

Enhancing Constitutional Justice at the Regional Level through International Cooperation

რეგიონულ დონეზე კონსტიტუციური სამართლიანობის გაძლიერება
საერთაშორისო თანამშრომლობის მეშვეობით

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Abstract: The complex political and legal issues and the specific particularities of the development of the countries in the Black Sea region are also reflected in the evolution of constitutional justice in this area. Starting from the premise of the importance of constitutionality control in defence of the values of democracy and fundamental rights, we will approach the issue of constitutional justice from the perspective of regional connection and support mechanisms. The study is an invitation to deepen the subject of the organization and functioning of constitutional justice, to raise awareness of the fact that it inherently reflects regional problems in terms of the causes and issues faced by the constitutional courts, as well as the importance of cooperation to strengthen constitutionality control and facilitate access to the constitutional justice.

Keywords: constitutional courts, constitutional justice, international cooperation

მიჰაი ბადესკუ

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იურიდიულ მეცნიერებათა დოქტორი,
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აბსტრაქტი: შავი ზღვის რეგიონში ქვეყნების განვითარების კომპლექსური პოლიტიკური და სამართლებრივი პრობლემები და კონკრეტული თავისებურებები ასევე აისახება კონსტიტუციური სამართლიანობის განვითარების პროცესში ამ რეგიონში. განსაზღვრული კონსტიტუციურობის კონტროლის მნიშვნელობის წინაპირობიდან, რომელიც დაიცავს დემოკრატიისა და ძირითადი უფლებების ღირებულებებს, ჩვენ განვიხილავთ კონსტიტუციური სამართლიანობის საკითხს რეგიონული კავშირისა და მხარდამჭერი მექანიზმების პერსპექტივიდან. კვლევა წარმოადგენს მოწოდებას, რომ უფრო ღრმად შევისწავლოთ კონსტიტუციური სამართლიანობის ორგანიზაციისა და ფუნქციონირების საკითხები, გავამახვილოთ ყურადღება იმ ფაქტზე, რომ იგი შინაგანი სახით ასახავს რეგიონულ პრობლემებს, რომელიც დაკავშირებულია კონსტიტუციური სასამართლოების წინაშე მდგომ მიზეზებსა და საკითხებთან, ასევე, თანამშრომლობის მნიშვნელობას კონსტიტუციურობის კონტროლის განმტკიცებისა და კონსტიტუციურ სამართლიანობაში წვდომის გამარტივებისთვის.

საკვანძო სიტყვები: კონსტიტუციური სასამართლოები, კონსტიტუციური სამართლიანობა, საერთაშორისო თანამშრომლობა

I. **Introduction.** The states bordering the Black Sea are, in alphabetical order, Bulgaria³, Georgia⁴, Romania⁵, Russia⁶, Ukraine⁷ and Turkey⁸. Over the years, in all these countries, courts that carry out the constitutional review of laws have been established as guarantors of the supremacy of the Constitution. The developments and the issues these Courts faced over time have specific particularities, determined by the profile and socio-political evolutions of the countries where they function.

We do not intend to analyse particularities/differences of constitutional justice in the Black Sea region, but rather to present what unites the apex Courts at the regional and global level, namely the cooperation networks and other forms of dialogue and their role in the evolution of constitutionalism around the same values. Thus, except of Russia, all the mentioned States are members of the Council of Europe and the Venice Commission, members of the Conference of European Constitutional Courts and the World Congress of Constitutional Justice. Of course, there are also distinct forms of cooperation, such as those determined by the membership of Bulgaria and Romania in the European Union, Turkey in the

³ Constitutional Court of Bulgaria <https://constcourt.bg/>

⁴ Constitutional Court of Georgia <http://www.constcourt.ge/en>

⁵ Constitutional Court of Romania www.ccr.ro

⁶ Constitutional Court of Russia <http://ksrf.ru/en>

⁷ Constitutional Court of Ukraine <https://ccu.gov.ua/index.php>

⁸ Constitutional Court of Turkey <https://www.anayasa.gov.tr/en/home-page/>

Association of Asian Constitutional Courts and Equivalent Bodies (AACC) or Georgia and Ukraine in the Association of Constitutional Justice of the Countries of the Baltic and Black Sea Regions (BBCJ). As regards Russia, the war determined a radically different turn, which requires a distinct analysis, which exceeds the present study.

