

High-Level Conference

Continued Reform of the European Court of Human Rights Convention System – Better balance, improved Protection

Speech by Mr Guido Raimondi,
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Ministers,

Ladies and Gentlemen,

Firstly, I would like to express my sincere thanks to our hosts for organising this fifth high-level reform conference of the Convention system and for having placed the European Court of Human Rights at the heart of their presidency of the Committee of Ministers. Next, my thanks go to all delegations present for their hard work in coming up with this final text, reaffirming your deep and abiding commitment to the European Convention on Human Rights.

In the spirit of Interlaken, Izmir, Brighton and Brussels, the Copenhagen draft Declaration is first and foremost a **political** declaration of commitment to the European Court of Human Rights and the Convention system, as well as the right of individual application. The important number of Ministers present today testifies to this commitment.

It is a **practical** declaration, with a strong message acknowledging the importance of retaining a sufficient budget for the Court to do its job properly (calling on States to support temporary secondments and consider making voluntary contributions), and recognizing that appointing judges of the very highest quality will play its role in ensuring the long-term effectiveness of the system.

It is also a **dynamic** declaration which, building on the Brussels declaration, affirms an increased State participation in the Convention process: starting from effective national implementation of the Convention through to systematic execution of Court judgments. Sharing responsibility entails action, and not merely reaction, on the part of Member States.

The draft Declaration recognises the hard work and the notable results achieved by the Court during the course of the Interlaken process. It acknowledges the Court's sustained efforts to reduce its backlog, through continually **reforming and streamlining working**

methods: currently there are under 56,000 pending applications before the Court. This is approximately a third of the number of applications which were pending before the Court on the eve of the Interlaken conference. The current figure is therefore impressive, but we have to recognise that significant challenges remain. There are still too many cases raising important issues which take too long to adjudicate.

That being said, the Court has successfully exploited the tools provided by Protocol no. 14 and continues to develop new working methods particularly for dealing with the most straightforward cases. It has also invoked the notion of shared responsibility in introducing more streamlined procedures and sharing more of the burden of case processing with Governments – I refer here to the so-called immediate simplified communication. More generally the Court is interested in exploring new ways of cooperating with Governments with a view to furthering the common goal of making the Convention system more effective. A starting point is greater transparency as to the substance of pending cases so that Governments are aware of issues and thus are in a position to address them proactively. I am pleased to mention the encouragement and assistance that we have received from Government Agents, who play an important role as actors in the Convention system.

The draft Declaration welcomes the Court's efforts to continue developing its working methods. It also notes the positive effects of the Court's pilot judgment procedure as a tool for improving national implementation by tackling systemic or structural human rights problems. The recent judgment of the Grand Chamber in the case of *Burmych* testifies to the fact that once the Court has established the principles in the pilot judgment, it will be for the State concerned to legislate or take the necessary measures, and it will do so under the supervision of the Committee of Ministers.

The draft Declaration encourages the Court's initiatives to enrich judicial dialogue through the Superior Courts Network which was created in 2015. There are now 67 member courts from 35 States. There is certainly an appetite for dialogue and exchange of information to which the Court is responding. Another way to promote interaction between the national and the European level, as underlined in the draft Declaration, is through increased third-party interventions brought by Member States, particularly in Grand Chamber cases. The Court will now explore ways in which it can support this call for increased dialogue.

Indeed, the Court has always sought to respond quickly and efficiently to the challenges laid down each step of the way along the Interlaken process: from the swift implementation of Protocol No. 14 and the reduction of the backlog of manifestly inadmissible cases, to the strict and consistent application of the admissibility criteria, to now preparing to receive requests for Advisory Opinions when Protocol No. 16 comes into force, which we now know will be later this year.

Today is an important day in the history of the Convention. The French Minister of Justice, Nicole Belloubet, will ratify this morning Protocol No. 16 to the Convention with the Secretary General of the Council of Europe. This brings the number of ratifications to 10, which is the number required for the Protocol to come into force. In the spirit of the Copenhagen Declaration, this new competence which extends the Court's advisory jurisdiction, aims to foster an institutionalized dialogue between courts and to reinforce

domestic implementation of the Convention in accordance with the principle of subsidiarity. Although the coming into force of this Protocol may initially generate more work for the Court in the short term, we are confident that in the long term it will ensure that more cases are dealt with satisfactorily at the national level.

The Court and the Member States are together in a partnership with a common goal as I have said, yet they have distinct roles. In recognising their separate missions in this context, it is worth stressing the fundamental principle of judicial independence and the need for respect for the lawful authority of the judiciary, which underpins the Court's role. "The authority of the Judiciary" was the theme of this year's Judicial Seminar, which marked the opening of the Court's judicial year. It proved to be a very relevant and popular topic with the Court's guests. It is also a theme which the Secretary General has put at the forefront of the agenda of the Council of Europe. While it is, of course, open for Member States to discuss the development of the Court's case-law, this must be done in a way that is consistent with full respect for the Court's independence and the binding nature of its judgments.

You may rest assured that post-Copenhagen and in the run-up to the fast approaching 2019 deadline, the Court will continue to use its creativity and expertise to respond to the challenges ahead, streamlining working methods and improving judicial policy and case management.

The Convention and its control mechanism remain crucial for the stability and security of the community of Council of Europe States and beyond. In these difficult times where the values which underpin the Convention and the whole Organisation are increasingly challenged, it becomes even more important to have an independent judicial body offering redress to victims and maintaining a clear line of principles to remind States of their commitments, thereby relentlessly pursuing the steady work of consolidation and repair of the twin and mutually interdependent foundations of European society, that is democracy and the rule of law.

The draft declaration to be adopted today confirms the full support of the State Parties to the Convention and to the Court. No doubt it will assist the States and the Court in the forthcoming years in their joint effort to ensure an excellent level of protection of human rights on our continent.