



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

Exchange of views with the Committee of Ministers

President Robert Spano
European Court of Human Rights

Strasbourg, 7 October 2020

Monsieur le Président,
Madame la Secrétaire Générale,
Mesdames et Messieurs les Ambassadeurs,

Permettez-moi, pour commencer, de saluer tout particulièrement la présidence grecque du Comité des Ministres. Elle se déroule dans des conditions inhabituelles en raison des restrictions imposées par la situation sanitaire. Pourtant, on ne peut qu'être impressionné par le nombre et la qualité des événements qui ont été organisés depuis le début de la présidence. J'ai pu, personnellement, le constater puisque j'ai participé à plusieurs d'entre eux.

Je pense, notamment, à l'échange de vues sur la réponse à la crise sanitaire dans le respect des droits de l'homme, qui a eu lieu le 3 juin ; à la conférence du réseau HELP du 9 juillet et, bien sûr, à la grande conférence organisée à la Cour, le 18 septembre, pour célébrer le soixante-dixième anniversaire de la Convention. Ce fut, je crois, une grande réussite et nous sommes reconnaissants au Ministre Miltiadis Varvitsiotis d'avoir bien voulu nous adresser un message à cette occasion. Cette conférence est désormais en ligne et ceux qui ne pouvaient être parmi nous peuvent la visionner. J'espère que la situation sanitaire nous permettra de nous retrouver tous à Athènes pour la session ministérielle, au début du mois de novembre, notamment pour y célébrer le 70^{ème} anniversaire de notre Convention. J'ai hâte de me retrouver dans cette belle ville.

C'est la première fois que je m'adresse à vous dans le cadre de ces rendez-vous biannuels. J'y attache beaucoup d'importance, car ces rencontres vont me permettre de vous informer très précisément sur l'actualité de la Cour. Je les vois comme un moment d'échange et de dialogue.

Je suis bien entouré aujourd'hui, puisque j'ai à mes côtés le greffier de la Cour, Roderick Liddell, que vous connaissez bien, et la greffière élue Marialena Tsirli, qui prendra ses fonctions le 1^{er} décembre prochain. Je me réjouis de pouvoir travailler avec elle pendant mon mandat. Son expérience et ses grandes compétences me seront très utiles.

Je souhaite, pour commencer mon propos, vous dire comment la Cour s'est adaptée à la situation inédite qu'a représenté la crise née de la COVID 19. Un certain nombre d'ajustements ont été nécessaires. Comme vous le savez, nous avons réagi, dès le début du confinement, en prenant des mesures exceptionnelles d'extension des délais prévus pour saisir la Cour. Notre objectif était de tenir compte des difficultés auxquelles les parties étaient confrontées, tout en continuant d'assurer nos activités essentielles.

Je suis fier de vous dire que tous les services de la Cour ont parfaitement fonctionné. Ainsi, dès le début du confinement, des équipes ont été mises en place pour assurer la continuité des demandes de mesures provisoires prises en application de l'article 39 du Règlement. Le travail a été fait entièrement à distance. Il est intéressant de noter que plus de 80 % des affaires traitées concernaient des questions liées à la crise du COVID-19.

S'agissant d'une cour internationale, le plus marquant a été l'organisation des audiences qui se sont déroulées en visioconférence et que le monde extérieur a pu regarder en ligne. Ce fut un défi technique important pour nous. Nous en avons tenu 4 en juin et juillet et les deux prochaines auront lieu ce mois-ci. Je remercie les parties, requérants et gouvernements, d'avoir accepté de participer à cette initiative.

Pour la plupart de ces audiences, les parties n'étaient pas sur place et tout s'est pourtant déroulé parfaitement. Nous avons donc pu continuer à assurer notre mission. Nous avons aussi pu garantir le caractère public de ces audiences grâce à leur retransmission sur internet. Je sais qu'elles ont été très regardées (près de 4000 vues pour l'une d'entre elles) et nous avons reçu un feed-back très positif, notamment de la part des cours nationales qui nous ont interrogé sur notre façon de travailler dans cette situation exceptionnelle.

Pendant cette période, les nouvelles technologies ont démontré à quel point elles sont devenues indispensables. Elles nous ont véritablement permis de continuer à travailler, mais à distance et à rendre des arrêts et des décisions.