Precisely in view of the sometimes hectic political developments in this part of the world, the support provided by international cooperation is important for preserving the independence of these courts and the values of the rule of law. It was highlighted by the courts themselves⁹ the increasing role of constitutional justice worldwide and the risks of the transformation of the constitutional courts in pure "decoration of the rule of law". Through the status they have acquired, the expansion of their powers, and the strengthening of the effects of their decisions, the constitutional courts have become fundamental actors of democracy and equilibrium of power within the State. Therefore, when a constitutional court is only a "supplement" of a power, confined to certifying its acts and giving them an appearance of legitimacy, the rationale of such a court (subordinated to the guarantee of the rule of law) becomes grounds against the court. To avoid the risks, it is necessary to pursue the slippages carefully and identify tools for early prevention and countering any threats to constitutional justice. Within international bodies, as well as the forms of cooperation of the constitutional courts, these developments are closely pursued.

bodies, illustrating challenges and developments, and their role in the development of constitutional justice at the regional level.

II. Cooperation within the Conference of European Constitutional Courts (CECC)

The Conference of European Constitutional Courts (CECC) is an international organization, created in 1952, bringing together 40 constitutional courts and equivalent institutions. Within this form of cooperation, periodic congresses are organized (every three years), in view of exchanging experience in the field of constitutional justice practice and in order to maintain permanent contacts between the member institutions of this organization.

With reference to our topic, we have to emphasize the involvement of Romania and Georgia as hosts of the Conference. Thus, CCR organized the XVth

⁹ See XVIII Congress of European Constitutional Courts, Recording of the Congress proceedings is available here: https://usoudcz-my.sharepoint.com/:f/g/person/david_krev_usoud_cz/EuIYvnC4eEdMIQ8skqXGgRsB8TC2_AOzTPy9yzYOGdQzjZg?e=UR7EKc; The General Report in English and French is available here; <https://www.cecc2017-2020.org/congress/xviiiith-congress/>, speech of the president of the host Constitutional Court

Congress of the Conference of European Constitutional Courts with the topic “Constitutional justice. Functions and relationships with other public authorities”, on 23-25 May 2011. On that occasion, with the support of the Venice Commission, it was signed the Statute of the World Conference on Constitutional Justice in Bucharest.¹⁰ Likewise, the Constitutional Court of Georgia hosted, in Batumi, the XVII CECC Congress on 29 June - 1 July 2017, with the topic: “Role of Constitutional Courts in the protection and enforcement of constitutional principles”.

The reports provided by countries at these events, which are published in conference volumes, serve as valuable documentation and support for the advancement of constitutional justice based on shared values. Additionally, it is important to highlight the significance of speeches and discussions, as they bring attention to common issues and concerns and facilitate the building of bridges and collaboration to find solutions.

III. Cooperation within the World Congress of Constitutional Justice

The World Conference of Constitutional Courts (WCCJ) is a global cooperation structure that consists of 121 Constitutional Courts and Councils as well as Supreme Courts from regions all over the world, including Africa, the Americas, Asia, Australia/Oceania, and Europe. The WCCJ aims to promote constitutional justice, which involves constitutional review and human rights case-law, as a crucial aspect of democracy, human rights protection, and the rule of law. To achieve these objectives, the World Conference holds periodic congresses that bring together all members on a global level. Additionally, they participate in regional conferences and seminars and promote the exchange of experience and case-law among regional and language groups and individual members. The WCCJ also offers good offices to its members upon their request.

The importance of cooperation within this body is also relevant to the topics chosen for the Congresses, of global importance, such as the one addressed in the most recent Congress which took place in October 2022 in Indonesia, Bali, (the 5th in the history of the World Conference of Constitutional Justice)¹¹, “Constitutional Justice and Peace.” The congress should be noted for at least two reasons: its scope - as a worldwide meeting of constitutional justice, which brought together 94 constitutional courts and equivalent institutions from around the world, meaning almost 600 participants; the generous topic - PEACE, as a value enshrined in the constitutions of the States of the world and defended by instruments regulated in

¹⁰[https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-WCCJ-GA\(2017\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-WCCJ-GA(2017)010-e)

¹¹ Congress page - <https://wccj5.mkri.id/>

the Constitutions, especially the constitutional review. We think that is difficult to identify, at this specific moment, a more important topic of reflection and joint effort for all of us, as inhabitants of this planet: how this value is regulated in the constitutions of the states of the world, the dimensions of the peace as a constitutional value, how peace is defended by the constitutional courts and equivalents.

