Proceedings/Actes

High Level Conference on the Future of the European Court of Human Rights

Conférence de haut niveau sur l'avenir de la Cour européenne des droits de l'homme

İzmir, 26-27 April/avril 2011

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The future of the European Court of Human Rights

L'avenir de la Cour européenne des droits de l'homme

High-level conference organised in İzmir, Turkey, on 26 and 27 April 2011
by the Turkish chairmanship of the Committee of Ministers of the Council of Europe
Conférence de haut niveau organisée à İzmir, Turquie, les 26 et 27 avril 2011,
par la présidence turque du Comité des Ministres du Conseil de l'Europe

Proceedings
Actes

Directorate General
of Human Rights and Legal Affairs
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İzmir, Turkey, 26-27 April/avril 2011

Monday 25 April
Lundi 25 avril

	Social programme and registration	Programme social et inscription

Tuesday 26 April
Mardi 26 avril

9.00-10.00	Registration	Inscription
10.00	Opening of the Conference	Ouverture de la Conférence
	Opening address by Mr Ahmet Davutoğlu, Minister of Foreign Affairs of Turkey, Chairman of the Committee of Ministers of the Council of Europe	Allocution d'ouverture par M. Ahmet Davutoğlu, ministre des Affaires étrangères de la Turquie, au nom de la Présidence turque du Comité des Ministres du Conseil de l'Europe
	Address by Mr Ahmet Kahraman, Minister of Justice of Turkey	Allocution par M. Ahmet Kahraman, ministre de la Justice de la Turquie
	Address by Mr Thorbjørn Jagland, Secretary General of the Council of Europe	Allocution de M. Thorbjørn Jagland, Secrétaire Général du Conseil de l'Europe
	Address by Mr Mevlüt Çavuşoğlu, President of the Parliamentary Assembly of the Council of Europe	Allocution de M. Mevlüt Çavuşoğlu, Président de l'Assemblée parlementaire du Conseil de l'Europe
	Address by Mr Jean-Paul Costa, President of the European Court of Human Rights	Allocution de M. Jean-Paul Costa, Président de la Cour européenne des droits de l'homme
	Address by Mr Thomas Hammarberg, Council of Europe Commissioner for Human Rights	Allocution de M. Thomas Hammarberg, Commissaire aux droits de l'Homme du Conseil de l'Europe
11.00	Group photo of heads of delegation and coffee break	Photo de groupe des chefs de délégation et pause café
11.45-12.30	Statements by heads of delegation	Présentation par les chefs de délégation

12.30-13.00	Press Conference by Chairman of the Committee of Ministers, Secretary General of the Council of Europe and President of the European Court of Human Rights	Conférence de presse par la Présidence turque du Comité des Ministres, le Secrétaire Général du Conseil de l'Europe et le Président de la Cour européenne des droits de l'homme
13.00-14.30	Lunch	Déjeuner
14.30	Statements by heads of delegation (continued)	Présentation par les chefs de délégation (suite)
	Address by Mr Jean-Marie Heydt, President of the Conference of INGOs of the Council of Europe	Allocution de M. Jean-Marie Heydt, Président de la Conférence des OING du Conseil de l'Europe
	Address by Ms Beate Rudolf, Representative of the European Group of National Human Rights Institutions (NHRI)	Allocution de Mme Beate Rudolf, représentante du Groupe européen des Institutions nationales des droits de l'Homme (INDH)
18.30	End of the session	Fin de la séance
19.30	Dinner	Dîner

Wednesday 27 April
Mercredi 27 avril

9.00-10.00	Conclusions by the Turkish Chairmanship of the Committee of Ministers of the Council of Europe	Conclusions présentées par la Présidence turque du Comité des Ministres du Conseil de l'Europe
10.00	Adoption of the Declaration and Close of the Conference	Adoption de la Déclaration et clôture de la Conférence

Opening addresses – Discours d'ouverture

H.E. Ahmet Davutoğlu

Minister of Foreign Affairs (Turkey), Chairman of the Committee of Ministers of the Council of Europe

Distinguished colleagues, distinguished participants,

First of all you are most welcome to one of the most beautiful cities of the Mediterranean, İzmir. I hope you will enjoy your stay in İzmir. I hope we will have a very fruitful session.

As one of the founding members of the organisation, Turkey is pleased to host this important conference on the future of the European Court of Human Rights. On behalf of the Chairmanship of the Committee of Ministers and the Government of Turkey, I wish to extend to you all a very warm welcome to İzmir and to Turkey.

My country has responded positively to the invitation made at Interlaken in February 2010 to the future chairmanships of the Committee of Ministers to follow up on the implementation of the Interlaken Declaration. The reform of the Court has been identified as a priority of the Turkish Chairmanship.

We believe that the İzmir Conference will provide a new impetus to the Court reform process which was launched by the Interlaken Conference last year.

Distinguished participants,

The Convention system, to which the European Court of Human Rights is central, plays a pivotal role, establishing common standards for the respect and protection of human rights. It has value both as a symbol enshrining our shared values of human rights, democracy and the rule of law, and it also serves as a practical mechanism for ensuring that rights and freedoms are protected and that our shared values are thus respected.

The mere existence of a European Court, where more than 800 million Europeans are entitled to take their complaints, which, they believe, had not been

resolved through domestic remedies, is a success in itself. This success, however, brings along high expectations. At the top of the list of expectations comes a court which functions effectively and can dispose of applications within a reasonable time; a Court which ensures legal security both for individuals and for states through a consistent case-law.

Distinguished participants,

Reform of the Court has been on the agenda for more than a decade. At the meeting of the 50th anniversary of the Convention in November 2000 in Rome, which took place only after the entry into force of Protocol No. 11, many calls were heard for measures aimed at increasing the effectiveness of the Court. However, these calls have not been fully fulfilled.

To date, some steps were of course taken, Protocol No. 14 being the most prominent. However, these steps have fallen short of meeting the ever-increasing challenges faced by the Court. After ten months of entry into force of Protocol No. 14, the Court has concluded in its written opinion for the İzmir Conference that while the results so far achieved are encouraging, Protocol No. 14 will not provide a lasting and comprehensive solution to the problems facing the Convention system.

The present difficulties challenging the long-term effectiveness and future of the Convention system are our common concern. The responsibility of the ownership of this protection mechanism requires that our governments be able to display the same common political will which they had shared at the time of the creation of the Convention system.

Distinguished participants,

The İzmir Conference pursues two main goals in the context of ensuring the long-term effectiveness of the Convention mechanism. The first is to take stock, in accordance with the Interlaken Action Plan, of the proposals that do not require amendment of the Convention; and the second is, having also regard to recent developments, to take necessary measures.

The biggest problem is the Court's case-load. Over 90% of the decisions produced by the Court declare applications inadmissible. This fact clearly shows the need to take additional measures with regard to access to the Court. Filtering out these inadmissible applications is taking too much of the Court's time and resources, which are already stretched beyond its capacities. Although the provisions introduced by Protocol No. 14 and recent measures adopted by the Court are important and necessary, they will not, however, be sufficient. We must thus make absolutely clear our political will to find more radical solutions to existing problem.

With regard to access to the Court, the Interlaken Declaration called upon the Committee of Ministers to consider any additional measure which might contribute to a sound administration of justice. It also calls for examining in particular under what conditions new procedural rules or practices could be envisaged, without deterring well-founded applications. Taken together with other concrete steps, the introduction of an application fee would have a considerable impact in reducing the backlog problem. We must continue to examine the issue of charging fees to applicants together with other possible new procedural rules or practices such as compulsory representation.

