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**The effectiveness of a constitutional complaint as a mechanism for protecting human rights in Ukraine**

Due to the implementation of constitutional reform of 2016 (on judiciary), the institute of constitutional complaint was implemented in the Ukrainian system of national legal remedies. Thus, a constitutional complaint can be filed if all other national remedies have been exhausted.

According to the Law of Ukraine “On the Constitutional Court of Ukraine”, constitutional complaint is a written petition submitted to the Court regarding the verification of the constitutionality of the law of Ukraine (its separate provisions), which was applied in the final court decision in the case of the subject of the right to a constitutional complaint. The subject of the right to a constitutional complaint is a person who believes that the law of Ukraine applied in the final court decision in his case (its separate provisions) contradicts the Constitution of Ukraine. Subjects of the right to a constitutional complaint do not include legal entities under public law.

The introduction of this institute in Ukraine is an important and progressive step towards ensuring the protection of human rights, since a constitutional complaint doesn’t only give a legal possibility for a judicial review of a person’s case under exceptional circumstances in connection with recognition of the applied provisions of the law as unconstitutional, but can also become an effective mechanism (means) on the way to improving the legislation of Ukraine towards liberalism.

Thus, constitutional prescriptions, the model that has been introduced in Ukraine is a *“normative” model of the institute of a constitutional complaint* (according to para 30 of “Revised Report On Individual Access To Constitutional Justice” adopted by the Venice Commission on 11 December 2020). It means that only the law of Ukraine is subject to appeal, which was the basis for the adoption of an individual law-enforcement act – a final court decision. This decision will be reviewed by the courts of the judicial system of Ukraine in the manner established by the procedural legislation, if the constitutional complaint is satisfied.

With respect to practical application, according to the Annual information report of the Constitutional Court of Ukraine of 2022, there were 248 constitutional complaints submitted during 2022 (12% of all received documents); 140 complaints (56%) did not meet the requirements of the Law. The majority of the complaints were related to such issues as pension and social protection, civil procedural law, criminal procedural law and administrative justice.

Furthermore, the practice of the Constitutional Court of Ukraine demonstrates the influence of the institute of a constitutional complaint on national legislation. For instance, in 2019, based on the results of consideration of the constitutional complaint, the Constitutional Court of Ukraine issued a decision, by which annulled a provision of the Criminal Procedure Code of Ukraine, which provides that preventive measures in the form of personal commitment, personal guarantee, house arrest, bail cannot be applied to persons suspected or accused of committing certain crimes. In fact, the norm, which did not meet the principles of justice and rule of law, was removed from Ukrainian legislation.

With the decision of October 12, 2022, the Constitutional Court of Ukraine recognised as unconstitutional certain provisions of the legislation in relation to the pension provision of military personnel. Thus, the Сourt instructed Verkhovna Rada of Ukraine to bring normative regulation concerning provision of high-level social guarantees in accordance with the Constitution of Ukraine.

In 2023, based on the results of consideration of the constitutional complaint, the Constitutional Court of Ukraine improved the legislation regarding social protection of citizens who suffered from the Chernobyl catastrophe. In particular, there was an annulment of the norm of the Budget Code of Ukraine, according to which the state pension for persons assigned to category 1 (persons, who suffered from the Chernobyl catastrophe) and in connection with the loss of an earner is paid in the manner and amounts established by the Cabinet of Ministers of Ukraine, based on the available financial resources of state and local budgets and budgets of state mandatory social insurance funds. The court emphasied that the amount of a pension due to disability or illness and a pension due to the loss of an earner as a result of the Chernobyl disaster cannot depend on the available financial resources.

Thereby, based on the results of consideration of an individual complaint, the Constitutional Court of Ukraine in its decision indicates the need to change and/or amend the legislation. And this is also a positive effect of the normative action of the complaint. So, after the establishment of the institute of a constitutional complaint in domestic legislation, individuals gained opportunity to directly participate in the activity, which will not only contribute to the resolution of their legal dispute, but will also have consequences for the entire legal system of Ukraine, ensuring its constant improvement and efficiency.

However, the current appeal model does not fully allow us to reveal the potential of a constitutional complaint as an effective remedy of the national legal system. Therefore, in the conditions of increased attention to the mechanisms for the protection of human rights, the most relevant is the introduction of such a model of the constitutional complaint, which provides the possibility of an appeal on the subject of compliance with the Constitution of Ukraine not only of the normative acts of Ukraine.

Ideally, the institute of constitutional complaint could be even more comprehensive. Firstly, it could serve the individuals seeking to challenge the constitutionality of individual law-enforcement acts (in particular, court decisions) that violated their fundamental rights (the so-called *“full constitutional complaint”*). Such application would be helpful for Ukraine’s judiciary system as it is susceptible to corruption, which may cause misinterpretation of laws.

Moreover, this institute could be a form of public control over newly introduced laws as *actio popularis*, where the Constitutional Court conducts an abstract review of a normative act. Yet, the Venice Commission warns against the introduction of *actio popularis*, as it can lead to the overburdening of the Constitutional Court. However, there might be a requirement of several conditions to be met to file an *actio popularis* in order to guard against overloading the Constitutional Court (e.g., the experience of Liechtenstein, Malta, and Peru). In addition, the possibility of various human rights organisations (NGOs) filing a petition as “public petitioners” seeking to further general public interests would be beneficial. These groups may not be required to demonstrate a personal interest in the petition, although they may file a petition on behalf of private petitioners that were directly affected by a normative act.

Therefore, when analysing today’s Ukrainian realities, it can be stated that individuals and legal entities (except legal entities under public law) were given a real opportunity to apply to the Constitutional Court of Ukraine and challenge the laws of Ukraine (their individual provisions) that were applied by the courts in their cases. However, there is a huge potential in the mechanism of constitutional complaint to be realised.

In conclusion, the changes in Ukrainian legal system in terms of the introduction of the institute of a constitutional complaint are designed for persons to whom unconstitutional legislative acts have been applied by the courts in the final court decision, to restore justice in each specific case. Further development of the mechanism of constitutional complaint would increase its effectiveness and provide sufficiently broad opportunities for the protection of human rights guaranteed by the Constitution of Ukraine.

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