



XVI<sup>e</sup> Congrès de la Conférence des Cours constitutionnelles européennes  
XVI<sup>th</sup> Congress of the Conference of European Constitutional Courts  
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XVI Конгресс Конференции европейских конституционных судов

## **Synthèse / Summary / Kurzfassung / резюме**

RÉPUBLIQUE DE TURQUIE / REPUBLIC OF TURKEY /  
REPUBLIK TÜRKEI / ТУРЕЦКАЯ РЕСПУБЛИКА

The Constitutional Court of the Republic of Turkey  
Türkiye Cumhuriyeti Anayasa Mahkemesi

Anglais / English / Englisch / английский

## **Summary of the Report for the 16<sup>th</sup> Congress of the Conference of European Constitutional Courts in 2014**

In respect of the first part of the report, Turkey is party to the fundamental international instruments on human rights including the European Convention on Human Rights (“the Convention”) and major additional protocols thereto. Within this framework, these international instruments are to be taken into consideration in some cases as required by the provisions of the Constitution.

Turkish Constitutional Court utilizes international human rights instruments as supportive standard norms in its decisions with regard to constitutionality review. As for the individual applications, although the Court doesn’t perform a “conventionality” review, relevant provisions of the Convention and its additional protocols (to which Turkey is a party) are to be utilized during the review on determination of the subject and scope of rights and freedoms.

There is no specific legal regulation in the Constitution nor in other domestic law obliging the Turkish Constitutional Court to consider the decisions of the international courts, including the European Court of Human Rights (“the ECtHR”). However, The Constitutional Court prefers to interpret that the references made in the Constitution to the European Convention on Human Rights cover the relevant case-law of the ECtHR.

There is a mutual influence between the case-law of the ECtHR and the case-law of the Constitutional Court. The most visible interactions between the Court and the ECtHR have been especially on dissolution of political parties, concept of secularism and headscarf issues. After the introduction of remedy of individual application on 23 September 2012, the dialogue between the Court and the ECtHR became more positive and cooperative on interpretation of fundamental rights and freedoms.

As for the second part of the report, it can be mentioned that Turkish Constitutional Court follows the case-law of foreign constitutional courts both within the framework of norm reviews and individual applications. During the preparation of internal research reports of the cases, the sources of comparative constitutional law, the case-law of the international human rights courts and works of international institutions constitute an important part of the reports.

However, the judgments of the Turkish Constitutional Court, in which it referred to case-law of foreign constitutional courts, are very rare. On the other hand, judges of the Constitutional Court explicitly note in their dissenting opinions the case-law of constitutional courts of different countries.

Finally, the questions of the last part are not responded, since Turkey is not a member of the European Union.