



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

## 2024 HELP NETWORK CONFERENCE

Keynote speech by Marko Bošnjak

*Strasbourg, 4 July 2024*

Dear Chair,  
Ladies and gentlemen,

It is a real pleasure to join you today as President of the European Court of Human Rights and to deliver this year's keynote speech. I know that there is now a long-standing tradition of Strasbourg Court Presidents intervening in your annual Network Conferences, and I am very honoured that I begin my own mandate as President of the Court with this HELP event.

Looking at your agenda, you have another very dynamic programme organised. I would like to congratulate the HELP team, who as always, have put together some very interesting and topical sessions for you.

In July last year my predecessor, Judge Siofra O'Leary, highlighted four key themes in her intervention stemming from the May 2023 Reykjavik Declaration. She spoke about how the Court continues to hold Russia accountable for human rights violations; the need to implement judgments of the Court to prevent undermining the authority of the Court and the Convention system; the relationship between the European Union and Council of Europe, and finally how the Court is combatting democratic erosion and backsliding in Europe. She also acknowledged the crucial assistance of the HELP network in achieving these aims. One year on, and I can only emphasise that these themes are as now then as they were then. I will touch on some of them shortly.

In my intervention this morning I will give you a short update on the last year from the Court's perspective (I); look at the important anniversaries which we are celebrating in 2024 (II); highlight shared responsibility as the lynchpin of the Convention system (III); demonstrate the work of the Court in outreach and sharing Convention knowledge (IV) and end by looking at HELP's responsiveness in light of new challenges facing our continent (V).

However, before I begin in earnest, allow me a few words of introduction.

Since last year, the HELP team has been incredibly busy. You have published new courses on 'Artificial Intelligence and Human Rights', 'Gender Equality and Gender Mainstreaming', 'Personal Data Protection in Publication of Judicial Decisions', and with the help of the European Judicial Training Network 'Judges Upholding the Rule of Law'. What's more, courses on 'Combating Hate Speech', 'Combatting Trafficking in Human Beings', and the 'Right to Liberty and Security' have been updated.

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

I would like to thank all those, including my fellow judges and Registry lawyers who have contributed greatly to the development of past and new HELP courses, sharing their expertise to promote national human rights implementation. And of course, without the HELP team, none of this would have been possible.

### **I – The year gone by**

On 1 July 2024, the number of pending applications before the Court stood at 64,200. This is a decrease of 4,250 applications compared to the end of year figures for 2023.

Around three quarters of the pending applications concern five countries: in descending order, Türkiye, with around 23,950 applications; the Russian Federation with around 9,200 applications; followed by Ukraine with approximately 7,950 applications; and then Romania and Greece with 3,750 and 2,500 applications respectively.

Almost 8,850 pending applications concern conflicts between two States (Russia/Ukraine, Armenia/Azerbaijan and Georgia/Russia). These applications are particularly complex and require special efforts, particularly in terms of dedicated staff and resources. A specific Conflicts Unit has been created within the Court to deal with these applications.

There are currently 14 inter-State cases pending before the Court (concerning 18 applications).

As regards the caseload against the Russian Federation, we continue to deal with 9,200 individual applications, that is down from more than 17,000 pending applications when that State was expelled from the organisation in March 2022. The decrease in numbers is thanks to a concerted effort across the board. Applications which raise legal questions in relation to which the Court's case-law is already well-established are being notified to the parties and processed in a simpler manner using case-processing tools which the Court has developed to deal with cases of this nature.

It is worth reiterating that the Court is the only international tribunal dealing with human rights issues related to the ongoing war in Ukraine. It is also the only international court which is examining, at the merits stage, events in Ukraine dating back to 2014 including the invasion in February 2022. As you are undoubtedly aware the Court continues to hold Russia to account for human rights violations as a result of its residual jurisdiction ensuring that a former Contracting Party cannot evade, retroactively, its international legal obligations.

