



28th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Lanzarote (25-26 October 2007)

**“Emerging issues of access to justice for vulnerable groups, in particular:
- migrants and asylum seekers;
- children, including children perpetrators of crime”**

Address by

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It is a great honour and pleasure for me to address this conference on behalf of the Court.

The issue here is one of fundamental human rights for those who most need protection of their rights and freedoms.

Let me in this context underline the important role of the European Court of Human rights.

We have distributed two information documents: one concerning children before the Court, one concerning migrants before the Court.

These documents suffice to prove the importance and wealth of the Court's case-law in this area.

The Court's role in the protection of the vulnerable groups is one of the reasons why we are inundated by applications from all around Europe.

We have now over 100 000 applications pending.

In recent times, we have received particularly large numbers of applications from migrants who risk being expelled.

The protection of vulnerable groups lies at the core of the whole Convention on Human Rights and is reflected in every substantive article. It is vulnerable groups that are by definition the most at risk of breaches of the Convention and yet they are the least well-placed to seek and obtain protection. Indeed vulnerable groups may have difficulty getting access to normal public services that the rest of us take for granted, and this includes access to the national legal system. For many of them, Strasbourg will seem an impossible goal.

It is therefore essential, in this area as in others, that Contracting States fulfil their obligation under Article 1 of the Convention to secure themselves the Convention rights and freedoms to all persons within their jurisdiction. This is not a theoretical notion. The States must establish effective procedures and remedies at national level to allow persons, and particularly vulnerable persons, to assert their Convention rights in practice. Such protection offered at international level will never be as effective as a properly functioning system at national level, nor of course will it be as accessible.

Any discussion of the future effectiveness of the Convention system must focus on improving implementation at national level. This means also following and complying with the Strasbourg case-law. We at the Court have an obligation to facilitate this by multiplying our contacts with national judicial authorities and also working together with our colleagues in the Council of Europe to make available the most important judgments in national languages.

Access is therefore a key word in this context. The drafters of the current Convention envisaged an international Court to which 800 millions would have direct access. This can only make sense if it comes into play only in a subsidiary way after the domestic judicial bodies have been fully engaged and have been able to examine all the Convention issues themselves. Where this does not happen - and there are still many situations where it does not – the system runs the risk of breaking down and the Court becomes saturated. It is vulnerable groups who will suffer the most.

In this context I would wish to remind you of the absolute nature of the prohibition of ill treatment under Article 3, which extends to the expulsion/extradition of persons at real risk of such treatment in the receiving country. The Court is faced with growing numbers of time- and resource-consuming requests for the adoption of interim measures from persons who are at the point of being expelled to a country where there is a legitimate concern about their fate. The Court does not adopt such measures lightly, and I would only request that where it has been established that there is a more or less generalised risk in a given country of destination, States

do not continue to seek to expel persons to that destination since, quite apart from the question of the treatment of this category of vulnerable persons, this will also contribute to clogging up the Convention mechanism.

I would underline that when the Court asks the Government not to expel a particular person this is binding on the Government.

Facing all these applications, the Court needs the help of all Member States. One way is of course to help us by increasing our resources. But that is not the solution in the longer term.

The best help you can give the Court is to concentrate on putting in place efficient domestic remedies and procedures by which the domestic Courts apply the standards of the Convention and the case-law of the Court. This is the most effective way to help vulnerable persons.

Thank you. I wish you great success with this conference.

