



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

**Speech by Emmanuel Macron, President of the French Republic,
at the European Court of Human Rights on 31 October 2017**

(Translation of President Macron's speech as it appears on the French President's website)

Honourable President of the European Court of Human Rights,
Distinguished Secretary General of the Council of Europe,
Honourable Judges of the European Court of Human Rights,
Excellencies Ambassadors,
Honourable *Garde des Sceaux*, Minister of Justice,
Honourable Minister responsible for European Affairs within the Ministry for Europe and Foreign Affairs,
Honourable President of the Constitutional Council,
Honourable First President of the Court of Cassation,
Honourable Principal State Counsel attached to the Court of Cassation,
Honourable President of the Judicial Division of the *Conseil d'Etat*,
Distinguished Prefect of the *Grand Est* Region,
Distinguished President of the Regional Council,
Distinguished President of the *Département* Council,
Honourable Deputies and Senators of the Bas-Rhin,
Distinguished First Deputy to the Mayor of Strasbourg,
Ladies and Gentlemen,

The European Court of Human Rights is a unique achievement that does honour to Europe in at least two respects.

First of all because it was built on the ruins of the Second World War, as you have just recalled, to counter barbarity through the shared principles of humanity and respect.

Secondly, because over the years it has made human rights the common good throughout Europe, as it were its trademark, long before any foreshadowing of a European Community. Thus the Court prevails within a circle of countries that is far wider than the current European Union, and making the Convention that underpins the Court, its law and its judgments, the foundation stone of a unique group of nations.

What makes your mission unique, esteemed judges, it that you work passionately in the service of 820 million Europeans belonging to the nations which have ratified the European Convention on Human Rights.

France's commitment to the principles enshrined in this Convention goes back a long way. The Declaration of the Rights of Man and of the Citizen of 1789 is of course the main well-spring of those

principles. However, its roots lie even deeper, in the ground of Renaissance humanism, in the legacy of antiquity, in the concept of the human being that France has constructed over the centuries, alongside those of freedom, emancipation and education.

The human rights proclaimed during the French Revolution, then subsequently reaffirmed time and again and reinterpreted by the great minds and statesmen of our country are an integral part of this core identity which goes back a very long way. It is not insignificant that the Universal Declaration of Human Rights was adopted in Paris in 1948; nor is it a coincidence that a French city, Strasbourg, is today your home. Rest assured that for us, the French, this is of the utmost significance.

As I have said, this Europe reaches far beyond the borders of the European Union. It is a Europe in the most historical sense of the term, from the Atlantic to the Urals, a Europe which extends to its former confines, such as Turkey. The borders of this Europe are not those of a legal or even a political entity. They are those of a civilisation.

The 47 member States have acknowledged that the principles upheld by the Court are their common bedrock. They have accepted that a part of their law, their beliefs and their principles lies therein. Defending human rights is part and parcel of the history and heritage of Europeans. We do not defend human rights only for today's citizens! We defend them because we owe it to the past generations who fought for these human rights, and to the citizens of tomorrow, who must be able to enjoy them.

Political and geo-political developments often blur this unity. Multi-polar globalisation sometimes goes hand in hand with a certain temptation to question everything. And yet, beyond circumstances, beyond political and government regimes, this community of 47 States endures. Our shared foundation stone remains; I welcome this, and we must tirelessly hold this factual and historical reality up to those who would see in our globalising world nothing more than a process whereby we lose our bearings. The European Court of Human Rights is, and will remain, a major point of reference for Europe's citizens.

This situation must not blind us to the numerous challenges that still lie ahead. The first that I will mention, solely from the French perspective, is that of the relationship between the legal sovereignty of the States and that of the Court.

The second challenge is that of the growing threats that we face in this day and age, which oblige us to invent new legal and political balances in order to secure respect for human rights.

The third challenge is that of a constantly changing world in which certainties are being tested, and also of contemporary phenomena - particularly in the field of science - that we do not yet fully grasp, but which will have repercussions for our legal order in the near future; now is the time to seek to understand them better.

Defending freedoms is for us French a matter of honour, and also of our very identity. General de GAULLE spoke of this in 1941, stating that "there exists a centuries-old pact between the greatness of France and the freedom of the world". I too am convinced of this, and it imposes on us specific duties.

As I have said, France's commitment to the European Convention on Human Rights and to the Court which supervises how its rules are applied is a deep one. Here, I cannot but evoke, as you did, René CASSIN. Having left his mark on the Universal Declaration of Human Rights, the 70th anniversary of which we will celebrate next year, he had the foresight to recognise that the rights thus proclaimed

could not be guaranteed – and thus effective – without an appeal mechanism imposing on States the primacy of individual rights, and that the appropriate level for such a mechanism was that of Europe.

It was another Frenchman, the second judge after René CASSIN, who successfully imposed, during the negotiation process leading to the Convention, the concept of a court entrusted with ensuring the States' compliance with it and delivering binding judgments.

