



The European Convention on Human Rights and General International Law

Strasbourg, 5 June 2015

Opening Speech

Dean Spielmann

President of the European Court of Human Rights

**Ladies and gentlemen,
Dear guests,
Dear colleagues,
Dear friends,**

I have the very agreeable task today of opening this conference, jointly organised by the European Society of International Law and the European Court of Human Rights, on the theme of the European Convention on Human Rights and General International Law.

The first thing that I must do as these proceedings begin is to express my gratitude to the organisers of the event:

- To André Nollkaemper, the current president of the ESIL,
- And to Judge Iulia Motoc, our Romanian colleague at the Court since 2013.

As far as the Court is concerned, Iulia has been the moving force behind this conference. When she approached me with the idea for it some months ago, I saw immediately the great interest that such an event would have. This is reflected in the very widespread interest that the conference has attracted, with so many people travelling from far and wide to Strasbourg to attend it.

The great interest of the subject-matter is matched by the very high level of the panel of speakers who will be contributing their thoughts, their analyses and their proposals throughout the day.

I make special mention of the two members of the International Court of Justice who honour us with their presence today – Judge James Crawford, one of the *grandes figures* of international law, and Judge Antonio Cançado Trindade, whose links with Strasbourg are of very long standing.

My thanks go to all of the speakers, all “jurisconsults of recognized competence”, to quote Article 21 of the Convention. I am especially pleased that so many of our judges will be speaking today. They will bring to each of the five sessions a perspective that, while not of course an institutional one, is nonetheless an insider one.

Former members of the Court are also taking part, and I take this opportunity to salute my predecessor, Luzius Wildhaber.

This gathering has all the makings of a landmark event. We have made the necessary arrangements for an internal broadcast of the proceedings for those in the Court and the Council of Europe. This will be made generally available in the near future so that the work of the conference may be widely viewed as from next week.

It is a very comprehensive programme that we have before us. Composed of five panels that will bring us through the day until evening, many of the issues of general international law that arise under or intersect with the Convention will be the subject of expert comment and learned debate. To use a fashionable phrase, it will allow us to “drill down” into important and complex issues of international law and the law of the Convention.

Not wishing to pre-empt any of our speakers, especially my colleagues, I will confine myself to a few introductory remarks.

First, the simple - indeed self-evident – observation that the European Court of Human Rights is an international court. Even if in recent times the label, or at least the analogy with a “constitutional court” has gained some currency, in both its essential identity and its normative habitat this is an international court.

It is a court created by a treaty, tasked with “ensuring the observance of the engagements” entered into by States when ratifying that treaty. The Convention has, of course, a special character as an instrument for the protection of human beings, which is the highest purpose of the law. But, as the Court has stated on many occasions, the Convention is not to be interpreted and applied in a vacuum; it must be interpreted in harmony with the general principles of international law.

Now in its sixth decade of activity, and with a huge corpus of case-law to its name, it can be said I think that this Court is an established fixture in the broad realm of international law. It is one of multiple actors that contribute to this ever-developing branch of the law. How constructively, how persuasively it does so is a question that will find some elements of response by the end of the proceedings. There is no shortage of doctrinal debate and scholarly controversy over the use by the Court of international law as it fulfils the task conferred upon it by Article 19 of the Convention.

My **second** remark, which may again be self-evident, goes to how fundamental international law is for the Convention. Beyond the specific references to it at several points in the text, the principles of international law govern elementary issues such as the concept of jurisdiction, i.e. the reach of the Convention, and with it the ambit of the machinery of protection. Or, and I refer to the theme of panel 2, the basis for the responsibility of States for violations of the Convention. Indeed each panel discussion will delve into matters of the greatest legal significance:

- the concordance between the immunities of States and international organisations, and the right to a court;
- the Court’s references to and use of other treaties, and other sources of international law, one of the major underpinnings of its exegetical method.

My **third** remark concerns dialogue. This is a theme that has continuously gained in importance at Strasbourg over the years. For the most part, our dialogue with other courts is aimed at the domestic level. We devote considerable time and effort to meeting with national supreme courts and constitutional courts. The goal of these bi-lateral encounters is to foster stronger mutual understanding in relation to the judicial protection of human rights. It is a privileged means to achieving better, stronger *subsidiarity* in the Convention system. That principle features prominently in the reform process – it holds out the prospect of ever-better protection of human rights in Europe. But that is not the full picture.

This Court is also a willing participant in the dialogue among *international* courts. This takes in the other regional human rights courts, naturally. And the other European court, naturally. An important act in this dialogue is about to occur. Later this month, the members of the International Court of Justice will pay a working visit to Strasbourg for discussions with members of this Court. It will, I believe, significantly strengthen the links between these two courts, which in any event go back many years, as embodied in the person of Humphrey Waldock, who in his brilliant career presided over each court in turn. That there should be a dialogue among international judges is, to my mind, a wholly good thing. How pleased I am that it will take place during my tenure as president of this Court.

With that I shall draw my remarks to a close. I look forward to a day of stimulating and even provocative debate around the series of themes and issues that will successively receive our attention. I declare the conference open, and now hand the floor to Judge Motoc and Professor Van Aaken for the introduction.