The congress focused on sharing knowledge and best practices to strengthen control over constitutionality and promote peace in all its forms. It was notable for providing a platform to discuss sensitive issues related to constitutional justice. A special panel, held behind closed doors, addressed the independence and threats facing constitutional courts. This highlighted the growing importance of constitutional justice globally, as well as the risk of courts becoming mere symbols of the rule of law without real power.

IV. Other regional initiative

It is worth noting the initiative of the Constitutional Court of the Republic of Moldova and the Constitutional Court of Lithuania a few years ago, to establish an Association of Constitutional Justice of the Countries of the Baltic and Black Sea Regions (hereinafter-the Association). The Declaration on the establishment of the Association has been signed on 26 October 2015, in Vilnius, by Presidents of Constitutional Courts of the Republic of Moldova, Lithuania, Georgia, and Ukraine, emphasizing on that occasion that the countries joining the Association are united by the obligation to respect and protect the same European democratic values, by similar history, and by comparable current issues. The President of the Lithuanian Constitutional Court, Dainius Žalimas stated that *“these states now need total support in efforts to preserve their European choice and territorial integrity. The geopolitical challenges and attempts to make these countries turn away from European political and value space shows that there is a big need to strengthen the independent Constitutional Courts of Georgia, Republic of Moldova, and Ukraine as well as the European dimension in the activity of these courts.”*

In recent years, there has been no progress in this type of collaboration. However, in the future, the concepts that formed its foundation can be used to advocate for the advancement of constitutional justice cooperation in the Black Sea region. This will allow constitutional courts to share their expertise more effectively and frequently, and apply it in practice.

IV. Cooperation within the Venice Commission

1. Venice Commission, brief presentation

Created in 1990 as an advisory body in the matter of constitutional law of the Council of Europe, the European Commission for Democracy through Law (Venice

Commission) has become over time a body of reference not only in Europe, but throughout the world, considerably influencing democratic developments worldwide.

The Venice Commission has as members a number of 61 States: the 46 Member States of the Council of Europe and 15 other countries (Algeria, Brazil, Canada, Chile, Costa Rica, Israel, Kazakhstan, Republic of Korea, Kosovo, Kyrgyzstan, Morocco, Mexico, Peru, Tunisia and USA). Argentina, Japan, the Holy See and Uruguay are observers. The Republic of South Africa and the Palestinian National Authority have a special cooperative status. The European Commission and the OSCE / ODIHR participate in the plenary sessions of the Commission. According to its Statute¹², it is an independent advisory body that cooperates with the Member States of the Council of Europe. The objectives of the Commission are to strengthen the understanding of the legal systems of the participating States, especially with a view to the approximation of these systems; promoting the rule of law and democracy; examining the issues raised by the functioning of democratic institutions and their strengthening and development. Member States and bodies of the Council of Europe may request opinions from the Commission¹³. The European Union can also request opinions regarding its area of competence¹⁴. As for the States, as a rule the Parliaments, Governments or ministers request such opinions. Likewise, the Commission accepts such requests from the Constitutional Courts or the Ombudsmen. Through its entire activity, the Venice Commission promotes the central values of the Council of Europe's activity, namely human rights, democracy and the preeminence of law, as benchmarks of a common constitutional space for the Member States¹⁵, thus contributing to the process of modernization and standardization of law at the level of these States¹⁶.

Examining the Commission's website¹⁷, one can see the treasure that has been built up over the years by putting together these opinions and through the tools developed over time, such as codes of good practice in various matters and the CODICES database¹⁸, permanently updated with the most relevant decisions of the

¹² https://www.venice.coe.int/WebForms/pages/?p=01_01_Statute

¹³ For the corresponding steps see

https://www.venice.coe.int/WebForms/pages/?p=01_activities&lang=EN

¹⁴ Cameron, Iain Thorburn, *The Role of the Venice Commission in Strengthening the Rule of Law* (July 13, 2020). *Rule of Law in the EU: 30 Years After the Fall of the Berlin Wall* (Forthcoming), Available at SSRN:

<https://ssrn.com/abstract=3650021> or <http://dx.doi.org/10.2139/ssrn.3650021>

¹⁵ G. BUQUICCHIO, P. GARRONE, *Vers un espace constitutionnel commun? Le role de la Commission de Venise*, www.venice.coe.int.

