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CONSTITUTIONAL SUPREMACY WITHOUT CONFLICT: LITHUANIA'S CONSTITUTIONAL COURT AND EU LAW

Dovilė Pūraitė-Andrikienė

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ABSTRACT

Background: *Since Lithuania joined the European Union in 2004, the Lithuanian Constitutional Court has gradually developed a distinctive approach to European Union law. Unlike several European constitutional courts, which have justified constitutional limits on European integration through constitutional identity, ultra vires review, or constitutional resistance, the Lithuanian Constitutional Court has consistently pursued a cooperative approach grounded in judicial dialogue and constitutional accommodation. Although this approach has attracted increasing scholarly attention, it has not yet been comprehensively examined as a coherent model of constitutional interaction between national constitutional law and EU law. This article analyses the evolution of the Constitutional Court's approach to EU law and identifies the principal mechanisms through which EU law has been integrated into Lithuanian constitutional adjudication. To achieve this aim, the article addresses three objectives: (1) to examine the constitutional foundations governing the*

relationship between the Constitution and EU law; (2) to analyse the Constitutional Court's judicial dialogue with the Court of Justice of the European Union through the preliminary ruling procedure; and (3) to assess the role of EU law and CJEU jurisprudence as sources of constitutional interpretation.

Method: *The research is based on doctrinal legal analysis of the Constitution of the Republic of Lithuania, the jurisprudence of the Lithuanian Constitutional Court and the Court of Justice of the European Union, relevant legislation, and academic literature. The article employs systemic, logical, comparative, linguistic, and teleological methods of legal interpretation. Comparative analysis situates Lithuanian constitutional jurisprudence within the broader European constitutional context, with particular attention paid to the approaches adopted by the German Federal Constitutional Court, the Italian Constitutional Court, and the Polish Constitutional Tribunal.*

Results and Conclusions: *The article demonstrates that Lithuania has developed a distinctive model of constitutional accommodation that seeks to reconcile constitutional supremacy with the requirements of European integration. This model rests on three mutually reinforcing elements: the constitutional doctrine governing the relationship between EU law and the Constitution, active judicial dialogue through the preliminary ruling procedure, and the increasing reliance on EU law and CJEU jurisprudence as sources of constitutional interpretation. The analysis further shows that, despite academic criticism following the Constitutional Court's 2017 milk market decision, the Court has consistently maintained the Constitution as the supreme law of the State while remaining committed to the effective application of EU law. The Lithuanian experience shows that constitutional supremacy and the primacy of EU law need not inevitably produce constitutional conflict and may instead coexist through judicial cooperation, constitutional accommodation, and mutual respect between national constitutional courts and the Court of Justice of the European Union.*

1 INTRODUCTION

The relationship between national constitutional law and European Union (EU) law remains a central question in contemporary European constitutionalism. Since the landmark judgements of the Court of Justice of the European Union (CJEU) establishing the principles of direct effect and primacy, constitutional courts across Europe have sought to reconcile the constitutional supremacy of their national constitutions with the autonomous legal order of the European Union. While some constitutional courts have developed doctrines of constitutional identity, *ultra vires* review, or constitutional limits to European integration, others, including the Lithuanian Constitutional Court, have favoured a more cooperative approach based on judicial dialogue and constitutional accommodation.

Since Lithuania acceded to the EU in 2004, the Court has consistently sought to reconcile constitutional supremacy with the requirements of European integration through

constitutional interpretation and judicial dialogue rather than constitutional confrontation. Nevertheless, this approach did not emerge immediately upon accession. Instead, it developed gradually through constitutional practice and the Court's growing engagement with EU law and CJEU jurisprudence.

A turning point came on 8 May 2007, when the Constitutional Court, for the first time in its history, referred questions to the CJEU[1] for a preliminary ruling in the *Sabatauskas* case.[2] Ten years later, the Court returned to Luxembourg[3] in the milk market case.[4] Between and following these two references, the Constitutional Court increasingly relied on EU law and CJEU case law when interpreting Lithuanian legislation and, subsequently, constitutional provisions themselves. Together, these developments illustrate the gradual emergence of a distinctive Lithuanian model governing the relationship between constitutional law and EU law. The evolution of this model can be traced through a series of cases, including *Sabatauskas*,[5] the milk market case,[6] *Commission v Lithuania*,[7] and *Coman*.[8]

Although Lithuanian legal scholarship has examined individual aspects of the Constitutional Court's relationship with EU law, it has not yet comprehensively analysed this model's evolution. Existing studies have primarily focused on individual judgements[9] or particular doctrinal issues.[10] In contrast, the interaction between constitutional doctrine,

1 Case 47/04 'Request for a preliminary ruling to the Court of Justice of the European Union' (Constitutional Court of the Republic of Lithuania, 8 May 2007).

2 Case C-239/07 *Julius Sabatauskas and Others* (CJEU, 9 October 2008) ECLI:EU:C:2008:551.

3 Case 11/2016, decision no KT21-S11/2017 'Request for a preliminary ruling to the Court of Justice of the European Union' (Constitutional Court of the Republic of Lithuania, 20 December 2017).

4 Case C-2/18 *Lietuvos Respublikos Seimo narių grupė* (CJEU, 13 November 2019) ECLI:EU:C:2019:962.

5 Case C-239/07 (n 2).

6 Case C-2/18 (n 4).

7 Case C-61/12 *European Commission v Republic of Lithuania* (CJEU, 20 March 2014) ECLI:EU:C:2014:172.

8 Case C-673/16 *Coman and Others* (CJEU, 5 June 2018) ECLI:EU:C:2018:385.

9 Toma Birmontienė, 'Konstitucinė teisė ir Europos Sąjungos teisė: Kas diktuoja teisės sistemų sąveikos ribas?' in Justinas Žilinskas et al. (eds), *XXI amžiaus iššūkiai tarptautinei teisei: Liber amicorum Sauliui Katuokai* (Mykolo Romerio universitetas 2020) 73, doi:10.13165/LA.2020.06.02; Danutė Jočienė, 'Tarptautinės teisės ir Europos Sąjungos teisės įtaka Lietuvos Respublikos Konstitucinio Teismo oficialiajai konstitucinei doktrinai' in Bronius Sudavičius (ed), *Kelyje su Konstitucija: Recenzuotų mokslinių straipsnių rinkinys* (Vilniaus universiteto leidykla, 2022) 91, doi:10.15388/KSK.2022.6.

10 Egidijus Kūris, 'European Union Law in the Case-Law of the Lithuanian Constitutional Court: Still an Open Question?' in Indrė Isokaitė-Valužė and Haroldas Šinkūnas (eds), *The European Union 2004–2024: Twenty Years of Legal Experience, Challenges and Growth after Unprecedented EU Enlargement* (TMC Asser Press 2025) 379, doi:10.1007/978-94-6265-718-2_19; Egidijus Jarašiūnas, 'Is the Concept of Constitutional Identity an Obstacle to Cooperation between the Constitutional Court and the Court of Justice of the European Union?' in Danutė Jočienė et al. (eds), *Thirty Years of Constitutional Justice: Tempore et Loco* (Constitutional Court of the Republic of Lithuania 2024) 705; Irmantas Jarukaitis and Gintaras Švedas, 'The Constitutional Experience of Lithuania in the Context of European and Global Governance Challenges' in Anneli Albi and Samo Bardutzky (eds), *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law* (TMC Asser Press 2019) 997, doi:10.1007/978-94-6265-273-6_21.

