

**Speech of the President of the Constitutional Court of the Republic of
Kosovo, Ms. Arta Rama-Hajrizi, on the 10th anniversary of the
establishment of the Court**

Allow me to initially welcome you to the celebration of the 10th Judicial Year of the Constitutional Court of the Republic of Kosovo.

To celebrate this jubiliary anniversary of our Court, alongside our institutional representatives and international representatives in our country tonight we have delegations from the constitutional courts of: Albania, Montenegro, Northern Macedonia, Croatia, Turkey, Czech Republic, Portugal, Malta and Luxembourg. We have with us tonight also the Ireland's representative to the Venice Commission, an internationally renowned professor and human rights lawyer, Ms. Grainne McMorow, as well as the Director of International Affairs for the Federalist Society for Law and Public Policy, Mr. Jim Kelly.

I would like to take this opportunity to thank you all from the bottom of my heart for your presence in this event, which will be marked tomorrow with the International Conference on the topic: *“Ensuring the rule of law and human rights through constitutional justice mechanisms: The Challenges of the 21st Century”*.

Honourable guests,

Last year was a special year for all citizens of the country, as we all together celebrated the 10th anniversary of the declaration of independence and drafting of the Constitution of Kosovo. But 2019 is a special year as well, because it marks the first decade of functioning of the Constitutional Court of the Republic of Kosovo.

At the time when the Court was founded ten years ago, its judges, in the absence of the basic conditions for work, held their first sessions in the premises of Assembly of Kosovo and Law Faculty of the University of Prishtina Faculty. But, thanks to the work and the will of constitutional judges, and in particular of international judges who brought their professional experience with them, not only contributed to the institutional consolidation of the Court, but also helped to establish European standards of decision-making, based on the case law of the European Court of Human Rights, whereby were also thereupon laid the foundations of the constitutional judiciary of independent Kosovo. In this aspect, a complementary factor of our work has always been the support of international donors, for which we shall always remain grateful to them.

Ladies and Gentlemen,

While constitutions have always been conceived as a framework for governing a country, the establishment of constitutional courts has been regarded as a catalyst for the transformation of societies in democratic states and the rule of law countries, by basing upon the control of political power.

There are a number of important judgments of the Constitutional Court of Kosovo that prove the key role it has played in strengthening the rule of law principle and in the development of democracy over the past decade.

Facing complex and very delicate referrals in terms of their content, and often vital to the organization of institutional and political life in the country, has been a tremendous experience for the Court and for all its judges.

In these cases and in these decisions, which by their nature vary from examination of issues of conflict of competences between authorities, to the issues of independence of institutions and denial of the right to an impartial trial, is written the history of the Constitutional Court of Kosovo itself.

In its efforts to improve the quality of decision-making, but also to strictly adhere to the role and responsibility vested in it by the Constitution, in recent years the Court has succeeded to review, amend and consolidate its practice regarding submissions that incorporate various political and hypothetical constitutional matters, by rejecting them as such.

The Court, in its previous case-law, by applying the broader meaning of the notion of “constitutional matter”, had considered referrals which do not expressly fall within the limits of its jurisdiction and has decided on them on a case-by-case basis. The earlier approach of the Court must be understood in the spirit of establishment of the foundations of the constitutional judiciary, as well as the societal need for the Court to be involved in interpretation of some specific articles of the Constitution essential to the statehood building process.

Now, with the passing of a decade of the Constitutional Court, answers to questions which are not related to the jurisdiction of the Court but to hypothetical issues outside its competencies are no longer needed. This has not been done to avoid responsibility or due to reluctance to address these situations, but to exercise the oversight role that the Constitution has ascribed to this institution, to resolve conflicting issues within its jurisdiction through genuine decisions rather than providing answers or legal advice to other institutions.

The Court has clarified its constitutional role and responsibilities in relation to other public authorities that may address the Court and the manner how they can address to it. I consider that this clarity will be in good service for the forthcoming decades of protecting the constitutionality of the Republic of Kosovo. Thereby, also the primary role of the Constitutional Court as the ultimate guardian of the Constitution and its protection from all actions of public authorities has been strengthened.

While, the Constitutional Court's decision-making and decisions have been positively assessed also in the European Commission's Progress Reports on Kosovo, what needs to be consistently emphasized is that:

Enforcement of these decisions is a constitutional obligation and responsibility of all institutions of the Republic of Kosovo. The Constitutional Court has recently functionalized an internal body for monitoring and enforcing its decisions, which has so far, in several cases informed the Chief State Prosecutor on the non-enforcement of decisions, as a last measure available to this Court to ensure the enforcement of its decisions. The institutions of the Republic of Kosovo, and in particular the judiciary and the Chief State Prosecutor, must provide their uncompromising support for the enforcement of every decision of the Constitutional Court, because only in this way can guarantee the strengthening of the rule of law in the country

Ladies and Gentlemen,

Viewed in retrospect, the Constitutional Court has marked a considerable progress over a not so long period of time.

Ten years ago we did not even have a courtroom. But, today we have the most advanced electronic system for the management of cases and a website that enables direct subscription to all Court decisions and publications.

Ten years ago, the Court's case-law was basically non-existent. While, today we have over 1, 400 published decisions, some of which are also published each year in periodic bulletins of the Venice Commission.

Only ten years ago, we had no cooperation relations with any constitutional court of the countries of the region or of European countries. Whereas, today we have signed memorandums of understanding with many of them, and we have excellent cooperation with the Venice Commission, and are a full member of the World Conference on Constitutional Justice. Although we feel proud of what we have achieved up to the present, all of this serves as a stimulus for us to reflect and work harder towards new successes.

Honourable guests,

During these years, the Court has often been a part of political debates, and subjected to accusations and unfair and inaccurate statements about our decision-making.

This being said and considering that the Court strongly supports and defends the freedom of expression as a fundamental freedom guaranteed in our Constitution, I strongly hope that as we enter our second decade of work, the debates about the Court and its decisions will be more oriented towards discussion of professional and argumentative justifications by the Court so that citizens be informed correctly and continue to believe in the independence of constitutional judiciary of Kosovo. This represents also one of the most precious values of every democratic society and all of us have responsibilities for its further consolidation.

Today, I am proud to say that, unlike the first years after its establishment, the Constitutional Court is now significantly better prepared for what the future will bring. We are all aware of the challenges our country is currently going through, both in terms of Euro-Atlantic integration and in the process of dialogue towards a comprehensive agreement with the Republic of Serbia.

I assure you that in all these processes, the Constitutional Court shall always remain in the line of its duty and ready to exercise its jurisdiction. The Constitutional Court will remain the guarantor of the protection of the constitutionality and fundamental values enshrined in our Constitution, with full professional integrity and decision-making independence.

In this important jubilee for all of us, at the end I would like to express my consideration and gratitude also to the current judges and the judges of the first generation of the Constitutional Court, to the Secretary General of the Court, to the First Adviser and to all the constitutional advisers, to the staff of my Cabinet, and to other officials of the Secretariat, without whose contribution the successes of the constitutional judiciary in Kosovo would have been significantly fewer.

Once again I thank you for your participation and congratulate you on the 10th anniversary of the Constitutional Court of the Republic of Kosovo.