



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

## **Solemn hearing**

**Speech by Katerina Sakellariopoulou**

*24 June 2022*

President of the European Court of Human Rights,

Members of the Court,

Excellencies,

Ladies and Gentlemen,

It is a great honor and joy to be here today and address the European Court of Human Rights. My personal interest and perception of the utmost importance of the Convention has arisen during my longtime career as a judge and President of the Greek Council of State. As the President of the Greek Republic, I am very pleased to confirm that the bonds between my country and the Council of Europe remain strong and undisputed.

Greece ratified the European Convention of Human rights initially in 1953 and finally in 1974, after the end of the dictatorship of the colonels. The famous “Greek case” has been a decisive moment for the protection of human rights and accordingly the shaping of policies and standards. The withdrawal of Greece spotlighted the value of freedom and as a result the delegitimization of the Junta, at home and abroad, was accelerated. At the beginning of the post-dictatorship era, which in Greece is called “Metapolitefsi”, the judicial reception and interpretation of the text was reluctant, to say the least. The Greek legal order and the judicial system were not acquainted with the normative status and context of the Convention. Nonetheless, progressively the European Convention turned into a valuable tool for understanding not only European law and human rights doctrines, but also the meaning of our own constitution. Moreover, it has been recognized as a part of our ordinary language and common legal discourse, mostly after the individual complaint mechanism was set up. During these years, distinguished Greek legal scholars have served the Court and Greek controversial cases made the headlines. The Convention’s case-law has proved to be a force of reform for national legislation and domestic law in general. Especially, concerning Greece, religious liberty, property rights, and fair trial guarantees have been more effectively safeguarded thanks to the implementation of the Court’s judgments. Applying the Convention has also led to constitutional change: an interpretative statement has been added to article 4 in virtue of the recognition of contentious objectors, after the respective decision. Article 57 of the Greek Constitution has been amended, in order to comply with another significant judgment of the Court regarding professional activity of Members of Parliament. The Convention has enhanced national respect of minorities rights and identities, promoting and imposing inclusive policies such as the extension of the cohabitation pact to same-sex couples. Furthermore, constant and interactive dialogue between the European and national

authorities has ensured a greater involvement of national courts in the convention system. Thus, conventionality control has become a significant part of the actual judicial review, so as to prevent human rights violations and comply with European Convention standards. Taking into account the Strasbourg case law is an essential obligation of the Courts and of national authorities.

The concept that the European Convention of Human Rights is a dynamic text and a living instrument has been a crucial feature of Strasbourg's case law from its very start. Evolutive interpretation is inherent to the Court's role and legitimacy. Furthermore, this fundamental idea reflects the progress and depth of the European social contract. The Convention and the Court's decisions establish our common ground, exceeding the boundaries of the law and forging our European culture and way of life, without effacing national identities or underestimating the fair balance between cosmopolitanism and patriotism. The conciliation of realism and idealism seems to be the major and demanding task of the legislature, the executive and the Courts.

The consecutive crises of the last decade have questioned the protection of human rights and redefined the concept of general interest and the doctrine of the margin of appreciation, along with the fundamental principle of "democratic society". According to the recent annual report by the Council of Europe's Committee of Ministers, the human rights protection system faces several challenges, with more complex cases coming to the Court and governments finding it increasingly difficult to respond quickly to judgments. The departure of Russia from the Council of Europe will have consequences, whilst emphasizing the prominence of the human rights convention. The pandemic of Covid-19 has not only severely exposed public health but also the limits of democracy and the rule of law. On one hand, the serious interference on our liberties and the derogation of some member states from the Convention display the emergency of the crisis-law, a change of paradigm which is rather pessimistic for the future of human rights. On the other, preservation, from a republican point of view, of public health as a common good captures the vital and urgent need to guarantee social coherence. The pressure on rights and the extreme recent circumstances, in other words the atypical or formal state of necessity, impose legislative and judicial pragmatism. However, our common values and beliefs, freedom, equality and solidarity, shall not be undermined nor marginalized. The *Vavříčka* judgment was seminal in light of national litigation regarding mandatory vaccination and the Court proved a true leader in this matter, underlining the notion of social solidarity in favor of the vulnerable. Also, with regard to the most recent acts of invasion committed by Russia against its neighboring countries the ECHR stood again the test issuing interim measures against Russia regarding the war in Ukraine.

Today, the European *acquis* of the rule of law is widely contested, even within the European frontiers. The Secretary General of the Council of Europe has warned us about this "democratic backsliding". New authoritarian and populist regimes are targeting freedom of expression and judicial independence and oppose to the foundations of liberal democracy in the name of the majoritarian principle. The Court has developed significant case law concerning the impartiality and independence of justice. The same applies to the migration issue, where the Court has highlighted the obligation of the States to respect the Convention and the principle of non-refoulement.

Mesdames et Messieurs,

La garantie et la consolidation de la démocratie et de l'état de droit à l'époque des crises n'est pas une question purement procédurale. Pour faire face aux nouveaux défis il faudra préserver nos valeurs essentielles et communes, le noyau dur de notre mode de vie européen et de notre compréhension mutuelle qui fait encore l'Europe une région privilégiée de notre planète. C'est dans l'héritage inépuisable de nos pères fondateurs, ici à Strasbourg, qu'on trouve la puissance et la vitalité de notre destin commun.

Je vous remercie.