



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

**Annual Forum of the Superior Courts Network (SCN)
Opening by the President**

Speech by Robert Spano,
President of the European Court of Human Rights

Strasbourg, 11 June 2021

Good morning to everyone and a very warm welcome to today's SCN Forum. I am really delighted that this year the Court has been able to return to its usual format of an annual Forum, even if the pandemic has forced us to meet online.

I would like to welcome Christos Giakoumopoulos from the Directorate General of Human Rights and Rule of Law of the Council of Europe who will take part in this morning's opening and to thank Judges Guyomar and Eicke who will be moderating the morning and afternoon sessions. I would also like to pay specific thanks to the Jurisconsult's team who work so hard in managing the network and in putting together the Forum so successfully: Leif Berg, Onur Andreotti, Rodica Gonta, Cati Ebi and Isabelle Wendling.

The Forum is the most important event in the SCN's calendar which brings together all our focal points under one virtual roof. I am very pleased to be able to tell you that three superior courts have joined the network since June 2020: the Supreme Court of Iceland, the Constitutional Court of Slovak Republic and German Federal Constitutional Court. This brings our total to 93 superior courts from 40 member States. A truly remarkable number.

We have around 110 participants from national superior courts for today's Forum. This is the largest number of participants for an SCN Forum so far. I would like to particularly welcome those judges who are participating from six observer courts: the Swiss Federal Administrative Court, the Supreme Court of Estonia, the Supreme Administrative Court of Finland, the Supreme Court of Ireland, the Constitutional Court of Malta and the Supreme Administrative Court of Sweden (and our former colleague Judge Helena Jäderblom). I would also like warmly welcome Ms Celestina Iannone, Head of the Research and Documentation Division of the Court of Justice of the European Union.

I hope that today's discussions will give you a good idea of what this network represents for its members and for the European Court of Human Rights.

Enhancing dialogue with national courts is a crucial aspect of the work of the Court, and one which it puts into practice through bilateral meetings as well as through the SCN.

Through the exchange of knowledge of the Court's case-law via the SCN Knowledge Sharing platform we are truly creating a community of European human rights judges who, each and every one of them, act as 'Strasbourg' judges at the domestic level when faced with disputes implicating Convention rights.

This is really "subsidiarity" in action. Let me underline, however, that subsidiarity is not realistic without strong, independent and impartial domestic courts which function within a national system that is governed by the rule of law.

As we know, member States to the Council of Europe are first and foremost responsible for the effective implementation of the international human rights norms they have voluntarily signed up to.

By reason of their direct and continuous contact with the vital forces of their countries, the domestic authorities are better placed than an international court to assess the multitude of factors surrounding each case: it is therefore primarily for domestic judges to identify and afford redress for possible infringements of human rights in each particular case.

In the 2012 Brighton Declaration, it was decided to add a recital to the Preamble of the Convention affirming that the States Parties, in accordance with the principle of subsidiarity, have the primary responsibility to secure the rights and freedoms defined in the Convention and the Protocols thereto, and that in doing so they enjoy a margin of appreciation, subject to the supervisory jurisdiction of the Court. This recital will come into effect on 1 August this year given that Protocol No. 15 has now been ratified by all member States of the Council of Europe.

The correct understanding of subsidiarity is one of give and take, of shared responsibility, of mutual understanding between the national authorities and the Strasbourg Court.

The concept of shared responsibility was set out in the Interlaken Declaration of 19 February 2010. One of the overarching themes of that decade-long reform process has been to increase the embeddedness of the Convention at the national level. Subsidiarity will be the over-arching theme for the next decade. Quite simply put, the future of the Convention system depends on its relationship with you, the domestic jurisdictions.

Today, the Convention is incorporated, and to a large extent, embedded into the domestic legal order of the States Parties, and the Court has provided a rich and comprehensive body of case law interpreting most Convention rights. This enables the States Parties, and in particular domestic courts, to play their Convention role of ensuring the protection of human rights to the full.

But what *more* can we do to assist member States in ensuring that role to the full?

Firstly, we plan to externalise the Court's Knowledge Sharing platform. National judges at all levels (as well as other legal professionals and the public) would have access to, in their language, a comprehensive and up to date analytical framework of Convention case-law. This would revolutionise the dissemination of the Court's case-law. The plan is to launch the ECHR Knowledge Sharing platform in both official languages by October 2022 and to then duplicate it in non-official languages, initially for high-count States.

Secondly we plan to further enhance our dialogue with you, superior courts, who make up our network. More details of this will be provided later on in the day by the Registry.

Thirdly, we will assist domestic courts in modernising their own case management tools. The third component of the project, under the authority of the Directorate General of Human Rights and the Rule of Law, will focus on how knowledge shared through the external platform would be translated into case-processing at the national level. Christos Giakoumopoulos will explain this in more detail next.

These three inter-connected components make up our joint project with the Directorate General of Human Rights and the Rule of Law.

One of the themes for today's meeting is case-management. Accordingly, I would like inform you about the Court's new case-processing strategy which we launched at the beginning of this year. This consists of putting into place a more targeted approach to processing potentially well-founded "impact" cases, building on and strengthening the priority policy adopted by the Court in 2009 and amended in 2017.

"Impact" cases are identified on the basis of flexible guiding criteria as well as a list of examples. The criteria we have so far identified are where the conclusion of the case might lead to a change or clarification of international or domestic legislation or practice; the case touches upon moral or social issues; the case deals with an emerging or otherwise significant human rights issue. If any of these criteria are met, the Court may take into account whether the case has had significant media coverage domestically and/or is politically sensitive.

We had an example of this recently with the judgment on compulsory vaccination in the case of *Vavříčka and Others v. the Czech Republic [GC]* which had an impact in Europe and reverberated all across the world.

The goal of the new strategy is to ensure that the Court's success will be measured not only in numerical terms, namely the number of clearly inadmissible cases processed in a given period, but more importantly by reference to its adjudication of those cases which address core legal issues of relevance for the State in question and for the Convention system in general. In this way the strategy will contribute in a significant way to ensuring that the Court remains a Court which matters ("une Cour qui compte").

Let me conclude by saying that the Convention system is a *collective* enforcement of human rights and we need to work towards a constitutionalisation of Convention principles at the domestic level. The Superior Courts Network is a wonderful example of our joint endeavour. Thank you and I wish you a very successful day of discussions.