The present article demonstrates the role, functions, and development of judicial review. It explores the origins and evolution of judicial review, including the role of early legal thinkers and the development of constitutional law in the 17th and 18th centuries. The article also discusses the implementation of judicial review in various legal systems and the impact of this institution on the protection of human rights and the rule of law. The text suggests that judicial review serves as a crucial mechanism for the control of the executive authority and the maintenance of a democratic political system. The article concludes with an analysis of the current challenges facing judicial review and the need for continued development and adaptation to meet the demands of a changing world order.
that discovers the framers intent and a third chamber or permanent constitutionality might be diffused (deconcentrated) or concentrated 13A. Berle, The Three Faces of Power, 1967, 49. 

10Luckily these efforts did not prevail for attributing the control of constitutionality constitutional supervision. is vested in a single institution being a court or a special council for constitutional control usually the courts and in the concentrated system constitutional control to a «government by judiciary».12

«Give to the Judges a power of annulling the acts(laws); and you transfer and legislative supremacy doctrines still argue on the admissibility and posterior control of constitutionality. Constitutional supremacy of laws is vesting this function in the courts, or creating a special institution outside the traditional judicial power, but never into a formidable weapon of legislative control. Constitutional supremacy has lost any meaning for it would have been dissolved in the Legislative supremacy. The only possible solution then common to all the models of control of constitutionality of laws is vesting this function in the courts, or creating a special institution outside the traditional judicial power, but never into a formidable weapon of legislative control. Constitutional supremacy would have lost any meaning for it would have been dissolved in the Legislative supremacy.

Prior Control of Constitutionality is the only available form in the Vth French Republic, while in other countries like Austria, Hungary and others it is combined with posterior control of constitutionality. 1793 during the Jacobine regime in France. Instead of controlling the Legislature were equally meaningless for the only result would have been an omnipotent despotic parliament or a convention like that of the former Soviet Union and others. There is an interesting peculiarity, that are trained best and have a long experience. The common argument is that the control of constitutionality of laws is sophisticated activity and it should be available only to the justices that are trained best and have a long experience. Consequently, the courts develop the meaning of the constitutional provisions and in posterior control of constitutionality can be either abstract or a concrete one.

Various systems of control of constitutionality are exercised by four models in the contemporary world. a. The American model of JR has been implemented in Japan, Norway, Denmark, Brazil, Argentine, Chile, Honduras, Guatemala and other countries in Latin America during the periods when they have democratic constitutions. Judicial review is carried by all the courts in the Judicial system. b. Judicial review might be vested in the Supreme Court. This model is developed in the constitutional system of India, Australia, Swiss Confederation, Ireland, Canada, South Africa and others. No other courts can decide on constitutionality except the supreme court of the country. The common argument is that the control of constitutionality of laws is sophisticated activity and it should be available only to the justices that are trained best and have a long experience. c. Control of constitutionality is concentrated in a special court – Constitutional Court. This system prevails in Europe and the best examples are Austria, Germany, Italy, Spain, Portugal, Turkey, most of the constitutional democracies in Central and Eastern Europe, independent republics of the former Soviet Union and others. There is an interesting peculiarity, however in Germany. The concentrated control of constitutionality, performed by the Federal Constitutional court has not been devised to eliminate totally the diffused system of judicial review. While the Constitutional court has the exclusive jurisdiction to revise the Federal statues, all the German courts can exercise judicial review revising other acts which might be contradictory to the constitution.

All of the constitutions of the emerging democracies have already introduced Constitutional courts. And even the constitutions in the breakaway former Soviet union republics have implemented this model to replace the committees for constitutional revision established during the Gorbys perestroika but proven to be an unsuccessful experiment. The soviet model was established first in the Austrian constitution of 1920 Constitution. This was the original idea of a concentrated and firmly institutionalized judicial review initiated by the famous European scholar, Count Kelsen, who was the author of the 1920 Constitution of Czechoslovakia. However, before the end of the World War II the control of constitutionality did not meet the expectations of the constitution makers. The Constitutional courts have been regarded as special kind of political courts preordained to safeguard the supremacy of the constitution, the integrity of the Constitutional government and to act as the highest and ultimate guardian of the human rights. The Constitutional courts review all the acts of the Parliament, President and sometimes the normative acts of the Cabinet. Unconstitutionality and non compliance to the provisions of the legislative acts of governmental administration and the infringements of the statutes by the other acts is controlled by specialized administrative courts within the judicial branch.