Having helped to author these provisions, France arguably considered itself for a time exempted from ratifying the Convention itself. It did not do so until 1974. And it was only in 1981, under the impetus of Robert BADINTER, that it accepted the right of individual application.

By acting in this way France undoubtedly underestimated “the price to be paid for leading by example”, to borrow René CASSIN's phrase. This is no longer the case.

Of course, this example must be tangible. That is why I am delighted that the number of applications against France is, as you kindly recalled, decreasing. There are currently no mass applications against our country stemming from structural shortcomings in its legislation.

Moreover, the proper execution of the Court's judgments is essential for upholding its authority. In this regard, France consistently reiterates its commitment to the binding nature of the judgments of the European Court of Human Rights in the context of the supervision carried out by the Committee of Ministers. It takes an active part in discussions on improving the execution process, as it did in the context of the negotiations leading up to the Brussels Declaration.

The Court has also played a major role in France in the field of criminal proceedings, by inviting the French State, in its judgments, to strengthen the safeguards for its citizens.

It is thanks to the Court that persons held in police custody are entitled to the assistance of a lawyer during questioning, and that they are advised of their right to remain silent. It was also the Court which paved the way to improvements in the legal regime governing phone-tapping, and which prompted the creation of specific legal provisions in respect of persons taken into custody at sea, through the Law of 3 June 2016.

Of course, these developments are not always straightforward, and France sometimes encounters difficulties in executing certain particularly complex judgments.

However, I want to reaffirm the importance that France attaches to the unconditional obligation to execute the Court's judgments. I would also point out that in 2000 France introduced a domestic remedy enabling persons who have obtained a judgment in their favour from the Strasbourg Court, in criminal matters, to request that the case be re-examined before the national courts. Very recently, in 2016, France extended this possibility to civil judgments.

France wants to be exemplary because that is the best way to enhance the strength and effectiveness of an international institution such as the European Court of Human Rights.

Nothing would be easier than to pursue a policy of avoidance, or to take half-hearted measures. Some call on us occasionally to go down that path. Ultimately, however, this would have the effect of undermining the Court's authority, compromising and ruining it, and that would be irresponsible.

I know there are those who would like to lead us down that path, who would like us to adopt a cynical strategy whereby we had one foot in and one foot out. During the French presidential

campaign, voices were heard calling for France to no longer be bound by the Court's judgments, or even sometimes to go further.

Does this really amount to a loss of sovereignty? I do not believe so. It points rather to an intangible respect for the principles shared by us and for the conventions that, as a sovereign State, we agreed to sign and to ratify. There are also proponents of the sovereignty of the law, who are quick to call for the defence of European values but deem that they can best be interpreted from within the safety of one's own borders.

For my part, I defend the concept of European justice, envisaged as an area of dialogue and complementarity. Dialogue among the European judges, a dialogue that I would like to see enhanced between the Strasbourg and Luxembourg Courts until such time as the European Union accedes to the European Convention on Human Rights. Dialogue too between the European and the national courts.

The strength of the Convention system lies in the external scrutiny that it provides, and thus in the enhanced impartiality and objectivity that it brings to disputes. Your perspective, distinguished judges, is a different perspective, which complements that of the national judge and makes it possible to identify the shortcomings and mistakes that the domestic judge may overlook, as we all do from time to time.

But let us go further. What is at the heart of our national judges' work? Human rights! Thus, the Convention system's strength also lies in the fact that the national judges are the first to enforce the European Convention on Human Rights.

Thus, we did not hand over our legal sovereignty to the Court! We have provided the citizens of Europe with an additional guarantee that human rights will be upheld.

This is an extraordinary form of collective protection, whereby we protect the population of the member States from intolerant trends, but also from those situations in which policy-makers promote interests that are out-of-date or practices which infringe those rights.

This reality is deeply rooted in the traumatic experience of Europeans. In the feeling that democracy is a fragile asset that we must take care of, and for which we must provide safeguards. That was the experience of those who lived through the war, and specifically of René CASSIN and those who worked alongside him.

Seventy years later, who would be so bold as to say that they were wrong? Who could seriously claim that the worst is behind us and that we can afford to dilute the strength of the universal principles which bind us? Who could consider that these risks of illiberal democracy, an inward-looking approach and a surreptitious or assumed undermining of our values and our principles are now far behind us?

The truth is that the European Convention on Human Rights was drafted by visionaries, and that this vision still protects us today, as it protects our fellow citizens, and it is incumbent on us to remain faithful to it.

It is your case-law which gave rise to the decriminalisation of homosexuality in Ireland, and to the abolition of corporal punishment in British schools, France's adoption of legislation to regulate telephone tapping, and the right of women to join the German army.

These developments did not come about without debates or challenges. Yet today we take them for granted, and consider them to be unquestionable components of our shared foundation of basic rights, applicable everywhere that the European Convention on Human Rights prevails. The loss of sovereignty feared by some is in fact nothing more than absurd nostalgia for practices that our principles ought to have prevented and that our traditions preserved for too long.