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judicial dialogue through the preliminary ruling procedure, and the growing interpretative role of EU law has received comparatively little systematic attention.

This article fills that gap by analysing the evolution of the Constitutional Court's approach to EU law from Lithuania's accession to the European Union to the present day. It argues that the Lithuanian Constitutional Court has developed a distinctive model of constitutional accommodation based on three mutually reinforcing mechanisms: (1) the constitutional doctrine governing the relationship between EU law and the Constitution; (2) judicial dialogue with the CJEU through the preliminary ruling procedure; and (3) the increasing use of EU law and CJEU jurisprudence as sources of constitutional interpretation.

To achieve this aim, the article first examines the constitutional foundations of Lithuania's participation in the European Union and the Constitutional Court's doctrine concerning the relationship between EU law and the Constitution. It then analyses the Constitutional Court's two preliminary references in *Sabatauskas* and the milk market case and evaluates their significance for the development of constitutional jurisprudence. Finally, it examines the Court's growing reliance on CJEU jurisprudence in later constitutional adjudication and assesses the principal characteristics of the Lithuanian model of constitutional accommodation.

The research is based primarily on doctrinal legal analysis of the jurisprudence of the Lithuanian Constitutional Court and the CJEU, relevant constitutional and EU legislation, and legal scholarship. The systemic method examines individual Constitutional Court decisions as part of the broader development of its doctrine on the relationship between EU law and the Constitution, rather than as isolated judgements. The logical and teleological methods identify the reasoning underlying the Court's evolving approach to EU law and assess whether subsequent doctrinal developments are consistent with its earlier jurisprudence. Comparative analysis is used more selectively, primarily to situate the Lithuanian approach within the broader European constitutional context and to contrast it with models based on constitutional identity and *ultra vires* review. Linguistic analysis is applied where the precise wording used by the Constitutional Court, in particular the formulations concerning the priority of EU law and its role as a source of constitutional interpretation, is decisive for assessing the development of the Court's doctrine.

The cases examined in greater detail were selected for their doctrinal and practical significance in shaping the Constitutional Court's relationship with EU law. Particular attention is given to the two cases in which the Constitutional Court itself initiated preliminary ruling proceedings, Sabatauskas and the milk market case, as the clearest examples of direct judicial dialogue between Vilnius and Luxembourg. Commission v Lithuania and Coman were selected because they show a different form of interaction. In both instances, CJEU jurisprudence directly affected the subsequent reasoning or timing of constitutional review. The study examines Constitutional Court rulings that contributed to

the formulation, consolidation, or modification of doctrine on the status, priority, or interpretative role of EU law. The selection is therefore purposive rather than exhaustive and is intended to trace the principal stages in the development of the Lithuanian model of constitutional accommodation.

2 FROM EUROPEAN CHOICE TO CONSTITUTIONAL COMMITMENT

The story of Lithuania's relationship with EU law did not begin in a courtroom. Long before the Constitutional Court was called upon to define the relationship between the Constitution and EU law, Lithuania had already made a profound political and constitutional choice in favour of European integration.

For Lithuania, EU membership carried significance far beyond economic integration. Following five decades of Soviet occupation and the restoration of independence in 1990, accession to the EU was widely perceived as Lithuania's return to the Western political, legal, and cultural community. European integration became associated not only with economic prosperity, but also with democracy, security, stability, and the consolidation of statehood itself. For a country whose modern history had been shaped by foreign domination and the loss of independence, EU membership represented both a geopolitical and a civilisational choice.

This historical experience helps explain why support for European integration in Lithuania was exceptionally strong. In the referendum on accession to the EU held in May 2003, more than 90 per cent of participating voters supported membership.[11] Lithuania joined the European Union on 1 May 2004, and public support for membership has remained consistently among the highest in the EU ever since.[12] While public attitudes towards the EU have fluctuated considerably in many Member States, Lithuania has remained one of the most pro-European societies in the EU. Many of the country's most visible political, economic, and institutional achievements during the last two decades have been associated with EU membership.

Lithuania's constitutional development also reflected a broad political and societal consensus in favour of European integration. Unlike in several Member States where

11 Kūris (n 10) 381.

12 Public support for European integration in Lithuania has remained consistently high since accession. Eurobarometer surveys regularly place Lithuania among the most pro-European Member States, with levels of trust in the European Union significantly exceeding the EU average. In recent surveys, 64–66 per cent of Lithuanians reported trusting the EU, compared with an EU average of approximately 47–51 per cent. Lithuania has also ranked among the Member States most supportive of further EU enlargement and deeper European cooperation. See, 'Lithuanians' Trust in NATO, Support for EU Enlargement Grows – Eurobarometer' *The Baltic Times* (Riga, 21 March 2023) <https://www.baltictimes.com/lithuanians__trust_in_nato__support_for_eu_enlargement_grows__eurobarometer/> accessed 2 July 2026.

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accession triggered extensive constitutional controversy or later generated significant constitutional resistance to European integration, Lithuania approached membership through a process of constitutional accommodation. The constitutional debate focused less on whether European integration should occur and more on how to structure it constitutionally.

This process culminated in the adoption of the Constitutional Act on Membership of the Republic of Lithuania in the European Union in 2004.[13] Incorporated into the Constitution through Article 150, the Constitutional Act became the principal constitutional foundation of Lithuania's participation in the European Union. It remains one of the most significant constitutional developments since the restoration of independence.

The Constitutional Act was carefully drafted to reconcile participation in the European integration project with the preservation of constitutional sovereignty. On the one hand, it recognised that Lithuania may share or entrust certain competences of state institutions to the EU in areas governed by EU Treaties. On the other hand, it deliberately avoided any suggestion that sovereignty itself was transferred. Sovereignty remained vested in the Lithuanian state, while certain competences could be exercised jointly within the framework of European integration.

The Constitutional Act also established that EU law forms part of the Lithuanian legal system and takes priority of application over ordinary legislation and other legal acts. Although the full implications of this provision became apparent only later in the Constitutional Court's jurisprudence, it provided a constitutional basis for Lithuania's participation in a legal order built on the principles of direct effect and primacy. In addition, the Constitutional Act introduced constitutional mechanisms ensuring parliamentary participation in European decision-making and cooperation between the Government and the Seimas in matters relating to EU affairs.

Several additional constitutional amendments were adopted in preparation for accession. Amendments to Articles 47 and 119 ensured compatibility with EU requirements concerning property ownership and the electoral rights of EU citizens residing in Lithuania.[14] Together, these reforms reflected a broader constitutional effort to embed Lithuania within the European legal and political order.