On 12 June, the Grand Chamber held a hearing in an important inter-state case: Ukraine and the Netherlands v Russia where 26 member states intervened and on 25 June the Court delivered a judgment in another inter-state case against Russia namely Ukraine v Russia (re Crimea). The latter case concerns Ukraine's allegations of a pattern of violations of the European Convention by the Russian Federation in Crimea beginning in February 2014. It also concerns allegations of a pattern of persecution of Ukrainians for their political stance and/or pro-Ukrainian activity ("Ukrainian political prisoners") which occurred predominantly in Crimea but also in other parts of Ukraine or in the Russian Federation.

To end this first section on the year gone by, I would like to refer to the Court's recent climate change rulings which I am sure are of interest to you.

Over the last decades, the Court has developed a rich case-law on environmental issues under certain articles of the Convention, most notably, the right to private and family life; access to court;

the right to property; and freedom of information. These aspects are covered in the HELP course on the environment and human rights.

In *Duarte Agostinho and others v Portugal and 32 Others*, the Court's decision to declare the applicants' complaints against Portugal inadmissible came down to the non-exhaustion of available and effective domestic remedies. In *Duarte* the Court also rejected the applicants' arguments in relation to the extra-territorial jurisdiction of the 32 States other than Portugal.

Secondly, in the decision in *Carême v France*, the victim status of the applicant was denied because there had been successful domestic litigation by the municipality itself in accordance with national law.

Thirdly, in the leading case *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, the Court found a violation of Article 6 § 1, the right to a fair trial, because there had been no avenue under Swiss law in which the applicant association's climate change complaints could have been brought before a court. It also found that Switzerland had failed to comply with its positive obligations under Article 8, which obligations can essentially be boiled down to ones of regulatory due diligence.

Three important takeaways from these three cases are that, firstly, the Convention only applies where the rights and freedoms guaranteed therein are seriously affected by the adverse effects of climate change. The threshold for individual victim status is high.

Secondly, the Court emphasised that there is a critical need for domestic systems to provide effective channels for applicants to raise climate change complaints, including before domestic courts, before any application is lodged with the Court.

Thirdly, In *Klima*, the Court expressly stated that future generations are likely to bear an increasingly severe burden of the consequences of present failures and omissions to combat climate change and, at the same time, recognised that they are at a representational disadvantage in the relevant current decision-making processes.

## **II- 75th Anniversary of the Council of Europe and 20<sup>th</sup> Anniversary of HELP**

This year's Network Conference falls at the time of two important anniversaries: 75 years of the Council of Europe and 20 years of the HELP network.

On 5 May 1949, 75 years ago this year, the Statute of the Council of Europe was signed in London by 10 founding States and set up an organisation whose aim was to institutionalise human rights by safeguarding and realising the ideals and principles that were Europe's common heritage: namely, individual freedom, political liberty and the rule of law. The preamble to the Statute expressly mentions these three ideals, calling them "principles which form the basis of all genuine democracy". The Convention that was adopted some 18 months later, further evidences the

founding States' joint "profound belief" that the "fundamental freedoms" laid down therein "are the foundation of justice and peace in the world and are best maintained" by an "effective democracy".

This 75th anniversary provides an occasion to raise awareness of the Organisation's positive impact on people's daily lives over three-quarters of a century, and allows us to focus on the work that States are undertaking to promote and implement these shared values and standards.

The Court's defence of Council of Europe values is not carried out in isolation. It works in tandem with the Council's various statutory and monitoring bodies, including the Commissioner for Human Rights.

The Court has a fundamental role in protecting human rights in Europe, but we rely greatly on quality domestic judgments and the judges and legal professionals who are the backbone of the domestic system.

For the past two decades, the HELP network has played a very important role in the implementation of the Convention at the domestic level. In helping to raise awareness of the Convention system and the Court's judgments, the tens of courses available ensure that judges, prosecutors, lawyers and University students are fully informed and are kept up to date with fundamental principles and jurisprudential developments.

Taking into account the current geopolitical climate, with conflict seen on many fronts, these anniversaries allow us to remember the reasons behind the actions of our forefathers when establishing the Council of Europe and the European Convention on Human Rights, and that our joint cooperation is needed more now than ever.

