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RÉPUBLIQUE DE CHYPRE / REPUBLIC OF CYPRUS /
REPUBLIK ZYPERN / РЕСПУБЛИКА КИПР

The Supreme Court of Cyprus

Anglais / English / Englisch / английский

**XVIth Congress of the Conference of European Constitutional Courts in
2014**

**Cooperation of Constitutional Courts in Europe-
Current Situation and Perspectives**

I Constitutional courts between constitutional law and European law

**1. Is the constitutional court obliged by law to Consider European law
in the performance of its task?**

The Supreme Court is the Constitutional Court of Cyprus.

Following the accession of the Republic of Cyprus to the European Union in 2004, the Constitution was amended so that European law has supremacy over the Constitution and national legislation.

Under Article 1A of the Constitution and 179 as amended by Law 127 (i) 2006 (Sixth Amendment) supremacy is given to EU Law and Under Article 169.3 of the Constitution International Treaties, Conventions and Agreements have a superior force of Law on the basis of reciprocity No provision in the Constitution can be deemed as overriding any legislation, acts or measures enacted or taken by the Republic which are obligatory as a member state of the European Union, nor does it hinder Regulations, Directives or other binding provisions or measures of a

legislative nature enacted by the European Union from having legal force in the Republic.”

2. Are there any examples of references to international sources of law, such as

- A) the European convention on Human rights,
- B) the charter of fundamental rights of the European Union,
- C) other instruments of international law at European level,
- D) other instruments of international law at international level?

The courts often make reference in their judgments to the above sources of law.

For example in the case of Republic v. Symianou(1999)2 CLR 537 reference was made to article 8 of the European Convention on Human Rights. In the Civil appeal 77/2012 Kaoulas v.Republic, 13.2.2013 which concerned an application for a preliminary ruling, reference was made to Articles 20 and 21 of the Charter on the principle of equality.

In Christodoulou v. Central Bank of Cyprus, cases 551/2013,7.6.2013, reference was made to both article 17 of the Charter and article 1 of the First Protocol of the Convention on Human Rights.

In *A-G v Elia* (1996) 2 CLR 79 the court made reference to the Rome Convention and the International Convention on Civil and Political Rights.

- 3. Are there any specific provisions of constitutional law imposing a legal obligation on the constitutional court to consider decisions by European courts of justice?**

No. However the court cites and follows cases of the European Courts of justice.

- 4 Is the jurisprudence of the constitutional court influenced in practice by the jurisprudence of European courts of justice?**

Decisions of the European court of Justice have superior force over national laws. The courts are aware and respect the jurisprudence of the European Court of Justice and they interpret and apply domestic laws in conformity with the Treaty and the Decisions of the European court. As for the decisions of the European Court of Human rights they are a helpful source of guidance in the interpretation of the Constitution and the convention. The Supreme Court is not bound by the case law of the European Court of Human Rights. However the Supreme Court considers that such case-law is of high persuasive authority and it constantly applies it in cases concerning the application of Human Rights.

- 5 Does the constitutional court in its decisions regularly refer to the jurisprudence of the Court of justice of the European Union and/ or the European Court of Human rights? Which are the most significant examples?**

As stated above the court derives guidance from the jurisprudence of the European courts and reference is made regularly to such decisions. In the civil appeal 221/2013 Michaelides v. Attorney General of the Republic, 2.9.2013 the court made reference to European Court of Justice Cases.

- 6 Are there any examples of divergences in decisions taken by the constitutional court and the European Court of justice?**

There are no examples of such divergence. As stated above the courts decisions are in accord with that of the European Court of Justice.

- 7 Do other national courts also consider the jurisprudence of European Courts of justice as a result of the constitutional court taking it into consideration in its decisions?**

National courts also follow the jurisprudence of the ECJ and not as a result of the constitutional court refers to it in its decision but independently. However as the judgments of the supreme Court

is binding on the inferior courts the case law cited in the decision of the supreme court will be followed by the first instance courts.

8 Are there any examples of decision by European Courts of justice influenced by the jurisprudence of national Constitutional Courts?

We do not have such examples.

II. Interactions between constitutional courts

1. Does the constitutional court in its decisions refer to the jurisprudence of other European and non European constitutional Courts?

Yes citation is often made of judgments of the Greek Conseil D'Etat and of the UK Courts.

2. If so, does the constitutional court tend to refer primarily to jurisprudence from the same language area?

Reference is made regularly to judgments from the Greek Conseil d'Etat. However as already stated decision of the House of Lords and of the Court of Appeal are often cited. Judgments from other courts in a different language may also be cited.

In the case 397/2012, Fylaktou v. Accountant General, 14.6.2013 United States judgments and judgment of the constitutional court of Latvia were cited

- 3. In which fields of law (civil law, criminal law, public law) does the constitutional court refer to the jurisprudence of other European or non- European constitutional courts?**

Reference to judgments from courts of other countries is made in all cases (civil, criminal, administrative etc).

- 4. Have decisions of the constitutional court noticeably influenced the jurisprudence of foreign constitutional courts?**

We do not have any such information.

- 5. Are there any forms of cooperation going beyond the mutual acknowledgment of court decisions?**

The Supreme Court is a member of several European associations which promote dialogue and cooperation between courts of the member states. The Supreme Court is a member of the Association of the Councils of State and Supreme Administrative Jurisdiction of the European Union as well as of the European Commission for the Democracy through law (Venice Commission).

III Interactions between European courts in the jurisprudence of constitutional courts.

- 1. Do references to European Union law or to decisions by the Court of Justice of the European Union in the jurisprudence of the European**

Court of Human Rights have an impact on the jurisprudence of the Constitutional court?

We do not have any case law where there was a reference to such a judgment of the ECHR.

2. How does the jurisprudence of constitutional courts influence the relationship between the European Court of Human rights and the Court of Justice of the European Union.

We have no knowledge of such a situation where the jurisprudence of the Supreme Court of Cyprus may have had an influence.

3 Do differences between the jurisprudence of the European court of Human Rights, on the one hand, and the Court of Justice of the European Union, on the other hand, have an impact on the jurisprudence of the constitutional court?

There were no cases in the jurisprudence of the Supreme Court when the interrelation between the European court of Justice ECHR was in issue.