Lithuania's openness to European integration became particularly visible during debates over the Treaty establishing a Constitution for Europe.[15] Across Europe, the

13 Constitutional Act 'On Membership of the Republic of Lithuania in the European Union' [2004] Žin 111-4123.

14 Law of the Republic of Lithuania no IX-959 'On the Amendment of Article 119 of the Constitution of the Republic of Lithuania' (adopted 20 June 2002) [2002] Žin 65-2629; Law of the Republic of Lithuania no IX-1305 'On the Amendment of Article 47 of the Constitution of the Republic of Lithuania' (adopted 23 January 2003) [2003] Žin 14-540.

15 Treaty establishing a Constitution for Europe (signed 29 October 2004) [2004] OJ C 310/1.

Constitutional Treaty provoked profound constitutional discussions about the nature of European integration and the future of the European project. For many constitutional scholars, the Treaty's very title raised fundamental questions.[16] Constitutionalism had traditionally been built upon the idea of a constitution as the supreme law of a sovereign state. The notion that a non-state entity could possess a "constitution" challenged deeply rooted constitutional assumptions.

These worries became especially visible in several Member States, where the Treaty triggered extensive political and constitutional debates. Ultimately, referendums in France and the Netherlands rejected the Constitutional Treaty, effectively ending the project.

Lithuania's reaction was notably different. The Treaty was ratified swiftly and without significant political controversy. Significantly, it was approved as an ordinary international treaty rather than through a special constitutional amendment procedure.[17] Although this Treaty never came into force, the episode revealed the extent to which European integration had already become embedded in Lithuania's constitutional and political imagination. At a time when many constitutional courts and scholars across Europe were debating whether deeper European integration threatened national constitutional identity, Lithuania largely viewed the project as compatible with its constitutional traditions and geopolitical aspirations.

In retrospect, this episode foreshadowed the Constitutional Court's later approach towards European integration. The Court would repeatedly emphasise that Lithuania's EU membership reflects a broader constitutional and geopolitical choice, not merely participation in an international organisation.

The constitutionalisation of European integration did not end with accession. As Lithuania moved towards participation in the Economic and Monetary Union and eventual adoption of the euro, further constitutional adjustments became necessary. One notable example concerned Article 125 of the Constitution, which granted the Bank of Lithuania the exclusive constitutional right to issue currency. Because this provision became incompatible with the European Central Bank's competences, a 2006 constitutional amendment abolished Article 125(2).[18]

What initially appeared to be a relatively technical amendment later became the subject of one of the most remarkable constitutional disputes in Lithuania's post-independence history. In its 24 January 2014 ruling, the Constitutional Court declared the amendment

16 Kūris (n 10) 395.

17 Law of the Republic of Lithuania no IX-2530 'On the Ratification of the Treaty Establishing a Constitution for Europe' [2004] Žin 181-6707.

18 Law of the Republic of Lithuania no X-572 'On the Amendment of Article 125 of the Constitution of the Republic of Lithuania' (adopted 25 April 2006) [2006] Žin 48-1701.

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unconstitutional.[19] Importantly, the Court did not object to participation in the Economic and Monetary Union or to the adoption of the euro itself. Instead, the Court invalidated the amendment because it was adopted in breach of the constitutional amendment procedure. A parliamentary committee, rather than one-quarter of the Members of the Seimas or 300,000 citizens, submitted the final version of the amendment, as the Constitution required. Lithuania thus experienced the rare phenomenon of an unconstitutional constitutional amendment. Yet the ruling became important not only because of the procedural violation itself, but because of what the Court said about European integration.

While annulling the amendment, the Constitutional Court simultaneously reaffirmed Lithuania's constitutional commitment to the European project. The Court emphasised that membership of the EU and NATO reflects the State's "positive geopolitical orientation", which forms part of Lithuania's fundamental constitutional choices. Referring to the Constitutional Act on Membership of the Republic of Lithuania in the European Union, the Court held that Lithuania has a constitutional obligation to participate as a fully-fledged Member State in European integration processes, including participation in the Economic and Monetary Union and the adoption of the common currency. According to the Court, the Constitutional Act expresses Lithuania's commitment to "fully-fledged participation in European integration", thereby creating a constitutional imperative to implement obligations arising from EU membership.[20]

3 "SAVE THE CONSTITUTION ITSELF": LITHUANIA'S VERSION OF EU PRIMACY

Lithuania's relationship with EU law is, in many respects, part of a broader European constitutional story. Once Lithuania had constitutionally committed itself to European integration, a more difficult question inevitably emerged: How should a national legal order founded on the supremacy of the Constitution coexist with a supranational legal order built on direct effect and the primacy of EU law?

More broadly, the challenge is how to ensure the harmonious coexistence of two legal systems that differ in their nature and sources of authority yet are rooted in shared European values and constitutional traditions. As Jarašiūnas has observed, European integration ultimately depends on maintaining a balance between constitutional autonomy and supranational integration. The EU derives its legitimacy from the constitutional consent of its Member States and may operate only within the competences conferred upon it through EU Treaties, which themselves must comply with the constitutional requirements of the Member States. European integration is therefore not based on the subordination of

19 Case 22/2013, decision no KT2-N1/2014 (Constitutional Court of the Republic of Lithuania, 24 January 2014) [2014] TAR 478.

20 ibid

national constitutions to EU law, but on a continuous effort to reconcile the autonomy of national constitutional orders with the effectiveness of the EU legal system.[21]

This constitutional dilemma stems from the CJEU's foundational jurisprudence. Through a series of landmark judgements, the Court gradually constructed the constitutional architecture of the European legal order. In Van Gend en Loos (1963),[22] the Court famously described the European Economic Community as a "new legal order" capable of creating rights directly enforceable by individuals before national courts. In Costa v ENEL (1964),[23] it formulated the principle of primacy by holding that Member States had permanently limited their sovereign rights in certain areas and, therefore, could not give precedence to national law over Community law. In Internationale Handelsgesellschaft (1970),[24] the Court further strengthened this doctrine by declaring that the validity and effectiveness of EU law cannot be affected even by national constitutional norms. Finally, in Simmenthal (1978),[25] it clarified that national courts must disapply conflicting national legislation without waiting for its formal repeal or constitutional review. Together, these judgements established the doctrines of direct effect, primacy, and autonomy that continue to underpin the EU legal order today.

Not surprisingly, these developments generated constitutional tensions across Europe. Constitutional courts sought to preserve constitutional autonomy while remaining committed to European integration. The German Federal Constitutional Court played a particularly influential role in this process. It first developed the well-known Solange doctrine, holding that as long as the European Communities ensured a level of fundamental rights protection substantially equivalent to that guaranteed by the German Basic Law, it would refrain from reviewing EU law against constitutional standards.[26] Later, in its Maastricht, Lisbon, and PSPP judgements, the German Court further elaborated the doctrines of constitutional identity and *ultra vires* review, insisting that certain core constitutional principles, including democracy, state sovereignty, and constitutional identity, remain beyond the reach of European integration.[27]

21 Jarašiūnas (n 10) 704.

22 Case 26/62 *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration* (CJEU, 5 February 1963) ECLI:EU:C:1963:1.

23 Case 6/64 *Flaminio Costa v ENEL* (CJEU, 15 July 1964) ECLI:EU:C:1964:66.

24 Case 11/70 *Internationale Handelsgesellschaft mbH v Einfuhr- und Vorratsstelle für Getreide und Futtermittel* (CJEU, 17 December 1970) ECLI:EU:C:1970:114.

