

Research Article

UNDERSTANDING THE MECHANISM OF INDIVIDUAL CONSTITUTIONAL COMPLAINTS IN LITHUANIA: MAIN FEATURES AND CHALLENGES OF THE FIRST YEARS OF APPLICATION

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ABSTRACT

Background: *The mechanism of individual constitutional complaints has been in place in most European states. In the constitutional legal practice of European states, constitutional complaints as the specific procedural instrument for protecting a person's constitutional rights and freedoms have become an increasingly acceptable, applicable, and justifiable measure. However, Lithuania has introduced this mechanism of human rights protection only with constitutional amendments of 2019. This article examines the legal regulation governing the institution of constitutional complaints, as well as the use of this institution in Lithuania in 2019–2022. The research aims to shed light on the choice of the Lithuanian model of constitutional complaints and its main features, as well as to identify the problematic aspects of this model.*

Methods: *To reveal theoretical and practical aspects of the question under consideration, this article combines different methods of scientific inquiry, including analysis of documents, as well as the logical, systemic, critical, comparative, teleological, and linguistic methods of analysis. The method of document content analysis was used to analyse the content of relevant normative and jurisprudential research sources. This approach used the text of the analysed documents to identify relevant words and phrases, contextualise their usage, and link the acquired data to statements in specialised literature. The analysis hinged on theoretical methods, particularly systemic and logical analysis, used to analyse virtually all the aspects discussed in the paper. Comparative analysis was used to compare the legal regulation of the constitutional complaint model in other Central and Eastern European countries and the Lithuanian legal regulation on similar issues. Teleological and linguistic methods of analysis have been used to clarify the content of the ambiguously understood provisions governing the individual constitutional complaint model, the true intentions of the legislator, and the meaning of the concepts contained in the legislation. The paper also analyses the statistical information on the admissibility of constitutional complaints in Lithuania and other aspects of using this human rights protection mechanism in 2019–2022.*

Results and conclusion. *The paper concludes that after the amendments to the Constitution concerning the consolidation of individual constitutional complaints entered into force in 2019, Lithuania can no longer be categorised among the states with a limited scope of entities entitled*

to apply to the constitutional court and that the consolidation of the institution of individual constitutional complaints in Lithuania was undoubtedly a necessary step. The paper also concludes that most of the elements of the Lithuanian constitutional complaint model in the context of effective human rights protection should be viewed positively and align with the tendencies existing in other Central and Eastern European states. However, it's essential to acknowledge that Lithuania's national model of constitutional complaints falls short in providing certain effective legal remedies that have proved to be successful in other states of the region.

Keywords: Constitutional Court, Individual Constitutional Complaint, Constitutional Review, Protection of Human Rights, Central and Eastern Europe.

1 INTRODUCTION

As of 1 September 2019, the amendments to the Constitution of the Republic of Lithuania¹ (hereinafter — the Constitution) consolidating the mechanism of individual constitutional complaints came into force.² Prior to these amendments, only the Seimas (Parliament) *in corpore*, a group comprising of 1/5 of all Seimas members, the courts, the President of the Republic, and the Government, could apply to the Constitutional Court on the constitutionality of legal acts.³ Thus, these amendments significantly expanded the possibilities of access to constitutional justice in Lithuania.

In September 2019, concurrent with the amendments to the Constitution, significant changes were introduced with the enactment of amendments to the Law on the Constitutional Court of the Republic of Lithuania (hereinafter — the LCC) and amendments to the Rules of the Constitutional Court of the Republic of Lithuania;⁴ these amendments specified the procedure for filing individual constitutional complaints. The above-mentioned amendments to the Constitution and the ordinary law are considered one of the most important changes in the Lithuanian legal system in recent years, and the requirements for constitutional complaints are one of the most pressing issues not only for potential applicants but also for the legal community.⁵

The institution of individual constitutional complaints has been in place in most Central and Eastern European (hereinafter — CEE) states. With its implementation in Lithuania, only the people of Bulgaria and Moldova in this region lack direct access to constitutional justice. In the context of the European Union, besides the above-mentioned Bulgaria, the people of Italy also do not have this right.⁶ It is obvious that, in the constitutional legal practice of European states, constitutional complaints as the specific procedural instrument for the

1 Constitution of the Republic of Lithuania (approved on 25 October 1992) [1992] Valstybės Žinios 33/1014.

2 Law of the Republic of Lithuania no XIII-2004 'Amending Articles 106 and 107 of the Constitution' of 21 March 2019 [2019] TAR 5330.

3 Constitution (n 1) art 106, pts 1, 2, 3, 5.

4 Law of the Republic of Lithuania no XIII-2328 'Amending Articles 3, 13, 24, 28, 31, 32, 39, 40, 46, 48, 49, 53¹, 61, 65, 66, 67, 68, 69, 70, 76, 84, 86 and 88 of the Law no I-67 on the Constitutional Court of the Republic of Lithuania and Supplementing the Law with Articles 67¹ and 67²' of 16 July 2019 [2019] TAR 12391; Decision no 17B-3 'On Amending and Supplementing the Rules of the Constitutional Court of the Republic of Lithuania' (Constitutional Court of the Republic of Lithuania, 5 September 2019) [2019] TAR 14273.

5 Dovilė Pūraitė-Andrikienė, *Lietuvoje įtvirtintas konstitucinio skundo institutas kaip žmogaus teisių apsaugos įrankis* (Vilniaus universitetas 2022).

6 For more details on the spread of the constitutional complaints in Europe, see: European Commission for Democracy Through Law, 'Revised Report on Individual Access to Constitutional Justice' (2020) <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)001-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)001-e)> accessed 20 September 2023.

protection of the constitutionally secured rights of a person have become an increasingly acceptable, applicable, and justifiable measure; therefore, this choice by Lithuania reflects the common European tendencies.

Prior to the 2019 constitutional amendments that consolidated individual constitutional complaints, studies predominantly focused on analysing the potential for integration of this institution within the national legal system. The model of constitutional complaints, as consolidated in 2019, has already been addressed in national legal doctrine in the Lithuanian language. The main elements of this model were addressed by Danelienė⁷ and Pūraitė-Andrikienė.⁸ However, these issues have not been sufficiently examined in the broader comparative context of the legal regulation of other CEE countries. Furthermore, due to its recent consolidation, the Lithuanian mechanism of individual constitutional complaints has not been addressed in any legal scientific works by foreign authors. Thus, there is a lack of analysis of the Lithuanian constitutional complaints model in English language literature.⁹ It is worth noting that the above-mentioned works also did not analyse the statistics on the use of this mechanism in the Lithuanian Constitutional Court in 2019–2022.¹⁰

However, in light of the significance of individual constitutional complaints for the protection of constitutional rights and the process of constitutionalisation at large, there is a compelling need for thorough, comprehensive comparative research on this institution. As such, this research aims to shed light on the choice of the Lithuanian model of constitutional complaints and its main features, as well as to identify the problematic aspects of this model. In addition, this research endeavours to compare different elements of the constitutional complaints model in Lithuania and such models in other states of this region. Specifically, this article also analyses the powers of constitutional justice institutions to examine constitutional complaints in other CEE states.

To provide a basis for this research, the article also examines the typology of constitutional justice concerning the range of applicants and individual constitutional complaints in the context of the development of constitutionalism.

7 Ingrida Danelienė, 'Konstitucinių ginčų teiseną' in Toma Birmontienė and others, *Konstituciniai ginčai Constitutional Disputes* (Mykolo Romerio universitetas 2019) 379.

8 Dovilė Pūraitė-Andrikienė, 'Lietuvos individualaus konstitucinio skundo modelio privalumai ir trūkumai' (2020) 114 *Teisė* 49, doi:10.15388/Teise.2020.114.3; Pūraitė-Andrikienė (n 5).

9 As an exception, an article analyzing whether the constitutional complaint mechanism in Lithuania could be recognized as an effective legal remedy to be used before applying to the ECtHR, should be mentioned, see: Dovilė Pūraitė-Andrikienė, 'Individual Constitutional Complaints in Lithuania: An Effective Remedy to Be Exhausted before Applying to the European Court of Human Rights?' (2022) 15(1) *Baltic Journal of Law & Politics* 1, doi:10.2478/bjlp-2022-0001.

10 The statistics on the use of this mechanism in the Lithuanian Constitutional Court in 2019–2022 were collected from the Constitutional Court's 2019, 2020, 2021, and 2022 annual reports. Constitutional Court of the Republic of Lithuania, *Annual Report 2019* (Constitutional Court of the Republic of Lithuania 2020) <<https://lrkt.lt/en/about-the-court/activity/annual-reports/183>> accessed 20 September 2023; Constitutional Court of the Republic of Lithuania, *Annual Report 2020* (Constitutional Court of the Republic of Lithuania 2021) <<https://lrkt.lt/en/about-the-court/activity/annual-reports/183>> accessed 20 September 2023; Constitutional Court of the Republic of Lithuania, *Annual Report 2021* (Constitutional Court of the Republic of Lithuania 2022) <<https://lrkt.lt/en/about-the-court/activity/annual-reports/183>> accessed 20 September 2023; Constitutional Court of the Republic of Lithuania, *Annual Report 2022* (Constitutional Court of the Republic of Lithuania 2023) <<https://lrkt.lt/lt/apie-teisma/veiklos-sritys/metiniai-pranesimai/1826>> accessed 20 September 2023.