¹⁶ T. Toader, M. Safta, *Constitutional contentious*, Hamangiu Publishing House, 2021

¹⁷ <https://www.venice.coe.int/webforms/events/>

¹⁸ <http://www.codices.coe.int/NXT/gateway.dll?f=templates&fn=default.htm>

constitutional courts - members of the Commission. Similarly, the multitude of international events in which the Venice Commission is involved demonstrate its role as the main actor of constitutional and legislative reforms, as well as a mediator in moments of tension and challenges to democratic values. Given the breadth of the topic, we will emphasize a few milestones related, mainly, to the role of the Venice Commission as a supporter of the world and European dialogue of the constitutional courts and of the constitutional and legislative reforms, equally regarding the States bordering the Black Sea.

2. The role of the Venice Commission in upholding constitutional justice

We can examine the Venice Commission's contribution to enhancing constitutional justice, at the global and also regional level, from various angles:

a) Support and facilitator of the dialogue of the constitutional courts

The Commission's representatives often attend events where constitutional courts come together to discuss important topics of mutual interest. One such event that we believe is particularly significant for the organization and status of constitutional justice is the Colloquium organized by the Constitutional Court of Andorra on July 12th, 2018. The topic of the event was "Constitutional Courts: Guarantors of the Democratic Quality of Societies"¹⁹. During the event, Schnutz Rudolf Durr, the head of the Commission's constitutional justice division, and the secretary general of the World Conference on Constitutional Justice presented a communication titled "Constitutional Courts: Species in Danger?" This communication not only highlighted the existing tensions and pressures surrounding constitutional courts but also illustrated the significant direct influence that the Venice Commission has in resolving these tensions. A suggestive example mentioned in the Conference was the intervention of the secretary of the Venice Commission at that time, Mr. G. Buquicchio, in order to persuade the authorities of Georgia to abandon the idea of merging the Constitutional Court with the Supreme Court.²⁰

Such attempts to transform the constitutional justice in the sense of taking over the constitutional review by the courts of law (High Court of Cassation and Justice/Supreme Court) and the consequent abolition of the constitutional court, represent a form of pressure and impairment of the independence of the

¹⁹ Les Cours Constitutionnelles, garantie de la qualite democratique des societies”, under the coordination of Professor Dominique Rousseau, Collection grands Colloques, 2019

²⁰ Schnutz Rudolf Durr – Constitutional Courts: an endangered species?, in "Les Cours Constitutionnelles, garantie de la qualite democratique des societies”, under the coordination of Professor Dominique Rousseau, Collection grands Colloques, 2019, p. 118

constitutional court²¹. Likewise, the Constitutional Court of Romania (CCR) encountered such ideas circulated especially during the COVID pandemic, against the background of the dissatisfaction of the political forces in government towards the decisions of the CCR which found the unconstitutionality of certain Government emergency ordinances on the restriction of the exercise of fundamental rights and freedoms²². Although harmless at first glance, since it is argued in favour of the “professionalization” of the constitutional judge, such a change leads to the drastic restriction of the constitutional review and raises questions regarding the approach of this specialized review by a court that applies the law in civil and criminal cases, a difficult role to reconcile with that of “judge” of the law in relation to the Constitution. The Constitutional Courts in the European model have a broad range of powers to oversee certain normative acts and the conduct of public authorities in maintaining the separation and balance of State powers as defined by the Constitutions. It is important to mention that the Venice Commission has issued several opinions emphasising the importance of the independence and professionalism of constitutional judges in response to criticisms of politicisation of European model courts.

b) Support of national constitutional reforms

Perhaps the strongest influence of the Venice Commission on the legal systems is manifested through the opinions and recommendations made regarding the initiatives on the revision of the Constitution. Romania requested support in this regard both when the Constitution was adopted²³ and when it was revised in 2003, as well as during other initiatives of revision. Is important to emphasize the support and unity of vision of the Venice Commission eith the Romanian Constitutional Court. An example is such an initiative on the revision of the Constitution of Romania, on which the CCR ruled through Decision No 80 of 16 February 2014²⁴. In the Opinion of 21-22 March 2014 on the same initiative, adopted at its 98th Plenary Session, the Venice Commission made an explicit reference to the decision that the CCR issued, also making a delimitation of competences, in terms of complying with the latter decision and the lack of competence of the Venice Commission to rule on it: „*On 17 February 2014, the Constitutional Court of Romania declared, in the light of Article 152, the unconstitutionality of certain provisions of the draft revision law. It is not the role of the role of the Venice Commission to assess the constitutionality of given proposals or the judgment of the*

