



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

The European Convention on Human Rights at 70: Milestones and Major Achievements

Opening remarks by President Robert Spano European Court of Human Rights

Strasbourg, 18 September 2020

**Dear Secretary General,
President of the Parliamentary Assembly of the Council of Europe,
Former Presidents of this Court, fellow judges and colleagues,**

Let me begin by welcoming you all to the European Court of Human Rights for this historic conference which marks the 70th anniversary of the signing of the European Convention on Human Rights on 4 November 1950. Some of you are here with us in Strasbourg and others further afield. You are all very welcome. This conference takes place at a difficult time for all of us and the peoples of the World due to the sanitary crisis.

I would like to begin by thanking warmly the Greek authorities under whose aegis this conference takes place and welcoming the participation of the Alternate Minister of Foreign Affairs, Mr Miltiadis Varvitsiotis. The start of the Greek chairmanship of the Committee of Ministers was evidently challenging due to the restrictions imposed by the Covid-19 pandemic. Nevertheless it is very impressive to note the number of events that have taken place on-line during the summer and more are organized for the autumn. The highlight will be, of course, the celebrations of the 70th anniversary in Athens to which I am personally very much looking forward. I would like to congratulate wholeheartedly the Greek Presidency on their ambitious programme despite the obvious difficulties they have faced.

We are honoured to be joined, remotely or in person, by four former Presidents of the Court. Of course, our thoughts naturally turn at this moment to Luzius Wildhaber, former President of the Court from 1998 to 2007, who passed away in July this year. I had the honour of representing the Court at his funeral in Basel where I paid tribute to his exceptional contribution to the work of the Court and to the Convention system, particularly during those first formative years of the Protocol No. 11 Court. We remember him with great respect and affection.

Dear Guests, the signatories to the European Convention on Human Rights and Fundamental Freedoms expressed their commitment to a common heritage of European values: democracy, respect for rights and freedoms and the rule of law.

Recently I have argued in no uncertain terms that the core moral idea behind the rule of law within a democratic society as envisaged by the Convention is the respect for the personal autonomy of

human beings. In order for a person to be able to retain and nurture independence of thought, to be able to manage his or life as he or she wishes, to understand his or her communal responsibilities, to be able to strive for happiness, success and inner peace, all core elements of human existence, it must conceptually be of great importance that the society in which that person lives is governed by a force of law which is transparent, stable, foreseeable and allows for mechanisms of dispute resolution that are independent and impartial. The rule of law, by requiring that governmental power be regulated by law and not the whims and caprice of men, thus demands that laws are clear, not vague and open to abuse, that laws are not applied retroactively so as to limit unduly the autonomous choices made by members of society based on existing rules, and that laws be interpreted and applied by independent and impartial institutions different from those that promulgated the laws.

Those in power cannot therefore control the courts. To put it clearly, laws must not only apply to the people, but also, and crucially to those who hold the reins of power at any given moment. The Convention demands that no man or woman is above the law.

Our first session this morning, chaired by former President of the Court, Jean-Paul Costa, will elucidate this topic on the strengthening of the rule of law and one of its fundamental components, access to an independent and impartial court. Our second session, chaired by Section President Paul Lemmens, will explore a related issue, the fostering of a democratic form of governance as a primordial aim of the Convention system.

Dear guests, I now ask at this historic moment, what has made the European Convention on Human Rights, out of the 200 or so other international treaties adopted within the Council of Europe, one of the most important instruments of human rights protection, not just on the European scene, but also on the global one?

Obviously, the answer to that question is a complex one, made up of a number of factors and I know that my predecessor, former President Sicilianos will comment on this issue in a moment.

I would therefore only briefly focus on one aspect: the Convention's capacity to adapt to its environment which is an inherent element of our third and fourth sessions this morning on promoting and ensuring diversity of family life and meeting the challenges of scientific and technological developments, chaired by former Presidents of the Court, Dean Spielmann and Guido Raimondi, respectively.

As the Court has consistently held the Convention evolves by means of the interpretation of its provisions by the Court. Through its case-law the Court has made the Convention "a living instrument"; it has thus construed the protected rights and freedoms so as to apply to situations that were not foreseeable when the Convention was first adopted, for example same-sex partnerships; surrogacy; the internet and data retention, to give but a few examples.

The Convention has also adapted through cycles of reform leading to changes in the working of the Convention machinery. In addition to Protocols which have added to or strengthened substantive rights and freedoms, others have been more procedural and/or structural. Protocol No. 9 empowering the individual to seize the Court; Protocol No. 11 creating a single full-time Court; Protocol No. 14 which improved the filtering and processing of applications.

As is often recalled the Convention, drafted in the wake of the Second World War, was conceived of as an early warning system to combat the first signs of totalitarianism. The Convention is a constellation of rights and values with the primordial aim of averting conflict, strife and, indeed, human tragedy and suffering. The Convention is a lodestar for retaining peace and solidarity

amongst the High Contracting Parties. It allows for a dispute resolution system where individuals can seek justice, but also for States to settle their differences. Our fifth session this morning, chaired by Vice-President Jon Fridrik Kjolbro, is therefore a fitting final session to explore the historic contribution of the Convention and the European Court of Human Rights towards promoting peace and integration among States.

Dear friends,

We live in uncertain times. Polarization, divisions and the challenges related to the Pandemic pose grave threats to the fundamental principles of the Council of Europe and the Convention. I would argue that the framework of rights and values which form the bedrock of the Convention system, which now celebrates its 70th anniversary, have seldom if ever been as important as now, at this very moment. It requires from all of us, the guardians of the Convention, a brave heart and a determined mind.

Thank you.