2 THE TYPOLOGY OF CONSTITUTIONAL JUSTICE CONCERNING THE RANGE OF APPLICANTS AND INDIVIDUAL CONSTITUTIONAL COMPLAINTS IN THE CONTEXT OF THE DEVELOPMENT OF CONSTITUTIONALISM

2.1 THE TYPOLOGY OF CONSTITUTIONAL JUSTICE CONCERNING THE RANGE OF APPLICANTS

The range of applicants who have the right to apply to the constitutional court is one of the essential elements defining the constitutional justice model of a state. As a rule, the following possible groups of applicants are identified: (1) supreme state or regional bodies; (2) courts of general competence and specialised courts; (3) natural and legal persons; and (4) constitutional courts *ex officio*.¹¹

The first group comprises such entities as the head of state, the government, the parliament *in corpore*, a group of a certain number of parliamentarians (e.g. 1/5 of members of Parliament in Lithuania and Bulgaria, 1/3 of members of Parliament in Slovenia), the prime minister, the prosecutor general and ombudsmen; in some instances, the powers to apply to constitutional courts are accorded to federal entities or autonomous regions, municipal councils, etc.

The second group of applicants includes the courts of general competence or specialised courts, who can apply to the constitutional courts concerning the constitutionality of acts applicable in cases before them. This procedure is, at times, referred to as a preliminary request. In these instances, courts have certain powers in reviewing the constitutionality of legal acts and the interpretation of the constitution, i.e. inasmuch as they can adopt a decision on the need to apply to the constitutional court concerning the constitutionality of an act applicable in the case before them. However, the principal difference between these procedures is that the powers to decide whether a legal act is indeed in conflict with the Constitution are, undoubtedly, assigned exclusively to constitutional courts. In some states, these powers are granted not to all courts but only to courts of the higher or highest level in the system of courts, as, for instance, exclusively to the Supreme Court in Ukraine.

In the context of the topic under discussion in this article, the most relevant group is the third one, i.e. natural and legal persons, who can file individual constitutional complaints with constitutional courts. In this respect, it is pertinent to note that different models of this mechanism are possible: (1) *actio popularis*, whose distinctive feature is that a person may apply to constitutional justice bodies not only in the event of the violation of his/her fundamental rights and freedoms, but also in cases where the person is acting in the public interest; and (2) constitutional complaints, whose essential feature is that they can be filed where the rights and freedoms of the applicant, rather than a third party, have been violated by a legal act contrary to the constitution. In general, the mechanism of constitutional complaints occurs in two forms: the model of full constitutional complaints and the model of limited constitutional complaints (in the first case, an individual constitutional complaint can be filed not only concerning the constitutionality of a legal norm on which the particular decision was based but also concerning the way that the judicial or other state authorities have applied this norm; meanwhile, the model of limited constitutional complaints can be further subdivided into two types: constitutional complaints concerning individual decisions and constitutional complaints concerning normative legal acts).

11 Helmut Steinberger, *Models of Constitutional Jurisdiction* (Science and technique of democracy 2, Council of Europe Press 1993) 13.

As far as the last group, i.e. constitutional courts themselves, are concerned, it should be recalled that, in constitutional legal thought, such powers of constitutional courts are generally treated with scepticism and seen as potentially intervening in the balance of powers. For instance, most French constitutionalists have viewed this idea as dangerous, i.e. a constitutional justice institution with such a right of “veto” would be able, on its initiative, to participate in political debates; this could lead to the politicisation of the constitutional review process and, definitely, to a critical attitude towards the guardian of the constitution itself.¹²

In CEE states, the compliance of legal acts with the constitution can be challenged by the president of the state. In this regard, Lithuania can be considered a particular exception, as the President of the Republic has the right to apply only concerning the constitutionality of governmental acts. In Estonia and Romania, the President of the state can initiate exclusively the preliminary constitutional review of legal acts but has no right to initiate the review of the constitutionality of these acts after they enter into force. In large part of states, these powers are also granted to the government or the prime minister; but, for example, in Estonia, the Government is vested with no powers in the constitutional review process, while, in Croatia and the Czech Republic, the respective Government may initiate only the constitutional review of statutory acts. In many states of this region, the constitutional review can be initiated by a group of parliamentarians: 1/5 in Lithuania and Bulgaria and 1/3 in Slovenia. These powers are also granted to the prosecutor general in Bulgaria, Latvia, Moldova, Poland, and Slovakia, as well as to ombudsmen in Albania, Latvia, Poland, and Ukraine. Constitutional review can likewise be initiated by the representative institutions of local government, as well as trade unions, for example in Slovenia.¹³

In most CEE states, individuals have direct access to constitutional justice institutions (based on either a broader or narrower model of constitutional complaints); as mentioned before, this possibility in the region is not granted only to the citizens of Bulgaria and Moldova.¹⁴

The right to initiate a constitutional review by constitutional courts exists in Albania, Montenegro, and Serbia (and also did so in Poland in the past). The possibility for initiated constitutional amendments to be assessed by the Constitutional Court *ex officio* is consolidated in Romania.¹⁵

Thus, this region covers states with relatively broad and particularly narrow scopes of persons entitled to apply to the constitutional court. The first category of these states primarily comprises countries like Hungary, where access to the Constitutional Court used to be nearly unlimited – due to *actio popularis*. The former President of the Hungarian Constitutional Court, L. Sólyom, observed that *actio popularis* virtually became a substitute for direct democracy in Hungary. However, in 2012, Hungary introduced a new system of constitutional complaints, replacing the formerly functioning *actio popularis*.¹⁶

The category of states with particularly narrow scopes of persons entitled to apply to the constitutional justice institutions in the region includes Estonia and Lithuania.¹⁷ Until 2019,

12 Philippe Blacher, *Contrôle de Constitutionnalité et Volonté Générale* (PUF 2001) 82.

13 Dovilė Pūraitė-Andrikienė, ‘Konstitucinės justicijos procesas Lietuvoje: optimalaus modelio paieška’ (Dr disertacijos, Vilniaus universitetas 2017) 60-3.

14 European Commission for Democracy through Law (n 6).

15 Pūraitė-Andrikienė (n 13).

16 In the opinion of some authors, the new system of constitutional complaints of different types introduced in Hungary in 2012 has not so far provided a complete substitution for the formerly functioning *actio popularis* in terms of effectiveness. For more on this, see: Fruzsina Gárdos-Orosz, ‘The Hungarian Constitutional Court in Transition — from Actio Popularis to Constitutional Complaint’ (2012) 53(4) *Acta Juridica Hungarica* 302, doi:10.1556/AJur.53.2012.4.3.

17 Wojciech Sadurski, *Rights Before Courts: A Study of Constitutional Courts in Postcommunist States of Central and Eastern Europe* (Springer Dordrecht 2008) 6, doi:10.1007/978-94-017-8935-6.

applications with the Lithuanian Constitutional Court could be filed for the review of the constitutionality of legal acts only by the applicants of the first and second groups identified above. These are the supreme state bodies or their members (1/5 of members of the Seimas, the President of the Republic, the Government of the Republic, the Seimas *in corpore*), courts of general competence and specialised courts. It should also be emphasised that, despite this rather narrow scope of applicants with the right to initiate the constitutional review of legal acts, these entities are additionally differentiated insofar as part of them are granted the powers to apply to the Constitutional Court only concerning an investigation into the constitutionality of a particular part of legal acts falling within the Court's jurisdiction. Specifically, the President of the Republic could exclusively apply to assess the compliance of the acts of the Government with the Constitution and is not authorised to challenge the constitutionality of laws or other legal acts adopted by the Seimas (the Parliament). However, the Government may apply only concerning the constitutionality of laws or other legal acts adopted by the Seimas. According to the data from 1993–2018, the Government merely exercised this right on five occasions, and the President of the Republic filed just three applications concerning the constitutionality of legal acts of the Government.¹⁸

Taking into account that until 2019, a person's right to initiate a constitutional justice case was not established in the Constitution of Lithuania, a person, considering that his/her constitutional rights had been violated by a decision based on an unconstitutional legal act, still had the right to apply to the Constitutional Court indirectly, through the courts of general jurisdiction. Unfortunately, although the decision of the court to apply to the Constitutional Court or not to apply to it under the provisions of the Constitution and official constitutional doctrine should be related to the existence of reasonable doubts about the constitutionality of the applicable legal act, procedural decisions made by courts of general jurisdiction also provide other arguments that determine this decision.¹⁹

Scientific literature has highlighted that the drafters of the text of the Constitution confined themselves to the most essential means of constitutional review, fearing the possible excessive overburdening of the Constitutional Court with constitutional complaints, which could disturb its functioning as a relatively new institution.²⁰ It was only in 2019 that, as a result of the constitutional amendments concerning the consolidation of individual constitutional complaints, the scope of applicants with the right to apply to the Constitutional Court was significantly expanded. It can be reasonably assumed that, following these amendments, Lithuania can no longer be categorised among the states with a limited scope of entities entitled to apply to the constitutional court. Thus, one of the most criticised elements of the Lithuanian constitutional control model created in 1992-1993, namely the absence of the possibility to apply to the Constitutional Court for natural and legal persons,²¹ no longer exists.

18 Meanwhile, during the same period, the Constitutional Court received 883 applications by courts, 208 applications by groups of members of the Seimas and 17 applications from the Seimas *in corpore*, see: Constitutional Court of the Republic of Lithuania, *Annual Report 2018* (Constitutional Court of the Republic of Lithuania 2019) <<https://lrkt.lt/en/about-the-court/activity/annual-reports/183>> accessed 20 September 2023.