²¹ Schnutz Rudolf Durr, *ibidem*

²²<https://www.activenews.ro/stiri/Ludovic-Orban-vorbeste-de-desfiintarea-Curtii-Constitutionale-%E2%80%99Evinovata-de-cresterea-cazurilor-de-covid-Controlul-de-constitutionalitate-poate-fi-facut-de-Inalta-Curte-de-Casatie-si-Justitie-163615>

²³ [https://www.venice.coe.int/webforms/documents/?pdf=CDL\(1991\)001-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL(1991)001-e)

²⁴ Official Gazette of Romania, Part I, no. 246 of 7 April 2014.

Constitutional Court. [...], the present analysis aims at assessing the proposed amendments to the Romanian Constitution in the light of existing European standards and experience”.

Other States from Black Sea region have also submitted their constitutional reforms to the Venice Commission, in which sense we mention the more recent example of Bulgaria²⁵. As it follows from the text of the opinion given by the Venice Commission, it focuses “*on the amendments to Chapter VI, on the organisation of the Bulgarian judiciary and of the prosecution service*”, in respect of which “*the Venice Commission has previously adopted several opinions: in 2015 the See, in particular, Venice Commission, CDL-INF(1999)005, Opinion on the reform of the judiciary in Bulgaria; CDL-AD(2002)015, Opinion on the Draft Law on Amendments to the Judicial System Act of Bulgaria; CDLAD(2003)016, Opinion on the Constitutional Amendments reforming the Judicial System in Bulgaria; CDLAD(2009)011, Opinion on the Draft Law amending and supplementing the Law on Judicial Power of Bulgaria; CDLAD(2010)041, Opinion on the Draft Law amending the Law on Judicial Power and the Draft Law amending the Criminal Procedure Code of Bulgaria. CDL-AD(2020)035 - 4 - Venice Commission assessed amendments to the Constitution of Bulgaria on the judiciary*”. Thus, this opinion is notable in the context of the general reforms related to the organization of justice that have taken place in the recent years in the region.²⁶.

c) Support of the independence and quality of the constitutional justice

The constitutional justice itself, or perhaps especially the constitutional justice as a key element of the rule of law, is continuously “shaped” as a result of the opinions requested by the Member States of the Venice Commission.

Recurring subjects that are the subject of public debates but also of the constitutional courts were analyzed by the Venice Commission in its opinions. A topic of mutual interest also for our countries is the appointment of the constitutional judges and the guarantees of their independence. The process for selecting constitutional judges can be vulnerable, raising concerns about the courts' independence since the judges are appointed by political authorities. To maintain the credibility of the rule of constitutional law, it's essential to ensure the judges' independence and involve different state organs and political forces in the

²⁵ BULGARIA URGENT INTERIM OPINION ON THE DRAFT NEW CONSTITUTION Endorsed by the Venice Commission on 11 December 2020 at its 125th online Plenary Session (11-12 December 2020)

²⁶ See Rule of law checklist,

https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf

appointment process. This way, judges won't be seen as mere instruments of political forces.

As concern specific opinions, concerning the countries from the Black Sea Region, we have selected as a relevant example the recent opinion of the Venice Commission concerning Ukraine, namely on the draft Law “On Amending Some Legislative Acts of Ukraine Regarding Improving Procedure for Selecting Candidate Judges of the Constitutional Court of Ukraine on a Competitive Basis”²⁷, all the more since it reflects a notable evolution, highlighted also by the interventions of the Venice Commission, including its 2020 Urgent Opinion on the Reform of the Constitutional Court²⁸. We call attention, in the structure of the opinion, to the aspects related to the importance of independence towards the political factor and the selection requirements established in this regard, as well as to **those specifically against corruption**: “a check on the prevention of corruption (Article 101 -5 of the draft law “On the Constitutional Court”) seems justified against the particular background of Ukraine”.(paragraph 45) The merits of the opinion, which concerns the aim of the amendments **to set up an independent body called the Advisory Group of Experts** (hereafter “the AGE”) **with the task of assisting the three appointing bodies** in “assessing the moral qualities and legal competence of candidate judges of the [CCU]” deserves a distinct analysis, as a possible legislative solution to the recurring criticisms regarding the appointment of the constitutional judges and the suspicions of political influence in this process.

