



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

Seminar

“The articulation between the European Convention of Human Rights and the European Law: past, present and future”

Opening words by Bjørn Berge

Deputy Secretary General of the Council of Europe

Strasbourg, 14 June 2024

President of the European Court of Human Rights, dear Síoifra,
Chair of the Minister’s Deputies, dear Andrius,
Dear President of the Supreme Court of the Netherlands,
Dear Vice-President of the Court of Justice of the European Union,
Distinguished judges, speakers and guests,

At last year’s Reykjavík Summit of Heads of State and Government, European leaders defined the European Union as our main political, legal and financial partner.

Europe’s “multi-level system of human rights” is central to this co-operation.

For people in the EU’s 27 member states, human rights cases can be decided by different judicial actors – Domestic courts, the Court of Justice of the European Union and the European Court of Human Rights.

Increasingly, these courts have come to rule on similar human rights cases, albeit from different angles – On migration, data protection or the European arrest warrant for example.

This is because of the high level of interaction between the Convention and EU law – Meaning that many situations which fall within the scope of EU law are also governed by the Convention, and vice versa.

Domestic courts must apply EU law – which derives from an autonomous legal system – but in compliance with the Convention – And for the Strasbourg Court, EU law is effectively the domestic law of 27 of the Convention’s High Contracting Parties.

The European Commission has therefore intervened before our Court in Strasbourg as a third party in cases involving EU law.

For some of you, last weekend’s elections may have brought back memories of the famous Matthews judgment by the Strasbourg Court – which concerned the voting rights of UK citizens, in Gibraltar, at the European Parliament elections thirty years ago – One of the earliest instances of the interaction of the Convention and EU law.

More recently, the then-President of the German Constitutional Court Andreas Vosskuhle, spoke in Strasbourg about this multi-level system.

He described it as being like a “mobile” – a device whose parts are not revolving around their own axes, but constantly engaged in an imaginary dialogue triggered by the movements of the other parts.

I believe that this image captures the idea very well.

Domestic courts and the two “European courts” depend on a permanent dialogue, about many different issues, to co-ordinate the protection of human rights.

This practice has developed over the years.

Domestic courts engage in dialogue through the Superior Courts Network with the Strasbourg Court.

But they also have more formal means at their disposal – they may request preliminary rulings from Luxembourg about the interpretation of the EU law – or advisory opinions from Strasbourg under Protocol No. 16 on questions of principle relating to the Convention.

This is a wide area of legal complexity with countless nuances – And I am glad that you are exploring them in today’s seminar.

In terms of the relationship between the Strasbourg and Luxembourg courts, the lines of communication are also very strong.

In his famous report on the relationship between the Council of Europe and the EU almost 20 years ago, Jean-Claude Juncker stated that the Strasbourg and Luxembourg courts – and I quote: “provide an outstanding example of co-operation between EU and Council of Europe institutions, in the interest of ordinary people.” – end quote.

Since then that co-operation has only deepened, in the interests of all parties.

But there are of course still some things that should be done to further reinforce that relationship – and complete the human rights architecture of this continent.

So, I am very pleased that today’s programme addresses the EU’s accession to the European Convention on Human Rights.

Achieving this has been a legal obligation under the EU treaties for fifteen years –

And it is more important than ever, as new hybrid institutions such as the European Public Prosecutor’s Office have also emerged.

Last month, the Council of Europe’s Foreign Ministers met in Strasbourg and expressed their satisfaction with the revised draft accession instruments – And, mindful of one outstanding issue to be solved by the EU, they reiterated their commitment to the timely adoption of these instruments.

Dear friends,

Good progress has indeed been made, and goodwill abounds – And I hope that we will get the EU-accession “over the line” soon.

As Europe’s leaders stated in Reykjavík – This accession will set the relations between the Council of Europe and the EU on a new path of reinforced co-operation – And that can only be a good thing.

Today’s seminar is an opportunity to take stock of the progress on this and other issues, and to reflect on what more might be done.

So, I wish all of you every success.

Thank you for your attention.