THE CONSTITUTIONAL COURT OF UKRAINE

INFORMATION REPORT
2019

Approved by the Resolution of the Constitutional Court of Ukraine
dated March 26, 2020, No. 19-p / 2020

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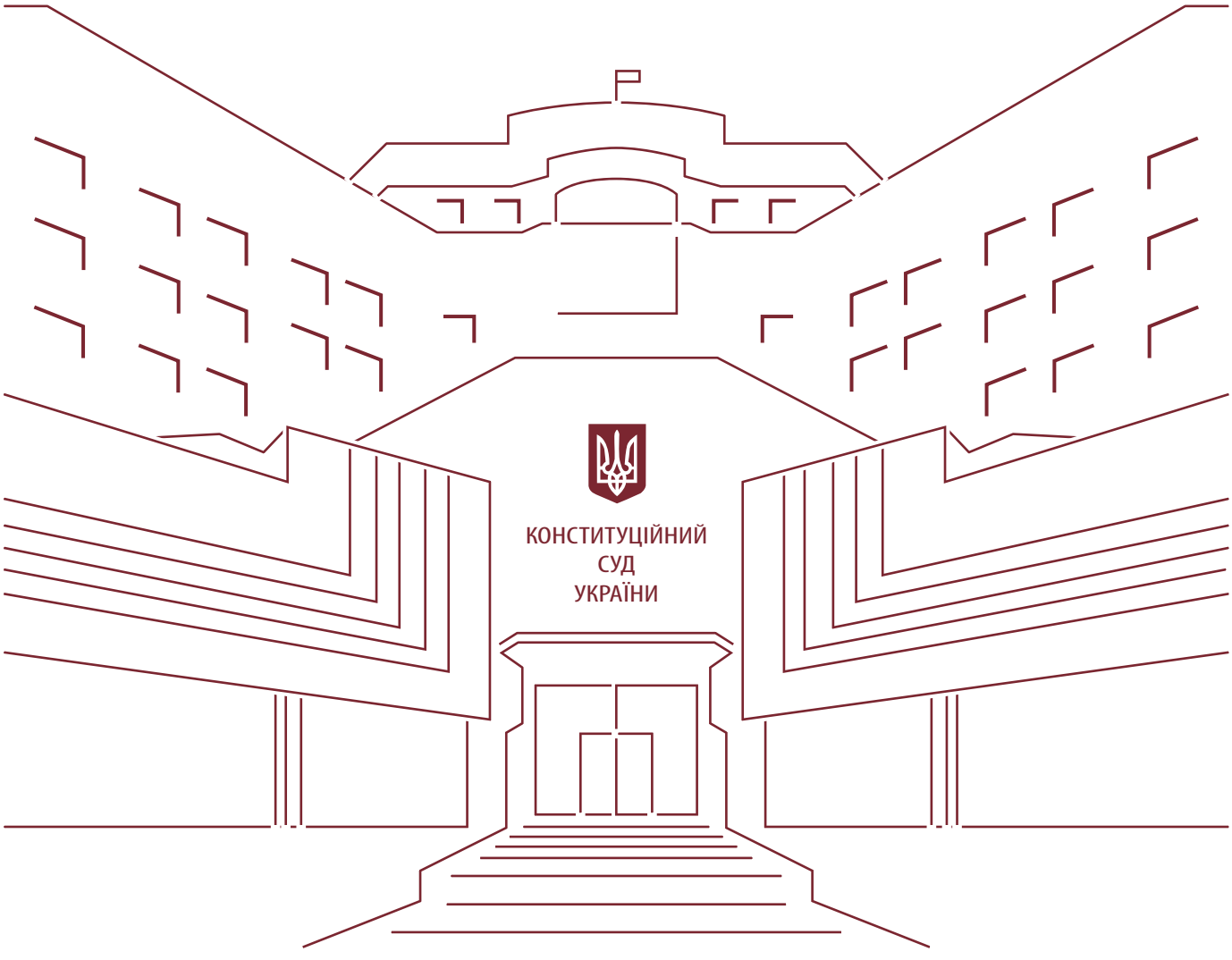

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PREFACE

The human desire for justice is a crucial regulator of social relations - one of the universal dimensions of law.

This is precisely what the work of the Constitutional Court of Ukraine is aimed at. It aims to ensure the supremacy of the Constitution of Ukraine, the priority of human and citizen's rights and freedoms in all areas of public life.

Nationwide processes that took place in 2019, demanded cohesive and hard work from the Constitutional Court of Ukraine.

Presidential elections became the most important event for the country in this period. Under the Constitution of Ukraine, the new president is sworn into office by the Chairman of the Constitutional Court of Ukraine.

On May 20, 2019 the Parliament of Ukraine held a ceremonial meeting dedicated to the procedure of taking the oath of office by Volodymyr Zelenskyi - newly elected president of Ukraine before the people of Ukraine.

In connection with the early termination of the Verkhovna Rada of Ukraine (8th convocation) by the newly elected President of Ukraine, and calling early elections to the Verkhovna Rada upon the initiative of People's Deputies (members of Parliament) of Ukraine, the issue of constitutional compliance of the Presidential Decree was considered by the Constitutional Court.

As a result of consideration of this issue, the Constitutional Court issued Judgment No. 6-r / 2019. The Court ruled that the Presidential Decree "On early termination of powers of

Volodymyr Zelenskyi - the newly elected President of Ukraine is being sworn into office by Natalia Shaptala - the Chairman of the Constitutional Court of Ukraine
(Kyiv, Verkhovna Rada of Ukraine, May 20, 2019)

the Verkhovna Rada of Ukraine and appointment of snap elections" No. 303/2019 of May 21, 2019 complied with the Constitution of Ukraine (thus declaring it constitutional). Snap parliamentary elections were held in Ukraine on July 21, 2019.

The Constitutional Court established a new legal position regarding the need for a comprehensive approach in case of amendments to the Constitution. The Court did this when considering 7 constitutional applications of the Verkhovna Rada requesting opinions about constitutional conformity of draft laws introducing such amendments. These draft laws included amendments to articles 157 and 158 of the Constitution and were received by the Constitutional Court on September 6, 2019.

"While evaluating the provisions of the draft law in terms of their systemic interconnection with other provisions of the Constitution, including Section I "General Principles", the Constitutional Court of Ukraine noted that they have ambiguous impact on the constitutional and legal system of the state. That is why they should be implemented comprehensively considering the impossibility of changing the balance of the existing division of government powers in terms of checks and balances, which, in turn, affects the guarantees of human and citizen's rights and freedoms"

Opinion to the Constitutional Court of Ukraine No. 7-в / 2019

During 2019, the Constitutional Court adopted 28 acts following the constitutional submissions, constitutional applications and constitutional complaints, where 12 are the judgments of the Grand Chamber of the Constitutional Court, 7 - judgments of the Senates of the Constitutional Court, and 9 are opinions.

In the judgments taken in 2019, the Constitutional Court defended a number of constitutional rights and freedoms of citizens, including the right to social protection, the right to liberty and personal integrity, freedom of political and public activities, the right to work and other.

The judgments of the Constitutional Court also referred to protecting the principle of the rule of law, popular sovereignty, equality, presumption of innocence, non-retroactive effect of the law, and separation of government power in Ukraine.

"In all circumstances, the nature of the right to pension as a component of the right to social protection cannot be violated, and legislative regulation in this field must comply with the principles of the social state."

Judgment of the Constitutional Court No. 2-p / 2019

Citizens also enjoyed the actual protection of their constitutional rights and freedoms by directly appealing to the Constitutional Court with constitutional complaints. The first Judgment No. 1-p (II) / 2019 was passed on April 25, 2019 by the 2nd Senate of the Constitutional Court following the constitutional complaints by Skrypka and Bobyr regarding social protection of servicemen involved in response to the Chornobyl disaster. In 2019, the Constitutional Court issued 9 judgments after consideration of 19 constitutional complaints.

It is important to note that the reputation of the Constitutional Court depends not only on qualitative consideration of cases, but also on the execution of its acts by the relevant entities.

The acts of the Constitutional Court are binding, final and are not subject to appeal.

At the same time, the analysis of the issue of compliance with the judgments of the constitutional jurisdiction authority indicates the need for a more careful and responsible approach to this issue by the government of Ukraine.

In the past year, the Constitutional Court together with national and international partners organized and held a series of research and practice-sharing events.

For instance, the International Conference on Human Rights and National Security: the Role of the Constitutional Jurisdiction Authority - became one of the key events in 2019.

It brought together about 130 participants from more than 15 countries around the world who focused on the

challenges experienced by constitutional review bodies in the context of national security, and respect for human and citizen's rights and freedoms.

In 2019, considering global and domestic trends, the Constitutional Court put into operation a system of electronic document flow, which will facilitate streamlining of work processes and efficient use of production resources.

The Information Report of the Constitutional Court highlights the most important aspects of the work of the Court in 2019.

Particular attention is paid to the powers of the Constitutional Court, its composition and organizational structure.

The review of the work of the Constitutional Court, in particular, the analysis of acts adopted by the Court in pursuance of the constitutional submissions, constitutional applications and constitutional complaints and compliance issues was highlighted in the report.

In addition, the Report contains information on international cooperation, the interaction of the Constitutional Court with civil society, as well as support of its activities.

This report is an excursion into the activities of the Constitutional Court in 2019. It will contribute to a better understanding of the work of the authority vested with the powers to defend the Constitution.

"The primary objective of the rule of law is, first and foremost, to limit the power of the state over individual, and prevent arbitrary interference by the state and its bodies into certain spheres of people's lives."

Judgment of the Constitutional Court No. 6-p / 2019

THE RESOLUTION

OF THE CONSTITUTIONAL COURT OF UKRAINE

**ON APPROVAL OF THE TEXT
OF THE ANNUAL INFORMATION REPORT
2019**

Kyiv
March 26, 2020
No. 19-p / 2020

The judges of the Constitutional Court
Oleksandr Tupytskyi (Chairman)
Serhiy Holovatyi
Viktor Horodovenko
Iryna Zavhorodnya
Oleksandr Kasminin
Viktor Kolisnyk
Viktor Kryvenko
Vasyl Lemak
Oleksandr Lytvynov
Volodymyr Moisyk
Oleh Pervomaiskyi
Serhiy Sas
Ihor Slidenko
Petro Filiuk
Halyna Yurovska

considered the information of the Chairman of the Constitutional Court of Ukraine on approval of the text of the Annual Information Report of the Constitutional Court 2019 and guided by articles 39, 43 and 83 of the Law of Ukraine "On the Constitutional Court of Ukraine" subclause 13, clause 4, paragraphs 27 and 31 of the Rules of Procedure of the Constitutional Court and

hereby resolved to:

approve the text of the Annual Information Report of the Constitutional Court 2019 (attached).

/SEAL/ THE CONSTITUTIONAL COURT OF UKRAINE

I The Constitutional Court of Ukraine in 2019

POWERS

The Constitutional Court shall exercise the powers identified in the Constitution and the Law of Ukraine "On the Constitutional Court of Ukraine".

The powers of the Constitutional Court include:

1. Verification of constitutional conformity (constitutionality) of the following acts:
   - laws and other legal acts of the Verkhovna Rada;
   - acts of the President;
   - acts of the Cabinet of Ministers;
   - legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea;
2. official interpretation of the Constitution;
3. exercise of other powers provided for by the Constitution.

The matters provided for in paragraphs 1 and 2 shall be considered following the constitutional submissions of:

the President, at least 45 MPs, the Supreme Court, the Ukrainian Parliament Commissioner for Human Rights, the Verkhovna Rada of the Autonomous Republic of Crimea.

Upon the application of the President or at least 45 MPs, or the Cabinet of Ministers, the Constitutional Court shall issue opinions regarding constitutionality of effective international treaties or international treaties submitted to the Verkhovna Rada with the purpose of receiving consent to make them binding.

Upon the application of the President or at least 45 MPs, the Constitutional Court shall issue opinions regarding constitutionality of issues proposed for a national referendum following popular initiative.

Upon the application of the Verkhovna Rada, the Constitutional Court shall issue opinions regarding compliance with the constitutional procedure of investigation and consideration of the case of removal of the President from office by impeachment.

Courtroom of the Constitutional Court of Ukraine
(Kyiv, 14, Zhylyanska Street)

The Constitutional Court shall decide on the conformity (constitutionality) of the law if a constitutional complaint was filed by a person who believed that the law applied in the final court judgment in his case contradicted the Constitution. A constitutional complaint may be filed if all other national remedies are exhausted.

Judgments and opinions issued by the Constitutional Court shall be binding, final and cannot be appealed.

PRINCIPLES OF COURT OPERATIONS

THE ORGANIZATIONAL STRUCTURE

The Constitutional Court consists of the Grand Chamber, two senates and six panels with the status of bodies of the Constitutional Court.

The Chairman of the Constitutional Court, Deputy Chairman, the secretaries of the panels of judges of the Constitutional Court exercise representative, organizational and administrative functions.

Standing committees are the support bodies of the Constitutional Court dealing with the organization of its internal work.

The Secretariat of the Constitutional Court provides organizational, analytical, legal, information and logistical support to the Constitutional Court.

Research Advisory Council is formed at the Constitutional Court from highly qualified specialists in the field of law for the preparation of research opinions on the activities of the Constitutional Court.

THE COMPOSITION OF THE CONSTITUTIONAL COURT

The Constitutional Court consists of 18 judges.

The entities with equal powers regarding appointment of the judges of the Constitutional Court are the President, Verkhovna Rada and the Congress of Judges.

The selection of candidates for the position of judge of the Constitutional Court is carried out on a competitive basis in accordance with the procedure established by law.

To become a judge of the Constitutional Court, candidates must comply with the following requirements: Ukrainian citizenship, knowledge of the official language, be at least forty years old by the date of official appointment, have a law degree and at least fifteen years of professional experience in the field of law, possess high moral values and be a lawyer of recognized competence.

A judge of the Constitutional Court is appointed for 9 years without the right to be reappointed.

The Judge of the Constitutional Court receives the powers after taking the oath of office at the special plenary session of the Constitutional Court.

At a special plenary session of the Constitutional Court, the members elect the Chairman by secret ballot for one three-year term only.

CHANGES IN PERSONNEL

At the beginning of 2019, the Constitutional Court was fully staffed.

During the year, changes were made in the composition of the Constitutional Court, including the rotation of the leadership of the Constitutional Court.

Judge Stanislav Shevchuk was dismissed from the position of

a judge of the Constitutional Court on the basis of paragraph 3 of part two of Article 1491 of the Constitution. The decision was based on the opinion of the Standing Committee on the Rules of Procedure and Ethics of the Constitutional Court issued on April 17, 2019 reporting about the presence of grounds for dismissal of judge Stanislav Shevchuk (in March 2014 he was appointed as a judge of the Constitutional Court to fill the quota of the Verkhovna Rada. On February 21, 2018, he was elected as a Chairman of the Constitutional Court at a special plenary meeting of the Court) from the position of the judge of the Constitutional Court at a special plenary session of the Constitutional Court on May 14, 2019 in pursuance of the Resolution of the Constitutional Court of May 14, 2019 No. 1-ps / 2019.

At the same special plenary session of the Constitutional Court, Natalia Shaptala was elected Chairman (appointed as Judge of the Constitutional Court at the 10th Congress of Judges in September 2010).

Natalia Shaptala was dismissed from office as a judge of the Constitutional Court on September 17, 2019, at a special plenary session in connection with the resignation request submitted on the basis of paragraph 4, part two of Article1491 of the Constitution.

Oleksandr Tupytskyi was elected Chairman at the same special plenary session of the Constitutional Court (appointed judge of the Constitutional Court by the President of Ukraine in May 2013; elected Deputy Chairman of the Constitutional Court on March 15, 2018). Serhiy Holovatyi was elected Deputy Chairman of the Constitutional Court (appointed judge of the Constitutional Court by the Decree of the President following the results of competitive selection in February 2018).

Judges Mykola Hultai and Mykhaylo Zaporozhets (appointed judges of the Constitutional Court to fill the quota of the Congress of Judges in September, 2010) were dismissed from office as judges of the Constitutional Court at a special plenary session on September 17, 2019 in connection with the resignation requests filed pursuant to paragraph 4, part two of Article 1491 of the Constitution.

Mykola Melnyk (appointed judge of the Constitutional Court in March 2014 to fill the quota of Verkhovna Rada) was dismissed from office as a judge of the Constitutional Court at a special plenary meeting on December 24, 2019 in connection with the resignation request submitted on the basis of paragraph 4 of Article 1491 of the Constitution.

In November 2019, Petro Filiuk and Halyna Yurovska were appointed judges of the Constitutional Court by the Congress of Judges following the results of competitive selection.

THE JUDGES OF CONSTITUTIONAL COURT IN 2019:

Mykhailo HULTAI

DOB: April 10, 1958. Doctor of Law. Appointed a judge of the Constitutional Court by the 10th Congress of Judges in September 2010. Oath of office taken on September 21, 2010. Dismissed from office as a judge of the Constitutional Court in accordance with the Resolution of the Constitutional Court dated September 17, 2019, No. 4-пс/2019.

Mykhailo ZAPOROZHETS

DOB: March 31, 1968. Associate Doctor of Law. Appointed a judge of the Constitutional Court by the 10th Congress of Judges in September 2010. Oath of office taken on September 21, 2010. Dismissed from office as a judge of the Constitutional Court in accordance with the Resolution of the Constitutional Court dated September 17, 2019, No. 4-пс/2019.

Natalia SHAPTALA

DOB: April 18, 1959. Associate Doctor of Law. Appointed a judge of the Constitutional Court by the 10th Congress of Judges in September 2010. Oath of office taken on September 21, 2010. Appointed Chairman of the Constitutional Court at a special plenary session on May 14, 2019. Dismissed from office as a judge of the Constitutional Court in accordance with the Resolution of the Constitutional Court dated September 17, 2019, No. 4-пс/2019.

Oleksandr LYTVYNOV

DOB: April 2, 1965. Associate Doctor of Law. Appointed a judge of the Constitutional Court by the 11th Congress of Judges in February 2013. Oath of office taken on May 15, 2013.

Oleksandr TUPYTSKYI

DOB: January 28, 1963. Associate Doctor of Public Administration. Appointed a judge of the Constitutional

Court by the President in May, 2013. Oath of office taken on May 15, 2013; elected Vice-Chairman of the Constitutional Court on March 15, 2018 at a special plenary session; elected Chairman of the Constitutional Court on September 17, 2019 at a special plenary session.

Oleksandr KASMININ

DOB: January 10, 1966. Associate Doctor of Law. Appointed a judge of the Constitutional Court by the Presidential decree in September 2013. Oath of office taken on September 19, 2013.

Mykola MELNYK

DOB: July 14, 1962. Doctor of Law. Appointed a judge of the Constitutional Court in March 2014 by the Verkhovna Rada. Oath of office taken on March 13, 2014. Dismissed from office as a judge of the Constitutional Court in accordance with the Resolution of the Constitutional Court of December 24, 2019, No. 9-пс/2019.

Serhiy SAS

DOB: August 7, 1957. Associate Doctor of Law. Appointed a judge of the Constitutional Court in March 2014 by the Verkhovna Rada. Oath of office taken on March 13, 2014.

Ihor SLIDENKO

DOB: June 14, 1973. Doctor of Law. Appointed a judge of the Constitutional Court in March 2014 by the Verkhovna Rada. Oath of office taken on March 13, 2014.

Stanislav SHEVCHUK

DOB: June 11, 1969. Doctor of Law. Appointed a judge of the Constitutional Court in March 2014 by the Verkhovna Rada. Oath of office taken on March 13, 2014; elected Chairman of the Constitutional Court on February 21, 2018 at a special plenary session. Dismissed from office as a judge of the Constitutional Court in accordance with the Resolution of the Constitutional Court of May 14, 2019, No. 1-пс/2019 on the basis of paragraph 3, part two of Article 1491 of the Constitution.

Viktor KRYVENKO

DOB: August 6, 1955. Associate Doctor of Law. Appointed a judge of the Constitutional Court in November 2015 by the 13th Congress of Judges. Oath of office taken on January 27, 2016.

Viktor KOLISNYK

DOB: July 19, 1960. Doctor of Law. Appointed a judge of the Constitutional Court by the President in January 2016. Oath of office taken on January 27, 2016.

Volodymyr MOISYK

DOB: August 18, 1957. Associate Doctor of Law. Appointed a judge of the Constitutional Court by the President in January 2016. Oath of office taken on January 27, 2016.

Viktor HORDOVENKO

DOB: February 22, 1968. Doctor of Law. Appointed a judge of the Constitutional Court in November 2017 at the 14th extraordinary Congress of Judges. Oath of office taken on November 21, 2017.

Serhiy HOLOVATYI

DOB: May 29, 1954. Doctor of Law. Appointed a judge of the Constitutional Court by the Decree of the President following the results of competitive selection. Oath of office taken on March 2, 2018; elected Vice-Chairman of the Constitutional Court at a special plenary session of the Constitutional Court on September 17, 2019.

Vasyl LEMAK

DOB: February 15, 1970. Doctor of Law. Appointed a judge of the Constitutional Court in February, 2018 by the Decree of the President following the results of competitive selection. Oath of office taken on March 2, 2018.

Iryna ZAVHORODNYA

DOB: October 31, 1964. Associate Doctor of Law. Appointed a judge of the Constitutional Court in September 2018 by the Resolution of the Verkhovna Rada following the results of competitive selection. Oath of office taken on September 24, 2018.

Oleh PERVOMAISKYI

DOB: January 31, 1972. Associate Doctor of Law. Appointed a judge of the Constitutional Court in September 2018 by the Resolution of the Verkhovna Rada following the results of competitive selection. Oath of office taken on September 24, 2018.

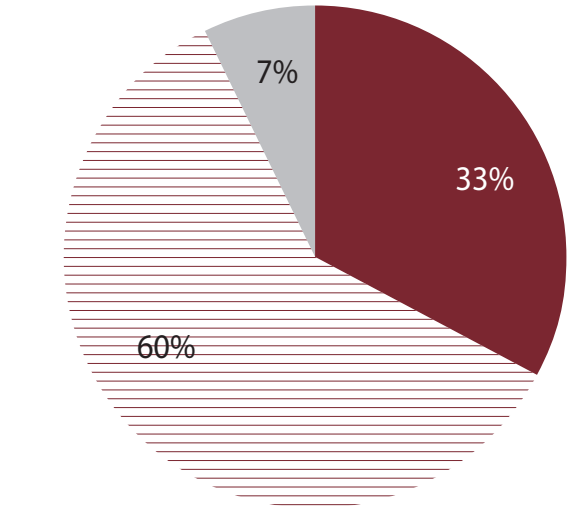
Petro FILIUK

DOB: April 11, 1961. Associate Doctor of Law. Appointed a judge of the Constitutional Court on October 2019 at the 17th extraordinary Congress of Judges following the results of competitive selection. Oath of office taken on November 5, 2019.

Halyna YUROVSKA

DOB: November 30, 1961. Associate Doctor of Law. Appointed a judge of the Constitutional Court in October 2019 at the 17th extraordinary Congress of Judges following the results of competitive selection. Oath of office taken on November 5, 2019.

RESEARCH CAPACITY OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT



- Doctors of Law – **5**
- Associate Doctor of Law – **9**
- Other staff – **1**

Official ceremony of taking the oath of office by Petro Filiuk and Halyna Yurovska - the Judges of the Constitutional Court

ACTIVITIES OF THE CONSTITUTIONAL COURT

ACTIVITIES OF THE CONSTITUTIONAL COURT AND ITS AGENCIES IN 2019:	
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THE COMPOSITION OF THE CONSTITUTIONAL COURT

(as of December 31, 2019)

Oleksandr TUPYTSKYI
Chairman of the Constitutional Court

Serhiy HOLOVATYI
Vice Chairman of the Constitutional Court

Viktor HORODOVENKO

Iryna ZAVHORODNYA

Oleksandr KASMININ

Viktor KOLISNYK

Viktor KRYVENKO

Vasyl LEMAK

Oleksandr LYTVYNOV

Volodymyr MOISYK

Oleh PERVOMAISKYI

Serhiy SAS

Ihor SLIDENKO

Petro FILIUK

Halyna YUROVSKA

THE GRAND CHAMBER OF THE CONSTITUTIONAL COURT OF UKRAINE


Oleksandr Tupytskyi
(Chairman)


Serhiy Holovatyi
(Vice Chairman)


Viktor
Horodovenko


Iryna
Zavhorodnya


Oleksandr
Kasminin


Viktor
Kolisnyk


Viktor
Kryvenko


Vasyl
Lemak


Oleksandr
Lytvynov


Volodymyr
Moisyk


Oleh
Pervomaiskyi


Serhiy
Sas


Ihor
Slidenko


Petro
Filiuk


Halyna
Yurovska

THE FIRST SENATE OF THE CONSTITUTIONAL COURT OF UKRAINE

Oleksandr Tupytskyi (Chairman)

Iryna Zavhorodnya

Viktor Kolisnyk

Viktor Kryvenko

Oleksandr Lytvynov

Serhiy Sas

Petro Filiuk

THE SECOND SENATE OF THE CONSTITUTIONAL COURT OF UKRAINE

Serhiy Holovatyi (Chairman)

Viktor Horodovenko

Oleksandr Kasminin

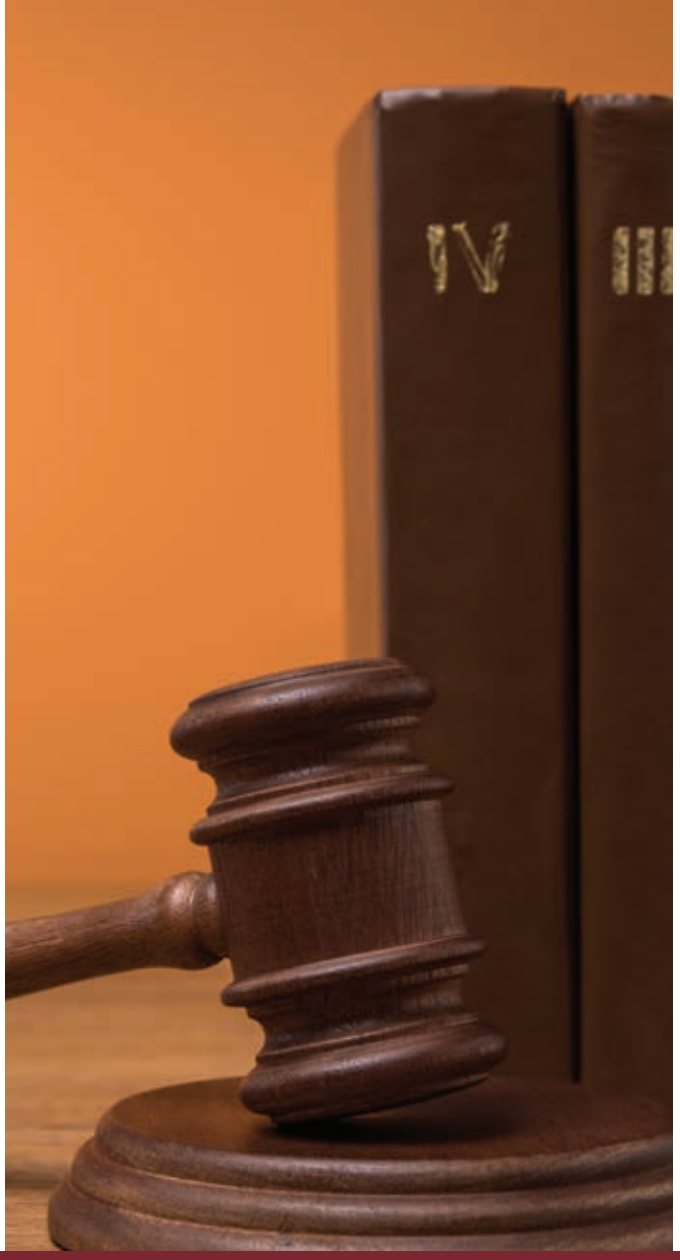
Vasyl Lemak

Volodymyr Moisyk

Oleh Pervomaiskyi

Ihor Slidenko

Halyna Yurovska



II Activities of the Constitutional Court of Ukraine Belonging to the Function of Constitutional Control

In 2019, the Constitutional Court considered 28 cases.

Upon consideration of the cases, the Court adopted 19 judgments. Ten judgments were made in response to constitutional submissions, and nine – in response to constitutional complaints. In some cases, the Constitutional Court passed one judgment in response to multiple submissions that were considered in the integrated proceedings. In 2019, the Constitutional Court passed judgments in 21 proceedings opened before 2019 and in 10 proceedings opened in 2019. In 2019, the Constitutional Court passed judgments in 21 proceedings opened before 2019, in 10 proceedings opened in 2019. The Constitutional Court provided 9 opinions in response to constitutional applications, including one application, brought in before 2019, and 8 applications brought in 2019.

During the same period, the Constitutional Court issued 57 rulings for opening of constitutional proceedings for motions submitted in 2019. In particular, the Court opened constitutional proceedings for 35 constitutional complaints, 14 constitutional submissions, and 8 constitutional applications; 41 cases were pending before the Constitutional Court, as of December 31, 2019.

In 2019, the Constitutional Court also made 279 rulings refusing to open constitutional proceedings (270 – in response to constitutional complaints, 9 - in response to constitutional submissions). In addition, the Court made 133 procedural rulings (on the format of review, integration of proceedings, etc.), and issued one interim order. The Constitutional Court also adopted 10 rulings (7 by Grand Chamber, 3 by the Senate) to close already opened proceedings.

2.1. SAFEGUARDED CONSTITUTIONAL RIGHTS AND PRINCIPLES: ACTS OF THE CONSTITUTIONAL COURT OF UKRAINE ADOPTED IN 2019

JUDGMENT

JUDGMENTS IN RESPONSE TO CONSTITUTIONAL SUBMISSIONS

Judgment No. 1-p / 2019 of February 26, 2019

The case in response to the constitutional submission of 59 MPs regarding the conformity of Article 368[2] of the Criminal Code with the Constitution (constitutionality). Judge-Rapporteur – V. Kolisnyk.

The Constitutional Court found Article 3682 of the Criminal Code of Ukraine [the Code] non-compliant with the Constitution (unconstitutional). The said Article was criminalizing the acquisition of a substantial amount of assets by a person authorized to perform the functions of the state or local government. This applied to assets where legality of acquisition has not been substantiated by the evidence, as well as transfers of such assets to any other person.

According to the Constitutional Court, when criminalizing any socially dangerous act, one shall first proceed from the principles and norms of the Constitution, because laws and other regulatory acts are adopted on the basis of the Constitution and must comply with it.

Combating corruption in Ukraine is a task of exceptional public and state importance, and the criminalization of illicit enrichment is an important legal means of implementing public policy in this area. Combating corruption in Ukraine is a task of exceptional public and state importance, and the criminalization of illicit enrichment is an important legal means of implementing public policy in this area. However, when one criminalizes such acts as illicit enrichment, one must take into account the constitutional provisions that establish the principles of legal liability, rights and freedoms of man and citizen, and guarantees thereof.

Compliance with the requirements of clarity and lack of ambiguity of rules establishing criminal liability is especially important given the specificity of the criminal law and the consequences of criminal prosecution. The point is that prosecution of this type of legal liability is linked to possible significant restrictions on rights and freedoms.

The principle of *in dubio pro reo* is an element of the principle of the presumption of innocence. According to this principle, when evaluating evidence, no guilt can be presumed until the charge has been proved beyond reasonable doubt. The presumption of innocence imposes on the prosecution the burden of proving the charge.

Constitutional provisions regarding the presumption of innocence and the inadmissibility of holding a person

accountable for refusing to testify or give explanations regarding himself, members of his family or close relatives shall apply equally to all persons. The Constitution does not allow narrowing or cancellation of the mentioned guarantees with respect to certain categories of persons.

Absence of evidence of the lawfulness of the acquisition of the assets in question is a key feature of illicit enrichment as a crime. The lack of evidence in case of such formulation of this disposition of a standard enables recognition of the actions of individuals as a crime of illicit enrichment.

The Constitutional Court concluded that Article 368^2 of the Code does not meet the requirements of clarity, accuracy and unambiguity, and therefore contradicts the legal definition as a component of the rule of law enshrined in Article 8 of the Constitution. In particular, the principle of legal certainty is not followed in the legislative definition of the features of such a crime as illicit enrichment, and the disposition of Article 368^2 of the Code, which is not sufficiently clear and allows for misunderstanding, misinterpretation and misapplication. This article of the Code is also inconsistent regarding the constitutional principle of the presumption of innocence (parts 1, 2 and 3 of Article 62 of the Constitution). It does not follow the constitutional provisions concerning the inadmissibility of holding a person accountable for refusing to testify or give explanations regarding himself, members of his family or close relatives (the right of individuals not to testify or give explanations regarding himself, members of family or close relatives) (part one, Article 63 of the Constitution).

The judgment is conditioned by the need for proper implementation of the constitutional principle of the presumption of innocence of a person; the principle of impossibility of bringing a person to justice before enacting the law criminalizing the respective actions; the principle of legal certainty in establishing of the provisions of the Criminal Code.

Separate opinions of judges: Shevchuk, Horodovenko, Kolisnyk, Lemak, Pervomaiskyi, Slidenko, and the dissenting opinion of judge Holovatyi are attached to this judgment.

Judgment No. 2-p / 2019 of June 4, 2019

The case in response to the constitutional submission of 45 MPs on constitutional compliance of certain provisions of the Law "On Pension" and submission of 48 MPs on constitutional compliance (constitutionality) of certain provisions of the Law "On Pension", "On the Status and social protection of citizens affected by the Chornobyl disaster", "On Pension for persons dismissed from military service and some other persons", "On Civil Service", "On Forensic Expertise", "On the National Bank", "On Service in local government bodies", "On the Status of the Members of Parliament", "On the Diplomatic service", "On Compulsory State Pension Insurance", "On the Cabinet of Ministers of Ukraine", "On the Office of the Prosecutor", as well as the Regulation on the "Aide to the Member of Parliament", approved by the Decree of the Verkhovna Rada of October 13, 1995, No. 379/95-BP. Judge-Rapporteur: Zaporozhets.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): paragraph "a" of Article 54, Article 55 of the Law "On Pensions" dated November 5, 1991, No. 1788-XII [Law No. 1788] amended by the laws of Ukraine "On Amendments to certain legislative acts on pensions" No. 213 – VIII [Law No. 213] dated March 2, 2015 (in accordance with these changes retirement age for women was increased by five years; they include women performing the works identified in items "a", "b", "c", "d", "e" of Article 55 of the Law No. 1788; a five-year increase of work experience, required for eligibility for seniority pension for categories of workers specified in paragraphs "a", "b", "a", "d", "e", "f" of Article 55 of the Law No. 1788; increased special work experience, required for eligibility for retirement, for categories of workers specified in paragraph "a" of Article 54, paragraphs "e", "f" of Article 55 of the Law No. 1788) and "On Amendments to certain legislative acts" No. 911 – VIII dated December 24, 2015 [Law No. 911] (the amendments introduced retirement age for certain categories of citizens which previously had not been envisaged in the law).

The Constitutional Court noted that the development of the Pension Fund's budget is conditioned by the economic processes taking place in the country, changes in state revenue policy etc.. In some cases, the adjustment of legal regulation in the field of pension provision is extremely necessary, because under certain conditions failure to take measures to resolve the situation may cause the state lose the ability to guarantee the right to social security, as well as proper functioning of the social security system. This challenge, among other things, would be contrary to the principles of a social state.

By changing the relations in the sphere of pension benefits with the aim of improving the social policy of the state through redistribution of public income, the legislator cannot protect a person from changing the conditions of her social benefits. Changes in this area should be well-

founded, thought through and implemented gradually and carefully based on objective criteria. They should be proportionate to the aim of changing legal regulation, ensure a fair balance between the general interest of society and the duty to protect human rights without violating the substance of the right to social protection.

In all circumstances, the substance of the right to pension as a constitutional right to social protection cannot be violated, and legislative regulation in this field must comply with the principles of the social state.

The Constitutional Court has concluded that the legislator had no objective reasons to introduce legal regulation where certain employees belonging to flight and testing crews, education, health care and social protection services, artists performing in theaters, at concerts and in other entertainment establishments, businesses, and groups received an additional retirement age criterion – 50 and 55 years old. The provisions of Law No. 1788 on the retirement age of certain categories of citizens performing works which may result in the loss of professional capacity or fitness before reaching the age of eligibility for seniority pension is an encroachment on the substance of the right to retirement benefits. Securing the financial interests of the state, namely supplying (forming) the State Budget with revenue, as well as the budget of the Pension Fund without observing the provisions of the Constitution, in particular regarding the priority of ensuring the rights and freedoms of man and citizen, and guaranteeing the right to social protection shall not be an excuse for the legal regulation established by the disputed provisions of Law No. 1788. Therefore, the remedy chosen by the legislator cannot be considered acceptable in order to achieve the purpose of passing Law No. 911.

The contents of the disputed provisions of the Law No. 1788 shows that health of all workers employed in occupations mentioned in paragraph "a" of Article 54, paragraphs "a", "b", "c", "d", "e", "f", "g", "h" of Article 55 of the Law No. 1788 deteriorates after a certain period of time. That is why they are losing their professional capacity or fitness before reaching the age of eligibility for seniority pension.

The provisions of paragraph "a" of Articles 54 and 55 of the Law No. 1788, as amended by Law No. 213, offered a 5-year increase in the retirement age for women and the same increase in the time of general and special work experience required for seniority pension for certain categories of workers. The Court found that these changes deprive the said persons of the right to social protection and do not comply with the constitutional principles of human rights and freedoms and the social state.

The principle of equality of rights permits the application of a differentiated approach to certain legal relationships, in particular depending on the date of acquisition of the relevant right, provided that the approach chosen is justified in a democratic society and there are sound grounds for doing it. In the case of regulation of social rights in order to ensure social justice, application of the principle of absolute equality may lead to a situation where amendments to any regulations (regarding the rights and duties of persons) will be impossible and threaten the economic security of the state (lead to negative financial consequences).

Introduction of a reduced retirement age for women (compared to men) employed in works which performance leads to loss of professional capacity or fitness before reaching the age of eligibility for seniority pension is a special guarantee of occupational safety and health for women.

In doing so, the legislator equalized the retirement age for men and women performing works mentioned in items "a", "b", "c", "d", "e" of Article 55 of the Law No. 1788. These works include harmful health effects and lead to loss of life or fitness before reaching the age of eligibility for seniority pension. The legislator abolished the special guarantees of occupational safety and health for women and established special conditions of eligibility for seniority pension.