Making the practice on just satisfaction more transparent and foreseeable would certainly allow more cases to be settled outside of the Court and, perhaps, discourage applicants with unrealistic expectations.

Distinguished participants,

The other great concern arising from the Court's case-load is the problem of repetitive applications. This must primarily be resolved through effective implementation of the Convention and the Court's judgments at national level. We must ensure that effective domestic remedies exist, providing for a decision on alleged violations of the Convention and, where necessary, its redress.

We need adequate national measures to contribute actively to diminish the number of applications. We also need further guidance to ensure better understanding of the Convention and the Court's case-law and avoiding repetitive applications. We believe that the procedure for advisory opinions and having reasoned decisions in the rejection of applications for referral to the Grand Chamber would clearly ensure that more cases are dealt with satisfactorily at national level.

Effective execution of judgments, of course, requires the Court's judgments to be clear and consistent in their prescriptions. On the other hand, the principle of subsidiarity requires full, consistent and foreseeable application by the Court of the admissibility criteria. At the same time it requires observance of the rules regarding the scope of its jurisdiction, namely, *ratione temporis*, *ratione loci*, *ratione personae* and *ratione materiae*.

The admissibility criteria are an essential tool in managing the Court's case-load and in giving practical effect to the principle of subsidiarity. The new admissibility criterion adopted in Protocol No. 14 remains to be evaluated with a view to its improvement. We also need to initiate work to reflect on the admissibility criteria, including about how the criteria can be made more effective and whether new criteria are required.

Distinguished participants,

Since the Interlaken Conference the number of interim measures requested in accordance with Rule 39 has greatly increased, thus further aggravating the workload of the already overburdened Court. The Turkish chairmanship has taken into account growing concerns about the application of Rule 39, and supported the view that we have to take concrete steps on this issue. We expect that the implementation of the approach set out in the İzmir Declaration, which will be adopted by this conference, will lead to a significant reduction in the number of interim measures, and to the speedy resolution of those applications.

The Convention has been integrated into the national legal systems of all Council of Europe member states. That process must now be completed by the accession of the European Union to the Convention. Bringing the institutions of the European Union within the scope of the Convention will be a huge step forwards for human rights protection in Europe. Of course difficulties, both technical and political, will emerge as we work towards accession; but I am confident that the outcome will be successful. Turkey, will sustain its support and efforts for the ongoing accession process until the ministerial session in Istanbul. For the creation of a common legal space for the European human rights protection system, it is very important not to lose the political momentum created by the entry into force of the Lisbon Treaty and thus, to realise the accession as soon as possible.

Distinguished participants,

When we decided to convene this Conference, we were aware of the difficulties of reaching a consensus in some measures expressed in the Interlaken Declaration. Nevertheless, it was our priority to take further concrete steps, as an expression of the States Parties' determination to continue the Interlaken process. Without maintaining our political will, taking stock of the progress already achieved, and without envisaging our future steps, the reform process would be abandoned to an uncertain future.

The İzmir Declaration which will be adopted by this conference is the outcome of a collective effort made in the spirit of compromise and co-operation. Our goal was to reflect a common ground acceptable, at this stage, to all 47 members. Naturally, this will not provide all the answers for the reform of the Court. However, we believe that the outcome of this conference will give fresh encouragement and further guidance to the ongoing work on finding lasting solutions to the existing problems, it will also help to pursue long-term strategic reflections about the future role of the Court.

In view of this, I wish to conclude by expressing my confidence that our conference will make an important contribution to the future of the Court and that

of the Convention mechanism as a whole. I am sure that the future chairmanships will continue to give follow-up to this process.

Distinguished participants,

Welcome to İzmir. I wish you a great time here.

Mr Ahmet Kahraman

Minister of Justice (Turkey)

Honourable colleagues, esteemed participants,

I am honoured to be at this important Conference on the Future of the European Court of Human Rights that has taken on the role of encouraging the advancement of individual rights and freedoms and the source of inspiration for many judicial reforms in our country, and to host such distinguished participants in my hometown of İzmir.

We believe that through its aims which can be outlined as ensuring respect for human rights by the Contracting States to the European Convention on Human Rights, the European Court of Human Rights has played an important role in upholding the rule of law and by establishing common standards aimed at the protection of individual rights in Europe.

In this context, we, as the Ministry of Justice, attach importance to the envisaged and formulated reforms to enable the European Court of Human Rights to perform its vital mission in an effective way, and to this extent, we consider it important to implement the Action Plan adopted last year in Switzerland (Interlaken).

We also express our appreciation of the fact that during our Chairmanship of the Committee of Ministers, the Ministry of Foreign Affairs of Turkey fulfilled it's incumbent duty and did not spare any effort for the effectiveness of the Court by organising this conference.

Distinguished participants,

While we view positively the increase in the effectiveness of the Court, we are of the opinion that applications to the Court should be precluded through

improvements at the domestic levels which would be able to provide alternative means of redress and solutions.

Accordingly in this way, we believe that it will not only be possible to avoid violations of rights but also by displaying improvements within member states' systems, this will greatly benefit the easing of the burden on the Court itself.

In recent years, Turkey has taken many steps in the prevention of the violation of rights. Within the last decade, many legislative reforms have been implemented in our country, from the criminal laws to the commercial laws. Through such reforms many potential situations that may have caused risk of violation of rights, have been prevented.

With the envisaged new Constitution, planned to be completed next year, these legislative amendments will be more firmly assured.

On another aspect, during this period of time, our country has made headway in a number of changes for the judicial personnel. As well as improving their personal rights, it has also supported further education for the members of the judiciary through the establishment of the Justice Academy. Above all, by reforming the structure of the Supreme Board of Judges and Prosecutors, it has enabled the Board to become more independent and democratic.

Our activities continue in many different areas. These include, for example: a legislation launching the courts of appeals to speed up the functioning of the judiciary and the realisation of the national justice information system (NJIS), which is the first integrated judicial electronic communications network.

On the other hand, in order to examine violations of rights without giving the necessity for recourse to the European Court of Human Rights and to conclude allegations of violation, where necessary, by redressing the victims within our domestic system, the right to individual petition to the Constitutional Court will enter into force at the end of 2012.

Distinguished guests,

I do not intend to bore you today by mentioning all the activities we have realised.

However, it is true that our country has taken the judgments of the European Court Human Rights as her guide and turned them into its watchword in reforming her system and transforming Turkey into a place where human rights and human honour takes precedent above all else.

We are aware that there is still a long way to go. Nevertheless, in the not too distant future, through determination and persistence, Turkey will become one of the countries which best guarantees the rights as protected under the European Convention on Human Rights.

Once more I salute all the participants, and hope that each of you has a pleasant stay in İzmir.

Mr Thorbjørn Jagland

Secretary General of the Council of Europe

Ministers, Excellencies, ladies and gentlemen,

I will start by thanking our hosts, the Turkish Chairmanship of the Committee of Ministers, for having organised this important Conference and ensuring such a warm welcome in the beautiful city of İzmir.

We are gathered here today to find solutions to the important challenges faced by the European Court of Human Rights which, over the last fifty years, has become the world's largest and most influential international court as well as its foremost human rights court.

The Court's case-law has over the years raised the protection of human rights in all our member states to a higher and uniform standard. The Court has thus become the guarantor of long lasting international stability and peace.