19 For more on these arguments and why a more effective form of protection of violated constitutional rights than the possibility of indirect application to the Constitutional Court should always be considered an opportunity to apply directly to the Constitutional Court, see: Danelienė (n 7) 414-9.

20 Jarašiūnas Jarašiūnas, 'Lietuvos Respublikos Konstitucinis Teismas ir žmogaus teisių apsauga' į D Gailiūtė ir kiti, *Žmogaus teisių apsaugos institucijos* (Mykolas Romeris university 2009) 206.

21 Danelienė (n 7) 414.

2.2 INDIVIDUAL CONSTITUTIONAL COMPLAINTS IN THE CONTEXT OF THE DEVELOPMENT OF CONSTITUTIONALISM

Although it is not unchallenging to disclose the phenomenon of constitutionalism in laconic statements, its essence can be recapitulated concisely as the limitation of power to protect human rights and freedoms.²² Constitutional review is the main instrument ensuring the effectiveness of the Constitution. This is particularly relevant in states in which constitutional order is being created. Therefore, after the collapse of the totalitarian system, the states of CEE looked towards constitutionalism with hope.²³ Constitutional courts in these countries were created to protect democratic constitutional stability and to prevent the erosion of democratic values.

The broader understanding of democracy, i.e. when it is understood not merely as a rule by the majority or free elections, has had considerable influence on the states that experienced authoritarianism or totalitarianism.²⁴ Like other CEE states, e.g. Latvia and Estonia, apart from the experience of Soviet totalitarianism, the experience of authoritarianism was not unfamiliar to Lithuania in the inter-war period; therefore, as political culture was immature, the functioning of the constitutional justice institution during the transitional period was even more significant, because the retention of the constitution as supreme law under these conditions becomes far more complex and important.²⁵

Thus, the Constitutional Court in Lithuania was faced with reviewing the constitutionality of legal acts and forming a new concept of law based on the Constitution. The Constitutional Court has successfully carried out this historical mission for three decades. Constitutional justice has fundamentally transformed the perception and interpretation of the Lithuanian legal system.²⁶

It is also important to note that constitutionalism, as a phenomenon, does not fit within the frames of any period or territory. Constitutionalism is neither regional nor national; it is a phenomenon of all Western democracies. In the context of the enlargement of the European Union, it is frequently maintained that constitutionalism has gained a new impetus. Following the triumph of democracy and legal statehood in Central and Eastern Europe in 1990–1992, the European Union has increasingly evolved into a union that emphasises not just economic sectors like mining or the coal industry but, more prominently, as a union of human rights, freedoms and the promotion of European legal culture.²⁷ All this leads to reasoning about European ‘structural constitutionalism’.²⁸ Ever-growing sensitivity to human rights can be observed in Europe; at least partly, this phenomenon has been prompted by the possibility of applying to the European Court of Human Rights.

In response to these trends, many states have taken measures to introduce or broaden the possibilities for individuals to apply to constitutional courts. As previously mentioned, the

22 Dovilė Pūraitė-Andrikienė, ‘Individualus konstitucinis skundas kaip veiksmingas žmogaus teisių apsaugos ir konstitucionalizmo plėtros instrumentas’ (2015) 96 Teisė 201, doi:10.15388/Teise.2015.96.8765.

23 Dovilė Pūraitė-Andrikienė, ‘The Developments and Prospects of the Lithuanian Constitutional Justice Model’ in G Švedas and D Murauskas (eds), *Legal Developments During 30 Years of Lithuanian Independence: Overview of Legal Accomplishments and Challenges in Lithuania* (Springer Cham 2021) 226, doi:10.1007/978-3-030-54783-7_12.

24 Caroline Taube, *Constitutionalism in Estonia, Latvia and Lithuania: A Study in Comparative Constitutional Law* (Lustu Forlag 2001) 74.

25 *ibid.*

26 Egidijus Kūris, ‘Konstitucinė justicija Lietuvoje: pirmasis dešimtmetis’ (2003) 3-4 Justitia 2.

27 Egidijus Šileikis, *Alternatyvi konstitucinė teisė* (Teisinės Informacijos Centras 2005) 48.

28 Kaarlo Tuori, ‘European Constitutionalism’ in R Masterman and R Schütze (eds), *The Cambridge Companion to Comparative Constitutional Law* (CUP 2019) 521, doi:10.1017/CBO9781316091883.

institution of individual constitutional complaints has been established in most states of the European Union and in nearly the whole CEE region.²⁹ All these tendencies may determine that the widespread establishment of constitutional complaint mechanisms can be identified in future legal thought as one more particular stage in the evolution of constitutionalism. Having identified before in this article and considering that the essential idea of constitutionalism is the limitation of power to protect human rights and freedoms, consolidating the institution of individual constitutional complaints in Lithuania is undoubtedly necessary.³⁰

3 THE CHOSEN MODEL OF INDIVIDUAL CONSTITUTIONAL COMPLAINTS³¹

In the studies of constitutional legal science, the approach prevails that three constituent elements of their construction determine the effectiveness of the powers of constitutional justice: (a) the scope of applicants with the right to apply to the constitutional court; (b) the scope of powers or the range of objects that can be contested before the constitutional court; and (c) the legal effects of decisions adopted by the constitutional justice institution.³² In the context of the powers to examine individual constitutional complaints, in addition to the three elements indicated above, there is one more particularly important element – conditions and terms for the application to the constitutional court (filters), which helps to reduce the inflow of individual constitutional complaints and contributes to achieving other essential objectives. The importance of this element is linked to the so-called dilemma between the overburdening of the constitutional court and providing an efficient human rights protection system. Therefore, this part of the article will further separately analyse four key elements defining the Lithuanian model of constitutional complaints: (1) the objects of individual constitutional complaints; (2) persons with the right to apply to the Constitutional Court by filing individual constitutional complaints; (3) conditions and terms for the application to the Constitutional Court; and (4) the legal effects of declaring individual constitutional complaints to be reasonable.

3.1 WHAT TYPE OF LEGAL ACTS CAN A PERSON CHALLENGE BEFORE THE CONSTITUTIONAL COURT?

In the European Commission for Democracy through Law (Venice Commission) study focusing on individual access to constitutional justice, which sums up states' experience in individual constitutional complaints, there is a notable emphasis on the nature of the relationship between constitutional and ordinary courts. In systems employing a specific model of constitutional complaints, where the constitutional court adopts decisions only regarding normative legal acts and does not directly review the application of normative legal acts by ordinary courts, conflicts between the two are less common.³³ The constitutional court's role is limited to the examination of 'constitutional matters,' leaving the interpretation of ordinary

29 European Commission for Democracy Through Law (n 6).

30 For more on the reasons for the necessity of individual constitutional complaints, see: Pūraitė-Andrikienė (n 22).

31 For more on the development of the consolidation of the mechanism of constitutional complaints in Lithuania and other initiatives to broaden/limit the competence of the Constitutional Court, see: Dovilė Pūraitė-Andrikienė, 'The Legal Force of Conclusions by the Lithuanian Constitutional Court and the Issue of Their (Non-)Finality: Has the Time Come to Amend the Constitution?' (2019) 44(2) *Review of Central and East European Law* 244-49, doi:10.1163/15730352-04402005.

32 Paulius Vinkleris, 'Konstitucinės priežiūros elitinės koncepcijos ir žinybinio priklausymo ribų problema lietuvoje' (1999) 5-6 *Justitia* 23.

33 European Commission for Democracy Through Law (n 6).

legal acts to the courts of general competence.³⁴

However, it is also underlined that where the model of normative constitutional complaints is chosen, identifying what constitutes a constitutional matter can be difficult, especially in cases involving the right to a fair trial, where any procedural violation by the courts of general competence can be construed as a violation of the right to a fair trial.³⁵

It is worth pointing out that the form of normative constitutional complaints is often called 'simulated' constitutional complaints, given the limited capacity it provides individuals to protect their violated rights. For example, in Poland, where the consolidation of individual constitutional complaints was based on a narrower concept, discussions are taking place as to whether the right granted to a person to challenge only a legal norm ensures the effective protection of constitutional rights, some authors argue that in Poland the constitutional complaint is capable of bringing the desired consequences to the applicant only in specific situations.³⁶

Nevertheless, the form of normative constitutional complaints has clear advantages, such as reducing tension between the Supreme Court and the Constitutional Court, preventing the Constitutional Court from evolving into a 'super-Supreme Court', and ensuring the Constitutional Court does not become overburdened with applications.³⁷ In the region of Central and Eastern Europe, the model of limited normative constitutional complaints is opted for by Latvia, Montenegro, Poland, Romania, and Ukraine, while the model of full constitutional complaints exists in Albania, Bosnia and Herzegovina, Croatia, the Czech Republic, Slovenia, Slovakia, and Macedonia.³⁸ It should be noted that in some states that have chosen the full constitutional complaint model, constitutional courts are overburdened with applications. For example, the Constitutional Court of Slovenia received 4,000 constitutional complaints annually, subsequently asking the legislature to restrict this right.³⁹ Since 2008, the Croatian Constitutional Court has received around 5,000 constitutional complaints yearly, rising to over 6,000 in 2012.⁴⁰ In the Czech Republic, individual constitutional complaint proceedings amount to 98 percent of the Constitutional Court's caseload.⁴¹ Such a high volume of complaints might hinder the court's effective operation, preventing it from fulfilling its genuine function of protecting individual rights.