The judgment safeguards the right to social protection, in particular the right to seniority pension for citizens performing works which lead to loss of professional capacity or fitness before reaching the age of eligibility for seniority pension.

Separate opinions of judges Sas and Slidenko are attached to this judgment.

Judgment No. 3-p / 2019 of June 6, 2019

The case in response to the constitutional submission of Human Right Commissioner of Verkhovna Rada and 65 MPs regarding conformity with the Constitution (constitutionality) of provisions of paragraph 5, part one of Article 3, line three of part three, Article 45 of the Law "On Prevention of Corruption", paragraph 2 Section II "Final Provisions" of the Law "On Amendments to certain laws on the features of financial control of certain categories of officials". Judge-Rapporteur: Moisyk.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): paragraph 5 of part one of Article 3, line three of part three of Article 45 of the Law "On Prevention of Corruption" No. 1700-VII dated October 14, 2014 [Law No. 1700], as amended; paragraph 2 Section II "Final Provisions" of the Law "On Amendments to certain laws on the features of financial control of certain categories of officials" No. 1975 – VIII [Law No. 1700] dated March 23, 2017 (these provisions categorized an indefinite number of individuals as revenue declaring entities to include: entities receiving funds under certain categories of programs, engaged in certain types of activities, belonging to non-governmental organizations engaged in certain types of activities; in other words – persons involved in the implementation of measures to prevent and / or counteract corruption were equated to persons authorized to perform the functions of state or local government).

The Constitutional Court stated that in accordance with the laws of Ukraine granting certain competences to some non-government associations or representatives thereof to form or exercise their powers by central or local government indicates entry of their activities into the public domain. That is, the members of the public in the process of realizing their legal capacity to participate in making or implementation of public policy can actually influence adoption of decisions by government authorities. In such cases the state shall have the right to impose appropriate supervisory activities against associations of citizens and their representatives in order to mitigate risks of corruption and prevent unauthorized acquisition of tangible or intangible benefits, committing of other abuses in the process of exercising the rights granted to them to participate in public administration.

Legal regulation of such control shall meet the requirements of the Constitution, resulting in measures of financial control over the activities of the non-government associations, their representatives and other individuals who do not exercise government authority or receive funding from the state and local budgets. Such regulation shall not be excessive and disproportionately restrict freedom of political and social activities, distort the substance of the right to freedom of associations and allow unreasonable interference with the private (personal) and family life of such persons.

The anti-corruption measures prescribed in the laws of Ukraine should, in particular, meet the requirements of legal certainty to ensure their effectiveness, efficiency, particularly, when it comes to entities, conditions and grounds for application of legal charges for corruption and other corruption related offenses, and for prevention of such offenses. Such measures should be commensurate with the purpose of their introduction in law and achieve this aim in the least burdensome fasion for human and constitutional rights.

The content of the disputed provisions of Law No. 1700 made it impossible to determine unequivocally which specific individuals engaged in a particular activity in the field of preventing and combating corruption should file a tax declaration as persons authorized to perform the functions of the state or local government, and whether they can be subject to statutory criminal, administrative or other liability for failure to submit, or untimely submission of the declaration, or deliberately entering false information.

When introducing additional responsibilities for citizens in connection with the exercise of the right to freedom of association, the lawmakers should attain a fair balance between the interests of persons exercising their right to freedom of association, associations themselves and the interests of national security, public order, public health or protection of the rights and freedoms of others. The above interests in the context of the provisions of part one of Article 36 of the Constitution allow for some legal restrictions in terms of exercise of this constitutional right. However, imposing the duty to declare on individuals referred to in paragraph 5 of Article 3 of the Law No. 1700, as persons authorized to perform the functions of state or local government did not help with attainment of a fair balance between the interests of persons exercising in this way their right to freedom of public activity, and the interests of national security and public order, the need to protect the rights and freedoms of others (part one of Article 36 of the Constitution). The content of the provisions of paragraph 5 of part one, Article 3 of Law No. 1700 makes one believe that they allow interference with the private and family life of the persons defined in these provisions. These provisions restrict the freedom of political and public life guaranteed by the Constitution, and the imposition of duties on these persons, in addition to those provided for in part two, Article 67 of the Constitution regarding declaration of property and income in accordance with Article 45 of the Law No. 1700 and resulting consequences (legal charges) does not pursue legitimate objectives and is too burdensome for them.

The judgment is based on the need to properly implement the constitutional freedoms of political and social life, the principles of independence of NGOs from excessive control,

legal certainty when setting restrictions in connection with efforts to prevent and combat corruption.

Judgment No. 5 – p / 2019 of June 13, 2019

The case in response to the constitutional submission of 46 MPs on constitutional compliance of part one of Article 1, paragraph 2 of part one of Article 4, part one of line one and two of part two of Article 5, lines two, three, four, five, thirty nine, forty of part three and six, Article 8 of the Law "On the National Commission for state regulation in the energy and utilities sector" (the case of the National Commission for state regulation in the energy and utilities sector). Judge-Rapporteur – M. Melnyk.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): part one of Article 1, paragraph 2 of part one of Article 4, part one, paragraphs one and two of part two of Article 5, lines two, three, four, thirty nine, forty of part three, part six of Article 8 of the Law "On the National Commission for state regulation in the energy and utilities sector" No. 1540 – VIII [Law No. 1540] of September 22, 2016. According to this law, the National Commission for state regulation in the energy and utilities sector was established and functioned with the status of a permanent independent joint government entity instead of a central executive body.

The Constitution prescribes existence of one kind of public authorities and opens the possibility to establish other clearly defined entities and the procedure for the establishment of every public authority, its scope of operations and / or areas of responsibility. Establishment of such a flexible and well-defined system of public authorities is conditioned by the need to meet the ever-changing needs of the state and public life of the country and to ensure the integrity of the internal structure of the state.

The definition of the name of a government agency in the Constitution, including its quantitative composition, the procedure of formation, the entities responsible for appointment / election and dismissal of its members and / or leader, etc. makes it impossible to change the operational principles of such agency other than by amending the Constitution.

Establishment of any government agency is possible only by the responsible entities and in the manner provided by the Constitution of Ukraine. The legal status of a newly formed body of government power must be consistent with its functional purpose, goals and objectives.

Establishment of a permanent independent joint state agency, which by function, scope of operations and powers has the features of a central body of executive power, but not reporting to the Cabinet of Ministers and does not belong to the system of bodies of executive power, does not agree with the Constitution. The Constitution allows to establish a government agency, which will perform government regulation, monitoring and supervision over the operations of participants of economic activity in the energy and utilities sector as a central executive body. According to the Constitution, such an agency can be established by the Cabinet of Ministers (Article 116, paragraph 9^1). In this case, the Verkhovna Rada should legally define its organizational principles and activities (paragraph 12 of part one of Article 92).

The Constitution does not vest the Verkhovna Rada with the right to define the powers of the parliament and the head of state, thus going beyond those established by the constitutional norms. The Verkhovna Rada adopted Law No. 1540, according to which the Commission became a permanent independent joint government body, where the members are appointed and dismissed by the President of Ukraine, which is not provided for in the Constitution of Ukraine. In doing so, the Verkhovna Rada went beyond its constitutional powers and thus violated the provisions of Articles 6, 19, 85, 92, 106 of the Constitution.

The judgment was made with consideration of the need to properly implement the constitutional principles of popular sovereignty, the separation of government power in Ukraine, and a clear definition of the limits of the constitutional powers of public authorities in Ukraine.

A separate opinion of judge Pervomaiskyi is attached to this judgment.

Judgment No. 6-p / 2019 of June 20, 2019

The case in response to the constitutional submission of 62 MPs regarding constitutional compliance of the Decree of the President "On early termination of powers of the Verkhovna Rada and snap elections". Judge-Rapporteur: Kryvenko.

The Constitutional Court found the following act non-compliant with the Constitution (unconstitutional): the Decree of the President "On Early termination of powers of the Verkhovna Rada and snap elections" No. 303/2019 of May 21, 2019 [Decree].

The Constitutional Court noted that in the absence of legal regulation of the issue of establishing the fact of

termination of the coalition of parliamentary factions in the Verkhovna Rada, the members of the consultations could deduce about early termination of powers of the Verkhovna Rada based on the grounds provided for in paragraph 1 of part two of Article 90 of the Constitution and the President could adopt a decision on this issue.

On February 21, 2014, the Verkhovna Rada amended the Constitution, particularly, Article 83. It was supplemented with the provisions on coalition of parliamentary factions in the Verkhovna Rada. Also they revised Article 90, giving the President the right to terminate the powers of the Verkhovna Rada early in case of failure to comply with Article 83 of the Constitution regarding the establishment of a coalition of factions in the Verkhovna Rada of Ukraine.

However, the members of the Verkhovna Rada, elected in snap elections on October 26, 2014, did not revisit the issue of termination of the coalition of parliamentary factions in the Rules of Procedure of Verkhovna Rada within their term of office. This issue is dealing with to the beginning of the period of one month dedicated to formation of new coalition of parliamentary factions and the constitutional right of the President to terminate the powers of the Verkhovna Rada early, unless such a coalition of factions is formed. As a result, a constitutional conflict arose between the President and the Verkhovna Rada regarding the grounds for early termination of powers of the Verkhovna Rada. This conflict has no legal solution, since the Constitution does not determine the procedure for termination of the coalition of parliamentary factions in the Verkhovna Rada. At the same time, the Rules of Procedure do not prescribe a process of termination of the coalition of factions in the Verkhovna Rada contrary to the provisions of Article 83 of the Constitution.

At the same time, the people are the bearer of sovereignty and the sole source of power in Ukraine; the people exercise power directly and through the bodies of central and local government (part two of Article 5 of the Constitution). This fundamental provision is specified in the provision of Article 69 of the Constitution of Ukraine declaring that the popular will is exercised through elections. Hence, the resolution of the constitutional conflict by the people by holding snap elections to the Verkhovna Rada meets the requirements of part two of Article 5 of the Constitution.

The rule of law means that public authorities are restricted in their actions by pre-regulated and announced rules allowing to anticipate measures to be applied in specific legal relationships. Therefore, an entity administering law can anticipate and plan its actions and expect a predefined outcome. In the context of Article 8 of the Constitution, legal certainty ensures adaptation of such entity to the standard conditions of legal validity, confidence in its legal position, as well as protection against arbitrary interference by the state. At the same time legal certainty must be understood through the following components: clarity, plainness, unambiguity of the standards of law; the right of the person to count in her actions on the reasonable and foreseeable stability of existing legislation and the ability to anticipate the consequences of the application of the standards of law (legitimate expectations).

Thus, legal certainty implies that the legislator must strive for clarity and plainness in the presentation of the standards of law. Each person should, according to the particular circumstances, be able to navigate herself as to what particular standard of law is applicable in a particular case and have a clear understanding of the occurrence of specific legal consequences in the relevant legal relationship, given the reasonable and predictable stability of the standards of law.

Legal expectations are one of the manifestations of justice in law and provide for the legal certainty of legal regulation in relation to persons at law. In the aspect of Article 8 of the Constitution, legal certainty means consistency of such regulation and inadmissibility of any changes that result in violation of fundamental principles of law. It seeks to ensure that the content of the standard of law is clear. Legitimate expectations as an integral part of legal certainty arise from the legislative work of parliament and mean that if a person expects to achieve a certain result, while acting in accordance with the standards of law, then those expectations must enjoy guaranteed protection.

By passing laws, Verkhovna Rada creates legal grounds for entities of administration of law thus providing them assurances of appropriate opportunities, therefore such entities should be regarded as having legitimate and protected expectations. Such protection means preventing public authorities from abusing their decision-making powers and taking certain actions. That is, the main motive for the protection of legitimate expectations is linked to the consequences of actions of public authorities.

Each person arranges his or her own life with the knowledge that legal regulation requires stability and that public authorities cannot arbitrarily make changes that violate fundamental principles of law. Therefore, the expectations of an individual in connection with a change in regulation are legitimate if they are reasonable and if there is a

possibility of causing harm by breaching such expectations.

When regulating social relations dealing in particular, with the implementation of social policy, in connection with the adoption of new laws or amendments to existing legislation, public authorities should be able to adapt to the new legal situation in order to protect their legitimate expectations. Therefore, legitimate expectations as a component of the rule of law are one of the main criteria for constitutional assessment of the standards of law. The primary objective of the rule of law is, first and foremost, to limit the power of the state over man; protect from arbitrary interference by the state and its agencies in certain spheres of people's lives.

In this case, the Decree did not address negative human rights and did not cause their restriction or narrowing. In such circumstances, part one of Article 8 of the Constitution is not applicable for the purposes of considering a case under this constitutional submission. The President acted on the basis, within the powers and in the manner provided by the Constitution.

The judgment aims at ensuring proper implementation of the principle of separation of powers, proper fulfillment of constitutional duties by public authorities, protection of the principles of legal certainty and legitimate expectations as elements of the constitutional principle of the rule of law.

Separate opinions of judges: Hultai, Kolisnyk, Lemak, Melnyk, Pervomaiskyi, Sas and Slidenko are attached to this judgment.

Judgment No. 8-p / 2019 of June 25, 2019

The case in response to the constitutional submission of 45 MPs on constitutional compliance of the Resolution of the Cabinet of Ministers "Some issues of improvement of administration in the sphere of use and protection of government owned agricultural land and disposal of such land" No. 413 of June 7, 2017. Judge-Rapporteur: Tupytskyi.

The Constitutional Court found the following acts non-compliant with the Constitution (unconstitutional): the Resolution of the Cabinet of Ministers "Some issues of improvement of administration in the sphere of use and protection of government owned agricultural land and disposal of such land" No. 413 of June 7, 2017 as amended [Resolution No. 413]. (Resolution No. 413 approved the Strategy for improving the mechanism of administration in the field of use and protection of government owned agricultural land and disposal of such land [Strategy], amended some resolutions of the Cabinet of Ministers and delegated the Ministry of Agricultural Policy and Food together with the State Service of Geodesy, Cartography and Cadastre [State Geocadastre] to develop and submit to the Cabinet of Ministers drafts of legal acts aimed at implementing the Strategy. The Resolution has lapsed since the date of this judgment was adopted).

The judgment noted that the provisions of the Strategy, namely the Section titled "The System for Organizing the Process of Strategy Implementation" are holistic and systematically interconnected and actually regulate the procedure of privatization of state owned agricultural land following clear rules and free of charge. They also regulate the procedure for transfer of state-owned agricultural land for use (lease, emphyteusis). These provisions introduced an additional mechanism, not covered by the Land Code of Ukraine [Code] or other laws of Ukraine, determining the area of land plots in the territory of the respective region subject to privatization free of charge. In addition, the Strategy established additional features of land bidding, conclusion, extension and termination of leases of state-owned agricultural land for use (lease, emphyteusis), which is not covered by the Code or other laws.

The procedure and conditions for the acquisition, termination and exercise of the right of own and use land are covered by the concept of the legal regime of ownership, which is determined exclusively by the laws (part 2 of Article 14, paragraph 7 of part one, Article 92 of the Constitution). Therefore, the Cabinet of Ministers by approving the Strategy, in particular with regard to the provisions of its section titled "The System for Organizing the Process of Strategy Implementation", regulated the conditions and procedure for the acquisition of ownership and use of land at the level of bylaws. However, these provisions should be determined exclusively by the laws. In doing so, the Cabinet of Ministers of Ukraine (CMU) exceeded its powers established by the Constitution and contravened the requirements of part two of Article 6; part two of Article 8, parts one, two, and four of Article 13, Article 14; part two of Article 19; part three of Article 41; paragraph 7 of part one of Article 92; part three of Article 113; part one of Article 117 of the Constitution.

The judgment is based on the need for proper implementation of the constitutional principle of separation of government power in Ukraine, and support to the constitutional powers of government authorities in the field of lawmaking.

Judgment No. 9-p / 2019 of July 16, 2019

The case in response to the constitutional submission of 46 MPs on constitutional compliance of the Law "On Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of their Symbols." Judge-Rapporteur: Kolisnyk.

The Constitutional Court found the following act non-compliant with the Constitution (unconstitutional): the Law of Ukraine "On Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of their Symbols." No. 317 – VIII as amended [Law].

In response to the submission with allegations about the violation of the right to freedom of thought, belief, opinion, and expression mentioned in the Law, the Constitutional Court emphasized that the said rights were not absolute, and their exercise may be restricted by law in the interests of national security, territorial integrity or public order – for the purpose of preventing unrest or crimes and in other cases provided for in Article 34 of the Constitution.

The Constitutional Court also stated that the Communist regime denied and restricted human rights and made democratic organization of government power impossible. The usurpation of government power by the communist regime was accomplished first and foremost by way of elimination of freedom of political activity, political opponents, political competition, and banning the activities of all political parties except one – the Communist party, which in fact turned into a leading institution that prioritized government policy and neglected the democratic principles of organization of government power, constitutional norms and human rights.

At the same time, the political party, which founding, programmatic and other official documents deny the foundations of the constitutional system and the right of the Ukrainian people to their own independent government, calls for the liquidation of the latter, violation of its territorial integrity or another purpose that is not in conformity with the democratic nature the text of the Constitution cannot be legitimate, and its legalization in Ukraine has no legal basis. Evaluation of the results of the Communist and the Nazi regimes should be carried out taking into account a systemic nature of the unlawful acts committed under their domination, given the nature and scope of the national policy of terror, the basis of which was to deny the value of human life and human dignity. The propaganda of the Communist regime, which provocatively and cynically denied the value of human life and human dignity, poses a real threat to modern independent Ukrainian statehood. Condoning the communist regime and silencing its crimes create fertile ground for mobilization and and unification of anti-Ukrainian forces that seek to destroy the democratic constitutional order in Ukraine.

Consequently, the Law condemning the Nazi and Communist regimes and imposing a ban on the use of their symbolism pursues a legitimate aim – to prevent a return to a totalitarian past. This prohibition is intended to prevent any speculation using historical past connected with totalitarian regimes to prevent the glorification of the latter and justification of their crimes. Propaganda of the Communist and the Nazi regimes, public use of their symbols is an attempt to justify totalitarianism and denial of constitutional principles and democratic values protection of which is a duty of all government bodies. Therefore, the Court found the law constitutional.

Separate opinions of judges: Shaptala, Kolisnyk, Lytvynov, and Pervomaiskyi are attached to this judgment.

Judgment No. 10-p / 2019 of July 16, 2019

The case in response to the constitutional submission of 48 MPs on constitutional compliance of the Law "On Education". (The typo has been deleted by the ruling of the Grand Chamber of the Constitutional Court No. 9-UP / 2019 of August 27, 2019). Judge-Rapporteur: Slidenko.

The Constitutional Court found the following act non-compliant with the Constitution (unconstitutional): the Law of Ukraine "On Education" No. 2145–VIII of September 5, 2017 as amended [Law].

The Ukrainian language is the language of official communication of government personnel used in the performance of their duties, in their work and in records management of central and local government authorities, in court proceedings and in state and communal educational establishments for educational purposes. The government must ensure comprehensive development and functioning of the Ukrainian language in all spheres of public life throughout Ukraine. The use of official language (Ukrainian) is compulsory in the public sphere throughout Ukraine and in the public aspects of social life, including in education.

The law provides means and mechanisms to ethnic minorities and indigenous peoples in Ukraine to exercise

their right to study languages of the national minorities and indigenous peoples of Ukraine along with the study of the Ukrainian language as the official language of the state. It is a condition for conscious unification of citizens within the territory of Ukraine. The purpose of the Law is consistent with the provisions of the Constitution of Ukraine, since it provides for a balanced approach to the study of the official language as a means of socializing of individuals and functioning of the central and local government bodies on the constitutional basis and learning the languages of national minorities and indigenous peoples of Ukraine.

The use and functioning of the official language in Ukraine are inextricably linked to learning of the language, that is, to the realization of every person's right to education. According to the Constitution one of the elements of the constitutional right to education is the right of the national minorities to study in their mother tongue or to learn their mother tongue in the state and communal educational institutions or in the national cultural societies. Therefore, the constitutional instruction, enshrined in paragraph 5 of Article 53, defines the substance of the content and the scope of the right (as an element of the constitutional right to education) to learn mother tongue in state and communal educational establishments or in the national cultural societies or to study it in the abovementioned educational institutions or in the national cultural societies, which is guaranteed by law.

The Law regulates the social relations in the realization of the constitutional right to education, also in terms of guaranteeing the rights of national minorities and indigenous peoples to receive instruction in or learn the language of the respective national minority or indigenous peoples. The law guarantees the persons (including citizens) belonging to national minorities the right to learn pre-school and primary education curriculum in the language of the respective national minority in communal educational establishments. In other words the law does not just replicate the content and the scope of the constitutional right to education in the language of the relevant national minority as defined in part five, Article 53 of the Constitution, but also provides for its implementation in two formats: receiving instruction in their native language (preschool and primary education) and learning of their native languages (at all levels of general secondary education).

The law does not interfere with the learning of languages of national minorities. Its provisions aim at creating conditions for all citizens necessary for mastering the official language in order to support further professional activity in the chosen field with the use of the state language. The law promotes full realization of the constitutional right to education, which can be enjoyed by the representatives of national minorities, supports realization of citizens' rights in all spheres of public life, including access to civil service and service in local government bodies.

Having defined the basic issues of education in Ukraine in the law, thus explaining the details of the constitutional right to education, the Verkhovna Rada did not exceed the powers established by the Constitution.

The judgment is due to the need to ensure comprehensive development and functioning of the Ukrainian language in the educational establishments throughout Ukraine.

A separate opinion of judge Shaptala is attached to this judgment.

Judgment No. 11-p / 2019 of December 2, 2019

The case in response to the constitutional submission of 49 MPs regarding the official interpretation of the provisions of Article 151^2 of the Constitution. Judge-Rapporteur: Zavhorodnya.

Having interpreted the aforementioned provisions in the aspect of the issue raised in the constitutional submission, the Constitutional Court found that the judgments of the Constitutional Court, irrespective of their legal form, adopted to address the issues of its exclusive constitutional powers, could not be appealed.

The principle of independence of the Constitutional Court means that this body of constitutional jurisdiction implements its powers independently and without any outside influence and this principle is inextricably linked to the constitutional and legal guarantees of independence of the Constitutional Court judges.

The Constitution prescribes the Constitutional Court to fulfil its exclusive constitutional authority by passing acts, dealing with implementation of constitutional proceedings, as well as acts on matters of proper organization of the work of the Constitutional Court and implementation of constitutional and legal guarantees of independence and integrity of judges of the Constitutional Court (election of the Chairman of the Constitutional Court, consent to apprehend a judge of the Constitutional Court or putting judge in custody or under arrest pending court conviction, and dismissal of a judge of the Constitutional Court). The

above points to the uncontested nature of decisions (acts irrespective of the format) of the Constitutional Court following the consequences of constitutional proceedings; the impossibility of changing them or canceling them in part or entirely. Disagreement with such decisions (acts) does not allow any public authority to question their content. Failure to comply with these requirements is an encroachment on the provisions of part two, Article 147 of the Constitution, in particular, such principles of the Constitutional Court's operation as independence and binding nature of the decisions and opinions adopted by it.

The Constitution does not specify in which cases the Constitutional Court of Ukraine passes a "judgment" in exercising its other exclusive constitutional powers. This allows us to state that the term "judgment" used in Article 151^2 of the Constitution means a general (generic) concept that covers all other acts apart from "opinions" adopted by the Constitutional Court on matters of its exclusive constitutional powers. Judgments as a type of acts of the Constitutional Court are not exclusively connected to the exercise of the powers provided for in paragraphs 1, 2 of part one, Article 150 of the Constitution), as was the case with Article 150 of the Constitution of Ukraine previously amended by the Law "On Amendments to the Constitution of Ukraine (with regard to justice)" No. 1401-VIII of June 2, 2017. The type of act of the Constitutional Court called "judgment" is referred to in the provisions of the Constitution of Ukraine, which regulate the resolution of issues that do not fall under implementation of constitutional proceedings (part three of Article 149^1 of the Constitution).

Article 151^2 of the Constitution does not establish that only the judgments of the Constitutional Court of Ukraine adopted on matters relating to the implementation of constitutional proceedings are binding, final and cannot be appealed. According to the content of the aforementioned article and other articles of Section XII of the Constitution "The Constitutional Court of Ukraine", this rule applies to all judgments adopted by the Constitutional Court on matters that fall within its exclusive constitutional powers.

The Constitution of Ukraine does not confer on any other public authority the power to elect the Chairman of the Constitutional Court, lift immunity from a judge of the Constitutional Court and dismiss a judge, nor does it establish the possibility of delegating powers to other public authorities. Consequently, the powers to elect the Chairman of the Constitutional Court, granting consent to apprehend a judge or putting judge in custody or under arrest pending court conviction, and removal of a judge of the Constitutional Court from office on the grounds stipulated in Article 149^1 of the Constitution belong to the Constitutional Court as the sole body vested with the powers to judge on these matters by the Constitution. Irrespective of their legal form, the judgements of this body of constitutional jurisdiction are the result of the exercise of exclusive constitutional powers by the Constitutional Court of Ukraine, therefore they are binding and cannot be appealed.

The above gives grounds to conclude that according to the instructions of Article 151^2 of the Constitution any judgement of the Constitutional Court cannot be appealed irrespective of its legal form (type). This rule includes judgements adopted by the Court on matters of implementation of constitutional proceedings, as well as issues of proper organization of the work of the Constitutional Court and implementation of the constitutional, legal guarantees of independence and integrity of judges of the Constitutional Court. This is conditioned by the special constitutional status of the Constitutional Court, the legal nature of its judgments, and the extreme importance of the functions and tasks assigned to it in relation to securing the supremacy of the Constitution of Ukraine.

However, the Constitutional Court of Ukraine may review individual acts adopted thereby on the grounds provided for in part two, Article 149^1 of the Constitution. Such review shall be made in compliance with the requirements laid down in Article 149^1 of the Constitution for the adoption of such acts.

The judgment is due to the need for proper implementation of exclusive constitutional powers by the Constitutional Court of Ukraine.

Judgment No. 12-p / 2019 of December 20, 2019

The case in response to the constitutional submission of 49 MPs regarding conformity with the Constitution (constitutionality) of provisions of part two of Article 135 of the Housing Code of the Ukrainian SSR. Judge-Rapporteur: Moisyk.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): provisions of part two of Article 135 of the Housing Code of the Ukrainian SSR [Code]. They stipulate that eligible members of the housing and development cooperative are the citizens who reside permanently in the settlement in question (unless otherwise provided by the legislation

of the USSR and the Ukrainian SSR) who are registered as candidates for membership in the housing and development cooperative; registered in the single state register of citizens requiring improvement of housing conditions or enjoy the right of early admission (outside due process) as members of the cooperative, as well as the citizens referred to in part one of Article 143, part two of Article 145 and part one of Article 146 of the Code.

The Constitutional Court noted that the Constitution of Ukraine, in particular, Article 47, establishes different ways of exercising the right to housing and does not link the ability to exercise this right with the permanent residence of a person in a particular settlement (place of residence). One way of realizing the constitutional right to housing is to build it (or participate in construction), which can also be supported through membership of the entities affected by that right in housing cooperatives.

The analysis of the provisions of Chapter 5 of the Code as a system gives grounds to conclude that the exercise of the right to join a housing cooperative and, therefore, a constitutional right to housing by individual's participation in such a cooperative, in accordance with the disputed provisions of the Code, depends on the condition of permanent residence in a particular settlement.

The Law of Ukraine "On Freedom of Movement and free choice of place of residence in Ukraine" No. 1382 – IV of December 11, 2003 does not provide for the possibility of restricting the right to freedom of movement and free choice of a place of residence depending on the registration of individual's place of residence or permanent residence in a certain settlement; at the same time, it contains a special clause that "the registration of the place of residence or the place of stay of the person or absence thereof cannot be a condition for the exercise of the rights and freedoms provided for by the Constitution, laws or international treaties of Ukraine, or the reason for their restriction" (part two of Article 2).

The requirement established by the provisions of part two of Article 135 of the Code regarding permanent residence in a given settlement as a prerequisite for the realization of a person's constitutional right to housing, in particular by joining the housing and development cooperative for construction of housing. This does not agree with part one of Article 33 of the Constitution, according to which everyone who is legally staying in the territory of Ukraine is guaranteed freedom of movement, and free choice of the place of residence.

The judgment also noted that the Code was adopted before the Constitution, therefore a number of its provisions are such that nullify the substance of each person's constitutional right to housing, and do not correspond to other constitutional principles of social and economic development of the Ukrainian society and the state. They make it impossible for everyone to acquire ownership rights of a residential property in accordance with the law; the provisions of the preamble to the Code are contrary to parts one and two of Article 15 of the Constitution of Ukraine, according to which, in particular, social life in Ukraine is based on the principles of political, economic and ideological diversity; therefore, the provisions of the Code should be aligned with the requirements of the Constitution.

The judgment is due to the need for a proper understanding and implementation of the constitutional right to housing.

A separate opinion of judge Sas is attached to this judgment.

JUDGMENTS IN RESPONSE TO CONSTITUTIONAL COMPLAINTS

Judgment No. 1-p (II) / 2019 of April 25, 2019 (the Second Senate)

The case in response to the constitutional complaints of Anatoliy Skrypka and Oleksiy Bobyr regarding conformity with the Constitution (constitutionality) of provisions of part three of Article 59 of the Law "On the Status and Social Protection of citizens affected by the Chernobyl Disaster". Judges-Rapporteurs: Zaporozhets, Shaptala.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): the phrase "active conscription" contained in the provisions of part three of Article 59 of the Law "On the Status and Social Protection of citizens affected by the Chernobyl Disaster" No. 796 – XII of February 28, 1991 as amended [Law]. These provisions allow to determine the amount of compensation for damage caused to the responders to the accident at the Chornobyl NPP when calculating the size of pension based on the amount five times the minimum wage established by law as of January 1 of the respective year. There rules apply exclusively to military personnel participating in elimination of the consequences of the Chornobyl disaster when serving their active conscription duty which resulted in disabilities.

The Constitutional Court stated, in particular, that in view of the specific nature of military service, which, in particular, includes performance of special tasks by military personnel, presence of risks to their lives and health, etc., any form of military service is a duty of the citizens of Ukraine to protect the state. Thus, the obligation of the citizens of Ukraine enshrined in the Constitution needs to be respected, and the status of military personnel of any category is determined by the military organization where they serve, and which can grant them special status.

Pursuant to Articles 16, 17 of the Constitution, persons who participated in the elimination of the consequences of the Chernobyl disaster during military service enjoy a special status and special conditions of social protection. This requires the state, in particular, to determine the size of their social security package, which will guarantee them decent living conditions and full compensation for the damage caused. The Constitution guarantees social protection for citizens serving in bodies protecting the sovereignty and territorial integrity of Ukraine, its economic and information security, i. e. fulfilling their military duty, as well as persons whose health was damaged due to the Chernobyl accident, who are in need of rehabilitation, continuous medical care and social protection provided by the state. The state may establish some differences regarding the level of social protection of the specified categories of persons, but the differences defined by law should not allow any unjustified exceptions to the constitutional principle of equality, discrimination in the exercise of the rights to social protection by these persons and should not violate the substance of the right to social protection. The rationale for the mechanism for calculating social benefits should be based on the criteria of proportionality and fairness.

In some cases, personnel who served conscription service and receive pensions according to part three of Article 59 of the Law which are calculated on the basis of the amount five times the minimum wage established by law on January 1 of the respective year, have a higher level of social protection, since their social protection package is much larger than the social protection package of other categories of servicemen (including reservists who are required to participate in military training) who were directly involved in eliminating the Chernobyl accident and its effects.

Consequently, the military personnel who suffered health damages during the elimination of the consequences of the Chernobyl accident while performing their military duty enjoyed different levels of social protection. This approach of the legislator to determine the level of social protection for these categories of persons does not comply with the principle of justice and is a violation of the constitutional principle of equality. Certain categories of servicemen who performed constitutionally significant functions to defend the Fatherland were not provided with special conditions of social protection, which violated the substance of the constitutional right to their social protection and the corresponding constitutional guarantees.

The judgment protects the constitutional right to social protection of the servicemen who suffered health damages during the liquidation of the consequences of the Chernobyl accident, in particular by approving the method of calculation of the size of the disability pension equally regardless of the type of military service.

Separate opinion of judge Horodovenko is attached to this judgment.

Judgment No. 2-p (II)/2019 of May 15, 2019 (the Second Senate)

The case in response to the constitutional complaint of Vira Khlipalska regarding conformity with the Constitution (constitutionality) of the provisions of part two of Article 26 of the Law of Ukraine "On Enforcement Proceedings" (about ensuring enforcement of a court judgment by the state). Judge-Rapporteur: Horodovenko.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): provisions of part two of Article 26 of the Law of Ukraine "On Enforcement Proceedings" No. 1404–VIII as amended of June 2, 2016 [Law].

The Constitutional Court emphasized that the procedure for ensuring the enforcement of a court judgment by the state must comply with the principles of the rule of law, justice and provide guarantees of the constitutional right to protection in court; failure of the state to fulfill the positive obligation to ensure the functioning of the system of enforcement of judgments (implemented by the state) restricts the constitutional right to judicial protection and nullifies its substance.

Having examined the materials of the constitutional complaint and analyzed the provisions of part two, Article 26 of the Law, the Constitutional Court noted that according to these provisions commencement of enforcement of a non-pecuniary judgment by an agency of the state

executive (enforcement) service, where the debtor is a government body requires making an advance payment of two minimum wages, if the recoverer is not exempted from payment of such contribution in cases specified by the Law. Should the recoverer fail to make the payment of the obligatory advance payment, the enforcement of the court judgment made in his favor will not commence, i. e. making of the advance payment is a prerequisite for the commencement of the enforcement of the court judgment.

In view of Articles 3, 8, parts one and two of Article 55, parts one and two of Article 129[1] of the Constitution with regard to guaranteeing at the constitutional level the right of everyone to protection in court and ensuring enforcement of a court judgments by the state, if an individual recoverer who was awarded favorable judgment is not financially able to make the advance payment, this should not impede the exercise of her right to enforce the judgment, especially when the debtor is a government entity. The current legal regulation should establish such a procedure for making the advance payment by an individual who was awarded favorable judgment, which could ensure full and timely enforcement of such judgment and compliance with its binding nature in all cases and under all conditions.

The provisions of part two of Article 26 of the Law "On Compulsory advance payments made by individuals who were awarded favorable judgment" as a prerequisite for commencement of enforcement of this judgment by the State Enforcement Service put the financial burden of ensuring the functioning of the state enforcement system on the individual benefactor which does not guarantee her access to the said system, and therefore do not ensure full and timely enforcement of this judgment in all cases and under all conditions.

The state has a positive obligation to enforce the judgment, however the legal regulation, established by certain provisions of part two of Article 26 of the Law, transferred this duty to the person benefiting from the judgment. Thus, the substance of her constitutional right to protection in court was offset, which contravenes the provisions of Articles 3, 8, part one, Article 55, parts one and two of Article 129[1] of the Constitution.

The judgment protected the constitutional right to judicial protection of the individual who was awarded favorable judgment by canceling the obligatory advance payment as a necessary condition for the commencement of enforcement of this judgment.

The judgment No. 3-p (I)/2019 of June 5, 2019 (the First Senate)

The case in response to the constitutional complaint of METRO Cash & Carry Ukraine Limited Liability Company regarding conformity with the Constitution (constitutionality) of the following provisions: lines twenty-four, twenty-five, twenty-six, Section I of the Law "On Amendments to the Tax Code of Ukraine in terms of clarification of some provisions and elimination of contradictions occurred during adoption of the Law of Ukraine "On Amendments to the Tax Code of Ukraine in terms improvement of the Ukrainian investment climate" No. 1989 – VIII of March 23, 2017. Judge-Rapporteur: Kolisnyk.

The Constitutional Court found the following provisions non-compliant with part one of Article 8, part four of Article 41 of the Constitution: the first sentence of line twenty-sixth, Section I of the Law of Ukraine "On Amendments to the Tax Code of Ukraine in terms of clarification of some provisions and elimination of contradictions occurred during adoption of the Law of Ukraine "On Amendments to the Tax Code of Ukraine in terms of improvement of the Ukrainian investment climate" No. 1989 – VIII of March 23, 2017 [Law No. 1989]. According to these provisions "the amount of fees accrued and paid in accordance with Articles 269-289 of this Code for the land located in the temporarily occupied territory and / or territories of municipalities located along the contact line and / or the territory of the Anti-terrorist Operation in the course of this operation, shall not be refundable to the current account of the taxpayer. These funds shall not be used to repay the monetary liabilities (tax debt) arising from other taxes, fees, or refunded in cash upon presentation of a check in cases when the taxpayers have no bank accounts".

The Constitutional Court stated that the introduction of amendments to the Tax Code by paragraph twenty-sixth, Section I of the Law No. 1989 regarding the cancellation of the right to refund the land payments to the taxpayers accrued and paid for the period specified in sub-clause 38.7, paragraph 38 of subsection 10, Section XX "Transitional Provisions" of the Tax Code had nothing to do with "removal of discrepancies and technical errors". In fact, it aimed at "elimination of local budget imbalances in Donetsk and Luhansk oblasts." Introduction of these amendments to the Tax Code pursued a socially significant objective, but the legislator acted inconsistently and failed to balance out public and private interests. The means chosen by the legislator (implementation of such changes) proved to be disproportionate to the pursued objective. In view of the above, the first sentence of line twenty-six, Section I of

the Law No. 1989 is deemed contrary to the constitutional principle of the rule of law.

For reasons outside company's control, it was unable to defend its property rights in court. Introduction of amendments to the Tax Code by paragraph twenty-six, Section I of the Law No. 1989 resulted in legitimate expectations of the entity exercising the right to the constitutional complaint not being fulfilled and in violation of its property rights.

Using the provisions of the first sentence of line twenty-six, Section I of the Law No. 1989, the legislator prevented not only the realization of the rights of claim acquired by the company in respect of the refund of the land payments, but also repayment of the accrued and paid land fees to the other taxpayers covering the period specified in sub-clause 38.7, paragraph 38 of subsection 10, Section XX "Transitional Provisions" of the Tax Code. This was done despite the yet effective earlier provision of the Tax Code exempting from the obligation to pay land fees in such amounts.

The Constitutional Court emphasized that such practice had a negative impact on economic freedom and development of business activity in Ukraine, as well as on the investment climate in the country. Although the constitutional and legal content of the economic freedom concept does not imply obtaining concrete results from economic activity, it however includes protection against the risks associated with arbitrary, unpredictable and unjustified decisions and actions of government authorities, in particular with regard to tax regulation.