Indeed, one of the fundamental principles of the system for human-rights protection enshrined by the Court is that of subsidiarity, specifically set forth by Protocol No. 15, which France has ratified and which we hope to see enter into force in the near future. The paramount role of the national authorities is thus constantly reaffirmed by the Court!

The Court's task is not to take their place, or to act as a court of fourth instance! The crucial role of the domestic courts is not called into question in any way, and I would like to highlight the quality of the dialogue that exists between the Court and domestic courts.

Recognising the national margin of appreciation is clearly key to the quality of this dialogue. The Court grants this margin of appreciation to States in their implementation of the rights enshrined in the Convention, and its scope sometimes varies according to the protected freedoms and rights in question.

By respecting the preeminent role of the national authorities in upholding and securing the rights and freedoms protected by the Convention, the Court has succeeded in striking a delicate balance, one that is sometimes called into question. Your task is all the more difficult in that the Court is called upon to rule on cases that originate in different legal systems, anchored in culturally diverse traditions and societies, contending with the tensions that may sometimes exist.

Yet the Court, in developing a case-law that is both flexible and demanding, has successfully respected this diversity without betraying its primary mission of protecting human rights. This essential respect for the particular and specific features of each State has also made it possible to consolidate your unquestioned legitimacy.

Thus the Court, when called upon to examine the Law of 11 October 2010 banning the concealing of one's face in public places, and after reiterating the wide margin of appreciation enjoyed by France in this area, agreed that the concept of "living together" relied on by the French Government was integral to one of the legitimate aims within the meaning of Article 9 of the Convention, and therefore permitted, in that specific case, the restriction on the freedom to demonstrate one's religion by wearing the full-face veil.

The Court has even taken into account the specific French concept of secularism, and found that there was no violation of the Convention in a decision not to renew the contract of a social worker, employed in a public hospital, who had refused to take off her veil while at work.

I could cite multiple examples of cases in which the Court has ruled on extremely sensitive social issues, where the traditions and perspectives in our different member States varied greatly, and where, in so doing, it helped the States concerned to achieve greater justice without turning their backs on their past.

For its part, France has only progressed by means of these judgments. The presence here today of representatives of the highest French courts – and I thank them for being here – attests to the fact that France finds this interaction with the European Court in Strasbourg very enriching and a source of progress.

However, we could take this dialogue even further. This is illustrated by the creation in 2015 of the information exchange network between the Court and the national superior courts – the Court of Cassation, the *Conseil d'État*, the Constitutional Council – which today comprises 62 courts and 34 States.

I should also like to pay tribute to the pedagogical approach taken by the presidents of the Strasbourg Court, who visit the States for meetings with their judges and authorities to explain the Court's role and remit.

This dialogue will surely be further strengthened once Protocol No.16 enters into force. It introduces the possibility for the highest courts of the signatory States to submit requests to the European Court of Human Rights for advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention or protocols thereto.

This Protocol will put the finishing touches to the legal architecture built around the European Convention on Human Rights, and will strengthen still further the dialogue between the national courts and the Strasbourg Court. It will allow this discussion to be better organised on occasion, by providing for the option of requesting an advisory opinion rather than allowing multiple cases to build up.

This is why France has decisively begun the ratification process for this protocol, and we secretly hope to be the 10th State to ratify it, enabling the Protocol to enter into force. Indeed, I am convinced that Protocol No. 16 will strengthen considerably the European judicial foundations in the area of human rights and will lead to collective progress in this area.

It is a virtuous circle that we have built together over the decades. It protects us, and it protects our fellow citizens. It instils, among the 47 members, a form of legal harmony. It has made Europe a unique haven for human rights. It would be a mistake not to put the finishing touches to this architecture.

It would be a mistake, because we are today faced with numerous threats which are testing the solidity of this edifice; which test our determination to hold firmly to it, and to stay the course. Faced with the current challenges, we must remain ever more firm. We must sometimes also reinvent the language of our collective response.

The first of these challenges, mentioned by you, President Raimondi, is terrorism. We are determined to combat Islamist terrorism. But we will do so within the rule of law, and specifically under judicial supervision.

Security is the top priority of the State, which must protect its citizens and ensure security throughout its territory. This task must be fulfilled while resolutely respecting rights and freedoms. This security is the prerequisite for our freedoms to be upheld and to flourish.

The French Declaration of the Rights of Man guarantees security. That is, it guarantees to citizens that the State will not wield its power over them arbitrarily and excessively. We must not confuse security with security crackdowns. I say this all the more strongly in that – and let us not be mistaken – this terrorism targets not only governments or States, but also European society and its values. We are being attacked for what we are.

For several years, France has been attacked in its very heart. And these attacks have not simply taken the lives of our fellow citizens. They seek to destabilise the moral consensus shared by us and by all Europeans. They were intended to undermine the shared bedrock, based on human rights, on which we have built together.