We also think it is important to emphasize the viewpoint taken up by the Venice Commission in this opinion, regarding a **balanced composition of constitutional courts**: “Society is necessarily pluralist - a field for the expression of various trends, be they philosophical, ethical, social, political, religious or legal. Constitutional justice must, by its composition, guarantee independence with regard to different interest groups and contribute towards the establishment of a body of jurisprudence which is mindful of this pluralism. The legitimacy of a constitutional jurisdiction and society's acceptance of its decisions may depend very heavily on the extent of the court's consideration of the different social values at

²⁷ CDL-AD(2022)054 UKRAINE OPINION ON THE DRAFT LAW "ON AMENDING SOME LEGISLATIVE ACTS OF UKRAINE REGARDING IMPROVING PROCEDURE FOR SELECTING CANDIDATE JUDGES OF THE CONSTITUTIONAL COURT OF UKRAINE ON A COMPETITIVE BASIS" Adopted by the Venice Commission at its 133rd Plenary Session (Venice, 16-17 December 2022),

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)054-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)054-e)

²⁸ CDL-AD(2020)039-e Ukraine - Urgent opinion on the Reform of the Constitutional Court, issued pursuant to Article 14a of the Venice Commission's Rules of Procedure on 9 December 2020, endorsed by the Venice Commission on 11 December 2020 at its 125th online Plenary Session (11-12 December 2020)

stake, even though such values are generally superseded in favour of common values. To this end, a balance which ensures respect for different sensibilities must be entrenched in the rules of composition of these jurisdictions. Constitutional jurisdictions may, by some of their decisions, appear to curb the actions of a particular authority within a State. The Constitution will often confer to the constitutional court the power to deliver its Opinion on issues concerning the separation of powers or the relationships between the organs of the State. Even though constitutional courts largely ensure the regulation of these relationships, it may well be appropriate to ensure in their composition a balanced consideration of each of these authorities or organs. The pursuit of these balances is limited by the indispensable maintenance of the independence and impartiality of constitutional court judges. Collegiality, i.e. the fact that the members adjudicate as a group, whether or not they deliver separate opinions, constitutes a fundamental safeguard in this respect. Even though the rules on the composition of constitutional courts may reflect the coexistence of different currents within a given nation, the guarantees of independence and the high sense of responsibility attaching to the important function of constitutional judge effectively ensure that constitutional judges will act in such a way as to dismiss all grounds of suspicion that they may in fact represent particular interests or not act impartially”.²⁹ We emphasized these rulings because, for example, in Romania, opinions were expressed regarding the composition of the CCR only by judges and prosecutors, an opinion with which we do not agree, for the same reasons expressed, in essence, by the Venice Commission in the aforementioned opinion.

Not only the independence of the constitutional courts, but also of the judiciary in general, is an important topic of the debates in the recent years, which is also recurring on the agenda of the Venice Commission, which ruled both on the status of judges and prosecutors, as well as on specific amendments of the legislation in the field, such as - as far as Romania is concerned, the rules generally known as *Laws of Justice*, and, in the context, regarding the establishment of the Section for the Investigation of Criminal Justice³⁰. Also previously, in 2012, in a

²⁹ 1 CDL-STD(1997)020 The composition of constitutional courts - Science and Technique of Democracy, no. 20 (1997), p. 21.

³⁰CDL-AD(2018)017-e Romania - Opinion on draft amendments to Law No. 303/2004 on the Statute of Judges and Prosecutors, Law No. 304/2004 on Judicial Organisation, and Law No. 317/2004 on the Superior Council for Magistracy, adopted by the Commission at its 116th Plenary Session (Venice, 19-20 October 2018), CDL-AD(2021)019-e Romania - Opinion on the draft Law for dismantling the Section for the Investigation of Offences committed within the Judiciary, adopted by the Venice Commission at its 127th Plenary Session (Venice and online, 2-3 July 2021), CDL-AD(2019) 014-e Romania – Opinion on Emergency Ordinances GEO No. 7 and GEO No. 12 amending the Laws of Justice, adopted by the Venice Commission at its 119th Plenary Session (Venice, 21-22 June 2019)

crisis situation that involved several political and institutional actors, the Venice Commission issued an extensive opinion with reference to the situation in Romania, which constitutes an excellent plea for respecting the principle of constitutional loyalty³¹.