In Lithuania, a person can file an individual constitutional complaint concerning the compliance of laws and other acts adopted by the Seimas, the acts of the President of the Republic and the acts of the Government with the Constitution or any other higher-ranking legal act (if a decision adopted on the basis of these legal acts has violated the constitutional rights or freedoms of this person).⁴² Thus, the model of normative constitutional complaints has

34 *ibid.*

35 *ibid.*

36 Jacek Zalesny, 'Constitutional Complaint in Poland: Model, Doctrinal Interpretation and Application Problems' (2018) 12 *Law of Ukraine* 25, doi:10.33498/louu-2018-12-025.

37 Pūraitė-Andrikienė (n 8) 52.

38 European Commission for Democracy Through Law (n 6).

39 Peter Paczolay, 'Introduction to the Report of the Venice Commission on Individual Access to Constitutional Justice' (Conference on Individual Access to Constitutional Justice, Arequipa, Peru, 30-31 May 2013) <[https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU\(2013\)003-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-JU(2013)003-e)> accessed 20 September 2023.

40 Ana Thoonen-Tornic, 'Access to Constitutional Courts: Popular Complaints in Croatia, Slovenia and Macedonia' (DPhil thesis, University of Zurich 2017) 81-6.

41 Katarína Šipulová, 'The Czech Constitutional Court: Far Away from Political Influence' in K Pócsa (ed), *Constitutional Politics and the Judiciary: Decision-Making in Central and Eastern Europe* (Routledge 2019) 35.

42 Constitution (n 1). Constitution states that every person has the right to apply to the Constitutional Court concerning the acts specified in the first and second paragraphs of Art. 105 of the Constitution

been chosen in Lithuania. According to the Constitution and laws, being one of the three court systems in Lithuania, the Constitutional Court does not review the constitutionality of decisions of the other two court systems (courts of general jurisdiction and administrative courts). It is not intended to function as a 'fourth instance' for decisions of general jurisdiction or a 'third instance' for administrative court decisions.⁴³ Thus, if the Constitutional Court was granted the possibility of annulling the decisions of courts of general competence, its powers would be excessively expanded with respect to other judicial authorities.⁴⁴ This would be incompatible with the overall constitutional regulation, in particular with the mission of the Constitutional Court and the system of the judiciary, and could create tensions among courts. However, from 2019 to 2022, 87 individual constitutional complaints were lodged, requesting the Constitutional Court to assess whether court decisions were in compliance with the Constitution or laws, to review court decisions, or to review or reopen cases already decided by the courts.⁴⁵ This suggests that applicants often do not fully realise that an individual constitutional complaint cannot be used to challenge the constitutionality of court decisions. Consequently, the Constitutional Court refused to consider these applications.⁴⁶

Thus, in Lithuania, the decision to adopt the model of normative constitutional complaint was influenced not only by the traditional arguments favouring this approach to avoid tension between the courts of general jurisdiction and the Constitutional Court, as well as by the threat of overloading the Court with complaints. Such a choice was made also because of the overall constitutional regulation, the established tradition of constitutional control⁴⁷ and the experience of neighbouring countries⁴⁸ that have chosen similar models of constitutional complaints. In this context, opting for the normative constitutional complaints appears to be the logical choice. However, if the narrower concept of a normative constitutional complaint is chosen, other elements of the constitutional complaint model should be modelled in such a way that they do not further restrict the person's capacity to defend potentially violated rights before the Constitutional Court.⁴⁹

According to European constitutional review traditions, the competence of the constitutional court should encompass the constitutional review of not all normative legal acts but specifically the legal acts of supreme state authorities. In the opinion of the Venice Commission, the constitutional review of lower-ranking legal acts should be assigned to the competence of administrative courts.⁵⁰ As mentioned before, in Lithuania, a person may file an individual constitutional complaint concerning laws and other acts adopted by the Seimas and legal acts

if a decision adopted on the basis of these acts has violated the constitutional rights or freedoms of the person and the person has exhausted all legal remedies (Art. 106 (4)).

43 Danelienė (n 7) 428.

44 Pūraitė-Andrikienė (n 8) 53.

45 Here and below you will find summarized statistical data from the 2019, 2020, 2021, and 2022 annual reports of the Constitutional Court (n 10).

46 E.g. see: Decision no KT27-A-S16/2019 Regarding the Refusal to Consider Request no 1A-5/2019 (Constitutional Court of the Republic of Lithuania, 9 October 2019) <<https://lrkt.lt/lt/teismo-aktai/paieska/135/ta1969/content>> accessed 20 September 2023; Decision no KT28-A-S17/2019 Regarding the Refusal to Consider Request no 1A-4/2019 (Constitutional Court of the Republic of Lithuania, 9 October 2019) <<https://lrkt.lt/lt/teismo-aktai/paieska/135/ta1970/content>> accessed 20 September 2023; Decision no KT31-A-S20/2019 Regarding the Refusal to Consider Request no 1A-11/2019 (Constitutional Court of the Republic of Lithuania, 16 October 2019) <<https://lrkt.lt/lt/teismo-aktai/paieska/135/ta1974/content>> accessed 20 September 2023.

47 Since its establishment 30 years ago, the Constitutional Court has only examined the constitutionality of acts adopted by the legislative and executive branches of government, so the introduction of a full constitutional complaint would be too "revolutionary" in the context of the already established tradition of national constitutional review.

48 Latvia and Poland have also opted for the normative constitutional complaint model.

49 Pūraitė-Andrikienė (n 5) 268.

50 European Commission for Democracy Through Law (n 6).

of the executive, i.e. legal acts passed exclusively by supreme state authorities. The range of objects falling within the scope of constitutional review does not include any acts passed by ministers, other institutions of governance and local government bodies. Cases concerning the lawfulness of normative administrative acts, whose review for ensuring their compliance with the Constitution and other laws does not fall within the competence of the Constitutional Court, are considered in Lithuania by administrative courts.⁵¹ Such an option is in line with the aforementioned European traditions.

In the context of objects of individual constitutional complaints, it should be mentioned that in 2019-2022, the admissibility issue of 509 individual complaints was resolved in the Constitutional Court. Constitutional complaints whose admissibility issue was resolved in 2019-2022 most frequently questioned the constitutionality of laws – such a question was raised in 312 petitions; 30 petitions requested an investigation into the compliance of government resolutions with the Constitution and laws.⁵² In that year, the Constitutional Court refused to consider 442 constitutional complaints. 170 of which were refused for consideration, noting that, under the Constitution, a person has the right to apply to the Constitutional Court regarding the compliance of not all acts with the Constitution and/or laws, but only regarding laws or other acts adopted by the Seimas, the acts of the President, and the acts of the Government.⁵³ These trends show that a large number of constitutional complaints were not accepted for consideration because the applicants did not know which acts could be challenged before the Constitutional Court.

It should be noted that the provisions of the Constitution are formulated in a very laconic manner and do not specify which particular laws (apart from ordinary laws) and other legal acts may be subject to constitutional review.⁵⁴ For instance, Articles 102 and 105 of the Constitution do not *expressis verbis* mention laws amending the Constitution, constitutional laws, laws ratifying international treaties or the Statute of the Seimas.

As a result, the Constitutional Court has more than once held that Article 102 of the Constitution should not be interpreted as providing an exhaustive and definitive list of legal acts subject to constitutional review.⁵⁵ The Constitutional Court has formulated a comprehensive doctrine regarding the list of objects falling within the scope of constitutional review. Given the limited scope of this article, all these aspects will not be discussed in greater detail.⁵⁶ The official doctrine developed by the Constitutional Court in relation to the objects falling within the scope of its constitutional review will, undoubtedly, continue to be relevant in examining individual constitutional complaints by the Constitutional Court. For example, in its ruling of 25 November 2019, the Constitutional Court clarified its authority to consider individual constitutional complaints in cases where an individual person raises concerns about a legal act, and the contested act is no longer in force, or is annulled or amended in the course of considering the case.⁵⁷ Thus, the object of an individual constitutional complaint may encompass both currently valid legal acts and those that have been rendered invalid (through annulment or amendment) or have expired in terms of their validity.⁵⁸

51 Pūraitė-Andrikienė (n 8) 54.

52 Constitutional Court of the Republic of Lithuania (n 10).

53 *ibid.*

54 Dovilė Pūraitė-Andrikienė, 'Teisės aktų konstitucingumo patikros objektai Lietuvos Respublikos Konstitucinio Teismo jurisprudencijoje' (2020) 116 *Teisė* 72, doi:10.15388/Teise.2020.116.5.

55 Case 33/03 (Constitutional Court of the Republic of Lithuania, 28 March 2006) [2006] *Valstybės žinios* 32-1292.

56 For more on these aspects, see Pūraitė-Andrikienė (n 54).

57 For more on this, see Decision no KT52-N14/2019 in case no 14/2018 (Constitutional Court of the Republic of Lithuania, 25 November 2019) [2019] *TAR* 18747.