The Constitutional courts are granted the jurisdiction to resolve the conflicts between the branches of government arising from the horizontal and the vertical separation of powers. In contrast to the US Supreme court the constitutional courts have to resolve controversies arising in political life for example concerning the results of the general elections, checking the validity of what discovers the framers intent and a third chamber or permanent constitutionality.
family to which the particular institution that was assigned to review the constitutional provisions compliance to the constitution before, they have shared the same set of liberal democratic principles and values. Protection of the rule of law starting with the constitutional supremacy and fundamental human rights has been the common denominator while he differs from country to country in the way they are implemented. The constitutional courts are mistakenly treated for functions they are not intended to perform. Legal family of guardians consists of six members of the clergy who are just, are knowledgeable in Islamic jurisprudence, and are of the same degree of rank. They are appointed by the Leader of the Country. It is written in the article 110 to appoint the highest judicial authorities of the country. Another six lawyers from various branches of law, from among the Moslem lawyers, are nominated by the judicial authorities of the country. Another six lawyers from various branches of law, from among the Moslem lawyers, are nominated by the judicial authorities of the country. Another six lawyers from various branches of law, from among the Moslem lawyers, are nominated by the judicial authorities of the country. Another six lawyers from various branches of law, from among the Moslem lawyers, are nominated by the judicial authorities of the country. Another six lawyers from various branches of law, from among the Moslem lawyers, are nominated by the judicial authorities of the country. Another six lawyers from various branches of law, from among the Moslem lawyers, are nominated by the judicial authorities of the country.

2. In a former governing party when becoming an opposition one. 23

3. Constitutional Courts act as ultimate judicial safeguard of fundamental human rights. No doubt this position of the courts is cornerstone in the exercise of judges and professors rather than as being an outcome of the judicial process. The functions of the judges are not to judge the constitutionality of the laws, but to judge the constitutionality of the laws by applying the constitution to the identical cases and situations.

4. Today the constitutional courts or other forms of constitutional review is universal. The idea that the concept of judicial review is an innovation of American law is incorrect. Scholars still argue whether it was due to the necessity of preserving and democratic cravings rising from the grassroots or either it is introduced by the political elites. 22 The latter has been titled insurance model by introducing judicial review as a kind of security investment preventing a former governing party when becoming an opposition one. 23 Several types of functions might be distinguished among the institutions for judicial or constitutional review. Functions might be divided into universal exemplified by all bodies entreated or recognized by the court to perform control to compliance to the constitution or specific – concerning of those particular institutions that have been granted such exclusive control over the constitutional provisions and legislative norms to attribute constitutional powers to the constitutional courts.

5. It is emphasized that while the list of powers entrusted to the constitutional courts is misinterpreted for functions they are only means or weapons instrumental to carry out the functions of judicial review of constitutionality of laws. Although the genesis and evolution of constitutional review followed different pattern depending on the constitutional design and the legal context. The constitutional courts primary role would be to settle the conflict in every concrete case. The system of precedent was developed mostly by the judges finding the legal rule to reach judicial decision in every concrete case.
To quash the opposition by protecting minority rights. Probably the despotic aspirations of majorities in government. In the context of 26B.Constant, Principle of Politics Applicable to All Representative Governments, in parties or MP groups.

Most symptomatic of this function has been the action of filing petitions of the head of state performing political arbitrage, the constitutional to the participants and the whole nation. In contrast to this position prevent, mediate institutional conflict or compromise an outcome beneficial constitutional courts might be compared to the neutral power or pouvoir and legal arbitrage resolving the conflicts. In this respect status of the institutions within the constitutional limits of their powers. This function of Constitutional courts has been performed through in different ways and forms with all of their constitutional powers. 3 Constitutional courts act as border guards containing the state institutions within the constitutional limits of their powers. This function of Constitutional courts has been performed through in different ways and forms with all of their constitutional powers.

Constitutional courts act as legal arbiters or agents of constitutional and legal arbitrage resolving the conflicts. In this respect status of the constitutional courts might be compared to the neutral power or pouvoir described by B.Constant and attributed to the head of state conceived to be performing neutral arbitrage to resolve, diminish, accelerate, prevent, mediate institutional conflict or compromise an outcome beneficial to the participants and the whole nation. In contrast to this position of the head of state performing political arbitrage, the constitutional courts exercise constitutional arbitrage – i.e. the conflicts between the powers are resolved on the basis and within the constitution.

Constitutional courts act as counter majoritarian check preventing despotic aspirations of majorities in government. In the context of liberal democracy courts perform function of preventing the majority to quash the opposition by protecting minority rights. Probably the most symptomatic of this function has been the action of filling petitions demanding unconstitutionality decision by the parliamentary minorities – parties or MP groups.

With the introduction of the individual constitutional complaint individuals when their fundamental rights are abrogated by parliamentary legislation adopted by majority have an important source to veto tyranny of the majority that has overtaken the constitution.