If the Court fails, the Convention system fails; and if the Convention fails, the Council of Europe will fail.

Let me illustrate, with facts and figures, the challenges faced by the Court:

- At the end of last month, there were 149 100 applications pending before the Court.

  That is almost 30 000 more than when we met in Interlaken last February.

  The Court is receiving far too many applications.
- The overwhelming majority of these applications are inadmissible: in fact nine out of ten applications are declared inadmissible.

  Most of these applications should never have been made.
- In 2010 the Court found violations in 1 282 judgments.

Most of these judgments should not have been necessary because they related to problems for which the Court had already indicated solutions.

In other words, they were what we call clone or repetitive applications. There were about 25 000 such applications pending before the Court at the end of 2010.

Too many applicants are obliged to bring their applications to Strasbourg, because their national authorities are failing to resolve well-known, widespread problems.

As a result of these important challenges the Court is faced with, it is spending far too much of its resources on work that falls outside its core function.

This means less time can be devoted to the original and noble purpose of the Court: to examine applications that are of principal importance for human rights protection in Europe.

How can we respond to these challenges?

Our priority must be to do something about the repetitive applications as well as the inadmissible applications.

- In that context, the Court needs to exploit the full potential of Protocol No. 14.

I refer in particular to the new single judge procedure for dealing with inadmissible applications; and also to the new three-judge committee procedure, for dealing with repetitive applications.

I know that the Court has made excellent progress in implementing these two innovations.

At the same time, I am sure that there is still scope for improvement.

Why not have a small number of judges working full-time on filtering for a certain, limited part of their nine-year term of office?

The new admissibility criterion contained in Protocol No. 14 – that applicants must show that they have suffered "manifest disadvantage" – has great unexploited potential.

By using it more extensively, the Court could reject a greater number of unimportant cases by simple decision, instead of issuing judgments that are far more complex and time-consuming.

Protocol No. 14 has now been fully in force for almost eleven months; growth in the backlog has however continued and shows no signs of slowing down.

Protocol No. 14, therefore, may be palliative – but it will not be the cure.

- The problem of repetitive applications is a fundamental issue.

When states find themselves confronted with applications involving familiar problems, they should more often propose solutions directly to the Court, without waiting for yet another judgment from the Court.

Friendly settlements and unilateral declarations can allow the Court to strike applications out of its list by a simple decision.

And if the settlement or declaration includes appropriate general measures, the underlying problem may be solved once and for all. Council of Europe relevant entities should be of assistance to member states in the adoption of general measures requiring amendments to the legislation or changes in the practice.

- The problem of inadmissible applications must be tackled from both sides: reduce the rate of incoming applications and increase the Court's output of decisions to reject them.

Both the Court and I have taken, or are proposing various measures to provide better information to applicants on the role of the Court – and in particular on the limits to that role.

There are other, more radical possibilities for deterring inadmissible applications, such as introducing a system of fees for applicants or obliging them to have legal representation when applying.

These possibilities will continue to be examined.

What we cannot avoid, however, is to reach agreement on a new procedure or mechanism for filtering by the Court, one that goes beyond the single judge procedure and one that does not need any amendment to the Convention.

Once we have agreed on this, I am prepared to mobilize resources for the Court so that the filtering can be effective.

Ladies and gentlemen,

National experts have been discussing these issues – and others – since the Interlaken Conference.

I do understand that careful technical preparation is absolutely necessary, but it must be backed up by political determination: a recognition of the need for immediate action and a willingness, if necessary, to compromise in the wider interest.

The only completely unacceptable option is to do nothing, or – perhaps even worse – to tinker around the edges and imagine that this will be enough.

In the end, the big answers to the big problems can only come from the States Parties themselves.

This should come as no surprise, since the Convention system is based on the principle of "subsidiarity."

When we talk about subsidiarity in the Convention system, what do we mean?

First and foremost, we mean that "human rights protection begins at home."

The States parties to the Convention have all voluntarily accepted to respect and protect the rights and freedoms it contains.

For the past ten years, the need for greater action at national level has been a constant theme of work on reform of the Convention system.

Yet the need is still there.

Violations of the right to fair trial, on account of the excessive length of domestic judicial proceedings, are still by far the most frequent form of violation found by the Court in its judgments.

The Court has for years been issuing judgments against a number of States in which it has found this kind of violation.

Subsidiarity also means that states must execute the Court's judgments swiftly and fully.

The more judgments the Court issues, the more work the Committee of Ministers has in supervising their execution – and the Court's output has increased impressively in recent years.

I therefore welcome the Committee of Ministers' new working methods for supervision of the execution of judgments, and encourage all member states to co-operate fully and effectively.

Subsidiarity also concerns the Court. The President of the Court will inform you about the different measures taken by the Court in that respect following Interlaken.

Ladies and gentlemen,

I shall repeat what I already stated in Interlaken.

The Court is not an isolated body and cannot operate in an institutional, political or social vacuum.

The Court judgments provide authoritative interpretation of Convention provisions, underpinning our standard-setting and co-operation activities and giving important references to our other human rights mechanisms.

This is the driving force of the Council of Europe as an intergovernmental organisation.

Other Council of Europe mechanisms, institutions and programmes which help member States to fulfil their obligations without the need for Court judgments, are a reference point for the Court.

The Council of Europe is therefore indispensable to the effective functioning of the Convention system.

That is why, with the support of the Committee of Ministers, I am proposing far-reaching reforms to revitalise and streamline our work and preserve our relevance for the future.

The aim of these reforms will be to ensure greater impact and effectiveness – including cost-effectiveness – as well as greater visibility for priority activities in our central fields of human rights, democracy and the rule of law.

I am convinced that when these reforms are fully implemented, the number of applications before the Court will decrease.

In this connection, alongside our work on reform of the Convention system, we – the member states and the European Union together – are working to extend that system through accession of the European Union to the Convention.

European Union accession to the Convention is one of our highest priorities.

I am personally committed to helping to achieve a successful outcome as soon as possible.

Ladies and gentlemen,

Our work to ensure a sustainable, effective European human rights protection system is well under way.

Interlaken, along with the last state's ratification of Protocol No. 14, marked a new starting point, and the İzmir Conference will mark an essential staging post for stock-taking, clarification and prioritisation.

I find it fitting to recall President John F. Kennedy's words that as problems are made by men, solutions to the problems will also be found by men.

So let us be clear: the States Parties to the Convention have a collective responsibility to bring this process to a sustainable, successful conclusion.

The Convention is Europe's human rights badge of honour, made exceptional by the fact that the Court issues binding judgments on individual applications.

We must therefore renew our vigour and determination for the difficult tasks that still lie ahead: to ensure that future generations may benefit from the enormous advantages that the Council of Europe has brought to us by giving birth to the Convention and the Court.

Thank you.

Mr Mevlüt Çavuşoğlu

President of the Parliamentary Assembly of the Council of Europe

Ladies and gentlemen,

It is a great pleasure and honour for me to address this conference as President of the Parliamentary Assembly, one of the statutory organs of the Council of Europe. I wholeheartedly congratulate my fellow countryman, Foreign Minister Mr Ahmet Davutoğlu, for organising this important conference in the framework of the Turkish Chairmanship of the Committee of Ministers.

The reform of the European Court of Human Rights is part of the overall reform of the Council of Europe, which aims at making our organisation more relevant and more efficient. Both reforms are not only closely related, they are dependent on one another. The Court cannot be functional if the Council of Europe as a whole does not have the political leverage to promote legal reforms and to ensure the execution of the Court's judgments in its member states. Nor can the Council of Europe be functional if the Court is not capable of fulfilling its essential mission of protection of the European Convention on Human Rights.