58 Danelienė (n 7) 427.

3.2 WHO CAN APPLY TO THE CONSTITUTIONAL COURT WITH AN INDIVIDUAL CONSTITUTIONAL COMPLAINT?

Persons entitled to file individual constitutional complaints are not precisely identified in the legal acts of CEE states. For example, in the Constitution of Poland an entity with the right to file an individual constitutional complaint is named 'everyone whose constitutional freedoms or rights have been infringed';⁵⁹ whereas, in Latvia, the content of the concept of the person is defined neither in the Constitution nor in the Law on the Constitutional Court. In the Constitutional Court Act of Slovenia, such an entity is similarly defined by using the particularly broad term 'anyone'.⁶⁰ In contrast, other CEE states in their legislation *expressis verbis* name natural and legal persons as entitled to file individual constitutional complaints: they are referred to as 'every individual or legal person' in Croatia,⁶¹ 'a natural or legal person' in the Czech Republic,⁶² 'any legal or natural person' in Serbia⁶³ and 'natural persons or legal persons' in Slovakia.⁶⁴ However, the respective legislation of the above-mentioned states does not specify the scope of these applicants to a more precise extent. The scope of applicants in question is revealed in the constitutional doctrine of these courts.⁶⁵ In this context, it should be mentioned that despite the fact that the institution of the constitutional complaint has been in existence in Poland for more than two decades, the issue of standing to file a constitutional complaint remains unresolved. Many doubts exist around the issue of the admissibility of constitutional complaints brought by some entities, notably those with some connection to public authorities.⁶⁶

Lithuanian model of constitutional complaints is in line with these tendencies. An entity that can apply to the Constitutional Court with an individual constitutional complaint is referred to in Article 106 of the Constitution as 'every person', a fairly broad phrase. The Constitution does not specify what persons are covered by this concept: whether only natural or legal persons, whether only citizens of the Republic of Lithuania or also citizens of other states, stateless persons, etc. Nor does the LCC comprehensively define the scope of applicants in question. Nevertheless, a closer look at the provisions of this law makes it possible to state with certainty that not only natural but also legal persons are included.⁶⁷ However, the LCC does not answer as to whether all legal entities fall within this scope, i.e. whether only private or public legal entities have the right to file individual constitutional complaints. The category

59 Art. 79 of the Constitution of the Republic of Poland of 2 April 1997 <<https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>> accessed 20 September 2023.

60 Art. 24(1) of the Constitutional Court Act of the Republic of Slovenia (ZUstS) [2007] Official Gazette 64.

61 Art. 38 of the Constitutional Act on the Constitutional Court of the Republic of Croatia [2002] Narodne novine 49.

62 Art. 64 of the Constitutional Court Act of the Czech Republic no 182/1993 Sb (1993) <https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Pravni_uprava/AJ/Constitutional_court_act_182_1993.pdf> accessed 20 September 2023.

63 Art. 168 of the Constitution of the Republic of Serbia of 8 November 2006 [2006] Official Gazette 98.

64 Art. 127 of the Constitution of the Slovak Republic of 1 September 1992 [1992] Zbierka zákonov 460; Art. 18 of the Law of the Slovak Republic no 38/1993 'On organization and procedures of the constitutional court and status of the judges' of 15 February 1993 [1993] Zbierka zákonov 10.

65 E.g. see the judgment of the Constitutional Court of the Republic of Latvia of 21 February 2002 in case No 2000-07-0409; the judgment of the Constitutional Tribunal of the Republic of Poland of 6 April 1998 in case No Ts9/98.

66 Marta Kłopocka-Jasińska and Adam Krzywón, 'On the Rights of Public Entities to Lodge a Constitutional Complaint in the Light of the Jurisprudence of the Polish Constitutional Tribunal' (2016) 6(1) Wrocław Review of Law, Administration & Economics 45, doi:10.1515/wrlae-2015-0038.

67 Law of the Republic of Lithuania no I-67 'On the Constitutional Court' of 3 February 1993 [1993] Valstybės žinios 6-120. Article 32 of the LCC concerns the representation of a legal person at the Constitutional Court, while Article 67¹ prescribes that a petition filed with the Constitutional Court by a person referred to in the fourth paragraph of Article 106 of the Constitution must contain ... "the name and surname (*name*)".

of natural persons is likewise not specified in more detail; the Constitution and the LCC do not *express verbis* indicate whether only citizens or also foreigners and stateless persons can be regarded as entitled to file individual constitutional complaints.

However, in light of the broad phrase ‘every person’ used in the Constitution, it is logical to assume that this wording covers all the categories of persons mentioned above. Otherwise, the concept of ‘human’ or ‘citizen’ would have been chosen to define the scope of persons entitled to file individual constitutional complaints.⁶⁸ The choice of an ‘every person’ in defining the persons entitled to apply to the Constitutional Court is also logical, taking into account overall Lithuanian constitutional regulation: everyone may defend his rights by invoking the Constitution (Art.6 (2)); a person whose constitutional rights or freedoms are violated shall have the right to apply to a court (Art. 30 (1)). Thus, the broad phrase ‘every person’ should be assessed positively as providing the possibility of defending the rights of different categories of persons.

It is important to note that, in accordance with the provisions of the Constitution (Art. 106(4)), a person does not have the right to apply to the Constitutional Court when: 1) he or she applies by submitting an *actio popularis*; 2) seeks to protect the constitutional rights or freedoms of another person (other persons) and not of his/her own.⁶⁹ In 2019–2022, the consideration of 168 individual constitutional complaints (or parts thereof) was refused on the grounds that they had been filed by an institution or a person who does not have the right to apply to the Constitutional Court.⁷⁰

Nevertheless, certain categories of persons entitled to file individual constitutional complaints will inevitably have some distinctive features compared with others. For instance, citizens of foreign states and stateless persons do not have certain rights of a citizen (e.g. the right to vote in elections to the Seimas or elections of the President is a political right of a citizen of the Republic of Lithuania); therefore, their complaints, if submitted, concerning the respective rights will not be considered; the category of legal persons (in particular, public ones) will also have their own specific features.⁷¹ For example, Lithuanian legal scholars are currently discussing whether the Judicial Council, as a self-governing body representing and defending the interests of the judiciary and judges, can be qualified as a subject entitled to apply to the Constitutional Court with an individual constitutional complaint.⁷²

All these aspects will likely be revealed in the constitutional doctrine in the future when considering individual constitutional complaints filed with the Constitutional Court by different persons. The first statistical data on the admissibility of individual constitutional complaints show that complaints submitted by natural persons clearly dominate. From 2019–2022, the Constitutional Court received 593 individual constitutional complaints, of which 541 were filed by natural persons, 47 from legal persons, 5 were jointly submitted by natural and legal persons, and 121 were filed with the legal assistance of a lawyer.⁷³

It is worth mentioning that the draft law registered in 2017 on amending the Constitution⁷⁴ proposed that the institution of individual constitutional complaints be combined with the

68 Pūraitė-Andrikienė (n 8) 56.

69 Danelienė (n 7) 425.

70 Constitutional Court of the Republic of Lithuania (n 10).

71 Pūraitė-Andrikienė (n 8) 58.

72 E Šileikis, ‘Teisėjų Taryba ir Konstitucinis Teismas: teismų gynybos aspektai’ (*TeisePro*, 14 March 2023) <<https://www.teise.pro/index.php/2023/03/14/e-sileikis-teiseju-taryba-ir-konstitucinis-teismas-teismu-gynybos-aspektai/>> accessed 20 September 2023.

73 Constitutional Court of the Republic of Lithuania (n 10).

74 Draft Law of the Republic of Lithuania no XIII P-431 ‘Amending Articles 106 and 107 of the Constitution’ of 10 March 2017 <<https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/942a6100057411e78352864fdc41e502?jfwid=-4cu9uagrq>> accessed 20 September 2023.

possibility of addressing the Constitutional Court by the ombudsmen.⁷⁵ It is unclear what reasons led to the absence of the said possibility in the final version of the constitutional amendments concerning individual constitutional complaints. In general, ombudsmen in Central and Eastern Europe have the right to apply to the constitutional court, inter alia, in Albania, Croatia, Estonia, Hungary, Latvia, Poland and Ukraine.⁷⁶

3.3 WHAT ARE THE MAIN CONDITIONS AND TERMS FOR THE APPLICATION TO THE CONSTITUTIONAL COURT?

The Lithuanian model of individual constitutional complaints contains the following conditions and terms for applying to the Constitutional Court. Two of them are prescribed in the Constitution:

(1) the requirement that the rights and freedoms of the applicant have been violated by a legal act that is (possibly) in conflict with the Constitution and (2) the requirement to have exhausted all legal remedies (Art.106(4)). The third condition is established in the LCC, which provides for a time limit of four months for filing a constitutional complaint from the day when the final decision of the last instance having heard the case was adopted.⁷⁷ The Lithuanian model of constitutional complaint does not provide the requirement that a lawyer could draw up a complaint in accordance with the prescribed requirements.⁷⁸ The necessity of these conditions is obvious in the context of the overall constitutional regulation of Lithuania. The Constitution established the whole judiciary system (Chapter IX), consisting of the courts of different instances, to enable a person to realise his/her constitutional right to apply to a court in case of a violation of these rights or freedoms (Art. 30(1)). Therefore, it is natural that taking into account the existence of the judiciary system and the guarantee of judicial protection of a person's constitutional rights, the Constitution and the LCC provided certain conditions for the right to apply to the Constitutional Court with an individual constitutional complaint. These conditions also help to reduce the inflow of constitutional complaints and contribute to achieving other important objectives.

