

**STOCKHOLM COLLOQUY**  
**9-10 June 2008**

**Registry Information Activities**

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Mr Chairman, when I joined the Registry nearly twenty years ago, the Registry's information activities were fairly minimal. These were the days before the Court was overwhelmed with case-load. Again at the time the principle of subsidiarity was a much repeated mantra in the Court's case-law but it remained a largely theoretical notion, with one or two exceptions. The Court was still proclaiming that the Convention did not require incorporation into the national legal system, which was of course from a legal point of view perfectly correct. Yet I think we can say now that it made no sense in terms of the practical operation of the principle of subsidiarity. National courts had to have a clear legal basis for applying Convention standards if they were to fulfil their natural role within the Convention system. However, that legal basis alone is not sufficient. National courts must also have access to the Court's case-law. I should like to consider in this brief address how we can work towards that in the light of the Registry's existing information activities.

The Court's information activities can be said to pursue at least four aims.

The first concerns the direct impact of its judgments. Ensuring an appropriate degree of publicity for findings of violation is part of the deterrent effect of judgments which are essentially declaratory.

The second is related to the more effective implementation of the Convention at national level and therefore the principle of subsidiarity. If we are serious about the need for national courts to apply the Convention in the light of the Court's case-law, we have to give national courts the means to achieve this. In other words we have to make available to them not just the judgments finding violations arising out of dysfunctions of their own national systems, but more generally the Court's leading judgments which define the contours of the corpus of European human rights jurisprudence.

The third concerns the general principle of transparency in the administration of justice. This is reflected in the provisions of the Convention which require the Court to make documents before it accessible to the public.

The fourth aim relates to the need to dispel misconceptions about the Court's mission with a view, among other things, to reducing the number of clearly inadmissible cases.

In the context of today's discussion I wish to concentrate on the second aspect, that is essentially providing the users of the Convention system with the tools that they need in order to give the rights and freedoms guaranteed therein practical effect in national systems – and in the light of the latest developments of the case-law. The dynamic character of that case-law makes it all the more necessary to make it accessible. Let me just stress in this context, as other speakers have done, the essential importance of the notion of subsidiarity. We often speak of the Court or the Convention system being the victim of its success because of the

tens of thousands of applicants who bring their grievances to Strasbourg every year. Yet the system will have been truly successful only when European citizens do not have to come to Strasbourg because they can vindicate their rights before the national courts. The international machinery will always represent a less effective, a more expensive and an altogether more cumbersome means of redress than local remedies.

In this area access to the Court's case-law in a language that is understood by those involved in judicial proceedings at national level is key. You only have to look at the judgments of the United Kingdom courts since the entry into force of the Human Rights Act in 2000 to see how a national judiciary is capable of acquiring ownership of the Convention if it is given access to it. If the United Kingdom courts have given us some of the most detailed and sophisticated analysis of the Convention case-law this is surely at least partly because most, if not all, of the main Strasbourg judgments are available in English.

How does the Court disseminate information about its judicial activities today? In the time allotted to me I cannot go into relations with the media and the more general issues of communication policy. Of course the heart of the Court's information activities is its website. Until 1998 the Court was sending out paper copies of its different information documents. In 1999 the Court brought into operation its HUDOC data base, having decided that the only realistic means of fulfilling its Convention obligation to publish its judgments was to make them available via the web. Today all the Court's judgments are published on the Internet via HUDOC on the day of delivery. We take this for granted in 2008, but nine years ago it was rather radical and quite an achievement. HUDOC is equipped with a powerful search tool, which in theory enables users to conduct extensive and sophisticated research.

Since last year, other collections have been added to the HUDOC data base of judgments and decisions. These include the case-law information notes, information on communicated cases and press releases. All these collections are searchable. For our purposes perhaps the most relevant is the collection of case-law information notes. These are issued on a monthly basis and seek to identify the most important cases in terms of jurisprudential developments – at different procedural stages.

The Court has recently published on its site a new series of information documents, the “key case-law issues”. These consist of different items dealing with the most relevant and recent case-law on specific themes and Articles. Thus there is a section devoted to Article 8 and the various issues arising under that provision. Another section deals with the questions relating to Article 35 in the context of admissibility. Ultimately this series will cover all the Convention rights and freedoms. In so far as it concerns the substantive provisions, this information is not only aimed at applicants and their representatives; it can also be of use to judges and practitioners at national level. It is proposed to make these “key case-law issues” available in different language versions; indeed they have already been translated into Russian and Turkish.

Another new collection that will shortly be made available will be the summaries produced for cases published in the Official Reports. This collection will also be searchable.