À titre indicatif, nous avons tranché depuis le 16 mars et au cours des 6 mois qui ont suivi plus de 21 000 requêtes, soit 7 % de plus qu'en 2019 où le chiffre s'élevait à plus de 19 600. Avec une diminution de 2% du nombre de décisions de juge unique [(un peu plus de 16 000) par rapport à 2019 (environ 16 400)], l'augmentation globale est liée au plus grand nombre d'affaires traitées par les Chambres et les Comités.

Ainsi, et c'est le chiffre le plus important, si on examine uniquement le nombre de requêtes terminées par un arrêt rendu par la Grande Chambre et les chambres, il y en a eu 238 en 2020 et 199 en 2019, soit une augmentation de 20 %. Ceci témoigne de notre volonté de traiter en priorité les affaires les plus importantes.

S'agissant du nombre d'affaires pendantes, il s'élève actuellement à 61 950. 73 % concernent 5 pays. D'abord la fédération de Russie qui est notre plus gros pourvoyeur d'affaires avec 14 100 requêtes soit 22,8 % des requêtes pendantes, puis l'Ukraine avec 16,2 % (un peu plus de 10 000) et la Turquie avec 15,7 % des requêtes pendantes, soit 9 700. Viennent ensuite la Roumanie avec 8 100 requêtes soit 13,1 % du volume total et l'Italie avec 3 350 requêtes soit 5,4 % du nombre de requêtes pendantes.

Si je dois dresser un bilan de cette période hors norme, c'est que, dans ces circonstances dramatiques, la Cour a su s'adapter. Cela a été possible grâce au dévouement des juges et du personnel de la Cour qui ont su faire face à la situation. Leur engagement a été exceptionnel.

Cette crise a également permis de prouver que nos investissements dans le domaine informatique avaient été le bon choix. Nous poursuivrons sur cette voie. La Cour, je n'hésite pas à le dire, est désormais suffisamment préparée à réagir si les circonstances l'exigeaient de nouveau.

Dear Ambassadors,

I would now like to outline for you briefly the priorities, both internal and external, which will be at the forefront during my mandate as President of the Court.

Let me begin by looking at the priorities concerning case-processing and productivity. As the Interlaken reform process draws to a close, I would firstly like to make clear that the process has been a positive exercise where States Parties have reaffirmed on a number of occasions during high-level conferences their commitment to the Convention system and to the Court. The Court has fully engaged in these reforms, notably by numerous steps to raise awareness of Convention standards at national level and to enhance dissemination of its case-law as well as improving its internal structure and working methods, streamlining its procedures and innovating to increase efficiency and tackle its backlog. The end of the Interlaken process in no way diminishes the need for dialogue between the Convention actors, in particular the Court and the States Parties. Our regular dialogue with the Committee of Ministers is essential in this regard.

The central focus of the Interlaken reform process was concern about the high number of applications brought before the Court and the growing backlog of cases. While no comprehensive reform of the Convention machinery is now needed, further efforts must be pursued to ensure that the Convention system can continue to respond effectively to the numerous human rights challenges Europe faces.

The Court will continue tirelessly to explore new means of reducing the backlog while at the same time seeking to ensure that it is able to deal with at least the most serious cases within a reasonable time.

Bringing this chapter in the Convention system's history to a close does not mean that we, as different actors in that system, can be complacent about its future. The Court still faces a considerable challenge in dealing with Chamber cases which are particularly important for the applicant and the State in question or the development of the Convention system in general. The Court is currently laying out its vision for our mid to longer term case-processing strategy. We are exploring ways in which we will increasingly focus on the expeditious and high quality delivery of judgments in priority cases enhancing the Convention's immediate impact and relevance in the Member States and for the overall protection of human rights.

The measure of the Court's success should not primarily be the total number of cases it has processed in a given period, but rather the manner in which it has dealt with the most important cases, as defined by its priority policy. This must be achieved whilst, of course, continuing the filtering of incoming applications.

Implementing this case-processing strategy for the future will mean that the Court must continue with the effective application of its broader-WECL policy and allocate more cases to its three Judge Committees as well as adopt more creative IT solutions, a matter of great importance for the effectiveness of the Court's operations as I have mentioned during my many meetings with ambassadors that have kindly paid me a visit at the Court in recent weeks and months.

Externally, the Court will continue to pursue actively its essential dialogue with national courts, regional Human Rights Courts and the Court of Justice of the European Union as well as other international bodies. Dialogue between the European Court of Human Rights and the national judicial systems is fundamental to the Convention system. The Superior Courts Network, set up by the Court in 2015, brings together national judges who have a central role to play, implementing the principles and values of the European Convention, which we have been sharing and defending for 70 years. I believe that we have managed to create a dynamic European community of judges. It now comprises 92 courts from 40 States. This attests to the great interest at the domestic level for information on the Court's case-law.