7. Constitutional Courts acting as a safety valve to decrease the level of the social pressure, unrest and prevent the constitution and governmental system from self destruction or destruction by the violent extraconstitutional, extraparliamentary or illegal action. One of the first explanations of the function of procedures, devices and institutions acting as a safety valve belongs to N. Machiavelli long before constitutional review of legislation emerged. Another approach by converting a political or extraparliamentary violence into legal conflict one has been emphasized by A. De Tocqueville. Instead of being resolved by violence on the streets the conflicting issue is given in the hands of the court to decide.

4. Constitutional courts exercise transforming function when updating the constitution and providing the growth of the constitution or in T. Jaffee’s words “could belong to the living and not to the dead”. Providing new interpretation of the constitutional provisions in the context of new generations and might be instrumental to avoiding the virtual constitutional amendment by the constitutional power. This function of constitutional review might be indispensable to the avoiding of gridlocks especially in countries with rigid constitutions. It might be instrumental to mediate the cost of the formal institutions when adoption of a new constitutional amendment trough the cumbersome procedure of election and activity of constituent assembly.

5. Constitutional courts might play as a substitute (surrogate) or compensation for the lack of a second chamber of parliament especially in impeachment trials particularly in those countries where the constitution provides impeachment trial while establishing unicameral assembly.

6. Constitutional courts are ultimate arbiter on legality of the elections and constitutionality of political parties when they are assigned by the constitution.
fact this form of constitutional review has a similar effect as a presidential veto over an identical vote. The Congress could amend the constitution with a two-thirds majority, and thus avoid unconstitutionality preserving the law but changing the constitution (this is the effect of overriding a presidential veto) or changing the law in conflict with the constitutional review ruling and the constitution (the effect is nearly the same as of a successful presidential veto).

The outcome of Constitutional court's decision on unconstitutionality of a statute is very similar to the one of presidential review. The Court has to decide if the statute is constitutional in respect to all (erga omnes.) It is apparent to all the European authors that the law declared to be unconstitutional ceases to exist. There are disputes on the moment when a statute ceases to exist. There can be no doubt as to the action of law in the future. Some scholars maintain that the law, declared to be unconstitutional from the moment when it was enacted. This assumption raises objections related to retroactivity and reasonable arguments with the complex issue how to deal with all consequences that followed from the moment when the law was enacted till the moment when the constitutional court's decision has been announced.

In the U.S. constitutional law the S.C. is to decide whether unconstitutionality invalidates the law ex tunc. (in respect to or ex nunc: (pro futuro) only relating to the future. Doctrine of retroactivity was defined by the Supreme court in Vanhorne's Lessee v.Dorrance (1795) as a void act where constitutional existence is a dead letter, and of no more virtue or avail, than if it never had been made. In Linkletter v. Walker (1965) this doctrine however was reversed with the court stating that the constitution neither requires to apply, nor prohibits from applying a doctrine of retroactivity. In Austria the constitutional court's decision has generally an ex nunc effect. It annuls a whole or a part of a statute or of a decree that are considered to be void from the moment the court announce its decision. On the other hand, the constitutional court has the power to annul statutes that have been repealed by the Parliament and this proposition implies that the constitutional court might declare that the statute is unconstitutional in a retroactive or ex tunc effect. However, the general principle is ex nunc. There are two important details a statement of unconstitutionality in Austria. First, the obligation to regularize the effects of unconstitutionality the constitutional court, or the constitutional court might even delay ex nunc effect of its decision. A complicated situation which might arise from a repealed statute might be that the other statute that have been repealed might start their action again with no further action being necessary from a political institution.

In Germany the acts found to be incompatible to the constitution are declared to be null. In the case of abstract or concrete control of constitutionality the act is declared void ab initio and the courts decision has a direct past and ex tunc effect. The only exception from retroactivity is the criminal proceedings that are being reviewed in the courts under the repealed law. All the other administrative and judicial decisions based on the repealed statute will be considered unchallengeable, but their enforceability, if not yet made, would be illegal. To avoid a declaration of unconstitutionality the constitutional court might use the formula of the Court of Cassation which tend to declare only a discrepancy of the statute to the constitution.

The constitutional court exercises posterior, concentrated, abstract control for constitutionality of international treaties and the presidential legal acts as the European constitutional review model case of Sankey v. Mc Morphine Act 1983 established in 1920 Constitution of Austria, created by the famous in Europe and later in the U.S. lawyer H. Kelsen, who was among the first justices to serve in the Court in 1920. In Spain and Italy decisions of the constitutional courts have the effect erga omnes and they do not have retroactive force. (The only exceptions where retroactivity takes place are criminal cases when a person was condemned under a statute declared to be unconstitutional, or the unconstitutional statute has already been repealed).

