

**ŠKULIĆ, M., KOLAKOVIĆ-BOJOVIĆ, M. & MATIĆ-BOŠKOVIĆ, M. (2024)  
THE ROLE OF THE CONSTITUTIONAL COURT OF THE REPUBLIC  
OF SERBIA IN PENAL PROCEEDINGS. BELGRADE: INSTITUTE  
OF CRIMINOLOGICAL AND SOCIOLOGICAL RESEARCH**

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Maybe the most challenging areas of law for theoretical research are the ones that stand at the crossroads of traditional, well established fields or disciplines of law. That is so because, naturally, most legal theoreticians are primarily versed within the contours of “their own” fields of scientific interest, which in most cases encompass a certain legal discipline. On the other hand, these “border areas” require knowledge from both legal disciplines between which they exist. For example, an author that aims to research international criminal law must be skilled in criminal law, but also in international law in general, in order for his research to be comprehensive. The same applies to an area in which the topic of the monograph to which this review is dedicated belongs – the topic of constitutional appeal in the context of penal proceedings – which is situated at the crossroads of criminal law, and more precisely, law of criminal procedure, and constitutional law.

It seems that the monograph “The Role of the Constitutional Court of the Republic of Serbia in Penal Proceedings” is up to the challenge discussed in the previous paragraph of this text. Firstly, all three of its co-authors are well established legal experts in their respective fields of theoretical (but also practical) interest. Professor dr Milan Škulić, aside from being the full professor at the Department of Criminal Law at the University of Belgrade – Faculty of Law, specialized among other fields in the field of the law of criminal procedure, is also a judge of the Constitutional Court of Serbia, whose everyday work at the Court encompasses, *inter alia*, the work on the constitutional appeals arising from the practice of penal, and most importantly, criminal courts. Besides professor Škulić, the co-authors of this book are also two senior research fellows of the Institute for Criminological and Sociological Research, dr Milica Kolaković Bojović and dr Marina Matić Bošković, both renowned authors in the field of, among others, criminal law.

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Secondly, the monograph itself speaks about its high-level quality. The style in which it is written is a classical legal one, but at the same time plain, coherent and understandable to a reader, even if he is not a lawyer by profession. Besides referring to classical theoretical works, the authors have made an effort to use a wide range of case law, which is worth of appraisal, particularly having in mind the main topic of the monograph, which is dominantly oriented towards the jurisprudence of the Constitutional Court of the Republic of Serbia. That said, the monograph contains references to a number of important decisions of the Constitutional Court, as well as of other relevant judicial bodies, such as the European Court of Human Rights.

The book contains four main chapters, the first of which is dedicated to the introduction to the topic, as well as to general methodological issues. The second chapter, with which the “substantive” part of the book begins, deals with the normative and institutional framework of constitutional protection in the Republic of Serbia. Therefore, it primarily focuses on the *de lege lata* analysis of relevant sources of law that deal with various substantive and procedural issues regarding the Constitutional Court of the Republic of Serbia. Given the topic of this monograph, we can argue that the most important part of this chapter is the one that is concerned with the rules regarding the procedure in relation to the constitutional appeal before the Constitutional Court.

In the second chapter, the authors share with us the results of the in-depth quantitative analysis they conducted during their research. This chapter is full of valuable data that can give us an important insight into the practice of the Constitutional Court of the Republic of Serbia in the field of constitutional appeals related to penal proceedings. For example, the authors provide us with the quantitative dimension of rights which are being put forward in the constitutional appeals by the appellants. Namely, the most often cited human right which, according to the appellants, was violated is the right to fair trial.

Finally, in the third chapter of the book, the authors conduct a synthetic case-study, putting a main emphasis on the somewhat contentious issues which arise in the jurisprudence of the Constitutional Court of the Republic of Serbia regarding the constitutional appeals in the field of penal, and most importantly, criminal proceedings. The first question to which the authors pay attention is the question of the place of the *ne bis in idem* principle in the legal practice of the Constitutional Court of Serbia. In this regard, the authors conclude that the “practice of the Constitutional Court of Serbia in a whole series of cases relies on the criteria established in the practice of the European Court of Human Rights – first of all, the “Engel criteria”. The second question that is being addressed by the authors within this chapter of

the book is the question of the jurisprudence of the Constitutional Court in relation to the measure of detention and other measures similar to detention. In this regard, the monograph contains a very interesting dissenting opinion of the judge of the Constitutional Court, professor dr Milan Škulić, on the decision of the Constitutional Court number UŽ-738/2014. Besides these questions, the fourth chapter of the book also contains parts dedicated to some other issues, namely the practice of the Constitutional Court regarding the constitutional appeals submitted by an injured party, the legal reasonings of the Constitutional Court related to the right of the defendant to an impartial criminal court, as well as the legal reasonings of the Constitutional Court regarding some relevant aspects of constitutional appeals submitted against the judgments of the courts for misdemeanors.

The reviewed monograph represents a valuable contribution to legal science in general, and particularly to the disciplines of criminal law and constitutional law. Moreover, the multidisciplinary approach applied by the authors of this monograph makes it attractive to a wider range of potential readers – in the first place, the readers are expected to be the lawyers (theoreticians and practitioners) that specialise in these two fields of law. However, given the simple style and interesting approach that guided the authors during its writing, this book can certainly be of interest to the whole legal public, including the students of law faculties, as well as to the overall public in general, given the fact that its content covers the analysis of the legal tool, namely the constitutional appeal, which is designed as a “last (national) legal tool” available to the citizens of the Republic of Serbia in defense of their human and minority rights and freedoms.

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