3.3.1 The requirement that the rights and freedoms of the applicant have been violated by a legal act that is (possibly) in conflict with the Constitution

It has been mentioned that in systems with *actio popularis*, a person can apply to the constitutional justice institution not only where his/her own fundamental rights or freedoms have been violated but also while acting in the public interest. However, given that such a model of access to the constitutional justice institution significantly reduces the capacity to manage the flow of unfounded, repetitive and potentially unsuccessful complaints, the Venice Commission has expressed a critical view regarding models based on *actio popularis*.⁷⁹ The availability of an *actio popularis* in matters of constitutionality cannot be regarded as a European standard; at present it is rather an exception in Europe and among the Member States of the Venice Commission.⁸⁰ Although it may appear from the outset that the instrument of *actio popularis* can be very effective and, in particular, involve people in the process

75 During the first attempt of voting on this constitutional amendment in June 2017, the Seimas failed to achieve the required two-thirds of votes of all its members.

76 European Commission for Democracy Through Law (n 6).

77 Constitution (n 1) art 65 (2(3)).

78 This is probably the issue that raised the most discussion during the creation of the Lithuanian model of constitutional complaints. For more on this see Pūraitė-Andrikienė (n 5) 170-4.

79 European Commission for Democracy Through Law (n 6).

80 European Commission for Democracy Through Law, Opinion no 614/2011 'On Three Legal Questions Arising in the Process of Drafting the New Constitution of Hungary' (2011) <[https://www.venice.coe.int/WebForms/documents/default.aspx?pdffile=CDL-AD\(2011\)001-e](https://www.venice.coe.int/WebForms/documents/default.aspx?pdffile=CDL-AD(2011)001-e)> accessed 20 September 2023.

of constitutionalisation, the experience of the states in which this institution operated shows that its choice increases the workload of the constitutional court, making it more complicated for the court to organise its work.

For example, before Hungary's change in the Constitution, it allowed anyone, including foreign nationals or stateless individuals, to request the review of a constitutional law, regulation, or petition for that particular law's annulment without proving any harm done to them. Prior to the amendments introducing this new system, *actio popularis* had been one of the most disputed elements in the Hungarian constitutional justice; one of the main reasons for this was the unbearable workload of the Constitutional Court (approximately 1,600 actions were brought annually before the Constitutional Court in the framework of *actio popularis*).⁸¹ To avoid the paralysis of the Constitutional Court in Hungary, a new system of different types of constitutional complaints was introduced in 2012 to replace the former *actio popularis*. Some scholars and even the former president of the Hungarian Constitutional Court argued that abolishing the *actio popularis* (and introducing the real constitutional complaint) could serve the depoliticisation of the Hungarian Constitutional Court.⁸² A similar situation occurred in Croatia due to the excessive inflow of *actio popularis* complaints.⁸³

The Constitution of Lithuania provides that: 'person has the right to apply to the Constitutional Court concerning the acts ... if a decision adopted on the basis of these acts has violated the constitutional rights or freedoms of the person' (Article 106(4)). This is the first constitutionally laid down condition that also defines Lithuania's chosen model for individual constitutional complaints. After this provision has been laid down in the Constitution, Lithuania can clearly be grouped with states that have opted for the institution of individual constitutional complaints, rather than the institution of *actio popularis*.⁸⁴ *Actio popularis* would allow a person to apply to the Constitutional Court not only for the protection of their own constitutional rights but also to safeguard the public interest and challenge the constitutionality of any legal act assigned to the competence of the Constitutional Court.⁸⁵ It is interesting to note that in 2005, a group of members of Parliament tabled a draft to amend the respective article of the Constitution (Art.106); the draft proposed to establish the *actio popularis*; however, various academic and state institutions supported the introduction of individual constitutional complaint in Lithuania, but argued against *actio popularis*.⁸⁶

Thus, the first condition for applying to the Constitutional Court enshrined in the Lithuanian model of constitutional complaints undoubtedly helps to reduce the inflow of unfounded constitutional complaints and, hence, is necessary. The introduction of this filter at the constitutional level should also be assessed favourably, as this issue is linked to the very essence of the model of constitutional complaints.⁸⁷ The choice of this condition is also logical, considering Article 30 (1) of the Constitution, according to which a person whose constitutional rights or freedoms are violated shall have the right to apply to a court (therefore, it excludes *actio popularis*).

The Constitutional Court held in its decisions that an individual constitutional complaint is deemed to have been filed by an institution or person not entitled to apply to the Constitu-

81 Gárdos-Orosz (n 16) 302-15.

82 Kálmán Pócza, Gábor Dobos and Attila Gyulai, 'The Hungarian Constitutional Court: A Constructive Partner in Constitutional Dialogue' in Kálmán Pócza (ed), *Constitutional Politics and the Judiciary: Decision-making in Central and Eastern Europe* (Routledge 2019) 99.

83 European Commission for Democracy Through Law (n 6).

84 Pūraitė-Andrikienė (n 8) 59.

85 Danelienė (n 7) 426.

86 Agne Limantė, 'Lithuania Introduces Individual Constitutional Complaint' (*Verfassungsblog*, 26 March 2019) <<https://verfassungsblog.de/lithuania-introduces-individual-constitutional-complaint/>> accessed 20 September 2023.

87 Pūraitė-Andrikienė (n 8) 59.

tional Court in cases where the impugned legal regulation has not led to the adoption of a decision that could possibly violate the constitutional rights or freedoms of the petitioner. For this reason, in 2019-2022 the Constitutional Court refused to consider 125 individual constitutional complaints (or parts thereof).⁸⁸ These numbers show that applicants do not always understand the conditions for filing a constitutional complaint.

3.3.2 The requirement to have exhausted all legal remedies

The importance of this condition is not limited to reducing the inflow of unfounded complaints but also contributes to achieving other important objectives: (1) highlights the responsibility of the courts of general competence in the protection of constitutional rights and freedoms, and (2) the Constitutional Court does not need to establish the factual and/or legal circumstances of the case and, therefore, it can properly fulfil its main function – to assess the constitutionality of the law under complaint.⁸⁹

The requirement to have exhausted all legal remedies is likewise linked to the very essence of the model of constitutional complaints. Although there are many possible definitions of individual constitutional complaints, the most accurate description could be the following: it is a subsidiary legal remedy, which is used by a person to apply to the Constitutional Court or another analogous body and to defend his/her constitutional rights and freedoms where the legal acts of certain state authorities have possibly violated these rights and freedoms.⁹⁰ Due to the requirement to have exhausted all legal remedies, a constitutional complaint can be identified as a subsidiary remedy. This makes it clear that the existence of individual constitutional complaints does not deny other possibilities for the protection of human rights since persons have recourse to the mechanism of individual constitutional complaints when it is impossible to prevent the violation of human rights by general measures for protecting rights. However, in order that this filter would not unduly narrow possibilities for persons to defend their violated constitutional rights, it is useful to provide some exceptions. For example, in Croatia, the Czech Republic, Latvia, Montenegro, Slovakia and Slovenia, exhausting all legal remedies is not required in those cases where compliance with this condition would cause irreparable harm to the person or where examining the constitutional complaint is significant for society.⁹¹

The Constitution of Lithuania provides that: 'person has the right to apply to the Constitutional Court ...the person has exhausted all legal remedies' (Article 106(4)). This is the second constitutionally laid down filter, which is linked to the very essence of the model of constitutional complaints. It should be noted that the text of the Constitution does not specify what these legal remedies should be. The LCC clarifies that the concept of 'all legal remedies' encompasses more than just court applications and various ways to challenge court decisions (including appeal and cassation procedures). It also includes utilising mandatory pre-court dispute resolution procedures if required by law.⁹² It is essential to note that reopening proceedings, which is an exceptional method of reviewing final decisions in civil, administrative, criminal, and administrative offence cases, is not obligatory as part of exhausting all effective legal remedies.⁹³ The Constitutional Court also noted that, under the Constitution and the LCC, a person is deemed to have exhausted all remedies only when not only all possibilities established by law for filing a complaint against the decision of the court have been exhausted, but also the final and non-appealable decision of the court is adopted,

88 Constitutional Court of the Republic of Lithuania (n 10).

89 Pūraitė-Andrikienė (n 22) 217.

90 Lina Beliūnienė, Žmogaus teisių apsaugos stiprinimas: konstitucinio skundo institutu (Justitia 2014) 34.

91 European Commission for Democracy Through Law (n 6).

92 Constitution (n 1) art. 65(2(2)).

93 Danelienė (n 7) 430.

and it has not protected the constitutional rights of the said person.⁹⁴

Nevertheless, there are cases where applicants either misunderstand or ignore this condition for lodging a complaint and attempt to apply to the Constitutional Court without exhausting all other legal remedies. The first statistical data on the admissibility of individual constitutional complaints show that from 2019-2022, by refusing to consider 20 individual constitutional complaints (or parts thereof), the Constitutional Court held that the persons, before applying to the Constitutional Court, had not exhausted all remedies provided for by law for defending their constitutional rights or freedoms and could no longer exhaust them.⁹⁵

However, the national model of constitutional complaints does not provide for the exception to the requirement to have exhausted all legal remedies that have proved to be effective in other CEE states in which it is not required to have exhausted all legal remedies in those cases where compliance with this condition would cause irreparable harm to the person. Under the legal regulation in the Constitution and the LCC, a person has the right to apply to the Constitutional Court regarding the constitutionality of legal acts only after having exhausted all the legal remedies available to him or her and only after a final court decision has been issued. However, this legal regulation does not answer the question of what to do when the contested legal act and a decision infringing a person's constitutional rights and freedoms coincide. It also leaves unanswered questions as to whether it is possible to lodge a constitutional complaint in the absence of a formal "decision" and what the course of action should be in cases where there are no such legal remedies in national legislation.⁹⁶

The European Court of Human Rights (ECtHR) also pointed out this shortcoming of the national constitutional complaint model. The case concerned the refusal by the Seimas to grant the Ancient Baltic religious association Romuva the status of a state-recognised religious association.⁹⁷ The applicant association, *inter alia*, argued that no effective domestic remedies were available. In this judgment, the ECtHR could not find that lodging an individual constitutional complaint could be considered an effective remedy in the present case within the meaning of Article 35(1) of the Convention. The ECtHR observed that the Lithuanian Constitutional Court may examine an individual complaint only after all remedies have been exhausted and a final court decision has been adopted. However, the ECtHR found that it had not been demonstrated that proceedings before the administrative courts constituted an effective remedy in the case circumstances. The ECtHR observed that the LCC does not provide for any possibility to lodge an individual complaint in cases that do not fall within the remit of other courts and in respect of which no other remedies are available.⁹⁸

Therefore, it is proposed to consider amendments to the regulation of the LCC, which would provide exceptions to the rule of exhaustion of all legal remedies, or to have the Constitutional Court elaborate on (or even adjust) the constitutional doctrine on the matter.