The constitution of Portugal provides for retroactivity of the decisions of the constitutional court. Powers of the constitutional court are very broad and it can fix the effect of unconstitutionality in a more restrictive way, when required by legal security, equity or public interest. In these circumstances the constitutional court might soften some of the consequences resulting from the rigidity of the retroactive action.

5. SOME ISSUES SUBJECT TO DEBATE IN THE CONSTITUTIONAL JURISDICTION IN BULGARIA

The 1991 Constitution established for the first time in the national history a specialized institution for the review of the constitutionality of laws. The Constitutional Court is a specialized judicial institution, which is not incorporated by the judicial branch. The institution has been built on the prototype of the German, Austrian, Italian and Spanish constitutional jurisdictions with the primary functions to protect and enforce supremacy of the constitution as the law of the land, to resolve the institutional conflicts over powers according to the constitution, to interpret the constitution, etc. By safeguarding the legal supremacy, the Court serves an important function in protecting human rights entrenched in the 1991 Constitution.

Another set of the Constitutional Court powers comprise verifying the constitutionality of international treaties before their ratification, judges in presidential, parliamentary elections, rules on the constitutionality of the parties and decide on charges brought in an impeachment of the President.

The Constitutional court exercises posterior, concentrated, abstract control for constitutionality of international treaties and the presidential legal acts as the European constitutional review model established in 1920 Constitution of Austria, created by the famous in Europe and later in the US lawyer H. Kelsen, who was among the first justices to serve on the court. It was established by the founding fathers intention clearly states that the decisions of the constitutional court have ex nunc binding effect. (See art. 151, par. 2) By the time the constitution was drafted part of the constitution makers in the Grand National assembly shared the concern that the retroactivity of the rule of law principle which was considered cornerstone in the founding of the new democracy after the fall of the totalitarian system. In general liberal constitutionalism has condensed retroactivity as instrument which undermines social contract, justice, certainty of law and legitimacy of
does not have any legal validity if separated from the act that it has to
result from. According to the interpretative decisions of the constitutional court, under art. 149, proclamation of unconstitutionality of certain parliamentary statute as a
result of this provision of the constitution and that the automatic revi
in part of the constitutional court construed as retroactive. Moreover, the restoration should be considered contrary to the text of the
arson of the Constitutional Court which states that all of the consequences of the law proclaimed to be unconstitutional have to be arranged by the institution which has adopted it. Another 

On number of occasions by interpretative decisions the constitutional court ex ante defined certain principles and scope of parliamentary legislation to meet the requirements of the constitution in the area of human rights, freedom of expression and electronic media. One of the most controversial issues concerns the consequences after a provision which was amended to a parliamentary statute has been declared unconstitutional.43 The court by interpretation has arrived at conclusion that in this case after its decision has entered in force an automatic revi

Another problem which has received scholarly attention belongs to
the nature of the interpretative decisions of the constitutional court. The court's binding interpretative decisions have provided prospective
adversarial constitutional interpretation which was successful to prevent unconstitutional legislation by ruling the constitutional ambiguity ex ante.41

Though interpretative decisions share some of the legal features of
prior control of constitutionality, advisory opinions and preliminary rulings of the European Court of Justice they are unique. Advisory
opinions are rendered by the International court of Justice or some of the states courts in the US on request of government or private parties and indicate how the court would rule if adversary litigation should arise on the same matter. Contrary to the Bulgarian constitutional court interpretative decisions the advisory opinions do not have binding effect. Interpretative decisions are rendered like the preliminary rulings when different opinions on the content of a provision exist and its content is not clear. Both legal phenomena have binding effect – preliminary rulings concerning EU law on the national courts and interpretative decisions of the Bulgarian constitutional court on national parliament, president and government to comply their legal acts or actions with the constitutional court holding.

Within the context of the constitutional governance the interpretative
decisions affirm the constitutional court's position as the constitutional expeditor and mediator between the dormant constituent power (which resides in the people or special representative bodies the springs to active position triggered by necessity of constitutional amendment) and the acting institutions of constitutional powers i.e. the legislature the executive and the judiciary.

In Austria and in the Constitution of Portugal there are explicit provisions on the
revival of the legal norms which have been amended or provisions proclaimed to be unconstitutional. In 1940 H. Keilen has explained this solution of the constitution with reference to the famous case Schmölcker v. Rottendorf in which a provision of the constitution was considered unconstitutional and had to be regarded as null and void from the moment of its being declared unconstitutional.42 The court by interpretation has


The opposite conclusion should mean that before the court pronounced its decision the provision of the constitution had one meaning and from the moment of the constitutional court's decision it has acquired another one. If this is the case it would lead to no other explanation then that - the Constitutional Court has stepped its powers and has amended the Constitution by acting like an agent of constituent power.