његова примјена у конкретном случају, по правилу, у надлежности редовних судова, док уставни суд интервенише када је повријеђено специфично уставно право. Такав приступ омогућава да уставни суд оствари своју основну функцију заштите Устава, а да истовремено не преузме улогу суда највише инстанце.

С тим у вези, касаторно дејство одлуке уставног суда представља прикладан механизам за очување границе између уставносудске и судске функције. Када утврди повреду уставом зајемченог права, уставни суд треба да укине акт којим је повреда учињена и предмет врати надлежном редовном суду на поновно одлучивање, уз обавезу да се отклони утврђена повреда. На тај начин, уставни суд остварује своју функцију чувара Устава, док редовном суду оставља простор да, у оквиру својих надлежности, утврди чињенично стање и примијени релевантно законодавство. Зато је за очување независности редовног судства од пресудног значаја да се уставносудска контрола задржи у границама контроле уставности, без претварања у саму контролу правилности судске одлуке.

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ON THE RELATIONSHIP BETWEEN THE CONSTITUTIONAL COURT AND REGULAR COURTS WITH SPECIAL REFERENCE TO THE CONSTITUTIONAL APPEAL

Summary

The paper analyzes the position of the constitutional court in relation to other holders of state power, as well as its place within the existing system of separation of powers, with particular emphasis on the relationship between the constitutional adjudicative function and the ordinary judicial branch. It examines the functions of the constitutional court that directly and indirectly affect the judicial function, with particular attention paid to the constitutional complaint and its impact on safeguarding the independence of the judiciary. In addition to theoretical debates concerning the scope of constitutional review of decisions rendered by ordinary courts, the paper considers the main reasons for

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introducing the constitutional complaint and analyzes existing constitutional solutions in comparative constitutional law. Finally, it examines the specific features of the constitutional complaint within the constitutional system of Bosnia and Herzegovina. The paper concludes that constitutional arrangements and practice demonstrate that the introduction of a constitutional complaint, in itself, does not undermine the independence and authority of the judiciary, but rather contributes to preserving and upholding the Constitution as the supreme legal act. In this respect, both the constitutional court and ordinary courts share a common objective: the protection of fundamental human rights and freedoms and the realization of the rule of law. Nevertheless, it is necessary to clearly distinguish constitutional review from appellate review. From a de lege ferenda *perspective, it would therefore be justified to emphasize the predominantly cassatory character of constitutional court decisions rendered upon a constitutional complaint. This means that, as a rule, the task of the constitutional court should be to establish whether a constitutionally guaranteed right has been violated, to quash the act by which the violation was committed, and to remit the case to the competent authority for reconsideration, without assuming the role of a court of final instance with regard to establishing the facts and the final application of the law.*

Key words: *constitutional court, constitutional review, constitutional appeal, independence of the judiciary, fundamental rights and freedoms, rule of law.*