3.3.3 The time limit for filing an individual constitutional complaint

This condition fulfils an important function by providing certainty in legal relationships. Contrary to applications from other entities, constitutional complaints from natural and legal persons can only be lodged for a limited period. Venice Commission recommends that the

94 See Decision no KT63-A-S49/2019 Regarding the Return of the Request no 1A-41/2019 (Constitutional Court of the Republic of Lithuania, 11 December 2019) <<https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2009/content>> accessed 20 September 2023.

95 Constitutional Court of the Republic of Lithuania (n 10).

96 Pūraitė-Andrikienė (n 5) 61.

97 *Ancient Baltic religious association "Romuva" v Lithuania* App no 48329/19 (ECtHR, 8 June 2021) <<https://hudoc.echr.coe.int/?i=001-210282>> accessed 20 September 2023.

98 For more on this case and [individual constitutional complaints in Lithuania as an effective remedy to be exhausted before applying to the ECtHR](#), see Pūraitė-Andrikienė (n 9).

time limits for filing a complaint be reasonable and allow the person to prepare the complaint. In this respect, several CEE states have introduced relatively short respective time limits: in Croatia, a constitutional complaint may be submitted within 30 days from the day the final decision was received;⁹⁹ in the Czech Republic¹⁰⁰ and Slovenia¹⁰¹ — within 60 days of the delivery of the final decision, and in Slovakia within two months from the final decision.¹⁰² However, Poland (three months from the adoption of the final decision)¹⁰³ and Latvia (six months from the final decision)¹⁰⁴ opted for longer time limits.

The LCC sets a four-month time limit for filing a constitutional complaint, starting from the final decision of the last instance after hearing the case was adopted.¹⁰⁵ As it is clear from the *travaux préparatoires* of the Law Amending Articles 106 and 107 of the Constitution, the consolidation, at the constitutional level, of this condition for implementing the right to file a constitutional complaint was a matter for certain debate.¹⁰⁶ Nevertheless, such a proposal was not accepted. It is worth pointing out that none of the CEE states has established a time limit for filing a constitutional complaint in their constitutions. Such tendencies indicate that the choice of a specific time limit is not an essential condition defining the model of constitutional complaints; therefore, time limits are a matter of ordinary procedural law rather than constitutional regulation. This does not undermine the importance of the time limit for filing an individual constitutional complaint.

The four-month time limit chosen for filing a constitutional complaint is in line with the trends in neighbouring countries and the recommendations of the Venice Commission. Establishing a time limit for filing an individual constitutional complaint to the Constitutional Court ensures that, after the expiry of this term, the parties can be sure of the stability of the legal relations approved by a court decision that has entered into force. This condition helps to prevent situations in which one of the parties to the case applies to the Constitutional Court five or even ten years after the final court decision, and if the Constitutional Court recognises that the legal act is unconstitutional, it would be possible to request a reopening of proceedings in such a long-closed case.¹⁰⁷ Lithuania has also implemented the recommendation of the Venice Commission that the Constitutional Court should be able to extend the time limit in cases where applicants have missed it due to reasons unrelated to their fault.¹⁰⁸

3.4 WHAT ARE THE LEGAL EFFECTS OF DECLARING AN INDIVIDUAL CONSTITUTIONAL COMPLAINT REASONABLE?

It is evident that, in centralised constitutional review systems (including Lithuania), where powers of the annulment of the act or its removal from the legal system are concentrated in the hands of the specialised constitutional court, the decisions of these institutions have universal legal force (*erga omnes* effect). In all CEE states (including Lithuania), the decisions of constitutional courts on the constitutionality of legal acts are final, i.e. they can be overturned

99 Constitutional Act on the Constitutional Court of the Republic of Croatia (n 61) art 64.

100 Constitutional Court Act of the Czech Republic (n 62) art 72.

101 Constitutional Court Act of the Republic of Slovenia (n 60) art 52.

102 Law of the Slovak Republic no 38/1993 (n 64) art 53.

103 Art. 46(1) of the Constitutional Tribunal Act of 22 July 2016 [2016] ITEM 1157.

104 Law of the Republic of Lithuania no I-67 (n 67) art 19(2).

105 Constitution (n 1) art 65 (2(3)).

106 Main Committee Conclusion no 102-P-36 'On the Draft Law to Amend Articles 106 and 107 of the Constitution of the Republic of Lithuania (XIIIP-2159)' of 19 September 2018 <<https://e-seimas.lrs.lt/portal/legalAct/lt/TAK/c5912070bbfe1e8aa33fe8f0fea665f7jfwid=-q4aj6ep1u>> accessed 20 September 2023.

107 Danelienė (n 7) 432.

108 For more on this see: Pūraitė-Andrikiėnė (n 5) 165-70.

only by constitutional amendments. In systems where the decisions of constitutional courts have *erga omnes* effects, there are also different solutions as to when the decisions of the constitutional justice institution become effective. Traditionally, the validity of judicial decisions is divided into three groups in terms of time: *ex tunc*,¹⁰⁹ *ex nunc*,¹¹⁰ and *pro futuro*.¹¹¹ Scientific discussion on the legal effects of decisions delivered by constitutional justice institutions builds on the theories of invalidity and challengeability, which differ in their interpretation of the very concept of unconstitutionality.¹¹² It should be noted that, generally, none of these theories is implemented in practice in its pure form.¹¹³

Lithuania has the *ex nunc* constitutional review model: Article 107 of the Constitution stipulates that a legal act may not be applied from the date of the official publication of the decision of the Constitutional Court that the act in question conflicts with the Constitution. In Lithuania, the legal force of the decisions of the Constitutional Court is prospective. However, in its ruling of 30 December 2003, the Constitutional Court held that the general rule laid down in the Constitution, that the force of the decisions of the Constitutional Court is prospective, not absolute.¹¹⁴ Furthermore, in the decision of 19 December 2012, it was also held that there may be constitutionally justified exceptions to the general rule that the force of the decisions of the Constitutional Court is prospective, i.e. under the Constitution, in exceptional cases, the force of the decisions of the Constitutional Court may be targeted at the consequences of the application of a legal act declared conflicts with the Constitution where such consequences had arisen before the Constitutional Court adopted the decision that this legal act (part thereof) is in conflict with the Constitution.¹¹⁵ Currently, the jurisprudence of the Constitutional Court identifies four such exceptions (three of them are defined in the above-mentioned decision of 19 December 2012, and one more is singled out in the ruling of 19 June 2018¹¹⁶). Thus, the Lithuanian constitutional justice model also contains certain elements of the *ex tunc*¹¹⁷ model, which have been developed in the jurisprudence of the Constitutional Court; there is no *expressis verbis* mention of them in the Constitution.¹¹⁸ The same applies to *pro futuro* elements. Taking into account the specific circumstances of a particular case, the Constitutional Court may set a later date for the publication of its ruling by which a certain legal act (part thereof) is declared to be in conflict with the Constitution or laws (Article 84(3) of the LCC). Such powers of the Constitutional Court likewise evolved through jurisprudential means and were only subsequently laid down in the LCC.¹¹⁹

However, by the constitutional amendments of 2019, Article 107 of the Constitution was sup-

109 “From the outset”: refers to the retroactive effect of law.

110 “From now on”: signifies the validity of law from the moment of its adoption.

111 “Into the future”: means the validity of law from a certain point in the future.

112 Viktorija Staugaitytė, ‘Lietuvos Respublikos Konstitucinio Teismo nutarimų teisinė galia laiko požiūriu’ (2005) 77(69) *Jurisprudencija* 66.

113 For more on this see: Dovilė Pūraitė-Andrikienė, ‘Konstitucinio Teismo nutarimų padariniai laiko aspektu’ (2019) 112 *Teisė* 70, doi:10.15388/Teise.2019.112.4.

114 Case no 40/03 (Constitutional Court of the Republic of Lithuania, 30 December 2003) [2003] *Lietuvos žinios* 124-5643.

115 Case no 43/2009 (Constitutional Court of the Republic of Lithuania, 19 December 2012) [2012] *Lietuvos žinios* 152-7779.

116 Decision no KT14-N9/2018 in case no 8/2018 (Constitutional Court of the Republic of Lithuania, 19 June 2018) [2018] *TAR* 10101.