25 Case 106/77 *Amministrazione delle Finanze dello Stato v Simmenthal SpA* (CJEU, 9 March 1978) ECLI:EU:C:1978:49.

26 *Solange II* (Federal Constitutional Court of Germany (Bundesverfassungsgericht), 22 October 1986) BVerfGE 73, 339.

27 *Maastricht-Urteil* (Federal Constitutional Court of Germany (Bundesverfassungsgericht), 12 October 1993) BVerfGE 89, 155; *Treaty of Lisbon* (Federal Constitutional Court of Germany (Bundesverfassungsgericht), 30 June 2009) BVerfGE 123, 267; *PSPP* (Federal Constitutional Court of Germany (Bundesverfassungsgericht), 5 May 2020) BVerfGE 154, 17.

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Similar worries emerged elsewhere. The Italian Constitutional Court developed the doctrine of controlimiti ("counter-limits"), according to which EU law cannot override the fundamental principles of the Italian constitutional order.[28] The Polish Constitutional Tribunal likewise stressed that the Constitution remains the supreme law of the state and that constitutional identity imposes substantive limits on the primacy of EU law.[29] Although these courts differed in their reasoning, they shared the common aim of preserving constitutional self-government without undermining the effectiveness of the European legal order.

These tensions became particularly visible during the ratification of the Treaty of Lisbon. Constitutional courts and equivalent institutions in France, Germany, Latvia, Hungary, the Czech Republic, Austria, and several other Member States were asked to assess the Treaty's compatibility with their national constitutions. While generally recognising the openness of national constitutional orders to European integration, they simultaneously emphasised constitutional identity, democratic legitimacy, and the preservation of state sovereignty. The Lisbon litigation became one of the clearest manifestations of the continuing tension between deeper European integration and constitutional autonomy.[30]

These constitutional tensions became particularly visible in cases concerning the European Arrest Warrant, the Lisbon Treaty, judicial independence, and the limits of competences conferred upon the EU. National constitutional courts repeatedly stressed that European integration rests on Member States' constitutional consent and, therefore, cannot entirely displace national constitutional identity. As the German Federal Constitutional Court famously stated in its Lisbon judgement, the European Union "remains an association of sovereign states" whose legitimacy ultimately derives from the constitutional orders of the Member States.[31]

At the same time, these courts generally did not reject European integration itself. Rather, they sought to develop constitutional mechanisms that balance the effectiveness and uniformity of EU law with the preservation of constitutional identity and democratic legitimacy at the national level. Academic literature has often described this search for coexistence as a form of "constitutional tolerance", constitutional pluralism, or cooperative constitutionalism.[32]

28 Judgment 183/1973, *Frontini v Ministero delle Finanze* (Italian Constitutional Court (Corte Costituzionale), 27 December 1973); Judgment 170/1984, *Granital v Amministrazione delle Finanze* (Italian Constitutional Court (Corte Costituzionale), 8 June 1984).

29 Case K 18/04 *Accession Treaty case* (Polish Constitutional Tribunal, 11 May 2005); Case K 32/09 *Lisbon Treaty case* (Polish Constitutional Tribunal, 24 November 2010).

30 Birmontienė (n 9) 86.

31 *Treaty of Lisbon* (n 27).

32 Miguel Poiares Maduro, 'Contrapunctual Law: Europe's Constitutional Pluralism in Action' in Neil Walker (ed), *Sovereignty in Transition* (Hart; Bloomsbury 2003) 501; Joseph HH Weiler, 'Federalism without Constitutionalism: Europe's Sonderweg' in Kalypso Nicolaïdis and Robert Howse (eds), *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union* (OUP 2001) 54, doi:10.1093/0199245002.003.0003.

Consequently, European constitutionalism has increasingly focused on finding a legal *modus vivendi* that would allow both EU law and national constitutional orders to coexist without either side entirely surrendering its claim to supremacy. However, no universally accepted constitutional formula for resolving this tension has emerged. Instead, European constitutionalism has developed largely through judicial dialogue and what is often described as "cooperative constitutionalism", whereby national constitutional courts and the CJEU attempt to ensure the coexistence of national constitutional orders and the supranational EU legal order without subordinating one entirely to the other.

For states such as Lithuania, which restored independence after decades of Soviet occupation and pseudo-constitutionalism, the idea of an authentic constitution and genuine rule of law took on particular importance. In this context, constitutional courts viewed national constitutions as the highest legal authority and therefore consistently maintained that EU law could not possess higher legal force than the Constitution itself. From a constitutionalist perspective, the national constitutional order remains primary, while EU law derives its authority from the Member States' constitutional consent.

Lithuania entered this broader European debate from a different starting point. Unlike several constitutional courts that developed their doctrines in response to perceived threats to constitutional identity or national sovereignty, the Lithuanian Constitutional Court approached European integration against a background of strong public support for EU membership and an explicitly pro-European constitutional framework. The Court's challenge was therefore not whether to accommodate EU law, but how to do so while preserving the Constitution as the state's supreme law.

Against this background, the Constitutional Court adopted a comparatively cooperative, integration-friendly approach. In its landmark ruling of 14 March 2006,[33] later reaffirmed in the rulings of 21 December 2006[34] and 8 May 2007,[35] it formulated the constitutional doctrine governing the relationship between EU law and Lithuanian law.

The Court first emphasised that compliance with voluntarily assumed international obligations and respect for generally recognised principles of international law, including the principle *pacta sunt servanda*, constitute a constitutional principle and form part of Lithuania's legal tradition as a restored independent state. It further clarified that the constitutional doctrine according to which ratified international treaties acquire the force of law cannot be interpreted as allowing Lithuania to disregard its international obligations whenever national legislation or constitutional laws establish different legal regulation. On the contrary, where national legal acts conflict with obligations arising from international treaties, the international treaty must prevail.

33 Case 17/02-24/02-06/03-22/04 (Constitutional Court of the Republic of Lithuania, 14 March 2006) [2006] Žin 30-1050.

34 Case 30/03 (Constitutional Court of the Republic of Lithuania, 21 December 2006) [2006] Žin 141-5430.

35 Case 47/04 (n 1).

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The Court then distinguished the constitutional status of EU law from ordinary international law. Referring to the Constitutional Act on Membership of the Republic of Lithuania in the European Union, it stressed that EU law forms part of the Lithuanian legal system, may have direct effect, and enjoys explicit priority over national legislation and other legal acts in cases of conflict. According to the Court, the Constitution establishes not merely a general principle favouring compliance with international obligations, but a specific constitutional rule of collision expressly recognising the priority of EU law deriving from EU Treaties over conflicting national legal regulation.

