

## **Acceptance and Admissibility Requirements in Constitutional Proceedings: An Institutional Power Perspective**

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### **Abstract**

Following the enactment of the Constitutional Court Procedure Act in 2022, the Constitutional Court has successfully transitioned to a more judicial approach in handling cases. This contrasts with the previous era, governed by the Constitutional Interpretation Procedure Act, in which the Court played the role of “interpreter of the Constitution”. However, even though the Constitutional Court now operates as a court that supervises the functioning of the other branches of government in accordance with the Constitution, the problem of the criticized “black box” inadmissibility decision from the previous system seems to persist, unresolved with the introduction of the new system. In Taiwan's constitutional process system, it is unclear whether the Constitutional Court Procedure Act grants the Constitutional Court general discretion to accept or reject cases. In particular, Article 61(1) of the Constitutional Court Procedure Act establishes a filtering mechanism based on “constitutional significance” or being “necessary to satisfy the petitioners’ fundamental rights”. This ambiguity raises the question of whether the Constitutional Court has the discretion to accept or reject a constitutional complaint, or whether it is obliged to accept a complaint once these additional admissibility requirements are met. Given that these issues revolve around the positioning of the Constitutional Court’s power in terms of normative planning, this article will attempt to clarify the uncertainties before addressing the admissibility requirements of different types of constitutional process. It will analyze the admissibility requirements of constitutional complaints and concrete

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review of a statute. Furthermore, there is still controversy as to whether the claims raised by the highest state organs are to be classified as subjective or objective constitutional claims. Given the connection with the positioning of their power roles, this article aims to categorize the lawsuits initiated by the highest state organs and members of the legislature in accordance with the purpose of the system. It will then examine the interpretation of the admissibility requirements of these claims.

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