall include:	

	9) resolving issues of compliance with the Constitution of Ukraine (constitutionality) of the laws of Ukraine (their individual provisions) upon a constitutional complaint of a person who believes that the law of Ukraine applied in the final court decision in his or her case contradicts the Constitution of Ukraine.	9) resolving issues on the compliance with the Constitution of Ukraine (constitutionality) of laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions) upon a constitutional complaint of a person who believes that the act applied in the final court decision in his or her case contradicts the Constitution of Ukraine.
2.	Article 36. Senate	
	4. The Senate shall consider issues regarding the compliance of laws of Ukraine (their individual provisions) with the Constitution of Ukraine (constitutionality) upon constitutional complaints, as well as other issues specified by this Law.	4. The Senate shall consider issues regarding the compliance with the Constitution of Ukraine (constitutionality) of the laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions) upon constitutional complaints, as well as other issues specified by this Law.
3.	Article 55. Constitutional complaint	
	1. A constitutional complaint is a written petition submitted to the Court to verify the compliance with the Constitution of Ukraine (constitutionality) of a law of Ukraine (its individual provisions) that was applied in a final court decision in the case of a subject of the right to a constitutional complaint.	1. A constitutional complaint is a written petition submitted by the subject of the right to a constitutional complaint to the Court to verify the compliance with the Constitution of Ukraine (constitutionality) of the following acts applied in the final court decision:

		1) laws of Ukraine (their individual provisions); 2) regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions).
4.	2. The constitutional complaint shall state:	
	5) specific provisions of the law of Ukraine that should be checked for compliance with the Constitution of Ukraine, and specific provisions of the Constitution of Ukraine for compliance with which the law of Ukraine should be checked;	5) specific provisions of the laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, which shall be checked for compliance with the Constitution of Ukraine, and specific provisions of the Constitution of Ukraine, for compliance with which the contested act shall be checked;
	6) substantiation of the allegations regarding the unconstitutionality of the law of Ukraine (its individual provisions) indicating which of the human rights guaranteed by the Constitution of Ukraine, in the opinion of the subject of the right to a constitutional complaint, was violated as a result of the application of the law;	6) substantiation of the statements regarding the unconstitutionality of the laws of Ukraine, regulatory legal acts of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (their individual provisions) with an indication of which of the human rights guaranteed by the Constitution of Ukraine, in the opinion of the subject of the right to a constitutional complaint, was violated as a result of the application of the act;
5.	Article 56. Subject of the right to a constitutional complaint	

	1. The subject of the right to a constitutional complaint is a person who believes that the law of Ukraine (its individual provisions) applied in the final court decision in his or her case contradicts the Constitution of Ukraine.	1. The subject of the right to a constitutional complaint is a person who believes that the law of Ukraine, a regulatory legal act of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (its individual provisions) applied in the final court decision in his or her case contradicts the Constitution of Ukraine.
6.	Article 89. Requirements for the Court's decision	
	3. If the Court, when considering a case on a constitutional complaint, recognized the law of Ukraine (its provisions) as being in accordance with the Constitution of Ukraine, but at the same time found that the court applied the law of Ukraine (its provisions) by interpreting it in a manner that does not comply with the Constitution of Ukraine, then the Constitutional Court shall indicate this in the operative part of the decision.	3. If the Court, when considering a case on a constitutional complaint, has recognized the law of Ukraine, a regulatory legal act of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine (its provisions) as complying with the Constitution of Ukraine, but at the same time has found that the court has applied the act (its provisions) by interpreting it in a manner that does not comply with the Constitution of Ukraine, then the Constitutional Court shall indicate this in the operative part of the decision.
2. Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” (Vidomosti Verkhovna Rada of Ukraine (VVR), 2010, No. 14-15, No. 16-17, p. 133)		
1.	Article 93. Preliminary consideration of draft laws, drafts of other acts in committees	
	1. Each draft law, draft of another act after its registration shall be sent by the Chairman of the Verkhovna Rada of Ukraine or, in	1. Each draft law, draft of another act after its registration shall be sent no later than within five days by the Chairman of the

accordance with the division of responsibilities, by the First Deputy, Deputy Chairman of the Verkhovna Rada of Ukraine, no later than within five days to the committee that, in accordance with the subjects of competence of the committees, is determined as the main one for the preparation and preliminary consideration of the draft law, draft of another act, as well as to the committee whose subject of competence includes budget issues, for conducting an expert examination of its impact on budget indicators and compliance with laws regulating budgetary relations, the committee whose subject of competence includes issues of combating corruption, for preparing an expert opinion on its compliance with the requirements of anti-corruption legislation, and to the committee whose subject of competence includes assessing the compliance of draft laws with Ukraine's international legal obligations in the field of European integration for preparing an expert opinion. Each draft law shall be sent by the committee responsible for budget issues to the Cabinet of Ministers of Ukraine no later than within three days for examination of its impact on budget indicators and compliance with laws regulating budgetary relations.	Verkhovna Rada of Ukraine or, in accordance with the division of responsibilities, by the First Deputy, Deputy Chairman of the Verkhovna Rada of Ukraine to the committee, which, in accordance with the subjects of competence of the committees, is determined as the main one for the preparation and preliminary consideration of the draft law, draft of another act, as well as to the committee, whose subject of competence includes budget issues, for conducting an expert examination of its impact on budget indicators and compliance with laws regulating budgetary relations, the committee, whose subject of competence includes issues of combating corruption, for preparing an expert opinion on its compliance with the requirements of anti-corruption legislation, the committee, whose subject of competence includes issues of constitutional law and constitutional control, to prepare an expert opinion on its compliance with the legal positions of the Constitutional Court of Ukraine, and to the committee responsible for assessing the compliance of draft laws with Ukraine's international legal obligations in the field of European integration, to prepare an expert opinion. Each draft law shall be sent by the committee responsible for budget issues to
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		the Cabinet of Ministers of Ukraine no later than within three days for an expert assessment of its impact on budget indicators and compliance with laws regulating budgetary relations.
2.	Article 94. Return of a bill, draft of another act to the subject of the right of legislative initiative 2. The grounds for returning a draft law or other draft act without including it in the agenda and consideration at a plenary session are:	
	1) the conclusion of the committee responsible for constitutional law that the draft law contradicts the provisions of the Constitution of Ukraine, except for cases when it concerns amendments to the Constitution of Ukraine;	1) the opinion of the committee responsible for constitutional law and constitutional control that the draft law contradicts the provisions of the Constitution of Ukraine and the legal positions of the Constitutional Court of Ukraine , except in cases where it concerns amendments to the Constitution of Ukraine;