117 Decision no KT74-N7/2021 in case no 13/2020 (Constitutional Court of the Republic of Lithuania, 19 May 2021) [2021] *TAR* 11041. By the ruling of the Constitutional Court of 19 May 2021 for the first time, all the consequences of the application of the unconstitutional legal regulation have been declared anti-constitutional. It was stated that the consequences that arose on the basis of the impugned unconstitutional legal regulation before the date of the official publication of this ruling of the Constitutional Court must not be regarded as lawful.

118 For more on this, see Pūraitė-Andrikienė (n 113) 70-90.

119 *ibid.*

plemented with the paragraph providing that, in the case heard subsequent to an application by a person referred to in the fourth paragraph of Article 106 of the Constitution, the decision of the Constitutional Court that a law or another act of the Seimas, an act of the President of the Republic or an act of the Government conflicts with the Constitution constitutes a basis for renewing, according to the procedure established by law, the proceedings regarding the implementation of the violated constitutional rights or freedoms of the person. Thus, the Constitution provides for the *ex tunc* effect of the rulings of the Constitutional Court adopted in cases initiated by the constitutional complaints.¹²⁰

Consequently, the fifth exception to the general rule is that the force of the decisions of the Constitutional Court is prospective developed not through jurisprudential means but through legislative means by enacting the said constitutional amendments consolidating the institution of individual constitutional complaints.

Most CEE states also opted for the *ex nunc* constitutional review model. It is maintained that this conception regarding the validity of decisions in terms of time is more flexible and leaves more freedom to compromise between competing values – legal security and material justice. The model of the *ex nunc* effect of decisions is adopted by, *inter alia*, Albania, Croatia, the Czech Republic, Hungary, Latvia, Moldova, Poland, Romania, Serbia, Slovakia, and Ukraine.¹²¹ Only relatively few countries introduced the model of the *ex tunc* effect of the decisions of constitutional courts. According to the Venice Commission, in CEE states, the *ex tunc* model is more widely applied in Slovenia.¹²² However, the retroactivity of the decisions of constitutional courts in these states is mostly applicable with regard to criminal sentences. Among these states, only Slovenia provides for a vast *ex tunc* effect (i.e. with only a few exceptions, which need to be specified by the Constitutional Court).¹²³

In summing up, irrespective of which model of the legal effect of decisions is chosen by individual states, the decisions of their constitutional courts may have similar consequences in practice. In states that recognise the doctrine of invalidity, the retroactivity of decisions is limited to ensure the stability of the legal order, legal security, the protection of acquired rights, etc.; meanwhile, in states that follow the concept of challengeability to ensure justice in individual cases, certain exceptions apply to the *ex tunc* rule.¹²⁴ Thus, certain exceptions from the dominant model of the legal effect of decisions are common to all states in the region under discussion.

The amendments to the Constitution concerning the consolidation of individual constitutional complaints in Lithuania entered into force only in 2019. Therefore, it is still difficult to predict potentially problematic issues that may occur in the context of the legal effects of rulings adopted in such cases. Nevertheless, in the ruling of 25 November 2019,¹²⁵ the Constitutional Court stated that the consolidation of the institute of the individual constitutional complaint is not an end in itself; this institute must be interpreted so as to be an effective tool for the protection of constitutional rights, i.e. taking into account the necessity to review decisions (judgments) based on unconstitutional legislation. In this ruling, the Constitutional Court corrected the previous official constitutional doctrine by stating its duty not to discontinue the case instituted by an individual constitutional complaint when the disputed legal provision lost its force. On this basis, the retroactive effect of the ruling of the Constitutional Court regarding the unconstitutionality of the disputed legislation can be grounded: such a ruling should be applied retroactively to a person who submitted an individual constitutional

120 Pūraitė-Andrikiėnė (n 9) 14.

121 European Commission for Democracy Through Law (n 6).

122 *ibid.*

123 *ibid.*

124 Staugaitytė (n 112) 69.

125 Decision no KT52-N14/2019 (n 57).

complaint to restore his/her constitutional rights.

However, the question that is inevitably arising is whether it will be allowed to reopen proceedings regarding the violated constitutional rights exclusively to those who have applied to the Constitutional Court raising objections to the application of an anti-constitutional legal act with respect to them. These questions will likely be answered in the upcoming jurisprudence of the Constitutional Court. In the context of the institute of reopening the proceedings, the Court has recently adopted a significant ruling, which, *inter alia*, stated that when the Constitutional Court decides, in a case initiated on the basis of an individual constitutional complaint, that the legal act on the basis of which the decision that was the subject of the proceedings in the case sought to be reopened was taken is unconstitutional, the application for reopening of the proceedings could be made without the assistance of a lawyer.¹²⁶

In 2019–2022, the Court adopted 13 rulings¹²⁷ in cases initiated by individual constitutional complaints, in six of which the Constitutional Court ruled legal acts unconstitutional. Therefore, the introduction of this mechanism has been a significant step in strengthening the protection of human rights in Lithuania. The fact that some of these rulings declare legal acts unconstitutional shows that this instrument can be used to protect the constitutional rights of natural and legal persons and, at the same time, to remove from the legal system the provisions of unconstitutional legal acts. The instrument of constitutional complaints also opens up more perspectives for the interpretation of the Constitution, contributes to the development of official constitutional doctrine, and allows for the discovery of new elements in the content of constitutional rights or freedoms.

4 CONCLUSIONS

After the amendments to the Constitution concerning the consolidation of individual constitutional complaints entered into force in 2019, Lithuania can no longer be categorised among the states with a limited scope of entities entitled to apply to the Constitutional Court. The institution of individual constitutional complaints is established in most states of the European Union, as well as in nearly the whole CEE region. These tendencies may determine that the widespread establishment of the mechanism of individual constitutional complaints can be identified in future legal thought as one more particular stage in the evolution of constitutionalism. Given that the essential idea of constitutionalism is the limitation of power to protect human rights and freedoms, the consolidation of the institution of individual constitutional

126 Decision no KT20-A-N1/2022 in case no 16-A/2020 (Constitutional Court of the Republic of Lithuania, 10 February 2022) [2022] TAR 2427.

127 Decision no KT49-A-N5/2020 in case no 14-A/2019 (Constitutional Court of the Republic of Lithuania, 18 March 2020) [2020] TAR 5659; Decision no KT166-A-N14/2020 in case no 4-A/2020 (Constitutional Court of the Republic of Lithuania, 11 September 2020) [2020] TAR 19129; Decision no KT36-A-N2/2021 in case no 2-A/2020-3-A/2020 (Constitutional Court of the Republic of Lithuania, 4 March 2021) [2021] TAR 4528; Decision no KT45-A-H3/2021 in case no 10-A/2020 (Constitutional Court of the Republic of Lithuania, 19 March 2021) [2021] TAR 5546; Decision no KT58-A-N4/2021 in case no 11-A/2020 (Constitutional Court of the Republic of Lithuania, 14 April 2021) [2021] TAR 7723; Decision no KT129-A-N10/2021 in case no 15-A/2020 (Constitutional Court of the Republic of Lithuania, 16 June 2021) [2021] TAR 16058; Decision no KT158-A-N12/2021 in case no 2-A/2021 (Constitutional Court of the Republic of Lithuania, 28 September 2021) [2021] TAR 20273; Decision no KT177-A-N14/2021 in case no 18-A/2020 (Constitutional Court of the Republic of Lithuania, 9 November 2021) [2021] TAR 23240; Decision no KT201-A-N15/2021 in case no 13-A/2021 (Constitutional Court of the Republic of Lithuania, 22 December 2021) [2021] TAR 26640; Decision no KT205-A-N16/2021 in case no 7-A/2021-16-A/2021-17-A/2021-18-A/2021 (Constitutional Court of the Republic of Lithuania, 30 December 2021) [2021] TAR 27683; Decision no KT20-A-N1/2022 (n 126); Decision no KT50-A-H4/2022 in case no 5-A/2021 (Constitutional Court of the Republic of Lithuania, 27 April 2022) [2022] TAR 8605; Decision no KT116-A-N10/2022 in case no 19-A/2021 (Constitutional Court of the Republic of Lithuania, 22 September 2022) [2022] TAR 19372.

complaints in Lithuania is undoubtedly a necessary step.

Lithuania, as well as a certain part of other CEE states, has established the model of normative constitutional complaints: a person may file a constitutional complaint concerning laws and other acts adopted by the Seimas and legal acts of the executive but not concerning decisions of the courts. Not only natural but also legal persons, as well as not only citizens of Lithuania but also citizens of other states and stateless persons, may apply to the Constitutional Court with a constitutional complaint, and this corresponds to the tendencies existing in other CEE states.

The Lithuanian model of constitutional complaints also embraces three main conditions for applying to the Constitutional Court: the requirement that the rights and freedoms of the applicant have been violated by a legal act that is (possibly) in conflict with the Constitution; the requirement to have exhausted all other legal remedies; and the four-month time limit for filing a constitutional complaint from the adoption of the final decision at the last instance that decided the case. However, the national model of constitutional complaints does not provide for the exception to the requirement to have exhausted all legal remedies that have proved to be effective in other CEE states. The ECtHR also pointed out this drawback of the Lithuanian constitutional complaint model. Although Lithuania has the *ex nunc* constitutional review model, the 2019 constitutional amendments consolidated the *ex tunc* effect of rulings adopted by the Constitutional Court after examining the individual constitutional complaints. This is not an exclusive feature of the Lithuanian model of constitutional complaints, as certain exceptions from the dominant model of the legal effects of decisions handed down by constitutional courts are common to all states in the CEE region.

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