

Speech by President Dean Spielmann on the occasion of the visit by their Royal Highnesses the Grand Duke Henri and the Grand Duchess Maria Teresa of Luxembourg

Your Royal Highnesses,

It is a great honour for me to receive you today at the European Court of Human Rights.

The European Convention on Human Rights, signed in Rome on 4 November 1950 (less than two years after the adoption of the Universal Declaration of Human Rights), remains the first instrument to have given practical and binding effect to the rights set forth in the Universal Declaration.

The first signatories to our Convention, whilst clearly attaching it to the Universal Declaration, expressed their commitment to common values: democracy, respect for freedoms, the rule of law. But, above all, they created a mechanism – the first of its kind – a court to ensure the observance of their own engagements, thus abandoning part of their sovereignty.

On a procedural level, the system put in place in Strasbourg constituted, from the outset, a major step forward in the international protection of human rights. Who would have thought, indeed, in the immediate aftermath of the war, that citizens would one day be able to obtain a judgment against a State from an international court? What seems self-evident today was something revolutionary just sixty years ago.

What makes our system unique is clearly the right of individual petition, open to everyone, regardless of nationality, home or residence. This is an unquestionable achievement, universally commended. An acquired right that we have a duty to preserve.

In 1998 Protocol No. 11 simplified the supervisory mechanism by ushering in a single full-time court, thus radically transforming the system, to which all citizens now have direct access.

Then, more recently, Protocol No. 14 has played its part in making the Court more efficient.

Protocols Nos. 15 and 16, which were opened for signature last year, will also, in due course, contribute to the further development of the system.

In this history of the European Convention on Human Rights that I have just broadly summarised, the Grand Duchy of Luxembourg played a role that was far from insignificant, by being the tenth State to ratify the treaty, thus triggering its entry into force.

The Luxembourg parliamentarians were well aware of their role in this connection as, during the debates on ratification, the rapporteur observed that the honour fell to Luxembourg to enable the entry into force – and I quote – “*of the finest European work that has ever been created*”. A work that he strongly believed would be – to quote him again – “*the foundation stone of a democratic Europe ... which alone will be capable of defending our peoples against all those who would seek to enslave them by tyranny, from whichever side it may come*”.

Your Royal Highnesses,

That “Luxembourg-related” episode in the history of the Convention is to be remembered on a day when your Royal Highnesses are honouring the Court with your presence. Also to be remembered is that the Court’s book “The Conscience of Europe”, published a few years ago and greatly admired, was the fruit of a generous contribution by the Grand Duchy of Luxembourg. But, more fundamentally, it should lastly be remembered that Luxembourg, back in 1979, was among the first European States to abolish the death penalty, thus speeding up the banning of capital punishment in Europe.

For over fifty years now the Court has endeavoured to rise to the hopes and expectations of the Convention’s founding fathers. I strongly believe that we have succeeded.

Our judgments have had an influence on the judiciaries and legislatures in all States parties and have contributed to the harmonisation of European norms in the field of rights and freedoms. Our Court, through its case-law, has played a major role in improving human rights protection in Europe. It is now universally known and recognised.

Every day, in domestic courts, the European Convention on Human Rights is invoked by lawyers and applied by judges. Convention law now constitutes an essential element of the judge’s decision. Increasingly, national courts, and above all the supreme and constitutional courts, are incorporating the European Convention into their case-law.

The Convention is not frozen in time. In many areas it has evolved and is even in constant evolution. The Court has interpreted the Convention in a dynamic manner, in the light of current living conditions; it has broadened the scope of the rights guaranteed, to take account of technological and societal developments that were unforeseeable back in 1950.

Nearly 17,000 judgments have been delivered, and to choose just one, two or three of the most emblematic judgments is a feat worthy of the heroes of mythology.

Allow me nevertheless to cite three cases which I find of particular significance. First, the *Handyside* case in which the Court, in 1976, reiterated the importance of freedom of expression, an essential foundation of democratic society not only for information received favourably but also for ideas which offend, shock or disturb.

Secondly, the *Marckx* judgment of 1979, which put an end to the discriminations which then existed in many European countries, in terms of inheritance rights, between

children born out of wedlock and legitimate children. Generally speaking, the role of our Court in combating discrimination has been fundamental.

My third and last example is the *Soering* case in 1989, which prevented the extradition of a person to a country, the United States of America, where he risked being subjected to inhuman or degrading treatment, to be precise by being placed on death row – the treatment reserved for prisoners awaiting execution in the US system.

Those three examples, the importance of which can clearly be seen for the persons concerned, represent just a small portion of the Court's entire achievements.

For nearly fifty years now it has laid down the main principles of the right to a fair trial and the right to respect for private life, which also encompasses the right to one's reputation. More recently it has intervened in new areas such as bioethics, education or the environment. It has set out its jurisprudence on the protection of the rights of migrants and of minorities, sexual in particular.

To enable our Court to pursue its mission and for human rights to continue to move forward, we need the strong support of the States.

Your presence here, Royal Highnesses, represents an exceptional encouragement for us in the pursuit of our task.

It is now with great pleasure that we give you the floor.