At the same time, however, the Constitutional Court expressly limited this priority by emphasising that it does not extend to the Constitution itself. Referring to Article 7(1) of the Constitution, according to which no law or other legal act contrary to the Constitution may be valid, the Court made clear that although EU law enjoys constitutional recognition and priority of application within the Lithuanian legal system, this primacy ultimately operates only "save the Constitution itself".

The Constitutional Court thus attempted to reconcile constitutional supremacy with European integration through what may be described as a model of cooperative constitutionalism. Rather than focusing on an abstract hierarchy between legal systems, the Court shifted attention to the practical priority of application of EU law while preserving the Constitution as the ultimate legal authority.

According to Jarukaitis and Švedas, although some authors interpreted the ruling as a declaration of the Constitution's unconditional supremacy over EU law, that conclusion appears overly broad, since the Court deliberately avoided explicitly defining the exact hierarchy between EU law and the Constitution. Instead, it preferred a cautious, case-by-case approach aimed at preserving flexibility and avoiding unnecessary constitutional confrontation.[36]

The likelihood of direct conflict is further mitigated by the fact that Lithuania's membership in the EU derives from the Constitution itself, namely from the Constitutional Act on Membership of the Republic of Lithuania in the European Union. The Constitution, as interpreted by the Constitutional Court, contains principles that facilitate the accommodation of EU law and guide the resolution of potential tensions between the two legal systems.

In particular, the Constitutional Court has emphasised Lithuania's "positive geopolitical orientation", reflected in its membership of both the European Union and NATO, as well as the constitutional obligation to honour the commitments arising from such membership. Consequently, although the Constitution remains the supreme legal authority within the Lithuanian legal order, the relationship between the Constitution and EU law has generally been characterised by constitutional openness, mutual accommodation, and judicial

36 Jarukaitis and Švedas (n 10) 1009.

dialogue rather than confrontation. Lithuanian constitutional doctrine has developed a distinctly EU-friendly approach, seeking to ensure the harmonious coexistence of the national constitutional order and the EU legal system.[37]

The doctrine formulated in 2006 was, however, only the first step. The Constitutional Court's EU-friendly approach would subsequently be reinforced through two additional mechanisms. First, the Court embraced judicial dialogue with the CJEU through the preliminary ruling procedure. Second, it increasingly recognised EU law and CJEU jurisprudence as important sources for interpreting Lithuanian law and, eventually, constitutional provisions themselves. These developments further strengthened the cooperative model of constitutionalism that came to characterise Lithuania's relationship with EU law.

4 PRELIMINARY RULINGS, JUDICIAL DIALOGUE, AND THE LIMITS OF COOPERATION: FROM SABATAUSKAS TO THE MILK CASE

One of the most visible manifestations of the Lithuanian Constitutional Court's EU-friendly approach has been its willingness to engage directly with the CJEU through the preliminary ruling procedure. While constitutional courts across Europe were initially divided on whether they could or should make use of Article 267 of the Treaty on the Functioning of the European Union (TFEU), the growing influence of EU law gradually encouraged many constitutional courts, including the Lithuanian Constitutional Court and those of Germany, Belgium, Austria, Italy, Spain, Slovenia, France, and Lithuania, to regard preliminary references as compatible with their constitutional functions.[38]

To date, the Lithuanian Constitutional Court has referred questions to the CJEU on two occasions: in its decisions of 8 May 2007 and 20 December 2017. Although these references later generated considerable academic discussion, they illustrate the Court's broader understanding of judicial dialogue as an essential component of Lithuania's participation in the European legal order. For the Constitutional Court, cooperation with the CJEU is linked to the constitutional value of EU membership and to the constitutional imperative of ensuring the proper implementation and application of EU law. Beyond the preliminary ruling procedure itself, the Court has consistently recognised the importance of EU law and CJEU jurisprudence for the interpretation and application of national law. Judicial dialogue with the CJEU and the use of EU law as a source of interpretation have become important instruments through which the Court promotes a cooperative and integration-friendly relationship between the Lithuanian constitutional order and the EU legal system.[39]

37 Jočienė (n 9) 98.
38 Birmontienė (n 9) 88.
39 Jarašiūnas (n 10) 707.

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The first chapter of this dialogue began in 2007. A key turning point in the relationship between the Constitutional Court and EU law came when the Court submitted its first request[40] for a preliminary ruling to the Court of Justice in the *Sabatauskas* case, concerning the interpretation of Directive 2003/54/EC on the internal electricity market. The dispute concerned Lithuanian legislation regulating consumers' connection to electricity transmission networks. The applicants argued that the national legal regulation restricted consumer choice and conflicted with EU law governing the internal electricity market. Because the challenged legislation implemented EU law, the Constitutional Court considered that it could not properly perform its constitutional review without first obtaining clarification from the CJEU on the interpretation of the relevant provisions of EU law.

The significance of the reference extended well beyond the electricity market. By making the request, the Constitutional Court joined the relatively small group of constitutional courts willing to engage directly with the CJEU under Article 267 TFEU. The case confirmed that the Court regarded itself not merely as a guardian of the Constitution but also as a participant in the broader European judicial dialogue about the interpretation and application of EU law. At the same time, the case demonstrated the Court's willingness to integrate EU law into constitutional adjudication while preserving constitutional autonomy.

Yet the Court entered that dialogue on its own constitutional terms. Even while requesting the preliminary ruling, it reaffirmed the doctrine formulated in 2006. The Court again emphasised that EU law enjoys priority of application over ordinary national legislation, but not over "the Constitution itself". Judicial dialogue therefore did not imply unconditional acceptance of absolute EU primacy. Rather, the Court sought to engage with EU law while preserving the Constitution as the supreme legal authority within the Lithuanian legal order.

The CJEU ultimately held in *Sabatauskas* that the directive granted national legislators broad discretion to regulate the electricity market.[41] Following the preliminary ruling, the Constitutional Court concluded that the challenged Lithuanian legislation did not violate the Constitution. In practice, the dialogue functioned precisely as intended. Nevertheless, the case also revealed certain underlying tensions within the otherwise cooperative relationship between the Constitutional Court and the CJEU.

As discussed above, in its earlier jurisprudence the Constitutional Court had formulated the so-called "rule of collision", according to which EU law enjoys priority over ordinary national legislation, but not over "the Constitution itself". However, when referring to this doctrine in its judgement, the CJEU omitted the crucial concluding words preserving constitutional supremacy. Although this omission did not ultimately affect the outcome of the case, it attracted attention in academic literature. The question has been raised whether the CJEU would have treated the constitutional jurisprudence of larger and more

40 Case 47/04 (n 1).
41 Case C-239/07 (n 2).

influential constitutional courts, such as the German Federal Constitutional Court or the French Constitutional Council, in the same manner.[42] The episode illustrated the different constitutional perspectives underlying the dialogue between national constitutional courts and the CJEU. While the Court of Justice naturally seeks to preserve the uniformity and effectiveness of EU law, national constitutional courts remain attentive to constitutional identity and the continuing supremacy of national constitutions within their domestic legal orders.

