

# Meeting with a delegation from the Dutch Ministry of Justice

12/06/2024



On Wednesday 5 June 2024, the Cour de cassation welcomed a delegation from the Dutch Ministry of Justice to present the functioning of the Priority Constitutional Question mechanism.

Currently, Dutch judges cannot review the constitutionality of the law. However, a revision proposal is being drafted to allow a review with regard to the fundamental rights of the Dutch Constitution. The Ministry of Justice is responsible for drafting this bill. The future Dutch government also plans to create a Constitutional Court. This desire to learn more about constitutional review led the delegation from the Dutch Ministry of Justice to visit the Court of Cassation.

Ms Sandrine Zientara-Logeay, president of the Documentation, Research and Reporting Department (SDER) and Mr Jean-Baptiste Claux, chief of public law office of the SDER presented how the Priority Constitutional Question works in France. After an historical overview of the creation of the Priority Constitutional Question, the emphasis was placed on the role of the Cour de cassation as a filter and on the review carried out in order to assess whether or not it was necessary to refer this question to the Conseil Constitutionnel. The conditions of admissibility of questions were presented, as well as the coordination between the review of constitutionality and the review of the conventionality of laws. Lastly, President Zientara-Logeay and Mr Claux presented the range of possible responses from the Conseil constitutionnel and the apprehension by the judicial judge of the decisions, particularly in the event of a declaration of unconstitutionality of a

law or when the Conseil constitutionnel chooses to modulate in time the effect of its declaration.



Then Mr Thomas Lyon-Caen, President of the bar at the Conseil d'Etat and the Cour de cassation, presented the way in which lawyers, and more particularly lawyers at the Conseil d'Etat and the Cour de cassation, apprehended the system of the Priority Constitutional Question. This presentation was all the more relevant because most of the Priority Constitutional Questions referred to the Conseil Constitutionnel are raised for the first time at the cassation stage. President Lyon-Caen shed light on the practice of lawyers and particularly on the choice made when the same legislative provision may be the subject of a constitutional review but also of a conventionality review.



This meeting strengthened cooperation between France and the Netherlands and encourage legal discussion between European States. It was also an opportunity for the Cour de Cassation to promote the practice of its judges and to highlight the mechanism of the Priority Constitutional Question.

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