



Bali, 6 October 2022

**5th Congress
of the World Conference on Constitutional Justice
Bali, 4-7 October 2022**

“CONSTITUTIONAL JUSTICE AND PEACE”

Bali Communiqué

The World Conference on Constitutional Justice¹ held its 5th Congress from 4 to 7 October 2022 in Bali at the kind invitation of the Constitutional Court of the Republic of Indonesia.

A total of 94 delegations from constitutional courts and equivalent institutions participated in the Congress making a total of 583 participants.

Acknowledging the role of constitutional courts and equivalent institutions in defending democracy and rule of law, members of the World Conference on Constitutional Justice and other delegations participating in the 5th Congress reaffirmed their commitment to the fundamental principles of democracy, the rule of law and human rights, which are at the heart of the World Conference.

Against the backdrop of armed conflicts and recognising that human suffering caused by ecological, health and economic crises provide fertile ground for political and social unrest, the 5th Congress of the World Conference on Constitutional Justice discussed the theme “Peace and Constitutional Justice”² and concluded:

- The broader a constitutional court’s competences, the greater its contribution to social peace. Relevant competences include the review of the constitutionality of norms, the settlement of disputes between organs of the state and ensuring the regularity of electoral processes.
- The protection of human rights is a *prerequisite* for conflict resolution and peace. The constitutional court contributes directly to appeasing social tensions and sustaining social peace, by curbing excessive political power and ensuring diversity while maintaining the peaceful coexistence of people by protecting fundamental rights and liberties. By guaranteeing the respect for the rule of law, the constitutional court furthers the trust individuals place in the virtues of the law and the courts, which is strengthened by their direct or indirect access to the constitutional court.

¹ The World Conference brings together 118 constitutional courts and councils and supreme courts as well as constitutional chambers (hereinafter, “constitutional courts”) from the five continents. It promotes constitutional justice, understood in the sense of the review of the constitutionality of laws, including human rights jurisprudence, as an essential element of democracy, the protection of human rights and the rule of law (Article 1.1 of the Statute of the World Conference).

² While some constitutions explicitly consider peace and reconciliation as an objective to be achieved, the 5th Congress dealt with the theme of “constitutional justice and peace” also in the broad sense of social peace within the state, as a peaceful resolution of conflicts, rather than only within the narrower concept of public international law relating to inter-state conflicts.

- By monitoring the regularity of electoral processes and ensuring that state actors respect the Constitution, the constitutional court helps to strengthen the legitimacy of institutions and citizens' representatives, their actions and render them acceptable even to those who oppose them.
- Conflict resolution by the constitutional court also has a preventive function. Consistent case-law enables the conflicting parties to know their rights and to reach an agreement on this basis, without the need to bring a new case. In this way, the very existence of the courts contributes to social peace.
- The ultimate success of maintaining social peace lies in the belief that just and rights-based decisions of the constitutional court can resolve deeply sensitive problems of social conflict.

In addition to the main theme, the 5th Congress was also an opportunity – in accordance with the practice established at previous congresses – to take stock of the independence of the constitutional courts members of the World Conference. The 5th Congress concluded:

- There is a need for mutual respect between constitutional courts and other state powers, also to prevent discontinuity between constitutional adjudication and initiatives of the legislature (i.e. delayed enforcement of decisions of constitutional courts), which can also be detrimental to the trust placed in constitutional courts.
- Openness, accessibility, and transparency in communication, without losing sight of the need for self-restraint, fosters trust in constitutional courts and enhances their standing as independent institutions.
- When faced with fierce and unfair criticism or undue pressure from the executive and legislative branches after having taken decisions that displeased other state powers or political actors or with misinformation campaigns by lobby and pressure groups, member courts of the World Conference can rely on the solidarity of counterpart courts, expressed through the regional groups and the World Conference, which can help a court to resist such pressures. The Bureau of the World Conference is ready to offer its good offices to courts under pressure, including through statements of support.
- The 5th Congress called upon judges of the member courts of the World Conference to resist pressures from other state powers and to make their decisions only on the basis of the Constitution and the principles enshrined therein.

Furthermore, considering the dynamic constitutional system in each country, the Congress noted the initiative of the Constitutional Court of the Republic of Indonesia to establish a Constitutional Supremacy Index (CSI) to measure the progress and development toward constitutional compliance, in line with the principles of constitutionalism.

The Members of the World Conference and all other delegations expressed their sincere gratitude to the Constitutional Court of the Republic of Indonesia for having generously hosted and outstandingly organised the 5th Congress, with the aim of strengthening the role of constitutional courts and helping the members advance the global mission of constitutional justice and peace.