The future of the Court is also very closely linked to the accession of the European Union to the Convention. This will guarantee a coherent, Europe-wide system of human rights protection and we should do all we can to speed up this accession in the coming months.

The Assembly, as the Committee of Ministers, is responsible for protecting the Council of Europe's human rights values and in ensuring compliance of the Convention standards by member states. I shall therefore now focus on the "parliamentary dimension" of work carried out by the Assembly and the national parliaments it represents.

The Assembly has been following closely the Interlaken process. In Resolution 1726 – which it adopted on this subject – it insisted that the process should take into account, in particular: the need to strengthen the implementation of Convention rights at the national level; the improvement of the effectiveness of domestic remedies in states with major structural problems, and the need to rapidly and fully execute the judgments of the Court.

The Assembly has also repeatedly stated that the authority of the Strasbourg Court depends on the stature of its judges and on the quality and coherence of the Court's case law.

Let me start with the issue of the judges to the Court who, as you know, are elected by the Assembly. The Assembly is doing its best to ensure that the judges are of the highest calibre. However, the selection procedures start in member states and we have always insisted that, in order to enhance the quality, effectiveness and authority of the Court, these procedures must be rigorous, fair and transparent.

Unfortunately, this is still not always the case and the Assembly has not hesitated, on several occasions, to send back lists which it has considered unsatisfactory. We therefore welcome the initiative of the President of the Court to create an Advisory Panel of experts which would counsel governments before any lists of candidates are transmitted to the Assembly.

I now move on to the key role that national parliaments can play in stemming the flood of applications submerging the Court. In this connection, the dual role of the Assembly's parliamentarians – as members of their respective national parliaments and of the Assembly, is an important asset that we have at our disposal.

First of all, the Assembly is undertaking serious efforts to ensure that national parliaments rigorously and systematically verify the compatibility of draft and existing legislation with the Convention's standards, and ensure effective domestic remedies.

Secondly, the Assembly and national parliaments also have a responsibility for rapid and effective implementation of judgments by the Strasbourg Court. The Committee of Ministers, which holds the principal responsibility for the supervision of the execution of the Court's judgments, has itself acknowledged the benefit of greater parliamentary involvement. That said, and in spite of the efforts of the Assembly, the manner in which many national legislative bodies

function in this regard is still not satisfactory. But I can assure you that we will persevere in this respect.

Priority must be given to solving major structural problems, which have led to numerous repeated violations of the Convention. The Assembly has identified, in particular, the following problems: the excessive length of judicial proceedings, chronic non-enforcement of domestic judicial decisions, deaths and ill-treatment by law enforcement officials, including lack of effective investigations into them, and unlawful or excessive detention on remand.

Subsequently, in its recent Resolution on the implementation of judgments of the European Court of Human Rights, the Assembly called upon the chairpersons of those national parliamentary delegations of states concerned by these problems – together, if necessary, with the relevant ministers – to present the results achieved in solving them. I personally, as President of the Assembly, have asked the chairpersons of the parliamentary delegations concerned to provide me with information – if possible within the next six months – on follow-up given by national parliaments.

I believe this is an example of how, in the context of the Interlaken follow-up, the Assembly has itself taken the initiative to give priority to the full and swift compliance with the Court's judgments which, in many instances, requires regular and rigorous parliamentary supervision.

Finally, I wish to inform you about progress made in the context of ongoing negotiations with respect to European Union accession to the European Convention on Human Rights. A joint informal body composed of representatives of the Assembly and the European Parliament met in March of this year to discuss the modalities of the participation of European Parliament representatives in the Assembly's process of electing judges to the Court subsequent to such accession. A large measure of agreement has already been reached on a number of issues in this respect and a second meeting is scheduled to take place in mid-June.

One of the issues that still needs to be thoroughly addressed is the concern of some member states that a "block" approach of the European Union in the Committee of Ministers, in particular as regards execution of judgments, would create an insurmountable voting majority. I wish to stress that on human rights issues, states must act in conformity with the fundamental values and principles and not according to their "block" belonging and solidarity. This is the unique value of the Council of Europe, where principles take precedence over economic, political, geo-political or other considerations.

Ladies and gentlemen, I believe that today's conference will help us to reach decisions which will not only ensure the viability of the Council of Europe and the Court, but will ensure better and more effective protection of the rights enjoyed by Europe's 800 million citizens. The responsibility lies with all of us.

I thank you for your attention.

M. Jean-Paul Costa

Président de la Cour européenne des droits de l'homme

Monsieur le Président du Comité des Ministres, Monsieur le Secrétaire Général du Conseil de l'Europe, Monsieur le Président de l'Assemblée, Mesdames et Messieurs,

L'an dernier s'est tenue à Interlaken la première conférence sur le futur de la Cour européenne des droits de l'homme.

Après avoir exprimé son ferme attachement à la Convention et reconnu « la contribution extraordinaire de la Cour à la protection des droits de l'Homme en Europe », la conférence d'Interlaken a adopté une Déclaration et un Plan d'Action, constituant une feuille de route pour le processus de réforme vers une efficacité à long terme du système.

En accord avec notre Cour, les autorités turques ont souhaité, dans le cadre de leur présidence du Comité des ministres, maintenir par la conférence d'İzmir la dynamique impulsée à Interlaken. Je les remercie. Je leur suis également reconnaissant de leur hospitalité et de la chaleur de leur accueil.

Certes, le laps de temps entre les deux conférences est court. Et cela fait moins d'un an que le Protocole n° 14 est entré en vigueur. Cela n'empêche pas de dresser un premier bilan, même provisoire, de ce qui a déjà été fait, puis d'indiquer les sujets sur lesquels İzmir pourrait apporter sa contribution.

Commençons par le bilan.

La place essentielle de la subsidiarité implique l'obligation des parties à la Convention d'assurer la protection intégrale au niveau national des droits et libertés garantis, et une responsabilité partagée entre les Etats et la Cour.

Dans ce cadre, la Cour a déjà pris des mesures pour mettre en œuvre les recommandations qui lui ont été adressées. Je citerai le développement, couronné de succès, des arrêts-pilotes (la Cour vient d'adopter un nouvel article de son Règlement qui codifie la procédure de l'arrêt- pilote) ; l'adoption de la politique des priorités ; la mise en place de nouveaux critères et barèmes pour le calcul de la satisfaction équitable au sens de l'article 41 de la Convention.

Il est nécessaire d'informer tous les acteurs sur la jurisprudence. Il faut citer l'adoption d'un Guide pratique sur la recevabilité, qui indique les conditions à remplir pour qu'une requête ait des chances de succès, ainsi que la création de fiches thématiques ; nous projetons d'améliorer la base de données HUDOC : plusieurs Etats souhaitent y contribuer financièrement.

Tout ceci permet d'éclairer les systèmes nationaux sur la façon dont la Convention doit être appliquée. Un signal nous a été envoyé à Interlaken sur la clarté et la cohérence de notre jurisprudence. Toute institution étant perfectible, il est toujours possible de faire plus et mieux, et c'est ce que nous avons entrepris.

