



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

Award ceremony for Dresden International Peace Prize – acceptance speech

Speech by Marko Bošnjak

Dresden, 16 February 2025

Distinguished guests, esteemed members of the Dresden Peace Prize jury, ladies and gentlemen,

It is with pleasure, great honour, and gratitude that I accept the Dresden Peace Prize award on behalf of the European Court of Human Rights for its special contribution to peace and international understanding.

This award is not only a recognition of the Court's work but also underscores the significance of the Council of Europe and its "crown jewel", the European Convention on Human Rights, as peace projects based on the principle that democratic regimes, respectful of human rights and the rule of law, do not go to war with one another.

The Convention is a treaty born from the ashes of war, designed as a bulwark against future conflict, and a testament to humanity's enduring hope for peace. This year we celebrate its 75th anniversary.

Dresden, a city that experienced utter destruction and unfathomable carnage during the Second World War, is a fitting place for us to reflect on the role of the Convention system in creating conditions for a lasting peace in Europe.

The Convention System as a Peace Project

The adoption of the Convention on 4 November 1950 was Europe's means of securing certain of the rights set out in the Universal Declaration of Human Rights two years earlier. The idea behind it was simple yet profound: by protecting human rights and democratic governance, and ensuring their enforcement, Europe could secure lasting peace.

The unprecedented devastation, brutality and human suffering of the Second World War and the horrors of the holocaust left deep scars on the continent. But out of that abyss emerged a collective determination to build a future where such atrocities would never be repeated.

European leaders at the time recognized that those atrocities were not only the result of military aggression but also of a totalitarianism that led to the systematic erosion of human dignity, the suppression of democratic principles and the collapse of the rule of law. They understood that lasting peace could not be achieved solely through peace treaties and alliances, that peace was not simply the absence of war, and that human rights violations sow the seeds of conflict, division, and violence. True and enduring peace required the presence of justice, human rights, democracy, and the rule of law, along with a commitment to the inherent dignity and worth of every human being.

The Convention was a response to this momentous challenge. It was a bold and audacious peace project, creating a legal and moral framework to prevent descent into tyranny and conflict, and an institutional articulation of the principle of 'never again' conceived as an early warning system against war.

In the last 75 years the Convention has achieved a great deal. It has rid us of the death penalty and embedded itself into national legal systems becoming a "a constitutional instrument of European public order"¹, a glue which binds us together around our shared values despite our many differences and the historical and political rivalries between our States.

Crucially, the Convention was not simply a declaration of good intentions but the first binding international instrument for enforcement of human rights. The Convention founders perfectly understood that where there is a right there must be a remedy (*ubi ius, ibi remedium*) or, what is perhaps even more true, that there must be a remedy if the rights are to mean anything at all (*ubi remedium, ibi ius*).

To ensure that the States' obligations were not merely empty promises but real and enforceable commitments, for the first time ever the Convention created an international oversight mechanism based on the right of individual application which allowed individuals to hold States accountable before an international tribunal – the European Court of Human Rights.

This was a revolutionary concept and an important milestone in the protection of human rights in Europe and beyond. It recognized individuals as subjects of international law and marked a significant departure from a traditional principle that States' actions toward its own citizens were beyond international scrutiny.

What was equally remarkable was that, by accepting this mechanism, the States implicitly acknowledged that they needed some degree of institutional check. Past atrocities showed them that unchecked power, even when democratically attributed, risks failing in the protection of human rights.

Having experienced the damage caused by that risk becoming reality, they understood that some external review was required. So, they carefully designed and established the European Court of Human Rights.

The Court, often labelled as "conscience of Europe", lived up to these ideals and expectations. Over the years the Convention system became not only the most advanced and effective international mechanism for protecting human rights but also the most established and effective system of international justice. Thousands of people have turned to the Court over the years to vindicate their rights.

Through its dynamic and evolutive interpretation of the Convention as a "living instrument"² which guarantees the rights that are not "theoretical or illusory but practical and effective"³, the Court was able to apply the Convention to situations that were unforeseeable and unimaginable at the time it was adopted, including issues related to new technologies, bioethics or climate change.

¹ See, for example, *Loizidou v. Turkey* (preliminary objections), 23 March 1995, §§ 75 and 93, Series A no. 310; *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 156, ECHR 2005-VI; and *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, § 110, 13 February 2020.

² *Tyrer v. the United Kingdom*, 25 April 1978, § 31, Series A no. 26.

³ *Airey v. Ireland*, 9 October 1979, § 24, Series A no. 32.