Jihadi terrorism wishes us to abandon the principles that are an essential part of our identity. It wants us to believe that these principles are our Achilles heel, although they are in fact a source of inexhaustible strength. I will even go further: defending freedoms is not only a right - it is a duty. Those freedoms must be defended by the State, of course, but also by citizens. What is at stake? Nothing less than our society of freedoms, the very civilisation in which we live.

Nonetheless, it must be acknowledged that we were not sufficiently prepared for the Jihadi terrorism which now confronts us. The methods used by our assailants, their behaviour, the deadly ideology behind their hitherto unprecedented acts and the long-term nature of this threat have compelled us to reorganise our legal framework.

This is why I wished to give France appropriate legislation, in order to strengthen the security of our fellow countrymen and to put an end to the exceptional situation represented by the state of emergency.

I said this very early on, and have explained it on several occasions: we must lift the state of emergency. The state of emergency was useful, especially in the first weeks and months following the 2015 attacks. However, its usefulness has diminished over time.

The state of emergency is not a state of exemption. Never did the rule of law fail in France! Judicial supervision was maintained. The ordinary courts clearly continued to function and no special justice was meted out. The Constitutional Council set the rules and the limits. Freedom of the press was not restricted in any way, and Parliament continuously scrutinised the arrangements.

However, a state of emergency – originally designed to address a situation of limited duration, and relying on blanket provisions – could not be extended indefinitely, although the threat itself is long-lasting and recognised. I refer to the same Islamist terrorism.

Thus, what I want to do today is to protect France from a permanent terrorist threat within an ordinary-law framework. To those who consider that only the state of emergency will protect us, I would reply that they are mistaken. I know that I will not convince them otherwise, and that from tomorrow there will be much controversy in France on this subject.

Yet the state of emergency has unfortunately not prevented several attacks in our country! The state of emergency is no longer effective! The state of emergency is no longer proportionate and suited to the situation. To those who consider that we must lift the state of emergency without making any other changes, I would say that they too are mistaken. For the threat is there and – confronted as we are with this ongoing risk – we have had to adapt our rules, create a new framework and consolidate it by constant reassessment.

France will therefore lift the state of emergency tomorrow, 1 November. France will do so on the basis of a new Law on Homeland Security and the Fight against Terrorism, which adds to the legal arsenal in place in recent years.

The challenge before us is to protect the French public effectively against a permanent and multifaceted terrorist threat within the context of ordinary law. The measures provided for in it are limited in number, targeted, proportionate and aimed solely at preventing and combating terrorism.

This Law guarantees a very high level of security to our fellow citizens, while simultaneously bolstering the protection of freedoms, in particular through enhanced judicial supervision and the requirement to obtain authorisation from a judge with responsibility for civil liberties and detention for house searches.

I have heard – you will certainly have heard – the criticisms of the draft law. The Council of Europe’s Commissioner for Human Rights himself expressed misgivings and doubts, which were also made by non-governmental organisations in France.

Other criticisms have been expressed, arguing the exact opposite and alleging that the Government is being irresponsible. These diametrically opposed criticisms could indicate a certain balance, or a form of the proportionality so dear to the Strasbourg Court.

However, it seems to me instead that the process by which this Law was adopted demonstrates how far we have progressed and the extent to which France is governed by the rule of law.

Firstly, in that there was a democratic debate. The text was prepared in advance by the government through thought-provoking discussions between ministers, and was informed by input from the *Conseil d’État*. Civil society was able to give its views; indeed, I myself met with many non-governmental organisations and various lawyers, and I asked them to suggest amendments to the bill.

Something that was originally a simple draft was improved in the course of this process. We also strengthened the role of the administrative and judicial courts.

These discussions continued within Parliament; our national legislature improved the text still further and adopted it by a very large majority, well beyond the group which supports the government. Above all, the parliamentarians further enhanced the safeguards and checks in the text and introduced a principle that I consider particularly beneficial, namely that in three years’ time we will take stock and assess whether the provisions have been successful. If certain measures prove to be unnecessary or inappropriate, they will be removed. In contrast, if technological developments or the terrorists’ strategy require it, additional provisions will be introduced to the Law.

Rather than running after each event or development, and adopting one text after another, we have created a framework that is intended to last, but also to be assessed in the light of events and in the context of a new-found balance.

For this reason, I consider that this statute is simultaneously effective, respectful and protective. It brings France into line with the ordinary regime of the European Convention, and thus allows it to lift the mechanism provided for by Article 15.

Conscious that the international balance is precarious, and with a view to ensuring the Convention’s continued application, the framers of the Convention had in fact included a provision enabling States facing exceptional circumstances – war or a public emergency threatening the life of the nation – to go beyond the restrictions authorised by the Convention, for a limited period and under the supervision of the Court: this is Article 15 of the Convention; the so-called “derogation” clause, which is often misunderstood.

Following the dreadful attacks of 13 November 2015, France took the decision, on the basis of Article 15 of the Convention, to inform the Secretary General of the Council of Europe that a state of emergency had been introduced, and since then the government has updated this information every time that the state of emergency has been extended.