The judgment protects the taxpayers' constitutional right to own property, in particular by providing the possibility of refunding land fees accrued and paid for the period of the Anti-terrorist operation for land located in the temporarily occupied territory and / or territories of municipalities along the contact line and / or territory of the Anti-terrorist operation.

Judgment No. 4-p (II)/2019 of June 5, 2019 (the Second Senate)

The case in response to the constitutional complaint of Joint Stock Company "Zaporizhzhya Ferroalloy Plant" on constitutional compliance of provisions of paragraph 13 of part one of Article 17 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine". Judge-Rapporteur: Tupytskyi.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): provisions of paragraph 13 of part one of Article 17 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" No. 1698 – VII of October 14, 2014 [Law No. 1698]. According to this Law, the National Anti-Corruption Bureau of Ukraine has the right "to take legal action for invalidation of agreements in accordance with the procedure established by the legislation of Ukraine in the presence of the grounds provided for by law."

The Constitutional Court, in particular, stated that the Verkhovna Rada is obliged to act only on the basis, within the powers and in the manner stipulated by the Constitution and the laws of Ukraine. This message is based on the fact that the powers of the Verkhovna regarding establishment and creation of government bodies and defining their respective mandate are prescribed solely by the Constitution.

Enshrining of the powers of a government body, its quantitative composition, the procedure of creation, the entities responsible for appointment / election and dismissal of its members and / or leader, etc. in the Constitution makes it impossible to change the principles of operation of such a body other than by amending the Constitution.

Pursuant to Article 131^1 of the Constitution, Ukraine established the Office of the Prosecutor responsible for: support of public prosecution in court; organization and procedural management of pre-trial investigation, resolution of other issues in the course of criminal proceedings in accordance with the law, oversight of undercover and other detective and investigative actions of law enforcement agencies; representation of the interests of the state in court in exceptional cases and in the manner prescribed by law (part one); the organization and the operations of the Prosecutor's Office are determined by law (part two).

The Constitution established an exhaustive list of powers of the prosecutor's office, defined the nature of its work and thus provides for its existence and stability of functioning. The above arrangements guarantee impossibility of changing the purpose of this agency, duplication of its powers / functions by other government bodies, because doing so may lead to changes in the constitutionally defined mechanism of exercising government power by individual bodies or affect the scope of their constitutional powers.

The legislature, acting under part 2 of Article 131^1, paragraph 14 of part one of Article 92 of the Constitution, determines only the organization and the operations

of the Prosecutor's Office, and therefore the powers of the Prosecutor's Office, including representation of state interests in court (established by the Constitution) cannot be legally transferred to any other public agency.

The Constitution does not grant the right to the Verkhovna Rada (as the sole legislative body in Ukraine) to delegate the constitutional powers of the Prosecutor's Office, as a public agency mentioned in the Constitution, to other agencies outside the constitutional norms.

Having delegated the constitutional powers of the Prosecutor's Office, the Verkhovna Rada went beyond the mandate established by the Constitution, thereby violating the requirements of Article 6 thereof.

The disputed provisions of Law No. 1698 vested the Bureau with powers belonging to the Prosecutor's Office in accordance with Article 131[1] of the Constitution of Ukraine.

Specialized Anti-Corruption Prosecutor's Office is a part of the Prosecutor's Office of Ukraine as an entity in the field of combating corruption in accordance with part 5 of Article 8 of the Law No. 1698. This office, in particular, has the function of representing the interests of citizens or the state in court in cases provided for by Law No. 1698. and in cases of corruption-related offenses (paragraph 3). This means that a specialized office was created in the system of the agencies of the Prosecutor's Office. This office supports representation of the state's interests in court in the sphere of combating corruption.

Consequently, the provisions of paragraph 13 of part one of Article 17 of the Law No. 1698, granting the right to the Bureau "to take legal action for invalidation of agreements in accordance with the procedure established by the legislation of Ukraine in the presence of the grounds provided for by law" is contrary to the requirements of Articles 6, 8, 19, 131[1] of the Constitution of Ukraine.

The judgment is due to the need to properly implement the principle of separation of powers and the constitutional requirement that applies to central and local government bodies and their officials obliging them to act only on the basis of powers and in the manner provided by the Constitution and laws of Ukraine.

Separate opinions of judges: Pervomaiskyi, Tupytskyi, Horodovenko, and Lemak are attached to this judgment.

Judgment No. 4-p/2019 of June 13, 2019 (The Grand Chamber)

The case in response to the constitutional complaint of Viktor Hlushchenko regarding conformity with the Constitution (constitutionality) of provisions of of part two of Article 392 of the Criminal Procedure Code of Ukraine. Judge-Rapporteur: Zaporozhets.

The judgment recognized the following provisions non-compliant with the Constitution (unconstitutional): part two of Article 392 of the Code of Criminal Procedure [Code] regarding impossibility of a separate appeal process against a court ruling to extend the custody. The ruling was issued during a trial in a court of first instance pending the judgment on the merits. The Verkhovna Rada was obliged to bring the regulation established by part two of Article 392 of the Code into conformity with the Constitution and this judgment.

The Constitutional Court was guided by the assumption that Ukraine is a rule of law country and its priorities include guarantees of the rights and freedoms of man and citizen. To this end, the state is obliged to introduce legal regulation that is in conformity with the constitutional norms and principles necessary to ensure the exercise of the rights and freedoms of each person and their effective restoration. However, certain constitutional values, in particular personal integrity as a guarantee against encroachment on the part of others against the rights and freedoms, and above all a fundamental right to liberty, require enhanced guarantees of protection.

The right to liberty and personal integrity may be restricted, however such restriction must be exercised in compliance with the constitutional guarantees of protection of the rights and freedoms of man and citizen, the principles of justice, equality and proportionality, with a fair balance of interests of the individual and society on the grounds and in line with the procedure established by the laws of Ukraine, taking into account the acts of international law, the position of the European Court of Human Rights, based on the reasoned judgment of the court adopted in the fair trial procedure.

The statutory mechanism for exercising the right to a judicial remedy, including, in particular, the right of appeal, is one of the constitutional guarantees for the exercise of other rights and freedoms, their assertion and protection through justice, including the right to liberty, protection of these rights and freedoms from violations and unlawful

encroachments, as well as from wrongful and unjust judgments. The mechanism of correction of first instance court misjudgments by an appellate court must meet the criteria and requirements of effectiveness.

The scope of the right to appeal as determined by law must guarantee effective exercise of the person's right to judicial protection in order to achieve the purposes of justice, while protecting the other constitutional rights and freedoms of such a person. Restricting access to a court of appeal as an integral part of the right to judicial protection is possible only with the obligatory observance of constitutional norms and principles, namely the priority of protection of fundamental rights and freedoms of man and citizen and the principle of the rule of law. According to this principle the state should introduce an appeal review procedure to ensure the effectiveness of the right to judicial protection at this stage of court proceedings, in particular it will allow restoring violated rights and freedoms of the individual and to the maximum extent possible prevent some negative effects of a possible miscarriage of justice by the first instance court (trial court).

The impossibility of timely appellate review of a trial court's ruling regarding extension of pre-trial detention prevents an effective and expeditious (efficient) review of the legality of restriction of a person's constitutional right to liberty at the stage of trial. The inability to appeal by the person in question or her counsel against a court ruling extending pre-trial detention creates the conditions when a misjudgment of a trial court (while remaining effective for a long time) may lead to grave inevitable consequences for the said person in the form of unjustified restriction on his or her constitutional right to liberty.

The Constitutional Court concluded that the provisions of part two of Article 392 of the Code, regarding the impossibility of a separate appeal against a trial court's ruling for extension of pre-trial detention, do not guarantee effective exercise of person's constitutional right to judicial protection. They do not meet the criteria of fairness (proportionality), or ensure a fair balance of interests of the individual and society, and therefore contradict the requirements of Articles 1, 3, 8, 21, 29, of part one of Article 55 of the Constitution.

The judgment protected the constitutional right of the person to liberty by providing him or her with the opportunity to appeal the ruling of the court of first instance to extend the term of detention.

Separate opinions of judges: Lytvynov, Slidenko are attached to this judgment.

Judgment No. 7-p/2019 of June 25, 2019 (the Grand Chamber)

The case in response to the constitutional complaints of Maryna Kovtun, Nadiya Savchenko, Ihor Kostohlodov, Valeriy Chornobuk on constitutional compliance of the provisions of part five of Article 176 of the Criminal Procedure Code of Ukraine. Judges-Rapporteurs: Hultai, Kasminin, Kryvenko, Tupytskyi.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): the provisions of part five of Article 176 of the Criminal Procedure Code of Ukraine [Code]. They stipulate that preventive measures in the form of personal commitment, personal guarantee, house arrest, and bail cannot be applied to persons suspected or accused of committing crimes under Articles 109-1141, 258-2585, 260, 261 of the Criminal Code of Ukraine.

The Constitutional Court stated that according to part one of Article 176 of the Code preventive measures include personal commitment, personal guarantee, bail, house arrest, and detention. Detention is the harshest preventive measure among all the preventive measures provided for in the Code.

Due to the statutory regulation of the process of selection of a preventive measure to persons suspected or accused of committing offenses provided for in Articles 109-114[1], 258-258[5], 260, 261 of the Criminal Code, an investigating judge and the court, having considered the relevant risks and the circumstances of a particular case, cannot apply a softer preventive measure to such persons other than detention. Accordingly, detention appears to be the only preventive measure for such persons, as stipulated at the legislative level in the qualification of the crime of which they are suspected or accused. The investigating judge and the court are deprived of the opportunity to make a reasoned judgment and give proper justification to detention.

Thus, the provisions of paragraph 5 of Article 176 of the Code allow to apply a preventive measure in the form of detention on the basis of a purely formal judgment that violates the principle of the rule of law. It explains the need to detain someone only based on the graveness of the crime, which does not strike a balance between the purpose of its application in criminal proceedings and the right of a

person to liberty and personal integrity. According to the Constitutional Court, the provisions contravene part two of Article 3, parts one and two of Article 8, parts one and two of Article 29 of the Constitution, since they violate the rule of law and restrict the right to liberty and personal integrity.

The judgment protected the constitutional right to liberty of persons suspected or accused of committing the offenses provided for in Articles 109-1141, 258-2585, 260, 261 of the Criminal Code by canceling a zero option process of election of a prevention measure in the form of detention for such crimes.

Separate opinions of judges: Pervomaiskyi, Slidenko are attached to this judgment.

Judgment No. 5-p (I)/2019 of July 12, 2019 (the First Senate)

The case in response to the constitutional complaints of Pavlo Baishev, Olha Burlakova, Iryna Dats, Viacheslav Dyedkovskyi, Mykhailo Zheliznyak, Liudmyla Kozhukharova on constitutional compliance of paragraphs 2, 3 of Section II of "The Final Provisions" of the Law of Ukraine "On Amendments to certain legislative acts of Ukraine introducing contract-based employment in the field of culture and competitive procedure for appointment of heads of state and communal cultural establishments" No. 955 – VIII of 28 January 2016, as amended. Judges-Rapporteurs: Holovatyi, Zavhorodnya, Kryvenko, Sas.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): paragraphs 2, 3 of Section II "The Final Provisions" of the Law of Ukraine "On Amendments to certain legislative acts of Ukraine introducing contract-based employment in the field of culture and competitive procedure for appointment of heads of state and communal cultural establishments" No. 955 – VIII of 28 January 2016, as amended [Law].

As noted by the Constitutional Court, the adoption of the Law and the introduction of a contractual form of employment for creative staff of state and communal cultural establishments do not contradict the substance of the right to work provided for in part one of Article 43 of the Constitution. It allows everyone to earn a living by performing the work he/she freely chooses or which he/she freely agrees to. Freedom of work implies the possibility of a person to engage or not engage in work, and in case of the latter, choose the work freely. Besides, it means allowing everyone to enter into employment relations for the realization of their abilities without discrimination; the exercise of a citizen's right to work is accomplished by concluding an employment contract and fulfilling a range of duties in line with her specialty, qualification or position, which is envisaged by the structure and staffing rules of an enterprise, institution or organization.

A contract as a special form of employment agreement is a source of subjective rights and obligations of the employee and employer. It is concluded for performance of work for remuneration, which is usually permanent or of a sufficiently long duration. The contract may specify, in particular, its validity period; work and rest schedule; mutual rights, obligations and responsibilities of the parties; conditions of organization and remuneration, material and social support of the employees, compensatory payments to employees and compensation of damage to their health; grounds for termination of labor relations, etc. The parties to the contract have the right to go beyond the sphere of regulation of labor relations stipulated by the Ukrainian labor legislation, provided that there is no deterioration of the legal position of the employee. Therefore, clauses 2, 3 of Section II of "The Final Provisions" of the Law do not contravene Article 22 of the Constitution.

The contract as a special form of employment agreement should aim at creating the conditions for employees allowing them to show initiative and effectiveness in the performance of the assigned work, taking into account individual abilities and professional skills and providing for their legal and social protection. At the same time, a contract may establish a number of conditions that simultaneously limit workers' labor rights and provide them with certain benefits not provided for by law.

The establishment of privileges and additional obligations for creative workers of state and communal cultural establishments by the disputed provisions of the Law by way of introducing a contractual form employment is not related to the features defined in parts one and two of Article 24 of the Constitution.

Changing the format of the employment agreement from a permanent to a contractual one in connection with the adoption of the Law is not linked with the interference in the private lives of redundant workers, since the Law obliges the employer to conclude a contract with creative and performing staff within one year from the date of entry into force of the Law. This rule applies to personnel remaining in labor relations with the state and communal cultural establishments and stipulates for conclusion of the

contract for a term of one to three years without holding competitive selection. Entities enjoying the right to a constitutional complaint independently and knowingly refused to conclude a contract, forcing the employer to make a decision to terminate permanent employment contracts with them on the basis of paragraph 9 of part one of Article 36 of the Code. Therefore, there are no signs of inconsistency of paragraphs 2 and 3 of Section II of the "Final Provisions" of the Law with part one of Article 32 of the Constitution.

The law has no retroactive effect, since it does not cover permanent contracts concluded before its adoption, but provides for the termination of these contracts from the moment they enter into force and allows to continue employment under a contract concluded between professional creative workers (artistic and performing staff) and the state and communal cultural establishments. Thus, the law aims at regulating legal relationships that will arise after it enters into force, and employment relationships that have arisen before should be brought in compliance with the new legal regulation. Therefore, clauses 2, 3 of Section II of "The Final Provisions" of the Law do not contravene part 1 of Article 58 of the Constitution.

By legally changing the format of the employment contract from permanent to a contractual one, the legislator exercised his powers regarding legislative definition of the principles of regulation of labor and employment (paragraph 6 of part one of Article 92 of the Constitution). This has been done without restricting the persons enjoying the right to a constitutional complaint in their constitutional rights to labor. Instead, the Law only changed the way these rights were exercised. Thus, paragraphs 2 and 3 of Section II of the "The Final Provisions" of the Law comply with part one of Article 64 of the Constitution.

Having analyzed paragraphs 2 and 3 of Section II of the "The Final Provisions" of the Law in terms of compliance with the requirement of the clarity of a legal standard as an element of the rule of law, the Constitutional Court concluded that the said provisions of the Law were formulated with sufficient clarity and plainness. So, the provisions of paragraphs 2 and 3 of Section II of the "The Final Provisions" of the Law in the case of Burlakova, Dats, and Zheliznyak clearly stipulate the obligation of the employer to offer them a term contract. This opens an opportunity for complainants to sign a term contract with the employer. Therefore, the Constitutional Court has concluded that the provisions of Section 2 of "The Final Provisions" of the Law comply with part 1 of Article 8 of the Constitution in terms of the legal certainty requirement.

The judgment offers detailed understanding of the right to work for creative staff of the state and communal cultural establishments, for which a contractual form of an employment agreement has been introduced.

Judgment No. 6-p (II)/2019 of September 4, 2019 (the Second Senate)

The case in response to the constitutional complaint of Tetiana Zhabo regarding conformity with the Constitution (constitutionality) of provisions of of part three of Article 40 of the Labor Code of Ukraine. Judge-Rapporteur: Kasminin.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): provisions of part three of Article 40 of the Labor Code of Ukraine [Code].

The Constitutional Court stated that all labor relations should be based on the principles of social protection and equality for all enterprises, institutions, organizations irrespective of the type of incorporation, operations and sectoral affiliation, as well as persons working under employment contracts. In particular, this should be reflected by introducing an exhaustive list of conditions and reasons for termination of such relationships. It follows from the instructions of the Constitution that regardless of the grounds for the emergence of labor relations the state is obliged to create effective organizational and legal mechanisms for the implementation of employment relations at the level of law. The absence of such mechanisms negates the essence of the constitutional rights and freedoms of the employee.

In accordance with the provisions of part three of Article 40 of the Code, employees are guaranteed safeguards against dismissal initiated by the owner or his authorized body in case of temporary disability (except for dismissal for failure to appear for more than four consequent months due to temporary disability) (does not apply to the time of maternity leave and childbirth), if the legislation does not specify a longer period of protection of the place of work (position) in case of a certain illness), as well as during leave. That is, the law does not allow to dismiss an employee on the initiative of the owner, or his authorized body in case of temporary disability and leave.

The essential conditions for the conclusion of the contract are: establishment of the term of its validity, grounds for its closure or termination. Thus, the contract is concluded for a period that is agreed upon by the parties and contains a clear indication of when it begins and expires.

However, the above may not be grounds for failure to apply the provisions of part three of Article 40 of the Code to the employees who work under a contract. Such employees may not be dismissed in case of temporary disability or leave as this will lead to inequality and discrimination against this category of workers and complicate their position, and reduce the reality of guarantees of labor rights established by the Constitution and the laws of Ukraine.

The Constitutional Court stated that there can be no discrimination in the exercise of labor rights by employees. Violation of their equality in the area of labor rights and guarantees is unacceptable, and any restriction must have an objective and reasonable justification and be applied taking into account and observing the provisions of the Constitution and the international legal acts.

The provisions of part three of Article 40 of the Code provide for safeguards protecting an employee against unlawful dismissal. These are specific requirements of the legislation that must be implemented by the employer to comply with labor law. One such guarantee includes, inter alia, the prohibition of an employer from dismissing an employee who works under an employment contract and who is temporarily disabled or on leave at the time of dismissal. Therefore, failure to extend such a requirement to a contractual employment relationship violates the safeguards of protection of employees from unlawful dismissal and puts them at a disadvantage compared to the employees of other categories.

The Constitutional Court concluded that the provisions of part three of Article 40 of the Code are such that apply to all employment relationships and comply with the Constitution of Ukraine.

The judgment aims at protecting the right to work of the persons employed under a contract – they cannot be dismissed in case of temporary disability or while on vacation.

A separate opinion of judge Horodovenko is attached to this judgment.

Judgment No. 7-p (II) / 2019 of December 13, 2019 (the Second Senate)

The case in response to the constitutional complaints of Stepan Danyliuk and Oleksiy Lytvynenko regarding constitutional compliance of provisions of part twenty of Article 86 of the Law "On Prosecutor's Office" No. 1697 – VII of October 14, 2014. Judges-Rapporteurs: Horodovenko, Kasminin.

The Constitutional Court found the following provisions non-compliant with the Constitution (unconstitutional): provisions of part twenty of Article 86 of the Law "On Prosecutor's Office" No. 1697 – VII of October 14, 2014 as amended. The Law stipulates that the conditions and the procedure for re-calculation of prosecutors' pensions are set by the Cabinet of Ministers of Ukraine.

The Constitutional Court of Ukraine stated, in particular, that an employees of the prosecutor's office who reached the statutory age allowing them to terminate their mandate after completion of their professional work within a specified period of time shall be eligible for a pension.

The Recommendations of the Committee of Ministers of the Council of Europe to member States on the role of public prosecution in the criminal justice system adopted at its 724th meeting on 6 October 2000 (No. Rec (2000) 19) note that "in countries where the public prosecution is independent of the government, the state should take effective measures to guarantee that the nature and the scope of the independence of the public prosecution is established by law "(paragraph 14).

The Constitutional Court considers that sustainable funding of the courts aiming to create proper conditions for their functioning also requires sustainable funding of the prosecutorial authorities, in particular funding of proper social protection programs for their employees and retired personnel. The need for adequate social protection of the prosecutor's office personnel stems from the nature of their official duties in conjunction with the performance of the functions of the state, which guarantees their independence in the effective judicial protection of citizens' rights.

The purpose of regulating the issues of social protection of prosecutors is to avoid any interference by other authorities in their work in order to comply with the principle of separation of powers. That is why, these issues (in particular, pensions of the prosecutor's office employees) should be resolved solely at the level of the law. At the same time, the legislator granted the right to set the conditions and the procedure for re-calculation of pensions of the prosecutor's office employees to the Cabinet of Ministers of Ukraine without establishing relevant criteria at the legislative level. This change made the funding of prosecutors' pension programs dependent on the executive branch. Such regulation leads to interference of the executive power

agencies in the work of the prosecutorial bodies, as well as to non-conformity with the constitutional requirement regarding the exercise of powers by government bodies within the limits established by the Constitution and in accordance with the laws of Ukraine.

The judgment protected the constitutional right to social protection of prosecutor's office employees, in particular by confirming the requirement to regulate the conditions and the procedure of re-calculation of their pensions only at the legislative level.

Separate opinions of judges: Horodovenko, Slidenko are attached to this judgment.

COURT OPINIONS

Opinion No. 1-в/2019 of February 5, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 133 of the Constitution (renaming of Kirovohrad oblast) (Reg. No. 8380) (hereinafter – draft law No. 8380) to the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur: Holovatyi.

Draft law No. 8380 proposed to replace the word "Kirovohradska" with the word "Kropyvnytska" in part two of Article 133 of the Constitution.

The Constitutional Court stated that the change proposed in paragraph 1 of the draft law No. 8380 concerns the proper name of one of the oblasts of Ukraine as a part of the system of administrative and territorial structure of Ukraine and has nothing to do with the subject of human and citizen's rights and freedoms, nor does it envisage their abolition or restriction.

The Constitutional Court recognized conformity of the draft law No. 8380 with the requirements of Articles 157 and 158 of the Constitution.

Opinion No. 2-в/2019 of April 2, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 133 of the Constitution (renaming of Dnipropetrovsk oblast) (Reg. No. 9310-1) (hereinafter referred to as the draft law No. 9310-1) with the requirements of Articles 157 i 158 of the Constitution. Judge-Rapporteur: Kasminin.

Draft law No. 9301-1 proposed to replace the word "Dnipropetrovsk" with the word "Sicheslavska" in the part two of Article 133 of the Constitution.

The Constitutional Court stated that the change proposed in paragraph 1 of the draft law No. 9310-1 concerns the proper name of one of the oblasts of Ukraine as a part of the system of administrative and territorial structure of Ukraine and does not envisage abolition or restriction of the rights and freedoms of a person and a citizen.

The Constitutional Court recognized draft law No. 9301-1 compliant with the requirements of Articles 157 and 158 of the Constitution.

Opinion No. 3-в/2019 of October 29, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 85 of the Constitution (on consulting, advisory and other supporting services of the Verkhovna Rada of Ukraine) (Reg. No. 1028) (hereinafter referred to as the draft law No. 1028) with the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur: Kasminin.

Draft law No. 1028 proposed to amend Article 85 of the Constitution by adding part one, paragraph 15^1, to read as follows: "15^1) creation of consulting, advisory and other supporting services within the means provided for in the State Budget of Ukraine for the exercise of its powers."

The Constitutional Court stated that the amendment proposed in paragraph 1 of draft law No. 1028 regarding the constitutional recognition of the support services of the Verkhovna Rada for the exercise of its powers (consulting, advisory and other) does not provide for the abolition or restriction of the rights and freedoms of the person and citizen.

The Constitutional Court recognized draft law No. 1028 compliant with Articles 157 and 158 of the Constitution.

Separate opinions of judges: Melnyk, Slidenko, Pervomaiskyi.

Opinion No. 4-в/2019 of October 31, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to of the Constitution (abolishing the lawyer's monopoly) (Reg. No. 1013) (hereinafter referred to as the draft law No. 1013) with the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur – Horodovenko.

Draft law No. 1013 proposed to:

1. Introduce Article 131^2 with the following wording:

"Article 131^2. A Bar shall operate to provide professional legal assistance in Ukraine.

The independence of the Bar shall be guaranteed.

The principles of the organization and operations of the Bar and practicing of the lawyer's profession in Ukraine shall be determined by law.

Only the lawyers shall have the right to defend individuals from criminal charges."

2. Delete subparagraph 11, paragraph 16^1 of Section XV "Transitional Provisions" of the Constitution.

In fact, draft law No. 1013 proposed to amend part four of Article 131^2 of the Constitution by wording it as follows: "only a lawyer shall have the right to defend a person against a criminal charge"; remove part five of Article 131^2, according to which "the law may provide for exceptions to representation in court in labor disputes, disputes about protection of social rights, elections and referendums, minor disputes, as well as about representation of minors or underage persons and persons found to be incompetent by the court or with limited legal capability".

In making its opinion, the Constitutional Court proceeded from the assumption that "the amendments to the Constitution proposed by Section I of the draft law extend the possibilities of representation in court. The concept of "providing professional legal aid" is not the same as "representing a person in court". Attorneys provide professional legal aid; while representation of a person in court can be made by a lawyer or other entity at the person's choice. The positive obligation of the state arises from the analysis of part one of Article 131^2 of the Constitution in a systemic conjunction with Article 59, which is to guarantee participation of a lawyer in providing professional legal aid to a person in order to ensure effective access to justice at the expense of the state in cases provided for by law".

The Constitutional Court found that draft law No. 1013 is compliant with Articles 157 and 158 of the Constitution.

Separate opinions of judges: Horodovenko, Melnyk, Lytvynov, Slidenko, Pervomaiskyi.

Opinion No. 5-в/2019 of November 13, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 93 of the Constitution (people's right to propose legislation) (Reg. No. 1015) (hereinafter referred to as the draft law No. 1015) with the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur: Zavhorodnya.

Article 93 of the Constitution, proposed in the wording of the draft law No. 1015, granted the right of legislative initiative (the right to propose legislation) in the Verkhovna Rada of Ukraine to the people of Ukraine, the President, the Cabinet of Ministers and the members of Parliament. This right is exercised by them in the cases and following the procedure set by the Constitution and the laws of Ukraine. The amendments included consolidation of the provisions at the constitutional level according to which the laws are adopted in accordance with the requirements of the legislative procedure established by the Constitution and the laws of Ukraine. Part two of Article 93 of the Constitution as amended by draft law No. 1015 remains unchanged.

When analyzing these legislative changes, the Constitutional Court found that there was no legal basis for the recognition of draft law No. 1015 as such that does not meet the requirements of part one of Article 157 of the Constitution. At the same time, the Constitutional Court noted that introducing the proposed amendments to the fundamental law of Ukraine may, under certain conditions, restrict the rights and freedoms of the individual and the citizen.

As a caveat, the Constitutional Court stated that "the provisions proposed by the draft law" regarding "the right of legislative initiative in the Verkhovna Rada" that "belongs to the people" need to be specified because in the Constitution of Ukraine the term "people" is used in the meaning "the Ukrainian people – citizens of Ukraine of all nationalities".

According to part two of Article 5 of the Constitution, the people are the bearer of sovereignty and the sole source of power in Ukraine, so they cannot be categorized as an entity of legislative initiative without establishing in the Constitution a relevant number of citizens of Ukraine who have the right to vote. This draft law makes implementation of such initiative impossible.

The Constitutional Court also noted that:

- "The provisions proposed by paragraph 1 of the draft law, whereby the entities of such right exercise the right of legislative initiative" in the cases and following the procedure set by the Constitution and the laws of Ukraine", should be implemented only in such a way when the laws adopted for their implementation are in accordance with the provisions of the Constitution and do not introduce provisions that would restrict the right of legislative initiative of any of the entities of this right defined by the Constitution. …
  In view of the above, the Constitutional Court points out that narrowing (restricting) the exercise of the right of legislative initiative in the Verkhovna Rada by introducing the draft law, in particular, in case of the MPs may limit their rights in terms of freedom of expression and unimpeded exercise of their powers in the interests of all citizens Ukraine and, as a result, to the restriction of human and citizen's rights and freedoms";

- "the provision proposed by the draft law, whereby "the law is adopted in accordance with the requirements of the legislative procedure defined by the Constitution and the laws of Ukraine", cannot change the procedural requirements established by the Constitution for review, adoption or entry into force of regulatory acts (the constitutional procedure for considering draft laws")".

The Constitutional Court found that draft law No. 1015 is compliant with Articles 157 and 158 of the Constitution.

At the same time, the Constitutional Court stated that "in accordance with part two of Article 5 of the Constitution the people are the bearer of sovereignty and the sole source of power in Ukraine, and they cannot be categorized as an entity of legislative initiative without establishing in the Constitution a relevant number of citizens of Ukraine who have the right to vote; therefore the draft law makes it impossible to implement the proposed legislative initiative. In establishing the cases and the procedure for exercising the right of legislative initiative, the Verkhovna Rada may not restrict the right of legislative initiative of any of the entities of this right determined by the Constitution of Ukraine".

Separate opinions of judges: Melnyk, Pervomaiskyi, Lemak.

Opinion No. 6-в/2019 of November 20, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Articles 85 and 101 (with regard to the Commissioners of the Verkhovna Rada of Ukraine) (Reg. No. 1016) (hereinafter referred to as the draft law No. 1016) with the requirements of Articles 157 i 158 of the Constitution. Judge-Rapporteur: Kolisnyk.

Draft law No. 1016 proposed:

1. Part one of Article 85 of the Constitution should be supplemented with paragraph 171 as follows: "171) appointing and dismissing the Commissioners of the Verkhovna Rada of Ukraine following the Constitution and laws in certain spheres; hearing their annual reports on the state of compliance with the Constitution and laws in their respective spheres";

2. Article 101 of the Constitution shall be worded as follows:

"Article 101. The Parliamentary Commissioner for Human Rights shall exercise parliamentary control over the observance of the constitutional rights and freedoms of man and citizen.

For exercising parliamentary control over the observance of the Constitution of Ukraine and the laws in certain spheres, the Verkhovna Rada may appoint the Commissioners of the Verkhovna Rada, whose legal status is determined by separate laws."

Draft law No. 1016 proposed to enshrine new powers of the Parliament in the Constitution regarding appointment and dismissal of the Commissioners of the Verkhovna Rada" in accordance with the Constitution and laws in certain spheres", whose legal status will be determined by separate laws; hear their annual reports on the state of compliance with the Constitution and laws in their respective spheres.

The explanatory note to draft law No. 1016 stated that the purpose of the proposed changes was "to provide an effective mechanism for parliamentary scrutiny over

observance with the rights and freedoms of man and citizen in Ukraine." Instead, based on the analysis of the amendments to the Constitution proposed by the draft law No. 1016, the Court deduced that the Commissioners of the Verkhovna Rada are vested "with the duty of monitoring compliance with the Constitution and the laws in certain spheres". In other words, they are vested with a control function related to the monitoring compliance with of the Constitution and the laws in certain spheres.

The Constitutional Court drew attention to the fact that control over the observance of the constitutional rights and freedoms of man and citizen and control over the observance of the Constitution and the laws are not identical concepts.

The Constitutional Court also stated that "based on the instructions of the Constitution of Ukraine, in particular Articles 6, 8 and 85, any change in the powers of the Verkhovna Rada (extension, narrowing, clarification) should take place in a manner that would ensure clarity of the boundaries and the content of such mandate."

Amendments to Articles 85 and 101 of the Constitution proposed by draft law No. 1016 provide for the introduction of a new type of parliamentary control that may go beyond monitoring observance of the constitutional rights and freedoms of man and citizen and potentially pose a risk of undue interference by parliament through its Commissioners responsible for monitoring compliance with the laws in various spheres of public relations without maintaining the balance of private and public interests, in particular in the area of business operations, activities of civil society institutions, etc.. Therefore, it may lead to violations and restriction of the rights and freedoms of man and citizen. In addition, the Constitutional Court highlighted the fact that the amendments to Articles 85 and 101 of the Constitution proposed by draft law No. 1016 do not contain a clear definition of the specific direction of the exercise of a new type of parliamentary control, since their content does not clearly indicate what "certain spheres" of public life are meant. The proposed changes to the new type of parliamentary oversight may result in the interference of persons appointed to the positions of the Commissioners of the Verkhovna Rada "to monitor compliance with the Constitution and laws in certain spheres" in the activities of central and local government bodies.

The Constitutional Court warned against imposing such an oversight over the observance of the Constitution, which would be contrary to the Constitution and could create legal uncertainty, since it is incompatible with the principle of the rule of law – one of the fundamental guarantees of respect for the rights and freedoms of man and citizen. For the purposes of the latter, such uncertainty poses a threat of arbitrariness on the part of public authorities and their officials.

Draft law No. 1016 provides for the introduction of a new mechanism of parliamentary commissioners, namely: in parallel with the existing office of the Parliamentary Commissioner for Human Rights, it proposes to establish a mechanism of parliamentary commissioners "to monitor compliance with the Constitution of Ukraine and the laws in certain spheres."

Systemic analysis of the proposed amendments of the draft law No. 1016 indicate that the introduction of such mechanism of parliamentary control as parliamentary commissioners "to monitor compliance with the Constitution and the laws of Ukraine in certain spheres" may lead to narrowing of the scope and limitation of the powers of the Commissioner for Human Rights and to the restriction of constitutional right enshrined in part three of Article 55 of the Constitution, according to which "everyone shall have the right to apply to the Human Rights Commissioner for the protection of own rights."

Such an appeal to the Human Rights Commissioner may no longer make sense, especially with regard to issues that are currently within her competence, but might fall within the scope of activities of the Verkhovna Rada Commissioners who "monitor compliance with the Constitution and the laws of Ukraine in certain spheres" if such a mechanism is implemented.

Therefore, introduction of a new type of parliamentary control through the mechanism of parliamentary commissioners who "monitor compliance with the Constitution and the laws of Ukraine in certain spheres" can lead to narrowing of the scope of activities and limitation of the powers of the Ukrainian Parliament Commissioner for Human Rights, as well as to limiting the right of everyone to seek protection of their rights with the Human Rights Commissioner of the Verkhovna Rada in accordance with part three of Article 55 of the Constitution, which does not meet the requirements of part one of Article 157 of the Constitution.

The Constitutional Court found that draft law No. 1016 is compliant with requirements of part two of Article 157 and Article 158, and non-compliant with requirements of part one of Article 157 of the Constitution.

A separate opinion of judge Kasminin is added to the opinion.

Opinion No. 7-в/2019 of December 16, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 106 of the Constitution (giving the powers to the President to form independent regulatory bodies, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations) (Reg. No. 1014) (hereinafter referred to as the draft law No. 1014) with the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur: Slidenko.

Draft law No. 1014 proposed to amend Article 106 of the Constitution by supplementing part one with paragraphs 11^1 and 12^1 as follows:

"11^1) in accordance with the law, forms the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigation in accordance with the procedure established by the laws of Ukraine";

"12^1) forms independent regulatory bodies that perform state regulation, monitoring and control over the activities of economic entities in certain areas, appoints and dismisses their members in the manner prescribed by the laws of Ukraine".

While assessing compliance of draft law No. 1014 with the provisions of part one of Article 157 of the Constitution on the impossibility of abrogation or restriction of the rights and freedoms of man and citizen, the Court was guided by the idea that the society does not have a constitution in its essential meaning if the rights and freedoms of man and citizen are not guaranteed and the separation of powers is not present. The Constitution of Ukraine will only conform to its nature and functional purpose when the separation of powers and guarantees of rights and freedoms are adequately reflected in its text and properly implemented. According to part two of Article 3 of the Constitution, the assertion and protection of rights and freedoms of man and citizen are decisive for the exercise of government power, and therefore the Constitution of Ukraine must establish a system and organize separation of government power that will fully ensure their proper implementation.

The principles set out in Article 1, part two of Article 3, part four of Article 5, Articles 6 and 8 of the Constitution of Ukraine ensure the balance of constitutional powers of public authorities, and compliance of these powers with the defined principles of constitutional order and the form of government in Ukraine. In addition, the competition of mandates of these bodies is made impossible. Granting them non-core powers and concentration of government powers within one or more entities of government power are rendered impossible. Failure to comply with these requirements, including when introducing amendments to the fundamental law of Ukraine, will adversely affect the content and focus of the government's activities, and make it impossible for the state to fulfill its main duty, which is assertion and protection of human rights and freedoms.

Analysis of draft law No. 1014 gave reasons to conclude that it envisages extension of the powers of the Head of State. This will result in a redistribution of powers between the President and the Cabinet of Ministers. Therefore, it will cause imbalances in the existing constitutional system of checks and balances in terms of the mechanism of realization of government power in Ukraine and award the President with non-core functions and powers, which can lead to a gradual and disguised change in the balance of power.

So, draft law No. 1014 proposed to confer on the President of Ukraine the powers to create government bodies, appoint and dismiss members and heads of such bodies that belong to the Cabinet of Ministers according to the Constitution (except for the National Anti-Corruption Bureau, which current status is not provided for by the Constitution). Meanwhile, draft law No. 1014 does not provide for amendments to the Constitution regarding the regulation of the powers of the Cabinet of Ministers and the functioning of the system of bodies of executive power. Thus, in the case of the adoption of draft law No. 1014, the President will receive powers (with respect to the creation of independent regulatory bodies, appointment of the Director of the State Bureau of Investigations) similar to those which Article 116 of the Constitution attributes to the Cabinet of Ministers of Ukraine.

Based on a systematic analysis of the norms of the Constitution, in particular Articles 5, 83, 85, 87, 102, 103, 106, 107, 113, 114, and 115, the Constitutional Court found that Ukraine is a republic with a mixed form of government. This has to do with the specifics of formation of government by the parliament and the head of state, as well as its reporting to the President and the Verkhovna Rada. In the opinion of the Constitutional Court, in the event of adoption of draft law No. 1014, its provisions may violate the balance of constitutional powers between the President and the

Cabinet of Ministers effectively creating a parallel branch of executive power reporting to the President of Ukraine.

A teleological analysis of the norms of the Constitution has shown that the separation of powers is a basic tool and an indispensable condition for preventing the concentration of power and, therefore – an instrument against abuse helping with the adequate realization of human and citizen's rights and freedoms. Thus, the separation of powers is a guarantee of the rights and freedoms of man and citizen. Therefore, any violation of the principle of separation of powers that leads to its concentration, including the combination of non-core functions by certain state bodies, violates the guarantees of the rights and freedoms of man and citizen.