Un autre domaine, d'une importance cruciale pour le futur de la Cour, est la sélection de ses juges. Les critères fixés par la Convention sont ceux de la considération morale dont ils doivent jouir, ainsi que de leurs qualités professionnelles ; ces critères garantissent que les juges de la Cour sont indépendants, impartiaux et compétents. Quant à la procédure, elle associe les Etats, dont chacun soumet une liste de trois candidats, et l'Assemblée parlementaire, qui élit l'un des trois. Interlaken avait recommandé que les critères de sélection soient pleinement respectés. A mon initiative le Comité des ministres a établi un Panel d'experts chargé de conseiller les Etats lors de la préparation des listes de candidats. Ce collège, de haut niveau, a commencé de fonctionner avec succès.

Les Etats ont été invités par le Plan d'Action d'Interlaken à mettre des magistrats à la disposition du Greffe. Plusieurs Etats ont procédé ou vont procéder à cette utile mise à disposition, qui bénéficie à la Cour, mais aussi, lors du retour de ces magistrats, aux systèmes nationaux. La Cour travaille avec les gouvernements pour maintenir et renforcer cette coopération.

Nous avons commencé d'appliquer les dispositions procédurales du Protocole n° 14 : vingt juges ont été désignés pour exercer les fonctions de juge unique ; chacun d'eux statue avec l'aide d'un rapporteur non judiciaire, membre chevronné du Greffe. Du 1er juin 2010 au 1er avril 2011, 26 500 décisions ont été rendues par les formations de juge unique. Les comités de trois juges ont commencé à utiliser leurs nouvelles compétences. Le nombre de requêtes ainsi traitées s'élève à près de 300. Le nouveau critère de recevabilité fondé sur l'absence de préjudice important a donné lieu à un faible nombre de décisions ; mais jusqu'au 1er juin 2012, seules les chambres ou la Grande Chambre sont compétentes pour appliquer ce critère. Même à terme, il ne faut d'ailleurs pas attendre beaucoup de cette disposition, la Cour rejetant déjà comme irrecevables plus de neuf requêtes sur dix. Quant à la possibilité de réduire de sept à cinq le nombre des juges des chambres, elle est étudiée avec prudence : il ne faudrait pas que l'efficacité augmente, mais au détriment de la cohérence jurisprudentielle.

Le bilan provisoire de l'activité de notre Cour est loin d'être négligeable, sans ressources budgétaires supplémentaires. Toutefois, il ne faut pas se voiler la face. Pour la première fois depuis de longues années, l'écart diminue entre le nombre de requêtes nouvelles et celui des requêtes traitées, mais cette différence demeure. Il faudra du temps avant de la réduire et surtout de l'inverser, ce qui voudrait dire la réduction progressive de l'arriéré. Nous avions 120 000 affaires pendantes au moment d'Interlaken ; nous en avons plus de 140 000. La politique de prioritisation permet de réduire les délais de traitement pour les affaires les

plus urgentes, mais les délais globaux demeurent excessifs. Comme je l'avais dit l'an dernier, le Protocole n° 14 était nécessaire, mais il n'est pas suffisant et il faut aller au-delà.

Je voudrais à présent indiquer quelques sujets importants.

Le premier est l'indépendance de la Cour. Elle est une composante essentielle de l'Etat de droit, clé de voûte de la Convention. La Cour ne saurait transiger sur ce point. Toute réforme doit être compatible avec le principe d'indépendance, aussi précieux pour les Etats eux-mêmes que pour la Cour. Que dirait-on d'un Etat qui ne respecterait pas l'indépendance de ses propres juridictions ?

Cette question est liée à celle de la procédure simplifiée d'amendement de la Convention. La Cour s'est toujours montrée favorable à cette idée. L'exemple des Protocoles d'amendement n°s 11 et 14 a montré la lourdeur de ce mécanisme. Toutefois, l'objectif doit être de renforcer l'indépendance, non de la réduire, ce qui serait le cas si certaines dispositions de notre Règlement étaient remontées au niveau d'un Statut. Il ne faudrait pas que le but qu'avait déjà poursuivi le Rapport des Sages en 2006 conduise à rigidifier des questions qui sont actuellement de la seule compétence de la Cour. Nous souhaitons être associés aux travaux du Comité des Ministres sur cette question.

Un autre sujet capital est celui des requêtes répétitives. La Cour coopère avec les Etats pour faciliter les règlements amiables et les déclarations unilatérales. En amont, les Etats ont l'obligation, en vertu de l'article 13 de la Convention, d'offrir des recours effectifs pour les violations des droits garantis. En aval, ils sont également tenus d'exécuter, rapidement et complètement, les arrêts de la Cour ; c'est vrai, comme le dit l'article 46, pour les litiges auxquels ils sont parties, mais c'est moralement vrai aussi pour les litiges constatant des violations analogues de la part d'un autre Etat. Les requêtes répétitives, dont on peut estimer l'ordre de grandeur à 27 000, devraient disparaître ou *a fortiori* ne jamais naître si la responsabilité était réellement partagée.

Un troisième sujet est l'afflux des requêtes. Si elles sont bien fondées mais répétitives, les efforts de la Cour seront vains sans l'action des Etats eux-mêmes. Que peut-on faire pour celles qui n'ont pas de chances de succès ?

Une fausse solution est l'instauration d'un système de frais pour les requérants qui, au-delà des objections de principe, se heurterait à des problèmes pratiques et de gestion très importants. Une autre solution mérite d'être explorée : c'est la représentation obligatoire des requérants par un avocat. Elle pourrait permettre aux intéressés de recevoir des conseils juridiques adéquats avant d'introduire leurs requêtes. Il faut cependant se demander si un système de représentation obligatoire ne doit pas s'accompagner de la mise en place au niveau national de facilités concernant l'obtention de l'aide judiciaire.

Un autre sujet d'avenir est celui du filtrage des requêtes. Lié à la politique des priorités, le filtrage va au-delà du système des juges uniques. La Cour est décidée à faire tout ce qui est possible à droit constant. Mais il est inéluctable que soit mis en place un mécanisme plus efficace encore, impliquant des modifications de la Convention. Les organes intergouvernementaux y travaillent ; la Cour est prête à être impliquée encore plus étroitement dans leurs travaux. En tout cas, à court et à long terme, il faudra plus de ressources, et je vous remercie, Monsieur le Secrétaire Général, pour votre engagement à cet égard.

Enfin, İzmir devrait être une occasion de réfléchir à une possibilité, pour notre Cour, de fournir des avis consultatifs. Au-delà du dialogue que nous entretenons de façon volontariste avec les hautes juridictions des pays membres, il y a là une piste possible pour un renforcement concret de la subsidiarité. A moyen terme, la charge de travail de la Cour s'en trouverait réduite.

Mesdames et Messieurs,

Si nous voulons tous qu'İzmir prolonge et amplifie l'élan donné à Interlaken, nous devons avoir à l'esprit quelques idées simples.

D'abord, la protection des droits n'est pas moins importante dans l'Europe actuelle que dans celle de 1950. La crise, les impératifs sécuritaires, la crainte ou la phobie de l'Autre, les conflits de toute sorte, appellent une consolidation du système, et non sa dilution. C'est l'intérêt de tous, Etats et société civile confondus, qu'il y ait dans le cadre d'un Conseil de l'Europe solide une Cour forte et efficace. A cet égard, je me réjouis du processus d'adhésion de l'Union européenne à la Convention. Il en sortira une Europe des droits plus assurée, avec deux grandes juridictions non rivales, mais complémentaires, dans un espace de liberté, d'égalité et de justice plus cohérent.