As I have emphasised, France's reliance on this clause has certainly not meant that France has withdrawn from its international obligations in the field of human rights; quite the contrary. We have continued our activities as part of our international commitments in this area.

Thus, the adopted measures were taken only when they were absolutely necessary and to the extent strictly required by the situation. They could not, under any circumstances, infringe the most fundamental rights. Over and above the texts, it is the spirit governing the applications of laws which is decisive.

I recently had an opportunity to address the security services, to pay tribute to them and to emphasise how much upholding individual liberties, even where the level of threat is extremely high, is one of their most noble tasks. I restate it here, and this idea is at the heart of our motivation to end this period of using Article 15, and to lift the state of emergency in France.

I firmly believe in the newly-found balance we have struck. We must resolutely protect our fellow citizens, but we must protect – equally resolutely - human rights and our fundamental rights, because this lies at the very heart of our struggle against the Islamist terrorists. This is exactly what they want us to cast aside or to put on hold for the long term.

The challenge before us resembles that posed to CHURCHILL during the war, when one of his ministers, having explained that more money was needed for arms, asked that the arts budget be cut: CHURCHILL allegedly replied "Then what are we fighting for?" The same holds true to a certain extent with regard to the defence of our fundamental rights. What is the point of fighting, if we decide not to apply them, given that this is precisely what our attackers aspire to.

I insist. Defending freedoms is an unrivalled project, and indeed the only legitimate one, since it is the only one that corresponds to the intrinsic dignity and spiritual purpose of the individual.

During the period of the state of emergency, more than 10 events or demonstrations were organised in Paris every day; this freedom to express oneself, to march and to complain was preserved, as was France's democratic vitality. France has never conceded its principles or its values, and it will never do so. Rather, before you here today, it reaffirms its full commitment by removing the state of emergency and building, for the long term, a framework for security and upholding rights.

There is another phenomenon challenging our rules and our customs – I refer to the challenge posed by migration flows, to what we describe today as the migrant question. Here, I am thinking of these women, men and children who have been pushed by geo-political upheavals towards our borders, seeking protection here with us, in Europe. I have already expressed my strong convictions on this point as regards the right of asylum. I will not accept any statements or any practices that might jeopardise it.

Those who apply for asylum are pushed to do so by tragedy and persecution, but above all because they seek the dignity of subjects of law, which has been refused to them by their own countries.

It is consequently out of the question that we change our own system of laws. On the contrary, we must strengthen it and make it fairer and more effective - more effective in that it is fairer, and *vice versa*. It does not help the cause of refugees to refuse to identify the merits of each application or to refrain from conducting removals, since refugees are essentially requesting not only physical shelter; rather, they are looking for a legal space, forged over the centuries at the cost of great suffering and struggle, a space that has a history and a cost.

It is for this reason that I would like France to provide better conditions for individuals in clear need of international protection and to preserve their dignity.

I am aware that this is not always the case and that – in spite of my comments since July – this is still not the case everywhere. I would like to remedy each of these abuses, each of these instances of disrespect. I know that this will also sometimes take time, but I shall forge ahead in a spirit of effectiveness and justice, humanity and firmness, stating things truthfully and accurately. I should like us to treat those men and women who apply for asylum in our country in a dignified manner. However, I would like the necessary checks to begin at the moment we take them in, since this is the very precondition for correct exercise of our legislation and our law.

Today, we take weeks, sometimes months, to process a case at the administrative level before the Office for the Protection of Refugees and Stateless Persons (OFPRA) begins its work. This is followed by appeals, which also take too long: it takes on average 18 months for someone who has entered France to complete all these procedures. We treat these people badly when they arrive. All too often we leave them without accommodation, on the streets, we keep them waiting and we integrate them badly once asylum has been granted or residence permits have been issued. We also fail to check them adequately.

These delays have a consequence, namely that a person who receives neither asylum nor a residence permit after this procedure is only very rarely removed back to his or her country. We ought to do the exact opposite. This mini-revolution which I would like to bring about consists in beginning the assessment of whether protection is possible and whether asylum may be granted in the country of origin or in a safe third country; we must be uncompromising with those who are not entitled to asylum and accelerate our procedures drastically, so that, in six months, appeals included, we will have a clear picture and the decision taken can be notified, including to the administrative services, and will be enforceable. Our detention periods must be adapted throughout Europe, so that those who do not have the necessary documents at the end of the procedure can be returned effectively to their countries.

Today, our practices are not sufficiently humane. At the same time, however, they are not sufficiently effective, and we are unable to explain this policy to our fellow citizens. I cannot explain why women and men are sleeping in the street although they are waiting for a residence permit. Nor can I explain why women and men whose request for a residence permit or asylum has been turned down remain permanently within our borders without these papers and receive benefits paid for by French citizens, without supervision and without being removed.