The Constitutional Court emphasized that indirect subordination of the National Anti-Corruption Bureau and the State Bureau of Investigation to the President in the form of appointment and dismissal of the leadership of these agencies would threaten their independence, lead to concentration of the executive power in the hands of the President, and President's competition with executive bodies, and ultimately to negating the guarantees of human and citizen's rights and freedoms.

Therefore, the amendments proposed by draft law No. 1014 envisaged unilateral (unbalanced) expansion of the President's competences by vesting him with non-core powers and contradicted the basic provisions of the Constitution which define the status and the powers of the Cabinet of Ministers. These amendments could lead to competition and duplication of competencies between the President and the government, as well as become preconditions for a conflict between them, since they allowed implementation of similar measures of government regulation (control) by both the President and the Cabinet of Ministers. It could also create risks of unjustified interference with the activities of executive bodies, violation of the constitutional principle of separation of government power and weakening of the constitutional guarantees of the rights and freedoms of man and citizen.

According to the Constitutional Court, the amendments proposed by draft law No. 1014 provided for a restriction of the constitutional powers of the executive authorities and their independence. Therefore, they did not conform to the basic provisions and principles of the Constitution, as they could create adverse impact on the observance of the constitutional rights and freedoms of man and citizen by restricting both their rights and their exercise that can only be protected by independent law enforcement bodies and constitutionally designated public authorities.

The opinion also notes that by granting the right to create additional bodies that can regulate the activities of economic entities to the President, draft law No. 1014 virtually constitutionalizes the powers of the President, which is not inherent to the model of the government mechanism provided by the Constitution. In turn, this may lead to competition between the competencies of the bodies and the officials of the executive branch in terms of forming a parallel executive branch subordinate to the President. This will be contrary to the principles of good governance and the form of public administration defined by the Constitution. In addition, uncontrolled introduction, creation and liquidation by the President of bodies with unspecified competences implementing regulatory policy in the sphere of realization of economic (entrepreneurial) rights of citizens, may effectively impact the work of economic entities (entrepreneurial activity), since competing competences of different bodies of government power will impede proper exercise of their rights and freedoms.

Having analyzed the provisions of draft law No. 1014 in a systematic relationship with other provisions of the Constitution, in particular with Section I "General Principles", The Constitutional Court found that the introduction of the above amendments to the Constitution would establish unclear limits to powers of the President, contrary to the constitutional principle of separation of government power and to the violation of the system of checks and balances between public authorities, which is a threat to the rights and freedoms of man and citizen.

Having analyzed the right of the President of Ukraine to form the National Anti-Corruption Bureau of Ukraine as proposed by the provisions of draft law No. 1014, the Constitutional Court stated that the said proposal was not consistent with the existence of this body. It was created in accordance with the Decree of the President of Ukraine "On Establishment of the National Anti-Corruption Bureau of Ukraine" No. 217/2015 dated April 16, 2015. The decree was issued to implement the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine". The Constitutional Court noted a possible inconsistency between the Constitution and the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine", the Decree of the President "On Establishment of the National Anti-corruption Bureau of Ukraine" No. 217/2015 dated April 16, 2015. In the Court's opinion, draft law No. 1014 is an attempt to resolve such inconsistencies.

The granting of the right to form the National Anti-Corruption Bureau of Ukraine to the President at the

constitutional level calls into question the continuation of functioning of the National Anti-Corruption Bureau, which was established in Ukraine in 2015. After all, the head of state will be able to implement such a constitutional right only in the absence of such a body as the National Anti-Corruption Bureau of Ukraine. Now, such an authority is present in Ukraine. It was established and functions in accordance with the legal bases describing its organization and operations as defined by the law. Analysis of the provisions of draft law No. 1014 gives grounds to believe that they allow repeated liquidation and formation of the same government authority (the National Anti-Corruption Bureau of Ukraine) or its liquidation without further establishment. Therefore, granting the right to "create the National Anti-Corruption Bureau of Ukraine" to the President in law-making and administration practice can be interpreted as granting him the right to liquidate this agency.

Introduction of the provision in the Constitution about formation of the National Anti-Corruption Bureau of Ukraine by the President will allow its liquidation without amending the Constitution of Ukraine. Therefore, this approach to the constitutionalization of the National Anti-Corruption Bureau of Ukraine will weaken the guarantees of its independence. In view of the guarantees of independence of the National Anti-Corruption Bureau and the State Bureau of Investigation, it is also necessary to consider the powers of the President to appoint and dismiss the directors of these bodies proposed by draft law No. 1014.

The draft law also proposed to supplement part one of Article 106 of the Constitution with paragraph 12^1, which allows the President to "establish independent regulatory bodies that exercise government regulation, monitoring and control over the activity of economic entities in particular sectors, appoint and dismiss their members in the manner determined by the laws of Ukraine." The Constitutional Court drew attention to the fact that the said provisions of draft law No. 1014 do not contain a clear definition of the subject area of operations of independent regulatory bodies, which the President will have the right to form, since their content does not clarify what these specific sectors are. This may lead to legal uncertainty in the exercise of the said power of the President, which is incompatible with the rule of law. In addition, the legal uncertainty of paragraph 12^1, which will supplement part one of Article 106 of the Constitution as proposed by draft law, leads to the establishment of unclear limits of powers of the President at the constitutional level. This will create the problem of separation of spheres of activity of different institutions of government power (in particular, the President and the Cabinet of Ministers) and disturb the system of checks and balances between branches and bodies of government power, which is a threat to the protection of human and citizen's rights and freedoms.

The Constitutional Court found that draft law No. 1014 is compliant with the requirements of part two of Article 157 and Article 158, and non-compliant with the requirements of part one of Article 157 of the Constitution.

Opinion No. 8-в/2019 of December 16, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Articles 76 and 77 of the Constitution (reducing the constitutional composition of the Verkhovna Rada and consolidating the proportional electoral system) (Reg. No. 1017) (hereinafter referred to as the draft law No. 1017) with the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur – Tupytskyi.

Draft law No. 1017 proposed to:

1. Article 76 shall be worded as follows:

"Article 76. The constitutional composition of the Verkhovna Rada of Ukraine consists of three hundreds of the People's Deputies of Ukraine who are elected for a five-year term.

A citizen of Ukraine who has attained the age of twenty-one on the day of elections, has the right to vote, has resided on the territory of Ukraine for the past five years, and has command of the state language, may be a People's Deputy of Ukraine.

A citizen who has a criminal record for committing an intentional crime shall not be elected to the Verkhovna Rada of Ukraine unless he record is not cancelled and erased by the procedure established by law.

The authority of People's Deputies of Ukraine is determined by the Constitution and the Laws of Ukraine.

The term of authority of the Verkhovna Rada of Ukraine is five years."

2. The Article 77 shall be worded as follows:

"Article 77. Regular elections to the Verkhovna Rada of Ukraine take place on the last Sunday of October of the fifth year of the term of authority of the Verkhovna Rada of Ukraine.

Special elections to the Verkhovna Rada of Ukraine are designated by the President of Ukraine and are held within sixty days from the day of the publication of the decision on the pre-term termination of authority of the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine shall be elected under the proportional election system. The procedure for conducting of the People's Deputies of Ukraine elections of shall be established by the law."

3. Supplement Section XV "Transitional Provisions" with paragraph 17 as follows:

"17. After the entry into force of the Law of Ukraine "On Amendments to Articles 76 and 77 of the Constitution of Ukraine (on reducing the constitutional composition of the Verkhovna Rada of Ukraine and on establishing the proportional election system)", the Verkhovna Rada of Ukraine, elected before the entry into force of this Law, shall continue to exercise its powers until the next elections of the People's Deputies of Ukraine"

Concerning the reduction of the constitutional composition of the Verkhovna Rada from four hundred and fifty to three hundred MPs proposed by the Draft Law No. 1017, the Constitutional Court stated that the reduction of the constitutional composition of the Verkhovna Rada does not affect the representative function of the legislature in Ukraine, nor does it interfere with the exercise of its constitutionally defined powers.

At the same time, the Constitutional Court stated that other provisions of the Constitution, including Articles 150, 151, define a certain number of MPs and provide for the right of MPs (at least forty-five, that is, one-tenth of the constitutional composition of the Verkhovna Rada) to appeal to the Constitutional Court with a constitutional submission and a constitutional application. In such a case, with the reduction in the constitutional composition of the Verkhovna Rada, there is no appropriate reduction in the number of MPs. This complicates the possibility of their appeal to the Constitutional Court, which may lead to the restriction of human and citizen's rights and freedoms. The provisions of draft law No. 1017 for reducing the constitutional composition of the Verkhovna Rada to three hundred MPs should be considered in conjunction with the provisions of the Constitution that determine a certain (specific) number of MPs. In making such changes, the proper proportionality and systemic nature of all provisions of the Constitution must be respected.

Regarding the amendments proposed by draft law No. 1017 in terms of amending part one of Article 76 of the Constitution, the Constitutional Court stated, with a reservation, that elimination of the phrase "on the basis of universal, equal and direct suffrage by secret ballot" from the provision of part one of Article 76 of the Constitution while keeping the same provision in other norms of the Constitution will create inconsistency between these provisions and may allow departing from the requirements provided for in part one of Article 71 of the Constitution and to consolidate any rules for elections of the members of Parliament in Ukraine.

Draft law No. 1017 proposed to expand the list of requirements to be met by the candidate MPs, set out in part two of Article 76 of the Constitution. The amended list is to include such requirements as permanent residence in Ukraine at least for the last five years and knowledge of the official language. The Constitutional Court stated that the changes proposed by the draft Law No. 1017 to the establishment of additional requirements for the representatives of the legislature in Ukraine do not envisage the abolition or restriction of human and citizen's rights and freedoms. At the same time, the Constitutional Court drew attention to the provision of part two of Article 76 proposed by the draft law No. 1017, whereby "a citizen of Ukraine can become a member of Parliament of Ukraine", instead of the provision stipulated in part two of Article 76 of the Constitution whereby "a citizen of Ukraine can be elected a member of Parliament of Ukraine". Such a wording makes it possible to conclude that the requirements proposed by draft law No. 1017, which must be met by the representatives of the legislature in Ukraine, apply to an already elected member of Parliament of Ukraine, instead of a citizen of Ukraine who is a candidate for membership in the Parliament.

The Constitutional Court stated with a reservation that the provision of part two of Article 76 of the Constitution proposed by draft law No. 1017 will cause legal uncertainty as to the number of persons who may become candidate members of Parliament of Ukraine, since it will not be possible to establish the possibility of participation in the elections to the Verkhovna Rada of citizens of Ukraine who, at the moment of registration as a candidate MP have not yet reached the age of twenty-one or lived in Ukraine for less than five years. However, by the time the election results are established, they may reach that age or have five years of residence in Ukraine. In view of the above, the provision of the Constitution proposed by the draft law No. 1017 may lead to a restriction of the constitutional right of individual

citizens of Ukraine to be elected to the Verkhovna Rada in comparison with part two of Article 76 of the Constitution.

Article 77 of the Constitution, as set out in the wording of paragraph 2 of Section I of draft law No. 1017, provides that "the members of the Verkhovna Rada shall be elected according to a proportional election system." The Constitutional Court stated that the proposed amendments to the consolidation of the proportional electoral system for electing the members of Parliament do not envisage the abolition or restriction of human and citizen's rights and freedoms, but, drawing on their previous legal positions, highlighted the fact that the right to vote regulates elections as the basic mechanisms of the democratic regime. The electoral system as a way of forming a representative body based on the results of voting in elections is an important component in ensuring that elections are held on a democratic basis. Determining the type of electoral system, its features and characteristics is a matter of political expediency and must be decided by Parliament in accordance with its constitutional authority, provided that the constitutional principles and democratic standards of organization and conduct of elections are respected. In view of this, there is no need (imperative) for consolidation of the types of electoral system in the Constitution of Ukraine.

Draft law No. 1017 also proposed to supplement Section XV "Transitional Provisions" of the Constitution with paragraph 17 as follows: "17. After the entry into force of the Law of Ukraine "On Amendments to Articles 76 and 77 of the Constitution of Ukraine (reduction of the constitutional composition of the Verkhovna Rada and consolidation of the proportional electoral system)", the members of the Verkhovna Rada elected before the entry into force of the said Law continue to exercise their powers until the next parliamentary elections.

The Constitutional Court noted that these amendments relate to the time periods for the exercise of powers by the Verkhovna Rada and do not envisage the abrogation or restriction of human and citizen's rights and freedoms. However, the Court made a reservation given that the Constitution established that the powers of the MPs commence on the moment of taking the oath of office (part four of Article 79) and terminate simultaneously with the termination of powers of the Verkhovna Rada (part one of Article 81); in accordance with part 90 of the Constitution, the powers of the Verkhovna Rada shall be terminated on the day of the opening of the first session of the new convocation of the Verkhovna Rada. Approval of paragraph 17 of Section XV "Transitional Provisions" of the Constitution proposed by the draft law No. 1017 will create a conflict between the provisions of that paragraph and the provisions of part one of Article 90 of the Constitution governing the termination of powers of the Verkhovna Rada. The application of paragraph 17 of Section XV "Transitional Provisions" can lead to a time gap between the moment (day) of termination of parliamentary powers and the moment (day) of their commencement by a newly elected parliament, and thus to the violation of the constitutional principle of continuity of legislative power.

The Constitutional Court found that draft law No. 1017 is compliant with Articles 157 and 158 of the Constitution.

Separate opinions of judges: Melnyk, Slidenko, Pervomaiskyi.

Opinion No. 9-в/2019 of December 24, 2019

The case in response to the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 81 of the Constitution (additional grounds for early termination of powers of the member of Parliament of Ukraine) (Reg. No. 1027) (hereinafter referred to as the draft law No. 1027) with the requirements of Articles 157 and 158 of the Constitution. Judge-Rapporteur: Holovatyi.

Draft law No. 1027 proposed the following wording of Article 81 of the Constitution:

"Article 81. The authority of People's Deputies of Ukraine terminates simultaneously with the termination of authority of the Verkhovna Rada of Ukraine.

The authority of a People's Deputy of Ukraine terminates prior to the expiration of the term in case of:

1) his or her resignation through a personal statement – from the moment of announcement of such statement by the People's Deputy of Ukraine at the plenary session of the Verkhovna Rada of Ukraine;
2) a guilty verdict against him or her entering into legal force;
3) a court declaring him or her incompetent or missing;
4) termination of his or her citizenship or his or her departure from Ukraine for permanent residence abroad;
5) establishment by court of the fact of proxy voting by a People's Deputy in the Verkhovna Rada of Ukraine, i. e. voting by one People's Deputy instead of another or giving another People's Deputy the opportunity to vote instead of a People's Deputy – from the moment of entry

into force of the court judgment establishing such a fact;
6) failure of the People's Deputy having been elected from a political party, to join the parliamentary faction representing this political party or his or her exit from such a faction;
7) absence of a People's Deputy without a valid reasons during one third of the plenary sessions of the Verkhovna Rada of Ukraine and / or meetings of the Committee of the Verkhovna Rada of Ukraine where he or she holds membership, during one regular session;
8) his or her failure, within twenty days from the date of the emergence of circumstances leading to the infringement of requirements concerning the incompatibility of the Deputy's mandate with other types of activity, to remove such circumstances;
9) his or her death.

The authority of a People's Deputy of Ukraine shall be also early terminated in case of early termination, under the Constitution of Ukraine, of authority of the Verkhovna Rada of Ukraine – with such termination of the Deputy's authority taking effect on the date when the Verkhovna Rada of Ukraine of a new convocation opens its first session.

The authority of the People's Deputy shall be terminated early by the Supreme Court judgment in case of breach of the incompatibility requirements of his/her mandate with other activities, in case of absence of a People's Deputy without valid reasons during one third of the plenary sessions of the Verkhovna Rada of Ukraine and / or meetings of the Committee of the Verkhovna Rada of Ukraine where he or she holds membership, during one regular session.

Where a guilty verdict against a People's Deputy of Ukraine becomes legally effective or where a court declares a People's Deputy of Ukraine legally incompetent or missing, his or her powers terminate on the date when the court decision becomes legally effective,

In case of termination of his/her citizenship or departure of the People's Deputy from Ukraine for permanent residence abroad his or her authority shall be terminated from the moment of adoption of the relevant decision by the Verkhovna Rada of Ukraine.

In case of the People's Deputy's death his or her authority shall be terminated on the date of his or her death, as certified by the relevant death certificate, without the relevant decision adopted by the Verkhovna Rada of Ukraine.

Where a People's Deputy of Ukraine, as having been elected from a political party, fails to join the parliamentary faction representing this political party or exits from such a faction, his or her authority shall be early terminated on the basis of a law upon the decision of the highest steering body of the respective political party from the date of adoption of such decision.

In case of recognition of people's deputy legally incapable, missing or deceased his/her powers shall be terminated from the date of entry into force of the relevant court judgment."

The Constitutional Court found that the wording of paragraphs 1-4, 8, 9 of part two, three, five, six, eight of Article 81 of the Constitution proposed by draft law No. 1027, does not provide for the abrogation or restriction of human and citizen's rights and freedoms.

The wording of paragraph 5 of part two, Article 81 of the Constitution proposed by draft law No. 1027 provides that the powers of the MPs shall be terminated ahead of time in the event of "5) Establishment by court of the fact of proxy voting by a people's deputy in the Verkhovna Rada of Ukraine, i. e. voting by one people's deputy instead of another or giving another people's deputy the opportunity to vote instead of a people's deputy – from the moment of entry into force of the court judgment establishing such a fact". The Constitutional Court stated that "such a change to the Constitution means new grounds for early termination of powers of the MPs (loss of mandate). The legal formula proposed in draft law No. 1027 contains several elements that constitute the grounds for the loss of the mandate of the member of Parliament of Ukraine:

1) "proxy voting by a people's deputy of Ukraine";
2) "establishment by court of the fact of proxy voting"; in this case, according to the text of the proposed legal formula, such an element as "proxy voting by a people's deputy of Ukraine" has two manifestations:
   first – "voting by one people's deputy instead of another", second – "giving another people's deputy the opportunity to vote instead of a people's deputy";
3) the time of early termination of the powers of the people's deputy of Ukraine – "the moment of entry into force of the court judgment establishing the fact of proxy voting by a people's deputy of Ukraine".

In addition, the Constitutional Court stated that the instruction of part three of Article 84 of the Constitution regarding personal voting at the sessions of the Verkhovna Rada is a legal

imperative, that is, an unconditional, categorical requirement for the MPs, since the representative of the people in parliament must exercise his powers personally. Failure to do so is a distortion of the substance of representative democracy. The actions of an MP which are contrary to such a demand should undoubtedly give rise to holding him liable as a person who violated the said imperative. Therefore, the attempt to establish the responsibility of the MPs for violation of the instruction of part three of Article 84 of the Constitution can be considered as having a legitimate purpose. At the same time, the formula proposed in draft law No. 1027 provides that the court should receive powers to establish the mere fact of whether a "non-personal vote" took place. *Automatic termination of the mandate (without a decision of the Verkhovna Rada) of an MP (early termination of powers of a member of Parliament) on the basis of establishing of the mere fact of "non-personal vote" by the Court, regardless of the nature of the action (actions) of an MP, or circumstances of such an event, without establishing the nature of the personal participation of an MP or taking into account mitigating circumstances that may arise in respect of such actions of an MP, will not meet the requirement of proportionality.* The Constitutional Court found that such an amendment did not meet the requirements of part one of Article 157 of the Constitution. The Court also decided that there was no need to investigate the procedure for early termination of the powers of the MPs in pursuance of the Supreme Court judgment in cases proposed by the draft law No. 1027 as amendments to the part four of Article 81 of the Constitution.

It was proposed to remove the words "electoral bloc of political parties" in the wording of paragraph 6 of part two, Article 81 of the Constitution according to draft law No. 1027. The Constitutional Court considers that the proposed amendment introduces a ban on establishment of election blocs of political parties at the constitutional level. Although according to the Constitution the "electoral bloc of political parties" is a separate entity. If the current Constitution provides for the possibility of forming electoral blocs of political parties and the presence of the "parliamentary faction of the electoral bloc of political parties" in the parliament following the elections to the Verkhovna Rada, then, by the same token, the citizens of Ukraine can exercise their right to "participate in public administration", "freely elect and be elected to public authorities" (part one of Article 38 of the Constitution). This can be done not only as a way of exercising active and passive suffrage by voting in parliamentary elections for a candidate MP belonging to a political party or acting as a candidate MP belonging to a political party. This equally means that the citizens of Ukraine are not deprived of the right to vote for a candidate belonging to the "electoral bloc of political parties" or the right to become candidate MP in the elections from the "election bloc of political parties".

The Constitutional Court found that in the event of the adoption of the amendments to the Constitution proposed by draft law No. 1027, the citizens of Ukraine will lose their rights, which are directly or indirectly guaranteed by Articles 38 and 81 of the Constitution. Therefore, the proposed amendment provides for the abrogation of the rights of a citizen of Ukraine and is not in conformity with Article 157 (1) of the Constitution.

The wording of Article 81 of the Constitution (paragraph 7 of part two) proposed by draft law No. 1027, provided that the powers of the MPs shall be terminated early in the case of "7) absence without valid reasons during one third of the plenary sessions of the Verkhovna Rada and / or meetings of the Verkhovna Rada Committee where he holds membership for one regular session". Such a change contained a new ground for early termination of powers of the MPs (loss of mandate). *The Constitutional Court found that the proposed requirement regarding "absence without valid reasons during one third of the plenary sessions of the Verkhovna Rada and / or meetings of the Verkhovna Rada Committee where he holds membership for one regular session" is not proportional to the pursued objective and the nature of the sanction must correspond to the gravity of the offense. In addition, the "without valid reasons" concept applied in the draft law has an evaluative aspect that does not meet the criteria of clarity, unambiguity and predictability, as required by the principle of legal certainty – a component of the rule of law.* This concept is deprived of legal certainty at the constitutional level, which makes it vulnerable to the possibility of discretionary use (and in some cases arbitrary) by a parliamentary majority to its advantage and to the detriment of the minority already at the level of ordinary laws. The principle of proportionality requires to use (depending on the circumstances) softer disciplinary sanctions as the means of securing parliamentary discipline, rather than the sanction proposed in draft law No. 1027 in the form of early termination of powers of the MPs. The Constitutional Court found that the proposed amendment did not meet the requirements of part one of Article 157 of the Constitution.

The Constitutional Court found that draft law No. 1027 is compliant with the requirements of part two of Article 157 and Article 158, and non-compliant with the requirements of part one of Article 157 of the Constitution.

The concurring opinion of judge Holovatyi is added to this opinion.

2.2. CASES IN RESPONSE TO MOTIONS BROUGHT IN 2019 AND PENDING BEFORE THE CONSTITUTIONAL COURT OF UKRAINE AS OF DECEMBER 31, 2019

CASES IN RESPONSE TO CONSTITUTIONAL SUBMISSIONS

In 2019, the Constitutional Court considered the following cases:

- the case in response the constitutional submission of 49 MPs on non-compliance of the Law of Ukraine "On Amendments to Article 12 of the Law of Ukraine "On the Freedom of Conscience and Religious Organizations" with regard to the names of religious organizations (associations) that belong to (are part of) a religious organization (association) which headquarters (administration) is located outside Ukraine in a country recognized by law as having carried out military aggression against Ukraine and / or temporarily occupying part of Ukraine's territory" No. 2662 – VIII of December 20, 2018 with the provisions of part two of Article 6, part one and two of Article 8, part two of Article 19, parts one, two, three of Article 35, parts one and five of Article 36, parts one and four of Article 37, parts two and three of Article 84, part three of Article 88, and Article 91 of the Constitution (unconstitutionality).

The authors of the submission claim that this law undermines religious freedom and inter-confessional peace in Ukraine, violates the constitutional rights and freedoms of citizens, in particular the right to freedom of opinion and religion, the right to freedom of association in an organization for the exercise and protection of their rights and freedoms and satisfaction of interests; the right to freely administer religious cults and rituals alone or collectively, and conduct religious activities. The claimants declared this a direct intervention of the state in religious affairs, which contradicts the provisions of parts one, two and three of Article 35, parts one and five of Article 36, parts one and four of Article 37 of the Constitution. They also believe that the said law does not comply with the provisions of part two of Article 6, part two of Article 8, part two of Article 19, part two and three of Article 84, and part three of Article 88 of the Constitution due to the violation of the constitutional procedure of its consideration and approval;

- the case in response the constitutional submission of 51 MPs on non-compliance of the provisions of the Law of Ukraine "On Judiciary and the Status of Judges" No. 1402 – VIII of June 2, 2016 with the Constitution (unconstitutionality). The provisions state that "While in office, a judge may not be a candidate for elected positions in public agencies (other than the judiciary) and local self-government bodies, as well as participate in campaigning" (second sentence of part four of Article 54); "A judge may not be awarded government awards, as well as any other awards, marks of distinction, diplomas before dismissal or termination of his/her powers. A judge may be awarded government awards only for showing personal courage and heroism in life-threatening conditions." (part nine of Article 56).

According to the MPs, the provisions of the second sentence of part four of Article 54 of the Law do not comply with Articles 8, 22, 24, 38, 64, and 127 of the Constitution, and the provisions of part nine of Article 56 of the Law contradict Articles 1, 8, 9, 21, 22, 23, 24, and 92. According to the claimants, the text of the second sentence of part four of Article 54 of the Law "represents an arbitrary and extended interpretation of the requirements of part two of Article 127 of the Constitution, which in fact deprived the judges of passive suffrage." In addition, the provisions of part nine of Article 56 of the Law introduce discrimination against judges with respect to other representatives of public authorities in Ukraine in terms of receipt of government awards and other awards, honors, and commendations;

- the case in response the constitutional submission of 47 MPs on non-compliance of the provisions of part 6 of Article 6 of the Law of Ukraine "On Remuneration" No. 108/95 – BP of March 24 (hereinafter referred to as the Law) with the Constitution (unconstitutionality). The law in question is considered in the wording of the Law of Ukraine "On Amendments to certain legislative acts of Ukraine" No. 1774 – VIII of December 6, 2016 (hereinafter referred to as Law No. 1774), and part six of Article 96 of the Labor Code of Ukraine (hereinafter referred to as the Code) as amended by Law No. 1774-VIII.

According to part six of Article 6 of the Law, as amended by Law No. 1774 "the minimum salary (tariff rate) shall be set at an amount not less than the subsistence level established for able-bodied persons as of January 1 of the calendar year." Part six of Article 96 of the Code as amended by Law No. 1774 also

stipulates that "the minimum official salary (tariff rate) shall be set at an amount not less than the subsistence level established for able-bodied persons as of January 1 of the calendar year".

The authors of the petition claim that the subsistence minimum cannot be used to set the amount of the minimum salary (wage scale). It is merely a social guarantee that the minimum wage will not be set below a level sufficient to "ensure enough foodstuffs for the proper functioning of the human body, maintaining good health, as well as a minimum number of non-food items and services required to satisfy basic social and cultural needs of the individual" (part one of Article 1 of the Law of Ukraine "On the Subsistence Minimum"). Also the constitutional submission noted that after the legislative change of the calculated value takes effect, all employees below tariff rank 13 (according to the Uniform scale for wage rates and remuneration coefficients for the employees of institutions, establishments and organizations of certain public sectors) will receive the minimum wage, which will be made possible solely by paying up to that level. However, such surcharges do not belong to the remuneration systems that are formed based on performance evaluation and qualifications of employees, which, according to the claimants, does not comply with Articles 8, 22, 43 of the Constitution.

The submission states that after the entry into force of Law No. 1774, part six of Article 6 of the Law as amended by Law No. 1774, part six of Article 96 of the Code as amended by Law No. 1774 used a cash value smaller than that used to calculate the paygrade scheme before the introduction of amendments to part six of Article 6 of the Law, and part six of Article 96 of the Code, which resulted in a reduction in employees' income. This view is justified by the fact that the constitutional right to work makes it possible to earn a living by one's own work, rather than living at the expense of surcharges paid to match the level of the minimum wage. This simply does not allow ensuring a decent life for the workers and their families. Therefore, the right of individuals to an adequate standard of living for themselves and their families, including proper nutrition, clothing, shelter, as guaranteed by Article 48 of the Constitution is violated;

- the case in response the constitutional submission of 51 MPs on non-compliance of part two of Article 6, part two of Article 8, parts two and three of Article 10, Article 11, part two of Article 19, part three of Article 22, parts one and two of Article 24, parts two and three of Article 84, part three of Article 88, part one of Article 93 of the Constitution (unconstitutionality) of the Law of Ukraine "On Support to the functioning of the Ukrainian as the official language" No. 2704 – VIII of April 25, 2019 (hereinafter referred to as Law No. 2704).

According to the MPs, "the provisions introduced by this Law aim at discrimination against the Russian and other languages of national minorities of Ukraine and discrimination of citizens based on language. Additionally this Law violates the constitutional rights of citizens, namely the right to use and protect their mother tongue, the right to develop the linguistic identity of all indigenous peoples and national minorities of Ukraine; they also envisage narrowing the content and the scope of existing rights and freedoms";

"The contested Law No. 2704 was passed in violation of the constitutional procedure for reviewing and adopting laws" which "jeopardizes the application of such an essential element of the rule of law as the principle of legal certainty".

- the case in response the constitutional submission of 45 MPs on non-compliance of the following provisions with Articles 1, 6, 8, 19, 85, 92, 106, 116 of the Constitution (unconstitutionality): part one, paragraph 1 of part three of Article 11, part two (in response to the constitutional submission – paragraphs 1, 3 of part two) of Article 23 of the Law of Ukraine "On the State Bureau of Investigation" No. 794 – VIII of November 12, 2015. The alleged non-compliance includes granting the powers to the President of Ukraine to appoint the Director of the State Bureau of Investigations (hereinafter referred to as the Bureau), appoint three members of the Selection Panel responsible for filling the positions of the Director of the Bureau, First Deputy and Deputy Director and receive reports from the Director of the Bureau about the work of the Bureau and its departments aimed at fulfillment of the assigned tasks. This includes submission of the annual written report about the activities of the Bureau for the previous year to the President of Ukraine.

According to the MPs, Article 106 of the Constitution, which contains an exhaustive list of powers of the President, does not provide for presidential appointment of heads of central executive bodies (including the director of the Bureau), members of the selection panels responsible for the selection of heads of any central executive bodies, and also President's oversight over the work of such executive bodies and directing and coordinating of their activities ;

- the case in response the constitutional submission of 51 MPs on non-compliance of the following provisions with the Constitution (unconstitutionality): provisions of Section I, line two of subparagraph 1, paragraph 2 of Section II

of the Law of Ukraine "On Recognition of the law of Ukraine "On the List of government property that is not subject to privatization" expired" No. 145 – IX of October 2, 2019. The Verkhovna Rada has declared the Law of Ukraine "On the List of government property that is not subject to privatization" expired and ordered to delete line 19 in paragraph two, Article 4 of the Law of Ukraine "On Privatization of State and Communal Property".

The MPs consider that the provisions of Section I of the Law do not comply with Article 1, part two of Article 6, parts one and two of Article 8, part four of Article 13, Article 16, part one of Article 17, part two of Article 19, paragraphs 33, 36 of part one of Article 85 of the Constitution, and the provisions of the line two of subparagraph 1, paragraph 2 of Section II of the Law contravene part four of Article 13, and part one of Article 17 of the Constitution;

- the case in response the constitutional submission of the Human Rights Commissioner of the Verkhovna Rada of Ukraine on non-compliance of the following provisions with Article 1, part two of Article 3, parts one and two of Article 8, part two of Article 19, parts two and three of Article 22, Article 40, parts one and two of Article 46 and Article 64 of the Constitution (unconstitutionality): Article 90, subparagraph 1, paragraph 2 of Section XI "The Final and Transitional Provisions" of the Law of Ukraine "On Civil Service" No. 889 – VIII of 10 December, 2015 (hereinafter referred to as Law No. 889), part seven of Article 21 of the Law of Ukraine "On Service in Local Self-Government Bodies" No. 2493 – III of 7 June 2001 (hereinafter referred to as Law No. 2493).

Pursuant to the disputed provisions of Law No. 889, civil servants' pensions are paid in accordance with the Law of Ukraine "On Compulsory State Pension Insurance" (Article 90); declared invalid by the Law of Ukraine "On Civil Service" No. 3723 – XII of December 16, 1993 as amended, except for Article 37, which applies to the persons mentioned in paragraphs 10 and 12 of Section XI "The Final and Transitional Provisions" of Law No. 889 (subparagraph 1, paragraph 2 of Section XI "The Final and Transitional Provisions"). According to part seven of Article 21 of Law No. 2493, payment of pensions to local government officials is made in accordance with the Law "On Compulsory State Pension Insurance".

The petitioner alleges that the disputed provisions of Law No. 889 and Law No. 2493 changed the conditions of payment of pensions to civil servants and local government officials, and the rights to recalculation (prorating) of pensions, assigned under the Law of Ukraine "On Civil Service" No. 3723 – XII of December 16, 1993 as amended, have not been secured. Therefore, they do not comply with the specific provisions of the Constitution;

- the case in response the constitutional submission of the Human Rights Commissioner of the Verkhovna Rada of Ukraine on non-compliance of the following provisions with parts one and two of Article 8, parts two and three of Article 22, parts one and four of Article 41, part one of Article 42, part one of Article 64 of the Constitution (unconstitutionality): provisions of paragraph 2 of part one of Article 7 of the Law of Ukraine "On Collection and accounting of the single contribution to the Compulsory State Social Insurance" No. 2464 – VI of 8 July 2010 as amended (hereinafter referred to as the Law).

Article 7 of the Law sets the basis for calculating a single contribution to compulsory state social insurance (hereinafter referred to as a single contribution). The disputed provisions of the Law stipulate that a single contribution is accrued "to the payers mentioned in paragraphs 4 (except for natural persons-entrepreneurs who have chosen the simplified taxation system), 5 and 51 of part one of Article 4 of this Law. The accrual is applied to the amount of income (profit) received from their activity, which is subject to personal income tax. In this case, the amount of the single contribution may not be less than the minimum insurance premium per month.

If such a payer did not receive income (profit) in the reporting quarter or during a given month of the reporting quarter, she is obliged to determine the accrual base herself. It should not exceed the maximum amount of the single contribution accrual base established by this Law. However, the amount of the single contribution may not be less than the minimum insurance premium."

In the opinion of the author of the submission, the provisions of paragraph 2 of part one of Article 7 of the Law concerning the obligation to determine the basis of accrual of a single contribution by a payer who did not receive income (profit) in the reporting period "constitute interference with the right to own property and the right to engage in business activities";

- the case in response the constitutional submission of the Supreme Court on non-compliance of the following provisions with the Constitution (unconstitutionality): part one of Article 37, part one of Article 94, paragraph 3 of part three of Article 135 of the Law of Ukraine "On Judiciary and Status of

Judges" No. 1402 – VIII of June 2, 2016 as amended (hereinafter referred to as Law No. 1402), paras. 4, 5, 6, 7, 9, 10, Section II "The Final and Transitional Provisions" of the Law "On Amendments to the Law of Ukraine "On Judiciary and the Status of Judges" and certain laws of Ukraine concerning the work of judicial administration" No. 193 – IX of October 16, 2019 (hereinafter referred to as Law No. 193), parts two, three and four of Article 24, Article 28[1], part eight of Article 31, part one of Article 42, part three of Article 47, part four of Article 48 of the Law of Ukraine "On the High Council of Justice" No. 1798 – VIII of December 21, 2016 as amended (hereinafter referred to as Law No. 1798).

The petitioner considers that the disputed provisions of Law No. 1402, Law No. 193 and Law No. 1798 do not comply with part one of Article 6, part one of Article 8, parts one and two of Article 55, parts one, five, six and seven of Article 126, parts one and two of Article 131 of the Constitution.

- the case in response the constitutional submission of 55 MPs on non-compliance of the following provisions with the Constitution (unconstitutionality): the provisions of Article 375 of the Criminal Code of Ukraine (hereinafter referred to as the Code), according to which:

"1. Issuing of a knowingly unjust sentence, decision, ruling or resolution by a judge shall be punishable by restriction of liberty for up to five years or imprisonment for a term of two to five years.

2. The same acts that caused serious consequences or were committed upon lucrative impulse, other personal interests or in order to interfere with the lawful professional work of a journalist – shall be punishable by imprisonment for a term of five to eight years".

The MPs state that the concept of "knowingly unjust" is evaluative, since no regulation has a definition of knowingly unjust sentence, judgment, decision or ruling. In their view, the provisions of Article 375 of the Code do not provide for the predictability of the application of this rule, since judges, when adopting court judgments, cannot predict whether in the future the pre-trial investigation authorities will consider such judgments as knowingly unjust. The MPs believe that the persons at law should anticipate their legitimate behavior and rely on the stability of legal regulation. In view of the above, the disputed provisions of the Code are contrary to the principle of legal certainty and legitimate expectations, which are the elements of the rule of law, and as such they violate the requirements of the Constitution. In addition, the entity enjoying the right to a constitutional submission states that the disputed provisions of the Code have become an instrument of influencing the independence and integrity of judges, which is contrary to paragraph two of Article 126 of the Constitution;

- the case in response the constitutional submission of 51 MPs concerning the official interpretation of the provisions of Article 7, part seven of Article 20, paragraphs 12, 15, 16 of part one of Article 92, part one of Article 118, parts one – four of Article 140, parts two and four of Article 141 of the Constitution in the context of the following issues:
  - powers of Kyiv City Council to form sections, departments and other executive bodies outside the structure of Kyiv City State Administration;
  - powers of the President of Ukraine to dismiss a person from the post of the Head of Kyiv City State Administration who also was elected Mayor of Kyiv, provided that the powers of the person elected Mayor of Kyiv were not terminated in accordance with the procedure established by law;
  - powers of the President of Ukraine to appointed a person who was not elected Mayor of Kyiv as the Head of Kyiv City State Administration, provided that the powers of the person elected Mayor of Kyiv were not terminated in accordance with the procedure established by law.