Ensuite, 2010 a été à mes yeux la fin d'une phase, celle du Protocole n° 11. C'est à Interlaken, rappelons-le, que le Protocole n° 14 a obtenu sa dernière ratification. İzmir doit être le début d'une autre phase, celle où le Protocole n° 14 va être pleinement appliqué mais où, déjà, la suite est préparée. J'avais parlé de second souffle ; une fois celui-ci acquis dans les Alpes suisses, il faut maintenant accélérer la course à partir des rives turques de la Méditerranée.

Enfin, je tiens à dire que, confrontée à de grands défis, tels que l'apparition de contentieux délicats et nouveaux ou que l'afflux de demandes difficiles à satisfaire – songeons à celles des mesures provisoires au titre de l'article 39 – notre Cour n'a jamais failli ; elle n'a jamais sacrifié la qualité à l'ampleur de sa tâche, ni manqué à l'impartialité. Puissent les textes qui seront adoptés ici lui en donner crédit, l'encourageant ainsi à continuer, contre vents et marées !

Je vous remercie.

Mr Thomas Hammarberg

Commissioner for Human Rights, Council of Europe

Introduction

The number and nature of applications to the European Court of Human Rights (“the Court”) give an indication of the status of human rights on our continent today. The number of complaints has increased dramatically; about sixty thousand complaints reached the Court in 2010. Despite its extremely heavy case-load, the Court continued to deliver very important judgments and decisions on varied subjects during the past year: from domestic violence to the disappearance of individuals in armed conflicts; from the right to hold a demonstration to prisoners’ voting rights; from discrimination on the basis of health to the treatment of asylum seekers – to mention but a few examples.

The human rights of asylum seekers were also the subject of the third party interventions I made before the Court last year. These interventions followed an invitation by the Court and related to a group of cases concerning the return of asylum seekers to Greece pursuant to the European Union “Dublin Regulation”. On 1 September, I intervened orally – for the first time ever – during the hearing before the Grand Chamber of the Court in the case of *M.S.S. v. Belgium and Greece*. Following my visits to Greece, I was able to provide concrete observations on refugee protection in Greece, including asylum procedures and human rights safeguards, as well as asylum seekers’ reception and detention conditions. Last January, the Court delivered a landmark judgment in this case, which will have a lasting impact on the protection of human rights of asylum seekers in the European Union.

The fact that, since the entry into force of Protocol No. 14 to the European Convention on Human Rights, I have the right to intervene as a third party on my own initiative highlights this complementarity between the judicial organ of the Council of Europe – the Court – and my non-judicial functions. The Interlaken Declaration, adopted one year ago, actually stressed the need for a co-operative approach, including all relevant parts of the Council of Europe, in order to assist member states in remedying structural human rights problems.

In the context of the Interlaken follow-up process, I should like to focus on three major issues: interim measures indicated by the Court, the discussion concerning introduction of fees for applicants, and the effective implementation of the Convention at national level.

Interim measures indicated by the Court (Rule 39 of the Rules of the Court)

In a memorandum I presented to the Interlaken Conference a year ago, I argued that the main question is not why the Court has difficulties in coping, but why so many individuals feel the need to go there with their complaints.

The same goes for the rise in the number of Rule 39 requests being lodged with the Court: the first question is not the consequences of the overloading of the Court, but why in recent months so many individuals sought to halt their deportations through interim measures. This is partly because the mechanism is now well-known in some of the member states and has proved to be effective. But there are other reasons which explain this increase and should be addressed by member states.

- First of all, member states should respect the advice given by UNHCR concerning international protection to persons in need. The UN Refugee Agency is the international expert body on refugee matters with a wealth of experience and competence. It appears however that several of UNCHR's recommendations had recently been ignored by member states. Some European states have for instance decided to expel rejected asylum seekers to Iraq, despite a clear position and guidelines provided by UNHCR to governments that Iraqi asylum seekers originating from certain areas in Iraq should continue to benefit from international protection. As the safety of those forcibly returned to these areas cannot be guaranteed, it is therefore normal that these persons try by all means to stop their planned deportations, including by requesting the European Court to grant an interim measure halting them.
  In some cases, applicants whose deportations were suspended on the basis of Rule 39 were eventually recognised as refugees, or given another status allowing them to stay in the country concerned. These decisions acknowledge that the applicants' fears were well-founded and that they would have been put at serious risk if they had been expelled before the Court had had the opportunity to properly examine the merits of their applications.
- Part of the problem also lies in national procedures. The asylum procedures of European countries are still flawed – they need to be improved and better harmonised. In particular, where asylum seekers submit an arguable claim that the execution of a removal decision could lead to a real risk of persecution, torture or other treatments contrary to the Convention, the remedy against that decision should have automatic suspensive effect.
  On several occasions, the Strasbourg Court stressed the importance of having remedies with suspensive effect when ruling on the obligations of the state with regard to the right to an effective remedy in deportation or extradition proceedings. Such a remedy should prevent the execution of measures that

are contrary to the Convention and whose effects are potentially irreversible. In this context, member states should also suspend removals to a particular country once a lead case has been identified by the Court, pending the decision of the Court. Not doing so will inevitably drive applicants in a similar situation to seek interim measures and thus increase the number of requests being made.

- Finally, the application of European Union law is also a source of concern. In several cases, applicants have appealed against so-called "Dublin transfers". In fact, the Dublin Regulation shortcomings have led to a heavy burden on national courts, including supreme courts and above all the European Court of Human Rights. During 2009 and 2010 the Court received no fewer than 900 requests for interim measures concerning asylum seekers asking for their transfers to be suspended. I would like to reiterate here my position that the "Dublin mechanism" should be revised and replaced by a safer and more humane system.

All these measures should contribute to a significant reduction in the number of requests for interim measures.

Rule 39 has proven vital for the lives of individual applicants.

Contrary to what is sometimes stated, the Court in fact grants these requests very cautiously. Their binding legal nature is now firmly established in the Court's case-law and member states should abide by them rapidly, fully and effectively.

Fees for applicants

Some may argue that this might discourage inadmissible applications and that this system already exists in certain member states, where applicants to superior courts are requested to pay a fee – it thus seems natural to transpose it at the European level. I do not agree:

- Above all, the issue of fees for applicants raises a general question regarding access to the European Court of Human Rights, while the Interlaken Action Plan emphasised "the fundamental importance of the right of individual petition as a cornerstone of the Convention system". This right should be guaranteed to all persons, irrespective of their financial situation. As a matter of principle, there should be no fees imposed on applicants to a human rights court, which should remain accessible.
- Such a system would also create one more administrative burden and run counter the intended aim to reduce the workload of the Court.

Effective implementation of the Convention at national level

Applicants turn to Strasbourg because they feel unable to find justice at home. Many complaints are not taken up, but still the Court has in its rulings identified a high number of shortcomings in national law and practice. Through my visits and continuous monitoring I am aware that problems such as police brutality, unfair or delayed trials, inhuman conditions of detention are systemic in several countries.

In accordance with the Interlaken Action Plan, I have tried to contribute to improving the awareness of the Convention standards and urged states to remedy structural problems revealed by the Court's judgments, in order to prevent repetitive applications.

During my visits to member states I have however noted that some important judgments were not implemented, sometimes several years after they had been issued, despite clear guidance given by the Court.

