



CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

INTERNATIONAL CONFERENCE

on the occasion of the 30th anniversary of the Constitutional Court of the Republic of Latvia
9–10 December 2026, Riga

Panel discussion I

Access to constitutional courts

Ensuring effective access to constitutional courts is of utmost importance not only to resolve concrete disputes but also because constitutional courts are occasionally the only effective remedy available in case of human rights infringements.¹

It is anticipated that the discussion in this panel will go beyond the very important technical issues of access to constitutional courts, such as, for instance, court fees, access to legal aid, language requirements, mandatory representation, and instead will focus on the competence of constitutional courts. In other words, the panellists are invited to contemplate the limits of the competence of constitutional courts – what kinds of cases constitutional courts should and should not be entitled to review.

The models chosen for constitutional adjudication in European legal space are very diverse; in particular, this pertains to the competence of constitutional courts. For instance, while some constitutional courts have full authority to examine the constitutionality of application of legal provisions,² others are strictly limited to the examination of constitutionality of legal provisions in abstract.³ Even greater diversity can be seen with respect of types of competence assigned to constitutional courts beyond the traditional judicial review of constitutionality of normative legal acts – constitutional courts have been tasked with, for instance, conducting impeachments, certifying results of elections, examining the constitutionality of public activities of political parties, etc.

Furthermore, unresolved issues remain within the context of judicial review of normative legal acts as well. For instance, in the absence of specific regulation in the respective constitutions and/or other laws the question of whether constitutional courts are entitled to examine the constitutionality of constitutional amendments (and if so – to what extent) remains unclear. For EU Member States an issue of a very practical significance is the competence of constitutional courts to review the compliance of domestic legal provisions with provisions of primary and secondary EU law. While normally the place of

¹ See, for example, the decision of the European Court of Human Rights of 13 February 2003 in the case “Grišankova and Grišankovs v. Latvia”, application no. 36117/02.

² For instance, Czechia, Germany, Spain.

³ Latvia, Lithuania.

international treaties, including the EU treaties in the domestic hierarchy of sources of law will be reasonably clear, unclear issues might pertain to, for instance, EU directives and regulations.

Panel discussion II

Execution of judgements of constitutional courts

The Venice Commission has pointed out that the obligation of all public bodies and individuals to respect judgments of constitutional courts is a corollary of the supremacy of the constitution. Disregarding a judgment of a constitutional court is disregarding the constitution and the constituent power, which has attributed the competence to guarantee the constitution's supremacy to the constitutional court.⁴ The obligation to ensure the implementation of judgments of constitutional courts follows not only from the supremacy of the constitution and the role of constitutional court in ensuring that supremacy, but also from human rights obligations of each state, including the obligations that follow from the right to a fair trial. The European Court of Human Rights has pointed out that "the State is required to provide litigants with a system whereby they are able to secure the proper execution of domestic court decisions. [The ECtHR] consider[s] whether the measures taken by the national authorities [...] to have the decisions concerned executed were adequate and sufficient [...], for when the competent authorities are required to take action to execute a judicial decision and fail to do so – or to do it properly – their inertia engages the responsibility of the State under Article 6 § 1 of the Convention".⁵

Nonetheless, the methods employed to achieve an effective enforcement of rulings of constitutional courts vary widely, depending on such considerations as the legal culture of a particular state, the competence and jurisdiction of its constitutional court, as well as each state's perception of the place of the constitutional court within the system of separation of powers. As a result, some countries might not have in their legal systems any specific rules concerning the execution of judgments of constitutional courts, while the role of actors involved in the execution process in other states will be very divergent. Due to these differences, the Venice Commission has pointed out that there are no strict common European standards on the execution of judgments of constitutional courts.⁶ In other words, there are no enforcement measures that are considered to be obligatory for the Council of Europe Member States. The choice of the most appropriate measures lies within the discretion of each state. However, comparative analysis of best practices may suggest potential directions which might be contemplated to improve the implementation.

It is suggested that the second panel could follow up from the first panel with the discussion of the role of constitutional courts with respect to the interaction between national and EU law, by focusing on the consequences of a possible decision concerning the incompatibility of a provision of domestic law with the EU law. Secondly, the panellists could address the various mechanisms that are or might be at the disposal of constitutional courts for ensuring that their decisions are properly executed.

⁴ European Commission for Democracy through Law (Venice Commission), Opinion 827/2015 (CDL-AD(2017)003) On the law of 16 October 2015 amending the Organic Law No. 2/1979 on the Constitutional Court (Spain), para. 8. Available: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)003-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)003-e).

⁵ Judgment of the European Court of Human Rights of 19 February 2013, "*García Mateos v. Spain*", application no. 38285/09, para. 44.

⁶ European Commission for Democracy through Law (Venice Commission), Opinion 827/2015 (CDL-AD(2017)003) On the law of 16 October 2015 amending the Organic Law No. 2/1979 on the Constitutional Court (Spain), para. 15. Available: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)003-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)003-e).