A decade later, the Constitutional Court returned to Luxembourg under quite different circumstances. The tensions inherent in this relationship became visible again in the Constitutional Court's later jurisprudence, particularly in the 2017 milk market case.[43] That case also involved judicial dialogue with the Court of Justice through the preliminary ruling procedure. Faced with questions concerning the compatibility of Lithuanian market regulation with EU law governing the common agricultural policy and competition within the internal market, the Constitutional Court requested a preliminary ruling from the CJEU before completing its constitutional review. In its decision of 20 December 2017, the Court referred questions concerning the interpretation of provisions of an EU regulation governing the milk market. Once again, the Constitutional Court demonstrated its willingness to engage directly with the CJEU in matters where constitutional adjudication intersected with EU law.

Unlike *Sabatauskas*, however, the case's significance lay not only in the preliminary reference itself but also in what the Constitutional Court said about EU law's role within the Lithuanian constitutional order. In the same decision, the Constitutional Court reformulated its earlier doctrine by stating that EU law constitutes a source for interpreting Lithuanian law, including the Constitution itself, in areas where Lithuania shares competences with the European Union under the Constitutional Act on EU Membership. Because agriculture and the internal market fall within areas of shared competence, the Court concluded that constitutional provisions related to these fields, including Article 46 of the Constitution concerning economic activity, should not be interpreted differently from EU law.

This statement marked one of the most significant doctrinal developments in the Court's EU-related jurisprudence. Whereas the 2006 doctrine focused primarily on the priority of application of EU law, the 2017 decision appeared to go further by recognising EU law and CJEU jurisprudence as sources that can shape constitutional interpretation itself. The formulation significantly strengthened EU law's constitutional influence, including secondary EU legislation such as regulations and directives. In this decision, the Court no longer explicitly referred to the constitutional safeguard that EU law enjoys priority only "save the Constitution itself". Nor did it distinguish between EU primary law and

42 Kūris (n 10) 395.

43 Case 11/2016 (n 3).

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secondary legislation, even though the latter is subject to frequent political and legislative changes at the EU level.

The Court later repeated the same approach in its final ruling, adopted after receiving the CJEU's preliminary ruling.[44] The doctrinal shift attracted extensive academic criticism, as many commentators questioned whether the constitutional dispute before the Court genuinely required such a far-reaching reformulation of the relationship between EU law and the Constitution.

The most substantial criticism came from Lithuanian constitutional law scholars, many of whom regarded the decision as a significant departure from the Court's earlier doctrine governing the interaction between EU law and the Constitution.[45] In particular, concerns were raised that the Court effectively transformed both substantive EU law and CJEU jurisprudence into sources for interpreting the Constitution itself, thereby considerably expanding EU law's constitutional influence. Lithuanian constitutional scholars emphasised that the Court's statement that constitutional provisions in areas within shared EU competence should not be interpreted differently from EU law substantially broadened EU law's role within constitutional adjudication.[46] Although the Court sought to limit this approach to fields in which Lithuania shares or confers competences upon the European Union under the Constitutional Act on EU Membership, scholars questioned whether this constituted a genuine doctrinal limitation.[47] Since EU law, by its very nature, already operates only within the competences conferred upon the Union by the Member States, some commentators regarded the limitation as largely formal rather than substantive.

Particular criticism focused on the fact that the Court no longer clearly distinguished between EU primary law and secondary legislation. According to Kūris, the earlier constitutional doctrine had been developed primarily with reference to the constitutional status of the EU Treaties that form the foundation of the European legal order. The 2017 decision, however, appeared to extend the same interpretative significance to secondary legislation and CJEU jurisprudence without sufficiently explaining the constitutional implications of that extension.[48] Scholars noted that regulations and directives are subject to frequent legislative and political change and that their compatibility with EU primary law cannot simply be presumed in every case. Consequently, scholars expressed concerns that the new approach blurred important distinctions within the EU legal order itself.

Lithuanian constitutional law commentators also argued that the decision weakened the earlier constitutional safeguard embodied in the Court's "rule of collision", under which EU

44 Case 11/2016, decision no KT22-N1/2020 (Constitutional Court of the Republic of Lithuania, 6 February 2020) [2020] TAR 14609.
45 Birmontienė (n 9); Kūris (n 10).
46 Birmontienė (n 9) 95.
47 ibid
48 Kūris (n 10) 395.

law enjoys priority of application over national legislation but not over the Constitution itself. While the Court did not formally abandon that doctrine, several authors observed that the new interpretative formula left considerably less room for maintaining a meaningful distinction between constitutional supremacy and the primacy of EU law.[49]

A further line of criticism concerned the Court's reasoning itself. Commentators questioned whether the constitutional dispute before the Court genuinely required such a significant doctrinal development and argued that the judgement did not adequately justify either the necessity or the inevitability of the new approach. In particular, it was noted that the Court did not clearly explain how the expanded interpretative role of EU law could be reconciled with its longstanding understanding of the Constitution as the supreme law of the state.[50] For these reasons, the decision has frequently been described in Lithuanian constitutional scholarship as one of the most controversial and extensively debated developments in the Constitutional Court's EU-related jurisprudence.[51]

Nevertheless, the story did not end with doctrinal controversy. In subsequent jurisprudence, the Constitutional Court largely returned to its traditional constitutional language, reaffirming the "rule of collision", according to which EU law enjoys priority of application over ordinary national law, but not over the Constitution itself.[52] The episode therefore did not produce a permanent constitutional transformation. Instead, it revealed the constitutional sensitivities that may arise when judicial dialogue evolves into constitutional interpretation.

Taken together, the *Sabatauskas* and milk market references illustrate both the strengths and the limits of Lithuania's cooperative constitutional model. They show a Constitutional Court willing to engage openly with Luxembourg, seek guidance when necessary, and treat EU law as an important component of constitutional adjudication. At the same time, they reveal that questions about constitutional supremacy, constitutional identity, and the limits of EU influence remain even within one of the EU's most integration-friendly constitutional systems.

Although both references subsequently generated academic discussion, particularly on the evolving role of EU law in constitutional interpretation, they nevertheless illustrate the Constitutional Court's generally cooperative and EU-friendly approach. Rather than treating the CJEU as a competing judicial authority, the Constitutional Court has consistently regarded the preliminary ruling procedure as an important instrument of judicial dialogue and cooperation between national constitutional courts and the CJEU. This approach is linked to the Constitutional Court's understanding of Lithuania's membership in the EU as a constitutional value and to the constitutional imperative of

49 Birmontienė (n 9); Kūris (n 10).

50 Birmontienė (n 9) 96.

51 Kūris (n 10) 395-6.

52 Decision no KT70-A-S65/2020 (Constitutional Court of the Republic of Lithuania, 8 April 2020).

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ensuring the proper fulfilment of obligations arising from that membership. The Court has therefore shown a willingness to engage directly with the CJEU whenever clarifying EU law may help resolve constitutional questions. At the same time, the Constitutional Court has emphasised that the power to request a preliminary ruling is discretionary rather than mandatory. In its ruling of 3 April 2015,[53] the Court expressly stated that it retains discretion to decide whether a reference is necessary in a particular case, thereby preserving its institutional autonomy while remaining open to judicial cooperation with the CJEU.