In July this year I opened the Superior Court Network's first webinar which dealt with how justice systems have adapted to the COVID-19 pandemic and the potential impact on the right to a fair trial. This event was an excellent opportunity not just for the Court to share its working methods and functioning during the lockdown period, but also for national jurisdictions to exchange their own experiences.

In addition to our dialogue through the Superior Courts Network, the Court continues its bilateral dialogue with national courts. The pandemic has necessarily reduced quite drastically the number of official visits to the Court building in the last six months. Nevertheless, we hope very much to receive a visit from the Slovenian Constitutional Court in early November and to visit ourselves the French Court of Cassation in mid-December in Paris, of course, only if the sanitary crisis so permits. I would also like to mention our annual meetings with the European Court of Justice which we have always considered of great importance. I also note the recent resumption of talks in relation to the possible accession of the European Union to the Convention and am of course hoping that these talks will prove fruitful.

Dear Ambassadors,

During my mandate, one of my primary aims will be to continuously stress the importance of the existence of an independent European community of judges that effectively interpret and apply Convention rights so as to promote and safeguard the fundamental principles of democracy and the rule of law inherent in the Convention. As I stated in no uncertain terms in a public speech during my recent visit to Turkey, and I quote:

"The principle of the rule of law is an empty vessel without independent courts embedded within a democratic structure which protects and preserves fundamental rights. In the Convention system independent and impartial courts have a fundamental role to play in guaranteeing that democratic actions retain their character by being truly inclusive and respectful of individual rights. Without independent judges, the Convention system cannot function."

This is a crucial message which focusses on the importance of the independence of the judiciary and the rule of law and I intend to lay particular stress on it during my mandate as President.

I am encouraged by the fact that my endeavours to promote this message during my visit to Turkey were recently endorsed by the International Association of Judges, a body which holds participatory status in the Council of Europe.^[1]

Dear Ambassadors,

The President of the Court has a dual role. In addition to his tasks as a judge, his most important function is to direct the work of the Court and to secure with the judges and the Registry the efficient, prompt and objective resolution of the Court's pending cases. It is a daunting task and I have just now briefly explained the vision we in the Court are in the process of laying out for our work in the coming months and years.

The President has a second important function and that is to represent the Court externally in the manner I am doing here today, to take part in Council of Europe events, conferences and seminars and also visit the Member States of the Council of Europe.

The most important aim of such visits is to enhance the Court's dialogue with the national judicial community. In fulfilling this task, we must never lose sight of the fact that the President represents an international court which comprises 47 Member States, not 5, not 10, not 20, but 47 High Contracting Parties.

When the President visits a Member State, he does so as the president of an international court, he does not visit as a politician, as a policy-maker, as a human rights monitoring body.

Meeting on the basis of protocol with heads of State, government officials, members of the judiciary, members of the bar and the academic community, has been the tradition for the President of the Court for decades. Therefore, and I want to make this as clear as possible, this cannot call into question the independence or impartiality of the President or the European Court of Human Rights as an institution.

The European Court of Human Rights, the judicial body of the Council of Europe, serves all the peoples of the Member States and has protected their human rights and fundamental freedoms for the last 60 years independently and impartially. Be sure that the Court will continue to do so.

Mr. President,
Distinguished Ambassadors,

I mentioned at the beginning of my speech the presence alongside me of the Registrar of the Court, Roderick Liddell. As some of you know, this is the last time that he will appear here in his current role, as he will be retiring from the Court on 30 November.

During his 32-year service within the Convention system, Mr. Liddell has served 9 Presidents of the Court who have all placed their trust in him. He has been a key witness and actor in the transformation of the system that took place with Protocol No. 11 and the creation of the single, permanent Court. He was one of the architects of the establishment of this new institution. He has been a very effective leader as Registrar for the last 5 years. His sole concern has always been to defend the interests of the Court and of the Council of Europe. I would like to use this opportunity to thank him for his service in the cause of human rights in Europe.

^[1] <https://www.iaj-uim.org/iuw/wp-content/uploads/2020/10/Statement-of-the-IAJ-related-to-ECHR-and-Turkey.pdf>

With these words, I thank you Mr. President warmly for the invitation to deliver this intervention here today and all of you, distinguished Ambassadors, for your attention.