The Court also produces a HUDOC CD-ROM which is regularly updated. When we first looked at this idea, we carried out some market research which suggested that there would be significant interest in it. In reality, its added value in relation to the internet version of HUDOC does not appear to have been sufficient and sales have been low. But this can

perhaps be attributed to the success of HUDOC via the internet. I am asked to remind you that it is not too late to subscribe to this service.

As I have said HUDOC was ground-breaking when it was introduced nearly ten years ago, but apart from anything else the sheer mass of information which it now contains makes it unwieldy. It currently comprises over 50,000 texts and increasingly performs the function of a repository. We have recently conducted a user survey (completed in April). Whatever the final results of that survey which we are now analysing, it is clear that we need to carry out extensive work on HUDOC and notably with regard to the search functionalities. We are investigating the feasibility of developing a new search engine and there is also work that needs to be done on cleaning up and harmonising the data. Another suggestion that has been made is the creation of a separate case-law data base, which would contain only the most important cases.

This is work in progress, but the real challenge is, as I and other speakers have suggested, to ensure effective access to the Court's key judgments for the national authorities and courts. As the Wise Persons pointed out in their report, national judicial and administrative institutions should be able to have access to the case-law of the Court in their respective language. That of course echoed many other voices over the years going in the same direction, including the Committee of Ministers in its Recommendation (2002) 13 and its Resolution (2002) 58. Certainly no one would contest the value and importance of the Wise Persons' proposition. It is, however, easier said than done.

We should not however overlook that much has already been achieved by different actors: Government bodies, NGOs and the Council of Europe, notably through Directorate General of Human Rights and Legal Affairs (DGHL). The first task facing anyone wishing to place translation of the Court's judgments into non-official languages on a more formal and coordinated basis is to draw up an inventory of what already exists. This the Court is in the process of doing, in collaboration with DGHL. Thus the Council of Europe Field and Information Offices have been asked to inform the Registry of any local translations commissioned by the Council of Europe. Letters will also be sent to Government Agents and NGOs asking them to provide the Registry with any translations into non-official languages and make accessible electronic versions.

The next step will be to contact private publishers and to see to what extent they are prepared to waive copyright or what other arrangements can be made with them.

Once we have established what exists and, where appropriate, verified its quality, it will be necessary to make it accessible via the website, either by creating a separate collection or by inserting links to sites with the different language versions, including private publishers' sites. Ideally it should be possible to discover when you open the official language version in HUDOC the other languages in which the judgment exists and access them. As to the future organisation of systematic translation of the Courts' leading judgments, it seems to me that, as the Wise Persons indicated, responsibility for translation, publication and dissemination of the Strasbourg case-law lies with the member States. I know that many of the Government Agents are already overworked and under-resourced, but the logical point of contact and coordination would clearly be the Agent's office. It is recognised that Government Agents have an important role to play within the Convention system; this additional mission would be entirely consistent with that role. It will no doubt require extra funding, but Agents should not assume this task in isolation. Government Agents who share a language could liaise with each other.

Agents could communicate with each other to identify best practices in this field. I believe that some Agents are particularly active already. In addition it will be necessary to harness the valuable work of NGOs and academics who make such an important contribution in this respect, not to mention the continuing efforts of the Council of Europe. One thinks in particular of the different judicial training programmes and the potential for cooperation within that framework. It may be that private funds or voluntary contributions can be mobilised for specific programmes of translation.

As regards selection of judgments meriting translation, I would suggest that in the Court's Publications Committee we already have a body whose task is to identify cases raising novel issues of case-law. Their choice of cases is already published on the Internet site but if it were helpful Government Agents could be informed immediately so as to give them as much advance warning as possible about judgments which will need translation. Indeed it might be necessary for the Court to make a more limited selection – to flag the most important cases of principle.

Mr Chairman – in the time available it has only been possible to sketch a brief outline of some of the Registry's information activities. Let me conclude by making the following interlinking points on the specific question of translation into non-official languages: Firstly, however important information activities may be, they are obviously only part of the problem and therefore only part of the solution. Secondly, and notwithstanding what I have just said, this is not a peripheral issue, but one which goes to the effectiveness of the Convention system. Thirdly, providing access to the case-law via translation is essential if national courts are going to play their full role. Fourthly, the Registry does not now and will never have the means to organise and effect that translation itself. Fifthly, this can only be achieved by a collective effort – coordinated by the Government Agents. The Convention is a joint venture in this aspect as in others. The mission of implementing it is a shared one as are the values which underpin it. I now look forward to hearing your suggestions and comments for enhancing the Court's and the Registry's contribution in this area.

Thank you for your attention.