In order for human rights to flourish, we must be firm and we must be effective. We see this both in the ongoing migration challenge and in the terrorism challenge. If we want our democracies to rediscover the vitality of their principles and enjoy full respect for their laws, our democracies must be strong and hold their ground, our democracies must ensure that these principles are fully upheld, but they must also demand respect when these principles are no longer complied with. We are at the very opposite of the balance we want to strike.

Thus, the months ahead will be relentlessly dedicated to transforming our practices and our structures, so that we can fight inexorably against the criminal exploitation of misery; we will work to dismantle the mafia groups, frequently linked to terrorism, which create these networks and to treat those who arrive on our shores with humanity. We will also remove, with firmness, those who are not entitled to remain.

A final, endemic, challenge is facing France – I refer to our prisons. France cannot be proud of the conditions in which a number of prisoners are detained in its territory, of the fact that its prisons suffer from chronic over-crowding, with an occupancy level that is, on average, 139%. This level is intolerably high in certain establishments. For several years this overcrowding has been reflected in an unacceptable statistic, namely the number of mattresses placed on cell floors, which currently stands at about 1,300.

The French Ombudsman and the Inspector General of Prisons have consistently denounced this situation. The Minister of Justice, who is here with me today, has launched a vast reform project which will enable us to rise to this challenge.

There is firstly, of course, the opening of additional cells and the release of additional resources, but, even more fundamentally, what this unbearable problem of prisons points to in our country is how we approach the whole question of punishment, the very role of punishment in our country and in our societies.

Failings in our approach sometimes result in custodial sentences being imposed although they are not necessarily the most useful response. We do not consider sufficiently whether they are being properly used, and it suffices to look at the last 15 years to see the extent to which we have created prison places, we have handed down prison terms and we have filled these cells. I am well aware that to continue in this way cannot be an end in itself.

It is therefore vital to hold an in-depth, philosophical and practical discussion about our penal policy, its underlying meaning and the role of punishment, as well as how to rehabilitate former inmates. In prison conditions as I have just described them, there is no place for the patient but sometimes thankless work of providing a fresh chance and opportunity to persons who have committed a crime or offence and who are serving their sentence.

It is therefore crucial that we rethink the meaning that we assign to it, take full advantage of the revolution in our legal system, and reform the organisation of the courts and of proceedings. We must also consider how we can improve the effectiveness of sentences and ensure their full execution. However, we must also develop so-called alternative penalties.

In particular, I would like to develop the use of community service, which represents only 7% of sentences imposed, although this is a restorative penalty which relies on the active participation of the convicted individual and includes an educational dimension.

It must also serve as a factor for integration and can open the doors to employment. The major difficulty lies in the fact that it requires coordinated mobilisation of all the stakeholders: judges and prosecutors, probation and resettlement services, local and regional authorities and companies.

This reform project is ambitious, Madame Minister, and you are aware of this, but as you have emphasised on several occasions, it is an essential project for our society. To refuse to see this blighted section of the national community, to sweep it under the carpet, to exclude it sometimes, to have its members live in demeaning conditions, is to condemn ourselves to forbidding anyone

from finding their place again in society. Yet this is exactly the purpose of a sentence, and is the essence of our shared civilizational combat for the ending of the death penalty, the idea that at a given moment a person will have redeemed his or her debt towards society.

Not to give ourselves the resources, not to create the conditions so that this can be done effectively, is to condemn ourselves to worsening the damage across society as a whole, to repeat offending and sometimes also to radicalisation, which also finds fertile ground in these overcrowded prisons.

It is for this reason that, within the context of the work to be led by the Minister of Justice, I intend to set up an agency to regulate and develop community service, so that a locked cell is not the only prospect, and so that imprisonment is not the breeding ground for extremism, failed lives and shattered destinies.

We see that, behind these three major challenges, lies the issue of rendering our rights effective, as Simone VEIL rightly raised it. Nothing would be worse than self-satisfaction. A country which is satisfied with 25% youth unemployment is not exemplary; it is essentially flouting the right to work. A country which accepts that hundreds of thousands of its citizens are illiterate is not setting an example; it is essentially flouting the right to education.

I am aware that the road to emancipation in France is still a long one. It is at the heart of the economic, social and legal combat in which we must engage. However, the three challenges that I have just mentioned are crucial, and we must meet them together.

Rendering these rights effective also means enabling you to function normally, and to issue your rulings as quickly as possible. You receive 50,000 applications every year. More than 54,000 cases were assigned to one of the Court's judicial formations in 2016. The Court has certainly proved capable of developing and adapting. Protocol No. 14, which entered into force in 2010, provided for improved functioning of the Court, by streamlining your working methods in order to address an ever increasing number of applications.

A few figures illustrate these developments: the Court's case-load was under 10,000 at the end of 2000; it reached the record figure of 160,000 cases in 2011 before dropping to 65,000 at the end of 2015; more than 63,000 cases are currently pending. Efforts to reduce this backlog must of course be pursued, in particular by priority processing of cases involving the most serious violations.

