VISIT BY A DELEGATION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

Strasbourg, 20 October 2014

Welcome Speech

Dean Spielmann
President of the European Court of Human Rights

Mr President,
Members of the Inter-American Court of Human Rights,
Dear Guests,

It is my great pleasure to greet you today at the Court, as you begin your visit to the Strasbourg institutions.

I am delighted that during my presidency of the Court it has been possible to organise this meeting, so that we can welcome almost the whole membership of your court.

As has been said on each occasion that the European and Inter-American Courts of Human Rights come together, there is a close and natural bond between the two institutions, and a history of exchange and interaction that goes back many years. Relations have intensified recently. Two years ago, it was my privilege to be part of the Strasbourg delegation led by Sir Nicolas Bratza that travelled to San José, along with Josep Casadevall – who was there again only last week.
Following on from that visit, there have been exchanges at staff level, to the mutual advantage of both courts, with each able to benefit from the experience of the other. That is a model that we have also followed regarding other institutions, such as the United Nations Human Rights Committee.

Let me briefly present to you my fellow judges who are taking part in the discussions this afternoon.

Along with Vice-President Josep Casadevall, well known to you, there is Vice-President Guido Raimondi,
- Luis López Guerra, the judge elected in respect of Spain,
- Angelika Nussberger, who is elected in respect of Germany, and
- Paulo Pinto de Albuquerque, elected in respect of Portugal.

From our Registry there is
- Erik Fribergh the Registrar,
- Michael O'Boyle the Deputy Registrar,
- Patrick Titiun, Head of my Private Office,

- Montserrat Enrich-Mas, who is Head of the Research and Library Division;
- Carmen Morte Gomez, our senior Spanish lawyer who heads the Division that prepares Spanish and Latvian cases for examination,
- Guillem Cano-Palomares, a lawyer in our Research Division, and who was our envoy to San José last year,
- and Marta Cabrera, a new Spanish assistant lawyer who worked at the Inter-American Court for one year and a half.

In my introductory remarks to the proceedings this afternoon, I would like to provide you with some information about the current situation of the Court.
As you know, the past four years have been very important ones for the Court, due to two very significant events in 2010. That was when the 14th Protocol finally entered into force, making a series of changes to the organisation and procedures of the Convention. It was also the beginning of the reform process, which was initiated by the Interlaken Conference. There were further conferences in Turkey and the United Kingdom in 2011 and 2012, and the fourth will take place next March in Brussels.

The good news is that the 2010 reforms have led to a tremendous improvement in the Court's situation – the turnaround has been far beyond even the most optimistic expectations.
To put this into perspective, we always take as the point of comparison the way things were in mid-2011. At that time, the number of pending cases reached its highest ever. There were more than 160,000 applications on the Court's docket.

Three years on, the overall number has fallen to the mid-eighty thousands – it has almost been divided in two. The key to this has been the full utilization of the new filtering mechanism that came into existence in 2010 – the Single Judge formation.

By greatly simplifying the procedure, and extensive use of IT tools, the Court is close to eliminating completely what used to be the major part of its backlog. We have also had the benefit of quite a few Registry lawyers who were seconded to Strasbourg by their national administrations in order to help clear the backlog of inadmissible cases. Their contribution was vital to the Court's achievements in this area, and it is right to highlight this point each time the issue is discussed.

The methods we use today mean that the procedure for simple inadmissible cases can be completed in the space of a few months. Previously, it took years to deal with these cases, since the Court had serious delays at all levels.

Challenges remain, of course. Even if the number of new cases has remained quite stable in recent years (in the mid-sixty thousands) what we see now is a constantly growing number of well-founded cases, which call for a judicial examination of their merits.

Here too the changes made by Protocol 14 have had a major impact. States agreed to follow a lighter procedure where the subject-matter of applications is covered by well-established case law, the so-called WECL procedure. The methods that have been developed in the filtering system have now been adapted so as to boost the Court's efficiency in dealing with repetitive cases. Today, the Court has the administrative tools to manage large groups of cases as need be.