5 EU LAW AS A SOURCE OF CONSTITUTIONAL INTERPRETATION: FROM ALTMARK TO COMAN

The Constitutional Court has consistently recognised CJEU jurisprudence as an important source for the interpretation of Lithuanian law. Already in its ruling of 21 December 2006[54] on the financing of the national broadcaster, the Court relied on the CJEU judgement in Altmark[55] when analysing issues related to state aid and public service obligations. In the same ruling, the Constitutional Court expressly stated that, as in the case law of the European Court of Human Rights, the jurisprudence of the Court of Justice is an important source for the interpretation and application of Lithuanian law.

This position was subsequently reaffirmed in later rulings, including those of 27 March 2009,[56] 21 June 2011[57], and 22 December 2011.[58] Over time, references to CJEU case law became a regular feature of constitutional adjudication. The Constitutional Court increasingly relied on Luxembourg jurisprudence when addressing questions concerning economic regulation, public administration, fundamental rights, and other constitutionally relevant matters.[59] According to the Constitutional Court's annual reports, between 2020 and 2025 alone, CJEU jurisprudence was cited in ten rulings.[60] The practical significance of this development should not, however, be assessed solely in quantitative terms. More important is the qualitative expansion of the contexts in which the Constitutional Court has used CJEU jurisprudence. While the Court's earlier engagement with CJEU case law largely

53 Case 15/2014 (Constitutional Court of the Republic of Lithuania, 3 April 2015) [2015] TAR 5118.

54 Case 30/03 (n 34).

55 Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH* (CJEU, 24 July 2003) ECLI:EU:C:2003:415.

56 Case 33/06 (Constitutional Court of the Republic of Lithuania, 27 March 2009) [2009] Žin 36-1388.

57 Case 76/09-55/10 (Constitutional Court of the Republic of Lithuania, 21 June 2011) [2011] Žin 76-3672.

58 Case 13/2010-140/2010 (Constitutional Court of the Republic of Lithuania, 22 December 2011) [2011] Žin 160-7591.

59 Kūris (n 10) 390-6.

60 Constitutional Court of the Republic of Lithuania, *Annual Report 2020* (2021); *Annual Report 2021* (2022); *Annual Report 2022* (2023); *Annual Report 2023* (2024); *Annual Report 2024* (2025); *Annual Report 2025* (2026). See 'Annual Reports, 2020–2025' (*Constitutional Court of the Republic of Lithuania*, 2026) <https://lrkt.lt/en/about-the-court/activity/annual-reports/183> accessed 2 July 2026.

concerned questions arising directly from EU economic and regulatory law, its subsequent jurisprudence shows that references to CJEU case law have extended to constitutional questions concerning fundamental rights, equality, human dignity, and family life. CJEU jurisprudence has thus gradually gained relevance not only for determining requirements under EU law, but also for the interpretation and application of constitutional standards.

The significance attributed to CJEU jurisprudence is also reflected in its procedural approach. In certain cases, the Court has deliberately slowed the examination of its rulings while awaiting CJEU guidance on closely related legal questions.[61] A notable example is the case concerning the prohibition of right-hand-drive vehicles, where the Constitutional Court waited for the CJEU's judgement in Commission v Lithuania before completing its constitutional review and subsequently declaring the relevant national regulation unconstitutional.[62] Similarly, in its landmark ruling of 11 January 2019 concerning same-sex family reunification, the Constitutional Court relied extensively on the reasoning developed by the CJEU in Coman.[63] Notably, the Constitutional Court refrained from deciding the case until the CJEU had delivered its judgement, indicating the importance it attached to Luxembourg's interpretation of EU law. This practice shows that the Constitutional Court regards CJEU jurisprudence not merely as persuasive authority, but as an important reference point that can shape constitutional review itself.

In many respects, the Constitutional Court's approach to CJEU jurisprudence followed a path previously established in relation to the European Court of Human Rights' case law. Having long regarded Strasbourg jurisprudence as an important interpretative reference point in constitutional adjudication, the Court gradually came to attribute a similar role to CJEU jurisprudence.[64] This development reflected the Court's broader understanding of Lithuania's constitutional order as open to European legal influences and embedded within a wider European legal space.

As mentioned before, the importance attributed to CJEU case law reached a new level in the Constitutional Court's decision of 20 December 2017,[65] where the Court held that "European Union law is a source for the interpretation of the law of the Republic of Lithuania, *inter alia*, the Constitution, in areas where the Republic of Lithuania shares or

61 Kūris (n 10) 395.

62 Case C-61/12 *European Commission v Republic of Lithuania* (CJEU, 20 March 2014) ECLI:EU:C:2014:172; Case 18/2012 (Constitutional Court of the Republic of Lithuania, 6 February 2015) [2015] TAR 1844.

63 Case 16/2016 (Constitutional Court of the Republic of Lithuania, 11 January 2019) [2019] TAR 364; Case C-673/16 *Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne* (CJEU, 5 June 2018) ECLI:EU:C:2018:385.

64 Case 22/94 (Constitutional Court of Republic of Lithuania, 24 January 1995) [1995] Žin 9-199; Case 8/2009-49/2009-36/2011-69/2011-74/2011 (Constitutional Court of the Republic of Lithuania, 5 September 2012) [2012] TAR 10504.

65 Case 11/2016 (n 3).

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confers competences upon the European Union". This formulation represented an important doctrinal development. What had previously been treated primarily as a persuasive interpretative authority was now expressly recognised as a source for constitutional interpretation itself in areas falling within the scope of EU competences.

The practical significance of this approach is evident in several subsequent cases. For example, in its landmark ruling of 11 January 2019[66] concerning same-sex family reunification, the Constitutional Court drew extensively upon the reasoning developed by the CJEU in Coman. Notably, references to CJEU jurisprudence have gradually expanded beyond traditionally EU-centred fields such as economic regulation and the internal market into areas connected with constitutional identity, family life, equality, human dignity, and fundamental rights. The Coman case showed how EU law can influence constitutional interpretation even in politically and socially sensitive areas traditionally regarded as within the core of national constitutional autonomy.

What began as occasional references to Luxembourg case law as persuasive interpretative authorities has evolved into a much more systematic engagement with EU law. The Constitutional Court increasingly relies on CJEU jurisprudence not merely to clarify the meaning of EU legal provisions but also to support and develop constitutional reasoning. As a result, EU law has gradually evolved from being an external legal framework applicable within the Lithuanian legal order into an increasingly important source of constitutional interpretation.

At the same time, the Constitutional Court has consistently maintained that reliance on EU law and CJEU jurisprudence does not alter the Constitution's constitutional status. The Court has never suggested that EU law replaces constitutional law or diminishes the Constitution's position as the state's supreme law. Rather, EU law and CJEU jurisprudence have become important instruments for interpreting and developing Lithuanian constitutional doctrine within a constitutional framework that remains founded on the supremacy of the Constitution.

Thus, while the Constitutional Court has not accepted the supremacy of EU law over the Constitution, it has increasingly integrated CJEU jurisprudence into its constitutional reasoning. As a result, Luxembourg has become not merely an external judicial authority interpreting EU law, but an important participant in the ongoing development of Lithuanian constitutional doctrine.