If I cite these few figures, it is because your judicial statistics – more than those of any other court – are also an exact and ruthless barometer of the human-rights situation on our continent. They attest to the systemic and sometimes very worrying problems that exist in certain members of the Council of Europe, since three-quarters of these cases concern only five countries.

They also reveal that the Court's excessive workload is a shared responsibility between it and the member States. It is for the States to prevent human-rights violations, to enforce the Court's judgments correctly and rapidly – and in my view, this is a point of basic vigilance. It is our direct responsibility, and it is both political and pragmatic. I should like the question of the resources to ensure the long-term sustainability of the Court's work, and also that of the proper execution of its judgments, to be at the heart of the forthcoming French chairmanship of the Committee of Ministers of the Council of Europe in 2019.

However, penalties are not the be all and end all. Among its institutions, the Council of Europe also has day-to-day watchdogs, informed and attentive observers whose task is to prevent human-rights

violations, to promote their respect, and to assist the member States on their sometimes difficult path towards the highest standards in democracy, human rights and the rule of law.

I would like to pay tribute to these institutions here. I think firstly of the European Commission for Democracy through Law, better known as the Venice Commission. Its unique role of independent expert on constitutional questions was essential in accompanying the countries of central and eastern European countries and the Balkan countries towards the rule of law. Its expertise, now recognised far beyond the shores of the Council of Europe, as there are currently 14 non-European members, is still just as indispensable to us. The Venice Commission can be petitioned by the Parliamentary Assembly of the Council of Europe, and this has happened on several occasions.

This was the case with regard to constitutional reform in Turkey or, more recently, the Polish legislation on the courts of general jurisdiction, as well as draft laws on the National Judicial Council and on the Supreme Court. But the Venice Commission also frequently receives requests from the States themselves. This has been the case already this year with the Education Act in Ukraine or a draft law on referenda in Armenia. I believe that this is a very strong sign of the Venice Commission's authority and of the extent to which the independence and impartiality of its expert opinions are recognised.

I am thinking too of the Council of Europe Commissioner for Human Rights. As a true "pilgrim of human rights", the Commissioner seeks to promote, completely independently and often with great outspokenness – which, incidentally, has not spared France, and rightly so – effective compliance with human rights in the member States that he visits all year round. France has submitted the candidacy of Pierre-Yves LE BORGNE for this important and eminent function, and I would like to assure him of my full support.

Beyond these challenges, however, we are today alarmed by international changes and deeply rooted transformations occurring around us. Whatever the commitments that I have just made before you to address the three areas that I mentioned, and the relationship between France and the ECHR, these changes are upsetting the balances we have struck and, in several places, are making it possible that human rights will regress in Europe.

We must approach this issue with lucidity. Were we to decide not to deal with it, not to confront it, or to do so inappropriately, we would be not only weakening the Court, and weakening the Convention – rather, this issue would weaken us collectively.

Only yesterday, it seemed that human rights were self-evident. Several signatory States to the Convention who were not members of the European Union even aspired to membership of that body. But today we have a situation where several member States are clearly, almost ostentatiously, failing to abide by the very terms of Convention, and defying, or in any event seeking to question, its legitimacy or that of the Court: this risk is to be found in Turkey and in Russia, to mention only these two States – but they are not alone.

We are witnessing a resurgence of authoritarian regimes or a fascination in many parts of Europe for illiberal democracies; in my opinion, it is here that the coherence and strength of the responses to the challenges just mentioned must be built.

If democracies act with weakness, if we take the view that protecting human rights means tying our hands but failing to protect our fellow citizens, that protecting our values means accepting the flare-ups that sometimes threaten the coherence of our societies, then the risk that we run is that

gradually the fascination for illiberal democracies or authoritarian regimes throughout Europe will only increase.

This is why I believe that the response we must provide is a firm attachment to our principles, through strong democracy and with a steady hand. We must strike the essential balance that will enable our peoples to maintain the consensus that we have achieved.

Today, however, several countries have opted for another approach, either through fear, or because the extremes have gained the upper hand, or because authoritarian tendencies have been successful.

Where are human rights when civilians are targeted, when entire populations are cut off from any access to humanitarian aid, basic treatment or food, as is the case for hundreds of thousands of people in Syria? When children are transformed into human shields or suicide bombers?

Our human rights are regressing in many countries beyond our jurisdiction: in Syria, Libya, and Myanmar. They are threatened whenever, as is the case today, including on the European continent, and not only in situations of crisis or conflict, these authoritarian regimes to which I have referred prosper, feeding off the temptation to focus inward and the fear of others.

For all these reasons, respect for human rights is under attack. They are seen as a form of weakness by those who seek to contest or demote them, although they are in fact a strength; as a specificity, although they are in fact universal. They are described as an option, although they are in fact an obligation.

Faced with these excesses, especially within our own institution, we must look squarely at the situation and challenge it relentlessly. This is the work carried out by the Secretary General, the work carried out by you here, and for which you have my full support.

