

Meeting with the President of the National Court of Justice of Ecuador

14/11/2023



On November 8, 2023, the Cour de Cassation welcomed a delegation from the Ecuadorian National Court of Justice, comprising President Ivan Patricio SAQUICIELA RODAS and Judge Himmler Roberto GUZMAN CASTANEDA, in the presence of the Ecuadorian Ambassador to France. Such a meeting, organized in conjunction with the Ministry of Justice, enabled discussion on best practices in sentence enforcement and detention management, and served to strengthen dialogue between judges.

The initial aim of the visit was to address key issues of mutual concern. As Ecuador suffers from prison overcrowding, the issue of alternatives to incarceration was of particular relevance. With this in mind, the delegation was able to exchange views with President Sandrine ZIENTARA, an expert in prison issues and author of the book *'Les conditions de détention, condition de la détention'*, as well as with Laëtitia GUERRINI and Philippe MALLARD, judge-referees of the criminal chamber and experts in the application of sentences.

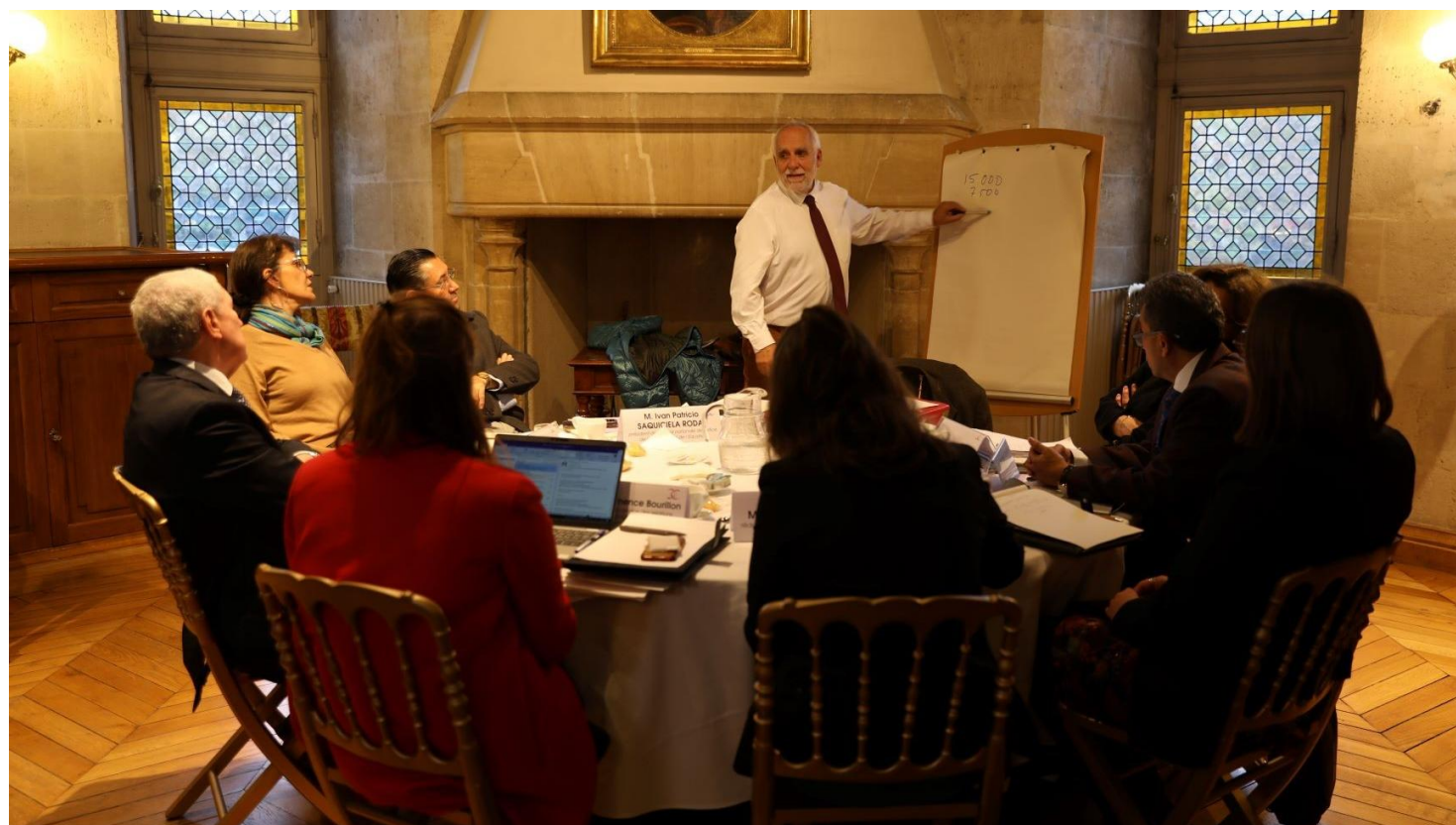
They gave an overview of French law in this area, and presented the various mechanisms used in France over the past ten years to combat prison overcrowding. More specifically, discussions focused on the question of sentence adjustment at the time of sentencing, the jurisdictionalization of the system with the attachment of the prison administration to the Ministry of Justice and the creation of the juge de l'application des peines (sentence enforcement judge), support for convicted offenders to avoid any desocialization (social aspect) and cases of recidivism (repeat offenders).

The impact of the case law of the European Court of Human Rights was also mentioned. President ZIENTARA presented the J.M.B et al. v. France judgment of the European Court of Human Rights, dated January 30, 2020^[1], insofar as it contributes to the drive to definitively reduce prison overcrowding, by forcing consideration of detention conditions in France, and has had a direct impact on decisions by the Cour de cassation, notably that of July 8, 2020^[2]. Regional human rights instruments (the European Convention on Human Rights and the American Convention on Human Rights) are key elements in the pursuit of this objective.

Following such informative and inspiring exchanges, the Ecuadorian delegation showed a real interest in the concept of "judicialization of sentences", given the security crisis in Ecuador and the prison context. The President of Ecuador's National Court of Justice pointed out that these discussions had enabled the issue of the penalty of imprisonment to be approached from an unprecedented point of view: that of the judicial angle. The National Court of Justice and the Ecuadorian Ambassador to France expressed the wish to continue this cooperation in order to establish technical support in this field.

[1] ECHR, January 30, 2020, J.M.B c/ France, n°9671/15 and 31 others

[2] CCass.ch crim, July 8, 2020, n°20-81.739



The delegation was then given a presentation by Honorary President Bruno CATHALA on the appeals circuit at the Cour de Cassation, and the Cour de Cassation 2030 report. It also had the opportunity to discuss with President Sandrine ZIENTARA topics of common interest, such as Open Data on rulings and the role of the Director of the Documentation, Research and Report Service. These discussions contribute to a better knowledge and understanding of each other's

legal systems.