

## **OPENING SPEECH OF THE BALKAN FORUM CONFERENCE**

Good morning everyone! Welcome to the Conference of the Balkan Constitutional Courts Forum

Honorable President of the Republic of Kosovo, Mrs. Vjosa Osmani-Sadriu;

Honorable Presidents and Vice-Presidents of the Constitutional and Supreme Courts of Bulgaria, Bosnia and Herzegovina, Croatia, North Macedonia, Republic of Albania and Republic of Türkiye;

Honorable representatives of the Court of Justice of the European Union, the European Court of Human Rights and the Venice Commission;

Honorable national and international professors of constitutional law and public international law; Honorable Professor Rainer;

Honorable participating members of the delegations, leaders of the judiciary and independent institutions of the Republic of Kosovo, members of civil society and the media;

Honorable Ambassadors and representatives of international institutions;

Former Presidents, Judges and colleagues of the Constitutional Court of the Republic of Kosovo,

Dear participants/ladies and gentlemen,

Allow me to first express my gratitude that the Constitutional Court of the Republic of Kosovo welcomes the member-states of the Balkan Forum of Constitutional Courts for the first time after the establishment of this Forum in October last year.

A year ago, our Constitutional Court became for the first time a founding member with full and equal rights of a professional forum/association of Constitutional Courts. In the following year, this Court is the host of this Forum.

I am deeply grateful that all member courts have respected and supported our initiative to host the Forum in Prishtina, including symbolically on the occasion of the fifteenth (15) anniversary of the establishment of the Constitutional Court of the Republic of Kosovo.

Such solidarity comes in the light of the intensive work, but also of extraordinary support - notwithstanding the difficulties - for the Constitutional Court of the Republic of Kosovo to become next year an equal member of the Francophone Association of Constitutional Courts and the European Conference of the Constitutional Courts.

This is essential for our Court, but also for the missions of the aforementioned associations because today at a time when the fundamental values of democratic systems may be subject to the risk of erosion, among others, as a consequence of (i) increased ideological and political polarizations; (ii) growing trends of populist movements; (iii) increasing economic inequalities; but also (iv) subsequent risks for the civil rights and freedoms, increased solidarity and cooperation between the constitutional courts, is more important than ever.

In such a context which today characterizes not only the region but the entire globe, the missions of the Constitutional Courts in their entirety cannot be accomplished only within national borders.

Maintaining, strengthening and cultivating the values of democratic constitutional systems for a just and secure society in peace, can only be achieved together.

The Balkan Constitutional Courts Forum itself has been created based on this very premise, uniting the Constitutional Courts of the region around a common platform, which aims to advance the values of constitutional justice in a region whose democracy, taking into account its historical features, has been marked by many sacrifices.

The constitutions of our states reflect moments of great historical turning points. Moments which have separated the future from the past and transformed the suffering and the lessons learned from the previous systems into commitment and aspirations for the future. Certainly, the journey of our states and Courts entails essential differences as well. The Republic of Türkiye, among others, has already left behind six (6) decades of building constitutional justice. The Republic of Bulgaria and the Republic of Albania, have made fundamental historical and constitutional turns in the early 90s, leaving behind harsh communist systems and starting to navigate through the challenges of building the respective democracies. The states emerging from the former Yugoslavia, on the other hand, carry on their shoulders severe wounds and experiences from the wars during the 90s, but also moments of hope in building new democratic orders, with our Republic concluding this cycle after decades of sacrifice and resistance, with the declaration of its independence in 2008. Most of them have undergone profound transformations of governance systems and challenges in the democratic consolidation, based on the principles of individual freedom, separation of powers and political pluralism.

The progress towards the realization of respective aspirations is not linear either. Today, among us, there are countries that have already joined NATO, the European Union and the Council of Europe, but also countries that are still working towards achieving this objective. And, as we cultivate the dream that one day we will all meet as equals around the decision-making tables in Brussels and Strasbourg, in the meantime we also strengthen our commitment to address all the challenges that may slow down this journey.

