

# Study visit of the Constitutional Court of the Republic of Kosovo

07/05/2024



**Judge Remzije Istrefi-Peci and jurisconsult Suzana Krasniqi from Kosovo's Constitutional Court were welcomed to the Cour de cassation for a study visit from April 22 to 26, 2024.**

This visit is part of a continuing collaboration between the Cour de cassation and the Constitutional Court of Kosovo. In December 2022, First President Christophe Soulard met with Gresa Caka, President of the Constitutional Court of Kosovo, in connection with Kosovo's application for membership of the European Union. This meeting led to a shared desire to deepen exchanges between the two courts.

Ms. Istrefi-Peci and Ms. Krasniqi were first welcomed by Mr. Patrick Matet, Honorary Elder judge, who gave a presentation on the workings of the Court and the appeal circuit. This was followed by a presentation of all the Court's departments, including the clerk's office, the Documentation, Research and Reporting Department (SDER) and its projects, the public prosecutor's office and the Court's communications department. These presentations provided an opportunity to exchange views and highlight the various initiatives undertaken by our respective courts. The Constitutional Court of Kosovo, for example, has translated its entire website, its constitution and its decisions, which greatly contributes to the dissemination of case law, both within Kosovo, where Albanian and Serbian are the official languages, and internationally. It also facilitates dialogue between judges.

Ms. Istrefi-Peci and Ms. Krasniqi then had the opportunity to attend a hearing of the First Civil Chamber and the Criminal Chamber. This experience gave them a real insight into the working methods of the Cour de cassation and the technique of giving reasons for judgments.

Ms. Maud Fouquet, Conseiller référendaire, special advisor to the First President, and Ms. Aurore Chauvelot, avocat général référendaire at the Criminal Division, also presented the appeal mechanism in the interest of the law.

The visit of Mrs. Istrefi-Peci and Mrs. Krasniqi provided an opportunity to present the *question prioritaire de constitutionnalité* (QPC). Ms Florence Marguerite, judge referee and special advisor to the First President, explained the links between our Court and the Constitutional Council, through the way QPCs are handled by the Cour de cassation before being transmitted to the Constitutional Council. Ms. Sophie Couvez, Head of the Fundamental Rights, European Union and Comparative Law Office at the SDER, and Mr. Jean-Baptiste Claux, Administrative Magistrate, Head of the Public Law Office at the SDER, rounded out the presentation. The operation of the QPC gave rise to a rich exchange of views. The Constitutional Court of Kosovo also has a referral mechanism, but this can be made directly by litigants concerning "violations by public authorities of their individual rights and freedoms", and domestic remedies have been exhausted. There is therefore no filtering mechanism as in France.





The protection of fundamental rights and freedoms also occupies a special place in the Constitution of Kosovo, the second chapter of which is specifically devoted to this subject. Ms. Sophie Couvez and Mr. Jean-Baptiste Claux then presented our system for protecting fundamental freedoms and the Cour de cassation's approach to conventionality control. This presentation provided an opportunity to discuss cases that our two courts have had to deal with, and which concern similar issues.

Ms. Caroline Azar, judge referee and special advisor in the procedures department, then presented the review procedure following a conviction by the European Court of Human Rights (ECtHR). The role of the European Court of Human Rights and the Court of Justice of the European Union was explored in greater depth by President André Potocki, Honorary Judge, former judge at the European Court of Human Rights and Chairman of the *Commission Cour de cassation 2030*. The presentations were rich in content, and provided an opportunity to exchange views, particularly on the state of the rule of law in Europe.

Kosovo has been a candidate for membership of the European Union since 2022, and on April 16, 2024, the Parliamentary Assembly issued a favorable opinion on its accession to the Council of Europe. These discussions are invaluable to Kosovo's accession process.



This study visit renewed the collaboration between the Cour de cassation and the Constitutional Court of Kosovo, while fostering the dialogue between judges called for by First President Christophe Soulard and President Gresa Caka of the Constitutional Court of Kosovo.

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