

CONSTITUTIONALITY REVIEW IN LATIN AMERICA AND ALBANIA REGARDING THE INDIVIDUAL RECOURSE AT THE CONSTITUTIONAL COURT

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ABSTRACT: *The term "supremacy of the constitution" refers to the constitution's supreme character, evaluating it as "Rule of Law" with the necessity for all laws and norms to be subservient to the Constitution.*

The supremacy of constitutional norms is material, and their content is dogmatic and programmatic, which compels all legal norms, as well as all leaders or officials and citizens, to be subservient to the constitution. Supremacy is also formal in the sense that all legal norms must follow the procedures outlined in the Constitution.

To clarify the preceding, it may be stated that the constitutionality review of rules requires the existence of a written and rigid constitution that includes particular, sophisticated processes for its revision.

Otherwise, the review would be merely material, affecting only activities that are neither constitutional or legislative-parliamentary in nature. The constitutionality review exercised by constitutional or ordinary judges is exclusively legal, not political.

KEYWORDS: *Constitution, Constitutionality Review, Supremacy, Albania*

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1. INTRODUCTION

Constitutional review processes and individual appeals to the Constitutional Court stand as critical cornerstones in the legal architectures of nations worldwide. They embody the ongoing quest for a delicate equilibrium between state authority and the protection of fundamental rights. This article embarks on an in-depth exploration of the nuanced dynamics surrounding individual appeals to the Constitutional Courts of Costa Rica and Albania, aiming to dissect the legal, procedural, and cultural intricacies that shape these mechanisms.

The significance of constitutional review lies in its role as the guardian of a nation's foundational principles. Whether conducted by the Sala Constitucional in Costa Rica or the Constitutional Court in Albania, constitutional review ensures that laws and government actions align with the bedrock principles enshrined in the respective constitutions. This process becomes even more pivotal when it opens its doors to individuals seeking redress for perceived violations of their constitutional rights.

Individual appeals form the heartbeat of constitutional justice. They empower citizens to directly engage with the legal system, asserting their rights and holding institutions accountable. In this narrative, the journey through the procedural intricacies of individual appeals becomes a narrative of empowerment, where citizens actively contribute to the ongoing evolution of constitutional norms.

Costa Rica's legal landscape is characterized by the Sala Constitucional, a judicial body with the dual responsibility of preventive constitutional review and adjudicating individual appeals. The "amparo" process, as a vehicle for individual appeals, embodies the accessibility and responsiveness of the Costa Rican legal system to citizens seeking justice for constitutional transgressions.

On the other side of the comparative spectrum, Albania's Constitutional Court assumes a pivotal role in ensuring the conformity of laws with the constitution. The constitutional appeal system and the instance

of fundamental rights protection collectively create a legal framework that invites citizens to seek redress for alleged constitutional violations.

As we delve into a comparative analysis, we navigate the legal waters where preventive review mechanisms, the scope of court authority, and procedural variations take center stage. Understanding these legal intricacies not only sheds light on the distinct paths each nation has taken but also prompts reflections on the broader implications for constitutional justice and the protection of individual rights.

Beyond legal frameworks, cultural significance and societal dynamics contribute vital layers to this exploration. The perceptions of the role of Constitutional Courts, societal attitudes toward constitutional rights, and the willingness of citizens to engage in legal processes all converge to shape the effectiveness of individual appeal mechanisms.

2. METHODOLOGY

The scientific methods used in the given study are: historical, qualitative, analytical, comparative methods, as well as the data collection method, which are intertwined in the issues addressed in the given paper.

Historical method: This method was used to reflect the evolutionary development of respect and constitutional guarantees for the protection of personal data in different legal systems, especially in Latin American countries and Albania.

Qualitative method: The use of this method is based on data that will be obtained from various texts and the constitutions of the countries studied, that is, from primary and secondary sources.

Comparative method: Through the use of this method, it is intended to make an interpretation of the data that will be obtained in order to compare between the constitutions taken into consideration, highlighting the similarities and differences between them.

3. THE CONSTITUTIONAL COURT IN COSTA RICA

The legal infrastructure of Costa Rica is fortified by the presence of the Sala Constitucional, commonly known as the Constitutional Court. This judicial entity, nestled within the Supreme Court of Justice, assumes a pivotal role in upholding the constitutional fabric of the nation. Understanding the intricacies and functions of the Sala Constitucional provides valuable insights into the unique nature of constitutional review in Costa Rica.

Established in the early 1980s, the Sala Constitucional was a response to a growing need for a specialized body that could navigate the complexities of constitutional matters. Its creation marked a significant stride in Costa Rica's commitment to reinforcing the rule of law and ensuring the protection of fundamental rights. One distinctive feature of the Sala Constitucional is its dual mandate. Firstly, it serves as a preventive reviewer, examining the constitutionality of laws and governmental actions before they come into effect. This proactive stance positions the Constitutional Court as a bulwark against potential constitutional violations, contributing to the country's legal stability.

