

The Conference of European Constitutional Courts

The first Conference took place in Dubrovnik, 1972, at the initiative of the presidents of the constitutional courts from Germany, Austria, Italy and the former Federal Republic of Yugoslavia. Essentially, it was meant to provide a regular basis for the exchange of experience in constitutional practice and jurisprudence in a general - that is **European context**, with due regard to the principle of **judicial independence**. Even in the absence of a formal statute, such regular meetings continued under the aegis of the “Conference of the European Constitutional Courts”, being hosted by other constitutional courts once they had stepped in: at first, in 1978, the Swiss Federal Tribunal, then the constitutional courts of Spain, 1981, and Portugal, 1984. At the Lausanne Conference, 1981, the European Court of Human Rights and the Court of Justice of the European Communities were co-opted as observers, followed by the European Commission for Democracy through Law (“The Venice Commission” of the Council of Europe”) in 1996.

Memberships advanced with the French Constitutional Council and the Turkish Constitutional Court (in 1987); nonetheless, it was only the '90s that brought an unparalleled enlargement to the Conference, as a result of so many constitutional courts having been established in Central and Eastern Europe, but also due to the growing interest shown by some other national courts from “traditional, long-established democracies”. One after another, admission was granted to constitutional courts and similar jurisdictional bodies from Belgium and Poland (1990), Hungary (1992), Croatia, Cyprus, Romania, Slovenia, Andorra (1994), the Russian Federation (1996), the Czech Republic, Lithuania, Bulgaria, Slovakia, Malta, Liechtenstein (1997), the Republic of Macedonia (1999), Albania, Armenia, Azerbaijan, Bosnia-Herzegovina, Georgia, Latvia, the Republic of Moldova, Ukraine (2000), Luxembourg (2002), Estonia, Ireland, Norway (2003), Denmark, Montenegro, Serbia (2006),

and finally, Monaco (2008), so that the Conference appears to have reached an almost “pan-European dimension” nowadays.

Apart from its full-fledged members, the Conference also includes an associate member (Belarus), and a number of observers and guests (courts from non-European countries, such as Israel, Uzbekistan, Kazakhstan, Mongolia, and others).

Considering the many organizational, but also technical questions posed by such increased participation, it became all the more necessary to establish a formalized framework and statutory rules so that the Conference may attain its objectives: at present, its running is based on a Statute (adopted on the XIth Conference, Warsaw, 1999) and Regulations (Brussels, 2002).

Among other things, the Statute of the Conference sets forth a number of fundamental criteria which are required in order to obtain full membership: *“The status of a full member may be granted only to European Constitutional Courts and similar European institutions which exercise constitutional jurisdiction, in particular reviewing the conformity of legislation and which conduct their judicial activities in accordance with the principle of judicial independence, being bound by the fundamental principles of democracy and the rule of law and the duty to respect human rights. In this respect the Conference shall follow the practice established in previous conferences and by the Council of Europe”* (Article 6).

The aims pursued by the Conference of European Constitutional Courts are now provided under Article 3 of the Statute, in that “[it] *shall hold at regular intervals a Congress. It shall promote the exchange of information on the working methods and constitutional case-law of member courts together with the exchange of opinions on institutional, structural and operational issues as regards public-law and constitutional jurisdiction. In addition, it shall take steps to enhance the independence of constitutional courts as an essential factor in guaranteeing and implementing democracy and the rule of law, in particular with a view to securing protection of human rights. It shall support*

efforts to maintain regular contacts between the European Constitutional Courts and similar institutions.”

In conformity with the statutory norms, the Conference organs are 1. the “Circle of Presidents”, the central decision-making body composed of the Presidents of the Courts and the institutions with full member status; and 2. the Congress, which is held in every three years, being attended by full members, associate members, but also observers such as national or supranational courts, other bodies or institutions dealing with constitutional jurisdictions, regional or linguistic groups of constitutional courts, and guests, respectively.

Chairmanship of the Conference (and presidency over the “Circle of Presidents”) is held by the President of the Court which is to host the next Congress; the same court will also ensure the Secretariat of the Conference.

At the XIVth Congress in Vilnius, 2008, the Constitutional Court of Romania was elected to exert chairmanship until 2011 when, at the end of the XVth Congress, such shall be transferred to the Constitutional Court of Austria for the following three years.

The themes of the previous editions of the Conference of European Constitutional Courts, 14 in all (termed as a “Congress” by the Statute adopted in 1999) were as follows:

- Ist Conference, 1972 (Dubrovnik): ***“The competence of Constitutional Courts and the legal implications of their decisions”***.
- IInd Conference, 1974 (Baden-Baden): ***“Interpretation and the initiative of constitutional review”***.
- IIIrd Conference, 1976 (Rome): ***“The Constitutional Court and the legislature”***.
- IVth Conference, 1978 (Vienna): ***“The State and the scope of fundamental rights”***.

- Vth Conference, 1981 (Lausanne): *“The State and the scope of fundamental rights in the area of education”*.
- VIth Conference, 1984 (Madrid): *“Relations between the central authority and regional authority in the constitutional jurisprudence”*.
- VIIth Conference, 1987 (Lisbon): *“Nature, content and effect of decisions on the constitutionality of norms”*.
- VIIIth Conference, 1990 (Ankara): *“The hierarchy of constitutional norms and its function in the protection of fundamental rights”*.
- IXth Conference, 1993 (Paris): *“The constitutional protection and international protection of human rights: competing or complementary?”*
- Xth Conference, 1996 (Budapest): *“Freedom of thought. Separation of powers in the jurisprudence of Constitutional Courts”*.
- XIth Conference, 1999 (Warsaw): *“The constitutional jurisprudence on religious freedom and the legal regime of cults and religious freedom”*.
- XIIth Congress, 2002 (Brussels): *“The relations between the Constitutional Courts and the other national Courts, including the interference in this area of the action of European Courts”*.
- XIIIth Congress, 2005 (Nicosia): *“The criteria of the limitation of human rights in the practice of constitutional justice”*.
- XIVth Congress, 2008 (Vilnius): *“Problems of legislative omission in constitutional jurisprudence”*.

The theme to be debated at the XVth Congress (2011) is: *“Constitutional justice: functions and relationship with the other public authorities”*.