Another relevant example in this context is the opinion from the Venice Commission on the December 2021 amendments to the Organic Law on Common Courts in Georgia³² and the recent Follow-up Opinion to four previous opinions concerning the Organic Law on Common Courts, adopted by the Venice Commission at its 134th Plenary Session (Venice, 10-11 March 2023)³³ in which The Commission "welcomed the statement of the Georgian authorities that they wish to take its recommendations into account, and it recommends that they do so without any unjustified delay." (par.54)

IV. Conclusions and insights

The countries in the Black Sea region not only share geographical features but also possess a shared history and cultural heritage. There is a relatively short history of constitutional justice in this region, making its consolidation all the more necessary.

This study highlights some important aspects of mutual support on the path to upholding the rule of law. We have chosen to focus on significant forms of international cooperation such as constitutional reforms, constitutional justice, independence of judges, and peace as the ultimate goal. These topics are crucial in ensuring the existence of humanity and upholding its values. Other topics are also important, like the diversification of the instruments of constitutional review in order to facilitate the access of the individuals to constitutional justice. For

³¹CDL-AD(2012)026-rom, Opinion on the compatibility with Constitutional principles and the Rule of Law of actions taken by the Government and the Parliament of Romania in respect of other State institutions and on the Government emergency ordinance on amendment to the Law No 47/1992 regarding the organisation and functioning of the Constitutional Court and on the Government emergency ordinance on amending and completing the Law No 3/2000 regarding the organisation of a referendum of Romania, Adopted by the Venice Commission at its 93rd Plenary Session (Venice, 14-15 December 2012)

³²GEORGIA OPINION ON THE DECEMBER 2021 AMENDMENTS TO THE ORGANIC LAW ON COMMON COURTS Adopted by the Venice Commission at its 131st Plenary Session (Venice, 17-18 June 2022),

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)010-e),

See also other opinions on the Georgian Organic Law on Common Courts: (1) the Urgent Opinion on the amendments to the Organic Law on Common Courts, 1 endorsed by the Venice Commission in July 2021; (2) the Opinion on the draft Organic Law amending the Organic Law on Common Courts, 2 adopted by the Venice Commission in October 2020; and (3) the Urgent Opinion on the selection and appointment of Supreme Court judges of Georgia, 3 endorsed by the Venice Commission in June 2019.

³³ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)006-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)006-e)

example, Constitutional Court of Turkey has an interesting experience to share concerning the individual complaints.

We believe that cooperation between courts and international support is essential, and we advocate for the continuation and improvement of existing mechanisms. The judges of the Constitutional Court and the courts themselves need strong guarantees for their independence.³⁴ As concluded at the World Congress in Bali, there is important that constitutional courts can rely on the solidarity of their counterparts, expressed through regional groups and the World Conference. This cooperation is also meant to ensure the effectiveness of constitutional justice.

In this light, we would like to underline the importance of an initiative coming even from the host country of the last World Congress of Constitutional Justice, namely the Constitutional Court of Indonesia, to establish a Constitutional Supremacy Index (CSI) to measure the progress and development towards constitutional compliance, in line with the principles of constitutionalism³⁵. Perhaps we should reflect together, also as researchers, and come up with proposals, based including on the experience in this region, to make this Index a useful and effective tool.

³⁴ see Opinion amicus curiae of the Venice Commission no. 967/2019 on the criminal liability of Constitutional Court judges, adopted at its 121st plenary session, on 6-7 December 2019, CDL-AD(2019)028, § 28) [Constitutional Court Ruling no. 9 of 26 March 2020, § 31,

³⁵ See M Lutfi Chakim, 'The Indonesian Proposal to Establish a Constitutional Supremacy Index' IACL-AIDC Blog (10 November 2022) <https://blog-iacl-aidc.org/new-blog-3/2022/11/10/the-indonesian-proposal-to-establish-a-constitutional-supremacy-index>.