We must speak to each other, and this is the method that I have adopted since I was first elected. There is nothing to be gained by excluding those who, today, do not respect our fundamental rights, those who wish to turn their backs on their own history.

I am firmly convinced that the fate of Russia or Turkey will not be improved by turning their backs on Europe, since these two great nations are anchored in Europe, since their history, their geography, their literature and their political consciousness have developed through close contact with Europe.

We should therefore call these countries out on each occasion, by criticising without engaging in a closed-door policy; we should not exclude them from everything, nor, furthermore, allow them to exclude themselves from everything, but should rather engage in an intense, difficult, sometimes thankless dialogue, paved with small victories, and also sometimes with small defeats. We must hold the line, because their peoples deserve it, because their fellow citizens are Europeans, because the nationals of all these countries, no matter the choice of their leaders, deserve that we fight for them, deserve access to this right, to the protection of their rights.

This is what we are doing, therefore, and we will continue to do so, because I do not believe in the so-called opposition between our values and our interests, and I am aware that injustice, impunity and the violation of rights are not only the consequence but also the most fertile breeding ground for instability.

The countries against which applications are most frequently lodged with the Court are fully-fledged members of the Convention-based community, and they must remain so. This, in any event, is my conviction, and this is what I shall strive for. It is also for this reason that I shall continue to speak with all parties, to put forward our arguments, to bring our voice and our values in Turkey, Russia and elsewhere, without accepting the slightest concession, and without resigning myself to the slightest silence.

On the contrary, this is a renewed requirement. This is a way of reaffirming what we stand for, because at some point when we are not expecting it, the light will shine, serious interest will be rekindled, the peoples will rise up – and we will be there.

Respect for human rights is a legal obligation. Defending them is a political and diplomatic act. This is a fight using the formidably effective weapons of dialogue. In this area, naïve optimism, like abdication, is often merely a synonym for powerlessness.

With you, and with all countries, whether or not they are signatories to the Convention, I wish to be very clear: France will not accept any criticism of human rights that is intended to hide an agenda or to promote allegedly superior national interests; it will not allow itself to be dragged into discussions suggesting that human rights are merely an expression of Western “values” and are not adapted to other parts of the world.

Our values, those rights that you defend, are universal. Sometimes we must let certain countries take their own course. We must refrain from giving lessons from our countries to others, in particular where they are plunged into very difficult situations, uncertainty or the fight against terrorism, but we must always stay on track and preserve the very essence of what has made us what we are, while avoiding both confrontation and denial.

These are the three convictions that I wanted to share with you today. Your work – our work – is also profoundly called into question by the innovations at the heart of our societies. You mentioned, President, surrogacy and the children born outside our borders through this method. Our civilisations are living entities. Mentalities change, social structures develop. The technological changes are far-reaching and, beyond the new geo-political facts to which I have referred and which are shifting the balance of our societies, we will have debates over the coming years which will disrupt our vision of human rights and our discussions on the topic.

Augmented humanity, big data, technological innovations and bioethics will inevitably force us to conduct essential debates within our societies. None of these debates will be easy. None of these debates will be conducted in France in a spirit of bullying, where we would impose the State’s concept of political reality and thus override consciences and the essential give and take of philosophical and religious convictions. However, it is essential, if we are to live in society, that legislative rules are gradually enacted, since the facts will gradually be before us.

We must therefore begin to rethink the protection of rights, including constitutional rights, in a deterritorialised world in which humanity itself is being transformed. This will also be one of the big challenges of the next decade, since whilst it is true that France values scientific progress and is not afraid of what is happening, it is determined to ensure that the principle of equality prevails. After the recognition of fundamental rights in 1789 and the right to reparation in 1946, there now opens a third era, that of new rights which will require us to be inventive, and to which I would like us to give consideration as part of the constitutional reform project initiated a few months ago. We are ready for this task.

As you see, ladies and gentlemen, promoting and implementing human rights is a fight, even for countries such as France which are viscerally attached to them. More than ever, the European Court of Human Rights is an essential bulwark in protecting the nationals of the 47 acceding States from abuses, totalitarian trends and the dangers that tomorrow's world will bring with it.

What is being tested today is the unity around the European Court of Human Rights and the Convention that it upholds. What is being tested is our support for this daily struggle. We must continue to fight to preserve this unity. If this support is to endure, we must fight the temptations of an exclusively inward focus, cynicism or defeatism.

Europe, ladies and gentlemen, should take pride in having created a supra-national body with responsibility for ensuring compliance with human rights. This is an institution that we must bequeath intact to subsequent generations and we must adapt to the challenges of the future. This will be a fight. This fight must be relentless. This fight must be constantly renewed. It will also be France's fight, since in this field, to borrow Victor HUGO's fine expression - which was also one of CLEMENCEAU's mottoes - there will always be more promised land ahead than conquered ground behind us.

This conquest of promised lands is our age-old mission; it is our duty and our history, and France will never fail to play its full part in it. Thank you.