Having said this and noting the differences in the respective journeys and the corresponding accomplishments, in principle, all our states (i) are subject to the obligation to continuously strengthen the values that the constitutional democracies contain, in one hand; while (ii) on the other, they face the challenge of strengthening the mechanisms designed to resist all the forces and/or phenomena that can jeopardize these values, including the proper separation and balance of powers and the fundamental rights and freedoms in our Republics. And, at the center of addressing these challenges, are the Constitutional Courts.

The latter are not merely another institution in the institutional chain of a state. Their role encompasses the entirety of the perspective of our common values - of democracy, freedom and peace. Their role involves converting the text of the Constitution into constitutionalism that originates therefrom.

Without a deep culture of constitutionalism, democracy risks remaining superficial and merely formal. Democracy risks being reduced into its narrowest definition, the power of majority. This, contrary to the definition of constitutional democracy that our Constitutions embrace, centered on individual freedoms and balance of separated powers - in the power of the Constitution; in the power of the law.

Of course building a tradition of functional constitutionalism is a long process which in the younger democracies may also entail an overall re-dimensioning of political forces and powers, in

order to subject them to the control of the Constitutional Court. This may consequently result in the contestation of the constitutional control. All the courts that are present here today – and not only – have been subject to such a challenge.

Moreover, the consequence of the political contestation of the constitutional and judicial review not necessarily remains at the theoretical level only. The Constitutional Courts present here today, have also faced (i) deep reforms – at times – designed to undermine the independence of the respective judicial systems; (ii) at times – lack of decision-making quorums as a result of delays in appointing judges; (iii) difficulties in the enforcement of judicial decisions; but also (iv) accusations directed against their decision-making legitimacy and which, may also affect public trust in the respective judicial systems.

Addressing these challenges is certainly subject to a gradual and step-by-step process of building a tradition of constitutional control. In national contexts, this process has been facilitated, to a large extent, also through the role and jurisprudence of supranational courts which have also played a very significant and at times a decisive function in (i) disseminating the fundamental values of democracy throughout the European continent; and (ii) in shaping national constitutional traditions. Having said this and based on the principle of subsidiarity, the primary burden of building a functional constitutionalism, falls precisely on the Constitutional Courts.

And, as it pertains to the weight of the latter, in closing, I would like to emphasize the importance of the preventive effects of a consolidated tradition of constitutional justice which are, in principle, underestimated in the daily public discourse. In fact, the consequences that our democracies can suffer in the absence of a constitutional control, are extremely comprehensive. The fact that the European continent will soon, in principle, mark eight (8) decades of peace and prosperity, is largely attributed to the deep roots of constitutionalism in Europe after the Second World War. And this fact, also speaks volumes, about the power of judicial and constitutional control; the power of constitutional justice and of our Courts.

Dear participants/ladies and gentlemen,

The challenges and achievements of constitutional justice in the Balkan region will be discussed today from the perspective of all the courts of the region, including (i) the European Court of Human Rights; (ii) the Court of Justice of the European Union; and (iii) the Venice Commission, and I am delighted that this discussion will take place among friends in Prishtina – the newest capital on the European continent. I am equally delighted that this capital is once again at the center of the discussions on constitutional justice.

I hope that our discussions today will result in the identification of the lessons learned that we can take from each other, but also of areas that could benefit from enhanced cooperation in the future. Above all, I hope that this seemingly entirely theoretical discussion, will inspire us. Inspire us, for cooperation and solidarity. Inspire us, for durability in the struggle and dedication for the realization of great aspirations.

Remind us, that cooperation between us reinforces our common values with the result of contributing to peace, equality and prosperity. Remind us, that the challenges and achievements of constitutional justice, are neither merely theoretical nor isolated issues that characterize the day-to-day operations of the Constitutional Courts alone. Taking into account their function, the challenges and achievements of our Courts, in fact, represent (i) the main indicators of the quality of our democracies; and (ii) the main indicators of the realization of our aspirations to be equal

participants and contributors in preserving and advancing the democratic heritage of the European continent.

Constitutional justice is also an ideal – a long-term commitment - to the protection and advancement of the values of democracy.

As I thank you for your attention, I hereby declare this Conference open, with the best wishes for successful proceedings. Thank you and - once again - welcome to the Republic of Kosovo.