66 Case 16/2016 (n 63).

6 CONCLUSIONS

Lithuania's constitutional experience shows a comparatively cooperative, integration-friendly model of constitutionalism within the European Union. Unlike constitutional courts in several other Member States, the Lithuanian Constitutional Court has generally avoided framing its relationship with EU law as constitutional resistance or open conflict. Instead, it has sought to reconcile constitutional supremacy and European integration through constitutional accommodation, judicial dialogue, and interpretative openness towards EU law. This conclusion follows from the cumulative development identified in the analysis. First, the Constitutional Court established a constitutional framework that recognises the priority of EU law over ordinary national legislation while preserving the Constitution's supremacy. Second, its two preliminary references demonstrate an institutional willingness to engage directly with the CJEU where the interpretation of EU law is relevant to constitutional review. Third, the increasing use of CJEU jurisprudence, including in cases concerning fundamental rights and family life, demonstrates that EU law has gradually acquired significance not only as applicable supranational law but also as an interpretative source within constitutional review. Considered together, these developments support the characterisation of the Lithuanian approach as one of constitutional accommodation rather than constitutional resistance.

The evolution of this approach can be traced through a series of landmark cases. Sabatauskas marked the Constitutional Court's first direct engagement with Luxembourg through the preliminary ruling procedure. A decade later, the milk market case demonstrated both the possibilities and the constitutional sensitivities of deeper judicial cooperation. Cases such as Commission v Lithuania and Coman further illustrate how CJEU jurisprudence has influenced constitutional reasoning in areas ranging from economic regulation to family life and fundamental rights. Equally significant is that the Constitutional Court has slowed the examination of its own rulings to await guidance from the CJEU, highlighting the practical importance of judicial dialogue in the development of Lithuanian constitutional doctrine.

At the same time, the Lithuanian experience shows that cooperation does not eliminate constitutional tensions. The academic debate surrounding the Constitutional Court's 2017 decision demonstrates that questions concerning the limits of EU influence and the preservation of constitutional supremacy remain contested. Nevertheless, these debates have unfolded within a constitutional framework fundamentally characterised by openness towards European integration rather than resistance to it.

Viewed from the perspective of the Court's first visit to Luxembourg in 2007, the Lithuanian story is ultimately not one of constitutional conflict. It is a story about the gradual construction of a constitutional dialogue between Vilnius and Luxembourg. Through preliminary references, the reception of CJEU jurisprudence, and the development of an increasingly EU-friendly constitutional doctrine, the Constitutional Court has sought to

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ensure that Lithuania remains both a constitutional state and a fully integrated Member State of the European Union. In this sense, Lithuania's experience illustrates how constitutional supremacy and European integration can coexist not through confrontation, but through dialogue, accommodation, and mutual respect between courts.

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AUTHOR'S INFORMATION

Dovilė Pūraitė-Andrikienė
PhD, Senior Researcher and Head of the Law Institute, Lithuanian Centre for Social Sciences, Vilnius, Lithuania
dovile.puraite@teise.org
https://orcid.org/0000-0001-6964-1568
Corresponding author, solely responsible for preparing the manuscript.

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Summary: 1. Introduction. – 2. From European Choice to Constitutional Commitment. – 3. "Save the Constitution Itself": Lithuania's Version of EU Primacy. – 4. Preliminary Rulings, Judicial Dialogue, and the Limits of Cooperation: From *Sabatauskas* to the Milk Case. – 5. EU Law as a Source of Constitutional Interpretation: From *Altmark to Coman*. – 6. Conclusions.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

КОНСТИТУЦІЙНЕ ВЕРХОВЕНСТВО БЕЗ КОНФЛІКТУ: КОНСТИТУЦІЙНИЙ СУД ЛИТВИ ТА ПРАВО ЄВРОПЕЙСЬКОГО СОЮЗУ

Довіле Пурайте-Андрікієне

АНОТАЦІЯ

Передумови. *З моменту вступу Литви до Європейського Союзу у 2004 році Конституційний Суд Литовської Республіки поступово виробив особливий підхід до права Європейського Союзу. На відміну від низки європейських конституційних судів, які обґрунтовували конституційні межі європейської інтеграції через концепції конституційної ідентичності, доктрину ultra vires чи конституційного опору, Конституційний Суд Литви послідовно дотримується підходу співпраці, що ґрунтується на судовому діалозі та взаємній конституційній адаптації (constitutional accommodation). Хоча ця практика привертає дедалі більше уваги науковців, вона досі не отримала всебічного дослідження як цілісна модель конституційної взаємодії між національним конституційним правом та правом ЄС. Метою цієї статті є аналіз еволюції підходу Конституційного Суду до права ЄС, а також визначення основних механізмів інтеграції права ЄС у литовське конституційне судочинство. Для досягнення зазначеної мети окреслено три дослідницькі завдання: (1) дослідити конституційні засади, що визначають співвідношення між Конституцією та правом ЄС; (2) проаналізувати судовий діалог Конституційного Суду із Судом справедливості Європейського Союзу в межах процедури попереднього рішення; (3) оцінити роль права ЄС та практики Суду справедливості ЄС як джерел тлумачення конституційних норм.*

Методи. *Дослідження ґрунтується на доктринальному правовому аналізі Конституції Литовської Республіки, практики Конституційного Суду Литви та Суду справедливості Європейського Союзу, відповідних законодавчих актів і фахової наукової літератури. У статті застосовано системний, логічний, порівняльно-правовий, лінгвістичний і телеологічний методи тлумачення права. Порівняльний аналіз використано для вивчення практики литовського конституційного судочинства в ширшому європейському конституційному контексті, з особливою увагою до підходів Федерального конституційного суду Німеччини, Конституційного суду Італії та Конституційного трибуналу Польщі.*

Результати та висновки. *У статті доведено, що Литва сформувала особливу модель конституційної адаптації, покликану узгодити верховенство Конституції з вимогами європейської інтеграції. Ця модель спирається на три взаємопов'язані елементи: конституційну доктрину щодо співвідношення права ЄС і Конституції; активний*

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судовий діалог у межах процедури попереднього рішення; послідовне розширення використання права ЄС та практики Суду справедливості ЄС як джерел конституційного тлумачення. Аналіз свідчить, що попри академічну критику після рішення Конституційного Суду 2017 року у справі щодо ринку молока, Суд незмінно утверджує Конституцію як найвищий закон держави, водночас залишаючись відданим принципу ефективного застосування права ЄС. Досвід Литви засвідчує, що верховенство Конституції та примат права ЄС не обов'язково призводять до конституційного конфлікту, а можуть гармонійно співіснувати у форматі судової співпраці, конституційної адаптації та взаємної поваги між національними органами конституційної юрисдикції та Судом справедливості Європейського Союзу.

Ключові слова: *Конституційний Суд Литви; право Європейського Союзу; Суд справедливості Європейського Союзу; процедура попереднього рішення; конституційна адаптація; верховенство Конституції; судовий діалог; примат права ЄС.*