Secondly, and perhaps more prominently, the Sala Constitucional is the arena where citizens can directly engage with the legal system through individual appeals, most notably through the mechanism known as "amparo." This mechanism empowers individuals to seek redress for alleged violations of their constitutional rights, positioning the Sala Constitucional as a beacon of accessibility to justice for Costa Rican citizens.

The procedures for individual appeals, particularly through "amparo," showcase the meticulous approach of the Sala Constitucional. The filing of an appeal initiates a multi-step process involving a preliminary examination, notification to relevant parties, possible oral hearings, and, finally, a

comprehensive decision by the Court. This intricate process ensures a thorough and fair evaluation of citizens' claims, emphasizing the commitment to upholding constitutional rights.

4. AMPARO: MORE THAN A LEGAL MECHANISM

Beyond its legal implications, "amparo" embodies a broader ethos of social justice. It reflects Costa Rica's dedication to promptly addressing and rectifying constitutional transgressions, fostering a culture of accountability and protection of individual rights. The Sala Constitucional, through "amparo," (Eduardo Rozo Acuna e Paola Maffei (2006), *Le Costituzioni dell'America Latina*) becomes a conduit for citizens to actively participate in the preservation and evolution of the constitutional order.

The presence of the Sala Constitucional has a profound impact on the legal landscape of Costa Rica. It ensures that the principles enshrined in the constitution are not merely theoretical but translate into tangible protections for every citizen. This dynamic interplay between the Court and the citizenry contributes to the robustness and adaptability of the country's legal framework.

While the Sala Constitucional has been a stalwart guardian of constitutional principles, it is not immune to challenges. The growing caseload, evolving societal dynamics, and the need for continuous adaptation to emerging legal issues pose ongoing considerations for the Court. Addressing these challenges requires a delicate balance between preserving constitutional integrity and ensuring the accessibility and efficiency of the legal system.

In essence, the Sala Constitucional stands as a testament to Costa Rica's commitment to constitutional governance and the protection of individual rights. Its multifaceted role as a preventive reviewer and a platform for individual appeals underscores the integral role that constitutional courts play in shaping a nation's legal identity. As Costa Rica continues to navigate the complex terrain of constitutional justice (Eduardo Rozo Acuna (2012), *Il Costituzionalismo in vigore nei Paesi dell'America Latina*), the Sala Constitucional remains a cornerstone in this ongoing journey towards a more just and equitable society.

As this exploration unfolds, it illuminates potential avenues for future research. Understanding the impact of these constitutional review mechanisms on citizens' access to justice, their responsiveness to societal changes, and the intricate interplay of legal, cultural, and social factors invites a deeper dive into the evolving landscape of constitutional justice.

In essence, this article serves as an invitation to embark on a journey through the constitutional landscapes of Costa Rica and Albania, a journey that goes beyond legal frameworks and procedural details to delve into the very essence of constitutional justice—how it resonates with citizens, adapts to cultural nuances, and paves the way for a dynamic and inclusive legal system.

Both nations allow citizens to file individual appeals for alleged violations of their fundamental rights. However, while in Costa Rica, the process is characterized by "amparo," in Albania, it involves both the constitutional appeal system and the instance of fundamental rights protection. This suggests significant procedural differences that can impact the timeliness and effectiveness of legal responses.

The Sala Constitucional in Costa Rica and the Constitutional Court in Albania share the responsibility of ensuring the protection of constitutional rights. However, the Sala also has the power of preventive review, while the Albanian Court exclusively focuses on the conformity of existing laws. This can influence the scope of constitutional review in response to individual appeals.

Costa Rica stands out for its procedural flexibility, with "amparo" offering a swift means to address violations. In Albania, the constitutional appeal system might follow more formal procedures. This flexibility can have implications for the timeliness of responses and the ease of access to justice.

Cultural and social differences between Costa Rica and Albania may be reflected in the perception of the role of the Constitutional Court and the willingness of citizens to file appeals. These aspects influence the overall dynamics of constitutional review.

5. CONCLUSION

In conclusion, the comparison between Costa Rica and Albania revealed through the analysis of procedures for individual appeals highlights a diversity of approaches in their respective legal systems. While both nations share the common goal of protecting constitutional rights through individual appeals, it is crucial to understand the procedural and cultural nuances shaping each country's practice. Ongoing exploration of these dynamics can contribute to enhancing the effectiveness of constitutional review and promoting a fair and accessible legal system for all citizens.

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