The Court has for instance found that Roma children had been discriminated against with respect to their right to education in some member states. Three years after the first major judgment of the Court on that issue, little has changed on the ground. States should take resolute action as a matter of priority, in order to make tangible progress for the transfer of children from special to ordinary education and overall desegregation of the school system. This will not only improve people's life – it will also give a positive signal that the Court's judgments are taken seriously and that human rights are protected at national level.

It is essential that national authorities assume their responsibilities in the field of human rights protection: national judges should apply the European Convention, as interpreted by the Court, more systematically; national legislation or practices which are incompatible with it should be changed; governments should promptly and effectively implement judgments issued by the European Court.

It is the member states' task to ensure in the first place that the human rights enshrined in the Convention are respected. The more they do so, the less the Court will have to intervene.

Conclusion

In my opinion, there must be two clear points of reference at the outset of our discussion on the reform of the Court if we want to keep intact all its potential to address fundamental human needs in the future.

First, the Court is unique in Europe but it is not alone. Other parts of the Council of Europe, including my own Office, have also a role to play in ensuring the long term effectiveness of the Court. In addition, lawyers and NGOs who

regularly represent applicants before or make interventions to the Court, as well as National Human Rights Structures, should more closely be involved in the process.

Second, this process requires political will which should be anchored on a principled approach to human rights: stressing that the standards are treaty based and universal; that they are relevant regardless of culture, religion or political systems; that they apply to everyone without discrimination; and – that they exist in order to be effectively implemented at national level.

Statements by heads of delegation – Déclarations des chefs de délégation

Member states

Albania: Ms Brikena Kasmi

Deputy Minister of Justice

Mr Chairman, participants,

The Albanian delegation would like to congratulate and to thank the Turkish authorities for organising this High Level Conference on the Future of the European Court of Human Rights today, here in İzmir.

We fully agree with the Declaration of İzmir, strongly believing that Court reform is essential for the future of human rights in Europe. We also believe that this reform can move forward only with political impetus from us, who represent the Contracting Parties to the Convention.

Since the beginning, the Albanian authorities have supported the Swiss initiative that led to the Interlaken Conference. After this conference we took several steps to follow up the implementation of the Interlaken Declaration:

The steps:

The reform of the European Court of Human Rights it will be a priority for the Albanian Chairmanship of the Assembly of Council of Europe, in line with the other prior chairmanships.

Our participation in this conference affirms the will and readiness of the Albanian state to be active part of a very important process, which aims to improve and enhance the effectiveness of the Convention system. An effective system implemented by the European Court of Human Rights safeguards the legal certainty of the individuals and prevents the excessive length of court procedures, which is indeed a serious problem of the judicial systems of many Contracting Parties themselves. Therefore, the European Court of Human Rights must be able to effectively tackle those concerns which its case-law asks Contracting Parties themselves to effectively tackle. The Albanian authorities are

seriously committed to respecting human rights and to complying with the fundamental principles deriving from the Convention and the practice of the European Court of Human Rights.

Following the Interlaken Conference and after a thorough and careful consideration of its content, as well as bearing in mind the practice of the European Court of Human Rights, the Albanian authorities have been continuously committed to take concrete measures to implement this declaration. The Albanian authorities welcome the entry into force of Protocol No. 14 and consider it a step forward towards strengthening the Court's administrative capacities and management of the workload. Consequently, we approve any initiative for furthering the discussions and opinions for a successful implementation of this protocol. which aims at simpler and speedier procedures.

In addition, the Albanian authorities support the idea that the domestic judicial system has to provide for effective remedies and redress (subsidiarity principle). This will reduce the repetitive applications before the European Court of Human Rights. The Albanian authorities have striven to comply with the recommendations of the Committee of Ministers, as well as with the Court's case-law, to achieve the foregoing finality. In this purpose, our authorities appreciate the close collaboration with the Committee of Ministers of the Council of Europe during the execution of the Court's judgments. They support any measure that helps to ensure an efficient supervision mechanism in the enforcement of the Court's decisions. Therefore, we agree for further measures to be taken in the long term to provide for a flexible system of supervision and execution of decisions of the European Court of Human Rights.

Bearing in mind the Interlaken Declaration and the Action Plan adopted for its implementation, the Albanian authorities have taken several concrete steps:

- An action plan is close to being adopted. It aims to provide for an effective enforcement system of domestic decisions related to property rights, thus tackling a problem of systematic nature for Albania. This system aims to avoid repetitive cases before the European Court of Human Rights as far as this right is concerned
- Albania has tried to settle amicably several applications brought before the European Court of Human Rights.
- In a few cases Albania has submitted unilateral declarations under the Convention.
- Albania currently reports to of the Committee of Ministers in compliance with the procedures adopted during the Interlaken conference.
- Albania is close to taking several concrete steps to harmonise domestic legislation with Court case-law. Also, concrete steps are taken case by case bearing in mind the European practice, recommendations and resolutions of the Committee of Ministers.

Further, we support the existing scheme under Protocol No. 14 of filtering applications by a single judge. As to the idea for an application fee, our delegation is of the opinion that such a fee should not be applied, given that we consider it restricts access to court. However, if such a fee shall be imposed, we maintain that any applicant under the minimum subsistence level must be exempt from its payment.

Furthermore, we support the idea of introducing a referral procedure for advisory opinion from the highest domestic court to the European Court of Human Rights. In this purpose we propose that the discussions need to be taken to the next level.

Finally, once again the Albanian delegation expresses its gratitude to the organisers of this conference for creating the possibility to express our viewpoints and prospective as to the court reforms. Further, the Albanian delegation hopes that this conference may be as fruitful as possible.

Thank you all.

Armenia: Mr Emil Babayan

Deputy Minister of Justice, Deputy Agent of the Government before the European Court of Human Rights

Thank you, Mr Chairman.

At the very outset I regret to state and would like to draw the attention of the delegations, that this event dedicated to the reform of the European Court of Human Rights is not a forum for making ill-founded allegations, which are not related to the reform of the Court.

It is a great pleasure for me to have the opportunity to address this High Level Conference on behalf of the Republic of Armenia. The Government of Armenia on many occasions expressed its strong commitment to the protection of human rights and in this regard the importance of the role of the European Court of Human Rights as a fundamental institution responsible for their protection. My Government remains convinced that the Convention system of protection of human rights and freedoms is of paramount importance for Armenia in its ongoing reform process aimed at the creation of genuine democracy, based on

rule of law and European standards. In this regard the effective functioning of the European Court of Human Rights is very important for Armenia.

We warmly welcome the draft declaration before us; however, allow me to share some ideas that are important for Armenia.

The right of individual petition is a cornerstone of the Convention mechanism and we strongly believe that introducing a system of charging fees would discourage and prevent many potential applicants from filing applications.

We attach a great importance to the improvement of filtering mechanism as an effective tool for dealing with a high number of clearly inadmissible applications. We should consider the possibility of engaging *ad hoc* judges for enhancing the filtering mechanism. In this regard we believe that the option of delegating more powers to the Registry of the Court should be considered with a great care.

The issue of clearly inadmissible applications should be addressed rapidly, as it undermines the effectiveness of the Convention system. In this context, I would like to welcome the publication of the "Practical guide on admissibility criteria".

The Armenian Government fully supports the idea of introducing a procedure which would allow the highest national courts to request advisory opinions from the Court concerning the interpretation and application of the Convention. This measure might contribute to strengthening the principle of subsidiarity and could help to lessen the Court's caseload by ensuring the resolution of complex problems at national level, and thereby prevent repetitive applications.