### **III – The importance of shared responsibility**

This brings me on to my third point this morning.

As we know, the Convention system is based on the concept of shared responsibility, with the Court playing an external supervisory role when called upon in individual cases. Yet it is every domestic judge, applying the European Convention in their national court, who also acts as a human rights judge.

This relationship was recognised in the 2012 Brighton Declaration that brought into effect Protocol No. 15 to the Convention, with the principle of subsidiarity added to the Preamble of the Convention.

The principle acknowledges the reality that national authorities have direct democratic legitimacy and are better equipped to evaluate the local needs and conditions as they relate to the Convention's standards.

It is only logical that national courts should *always* be the courts of first instance when effective national remedies exist, making the obligation to protect the rights and freedoms enshrined in the Convention primarily a task for you, domestic actors. It goes without saying that national judges, prosecutors, lawyers, and other legal professionals, as well as law students, need access to high quality and up-to-date training.

This is where HELP comes in, a necessary network to facilitate the free flow of information between the Strasbourg Court and High Contracting Parties via judges, prosecutors, legal professionals and students.

#### **IV – Outreach and sharing Convention knowledge**

Before diving deeper into the specificities of the HELP network, I would like to take a minute to comment on the other practices used by the Court to improve the understanding of key Convention principles and to maintain this open dialogue with Member States.

One of the methods used for promoting judicial dialogue consists of hosting delegations of superior national courts.

Just from the beginning of 2024, the Court received delegations of judges from the UK superior courts, the Constitutional Court of Latvia, the Danish Supreme Court. This September we will receive a delegation from the Supreme Court of my country, Slovenia, and the Supreme Administrative Court of Sweden.

More generally, the Court externalised its Knowledge Sharing platform in late 2022 to provide publicly accessible detailed case-law analysis on all of the Convention articles as well as on transversal themes, such as the environment, terrorism, and prisoner's rights. The case-law is updated weekly, with new knowledge-sharing documents on themes frequently released, for example the 'Guide on the Rights of the Child' or on the European Union law in the Court's case-law. Indeed, on the synergy between European Union law and Convention law, I would like to draw your attention to the fact that a new KS page was launched on 14 June last at a seminar organised in the Court building to which the HELP network had direct online access. Moreover, we were happy to help publicise the EU/ECHR HELP module in the seminar room itself with material available for participants. I am pleased to see that you will have a specific session this afternoon with an overview of the Knowledge Sharing platform as well as the new HELP module on this platform. This seems an excellent example of working together.

The Court has also strengthened its Superior Courts Network with membership rising to 110 courts from 45 States when the Supreme Administrative Court of Bulgaria and the High Administrative Court of Croatia were welcomed in April. To provide some background information, the Network was established back in 2015 to enrich dialogue between the European Court and the national judicial systems, and has grown into a platform for multi-faceted exchanges where all courts can share knowledge about respective jurisprudential updates and other legal challenges. The Network helps us to provide concrete operational support to national judges but also provides the means for member courts to valuably assist the Court. For instance, once a Strasbourg judgment has been delivered, the national contributions obtained for that case are compiled and made available to SCN member courts, enhancing comparative analysis. In addition, the Superior Courts Network invites regional human rights courts to participate in the dialogue, with the African Court of Human and Peoples' Rights joining the Network in 2023 as the third observer court, following the Court of Justice of the European Union in 2021, and the Inter-American Court of Human Rights in 2022.

In the context of the Superior Courts Network, the Court restructured its informal exchanges with superior court professionals into a Visiting Professionals Scheme in April 2023. This scheme focuses on sharing the 'know-how' of the Strasbourg Court with SCN member courts. What I mean by this, is that knowledge is shared on topics related to judicial processes and needs, such as adapting working methods to emergencies, legal research, effective case-management, digitalisation, and the anonymisation and protection of personal data in proceedings.

To put it simply, the future of the Convention system depends on its relationship with domestic jurisdictions, with you. The Court recognises that judicial dialogue is the lifeblood of our Convention

system and continues to make every effort to share convention knowledge with High Contracting States, and the HELP courses are a very efficient way of doing so.