The need for an official interpretation of the aforementioned constitutional provisions is justified by the "inability to resolve the issues raised in the constitutional submission by existing ways of eliminating legal conflicts, as well as existence of different legal points of view towards their solution";

- the case in response the constitutional submission of 46 MPs concerning the official interpretation of the provisions of the first sentence of part one of Article 13 of the Constitution, according to which land, subsoil, air, water and other natural resources located in the territory of Ukraine, natural resources of its continental shelf, exclusive (marine) economic zone belong to the Ukrainian people; and interpretation of part one of Article 14 of the Constitution, according to which land is the main national wealth, which remains under special protection of the state (from the standpoint of comprehensive links with other provisions of the Constitution):
  - preamble, which states that The Verkhovna Rada of Ukraine, on behalf of the Ukrainian people – citizens of Ukraine of all nationalities, expressing

the sovereign will of the people, based on the centuries-old history of Ukrainian state-building and on the right to self-determination realized by the Ukrainian nation, all the Ukrainian people, providing for the guarantee of human rights and freedoms and of the worthy conditions of human life, caring for the strengthening of civil harmony on Ukrainian soil, striving to develop and strengthen a democratic, social, law-based state, aware of our responsibility before God, our own conscience, past, present and future generations, guided by the Act of Declaration of the Independence of Ukraine of 24 August 1991, approved by the national vote of 1 December 1991, adopts this Constitution – the Fundamental Law of Ukraine;

- Article, whereby Ukraine is a sovereign and independent, democratic, social, law-based state;
- part two of Article 3, whereby human rights and freedoms and their guarantees determine the essence and orientation of the activity of the State. The State is answerable to the individual for its activity. To affirm and ensure human rights and freedoms is the main duty of the State;
- part two of Article 5, whereby the people are the bearers of sovereignty and the only source of power in Ukraine. The people exercise power directly and through bodies of state power and bodies of local self-government;
- part four of Article 13, whereby the State ensures the protection of the rights of all subjects of the right of property and economic management, and the social orientation of the economy. All subjects of the right of property are equal before the law.

According to the petitioners, lack of an official interpretation of the concept of land as an object of property of the Ukrainian people, the main national wealth in the context of the first sentence of Article 13 of the Constitution may further call into question compliance of any of the adopted laws with the Fundamental Law of Ukraine, as well as lead to disruption of civil harmony in Ukraine. The MPs claim that the right of the Ukrainian people to own land and land ownership rights of citizens, legal entities, territorial communities, and the state are not identical;

- the case in response the constitutional submission of 53 MPs on compliance of the Law of Ukraine "On the Special Procedure of local self-governance in certain districts of Donetsk and Luhansk oblasts" No. 1680 – VII of September 16, 2014 as amended (hereinafter referred to as Law No. 1680), the Law of Ukraine "On Creating the necessary conditions for the peaceful settlement of the situation in certain districts of Donetsk and Luhansk oblasts" No. 2167 – VIII of October 6, 2017 (hereinafter referred to as Law No. 2167), the draft Law of Ukraine on prevention of persecution and sentencing of persons participating in events in Donetsk and Luhansk oblasts (Reg. No. 5082) (according to the constitutional petition it's the Law of Ukraine "On Prevention of Persecution and sentencing of persons participating in events in Donetsk and Luhansk oblasts" of September 16, 2014) (hereinafter referred to as the draft law) with Articles 1, 2, part two of Article 5, Articles 6, 7, parts one and two of Article 8, parts one and two of Article 10, Article 11, part six of Article 17, part two of Article 19, parts one and two of Article 24, part two of Article 61, Article 71, part three of Article 84, paragraph 30 of part one of Article 85, Articles 91, 124, 128, 131^{1}, 132, 133, parts one and two Article 140, parts three and four of Article 143 of the Constitution (constitutionality).

According to the petitioners, Law No. 1680, in particular, does not comply with the following principles: "sovereignty and independence", "unitarity", "the rule of law", "democracy", "local self-governance"; it provides for the creation of detachments of the people's militia, vested with the task of protecting public order (Article 9), which, according to the petitioners, violates part six of Article 17 of the Constitution prohibiting creation and operation of any armed groups outside any legal regulation; The Verkhovna Rada adopted Law No. 1680 in violation of the constitutional procedure for the adoption of laws established in part three of Article 84 and Article 91 of the Constitution.

The MPs claim that the draft law should also be checked for compliance with the Constitution of Ukraine, because, in their opinion, it expands the content of Article 3 of Law No. 1680 "adopted under external pressure of the Russian Federation, so all the grounds of unconstitutionality of the provisions of Law No. 1680 (provided in the constitutional submission) apply thereto by analogy".

CASES IN RESPONSE THE CONSTITUTIONAL COMPLAINTS

In 2019, the Constitutional Court considered the following cases:

- the case in response the constitutional complaint of Vladyslav Pavlyk regarding conformity with the Constitution (constitutionality) of provisions of part ten of Article 294 of the Code of Ukraine on Administrative Offenses.

The entity enjoying the right of constitutional complaint claims that the application of the disputed provisions of the Code in the final court judgment in his case (the judgment of Sumy Oblast Court of Appeal of August 13, 2018) contradicts the rule of law, and violates "the right to judicial protection and cassation appeal.";

- the case in response the constitutional complaint of Polina Margo regarding conformity with the Constitution (constitutionality) of provisions of paragraph 1 of part five, part seven of Article 454 of the Civil Procedure Code of Ukraine.

According to the complainant, the above provisions of the Code "in fact exclude a whole category of binding decisions from judicial control; make it impossible to review them in order to correct a clear judicial error or the consequences of abuse of rights", and violate "her right of access to court, namely the right to appeal the judgment";

- the case in response the constitutional complaint of Serhiy Zavhorodniy on constitutional compliance of parts three and four of Article 130 of the Labor Code of Ukraine, subparagraph 3, paragraph 1, Section I of the Law of Ukraine "On Amendments to certain legislative acts of Ukraine on protection of investors' rights".

The petitioner claims that the application of the legislation on protection of investors' rights to the officials of state and municipal organizations contradicts the principle of legal certainty as an integral element of the rule of law enshrined in part one of Article 8 of the Constitution. The entity enjoying the right to a constitutional complaint considers that part four of Article 130 of the Code, subparagraph 3, paragraph 1 of Section I of the Law contradict part one of Article 8, parts one and two of Article 19, and part one of Article 129 of the Constitution;

- the case in response the constitutional complaint of Petro Abramov regarding conformity with the Constitution (constitutionality) of provisions of line one paragraph 22, paragraph 23 of Section **XII** "The Final and Transitional Provisions" of the Law "On the Judiciary and the Status of Judges".

The author claims that the challenged provisions of the Law violate the unity of the status of judges, put them in an unequal position, and discriminate based on the results of the qualification evaluation, which violates the independence of judges guaranteed by the Constitution and the equality of their rights to receive appropriate judicial remuneration. He considers that these provisions of the Law do not meet the requirements of parts one and two of Article 8, parts one and two of Article 24, parts one, five and six of Article 126 of the Constitution;

- the case in response the constitutional complaint of Petro Latiuk regarding conformity with the Constitution (constitutionality) of provisions of Article 22 of the Civil Code of Ukraine.

The entity enjoying the right to a constitutional complaint claims that the disputed provisions of the Code do not define the concept of "damage" and "are drafted in such a way that it is not clear how the concepts of "losses" and "damage" are similar or different". This, according to Latiuk, allows courts to use different interpretations of the provisions of Article 22 of the Code in resolving disputes dealing with damages caused by the laws declared unconstitutional. Hence, they "restrict the right of individuals and legal entities to compensation of damage envisaged by part three of Article 152 of the Constitution";

- the case in response the constitutional complaint of Andriy Dermenzhy regarding conformity with the Constitution (constitutionality) of provisions of parts one and two of Article 23 of the Law "On Mortgage".

The complainant alleges that his constitutional right to own property has been violated as a result of the application of the disputed provisions of the Law by the courts of Ukraine;

- the case in response the constitutional complaint of Volodymyr Kostin regarding conformity with the Constitution (constitutionality) of provisions of of part one of Article 82 of the Criminal Code of Ukraine.

According to Kostin, pursuant to Article 28 of the Constitution, he has the right to "reduction of… life imprisonment and a

realistic prospect of release… on the basis of direct effect of the Constitution and the rules of the Convention, regardless of the mechanism of its implementation in Ukrainian law", and the fact that he was sentenced to life imprisonment in "a state where there is no realistic prospect of release from it contradicts Article 28 of the Constitution";

- the case in response the constitutional complaint of the ""Eco-Coal of Ukraine" Trading House" Limited Liability Company regarding conformity with the Constitution (constitutionality) of provisions of part one of Article 79 of the Law of Ukraine "On Banks and Banking" No. 2121 – III of December 7, 2000 (hereinafter referred to as Law No. 2121), subparagraph 1, paragraph 1 of Section VII "Transitional Provisions" of the Code of Administrative Procedure of Ukraine (hereinafter referred to as the Code), parts one and two of Article 241, part one of Article 242, paragraph 2 of part two of Article 243 of the Code of Administrative Procedure of Ukraine before the amendments introduced by the Law of Ukraine "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts" No. 2147 – VIII of October 3, 2017 (hereinafter referred to as Law No. 2147).

According to the petitioner, it follows from the content of the provisions of part one of Article 2, parts one and eighteen of Article 34, part two of Article 72 of Law No. 2121 that the person subject to the supervisory activities of the National Bank of Ukraine who enjoys the right to appeal the decisions, actions or omissions of the National Bank or its officials (part one of Article 79) in court, in the manner prescribed by law, shall mean a legal or natural person, which directly and / or indirectly, independently or jointly with other persons owns at least 10% of the authorized capital of the bank or the voting right of shares (share of stocks) in the authorized capital of the bank and / or regardless of the formal ownership of makes significant impact on management or activities of the bank, in particular where such influence is recognized by the National Bank of Ukraine (NBU).

The Company believes that "part one of Article 79 of Law No. 2121 granting the right to appeal the NBU's decisions in court (with the exception of the bank) only to persons holding at least 10% of the shares in the authorized / share capital of the bank, contradicts the principle of legal equality and violates the constitutional prohibition of discrimination on the grounds of property status. These rules are established by part one of Article 21, parts one and two of Article 24 of the Constitution". The Company claims that "the provisions of part one of Article 79 of Law No. 2121, which deprive the shareholders who have less than 10% of the bank's ownership structure (in particular, the Company, as the owner of 9.9982% of the Bank's shares) of the ability to appeal the NBU's decision in court, aiming to protect their property rights and legitimate interests, contradict the provisions of part three of Article 8, parts one and four of Article 41, parts one and two of Article 55 of the Constitution and in fact restrict such shareholders in the right of access to justice".

In addition, according to the complainant, the disputed provisions of subparagraph 1, paragraph 1 of Section VII of "Transitional Provisions" of the Code, parts one and two of Article 241, part one of Article 242, paragraph 2 of part two of Article 243 of the Code as amended by the Law No. 2147, which provide for the possibility of reviewing the decision of the court of cassation upon the application of one of the parties to the case (which gives legitimate expectations for the restoration of property rights), i. e. ordinary repeated cassation on the grounds of unequal application of substantive law by the court of cassation, do not meet the requirements of parts one and four two of Article 41, parts one and two of Article 55 of the Constitution regarding the principle of legal certainty and the relevant case law of the Constitutional Court, and therefore part one of Article 151^2 of the Constitution;

- the case in response the constitutional complaint of Oleksandr Davymok regarding conformity with the Constitution (constitutionality) of provisions of paragraph 4 of part one of Article 97 of the Law "On the National Police".

The complaint alleges that, in applying the above provisions of the Law in the applicant's case, the courts violated the constitutional guarantees of social protection, as the payment of a lump sum in the event of a police officer's disability due to service related illness or injury cannot be associated with such a condition as the grounds for dismissal. The disputed provisions of the Law are discriminatory due to the fact that "the said benefit is paid only to a police officer who has been dismissed due to illness". The complainant asks to verify compliance of the provisions of paragraph 4 of part one of Article 97 of the Law with Article 21, parts one and two of Article 24, part one of Article 46, and part one of Article 64 of the Constitution;

- the case in response the constitutional complaint of Ihor Samsin on constitutional compliance of provisions of the second sentence of part one of Article 54 of the Law of Ukraine "On the Judiciary and the Status of Judges".

According to Samsin, the disputed provision of the Law contradicts the requirements of Article 8 (regarding the principle of legal certainty as a component of the rule of law), Article 58 (regarding inadmissibility of retroactive effect of the law and prosecution for acts that were not categorized by law as an offense at the time of their commission) of the Constitution, as well as paragraph 2, part six of Article 126 of the Fundamental Law of Ukraine regarding the content of the concept of "violation of incompatibility requirements by a judge."

According to the author of the petition, the violations mentioned in part three of Article 1 and part seven of Article 3 of the Law "On Purging of Government", which may arise as a result of prohibitions and accordingly be included in the concept of judge's incompatibility in the sense of the second sentence of Article 54 of the Law "On the Judiciary and the Status of Judges" do not correspond to the constitutional content of this concept, disclosed in part two of Article 42, part two of Article 127 of the Fundamental Law of Ukraine.

The complainant also emphasizes that inclusion of the prohibition in the concept of incompatibility as grounds for dismissing a judge, which was applied to him on the grounds provided for in part three of Article 1, part three of Article 4 (submission or failure to submit a particular application) and / or parts one, two, four of Article 3 of the Law of Ukraine "On Purging of Government" (holding certain positions)" is a violation of the presumption of innocence. This testifies to the parliament's appropriation of the function of administering justice and does not comply with the constitutional principle of individualization of legal responsibility, the principle of proportionality as a component of the rule of law and contradicts Article 8, part two of Article 61, part one of Article 62, parts one and two of Article 124 of the Constitution. Samsin believes that his constitutional rights to non-interference in private and family life, administration of public affairs and employment, which are guaranteed by Articles 32, 38, and 43 of the Constitution have been violated as a result of the court's application of the disputed provision of the Law;

- the case in response the constitutional complaint of Mykola Boiko regarding conformity with the Constitution (constitutionality) of provisions of paragraph 4 of part one of Article 97 of the Law "On the National Police".

According to the claimant, the disputed provisions of the Law "make the constitutional right to social protection conditional on dismissal". Thus contrary to the constitutional guarantees of social protection for all police officers who are eligible to one-time benefit in case of disability, the state deprived the police officers of this right at the legislative level in cases when they are dismissed on other grounds";

- the case in response the constitutional complaint of Mykola Oleksiyenko on constitutional compliance of a separate provision of the first sentence of part four of Article 63 of the Law "On Pensions for persons discharged from military service and some other persons".

Oleksienko noted that as a result of the application of the disputed provision of the Law in the final court judgement in his case, the right of the petitioner to receive a duly recalculated pension was significantly restricted and the rights guaranteed by the Constitution were violated, including the right to social protection, to an adequate standard of living for himself and his family, and the right to own, use and dispose of his property;

- the case in response the constitutional complaint of Olha Pylypchak regarding conformity with the Constitution (constitutionality) of provisions of paragraph 3 of part one of Article 97 Of the Law "On the National Police".

The claimant believes that the right to social protection provided for in paragraph 3 of part one of Article 97 of the Law, namely the receipt of one-off benefit in the event of a police officer's disability, is made "dependable on the grounds for dismissal"; The applicant alleges that "contrary to the constitutional guarantees of social protection for all police officers entitled to a lump-sum benefit in the event of disability, the state has deprived the police of this right at the legislative level when they retire voluntarily";

- the case in response the constitutional complaint of Viacheslav Pleskach on constitutional compliance of provisions of the second sentence of part four of Article 42 of the Law of Ukraine "On the Constitutional Court of Ukraine".

The petitioner considers that restriction established by the disputed provisions of the Law "On the Constitutional Court of Ukraine" is "unalterable, inflexible and categorical" and contrary to the principle of the rule of law. It also creates disproportionate interference with his right to information "as part of the right to freedom of thought, speech and expression".

According to Pleskach, "the monopoly of the Constitutional Court over the texts of constitutional complaints where no judgment has been made, means censorship in the field of constitutional justice";

- the case in response the constitutional complaint of Voodymyr Kriuk regarding conformity with the Constitution (constitutionality) of provisions of paragraph 4 of part one of Article 97 Of the Law "On the National Police".

The entity enjoying the right to a constitutional complaint claims that the disputed provision of the Law is discriminatory, as police officers who have been diagnosed with a disability due to a service related illness are deprived of the right to receive a lump-sum cash benefit after six months from their dismissal as prescribed by part one of Article 97 of the Law;

- the case in response the constitutional complaint of Oleksandr Melnychenko on constitutional compliance of instructions of part one of Article 82 of the Criminal Code of Ukraine.

The applicant alleged that the appellate court had violated his "right to foreseeable release from life imprisonment by applying the national law contrary to the provisions of the Constitution of Ukraine and international law that take precedence". The applicant considers that "pursuant to Article 28 of the Constitution… he has the right to revision of his life sentence, as well as the right to know when such review can be carried out and on what criteria";

- the case in response the constitutional complaint of Yevhen Shcherbak regarding conformity with the Constitution (constitutionality) of provisions of part two of Article 109 of the Housing Code of the Ukrainian SSR.

The complainant believes that as a result of the application of the disputed provisions of the Code he was deprived of the right to freely own and use the apartment purchased by him in accordance with Article 38 of the Law of Ukraine "On Mortgage", as this housing continues to be used by its previous owner who cannot be evicted without receipt of other permanent housing according to the final court judgement.

The petitioner claims that, the disputed provisions of the Code applied in the final court judgment in his case contradict the principle of legal certainty as a component of the rule of law guaranteed in Article 8 of the Constitution; contradict the provisions of part four of Article 13, Article 21, parts two and three of Article 22, part one of Article 24 of the Constitution; contradict the provisions of part one of Article 30, parts one and four of Article 41, part one of Article 47, and Article 48 of the Constitution;

- the case in response the constitutional complaint of Oleh Tkachenko regarding conformity with the Constitution (constitutionality) of provisions of paragraph 3 of part one of Article 97, subparagraph "b", paragraph 3 of part one of Article 99 of the Law "On the National Police".

The entity enjoying the right to a constitutional complaint claims that, the constitutional guarantees of social protection have been violated as a result of application of the provisions of the Law by the courts in his case, since the payment of one-time cash benefit in case of disability resulting from an injury (contusion, injury or mutilation) received during performance of official duties and core functions of militia (or the police) may not be linked to such a condition as the grounds for dismissal.

The petitioner notes that the disputed provisions of the Law, compared to the provisions of the Law "On Militia", according to which "the grounds for dismissal (voluntarily or due to illness) were irrelevant to the exercise of the constitutional right to social protection in the context of one-time financial aid" do not comply with the provisions of Article 22 of the Constitution, as they narrow the content and scope of existing rights and freedoms;

- the case in response the constitutional complaint of Vitaliy Tokarenko regarding conformity with the Constitution (constitutionality) of provisions of paragraph 4 of part one of Article 97 of the Law "On the National Police".

The petitioner believes that the disputed provisions of the Law "make the constitutional right to social protection dependent on the grounds for dismissal. Therefore, contrary to the constitutional guarantees of social protection for all police officers eligible for one-time benefit in case of disability, the state deprived the police of this right at the legislative level in cases where they are dismissed on other grounds."

Tokarenko notes that the provisions of paragraph 4 of part one of Article 97 of the Law are discriminatory, as "the said benefit is paid only to the police officer who has been dismissed due to illness";

- the case in response the constitutional complaint of Liliya Hryhoriyeva on constitutional compliance of the entire Law and the provisions of subparagraph 1, paragraph 28 of Section **II** of the Law "On Prevention of financial disaster and creation of preconditions for economic growth in Ukraine" No. 1166 - VII of March 27, 2014.

Hryhoriyeva argues that the right of judges to severance pay after retirement repealed by the impugned provision of Law no. 1166 is a manifestation of irresponsible attitude of the state to man and discrimination between the judges, which led to a narrowing of the content and scope of existing rights, violated the rule of law, social orientation of the economy, equality before the law. According to Hryhoriyeva, the application of the disputed provision of Law No. 1166 violated her right to timely remuneration for her work (severance pay) provided for in part seven of Article 43 of the Constitution, and her ownership right (to severance pay) guaranteed by parts four and five of Article 41 of the Constitution;

- the case in response the constitutional complaint of Artem Kovalyov on constitutional compliance of paragraph 5 Section III "Final Provisions" of the Law "On Amendments to certain legislative acts of Ukraine on pension support" No. 213 – VIII of March 2, 2015, paragraph 3, subparagraph 2, paragraph 42 of Section I of the Law "On Amendments and abolishment of certain legislative acts of Ukraine" No. 76 - VIII of December 28, 2014, part twenty of Article 86, subparagraph 1, paragraph 3 of Section XII "Final Provisions" of the Law "On the Prosecutor's Office" No. 1697 – VII of October 14, 2014, part twenty one of Article 50^1 of the Law "On the Prosecutor's Office" No. 1789 – XII of November 5, 1991.

The petitioner claims that the application by the courts of Ukraine of the disputed provisions of the laws of Ukraine has led to a violation of his rights to social protection, adequate living standards and judicial protection guaranteed by Articles 46, 48, 55 of the Constitution. In his view, paragraph 5 of Section III "Final Provisions" of Law No. **213,** *paragraph 3, subparagraph 2, paragraph 42 of Section I of Law No. 76, part twenty of Article 86, subparagraph 1, paragraph 3 of Section XII "Final Provisions" of the Law No. 1697, part twenty one of Article 50^1 of Law No. 1789 do not comply with the provisions of Articles 1, 6, 8, 9, 17, 19, 22, 46, 48, 55, 58, 64, 92, 131^1 of the Constitution;*

- the case in response the constitutional complaint of *Ukrkava* Limited Liability Company regarding the conformity with the Constitution (constitutionality) of provisions of part one of Article 88 of the Law "On Notary Service".

The petitioner claims that the unconstitutionality of the disputed provisions of the Law "results in violation of the ownership right guaranteed by the Constitution";

- the case in response the constitutional complaint of Maryna Klimenko on constitutional compliance of the provisions of subparagraph 1, paragraph 28 of Section II of the Law "On Prevention of financial disaster and creation of preconditions for economic growth in Ukraine" No. 1166-VII of March 27, 2014.

Klimenko argues that the abolishment of severance pay for retired judges by the disputed provision of Law No. 1166 violated the legitimate expectations of judges regarding their right to peaceful possession of property; narrowed the content and scope of the judge's existing right to resign and receive severance pay; it constitutes discrimination between categories of judges; testifies to the inconsistency of such government interference in the rights of the individual with the criteria of proportionality, legal certainty and the state's incompliance with a fair balance between the general interests of the public and personal rights acquired in accordance with the law; it also contradicts parts two and three of Article 22 of the Constitution. According to the petitioner, the disputed provision of Law No. 1166 "violated the principle of irreversibility of laws and other regulations, which also violates the guarantees of safety of man and citizen, and trust in the state", as well as that "changes in legislation regarding the deprivation of judges of the right to receive severance pay (conflicting with Article 22 of the Constitution) were not objectively justified and did not pursue a legitimate goal (saving public funds)";

- the case in response the constitutional complaint of Olena Odintsova on constitutional compliance of certain provisions of paragraph two of Article 471 of the Customs Code of Ukraine.

The entity enjoying the right to a constitutional complaint indicates that the Code defines "incurrence of liability for violation of the established procedure of movement of currency assets across the customs border", however "the use of confiscation for such administrative offenses means unjustified interference with the constitutional right to inviolability of private property; excessive and significant material burden on the person which is not commensurate with the damage caused by the offense itself to the interests of the state." The petitioner considers that the "penalty" established by Article 471 of the Code does not comply with part one of Article 8, parts one, four and six of Article 41 of the Constitution, as it provides for "disproportionate, unbalanced and therefore unjust punishment in the form of confiscation of cash, which circulation and transboundary movement is not prohibited or restricted by any of the regulatory documents…"; the application of a penalty in the form of confiscation is "unalterable, inflexible and categorical and, therefore – disproportionate and unfair, it does not meet the principle of the rule of law "and "creates excessive material burden on

a citizen; it is completely inconsistent with the interest of the public and the society, and results in government intervention into peaceful enjoyment of property";

- the case in response the constitutional complaint of *Odesateplokomunenergo* Private Joint Stock Company on constitutional compliance of provisions of subparagraph "a", paragraph 2 of part six of Article 37 of the Law "On Government registration of material rights to immovable property and their encumbrances".

The entity enjoying the right to a constitutional complaint considers that the disputed provision of the Law grants powers to the Ministry of Justice of Ukraine to deprive a person of ownership rights by revoking government registration on the basis of errors made by the government registrar, thus violating the provisions of Article 41 of the Constitution. In addition, in his opinion, the disputed provision of the Law makes a person (the property owner) responsible for mistakes made by the government registrar as a representative of the state, which contradicts part two of Article 3 of the Constitution;

- the case in response the constitutional complaint of Viacheslav Shevchenko regarding conformity with the Constitution (constitutionality) of provisions of paragraph 3 of part one of Article 97 of the Law "On the National Police".

The petitioner believes that the disputed provisions of the Law make "the constitutional right to social protection (namely the receipt of one-time allowance in the event of a police officer's disability) discriminatory, because it depends on the grounds for dismissal. Thus, the state, contrary to the constitutional guarantees of social protection for all police officers who have the right to receive one-time allowance in case of disability, deprived them of this right at the legislative level in cases when they are dismissed voluntarily. Shevchenko notes that the provisions of paragraph 3 of part 97 of the Law are discriminatory, since according to these provisions "the said benefit is paid only to the police officer who has been dismissed due to illness". According to the petitioner, "tying the right to one-time financial aid to such grounds as dismissal due to illness puts former police officers dismissed at their own request who performed their duties in good faith and received a disability as a result of their service in an unequal position";

- the case in response the constitutional complaint of Ruslan Karvatskyi on constitutional compliance of the provision of part three of Article 221 of the Labor Code of Ukraine.

According to the petitioner, he was deprived of the opportunity to defend his rights in court. Allegedly the rights were violated by his unlawful dismissal from the elected paying position of the Chairman of the Primary trade union organization of the Burshtyn Thermal Power Plant as a result of the courts' application of the disputed provision of the Code in his case.

The petitioner considers that the provisions of part three of Article 221 of the Code contradict Articles 8, 19, 43, 55, 124 and paragraph 1 of Section XV "Transitional Provisions" of the Constitution;

- the case in response the constitutional complaint of Hevork Baserhyan regarding conformity with the Constitution (constitutionality) of provisions of Article 485 of the Customs Code of Ukraine.

The claimant believes that the establishment of an absolutely defined sanction by the legislator in Article 485 of the Code (the highest and the lowest amounts of the fine were not defined), impossibility to reduce penalties, lack of alternative sanctions for committing the offense in question point to non-compliance with part two of Article 61 of the Constitution. According to the petitioner, the unlimited amount of fine for violation of customs rules, provided by the disputed provisions of the Code, transforms a liability measure into the tool depriving people of their property, and allowing excessive restriction of the right to an adequate standard of living, which does not comply with part one of Article 41, Article 48 of the Constitution.

2.3. CASES IN RESPONSE TO MOTIONS BROUGHT BEFORE 2019 AND PENDING BEFORE THE CONSTITUTIONAL COURT OF UKRAINE AS OF DECEMBER 31, 2019

CASES IN RESPONSE TO CONSTITUTIONAL SUBMISSIONS

In 2019, the Constitutional Court considered cases in response to constitutional submissions brought before 2019, in particular:

- a case in response to four constitutional submissions *(considered in the joint proceedings) of*:

1) *the Supreme Court of Ukraine* on constitutional compliance of paragraph 6 part one, paragraphs 2, 13 of parts two and three of Article 3 of the Law "On Purging of Government" No. 1682 – VII of September 16, 2014.

The entity enjoying the right of constitutional submission believes that certain provisions of the Law "On Purging of Government" No. 1682 – VII of September 16, 2014 do not comply with part one of Article 8, Article 61, part one and paragraph 5 of part five of Article 126 of the Constitution, as the provisions of the Law contradict the principle of legal certainty as a component of the rule of law and establish legal liability of judges for the same offense;

2) *47 MPs* on constitutional compliance of parts three, six of Article 1, parts one, two, three, four, eight of Article 3, paragraph 2 of part five of Article 5, paragraph 2 of the Final and Transitional Provisions of the Law "On Purging of Government" No. 1682 – VII of September 16, 2014.

The authors considered these provisions violate the constitutional principles of the rule of law, equality and justice, prohibition of discrimination, legal certainty, legality, presumption of innocence, observance and guarantee of basic (natural) human rights, individual nature of responsibility, and irreversibility of laws;

3) *the Supreme Court of Ukraine* on constitutional compliance of of part three of Article 1, paragraphs 7, 8, 9 of part one, paragraph 4 of part two of Article 3, paragraph 2 of the Final and Transitional Provisions of the Law "On Purging of Government" No. 1682 – VII of September 16, 2014.

The applicant claimed that the disputed provisions of the Law do not comply with the provisions of part three of Article 22, Article 38, Article 58, part two of Article 61, part one of Article 62, and part one of Article 64 of the Constitution, as they establish collective guilt without providing an individual approach to liability, violate the principle of presumption of innocence, allow narrowing of the content and scope of existing rights and freedoms (including civil servants) and restriction of constitutional human and civil rights and freedoms in cases not provided by the Constitution;

4) *The Supreme Court of Ukraine* on constitutional compliance of part three of Article 4 of the Law "On Purging of Government" No. 1682 – VII of September 16, 2014.

The entity enjoying the right of constitutional submission believed that the impugned provision of the Law contradicts the guaranteed right to equal access to civil service enshrined in part two of Article 38 of the Constitution, as well as part two of Article 61, part one of Article 62, as it does not contain mechanisms for applying individual approach to liability and contradicts the principle of the presumption of innocence;

- a case in response to constitutional submission of 49 MPs on constitutional compliance of certain provisions of Section I, paragraph 2, Section III of the "Final Provisions" of the Law "On Amendments to certain legislative acts of Ukraine on pension support" No. 213 - VIII of March 2, 2015.

The petitioners believed that by adopting the Law, the Verkhovna Rada allowed narrowing of the content and scope of existing rights, guarantees, benefits, compensations, which were established by the laws of Ukraine. The MPs consider that such actions of the only body of legislative power in Ukraine do not comply with the provisions of part two of Article 8, Article 21, parts two and three of Article 22, Article 24, part one of Article 46, part one of Article 58, part one of Article 126 of the Constitution;

- a case in response to constitutional submission of the Supreme Court of Ukraine on constitutional compliance of the Law "On the Deposit Guarantee System for Individuals" No. 4452 - VII of February 23, 2012.

According to the petitioner, the Law does not meet the requirements of Article 6, part one of Article 8, part four of

Article 13, Articles 21, 22, parts one, four, five of Article 41 of the Constitution, as the disputed provisions of the Law violate the principles of separation of government power, the rule of law, equality of rights of depositors and may create a situation where an individual (depositor) is unlawfully deprived of her ownership rights to the deposit;

- a case in response to constitutional submission of 48 MPs on constitutional compliance of certain provisions of the Law "On Prevention of Corruption" and Article 366[1] of the Criminal Code of Ukraine.

The MPs considered that the disputed provisions of the Law violate the constitutional principles of the rule of law, legal certainty, legality, individual responsibility, prohibition of invasion of privacy and dissemination of confidential information, so they do not meet the requirements of Articles 8, 19, 21, 22, 24, 28, 32, 38, 41, 43, 57, 58, 61, 62, 64, 68, 75 of the Constitution;

- a case in response to constitutional submission of the Supreme Court of Ukraine on constitutional compliance of certain provisions of paragraphs 4, 7, 8, 9, 11, 13, 14, 17, 20, 22, 23, 25 of Section XII "Final and transitional provisions" of the Law "On the Judiciary and the Status of Judges" No. 1402 – VIII of June 2, 2016.

When substantiating the constitutional submission, the Supreme Court stressed the need to ensure the constitutional order in the functioning of the judiciary in Ukraine, guarantees of independence of judges, access to justice and the exercise of everyone's right to an independent and impartial justice within the statutory timeframe; preventing the narrowing of the content and the scope of rights and freedoms when adopting new laws or amending existing ones. In its opinion, the disputed provisions do not comply with Article 6, parts one and two of Article 8, part two of Article 19, parts one and two of Article 24, parts one and two of Article 55, parts one, five, six of Article 126 of the Constitution;

- a case in response to constitutional submission of the Human Rights Commissioner of the Verkhovna Rada of Ukraine on constitutional compliance of line four of part one, Article 208 of the Criminal Procedure Code of Ukraine.

The petitioner claims that the challenged provision of the Code contradicts parts two and three of Article 29 of the Constitution, as it expands the exhaustive list of cases where the authorities vested with certain powers may use detention as a temporary precautionary measure without a reasoned court judgement. The entity enjoying the right of constitutional submission also considers that line four of part one of Article 208 of the Code does not correspond to legal certainty as an element of the rule of law guaranteed by part one of Article 8 of the Constitution, because it provides for discretionary powers of authorized persons to detain a person without a ruling of the investigating judge, or the court in the absence of criteria in the legislation that give grounds for making such a judgment;

- a case in response to constitutional submission of 59 MPs regarding the official interpretation of the provisions of part three of Article 62, parts one and three of Article 80 of the Constitution.

The petitioners ask for an official interpretation of the above provisions of the Constitution in the context of the following issues:

"- whether parliamentary immunity includes a ban on breaching the secrecy of correspondence, telephone conversations, telegraph and other correspondence and application of other measures that restrict the rights and freedoms of the MPs without obtaining consent from the Verkhovna Rada to prosecute the MPs criminally;

– whether wiretapping of MP communications with third parties and video surveillance of public places she visits is considered a violation of parliamentary immunity in the absence of consent of the Verkhovna Rada to criminally prosecute the MP;

– whether the charges can be based on evidence obtained in violation of the guarantees of parliamentary immunity established by parts one and three of Article 80 of the Constitution, namely by wiretapping of MP communications with third parties and video surveillance of public places she visits in the absence of consent of the Verkhovna Rada to criminally prosecute the MP."

According to the petitioners, the need for an official interpretation of the provisions of part three of Article 62, parts one and three of Article 80 of the Constitution is due to the ambiguous understanding of these norms by law enforcement agencies which prosecute MPs without obtaining the consent of the Verkhovna Rada and violate the constitutional guarantees of parliamentary immunity.

- a case in response to constitutional submission of 59 MPs on constitutional compliance of the Law "On State financial guarantees of medical services for the population" No. 2168 – VIII of October 19, 2017.

The petitioners, substantiating the allegations of unconstitutionality of the Law as a whole, point out that the disputed provisions of the Law, which determine its legal nature (legal definition), substance and purposes, do not comply with the Constitution, while its norms, given their legal uncertainty, make it impossible to enforce and ensure constitutional guarantee of the right to health care ";

- a case in response to constitutional submission of 54 MPs regarding conformity with the Constitution (constitutionality) of provisions of paragraph 4 § 2, final provisions of Section 4 of the Law "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legal acts".

The petitioners allege that the procedure for adopting the Law was violated, in particular the "procedure for preliminary consideration of draft laws of Ukraine" and the requirements for personal voting by MPs, which contradicts Articles 6, 8, 19, 83, 84, 89, 91 of the Constitution. In addition, according to the petitioners, paragraph 4 § 2 of "Final Provisions", Section 4 of the Law contradicts Articles 21, 24, 58, 63 of the Constitution, as it "violates the right to retroactive effect of the criminal law" and prohibition of application of criminal procedure legislation to cases where information on criminal offenses is entered into the Unified Register of pre-trial investigations prior to the implementation of changes introduced by law violates the right of the suspect and defendant to protection and equality of citizens' rights;

- a case in response to constitutional submission of 45 MPs regarding conformity with the Constitution (constitutionality) of the provisions of paragraph 6 of part two of Article 42 of the Law "On Higher Education" No. 1556-VII of July 1, 2017. According to this Law a person who falls under the effect of part three of Article 1 of the Law "On Purging of Government" cannot be appointed/elected to the position of the head of a higher educational establishment (including as acting head).

The petitioners claim that this provision of the Law contradicts part one of Article 8, parts one and two of Article 24, parts one and two of Article 43, and Article 64 of the Constitution. When substantiating the allegation of unconstitutionality of the provision of paragraph 6 of part two of Article 42 of the Law, the MPs point out that its content and the content of part three of Article 1 of the Law "On Purging of Government" No. 1682 – VII of September 16, 2014 "contribute to the simultaneous existence of two interpretations of these norms in their entirety, which differ from each other significantly." The constitutional submission also states that the provision of paragraph 6 of part two of Article 42 of the Law on restrictions that apply to a candidate for the position of the head of a higher educational establishment is not based on special requirements for this position and the disputed norm is discriminatory in terms of exercising the constitutional right to work;

- a case in response to constitutional submission of 50 MPs on constitutional compliance of a separate provision of paragraph 26, Section VI "Final and Transitional Provisions" of the Budget Code of Ukraine. According to this provision the norms of Article 81 of the Law "On the Prosecutor's Office" No. 1697 – VII of October 14, 2014 apply in terms of the procedure and amounts established by the Cabinet of Ministers of Ukraine, based on available financial resources of the state and local budgets and the budgets of funds of Compulsory State Social Insurance. Article 81 of the Law regulates the structure and amount of salaries of prosecutors.

The petitioners note that "resolving the issue of prosecutors' salaries under Article 81 of the Law "On the Prosecutor's Office"… as enshrined in paragraph 26 of the Final and Transitional Provisions of the Budget Code of Ukraine violates the constitutional principle of the priority (rule) of law and encroaches on the rule of law as a fundamental principle of the rightful state."

The entity enjoying the right of constitutional submission also believes that the Verkhovna Rada has granted the right to the Cabinet of Ministers to decide on the issue of prosecutors' salaries independently by issuing its own regulations. This right was granted by the aforementioned provision of paragraph 26 Section VI "Final and Transitional Provisions" of the Code. The MPs emphasize that the issues of material, social and pension support for prosecutors are an integral part of the organization and procedure of the Prosecutor's Office operations, which according to paragraph 14 of part one of Article 131[1] of the Constitution should be determined exclusively by the laws of Ukraine instead of the acts of the Cabinet of Ministers, as provided for in paragraph 26 of Section VI "Final and Transitional Provisions" of the Code. The delegation of exclusive powers of Verkhovna Rada to the Cabinet of Ministers does not just violate the constitutional principle of separation of government power into legislative, executive and judicial, and threatens the independence of prosecutors, but also directly encroaches on guarantees of funding the prosecutor's office exclusively in the manner prescribed by law as the basis for

the organization and operations of the prosecutor's office as a whole.

In addition, the petitioners claim that this provision of the Code reduces the amount of salaries of prosecutors defined by the Law "On the Prosecutor's Office"… narrows the content and scope of the prosecutor's rights to remuneration as defined by the Law "On the Prosecutor's Office"; instead, it should ensure a decent standard of living";

- a case in response to constitutional submission of 46 MPs on constitutional compliance of a separate provision of paragraph 26 Section VI "Final and Transitional Provisions" of the Budget Code of Ukraine.