We often hear that those unforeseeable and unimaginable situations include conflicts, and that the Convention was not meant to operate in times of war. That is not correct.

The Role of the Court in Times of War: Taming Wars Through Human Rights Law

Ladies, and gentlemen,

The reality is that, despite our best efforts, conflicts still arise, and wars do break out. War remains a tragic and persistent element of human history.

The drafters of the Convention were aware of this but refused to follow the old Latin proverb *Inter arma enim silent leges* (In times of war, the law falls silent). Article 15 of the Convention therefore clearly provides that human rights also apply in times of war.⁴

The Court itself has repeatedly affirmed, in line with the case-law of the International Court of Justice⁵, that, even in situations of international armed conflict, the safeguards under the Convention continued to apply, albeit interpreted against the background of the provisions of international humanitarian law.⁶

In such times, the focus shifts from preventing war to containing its horrors and securing accountability. The Convention, as a living instrument, acts as a vital safeguard against wartime excesses, providing legal recourse for victims and proving that justice remains possible even during conflict.

Even in the midst of war, the Court interprets the Convention as an instrument to tame violence and the ravages of war and mitigate suffering⁷ by ensuring that humanitarian principles are upheld.

The Court's judgments in cases involving armed conflicts – be they in the Northern Cyprus, the Caucasus, or Ukraine – have reaffirmed that States must conduct military operations in a manner that respects human dignity and minimizes harm to civilians⁸. In so doing, the Court does not seek to replace international humanitarian law, but to reinforce and complement it.⁹

⁴ Article 15 of the Convention reads:

"1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed."

⁵ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* (Judgment, ICJ Reports 2005, p. 168)

⁶ See, for example, *Hassan v. the United Kingdom* [GC], no. 29750/09, § 104, ECHR 2014; *Georgia v. Russia (II)* [GC], no. 38263/08, § 93, 21 January 2021; and *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, § 913, 25 June 2024.

⁷ See the speech by Angelika Nußberger at the Conference on 70th anniversary of the European Convention on Human Rights, https://www.echr.coe.int/documents/d/echr/Speech_20200918_Nussberger_Conference_70_years_Convention_ENG

⁸ See, for example, *Isayeva and Others v. Russia*, nos. 57947/00 and 2 others, § 183, 24 February 2005 where the Court held that Article 2 of the Convention required that military operations were planned and conducted in such a way as to avoid or minimise, to the greatest extent possible, harm to civilians. See, also, *Benzer and Others v. Turkey*, no. 23502/06, § 184, 12 November 2013, where the Court held that that an indiscriminate aerial bombardment of civilians and their villages cannot be acceptable in a democratic society, and cannot be reconcilable with any of the grounds regulating the use of force which are set out in Article 2 § 2 of the Convention or, indeed, with the customary rules of international humanitarian law or any of the international treaties regulating the use of force in armed conflicts.

⁹ See, for example, *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 185, ECHR 2009, where the Court held that Article 2 of the Convention had to be interpreted in so far as possible in light of the general principles of international law, including the rules of international humanitarian law which play an indispensable and universally accepted role in mitigating the savagery and inhumanity of armed conflict.

The Convention as an Instrument of Transitional Justice and Post-Conflict Reconciliation

Beyond its role in preventing and mitigating conflicts, the Convention and the Court's rulings also serve as a vital instrument of transitional justice. They underpin post-conflict settlements such as those related to the Northern Ireland Troubles and the war in Bosnia and Herzegovina: the Convention figures prominently in the Good Friday Agreement and forms a part of the Dayton Peace Agreement.

These examples illustrate that the Convention is not merely a theoretical instrument; it is a practical tool for building just and lasting peace. It provides individuals with a means to seek redress, fosters reconciliation by ensuring justice, and helps post-conflict societies transition from war to democracy.

Conclusion

As we reflect on the past and celebrate the achievements of the European human rights system, we must also look to the future. The challenges we face today – rising authoritarianism, populist attacks on judicial independence, the erosion of democratic norms – remind us that the fight for human rights and peace is a permanent struggle.

We must remain vigilant in defending the principles upon which the Convention was founded. The Court cannot do this alone; it requires the unwavering support of States, civil society, and individuals who believe in human rights, democracy and the rule of law. We must ensure that the Convention remains a living, breathing document – one that evolves with the times while staying true to its core mission: to protect human dignity and secure peace.

Let us continue to work together to prevent war through justice, to contain violence through law, and to build a future where peace is not just an aspiration, but a reality.

The Court is honoured to receive the Dresden Peace Prize. We accept it not only as recognition of our past work but as a call to action for the future.

Thank you!