### **V – HELP in the face of challenges**

The importance of the HELP network in facilitating the relationship between Strasbourg and domestic jurisdictions, cannot be overstated.

HELP provides excellent assistance by raising awareness of the Convention, synthesizing case-law, facilitating accessible training, and providing essential courses, for example on quality judgments which comply with Council of Europe standards.

One key benefit of the HELP courses is the comprehensive coverage of both EU and European Convention standards they provide. We at the Court are aware of the additional complexity of the legal landscape that befalls national judges who are subject to the Convention and Charter of Fundamental Rights. Considering the vast number of judgments that the Strasbourg Court produces each year, the staggering volume of legal developments of both Courts can become overwhelming. HELP clarifies and compares case-law and thus gives practitioners the tools to navigate the complicated waters of European human rights protection. This was particularly clear in the recent HELP course on the interplay between the European Convention and the Charter.

Moreover, alongside HELP providing education on the backbone of human rights law, it deals with emerging challenges on specialised topics. I will illustrate this by briefly mentioning two contemporary challenges for society.

Firstly, in an age of increasing digitalisation, the Court faces novel issues. One case stands out to me in this regard, namely *Glukhin v. Russia*.<sup>1</sup> The applicant in this case carried out a solo demonstration in the Moscow underground, carrying a life-size cardboard figure of a political activist facing imprisonment for peaceful protests. According to the applicant, the police used Facial Recognition Technology to identify him in photographs and videos published on the Telegram application, and to locate and arrest him using live facial recognition technology while he was travelling on the Moscow underground several days later. The Court held that there had been a breach of Article 8 of the Convention, the right to respect for private life, stating that “the use of highly intrusive facial recognition technology in the context of the applicant exercising his Convention right to freedom of expression is incompatible with the ideals and values of a democratic society governed by the rule of law, which the Convention was designed to maintain and promote.”<sup>2</sup>

While the Court is yet to hear many cases on this topic, it is just a matter of time until more complaints are brought relating to AI. It is an issue that the Council of Europe has set its mind to in recent years, with the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law being adopted on 17 May 2024 by the Committee of Ministers and being opened for signature later this year in September. Alongside this framework, it will be of great use to have legal training on the topic ready to hand and it is most welcome to hear that the HELP team has provided us with this in the new course on Artificial Intelligence and Human Rights.

Secondly, and picking up on a theme I mentioned at the beginning of my intervention, the HELP team has been able to produce new courses which reflect the reality of war on our continent. These include ‘Temporary Protection in the EU’ and, as my colleague Judge Gnatovskyy will introduce later today, a course on ‘International Humanitarian Law and Human Rights’. The team has also

---

<sup>1</sup> *Glukhin v. Russia*, no. 11519/20, § 90, 4 July 2023.

<sup>2</sup> *Ibid.*

successfully translated key courses into Ukrainian which allows a more accessible focus on relevant human rights issues.

To look to the future, I would like to bring your attention to a new course that is under development concerning the 'Deportation of children during armed conflict'. I am sure that you will learn more about this from the HELP team later on.

Thus, in the face of adversity and new challenges, the HELP network assists you with essential human rights training and up to date information.

## **Conclusions**

In such turbulent times of geopolitical upheaval, cooperation between the Council of Europe and domestic jurisdictions is as important now as it has ever been.

Ensuring effective protection of human rights in Europe requires continued collaboration in our system of shared responsibility, with a fully informed community of judges, prosecutors, practicing lawyers, and University students.

The HELP network and its offer of a multitude of courses provides a vital tool for maintaining democracy, the rule of law and respect for human rights in Europe.

You are the guardians of our common values and the architects of our European future. We have a common duty to keep democracy on course and to strengthen the Convention system for future generations.

Thank you for the valuable contribution which you make to the European Convention's system for the protection of human rights. I wish you all a very successful Conference and once again reiterate my congratulations on the HELP network's 20th anniversary. The Court will continue to work hand in hand with you in the years ahead.