The petitioners claim that the social protection of war veterans, which is carried out in accordance with the provisions of Articles 12, 13, 14, 15 and 16 of the Law "On the Status of war veterans and guarantees of their social protection" No. 3551 – XII of October 22, 1993 as amended, "is a state guarantee and has an unconditional nature". Therefore it cannot depend on the available financial resources of the state and local budgets and the budgets of the state Compulsory Social Insurance funds. According to MPs, the disputed provision of the Code does not comply with the provisions of part five of Article 17 of the Constitution, whereby "the state shall provide social protection to the citizens of Ukraine serving in the Armed Forces of Ukraine and other military formations and to their families.";

- a case in response to constitutional submission of 47 MPs on constitutional compliance of certain provisions of Article 6 of the Law "On Television and Radio Broadcasting", Articles 15, 15^1 and 26 of the Law "On Cinematography".

The petitioners believe that the following provisions do not comply with the Constitution (unconstitutional):

1) the provisions of the first sentence of line ten of part two of Article 6 of the Law "On Television and Radio Broadcasting" No. 3759 – XII of December 21, 1993 as amended (hereinafter referred to as Law No. 3759). These provisions mention broadcasts of audiovisual works (films, TV programs, except for information and analytical TV programs), where one of the participants is a person included in the List of persons who pose a threat to national security, published on the website of the central executive body responsible for the development of government policy in culture and arts";

2) certain provisions of the Law "On Cinematography" No. 9/98 – VR of January 13, 1998 as amended (hereinafter referred to as Law No. 9), namely:

- *paragraph four of part three of Article 15, whereby "one of the participants in the film is a natural person included in the List of persons posing a threat to national security, promulgated in the prescribed manner";*
- *line four of part four of Article 15, whereby "inclusion of one of the film participants in the List of persons who pose a threat to national security, promulgated in the prescribed manner";*
- *part six of Article 15, according to which "The List of persons posing a threat to national security is compiled by the central executive body responsible for development of the government policy in culture and arts, based on the applications of the National Security and Defense Council of Ukraine, the Security Service of Ukraine, and the National Council of Ukraine on Television and Radio Broadcasting";*
- *part seven of Article 15, whereby "The central executive body, responsible for development of the government policy in culture and arts shall publish the List of persons who pose a threat to national security on its official website and ensure its timely updating";*
- *part one of Article 15^1, whereby "broadcasting (showing by broadcasting channels) of films produced by individuals and legal entities of the aggressor state shall be prohibited as well";*
- *part two of Article 15^1, whereby "The prohibition of broadcasting of films produced by individuals and legal entities of the aggressor state, which do not contain promotion or propaganda of the aggressor state's agencies and their individual actions shall apply to films produced and / or first released (shown) after January 1, 2014";*
- *part three of Article 26, whereby "The procedure for imposing fines for violating the requirements of Article 151 of this Law shall be approved by the central executive body responsible for development of the government policy in the field of cinematography, and meet the requirements of the Commercial Code of Ukraine and the Law of Ukraine "On Fundamental Principles of Government Supervision"…*

According to the petitioners, the disputed provisions of Law No. 3759, and Law No. 9 contradict part two of Article 3, part one of Article 8, part three of Article 15, part two of Article 19, Article 21, parts two and three of Article 22, part two of Article 24, part

one of Article 32, Article 34, part one of Article 64, Article 75, paragraph 22 of part one of Article 92 of the Constitution.

- a case in response to constitutional submission of 49 MPs on constitutional compliance of the Resolution of the Verkhovna Rada "On Approval of proposals for the application of special personal economic and other restrictive measures (sanctions)" No. 2589 – VIII of October 4, 2018.

The entity enjoying the right of constitutional submission considers, "that the Resolution is unconstitutional, as its adoption took place in violation of the constitutional procedure of its consideration and adoption by the Verkhovna Rada, including distortion of voting results of MPs as a result of their non-personal vote, and the parliament, having adopted the Resolution, went beyond its powers established exclusively by the Constitution".

The petitioners note that when voting for the draft Resolution No. 9157 "Numerous cases of non-personal voting took place in the plenary hall of the Verkhovna Rada whereby certain MPs voted for absent MPs by using their voting cards, which is a violation of part three of Article 84 of the Constitution".

CASES IN RESPONSE TO CONSTITUTIONAL COMPLAINTS

- a case in response to constitutional complaint of Vasyl Mosiurchak on constitutional compliance of paragraph 2 Section XI "Final and Transitional Provisions" of the Law "On Civil Service" No. 889 – VIII of December 10, 2015, paragraph 5 Section III "Final Provisions" of the Law "On Amendments to certain legislative acts of Ukraine on pension support" No. 213 – VIII of March 2, 2015.

The petitioner believes that the above provisions of Law No. 889 and Law No. 213 significantly narrowed the content of the right to pensions of civil servants by limiting the previously established guarantees for recalculation of pensions, because before the entry into force of the disputed rules, the petitioner had the right to recalculate his pension in accordance with Article 371 of Law No. 3723;

- a case in response to constitutional complaint of Oleksiy Klymenko regarding conformity with the Constitution (constitutionality) of provisions of paragraph 9 of the "Final provisions" Section of the Law "On the State Budget of Ukraine 2015" No. 80 – VIII of December 28, 2014 as amended, paragraph 11 of the "Final Provisions" Section of the Law "On the State Budget of Ukraine 2016" No. 928 – VIII of December 25, 2015 as amended, paragraph 26 Section VI "Final and Transitional Provisions" of the Budget Code of Ukraine.

The petitioner believes that granting the powers to the Cabinet of Ministers (in accordance with the above provisions of Law No. 80, Law No. 928 and the Code) to regulate the issue of prosecutors' salaries does not comply with the principle of the rule of law, so these provisions contradict Articles 8, 9, 21, 22, 43, 48, 64, 85, 95 of the Constitution; suspending the effect of laws, which establish certain rights and social guarantees, contradicts Articles 21, 22 of the Constitution; after the Verkhovna Rada adopted Law No. 1697 the petitioner had legitimate expectations to receive the salary in the amount specified in Article 81 of this law, however, due to the illegal suspension of the effect of its provisions, Klimenko and other employees of the Prosecutor's Office of Ukraine were deprived of the right to own the funds they could receive;

- a case in response to constitutional complaint of Anatoliy Kremenchutskyi regarding conformity with the Constitution (constitutionality) of provisions of part ten of Article 294 of the Code of Ukraine on Administrative Offenses.

According to the complainant, the application of the provisions of part ten, Article 294 of the Code by the Court of Appeal of Luhansk Oblast deprived him of his right to appeal the judgment, and the provision of paragraph 8 of part 2 of the Constitution violated his other rights, including Article 43 (the right to work) and Article 55 (the right to judicial protection of human and civil rights and freedoms) of the Constitution;

- a case in response to constitutional complaint of Ivan Dyadechko regarding conformity with the Constitution (constitutionality) of provisions of line two, part one and part three of Article 88 of the Law "On the Judiciary and the Status of Judges" No. 1402 – VIII of June 2, 2016 as amended.

The petitioner believes that the principle of the rule of law was violated as a result of the application of the disputed provisions of the Law in the final court decision in his case. He argues that part three of Article 88 of the Law "limits judicial control by establishing an exhaustive list of formal (rather than substantive) grounds for appealing the decision of the HQCJ

(High Qualification Committee of Judges) and removes the possibility of evaluating the evidence and the facts of the case during such control", which points to the inconsistency of this provision with part three of Article 124 and also contradicts parts two and six of Article 55 of the Constitution;

- a case in response to constitutional complaint of Olha Levchenko regarding conformity with the Constitution (constitutionality) of provisions of paragraph 5 Section III "Final Provisions" of the Law "On Amendments to certain legislative acts of Ukraine on pension support" No. 213 – VIII of March 2, 2015 regarding the abolition (starting from June 1, 2015) of the norms of pension support for persons receiving pensions in accordance with the Law "On the Prosecutor's Office" No. 1697 – VII as amended of October 14, 2014.

The applicant considers that the provisions of paragraph 5 of Section III "Final Provisions" of Law No. 213 – VIII regarding the abolition (starting from June 1, 2015) of the norms of pension support for persons receiving pensions in accordance with the Law "On the Prosecutor's Office" as amended No. 1697 – VII of October 14, 2014, are inconsistent with parts one and two of Article 8, part five of Article 17, Articles 21, 22, parts one and two of Article 24, parts one and two of Article 46, Articles 48, 64 of the Constitution, as they violate its constitutional rights to social protection and an adequate standard of living;

- a case in response to constitutional complaint of Pavlo Shkoda on constitutional compliance of instructions of part two of Article 392, paragraph 2 of part two of Article 428 of the Criminal Procedure Code of Ukraine.

The applicant believes that the disputed provisions of the Code restrict his right to appeal decisions in the appellate and cassation courts that were made during the proceedings in the court of first instance before the judgments provided for in part one of Article 392 of the Code were adopted;

- a case in response to constitutional complaint of Oleksandr Dyachenko and other citizens of Ukraine (62 persons in total) on constitutional compliance of subparagraph 13, paragraph 4 of Section I of the Law "On Amendments to and abolishment of certain legislative acts of Ukraine" No. 76 – VIII of December 28, 2014.

The applicants allege a "violation of their constitutional right under Article 50 of the Constitution regarding protection of their life and health". They consider that their right to compensation for material and moral damage (at the expense of the state) caused by unlawful decisions and actions or omission by public authorities, their officials and personnel in the exercise of their powers has been violated under Article 56 of the Constitution. They note that "fair recalculation of salaries received by liquidators in accordance with the actual circumstances of their work to eliminate the Chernobyl disaster has not been carried out as of today. The reduction of the state-recognized minimum pensions for the persons who received disability when responding to the Chernobyl disaster, calculated based on the minimum amount of compensation for disability is a direct violation of Article 56 of the Constitution";

- a case in response to constitutional complaint of Dmytro Krupko on constitutional compliance of instructions of part one of Article 81, part one of Article 82 of the Criminal Code of Ukraine.

According to the applicant, under Article 28 of the Constitution he was entitled to "reduction of life imprisonment and a realistic possibility of release… on the basis of… direct effect of the Constitution and the Convention, regardless of the mechanism of its implementation in the Ukrainian law" and the fact that he was sentenced to life imprisonment "in a country where there is no realistic prospect of release from life imprisonment, contradicts the guarantees of Art. 28 of the Constitution";

- a case in response to constitutional complaint of Viktor Koshevyi on constitutional compliance of instruction of Article 90 of the Law "On Civil Service" No. 889 – VIII of December 10, 2015.

The applicant alleged that "Law No. 889 (Article 90) introduced the rule whereby the pension support for civil servants is carried out in accordance with the Law "On Compulsory State Pension Insurance" No. 1058 – IV of 09.07.2003. Article 42 of this Law excludes the possibility of recalculation of the pension, in case of increase of the salary of working civil servants, as it was provided in the Law No. 3723 (Article 371) "which violates his right to social protection and the right to an adequate standard of living, the right to health care and medical assistance. According to the applicant, "by using the provisions of Law No. 889-VIII in the part of pension support for civil servants (Article 90) in the final court judgment, the court engaged the retroactive effect of the provisions of Article 371 of Law No. 3723, thus violating the norm of part 1 of Art. 58 of the Constitution…";

- a case in response to constitutional complaint of Mykola Demyanosov regarding conformity with

the Constitution (constitutionality) of provisions of paragraphs 3 and 9 of Section II "Final and Transitional Provisions" of the Law "On Amendments to certain legislative acts of Ukraine" No. 1774 – VIII of December 6, 2016.

The entity enjoying the right of constitutional complaint argues that the regulation of salaries introduced by the disputed provisions of the Law has led to an almost twofold reduction of the salaries of judges who have not passed the qualification evaluation, and thus to a significant reduction in the material support of such judges and reduced constitutional guarantees of their independence which contradicts part one of Article 126 of the Constitution and also violates the right of persons to judicial protection of their rights and freedoms. According to the petitioner, the establishment of the estimated value for determining the amount of salaries of judges (by the provisions of paragraphs 3, 9 of Section II "Final and Transitional Provisions" of the Law) other than the estimated value established by the law on the judiciary does not comply with part two of Article 8 and part two of Article 130 of the Constitution;

- a case in response to constitutional complaint of Mykola Naumchak on constitutional compliance of paragraphs 3, 9 of Section II "Final and Transitional Provisions" of the Law "On Amendments to certain legislative acts of Ukraine" of December 6, 2016 No. 1774 – VIII.

Comparative analysis of constitutional complaints Demyanosov and Naumchak gives grounds to conclude that they deal with the same issue i. e. compliance with the Constitution (constitutionality) of paragraphs 3, 9 of Section II "Final and Transitional Provisions" of the Law. Overall, the complaints are similar in terms of content with varying narrative elements of the litigation section;

- a case in response to constitutional complaint of Mykhailo Tsymbal on constitutional compliance of certain provisions of line 51, subparagraph 5, paragraph 63, Section I of the Law "On Amendments to the Budget Code of Ukraine regarding the reform of inter-budgetary relations" No. 79 – VIII of December 28, 2014, paragraph 9 of the "Final Provisions" Section of the Law "On the State Budget of Ukraine 2015" No. 80 – VIII of December 28, 2014 as amended, paragraph 26, Section VI "Final and Transitional Provisions" of the Budget Code of Ukraine.

The petitioner believes that "resolution of the issue of prosecutors' salaries provided for in Article 81 of the Law "On the Prosecutor's Office"… as established in paragraph 26 of Section VI "Final and Transitional Provisions "of the Budget Code violates the rule of law. He stressed that the issues of material, social and pension support for the prosecutors are an integral part of the organization and operations of the prosecutor's office, which according to paragraph 14 of part one of Article 92, and part two of Article 131[1] of the Constitution should be determined exclusively by the laws of Ukraine instead of the acts of the Cabinet, as provided for in a separate provision of paragraph 26 of Section VI "Final and Transitional Provisions" of the Code. The Verkhovna Rada's delegation of its exclusive powers to the Cabinet of Ministers violates the constitutional principle of separation of government power into legislative, executive and judicial branches, threatens the independence of prosecutors, encroaches on guarantees of funding of the prosecutor's office exclusively in the manner prescribed by law. He claims that the disputed provision of the Code "reduces the amount of prosecutors' salaries determined by the Law "On the Prosecutor's Office", narrows the content and scope of the prosecutor's rights to salaries set by the Law "On the Prosecutor's Office". Instead, it should ensure a decent standard of living";

- a case in response to constitutional complaint of Viktor Tatkov regarding conformity with the Constitution (constitutionality) of provisions of part five of Article 190, paragraph 1 of part one and part three of Article 309 of the Criminal Procedure Code of Ukraine.

The entity enjoying of the right of constitutional complaint argues that the disputed provisions of the Code provide for the right of the prosecution to appeal against a decision to refuse to grant an apprehension order with the purpose of attachment and deprive the defendant of the right to appeal against such an order. According to the petitioner, such a privileged position of the prosecution compared to the defendant's position in the context of the right to appeal is inconsistent with the constitutional principle of the rule of law; it contradicts such a basic principle of justice as equality of all participants in the trial before the law and the court, and violates the constitutional right to judicial protection, which includes the right to appeal;

- a case in response to constitutional complaint of Nataliya Poklonska regarding conformity with the Constitution (constitutionality) of provisions of paragraph 4 § 2 of the "Final Provisions", Section 4 of the Law "On Amendments to the Commercial procedural code, Civil procedural code, the Code of Administrative Procedure of Ukraine and other legislative acts" No. 2147 – VIII of October 3, 2017.

The petitioner claims that court's application of the norms of paragraph 4 § 2 of the "Final Provisions", Section 4 of the Law violates the right to judicial protection guaranteed by the Constitution, as well as the constitutional principles of equality of citizens in their rights and before the law, as these rules restrict the persons suspected of commission of a criminal offense in the exercise of the right to appeal the suspicion notice of the investigator, or prosecutor by referring to the "timing" of entry of the information on the criminal offense in the Unified Register of pre-trial investigations, which establishes different scope of procedural rights of these persons depending on a certain date;

- a case in response to constitutional complaint of Hryhoriy Koptylin on constitutional compliance of paragraph 4 § 2 of the "Final Provisions", Section 4 of the Law "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts" No. 2147 – VIII of October 3, 2017.

The petitioner claims that the application by the courts of paragraph 4 § 2 of the Law violates his right to judicial protection guaranteed by part one of Article 55 of the Constitution, as well as the constitutional principles of equality of citizens in their rights and before the law (Article 21, part one of Article 24 of the Constitution) as "certain discrimination of the citizens of Ukraine on a temporal basis" introduced by this paragraph affects "the scope and content of their rights in criminal proceedings";

- a case in response to constitutional complaint of Nadiya Melnychuk on constitutional compliance of provisions of subparagraph 1, paragraph 28 of Section II of the Law "On Prevention of financial disaster and creation of preconditions for economic growth in Ukraine" No. 1166 – VII of March 27, 2014.

Melnychuk claims that the disputed provision of Law No. 1166 not only fails to comply with the "constitutional requirements on the inadmissibility of reducing or abolishing the content or scope of existing rights of judges to receive severance pay as one of the elements of the resignation mechanism for judges, but also reduces the constitutional guarantees of their independence and, therefore, contradicts Article 8, part three of Article 22, and part one of Article 126 of the Constitution". "Legislative changes" introduced by the provisions of subparagraph 1, paragraph 28 of Section II of Law No. 1166 "contradict the purpose of establishing a constitutional guarantee of material support of judges as an element of their independence, and do not comply with the principle of equality of the status of all judges of Ukraine, and the principle of equality before the law, as they discriminate between the judges who resigned before April 1, 2014 and after September 30, 2016. Therefore, they do not comply with Article 21, parts one and two of Article 24 of the Constitution";

- a case in response to constitutional complaint of Vicheslav Pleskach regarding conformity with the Constitution (constitutionality) of provisions of part three of Article 307, of part three of Article 309 of the Criminal Procedure Code of Ukraine.

The entity enjoying of the right of constitutional complaint noted that the disputed provisions of the Code restrict his right to appeal the ruling of the investigating judge, which is based on the results of considering the complaint of investigator's or prosecutor's inaction. The complaint means failure to enter information about a criminal offense into the Register of pre-trial investigations after receiving a report or notification of a criminal offense; these provisions of the Code do not comply with the Constitution, as they violate its guaranteed right to judicial appeal of decisions, actions or omissions of public authorities, local governments, officials and personnel (part two of Article 55). They also contradict the provisions of paragraph 8 of part two of Article 129 of the Constitution, according to which "the basic principles of judiciary include ensuring the right to an appellate review of the case and to a cassation appeal against a court judgment in cases specified by law";

- a case in response to constitutional complaint of Theodora Limited Liability Company on constitutional compliance of paragraph 4 § 2 of the "Final Provisions", Section 4 of the Law "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts" No. 2147 – VIII of October 3 2017.

According to the complainant, paragraph 4 § 2 of the "Final Provisions" Section 4 of the Law "puts persons subjected to measures of criminal law within the framework of criminal proceedings that last for years (in this case since 2014) in an unequal (discriminatory) position. This includes the proceedings where no suspects in the commission of any offense have been identified";

- a case in response to constitutional complaint of Stanislav Myronenko regarding conformity with the Constitution (constitutionality) of the provisions

of line three paragraph 9 Section of the "Final provisions" of the Law "On the State Budget of Ukraine 2015" No. 80 – VIII of December 28, 2014, paragraph 11 of the "Final Provisions" Section of the Law "On the State Budget of Ukraine 2016" No. 928 – VIII of December 25, 2015.

Myronenko considers that the disputed provisions of Law No. 80, Law No. 928, the Resolution of the Cabinet of Ministers No. 505 of May 31, 2012 and Annex 3 thereto contradict the requirements of Articles 1, 3, 6, part one of Article 8, part three of Article 22, part four of Article 43, part two of Article 131[1] of the Constitution. Allegedly they violate the following rights guaranteed by the Constitution: the right to a salary, which should not be lower than defined by law (part four of Article 43 of the Constitution), "the right to prevent narrowing of the content and scope of existing rights and freedoms in the adoption of new laws" (part three of Article 22 of the Constitution). Myronenko notes that granting powers to the Cabinet of Ministers (by Law No. 80 and Law No. 928) to issue own acts and decide matters that should only be regulated by the laws of Ukraine, namely the determination of the procedure of payment and the amount of salaries of prosecutors, violates the principles of separation of government power in Ukraine into legislative, executive and judicial branches, and does not comply with the principle of legal certainty as an element of the rule of law and guarantees of independence of prosecutors, and also poses a threat to the functioning of the prosecutor's office as a whole;

- a case in response to constitutional complaint of Eduard Karyakin on constitutional compliance of provisions of Article 79 of the Law "On Banks and Banking" No. 2121 – III of December 7, 2000.

The petitioner considers that as a result of the application of the disputed provision of the Law in the final court judgement in his case (in the judgement of the Supreme Court of Ukraine of October 24, 2017) there has been a violation of the right to appeal against decisions, actions or omissions of public authorities local governments, officials and personnel guaranteed by Article 55 of the Constitution;

- a case in response to constitutional complaint of Oleh Holyashkin on constitutional compliance of the entire Law "On the Judiciary and the Status of Judges" No. 1402 – VIII of June 2, 2016 as amended, and the provisions of part five of Article 83, subparagraph "a" paragraph 11 of part four of Article 85, part one of Article 86, part three of Article 88, paragraph 6 of part one of Article 93, part seven of Article 101 thereof.

According to the petitioner, the disputed provisions of the Law contradict the provisions of Article 8, parts one and two of Article 24, part one of Article 32, parts one and two of Article 55, part one of Article 64, paragraph 14 of part one of Article 92, subparagraph 4, paragraph 161 of Section XV "Transitional Provisions" of the Constitution, as they grant the High Qualifications Commission of Judges with the powers to regulate the procedure for conducting qualification evaluations, which should be regulated exclusively by law; restrict the right of close persons and family members of judges to private life and privacy, and contain purely formal grounds for judicial appeal of the decisions made by the Commission. Holyashkin raised the issue of recognizing the entire Law as non-compliant with the requirements of part two of Article 8 of the Constitution.

2.4. REFUSAL TO OPEN CONSTITUTIONAL PROCEEDINGS

The issuance of rulings refusing to open constitutional proceedings in a case is an important part of the work of the Constitutional Court in exercising constitutional control. The Court needs a request to be able to substantively examine the entire regulatory act or the provisions thereof for compliance with the norms of the Constitution. The request for such consideration must meet a number of formal and substantive requirements specified by law. It must be impeccable in terms of providing the Constitutional Court with the exact texts of the contested acts and other documents without which the proceedings cannot be opened (especially in the case of a constitutional complaint as a type of request). The applicant must provide the Constitutional Court with accurate information about the sources which he relies on, when explaining the need to consider the issue of unconstitutionality. The Constitutional Court should have no doubts as to the identity of the person who applied to the Constitutional Court or represents the interests of the applicant. But most importantly, the request for an opinion on the compliance of a regulatory act (its individual provisions) with the Constitution must be substantiated; it must contain a meaningful analysis of the

provisions subject to constitutional review and the norms of the Constitution (which these provisions, in the applicant's opinion, do not comply with); it must demonstrate a link between them and the logic of the arguments, which made the applicant conclude that the provision of the law (another regulatory act) contradicts the Constitution, and leads to a violation of the constitutional rights and principles. If the request does not meet such requirements, the Constitutional Court may not open proceedings. When the Court justifies the opening of proceedings, it may not act on behalf of the applicant and add or clarify information or arguments that are missing or vaguely stated in the request at its own discretion.

This circumstance explains the significant number of rulings refusing to open proceedings adopted by the Constitutional Court.

REFUSAL TO OPEN CONSTITUTIONAL PROCEEDINGS IN RESPONSE TO THE CONSTITUTIONAL SUBMISSIONS

In 2019, in accordance with the provisions of Article 62 of the Law "On the Constitutional Court of Ukraine", the Constitutional Court issued 9 rulings refusing to open constitutional proceedings in cases of constitutional submission, in particular, on the grounds of:

- the matter raised in the submission being outside the powers of the Constitutional Court (1);
- non-compliance of the submission with the requirements provided by law (5);
- invalidation of the act in question (its separate provisions) in respect of which the issue of constitutional compliance has been raised (1);
- the matters raised in the submission being outside the powers of the Constitutional Court and non-compliance of the submission with the requirements provided by law, at the same time (2).

In addition, in 2019, the Constitutional Court issued 3 rulings closing constitutional proceedings in the case of constitutional submissions (the matters raised in the submission being outside the powers of the Constitutional Court – 2; invalidation of the act (its separate provisions), in respect of which the issue of compliance with the Constitution was raised – 1).

REFUSAL TO OPEN CONSTITUTIONAL PROCEEDINGS IN RESPONSE TO THE CONSTITUTIONAL COMPLAINTS

In the period from January 1 to December 31, 2019, the Constitutional Court made **286** rulings refusing to open constitutional proceedings in cases of constitutional complaints (senates – 16, panels of judges – 270). Constitutional proceedings regarding the issues raised in the constitutional complaints were opened in some of the seven rulings made by the panel of judges, and some were rejected.

Most often, the reason for refusing to initiate constitutional proceedings in response to constitutional complaints was their inadmissibility (paragraph 4 of part one of Article 62 of the Law "On the Constitutional Court of Ukraine"). This has been mentioned in 249 judgments of the panels of judges and 13 judgments of senates. In this case, *the main reason for the inadmissibility of constitutional complaints, according to the Constitutional Court, was the lack of substantiation of allegations of unconstitutionality of the law of Ukraine (its individual provisions)* indicating the violated human rights guaranteed by the Constitution; this has been referred to in 220 judgements of panels of judges and in 10 judgements of senates. The inadmissibility on other grounds provided for in Article 55 of the Law "On the Constitutional Court of Ukraine" is mentioned in 44 rulings of panels of judges; in their 10 judgements the panels also pointed to the obvious unfoundedness of the content and requirements of the constitutional complaint, which is a violation of the requirements of part four of Article 77 of this law.

In the opinion of the Constitutional Court, the reasons for inadmissibility of constitutional complaints were also the obvious abuse of the right to file a complaint (part four of Article 77), non-compliance with the requirements for exhaustion of all domestic remedies (paragraph 1 of part one, Article 77), violation of the deadlines for submitting constitutional complaints (paragraph 2 of part one, Article 77), failure to apply the disputed provision in the final court judgement (part one of Article 55 of the Law "On the Constitutional Court of Ukraine").

In addition to the above, the Constitutional Court used other the grounds for refusing to open proceedings on constitutional complaints, such as: matters raised in constitutional complaints being outside the powers of the Constitutional Court (paragraph 2 of part one, Article 62); abolition of an act (its separate provisions) in respect

of which the issue of compliance with the Constitution has been raised (paragraph 5 of part one, Article 62); the presence of a decision of the Constitutional Court on the same subject of the constitutional complaint (paragraph six of part one of Article 62); supplication to the Constitutional Court by a non-eligible subject (paragraph 1 of part one, Article 62 of the Law "On the Constitutional Court of Ukraine").

2.5. ACTS OF THE CONSTITUTIONAL COURT OF UKRAINE: IMPLEMENTATION ISSUES

In 2019, the Constitutional Court of Ukraine passed 19 judgments and issued 9 opinions. In the Judgment of the Constitutional Court (the Second Senate) No. 7-r (II) / 2019 of December 13, 2019, the Verkhovna Rada was obliged to bring the regulatory framework in line with the provisions of the Constitution and this Judgment, while the Judgment of the Constitutional Court No. 4-r / 2019 of June 13, 2019 defined the relevant enforcement procedure. Among 17 judgments, some recognized the provisions of the laws of Ukraine as inconsistent with the Constitution and some consistent with the Constitution without any recommendations for their enforcement. In such cases, the parliament and other public authorities take appropriate measures independently in order to enforce them.

THE STATUS OF IMPLEMENTATION OF CONSTITUTIONAL COURT JUDGMENTS ADOPTED IN 2019 IN RESPONSE TO CONSTITUTIONAL SUBMISSIONS

Judgment No. 1-p / 2019 of February 26, 2019

Adopted in the case of constitutional submission of 59 MPs regarding the conformity of Article 3682 of the Criminal Code with the Constitution (constitutionality).

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): Article 3682 of the Criminal Code of Ukraine".

The procedure and the terms of execution of the judgment were not determined by the Constitutional Court.

In connection with its adoption, the Verkhovna Rada passed the Law "On Amendments to certain legislative acts of Ukraine regarding confiscation of illegal assets of persons authorized to perform state or local government functions and penalties for acquisition of such assets" No. 263 – IX of October 31, 2019. The explanatory note to the draft law stated that its development and adoption was conditioned by the need to restore criminal liability for illicit enrichment. The law supplemented the Criminal Code with Article 368^5 "Illicit enrichment". It defines illicit enrichment as the acquisition of assets the value of which exceeds the person's legal income by more than 6,500 non-taxable minimum incomes. The note to this Article defines, in particular, the concept of "the person authorized to perform the functions of state or local government";"acquisition of assets by a person authorized to perform state or local government functions" (which includes the acquisition of assets by another natural or legal person, if it was proven that such acquisition was made on behalf of a person authorized to perform state or local government functions, or that such a person may directly or indirectly transact with such assets, in the way that is identical to the exercise of the right of disposal thereof. The Article gave definition to the concept of "assets" (cash, other property, property rights, intangible assets, including cryptocurrencies, the size of reduction of financial liabilities, works or services) and "legal income of a person." The number "368^2" was replaced by "368^5" in accordance with the provisions of subparagraphs 1 and 2, paragraph 2 of Section I of the Law, lines one and two of paragraph 1 of the note to Article 364, line one of paragraph 3 of the note to Article 368 of the Criminal Code of Ukraine.

The law was published in the *Holos Ukrainy* (The Voice of Ukraine) newspaper on November 27, 2019. The law came into force on November 28, 2019.

The analysis of the content of the above Article allows us to assume that the updated regulation takes into account the legal positions formulated in the Judgment No. 1-p/2019 of February 26, 2019.

Judgment No. 2-p / 2019 of June 4, 2019

Adopted in the case of the constitutional submission of 45 MPs on constitutional compliance of certain provisions of the Law "On Pension" and submission of 48 MPs on constitutional compliance (constitutionality) of certain provisions of the Law "On Pension", "On the Status and social protection of citizens affected by the Chornobyl disaster", "On Pension for persons dismissed from military service and some other persons", "On Civil Service", "On Forensic Expertise", "On the National Bank", "On Service in local government bodies", "On the Status of the Members of Parliament", "On the Diplomatic service", "On Compulsory State Pension Insurance", "On the Cabinet of Ministers of Ukraine", "On the Office of the Prosecutor", as well as the Regulation on the "Aide to the Member of Parliament", approved by the Decree of the Verkhovna Rada of October 13, 1995, No. 379/95-VR.

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): paragraph "a" of Article 54, Article 55 of the Law "On Pensions" dated November 5, 1991, No. 1788-XII with amendments made by the laws of Ukraine "On Amendments to certain legislative acts on pensions" No. 213 – VIII dated March 2, 2015, and "On Amendments to certain legislative acts" No. 911 – VIII dated December 24, 2015".

The procedure and terms of execution of the judgment were not determined by the Constitutional Court.

The Verkhovna Rada did not adopt any acts regarding this judgment. The judgment has not been enforced.

Judgment No. 3-p / 2019 of June 6, 2019

Adopted in the case of the constitutional submission of Human Right Commissioner of Verkhovna Rada and 65 MPs regarding conformity with the Constitution (constitutionality) of provisions of paragraph 5, part one of Article 3, line three of part three, Article 45 of the Law "On Prevention of Corruption", paragraph 2 Section II "Final Provisions" of the Law "On Amendments to certain laws on the features of financial control of certain categories of officials".

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): paragraph 5 of part one of Article 3, line three of part three of Article 45 of the Law "On Prevention of Corruption" No. 1700-VII dated October 14, 2014 as amended, and paragraph 2 of Section II "Final Provisions" of the Law "On Amendments to certain laws on the features of financial control of certain categories of officials" No. 1975 – VIII dated March 23, 2017".

The procedure and terms of execution of the judgment were not determined by the Constitutional Court.

However, the Verkhovna Rada adopted the Law "On Amendments to certain legislative acts of Ukraine to ensure the effectiveness of the institutional mechanism for prevention of corruption" No. 140 – IX of October 2, 2019. Paragraph 5 was deleted from part one of Article 3 of the Law "On Prevention of Corruption" No. 1700 – VII of October 14, 2014 as amended. Paragraph 3 was deleted from part three of Article 45 of the Law "On Prevention of Corruption" No. 1700 – VII of October 14, 2014 as amended, according to subparagraph "c" of subparagraph 2, paragraph 11 of Section I and line 4 of subparagraph "b", subparagraph 19 of paragraph 11 of Section I thereof. Accordingly, the members of the public, other persons who do not perform the functions of the state or local government were excluded from the list of entities subject to the property declaration requirement. The Court found that the extension of financial control measures to such persons means excessive and unjustified interference with their rights (see explanatory note to the draft Law).

Amendments to paragraph 2 Section II "Final Provisions" of the Law "On Amendments to certain laws on the features of financial control of certain categories of officials" No. 1975 – VIII dated March 23, 2017 have not been made.

The law was published in the *Holos Ukrainy* (The Voice of Ukraine) newspaper on October 17, 2019. The law came into force on October 18, 2019.

The judgment was partially implemented.

Judgment No. 5-p / 2019 of June 13, 2019

Adopted in the case of constitutional submission of 46 MPs on constitutional compliance of part one of Article 1, paragraph 2 of part one of Article 4, part one of line one and two of part two of Article 5, lines two, three, four, five, thirty nine, forty of part three and six, Article 8 of the Law "On the National Commission for state regulation in the energy and utilities sector" (the case of the National Commission for state regulation in the energy and utilities sector).

The operative part of the judgment established:

"1. Recognize the following provisions as fully compliant with the Constitution (constitutional): paragraph five of part three of Article 8 of the Law "On the National Commission for state regulation in the energy and utilities sector" No. 1540 – VIII of September 22, 2016.

2. Recognize the following provisions non-compliant with the Constitution (unconstitutional): part one of Article 1, paragraph 2 of part one of Article 4, part one, paragraphs one and two of part two of Article 5, lines two, three, four, thirty nine, forty of part three, part six of Article 8 of the Law "On the National Commission for state regulation in the energy and utilities sector" No. 1540 – VIII of September 22, 2016.

3. Part one of Article 1, paragraph 2 of part one of Article 4, part one, lines one and two of part two of Article 5, lines two, three, four, thirty nine, forty of part three, and part six of Article 8 of the Law "On the National Commission for state regulation in the energy and utilities sector" No. 1540 – VIII of September 22, 2016 were declared unconstitutional and expire on December 31, 2019".

The Constitutional Court did not determine the procedure and the terms of execution of the Judgment, at the same time it postponed the abolishment of these provisions to bring the current legislation in line with the Constitution in order to avoid gaps in the legislation regarding the work organization of the National Commission for state regulation in the energy and utilities sector (hereinafter referred to as Commission), which may prevent its functioning and performance of state regulation in the energy and utility services sector.

On December 19, 2019, the Verkhovna Rada adopted the Law "On Amendments to certain legislative acts of Ukraine for ensuring constitutional principles in the energy and utility services sector" No. 394 – IX (Law No. 394). The amendments were made to the Law "On the National Commission for state regulation in the energy and utilities sector" No. 1540 – VIII of September 22, 2016 (hereinafter referred to as Law No. 1540) (in particular, to articles 1, 4, 5, 8) in accordance with subparagraphs 1, 3, 4, 7 of paragraph 10 of Section I of Law No. 394. The Commission was defined as a permanent central executive body with a special status established by the Cabinet of Ministers; one of the main principles of the Commission's work is autonomy and independence within the limits set by law; Commission's work is guided by the Constitution, Law No. 1540 and other legislative acts of Ukraine. In the performance of its functions and powers, the Commission shall act independently within the limits established by law. Written or oral instructions, orders, directives of a government body, other agency, local government body, their officials and personnel, business entities, political parties, public associations, trade unions or their bodies, as well as other persons restricting the powers of the members and the officials of the Commission shall be categorized as illegal influence. Public authorities, local governments, their officials, business entities, political parties, public associations, trade unions and their bodies are prohibited from influencing the processes of government regulation in the field of energy and utilities.

The amendments made to Article 8 of Law No. 1540 by Law No. 394 stipulate that the composition of the Tender Board is approved by the Cabinet of Ministers. It includes persons recommended by the Verkhovna Rada Committee, which is responsible for the development of the fuel and energy complex, coal, gas, oil production and refining, electricity, housing and utility services; the central body of executive power responsible for development and implementation of the government policy in the fuel and energy sector; central body of executive power responsible for the development and implementation of the government policy in the field of regional development and housing and utility services. The powers of the members of the Commission shall be terminated prematurely by a decision of the Cabinet of Ministers.

Law No. 394 was published in the newspaper *Holos Ukrainy* (The Voice of Ukraine) on December 28, 2019. Law No. 394 entered into force on December 29, 2019, with exception of some of its provisions.

The analysis of the changes made to Law No. 1540, allows us to assume that the updated regulation takes into account the legal positions formulated in the Judgment.

Judgment No. 6-p / 2019 of June 20, 2019

Adopted in the case of the constitutional submission of 62 MPs regarding constitutional compliance of the Decree of the President "On Early termination of powers of the Verkhovna Rada and snap elections".

The operative part of the judgment established:

"1. Recognize the following as non-compliant with the Constitution (unconstitutional): the Decree of the President "On Early termination of powers of the Verkhovna Rada and snap elections" No. 303/2019 of May 21, 2019".

The judgment does not require special measures to implement it.

Judgment No. 8-p / 2019 of June 25, 2019

Adopted in the case of the constitutional submission of 45 MPs on constitutional compliance of the Resolution of the Cabinet of Ministers "Some issues of improvement of administration in the sphere of use and protection of government owned agricultural land and disposal of such land" No. 413 of June 7, 2017.

The operative part of the judgment established:

"1. Recognize the following as non-compliant with the Constitution (unconstitutional): the Resolution of the Cabinet of Ministers "Some issues of improvement of administration in the sphere of use and protection of government owned agricultural land and disposal of such land" No. 413 of June 7, 2017, as amended".

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

No other acts on this issue were adopted by the Cabinet of Ministers. The judgment has not been implemented.

Judgment No. 9-p / 2019 of July 16, 2019

Adopted in the case of the constitutional submission of 46 MPs on constitutional compliance of the Law "On Condemnation of Communist and National Socialist (Nazi) totalitarian regimes in Ukraine and prohibition of propaganda of their symbols".