It also has the legal tools, most notably the pilot-judgment procedure, which is a jurisprudential creation that dates back ten years to the first such case, *Broniowski v. Poland*. To date, the procedure has been applied to about 25 groups of cases, to great effect.

To give some recent examples, the Court issued a pilot judgment last year concerning prison overcrowding in Italy, giving the respondent Government one year to put in place measures to deal improve the situation and compensate those affected. That was the *Torreggiani* judgment. Last month, the Court reviewed those measures in the case of *Stella and Others*, and concluded that Italy had managed to put in place a set of remedies that must henceforth be exhausted before such complaints can be taken to the European level. This ruling means that 3,500 pending cases will now be re-routed to the national level.

The same is happening in relation to Turkey; the creation of new domestic remedies has seen more than 4,000 pending cases sent back. Likewise Romania, which has had thousands of complaints linked to the difficulties with the return of properties that were nationalized during the communist era, managed to put in place sufficient measures to justify sending over 2,500 cases back.
These are the biggest successes.

Of course, some attempts have not been successful.
The chronic problems in the Ukrainian system of justice persist, with the result that many thousands of applications are pending before this Court.
The question of prisoner voting in the United Kingdom, dating back nine years to the *Hirst (No. 2)* judgment, and which has been the subject of disproportionate controversy in that country, has yet to be solved.

I am pleased to say that it is exactly this aspect of the Convention system – the full and timely implementation of the Court's judgments – that will be the focus of the next high-level conference, to be convened by Belgium. I am pleased because the feeling here at the Court is that so far in the reform process it has been under the "metaphorical microscope" of the States, with many aspects of its work called into question. In my opinion, the Court can stand proudly on the record of its achievements over these past few years. It has certainly kept its side of the bargain to reform and improve the system. It is clear that there is a persistent weakness in the system when it comes to execution – that is what needs to improve.

There is some limited scope for the Court to act here as things stand today.

The Court does so by including guidance in its judgments, so as to help the respondent State to discern how it may correct the problem that lies at the origin of a violation of the Convention.
In very rare cases, the Court has considered it necessary to go further and to indicate, via the operative provisions of the judgment, the steps that the State must take.
We are very prudent in this area, for the Court must take care to respect the role of the Committee of Ministers, which is also a Convention organ. What the practice thus far shows, and this has been noted in the legal literature, is that when the Court aids the execution process in this way, this does facilitate the execution stage of the proceedings.

I might add that Article 46 was also amended by the 14th protocol, creating two new procedures. One of these, in paragraph 4 of that provision, is known as the infringement procedure. It enables the Committee of Ministers to refer back to the Court a situation where a State refuses to abide by a final judgment. So far, there has been no use of this procedure, or even an attempt to use it. I am on public record as calling on the Committee to consider seriously how they might make good use of this new procedural tool to improve execution.

Finally, let me say a word about the new protocols, which were finalized last year and are now in the long process of ratification.
Protocol 15 is an amending protocol, containing five changes to the Convention.
Three of them were in fact suggested by the Court: raising the age limit for judges to 75, removing the parties' veto over the relinquishment of a case to the Grand Chamber, and reducing the time limit for bringing an application from 6 months to 4 months. Potentially the most significant change, rhetorically at least, is the intended amendment to the Preamble to the Convention so that the terms subsidiarity and margin of appreciation appear in the text.
The Protocol has to be ratified by all 47 States – so far ten have done so.

Different rules apply to Protocol 16, creating a new advisory jurisdiction for the Court – a procedure that you are well familiar with, of course. I was very pleased to see the idea become reality, as I am convinced that this will be a valuable reform. The Protocol requires ten ratifications to take effect, and so should normally be operational before Protocol 15. So far, fifteen States have signed it, and the signal I have received from visiting delegations is that they intend to proceed to ratification without delay.

The third *chantier* is the accession of the European Union. But I will not make any comment on it, seeing as the matter is now pending before the European Union Court of Justice – we await its decision with keen interest.

Mr. President, I will conclude my remarks at this point. I invite you now to take the floor.

Thank you.