The operative part of the judgment established:

"1. Recognize the following as non-compliant with the Constitution (unconstitutional): the Law "On Condemnation of Communist and National Socialist (Nazi) totalitarian regimes in Ukraine and prohibition of propaganda of their symbols" No. 317 – VIII of April 9, 2015 as amended".

The judgment does not require special measures to implement it.

Judgment No. 10-p / 2019 of July 16, 2019

Adopted in the case of the constitutional submission of 48 MPs on constitutional compliance of the Law "On Education".

The operative part of the judgment established:

"*1. Recognize the following as non-compliant with the Constitution (unconstitutional): the Law "On Education" of September 5, 2017 No. 2145 – VIII as amended*".

The judgment does not require special measures to implement it.

Judgment No. 11-p / 2019 of December 2, 2019

Adopted in the case of the constitutional submission of 49 MPs regarding the official interpretation of the provisions of Article 151^2 of the Constitution.

The operative part of the judgment established:

"1. In the aspect of the issue of Article 151^2 of the Constitution raised in the constitutional submission, it should be understood that regardless of their legal form, the judgments of the Constitutional Court, adopted on the issues of its exclusive constitutional powers cannot be appealed".

The judgment does not require special measures to implement it.

Judgment No. 12-p / 2019 of December 20, 2019

Adopted in the case of the constitutional submission of 49 MPs regarding conformity with the Constitution (constitutionality) of provisions of part two of Article 135 of the Housing Code of the Ukrainian SSR.

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): part two of Article 135 of the Housing Code of the Ukrainian SSR".

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

As of December 31, 2019, the Verkhovna Rada did not pass any acts in connection with adoption of the judgment.

THE STATUS OF IMPLEMENTATION OF THE CONSTITUTIONAL COURT JUDGMENTS ADOPTED IN 2019 IN RESPONSE TO THE CASES OF CONSTITUTIONAL COMPLAINTS

Judgment No. 1-p (II) / 2019 of April 25, 2019

Adopted in the case of the constitutional complaints of Anatoliy Skrypka and Oleksiy Bobyr regarding conformity with the Constitution (constitutionality) of provisions of part three of Article 59 of the Law "On the Status and Social Protection of citizens affected by the Chernobyl Disaster".

The operative part of the judgment established:

1. "Recognize the following provisions non-compliant with the Constitution (unconstitutional): the phrase "active conscription" contained in the provisions of part three of Article 59 of the Law "On the Status and Social Protection of citizens affected by the Chernobyl Disaster" No. 796 – XII of February 28, 1991 as amended. These provisions determined the amount of compensation for damage caused to the responders to the accident at the Chornobyl NPP when calculating the size of pension based on the amount five times the minimum wage established by law as of January 1 of the respective year. There rules applied exclusively to military personnel participating in elimination of the consequences of the Chornobyl disaster when serving their active conscription duty which resulted in disabilities".

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

The Verkhovna Rada did not pass any acts in connection with its adoption. At the same time, on June 26, 2019, the Cabinet of Ministers issued Resolution No. 543. The Resolution and, in particular, line one, paragraph 91 of the Procedure for calculating pensions for victims of the Chernobyl disaster, approved by the Resolution of the Cabinet of Ministers "On increasing the level of social protection of citizens affected by the Chernobyl disaster" 2011 No. 1210 of November 23, as amended, proposed the following wording:

"9[1]. The disability pension shall be calculated based on five times the minimum wage established by law as of January 1 of the respective year, according to the formula… at the request of servicemen, in particular conscripts, mobilized for military service, who took part in eliminating the consequences of the Chornobyl disaster, other nuclear accidents and tests, military exercises with the use of nuclear weapons that took place during military service (military training) and resulted in disability".

The judgment was partially implemented by issuing an act of the Cabinet of Ministers.

Judgment No. 2-p (II)/2019 of May 15, 2019

Adopted in the case of the constitutional complaint of Vira Khlipalska regarding conformity with the Constitution (constitutionality) of the provisions of part two of Article 26 of the Law "On Enforcement Proceedings" (about ensuring enforcement of a court judgment by the state).

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): provisions of part two of Article 26 of the Law "On Enforcement Proceedings" No. 1404–VIII of June 2, 2016 as amended.

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

The Verkhovna Rada did not pass any acts in connection with adoption of the judgment. The judgment has not been implemented.

The judgment No. 3-p (I)/2019 of June 5, 2019

Adopted in the case of the constitutional complaint of METRO Cash & Carry Ukraine Limited Liability Company regarding conformity with the Constitution (constitutionality) of the following provisions: lines twenty-four, twenty-five, twenty-six, Section I of the Law "On Amendments to the Tax Code of Ukraine in terms of clarification of some provisions and elimination of contradictions occurred during adoption of the Law of Ukraine "On Amendments to the Tax Code of Ukraine in terms improvement of the Ukrainian investment climate" No. 1989 – VIII of March 23, 2017.

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): the first sentence of paragraph twenty six of Section I of the Law "On Amendments to the Tax Code of Ukraine in terms of clarification of some provisions and elimination of contradictions occurred during adoption of the Law of Ukraine "On Amendments

to the Tax Code of Ukraine in terms improvement of the Ukrainian investment climate" No. 1989 – VIII of March 23, 2017. According to these provisions "the amount of fees accrued and paid in accordance with Articles 269-289 of this Code for the land located in the temporarily occupied territory and / or territories of municipalities located along the contact line and / or the territory of the Anti-terrorist Operation in the course of this operation, shall not be refundable to the current account of the taxpayer. These funds shall not be used to repay the monetary liabilities (tax debt) arising from other taxes, fees, or refunded in cash upon presentation of a check in cases when the taxpayers have no bank accounts".

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

The Verkhovna Rada did not pass any acts in connection with adoption of the judgment.

Judgment No. 4-p (II)/2019 of June 5, 2019

Adopted in the case of the constitutional complaint of Zaporizhzhya Ferroalloy Plant Joint Stock Company on constitutional compliance of provisions of paragraph 13 of part one of Article 17 of the Law of "On the National Anti-Corruption Bureau of Ukraine".

The operative part of the judgment established:

"*1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): provisions of paragraph 13 of part one of Article 17 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" No. 1698 – VII of October 14, 2014 [Law No. 1698]. According to this Law, the National Anti-Corruption Bureau of Ukraine has the right "to take legal action for invalidation of agreements in accordance with the procedure established by the legislation of Ukraine in the presence of the grounds provided for by law."*

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

The Verkhovna Rada adopted the Law "On Amendments to certain legislative acts of Ukraine to ensure the effectiveness of the institutional mechanism for prevention of corruption" No. 140 – IX of October 2, 2019. According to line three, paragraph 13 of Section I of this Law, paragraph 13 has been deleted from part one of Article 17 of the Law "On the National Anti-Corruption Bureau of Ukraine" No. 1698 – VII of October 14, 2014.

The law was published in the *Holos Ukrainy* (The Voice of Ukraine) newspaper on October 17, 2019. The law came into force on October 18, 2019.

The judgment has been implemented.

Judgment No. 4-p/2019 of June 13, 2019

Adopted in the case of the constitutional complaint of Viktor Hlushchenko regarding conformity with the Constitution (constitutionality) of provisions of part two of Article 392 of the Criminal Procedure Code of Ukraine.

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): part two of Article 392 of the Code of Criminal Procedure regarding impossibility of a separate appeal process against a court ruling to extend the custody. The ruling was issued during a trial in a court of first instance pending the judgment on the merits.

2. *Oblige the Verkhovna Rada to bring the regulations established by part two of Article 392 of the Criminal Procedure Code into conformity with the Constitution and this judgment."*

Thus, the judgment contains an instruction about adjustment of legal regulation, which must be implemented.

On October 25, 2019, the Verkhovna Rada registered a draft Law on Amendments to the Criminal Procedure Code of Ukraine to ensure enforcement of the Constitutional Court's judgment regarding the appeal against a lower court's judgment to extend the period of custody (Reg. No. 2315). The draft Law provides:

- the possibility for a judge of the appellate instance, who participated in the criminal proceedings during the pre-trial investigation, to participate in the same proceedings in the appellate court in cases when she performs appellate review of first instance court's judgement regarding selection of preventive measure in the form of custody; replacement of another preventive measure with a preventive measure in the form of custody or extension of the term of custody, which was imposed during the court proceedings in the court of first instance pending the judgment on the merits;

- the possibility of appeal against court judgments regarding selection of preventive measure in the

form of custody; replacement of another preventive measure with a preventive measure in the form of custody or extension of the term of custody, adopted during the proceedings in the court of first instance pending the judgment on the merits;

- the possibility of filing an appeal against such judgments of the court of first instance directly to the court of appeal;
- the powers of the appellate court as a result of consideration of such an appeal;
- the procedural sequence of verification of the relevant rulings of the court of first instance by the appellate court;
- the possibility of return of the relevant materials of the criminal proceedings to the court of first instance.

On December 13, 2019, there was registered a draft Resolution on adoption of the draft Law on Amendments to the Criminal Procedure Code of Ukraine to ensure enforcement of Constitutional Court's judgments regarding the appeal of a lower court's decision to extend the period of custody (Reg. No. 2315 / P). Draft Resolution No. 2315 was included in the agenda of the second session of the ninth convocation of the Verkhovna Rada in accordance with the Resolution of the Verkhovna Rada No. 306 – IX of December 3, 2019, and on December 17, 2019, a submission was brought before the Law Enforcement Committee of the Verkhovna Rada to consider the draft during the plenary session.

The judgment was still pending as of December 31, 2019.

Judgment No. 7-p/2019 of June 25, 2019

Adopted in the case of the constitutional complaints of Maryna Kovtun, Nadiya Savchenko, Ihor Kostohlodov, Valeriy Chornobuk on constitutional compliance of the provisions of part five of Article 176 of the Criminal Procedure Code of Ukraine.

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): the provisions of part five of Article 176 of the Criminal Procedure Code of Ukraine. They stipulate that preventive measures in the form of personal commitment, personal guarantee, house arrest, and bail cannot be applied to persons suspected or accused of committing crimes under Articles 109-114[1], 258-258[5], 260, 261 of the Criminal Code of Ukraine".

The procedure and the terms of execution of the judgment have not been determined by the Constitutional Court.

The Verkhovna Rada did not pass any acts in connection with adoption of the judgment.

Judgment No. 5-p (I)/2019 of July 12, 2019

Adopted in the case of the constitutional complaints of Pavlo Baishev, Olha Burlakova, Iryna Dats, Viacheslav Dyedkovskyi, Mykhailo Zheliznyak, Liudmyla Kozhukharova on constitutional compliance of paragraphs 2, 3 of Section II of "The Final Provisions" of the Law of Ukraine "On Amendments to certain legislative acts of Ukraine introducing contract-based employment in the field of culture and competitive procedure for appointment of heads of state and communal cultural establishments" No. 955 – VIII of 28 January 2016, as amended.

The operative part of the judgment established:

"1. Recognize the following provisions compliant with the Constitution (constitutional): paragraphs 2, 3 of Section II "The Final Provisions" of the Law of Ukraine "On Amendments to certain legislative acts of Ukraine introducing contract-based employment in the field of culture and competitive procedure for appointment of heads of state and communal cultural establishments" No. 955 – VIII of 28 January 2016, as amended".

The judgment does not require special measures to implement it.

Judgment No. 6-p (II)/2019 of September 4, 2019

Adopted in the case of the constitutional complaint of Tetiana Zhabo regarding conformity with the Constitution (constitutionality) of provisions of part three of Article 40 of the Labor Code of Ukraine.

The operative part of the judgment established:

"1. Recognize the following provisions compliant with the Constitution (constitutional): provisions of part three of Article 40 of the Labor Code of Ukraine".

The judgment does not require special measures for implementation.

Judgment No. 7-p (II) / 2019 of December 13, 2019

Adopted in the case of the constitutional complaints of Stepan Danyliuk and Oleksiy Lytvynenko regarding constitutional compliance of provisions of part twenty of Article 86 of the Law "On Prosecutor's Office" No. 1697 – VII of October 14, 2014.

The operative part of the judgment established:

"1. Recognize the following provisions non-compliant with the Constitution (unconstitutional): provisions of part twenty of Article 86 of the Law "On Prosecutor's Office" No. 1697 – VII of October 14, 2014 as amended. The Law stipulates that the conditions and the procedure for re-calculation of prosecutors' pensions are set by the Cabinet of Ministers of Ukraine". …

3. Establish the following procedure for the execution of this judgment:

- *part twenty of Article 86 of the Law "On the Prosecutor's Office" No. 1697 – VII of October 14, 2014 as amended, shall not be applied from the date of adoption of this judgment by the Constitutional Court;*
- *part twenty of Article 86 of the Law "On the Prosecutor's Office" No. 1697 – VII of October 14, 2014 shall be used in the original version:*
- *"20. Pensions set to the employees of the prosecutors' offices shall be recalculated in connection with the increase in salaries of the employees of the prosecutors' offices to the level of conditions and components of salaries of the relevant categories of employees serving in the bodies and institutions of the prosecutor's office at the time when the right to recalculation arises. Recalculation of appointed pensions shall be performed from the first day of the month following the month when the circumstances, which cause changes in the amount of pension occurred. If the pensioner has become eligible to pension increase, the difference in the pension payable for the previous period shall not exceed 12 months. The pension for working pensioners shall also be recalculated in connection with appointment to a higher position, increase in time in service, assignment of an honorary title or academic degree and increase of the size of components of his salary according to the procedure provided by parts two, three and four of this Article upon dismissal or for every two years of work."*

This judgment is special due to the presence of a specific instruction that the provisions of the Law "On the Prosecutor's Office", amendments to which were found to be unconstitutional, shall be applied in the original version.

The judgment does not require special measures for implementation (in particular, by the legislator). The Verkhovna Rada did not pass any acts in connection with adoption of the judgment as of December 31, 2019.

COMPLIANCE WITH THE OPINIONS OF THE CONSTITUTIONAL COURT ISSUED IN 2019

As noted above, in 2019 the Constitutional Court issued 9 opinions in the following cases:

- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 133 of the Constitution (renaming of Kirovohrad oblast) (Reg. No. 8380) to the requirements of Articles 157 and 158 of the Constitution (No. 1-в/2019 of February 5, 2019);
- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 133 of the Constitution (renaming of Dnipropetrovsk oblast) (Reg. No. 9310-1) with the requirements of Articles 157 and 158 of the Constitution (No. 2-в/2019 of April 2, 2019);
- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 85 of the Constitution (on consulting, advisory and other supporting services of the Verkhovna Rada of Ukraine) (Reg. No. 1028) with the requirements of Articles 157 and 158 of the Constitution (No. 3-в/2019 of October 29, 2019);
- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to of the Constitution (abolishing the lawyer's monopoly) (Reg. No. 1013) with the requirements of Articles 157 and 158 of the Constitution (No. 4-в/2019 of October 31, 2019);
- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of

the draft law on amendments to Article 93 of the Constitution (people's right to propose legislation) (Reg. No. 1015) with the requirements of Articles 157 and 158 of the Constitution (No. 5-в/2019 of November 13, 2019);

- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Articles 85 and 101 (with regard to the Commissioners of the Verkhovna Rada of Ukraine) (Reg. No. 1016) with the requirements of Articles 157 and 158 of the Constitution (No. 6-в/2019 of November 20, 2019);

- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 106 of the Constitution (giving the powers to the President to form independent regulatory bodies, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations) (Reg. No. 1014) with the requirements of Articles 157 and 158 of the Constitution (No. 7-в/2019 of December 16, 2019);

- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Articles 76 and 77 of the Constitution (reducing the constitutional composition of the Verkhovna Rada and consolidating the proportional electoral system) (Reg. No. 1017) with the requirements of Articles 157 and 158 of the Constitution (No. 8-в/2019 of December 16, 2019);

- the constitutional application of the Verkhovna Rada requesting Court's opinion regarding conformity of the draft law on amendments to Article 81 of the Constitution (additional grounds for early termination of powers of the member of Parliament of Ukraine) (Reg. No. 1027) with the requirements of Articles 157 and 158 of the Constitution (No. 9-в/2019 of December 24, 2019).

In a number of opinions, the Constitutional Court recognized the draft laws in compliance with the requirements of Articles 157 and 158 of the Constitution, and also binding, final and non-appealable. Therefore, they did not provide for special observance requirements. At the same time, some of them contained reservations about the further settlement of the issues by the Verkhovna Rada which the bills addressed; this implies appropriate textual changes in the process of their finalization. In this aspect, the latter can be analyzed in terms of compliance with the opinions of the Constitutional Court. However, the Verkhovna Rada has not developed such bills as of December 31, 2019.

The Court analyzed draft laws and produced the following opinions: No. 6-в / 2019 of November *20, 2019*, *No. 7-в / 2019 of December 16, 2019 and No. 9-в / 2019 of December 24, 2019*. The analyzed bills were recognized as non-compliant with the requirements of part one of Article 157 of the Constitution, and compliant with the requirements of part two of Articles 157 and 158 of the Constitution. These bills should be analyzed in terms of compliance with the opinions of the Constitutional Court in the process of their finalization.

In the Conclusion of December 16, 2019 No. 8-в / 2019 in paragraph 1 of the operative part decided:

"1. Recognize the following provisions compliant with Articles 157 and 158 of the Constitution: the draft law on amendments to Articles 76 and 77 of the Constitution (reducing the constitutional composition of the Verkhovna Rada and introducing the proportional electoral system) (Reg. No. 1017), which propose:

*"*1. *Make the following amendments to the Constitution of Ukraine (the Bulletin of Verkhovna Rada of Ukraine, 1996, No. 30, p. 141:*

1. Formulate Article 76 as follows:

"Article 76. The constitutional composition of the Verkhovna Rada of Ukraine consists of three hundreds of the People's Deputies of Ukraine who are elected for a five-year term.

A citizen of Ukraine who has attained the age of twenty-one on the day of elections, has the right to vote, has resided on the territory of Ukraine for the past five years, and has command of the state language, may be a People's Deputy of Ukraine.

A citizen who has a criminal record for committing an intentional crime shall not be elected to the Verkhovna Rada of Ukraine unless he record is not cancelled and erased by the procedure established by law.

The authority of People's Deputies of Ukraine is determined by the Constitution and the Laws of Ukraine.

The term of authority of the Verkhovna Rada of Ukraine is five years."

2. The Article 77 shall be worded as follows:

"Article 77. Regular elections to the Verkhovna Rada of Ukraine take place on the last Sunday of October of the fifth year of the term of authority of the Verkhovna Rada of Ukraine.

Special elections to the Verkhovna Rada of Ukraine are designated by the President of Ukraine and are held within sixty days from the day of the publication of the decision on the pre-term termination of authority of the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine shall be elected under the proportional election system. The procedure for conducting of the People's Deputies of Ukraine elections of shall be established by the law."

3. Supplement Section XV "Transitional Provisions" with paragraph 17 as follows:

"17. After the entry into force of the Law of Ukraine "On Amendments to Articles 76 and 77 of the Constitution of Ukraine (on reducing the constitutional composition of the Verkhovna Rada of Ukraine and on establishing the proportional election system)", the Verkhovna Rada of Ukraine, elected before the entry into force of this Law, shall continue to exercise its powers until the next elections of the People's Deputies of Ukraine."

II. *This Law shall enter into force on the day of its publication.".*

The said paragraph of the Opinion does not require verification of compliance with its requirements.

Paragraph 2 of the operative part of this Opinion established that:

"2. The Constitution should establish clear and unambiguous provisions that people's deputies of Ukraine (MPs) are elected on the basis of universal, equal and direct suffrage by secret ballot.

Determining the type of electoral system, its features and specifics is a matter of political expediency and should be decided by the parliament in accordance with its constitutional powers, provided that the constitutional principles and democratic standards of organization and conduct of elections are observed. Given this, there is no need (imperative) to solidify a specific type of electoral system in the Constitution.

The provision on reducing the constitutional composition of the Verkhovna Rada of Ukraine to three hundred MPs proposed by the draft law on amendments to Articles 76 and 77 of the Constitution (on reducing the constitutional composition of the Verkhovna Rada of Ukraine and consolidating the proportional electoral system) (Reg. No. 1017) should be considered together with the provisions of the Constitution, which determine a certain (specific) number of MPs. When making such changes, the appropriate proportionality must be observed and the systemic nature of all provisions of the Constitution must be preserved.

If the draft law amending Articles 76 and 77 of the Constitution (on reducing the constitutional composition of the Verkhovna Rada and consolidating the proportional electoral system) is adopted (Reg. No. 1017), paragraph 17 of Section XV "Transitional Provisions" of the Constitution will come into conflict with the provisions of part one of Article 90 of the Constitution, which regulate termination of the powers of the Verkhovna Rada. Application of paragraph 17 of Section XV "Transitional Provisions" of the Constitution may lead to a gap in time between the moment (day) of termination of parliamentary powers and the moment (day) of their acquisition by the newly elected parliament, and thus to the violation of the constitutional principle of continuity of legislative power".

These provisions of the Opinion should be analyzed in terms of compliance with the opinions of the Constitutional Court in the process of their finalization.

* * *

As of December 31, 2019, 15 judgments of significant public importance adopted by the Constitutional Court before January 1, 2019, remained unimplemented. In particular: the judgment No. 6-рп / 2007 of 9 July 2007; No. 11-рп/2007 of December 11, 2007; No. 21-рп/2009 of September 15, 2009; No. 25-рп/2009 of October 7, 2009; No. 23-рп/2010 of December 22, 2010; No. 6-рп/2011 of June 16, 2011 (in the process of implementation); No. 18-рп/2012 of December 13, 2012; No. 2-рп/2014 dated March 14, 2014; No. 2-рп/2016 of June 1, 2016; No. 7-рп/2016 of December 20, 2016; No. 7-р/2018 of October 11, 2018; No. 8-р/2018 (in the process of implementation) of October 11, 2018; No. 11-р/2018 of December 4, 2018; No. 12-р/2018 of December 18, 2018; No. 13-р/2018 of December 20, 2018.

2.6. ACTIVITIES OF THE CONSTITUTIONAL COURT OF UKRAINE PERTAINING TO THE FUNCTION OF CONSTITUTIONAL CONTROL IN 2019: SEPARATE CONCLUSIONS

INTENSITY OF PERFORMANCE

Due to the specifics of constitutional proceedings, quantitative indicators are not the main performance criterion of this body of constitutional jurisdiction. By their nature, the Constitutional proceedings are very focused. They do not deal with the unlawful acts that need to be proved, qualified and judged on aiming to restore the rights or apply a measure of statutory responsibility; accordingly, constitutional proceedings and resulting acts are not subject to recordkeeping by means of legal statistics. Most often, the Court reviews compliance of the regulations with the provisions of the Constitution of Ukraine (entirely or of a certain part) in the framework of constitutional proceedings; these are clearly proven situations when the provisions of a law or other act or the act as a whole do not meet the requirements of the norms and principles formulated by the Constitution of Ukraine. There cannot be many such situations (although attempts to question these provisions can be numerous), as the legislator and other competent entities are obliged to make regulations taking into account the requirements of the Constitution of Ukraine and the existing system of national legislation.

Despite the abovementioned quantitative indicators of the work of the Constitutional Court in 2019 (28 judgements and opinions, 57 rulings to open and 270 rulings refusing to open constitutional proceedings) point to a rather high intensity. It is necessary to assess the intensity of the work of the Constitutional Court taking into account personnel changes in the court's composition (dismissal of one of the members of the Constitutional Court from the positions of the Chairman and a judge of the Constitutional Court). Dismissal of four judges of the Constitutional Court due to their resignation and commencement of work of three judges of the Constitutional Court appointed in 2019 in constitutional proceedings.

REGARDING THE FOCUS OF CONSTITUTIONAL CONTROL

The priority focus of constitutional control in 2019 (both in cases where the judgment was adopted and in pending cases) were the norms of laws and other regulations dealing with the implementation of constitutional rights and freedoms of man and citizen in Ukraine. The following types of legislation were most often examined in constitutional proceedings:

- legislation on pensions and other social benefits;
- criminal procedural legislation (in particular on the use of custody as a temporary preventive measure without a reasoned court judgment), procedural legislation (criminal, administrative, civil) in terms of appeals against court judgements, as well as legislation for their implementation;
- legislation on purging of government (in terms of political persecution and violation of labor rights of citizens);
- criminal law;
- labor legislation;
- legislation on the work of political parties, public and religious organizations in Ukraine;
- legislation on preventing and combating corruption.

The constitutional proceedings also examined the norms of civil, customs, tax, education, language, religion, housing legislation, legislation on administration of local self-government in Kyiv, land legislation, and notary services legislation.

The need for such consideration was conditioned by a real or probable (in the opinion of the entity enjoying the right to appeal to the Constitutional Court) violation, in particular:

- *the right to social protection* (also in the case of servicemen who suffered damage during response to the Chernobyl accident; citizens with special work experience who became eligible for retirement; prosecutors; civil servants; employees of the National Police);
- *the right of citizens to judicial protection*, in particular in terms of restricting access to the court of appeal in criminal, civil and administrative proceedings; ensuring enforcement of court judgements by the government; people's right to an independent and impartial trial within the statutory time period;
- the rights to protection;
- the right to liberty and personal integrity;
- the right not to be held legally liable until proven guilty in court in due course;
- property ownership rights;

- the right to engage in entrepreneurial activity;
- the right to work, in particular, employees' right to protection from unlawful dismissal, restriction of the candidate's right to participate in the competition;
- the right to non-interference in private life;
- the right to freedom of political and public activity;
- housing rights;
- the right to freedom of thought and religion;
- exercise of passive suffrage by judges;
- the right to an adequate standard of living for persons and their families;
- the right to unrestricted development, use and protection of the languages of national minorities in Ukraine;
- the right to exercise democracy through local governments;
- land rights.

The focus of constitutional control in the course of constitutional proceedings also covered the issues of proper implementation of constitutional competences by public authorities, observance of the principles of separation of power, activities of public authorities and local self-government, and the work of their officials exclusively on the basis, within the powers and in the manner prescribed by the Constitution and laws of Ukraine.

Finally, the constitutional control covered compliance with a number of constitutional principles by the law-making body, the departure from which causes a violation of constitutional rights and freedoms. Most often, the acts of the Constitutional Court adopted in 2019 mentioned violations of the principle of the rule of law (including its components such as the principles of proportionality, fairness, legal certainty and legitimate expectations); the principles of separation of power, legal equality and prohibition of discrimination, people's sovereignty, presumption of innocence, irreversibility of the law in time, legality, prevention of double prosecution of a person for the same offense, individual nature of legal responsibility, independence of judges, prohibition of narrowing the content and scope of human and civil rights and freedoms.

REFUSAL TO OPEN PROCEEDINGS

As noted above, most often the Constitutional Court refused to open constitutional proceedings in cases of constitutional complaints on the grounds of inconsistency of the motions with the Law of Ukraine "On the Constitutional Court of Ukraine". In most cases this inconsistency meant the absence of substantiation of unconstitutionality claims. This applies to various types of motions raising the issue of unconstitutionality. Among other things, this may indicate a lack of professionalism of the petitioners or that in a particular case the petition was prepared without due diligence.

REGARDING ENFORCEMENT OF THE ACTS OF THE CONSTITUTIONAL COURT

Pursuant to Article 97 of the Law "On the Constitutional Court of Ukraine", the Constitutional Court may issue a judgment or an opinion establishing the procedure and terms of their execution, as well as oblige the relevant government bodies to control enforcement of the judgement. According to part two of this Article, the Constitutional Court may require from the relevant bodies a written confirmation of the execution of the judgement, or observance of the opinion.

Establishing the procedure and the terms of execution of the judgements or observance of the opinions is the right of the Constitutional Court, but not a duty; The Constitutional Court exercises it, guided by the motives of the expediency of establishing a specific regime for the implementation of its act. Thus, in 2019, the Court provided instructions for practical implementation of only two judgements. However, the absence of such instructions in other cases when the Constitutional Court recognizes a law, or other regulatory act or its separate provisions non-compliant with the Constitution does not mean that this act is not subject to implementation. In any case, recognition of an act unconstitutional means loss of its validity (in whole or in part). This causes legislative gaps, violates the integrity and systemic nature of legal regulation in a particular area of public life; as a result, the constitutional rights and freedoms of man and citizen may also be threatened. Therefore, practically all judgments or opinions of the Constitutional Court (except those which recognize the norms of current regulations or draft laws on amendments to the Constitution compliant therewith) are subject to examination in terms of their practical implementation.

In accordance with paragraph 2 § 77 of the Rules of Procedure of the Constitutional Court, the Secretariat of the Constitutional Court collects information on the status of execution of judgements and observance of the opinions of the Court. At the same time, the Secretariat of

the Court has neither organizational nor legal capabilities to carry out operational activities aimed at clarifying the situation regarding the implementation of the acts of the Constitutional Court in the country; it should summarize information obtained from various sources (competent government bodies, human rights organizations, think tanks, etc.) and timely inform the Constitutional Court on the status of implementation (observance) of its acts. The Constitutional Court does not have the power to determine the procedure for receiving information in this aspect, so the extent and the manner of normalization of such procedure should be determined by the legislator.

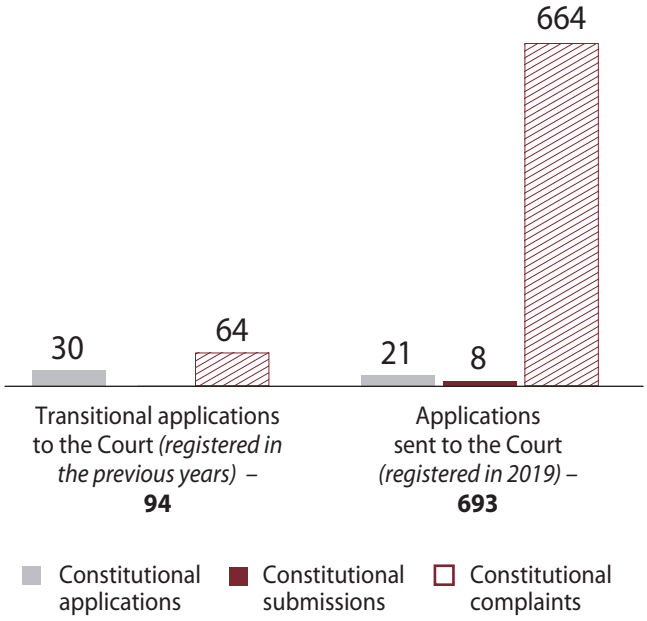
In 2019, there were cases when the Verkhovna Rada would exclude provisions recognized by the Constitutional Court as unconstitutional from the texts of laws of Ukraine. However, according to its legal position set out in the Judgement No. 15-rp / 2000 of 14 December 2000, the judgements of the Constitutional Court are binding on the entire territory of Ukraine, regardless of whether they specify the procedure and terms of their implementation or not; government agencies, the authorities of the Autonomous Republic of Crimea, local self-government bodies, enterprises, institutions, organizations, officials and personnel, citizens and their associations, foreign nationals, and stateless persons must refrain from applying or using legal acts or their provisions declared unconstitutional; the judgements of the Constitutional Court have direct effect and do not require confirmation from any public authorities to enter into force; the obligation to comply with the judgement of the Constitutional Court is a requirement of the Constitution, which has the highest legal force in relation to all other regulatory legal acts; additional definitions provided by the Constitutional Court in its judgements or opinions regarding the procedure of enforcement does not cancel and or replace their general binding nature (lines two, three, sixth of paragraph 4 of the reasoning part of the judgment).

In the context of the analysis of the process of implementation of the acts of the Constitutional Court, the Judgement No. 7-p (II)/2019 of December 13, 2019 deserves special mention. It was adopted in the case of the constitutional complaints of Danyliuk and Lytvynenko regarding constitutional compliance of provisions of part twenty of Article 86 of the Law "On Prosecutor's Office" No. 1697 – VII of October 14, 2014. The Constitutional Court found in line three of paragraph 3 of the operative part of the judgment that there shall be used the *original version* of part twenty of Article 86 of the Law "On the Prosecutor's Office" No. 1697 – VII of October 14, 2014.

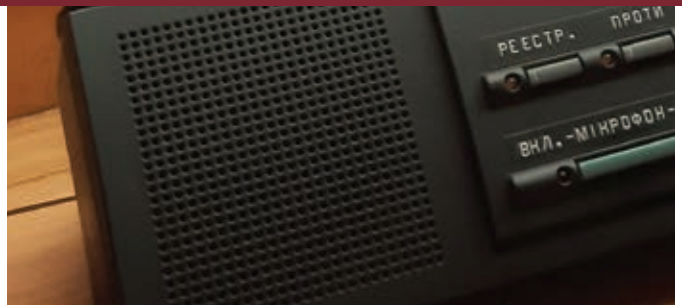
DYNAMICS OF APPLICATIONS SENT TO THE COURT

In 2019, the Constitutional Court received **693** motions, including: constitutional submissions – 21, constitutional applications – 8, constitutional complaints – 664. In addition, during the year the Constitutional Court considered the motions from the previous years. Thus, under consideration were **94** applications submitted before 2019, of which constitutional submissions – 30, and constitutional complaints – 64.

APPLICATIONS SENT TO THE CONSTITUTIONAL COURT



III Extrajudicial Activities



3.1. EVENTS AND ACTIVITIES

Annually, the Constitutional Court organizes and holds a number of events dedicated to current issues of constitutional justice, which are attended by leading scholars, government officials, international experts, members of the media and the public.

In the course of the year, the Constitutional Court together with key partners organized and held *the following activities:*

- Seminar for lawyers on "Constitutional complaints in lawyer's practice: drafting algorithms, submission issues and application mechanisms";
- Expert meeting on constitutional and legal issues titled "Judges of the Constitutional Court: In memoriam". The event was dedicated to honoring the memory of judges of the Constitutional Court, who are no longer living;
- Round table "Effective realization of the right to a constitutional complaint in Ukraine";
- International research and practical conference "Human Rights and National Security: the role of the body of constitutional jurisdiction" held on the occasion of the Constitution Day of Ukraine;

If we do not remember the past, we will not be able to move forward

"The Constitution of Ukraine overcame the difficult path of formation and development to become the main guide, a reliable amulet of statehood, a guarantor of independence and unity of the Ukrainian people"

(Natalia Shaptala, Judge of the Constitutional Court of Ukraine (2010–2019), Chairman of the Constitutional Court of Ukraine (2019))

A special issue of "The Sociology of Law" – a research and practical journal was published on the eve of the event

The international research and practical conference "Human Rights and National Security: the Role of the Body of Constitutional Jurisdiction" *(Kyiv, June 27, 2019)*

together with the All-Ukrainian public organization "The Association of Ukrainian Lawyers" given the urgency of the conference. The publication included the abstracts of the conference participants. A collection of materials of the international research and practical conference "Human Rights and National Security: the role of the body of constitutional jurisdiction" which included research articles by almost 60 authors was published as a result of the conference.

- Round table on "Theory and practice of finding the acts legally invalid";
- Round table on "Constitutional justice and market economy: modern and promising research and practical realities";

"The Constitutional Court of Ukraine strongly adheres to the position of prohibition of narrowing the content and scope of existing constitutional rights and freedoms"

(Viktor Horodovenko, Judge of the Constitutional Court of Ukraine)

- Round table "The legal basis of the Research Advisory Board's work: prospects and areas of interaction";
- International research and practical conference "The Rome Statute of the International Criminal Court: the issues of recognition, correlation and harmonization".

Celebration of the International Children's Day in the Constitutional Court of Ukraine *(Kyiv, June 1, 2019)*

Traditionally, the Constitutional Court of Ukraine held events to celebrate:

1 Children's Day: the judges of the Constitutional Court met the children of employees of the Court and visited an exhibition of children's art in the premises of the Constitutional Court;

Children are the most precious treasure of every family and every state

Celebration of the International Children's Day in the Constitutional Court of Ukraine (Kyiv, June 1, 2019)

2 The Traditional Embroidery Day: an exhibition was dedicated to the Ukrainian tradition of embroidery. The exhibits included: embroidered pictures, icons, tablecloths, cloth napkins, dresses, shirts and other traditional Ukrainian items from the personal collections of judges and staff of the Secretariat of the Constitutional Court;

3 The 30th anniversary of the adoption of the United Nations Convention on the Rights of the Child;

4 The All-Ukrainian week of law that included:

- A seminar and training for the staff of the Secretariat of the Constitutional Court on the topic of the "Constitutional complaint: doctrinal aspects of evaluation and verification";
- Expert discussion of "The issues of admissibility of the constitutional complaint: the experience of three years of implementation";

Celebration of the Embroidery holiday in the Constitutional Court of Ukraine
(Kyiv, May 16, 2019)

"The constitutional complaint is a living legal mechanism that will improve and develop over time"

(Viktor Kolisnyk, Judge of the Constitutional Court of Ukraine)

- Workshop on "Constitutional complaint: the experience of consideration by the Constitutional Court of Ukraine";
- Expert meeting on the topic of education and awareness raising on constitutional matters, attended by the students of the Kyiv Small Academy of Sciences of Ukraine.

Presentation of the monographs on constitutional and legal issues
(Kyiv, December 10, 2019)

"Human dignity must be interpreted as a right and as a constitutional value that brings meaning to human existence and makes the foundation for all other constitutional rights… "

(The judgment of the Constitutional Court of Ukraine No. 5-p / 2018)

- presentation of the monographs on constitutional and legal issues, including the monograph by Yuriy Klyuchkovskyi titled "The Principles of Suffrage: doctrinal understanding, status and prospects of legislative implementation in Ukraine" and Irina Berestova's research on "The Theoretical Principles of protection of public interests in civil and constitutional proceedings.".

In 2019, the number of invitations sent to the representatives of the Constitutional Court inviting to participate in various scientific and research and practical gatherings both in Ukraine and abroad has increased.

For example:

- International seminar on "Strengthening confidence in the judiciary" on the occasion of the opening of the judicial year (Strasbourg, Republic of France);

"Despite the differences in culture or tradition, human rights are universal in every corner of the world"

(Guido Raimondi, the President of the European Court of Human Rights (2015-2019)

- International Conference on "Promoting the Rule of Law by Protecting the Right to a Fair Trial: a comparative approach" (Munich, Germany);
- 22nd International Congress on European and Comparative Constitutional Law (Vilnius, Republic of Lithuania);
- International seminar on the occasion of the 50th anniversary of the Supreme Constitutional Court of the Arab Republic of Egypt (Cairo, Arab Republic of Egypt);
- Round table on the "Constitutional complaint: the issues of theory and practice" (Kharkiv);
- Workshop on "Presumption of innocence of a person – a fundamental constitutional principle in criminal proceedings" (Kyiv);
- The Rule of Law training program for judges of the Supreme Anti-Corruption Court;

"The Constitutional Court is not a decorative body, it is a mechanism for coordinating the actions of various branches of power"

(Ihor Slidenko, Judge of the Constitutional Court of Ukraine)

The 22nd International Congress on European and Comparative Constitutional Law titled "The concept of democracy developed by the bodies of constitutional justice"
(Vilnius, Republic of Lithuania, October 4-5, 2019)

The Rule of Law training program for judges of the High Anti-Corruption Court
(Kharkiv, April 19, 2019)

"Power is exercised by law, not men"

(Serhiy Holovatyi, Judge of the Constitutional Court of Ukraine)

- Open lecture for graduate, master's degree students and the faculty of the State Penitentiary Service Academy and the lawyers on the topic of the "Constitutional Complaint: a new tool for the protection of human rights" (Chernihiv);

"The Constitutional Court of Ukraine has gone through a difficult path of formation and development and enters the third decade of its work with a firm desire to strengthen public confidence in the body of constitutional jurisdiction that protects the supremacy of the Fundamental Law of Ukraine"

(Mykhailo Hultai, Judge of the Constitutional Court of Ukraine (2010–2019))

- The 8th Judicial Forum "TRIAS POLITICA: courts in the system of branches of power";
- The 3rd Kharkiv International Legal Forum (Kharkiv).

The 3rd Kharkiv International Legal Forum
(Kharkiv, September 24-26, 2019)

The Constitutional Court is also an active participant in socially important events at the national level.

> *"The rule of law is not a static category objectified through the promulgation of the relevant authoritative order, instead it's the way of coexistence of man, society and state"*
>
> ***(Oleksandr Tupytskyi, Chairman of the Constitutional Court of Ukraine)***

The Constitutional Court held official ceremonies of raising the State Flag of Ukraine on the occasion of Ukraine's National Unity Day, the anniversary of the Victory over Nazism in the Second World War, the Day of the Constitution, the Day of the State Flag and the Independence Day, the Day of the Defender of Ukraine and the Day of the Armed Forces of Ukraine pursuant to the Decree of the President of Ukraine No. 987/2004 of August 23, 2004 "On the Day of the State Flag of Ukraine", as well as to honor the centuries-old history of Ukrainian statehood, and the state symbols of independent Ukraine.

Also, the Constitutional Court does not forget about the tragic days of the Ukrainian history. Throughout the year the leadership of the Constitutional Court participates in the national memorial events, book exhibitions etc. Among them are

- the Day of Heroes of the Heavenly Hundred,
- the Day of the Chornobyl Tragedy,
- the Day of Remembrance and Reconciliation,
- the Day of Remembrance of Victims of Political Repressions,
- the Day of Mourning and Remembrance of Victims of War in Ukraine,
- the Day of Remembrance of Holodomor Victims.

In addition, the Constitutional Court honored the heroic acts of the participants in the events of 2004 and November 2013 – February 2014.

> *The Revolution of Dignity has left a deep and unforgettable mark in the history of our state, and its ideals have forever changed and united the Ukrainian people.*

The official ceremony of raising the State Flag of Ukraine on the occasion of the Day of Remembrance and Reconciliation and the 74th anniversary of the victory over Nazism in World War II
(Kyiv, May 9, 2019)

3.2. COOPERATION OF THE CONSTITUTIONAL COURT WITH RESEARCH AND EDUCATIONAL ESTABLISHMENTS OF UKRAINE

During the year, the Constitutional Court and research and educational establishments of Ukraine concluded cooperation agreements in the area of research, training, methodology, information and other activities, which allows to effectively perform the functions by each of the parties involved, as defined by the Constitution and the laws of Ukraine.

Such agreements were concluded with:

- National Academy of Legal Sciences of Ukraine;
- Taras Shevchenko National University of Kyiv;
- Koretskyi Institute of State and Law, NAS Ukraine;
- Yaroslav the Wise National University of Law;
- National University "Ostroh Academy";
- Vadym Hetman National Economic University of Kyiv;
- Zaporizhia National University;
- Leonid Yuzkov University of Management and Law of Khmelnytskyi;
- National Aviation University;
- Institute of Social and Political Psychology of the National Academy of Pedagogical Sciences of Ukraine;
- The State Penitentiary Service Academy.

In accordance with their powers and within the available resources, the parties cooperate in the following priority areas: providing expert and advisory assistance that the parties may need to properly perform the functions assigned to them by the Constitution and the laws of Ukraine; holding joint scientific, research and practical and other activities; development of proposals and recommendations on draft laws and other regulations when required; promoting the development of the science of the constitutional law, popularization of scientific knowledge in this field and other areas.

The cooperation agreement does not restrict cooperation of the parties in other areas.

International Conference "A Roma Statue of the International Criminal Court – The Recognition, Implementation and Harmonisation"
(Kyiv, 18 December 2019)

3.3. THE CONSTITUTIONAL COURT AND THE CIVIL SOCIETY

In 2019, the Constitutional Court continued its work towards openness and transparency of the constitutional review body. The Constitutional Court approved the Communication Strategy 2019-2021 in order to form a constructive, effective and meaningful dialogue between the Court and civil society. In addition, the Constitutional Court actively communicates with the public on its official pages in Facebook and Twitter.

The Constitutional Court tours

COURT TOURS

For 9 years now the Constitutional Court has been offering tours on a regular basis in order to familiarize the public with the history of the establishment of this body of constitutional jurisdiction, and also with its powers and activities.

The representatives of the public have the opportunity to visit the session halls of the Grand Chamber and the Senates of the Constitutional Court, the Library complex, the Archive, and the Press Center, see the exhibits dedicated to the history of the Constitutional Court and memorable gifts, as well as participate in quizzes and interactive exercises organized by the Secretariat of the Court.

The number of people wishing to visit the Constitutional Court is growing every year. Thus, in 2019, the Constitutional Court was visited by **140** groups (about **3,500** people) of representatives of enterprises, institutions, organizations, including international, educational institutions, and public associations.

The Constitutional Court tours

3.4. INTERNATIONAL COOPERATION

The Constitutional Court is an active member of the international community. The Constitutional Court pays attention to establishing and maintaining international relations with foreign partners, since this form of cooperation enables the body of constitutional jurisdiction to learn from the best world experience.

In 2019 the Constitutional Court was especially active in terms of deepening of international cooperation in all areas of work of the body of constitutional jurisdiction in Ukraine.

During the year, the representatives of the Constitutional Court took part in **26** international events abroad. For the first time in the Court's history, it established direct contacts with the Supreme Constitutional Court of Egypt.

International seminar on the occasion of the 50th anniversary of the Supreme Constitutional Court of the Arab Republic of Egypt
(Cairo, Arab Republic of Egypt, October 18-22, 2019)

It is worth to note the participation of the representatives of the Constitutional Court in the Conference of Presidents of the Supreme Courts of the Council of Europe Member States, organized by the Constitutional Council, the Council of State and the Court of Cassation of the French Republic during the chairmanship of the French Republic in the Committee of Ministers of the Council of Europe. On the occasion of the conference, the heads of delegations participated in a reception by Emmanuel Macron – the President of the French Republic.

It is noteworthy that the number of employees of the Secretariat of the Constitutional Court who participate in international training abroad is growing.

Besides, last year both traditional partners of the Constitutional Court and the representatives of foreign judicial authorities and officials of foreign countries, who visited the Constitutional Court for the first time, actively expressed interest in the work of this body of constitutional jurisdiction of Ukraine.

It is common practice for the leadership of the Constitutional Court to meet with the heads of diplomatic missions accredited in Ukraine, the representatives of the bodies of constitutional jurisdiction of foreign countries, as well as international organizations.

Meeting of the Chairman and judges of the Constitutional Court of Ukraine with the delegation from the House of Representatives of the Japanese Parliament
(Kyiv, September 23, 2019)

International research and practical conference on "Human rights and national security: the role of the body of constitutional jurisdiction" *(Kyiv, June 27, 2019)*

For instance, the Court had working meetings with Judith Gough – the Ambassador Extraordinary and Plenipotentiary of the United Kingdom of Great Britain and Northern Ireland to Ukraine and Yağmur Ahmet Güldere – the Ambassador Extraordinary and Plenipotentiary of the Republic of Turkey to Ukraine.

For the first time in the Court's history, a dialogue was established with representatives of Japan. The delegation of the House of Representatives (lower house) of the Parliament of Japan led by the Chairman of the Constitutional Affairs Commission, Chairman of the Japan-Ukraine Parliamentary Friendship Association E. Mori expressed significant interest in the work of the Constitutional Court and expressed desire to continue cooperation on matters of constitutional justice in the future.

Also for the first time in the Court's history, a delegation of the Secretariat of the Constitutional Court of the Republic of Korea paid a working visit to the Constitutional Court to examine and evaluate the existing IT systems of the Court and develop an IT project for possible further modernization of the IT systems of the Constitutional Court.

In total, this year the Constitutional Court held 23 international meetings aimed at support and development of international cooperation.

In 2019, the Constitutional Court intensified cooperation with international organizations, projects and foundations, in particular with the Organization for Security and Co-operation in Europe, the Council of Europe, the European Union and the German Foundation for International Legal Cooperation (IRZ).

For instance, cooperation with the OSCE Project Coordinator in Ukraine resulted in development and partial implementation of joint projects: "Support to the Reform of Constitutional Justice" and "Support to the Protection of Human Rights by Improving Access to Constitutional Justice".

Within the framework of this cooperation, a registry of special advisers has been set up in the Constitutional Court; the work is underway to introduce an online library on constitutional law; new premises are being prepared in the administrative building of the Constitutional Court for trainings and other activities dealing with the work of the Court.

Further deepening of cooperation aimed at improving access to constitutional justice is planned for 2020.

In 2019, the Constitutional Court continued to deepen cooperation with the Council of Europe.

As part of this cooperation, in January 2019, a delegation of the Constitutional Court of Ukraine paid a visit to the city of Strasbourg to participate in a session of the European Court of Human Rights on the occasion of the opening of the judicial year.

The judges of the Constitutional Court of Ukraine regularly met with the representatives of the Venice Commission, the European Court of Human Rights, the Directorate General for Human Rights and the Rule of Law of the Council of Europe to discuss ways to improve the mechanism of human rights protection at the national level and solving of systemic issues related to the enforcement of the judgements of the European Court of Human Rights.

In addition, the representatives of the Constitutional Court of Ukraine took an active part in the events organized by the Council of Europe in Ukraine and abroad.

COOPERATION OF THE CONSTITUTIONAL COURT WITH THE BODIES OF THE EUROPEAN UNION

In 2019, the Constitutional Court of Ukraine continued to cooperate with the European Commission through the TAIEX information exchange tool in order to build the institutional capacity needed to adapt the national legislation to the *acquis communautaire*.

This format of cooperation allows receiving assistance and support from the European partners to solve specific problems of Ukraine's development and integration into the European Union. Therefore, in 2019, the Constitutional Court was visited by the TAIEX expert mission consisting of the experts from the Federal Constitutional Court of Germany to exchange experiences on improving the efficiency and the work of the Constitutional Court.

The 9th expert meeting on issues of constitutional and constitutional procedural law
(Bonn, Federal Republic of Germany, February 17-20, 2019)

In 2020, the Constitutional Court plans to continue working on applications submitted in 2019.

Meeting of the Chairman and the judges of the Constitutional Court of Ukraine with the judges of the European Court of Human Rights
(Kyiv, June 14, 2019)

TAIEX expert mission to the Constitutional Court of Ukraine
(Kyiv, September 23-26, 2019)

In 2019, the Constitutional Court continued active cooperation with the *German Foundation for International Legal Cooperation (IRZ)*.

In 2019, with the assistance of the Foundation, a number of expert meetings on constitutional law and the process were held in Ukraine and Germany.

In 2020, the Court plans to continue the series of Germany-Ukraine professional meetings on constitutional law and the process with the participation of the judges and support services for judges of the Constitutional Court of Ukraine, as well as employees of the Secretariat of the Court.

3.5. PUBLICATIONS AND INTERVIEWS

In addition to exercising their constitutional powers, the judges of the Constitutional Court of Ukraine continue with their research work. Thus, a number of monographs, professional articles and other research works of judges of the Constitutional Court were prepared and published during the reporting period. The Chairman and the judges of the Constitutional Court also pay attention to communication with the media. For instance, in 2019, there were five TV interviews and 9 interviews for print media.

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Городовенко В. Ефективність конституційної скарги як засобу правового захисту в аспекті новел практики Європейського суду з прав людини. *Вісник Конституційного Суду України*. 2019. № 6. С. 118–127.

Городовенко В. Авансовий внесок як умова виконання судового рішення: яку глобальну проблему виявило рішення КСУ за конституційною скаргою : інтерв'ю. *Судово-юридична газета*. 28.05.2019.

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IV Support of the Work of the Constitutional Court of Ukraine

4.1. THE SECRETARIAT OF THE CONSTITUTIONAL COURT OF UKRAINE

The Secretariat of the Constitutional Court provides reliable and effective work aimed at creating the necessary conditions for the operations of the Constitutional Court of Ukraine.

POWERS

The Secretariat of the Constitutional Court exercises the powers set forth by the Law of Ukraine "On the Constitutional Court of Ukraine". The powers of the Secretariat include organizational, analytical, legal, informational and logistical support of the work of the Constitutional Court, in particular:

Organizational support:

- preparation and holding of meetings of panels of judges of the Constitutional Court, senates, and the Grand Chamber of the Constitutional Court, providing documentation, organizational, technical, and information support to constitutional proceedings;
- processing, execution and distribution of acts of the Constitutional Court of Ukraine;
- implementation of the legal requirements for managing and performing civil service in the Constitutional Court;
- organization and implementation (within its competences) of information protection measures, control over observance of the information protection rules, as well as mobilization training;
- document circulation in the Constitutional Court and record keeping in accordance with the requirements of the legislation;
- holding of public events in the Constitutional Court;
- official communications with the subjects of appeals to the Constitutional Court, participants in the constitutional proceedings and persons involved in the constitutional proceedings;

Analytical support:

- preliminary examination of all forms of appeals received by the Constitutional Court, preparation of preliminary opinions on the existence of grounds for initiating or refusal to initiate constitutional proceedings in a case;
- preparation of analytical, information and reference materials on appeals to the Constitutional Court in the manner prescribed by law, as well as information and analytical materials on European and global practices of constitutional justice;
- maintaining and timely updating of the catalog of legal positions of the Constitutional Court;
- monitoring the implementation of the acts of the Constitutional Court and monitoring, on behalf of the Constitutional Court, the implementation of judgments and compliance with the opinions of the Constitutional Court, which determine the procedure for their implementation or provide appropriate recommendations;
- performing analysis of inquiries and appeals of individuals and legal entities, public authorities, local governments and other subjects of appeals to the Constitutional Court; regular provision of relevant information to the Chairman of the Constitutional Court and the leadership of the Secretariat of the Constitutional Court;

Legal support:

- representation of the Constitutional Court as a legal entity in relations with legal entities and individuals within the limits set by law;
- participation in development of draft regulations relating to the activities of the Constitutional Court;
- providing legal support to the internal work of the Constitutional Court, its Secretariat and ensuring the representation of the Constitutional Court in courts on matters arising in connection with its work;

Information support:

- ensuring the functioning of the official website of the Constitutional Court;
- coverage of the activities of the Constitutional Court on the official website of the Court and in the mass media;
- ensuring the official promulgation of the acts of the Constitutional Court and preparation of the Bulletin of the Constitutional Court for publication;
- preparation of the draft annual information reports of the Constitutional Court in the manner prescribed by law;

- ensuring access to public information administered by the Constitutional Court;
- organization of introduction of computer information technologies and modern office equipment into the work of the Constitutional Court and the Secretariat on the principles of evidence-based organization of work;

Logistics:

- resolving (within its competence) the issue of financial support for the work of the Constitutional Court and effective use of public funds for the Court's maintenance and implementation of its activities;
- preparation of the draft budget request and the draft budget estimates of the Constitutional Court in the manner prescribed by law;
- implementation of measures for the effective use of property managed by the Constitutional Court, public procurement of goods, works and services and implementation of relevant contracts;
- development of proposals on strategic and priority objectives of institutional development of the Constitutional Court, long and short-term plans of financial, information, technical and housekeeping support of the Constitutional Court and its Secretariat;
- implementation of occupational safety measures in the prescribed manner.

THE MEMBERS OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT OF UKRAINE

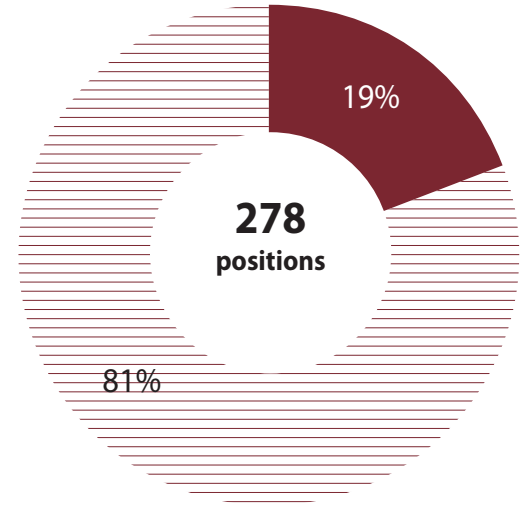
The Secretariat of the Constitutional Court of Ukraine consists of:

- Department of Work Organization;
- Legal Department;
- Administrative and Financial Department;
- Department of Communications of the Constitutional Court of Ukraine and International Cooperation;
- Document Management Office;
- Personnel Management Office;
- Department of Preliminary Examination of Constitutional Complaints;
- Accounting Service of the Constitutional Court of Ukraine;
- Archive of the Constitutional Court of Ukraine;
- Library of the Constitutional Court of Ukraine;
- Information Security Sector.

THE NUMBER OF STAFF OF THE COURT'S SECRETARIAT

As of December 31, 2019, the Secretariat of the Constitutional Court of Ukraine had **268** employees, where 222 – civil servants and other employees of the Secretariat of the Court, and the employees of support services – 46.

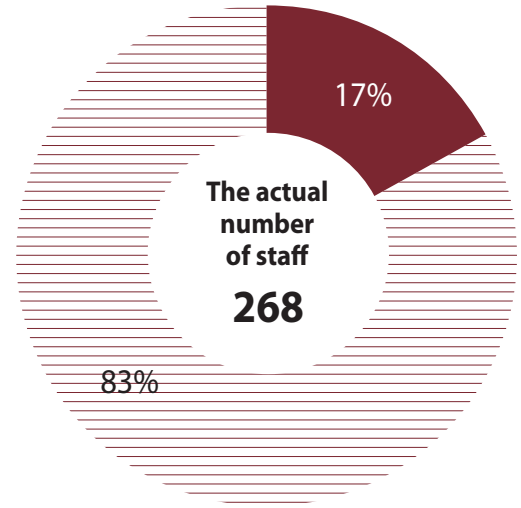
THE NUMBER OF POSITIONS OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT



Support services personnel – **54**

Civil servants and staff of the Secretariat – **224**

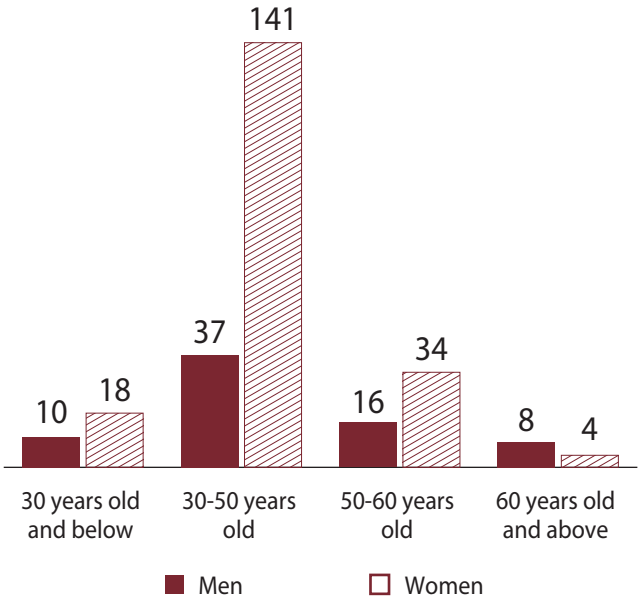
THE ACTUAL NUMBER OF STAFF OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT



Support services personnel – **46**

Civil servants and staff of the Secretariat – **222**

GENDER AND AGE STRUCTURE OF THE STAFF OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT OF UKRAINE

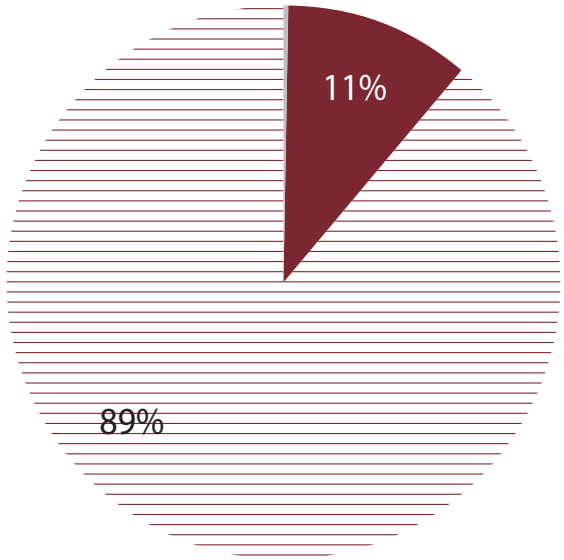


THE WORK OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT OF UKRAINE IN 2019

During 2019, the Secretariat of the Constitutional Court implemented a number of important measures aimed at improving the processes that provide regular support to the work of the Constitutional Court.

Priority efforts were made to create better organizational conditions for the consideration of constitutional submissions, applications, and complaints. Particular attention was paid to improving the work with constitutional complaints at all stages of processing – starting from the process of registration of a constitutional complaint, preliminary examination, appointment of a judge-rapporteur, to the stages of its consideration by the Constitutional Court, adoption and publication of the relevant judgement.

RESEARCH CAPACITY OF THE SECRETARIAT OF THE CONSTITUTIONAL COURT



Doctors of Law – **1**

Associate Doctor of Law – **31**

Other staff - **251**

In 2019, the Court carried out consistent work towards expanding the scope of application of modern information and communication technologies, to include improvement of the capability of online broadcasts of open sessions of senates and

the Grand Chamber of the Constitutional Court and access to the video archive of sessions; measures were taken to further deploy and adapt a comprehensive system of electronic document management reflecting the organizational and technological features of the work of the Constitutional Court and the Secretariat; there was also introduced a system of generation and distribution of court cases with the appointment of a judge-rapporteur using the electronic document management system.

The Secretariat of the Constitutional Court has implemented a number of measures for the efficient use of financial resources. 15 contracts were concluded for the implementation of the annual public procurement plan resulting in savings of over UAH 177,600. According to the results of electronic low-value procurement, budget savings amounted to almost UAH 358,000.

4.2. THE ARCHIVE OF THE CONSTITUTIONAL COURT OF UKRAINE

The archive of the Constitutional Court was created in accordance with the requirements of the Law of Ukraine "On the Constitutional Court of Ukraine" to store the materials generated in the course of the work of the Constitutional Court and its Secretariat, use the information contained in these documents for official, research and other purposes, and also to protect the rights and legitimate interests of citizens.

As of late 2019, the archives of the Constitutional Court amounted to about 16 000 storage units, including case files and other documents.

The materials of cases in respect of which the Constitutional Court has adopted a judgment or issued an opinion, or rendered a ruling, will be stored in the Archives of the Constitutional Court for 100 years both on paper and in electronic form. Judgements, opinions, resolutions, and rulings of the Constitutional Court, senates of the Constitutional Court, panels of judges of the Constitutional Court with personal signatures of judges will be stored in the Archives indefinitely.

The premises of the Archives of the Constitutional Court are equipped with metal mobility racks for proper storage of court materials and other documents of the Constitutional Court and its Secretariat.

Archives of the Constitutional Court of Ukraine

4.3. THE LIBRARY OF THE CONSTITUTIONAL COURT OF UKRAINE

The library of the Constitutional Court was established in accordance with the Law of Ukraine "On the Constitutional Court of Ukraine" to provide the Constitutional Court with research and other special literature.

Publications of Constitutions

Every year the collection of the Library of the Constitutional Court is replenished with the latest legal literature, primarily with the literature on the topic of constitutional jurisdiction, as well as on other branches of law. As of late 2019, the collection of the Library of the Constitutional Court amounted to about 19 000 copies.

The Library of the Constitutional Court features open access bookshelves, where the most requested books and reference books (encyclopedias, reference books, dictionaries) are displayed. The Court's Library has a unique collection of legal literature of early the 19th century, which represents historical and cultural value. Collections of judgements of constitutional courts of foreign countries also occupy a worthy place on the bookshelves of the Library of the Constitutional Court.

The search system of the Library of the Constitutional Court consists of a system of library catalogs: alphabetical, systematic catalogs and IRBIS electronic library catalog, which contains more than 224,000 bibliographic records. During the year more than 4,500 documents were issued in order to meet readers' information needs.

4.4. THE OFFICIAL PUBLICATION OF THE CONSTITUTIONAL COURT OF UKRAINE

The Bulletin of the Constitutional Court of Ukraine is the official publication of the Constitutional Court according to the Law of Ukraine "On the Constitutional Court of Ukraine".

The Bulletin of the Constitutional Court of Ukraine *(founded on February 19, 1997)*

The pages of the journal, which has been published since 1997, cover current issues of constitutional justice and constitutional law of Ukraine and other states. In 2019, there were published 15 articles and reports on constitutional issues, 7 of which were authored by the current and retired judges of the Constitutional Court.

The main part of the journal traditionally consisted of the acts of the Constitutional Court, separate opinions of judges of the Constitutional Court thereto, as well as packages of rulings of panels of judges of the Constitutional Court refusing to open constitutional proceedings in cases of constitutional complaints.

In addition, in issues No. 2/2019 and No. 6/2019 they published peer reviews of sources on constitutional and legal issues, published during the year.

In total, 6 issues of the journal were published in 2019.

The publishing work of the Constitutional Court is not limited to issuing the Bulletin of the Constitutional Court of Ukraine. The following books were also published during 2019: Book 16 "The Constitutional Court of Ukraine. Judgements. Opinions. 2018" and a collection of materials of the International Research and Practical Conference on "Human Rights and National Security: the role of the body of constitutional jurisdiction", which took place on June 27, 2019.

4.5. RESEARCH AND ADVISORY COUNCIL OF THE CONSTITUTIONAL COURT OF UKRAINE

The Research and Advisory Council of the Constitutional Court (hereinafter referred to as the Council) was formed from among highly qualified specialists in the field of law to prepare research opinions on the work of the Constitutional Court that requires scientific support, and its membership has been approved by the court resolutions No. 12-п / 2019 of April 9, 2019, No. 23-п / 2019 of June 6, 2019, and No. 37-п / 2019 of November 5, 2019.

Thus, the Council included outstanding domestic researchers, whose scientific interests cover various fields of law, statehood and philosophy. The members of the Council include: 11 academicians of the National Academy of Legal Sciences of Ukraine, 8 corresponding members of the National Academy of Legal Sciences of Ukraine, 56 Doctors of Law, one Doctor of Philosophy, one Doctor of Economics, and 17 Associate Doctors of Legal Sciences.

There were appointed the Chairman, Deputy Chairman and the Academic Secretary of the Council:

Chairman – *Yuriy Barabash*, Corresponding Member of the National Academy of Legal Sciences of Ukraine, Doctor of Law, Professor, Vice-Rector for Academic Affairs of the Yaroslav the Wise National Law University;

Deputy Chairman – *Serhiy Riznyk*, Associate Doctor of Law, Associate Professor, Associate Professor of the Department of Constitutional Law, Deputy Dean of the Law Department of Ivan Franko National University of Lviv;

Academic Secretary – *Serhiy Vavzhenchuk*, Doctor of Law, Associate Professor, Professor of the Department of Labor and Social Security Law, the Law Department of Taras Shevchenko National University of Kyiv.

The first meeting of the Council was inaugurated on October 16, 2019.

4.6. SPECIAL ADVISER MECHANISM

A temporary (until January 1, 2020) Special Adviser mechanism was introduced in the Constitutional Court to provide expert assistance in constitutional proceedings dealing with constitutional complaints. The Special Adviser may provide his written reasoned legal opinion (*amicus curiae*) in the case before the case is heard by the Senate or the Grand Chamber of the Constitutional Court.

Miroslav Granat, George Papuashvili and Alexandru Tenase were appointed to perform the special adviser functions in the Constitutional Court.

On December 24, 2019, the first request for a legal opinion (*amicus curiae*) was sent to the special advisers of the Constitutional Court in the case of constitutional complaints of Klymenko, Tsymbal and Mironenko

The work of the special adviser is performed at the expense of international technical assistance or international organizations. In 2019, the OSCE Project Co-ordinator in Ukraine expressed readiness to fund the work of special advisers of the Constitutional Court in accordance with the provisions of Component 1.1 of the Joint Project of the Constitutional Court of Ukraine and the OSCE Project Co-ordinator in Ukraine – "Support to the Protection of Human Rights by Improving Access to Constitutional Justice".

At the same time, the process of project registration and approval at the national level took a very long time (it was submitted to the Ministry of Foreign Affairs of Ukraine on March 19, 2019 for approval which was granted on September 13, 2019. The project was registered in the Ministry of Economy, Trade and Agriculture of Ukraine on October 15, 2019).

Therefore, today the functioning of the special adviser mechanism in the Constitutional Court requires legislative regulation.

4.7. FINANCIAL SUPPORT FOR THE ACTIVITIES OF THE CONSTITUTIONAL COURT OF UKRAINE

In 2019, the practice of ensuring the financial capacity and independence of the body of constitutional jurisdiction in Ukraine took on new colors. The constitutional principles of organization of funding of the constitutional oversight body once again had to be defended in a dialogue with the highest bodies of executive and legislative power. The proactive stance of the Court's leaders resulted in adoption (in the Law of Ukraine "On the State Budget of Ukraine 2019") of the funding volumes and the structure in line with the proposals of the Chairman of the Constitutional Court.

In accordance with the Law of Ukraine "On the State Budget of Ukraine 2019", the amount of budget allocations under the budget program 0801010 "Ensuring constitutional jurisdiction in Ukraine" amounted to 267,769.3 UAH. The actual funding of the system of the Constitutional Court was provided at the level of UAH 264,158.8, or 98.7% of the annual plan.

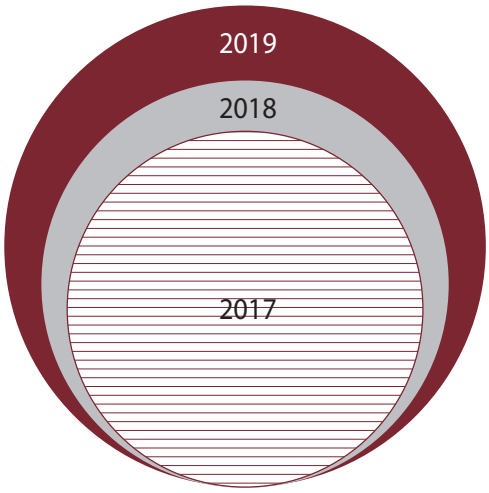
In 2019, the payroll with accruals amounted to 83.9% of actual expenditure, or UAH 221,622.7. More than UAH 25,110.4 (or 9.5%) was spent to purchase tangible assets; UAH 10,626.8 (or 4.02%) – payment for services (including utilities); UAH 5,706.9 – upgrade of the fire-fighting system; 1,092.0 – other expenses (including business trips).

Financial support in 2019 allowed to implement a number of important projects to strengthen the material and technical components of the Constitutional Court, increase the reliability of its information and communication system and improve conditions for openness, transparency and efficiency in the Constitutional Court and its Secretariat:

- upgrade of the automatic fire alarm system and gas fire extinguishing in the administrative building;
- upgrade of the vehicle fleet of the Constitutional Court and the judges of the Constitutional Court;
- established a Category 4 comprehensive system of information protection in the complex for processing information from the sessions of the Senates and the Grand Chamber of the Constitutional Court and a comprehensive system of information protection in the information and telecommunication system of the Constitutional Court;
- a data warehouse with an archiving system was put into operation using the IT complex equipment;

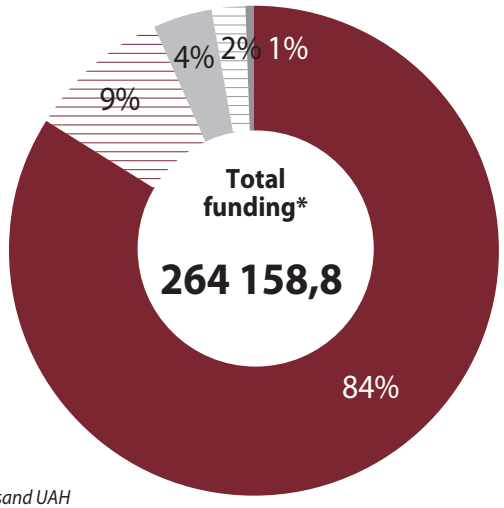
- introduced new server capacities for e-mail, HR and accounting services;
- created capabilities for technical support of international events;
- updated workplace equipment for judges in the session hall of the Grand Chamber;
- continued the deployment and improvement of the electronic document management system of the Constitutional Court;
- improved capabilities for online broadcasts of public sessions of the Senates and the Grand Chamber and access to the video archive of the sessions.

RECEIPT AND USE OF FUNDS FROM THE STATE BUDGET OF UKRAINE BY THE CONSTITUTIONAL COURT



	2017	2018	2019
Numbers approved for the reporting year	173 192	182 307	267 769
Cash expenditures for the reporting period	*148 485*	*180 250*	*264 159*

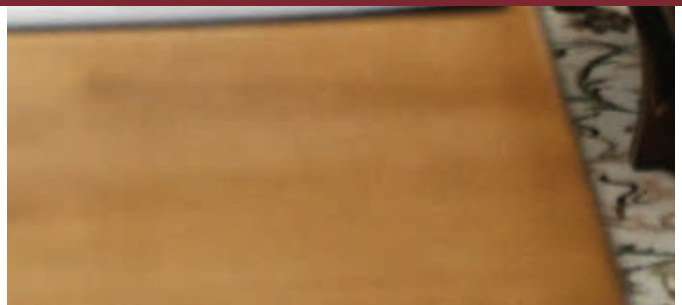
EXPENDITURE STRUCTURE IN 2019



** thousand UAH*

- Remuneration with accruals – **221 622,7**
- Acquisition of tangible assets – **25 110,4**
- Payments for services *(including utilities)*– **10 626,8**
- Upgrade of the fire safety system – **5 706,9**
- Other expenses *(including business trips)* – **1 092,0**

V Priority Development Areas of the Constitutional Court of Ukraine



The strategic objective of the Constitutional Court is to ensure the supremacy of the Constitution, protection of human and civil rights and freedoms, improvement of the mechanism of access to constitutional justice, and its approximation to the European standards.

1 Consistent expansion of the application of international standards, principles and values, best practices of constitutional justice for effective protection of constitutional human and civil rights and freedoms, improving the mechanism of protection of these rights and freedoms, improving the mechanism of constitutional complaint as a tool for direct access to constitutional justice is a strategically important development area of the Constitutional Court. To support the conditions for such development, it seems important to form the data bases of judgments of the European Court of Human Rights, judgments of the constitutional courts of foreign jurisdictions, other information materials and create opportunities to use the appropriate resource base in the work of judges, judges' support services and employees of the Secretariat of the Constitutional Court.

2 The gradual technological renewal of the work of the Constitutional Court and the Secretariat is underway, as well as the introduction of the latest information and digital technologies to ensure accessibility and openness of constitutional proceedings, as well as to accelerate and improve processing of significant amounts of information and making judgments in response to constitutional submissions, appeals and complaints.

The technologies for managing various databases should be further developed in the Constitutional Court. This includes electronic document management and document sharing systems, online broadcasting of the sessions of the Constitutional Court and its bodies, organization of online video conferences with judicial bodies of foreign countries, the specialists of the Research and Advisory Council of the Constitutional Court and the experts.

Modernization of the technological principles of the Constitutional Court and the Secretariat of the Court should be accompanied by the creation of an effective system of continuous staff development with the introduction of specialized training programs.

3 The Constitutional Court is capable of becoming an institutional leader of constitutional law as a science and a practical testing ground for the application of the best scientific developments in the field of protection of constitutional rights and freedoms of man and citizen. For a consistent and gradual transformation of the Constitutional Court of Ukraine into an advanced flagship combining progressive doctrinal and conceptual ideas of the science of Law with the practice of constitutional justice requires a sound financial basis and modern high-tech material and technical foundation.

As demonstrated by the experience of previous years, repeated attempts to limit the financial independence of the Constitutional Court are, in essence, a direct violation of the guarantees of independence of the Constitutional Court established by the Constitution and the Law "On the Constitutional Court of Ukraine".

The Constitutional Court of Ukraine
(Kyiv, 14 Zhylyanska Street, e-mail: inbox@ccu.gov.ua)

That is why the issue of sustainable funding of the Constitutional Court requires further solution at the legislative level. In particular, this includes an introduction of a sustainable payroll planning mechanism for judges and employees of the Secretariat of the Constitutional Court, remuneration for the authors of scientific expert opinions developed at the judges' requests, and ability to engage international consultants, etc..

The completion of the integrated property complex of the Constitutional Court is an important development area of the Court in the coming years. It will require significant budget funds in order to create appropriate conditions for research and practical work at the national and international levels, and to expand public access to library and archival collections of the Constitutional Court of Ukraine.

THE CONSTITUTIONAL COURT OF UKRAINE

INFORMATION REPORT OF THE CONSTITUTIONAL COURT OF UKRAINE 2019

Approved by the Resolution of the Constitutional Court of Ukraine No. 19-п/2020
of March 26, 2020

The Information Report of the Constitutional Court of Ukraine highlights the most important aspects of the work of the Constitutional Court of Ukraine in 2019. Particular attention is paid to the powers of the Constitutional Court of Ukraine, its composition and organizational structure. An important place in the report is given to the review of the judicial activity of the Constitutional Court, in particular to the analysis of the acts adopted by the Constitutional Court in response to constitutional submissions, appeals and complaints, as well as their observance. In addition, the Report contains information on international cooperation, interaction of the Constitutional Court of Ukraine with civil society, as well as support to its operations.

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