When we speak about the introduction of simplified procedures for amendments to the Convention, we should bear in mind the constitutional problems that could exist in many countries related to simplified amendments of provisions which constitute an integral part of a Treaty. Armenia is one such example.

Armenia welcomes the underlining of the importance of establishing and making public rules foreseeable for all the parties concerning the application of Article 41 of the Convention, including the level of just satisfaction which might be expected in different circumstances. This would allow member states to conduct more effective negotiations with the applicants concerning friendly settlements, as well as would guide the authorities in making their Unilateral Declarations. If the rules and the level of just satisfaction were foreseeable, in some cases the member states would be prepared to acknowledge the clear violations and pay more to the applicant than what is established by the Court. In this case the applicants would also be more inclined to accept reasonable proposals for friendly settlement or the terms of Unilateral Declarations.

We strongly believe that it is primarily for the national authorities to remedy any violation and ensure effective protection of human rights and that the prin-

ciple of subsidiarity must remain one of the essential pillars of the Convention system.

I should like to conclude by expressing Armenia's full support for the draft declaration.

Thank you!

Austria: Mr Helmut Tichy

Ambassador, Government Agent before the European Court of Human Rights, Legal Adviser, Federal Ministry for European and International Affairs

Mr Chairman,

At the outset let me thank Turkey and the Council of Europe for organising this conference which constitutes a significant step in the implementation of the Interlaken Action Plan.

Particularly in times of economic and political challenges, the effective protection of human rights and fundamental freedoms at the European as well as at the national level is an essential pillar of democratic societies. This encourages Austria to maintain her long-standing position that preserving and strengthening the efficiency of the European Court of Human Rights must not prejudice the right of individual application to the Court as it is enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms.

We therefore believe that ideas to introduce new limitations on access to the Court should not be further pursued. The progress made since the Interlaken Conference confirms that the Action Plan, which we all adopted in Interlaken by consensus, contains other appropriate avenues to preserve the functioning and increase the sustainable efficiency of the protection mechanism of the Convention. These avenues should be developed further and these approaches should continue to be thoroughly examined, in particular by the expert groups.

- For example, the single judge procedure, introduced a year ago by Protocol No. 14, shows encouraging results and should be developed further;
- The pilot-judgement procedure should be further improved; in applying this procedure the Court has already shown that it can handle a huge amount of applications efficiently and in a relatively short time;

- Under the new admissibility criterion, case-law is developing and will surely send a signal to potential applicants.

At the same time, Austria is well aware of her responsibility as a Party to the Convention and is committed to the prompt and best possible implementation of the Court's judgments. This implies not only that we see the necessity of an ongoing improvement of the Committee of Ministers' supervision procedure regarding the execution of the judgments and of focusing the Council of Europe's activities on human rights in general. Also, and in particular, at the national level substantive measures need to be taken after careful reflection and preparation which ensure compliance with the Convention and the Court's judgments, clarify alleged violations of the Convention already at the national level and thus help to reduce the Court's case-load significantly.

The Court is making – and perhaps can even improve it – a material contribution to reaching this objective by providing clear, well-reasoned and consistent case-law and by maintaining a real dialogue with the national courts. In the same vein, we welcome the Court's efforts to deepen and improve its contacts with the Government Agents.

And while I have the floor, Mr Chairman, allow me to thank the President of the Court, Mr Costa, for his personal commitment to the reform process of the Court.

The commitment of all parts of the Convention protection mechanism, the Contracting Parties, the Committee of Ministers and the Court itself, is needed in order to cope with the challenges of the Court in these demanding times. We welcome the future accession of the European Union to the Convention, but there is no doubt that this accession will also lead to new challenges. Austria is fully committed to the reform process, the success of which will ultimately depend not only on measures to increase the efficiency of the handling of complaints, but also on a proper protection of human rights at the national level.

Thank you.

Azerbaijan: Mr Fikrat Mammadov

Minister of Justice

Mr Chairman, ladies and gentlemen,

First and foremost, I should like to express my gratitude to the Council of Europe and the Turkish authorities for hosting the follow-up conference devoted to the issue, which is extremely important for the whole Europe.

Dear colleagues,

It was once rightly noted that "Human rights are inscribed in the hearts of people; they were there long before lawmakers drafted their first proclamation". The European Convention on Human Rights and the establishment of the Court have been a revolutionary breakthrough in relations between individuals and states.

However, our first conference revealed the success of this achievement to be more harm than good for the European Court of Human Rights. Its effectiveness is undermined, despite the entry into force of Protocol No. 14, as the number of complaints over the past year increased considerably again.

It is not, therefore, a surprise that both the Court and the member states immediately embarked on the implementation of the Interlaken Declaration.

Taking into account that number of inadmissible complaints is 15 times higher than the admissible ones, effective measures are needed to reduce them.

We welcome the development of the "Practical guide on the admissibility criteria", which will be a great support for lawyers. We have almost completed its translation into Azerbaijani and plan to post it on the website of Ministry of Justice and those of other relevant institutions as well as to hold a series of training sessions for lawyers at the Academy of Justice. It might also be expedient to develop a brief and applicant-friendly version.

It is necessary to further improve the mechanism of filtration of applications. We believe that it would be relevant if these functions are taken over by judges.

Adoption of simplified procedures for amendment of the Convention in respect of the functioning the Court, consistency in the application of the case-law, introduction of application fees and effective use of advisory opinions of the Court may yield the desired outcome. Co-operation in conclusion of friendly settlements and unilateral declarations can also be helpful. Thus, the number of such arrangements last year increased two-fold, while it was augmented much more by the Government of Azerbaijan.

But in terms of remedying violated rights and maintaining the Court's prestige, execution of court judgments and implementation of general measures are of key importance. The Government of Azerbaijan takes all necessary actions to comply with the Court's judgments. For example, despite the fact that in our opinion there was a violation of the principle of subsidiarity in one of the cases against Azerbaijan last year, we have taken all steps to enforce this judgment. Close co-operation is also need to prevent the emergence of "pilot judgments", the reduction of similar complaints, which can be achieved through the resolution of cases still pending before the Court.

An effective system of enforcement of court decisions may also contribute to the reduction of applications lodged to the European Court. Therefore, last year we substantially improved the enforcement legislation and introduced new effective mechanisms. Hence, we have already achieved a considerable leap forward in execution, which also concerned the cases pending before the European Court.

However, execution procedure is sometimes jeopardised by external factors. Thus, we are not able to enforce some judgments regarding refugees and IDPs, who altogether being 1 million emerged due to the continued occupation by neighbouring Armenia of 20% of the Azerbaijani lands, despite four resolutions of the UN Security Council demanding immediate liberation of these territories.

Unfortunately, the Court does not always take into account all the circumstances of these cases, such as the right to adequate housing of refugees and IDPs, who in this case have been transformed from victims into infringers. The Azerbaijani Government tries to alleviate sufferings of victims of the conflict. Thus, despite the world financial crisis the President of Azerbaijan, H.E. Ilham Aliyev, signed a Decree to allocate over 100 million euros in order to accommodate these persons aimed, *inter alia*, at the enforcement of the European Court judgments.

Still a large number of "repetitive" applications once again confirm the need to increase efforts in training on human rights, as wise men say: "Education is a better safeguard of liberty than a standing army". Only through education we can achieve a high level of culture on human rights.

To increase the productivity of the education, we have strengthened co-operation with international organisations, foreign colleagues and NGOs. We organise training, study visits to explore best practices, produce and distribute manuals on the case-law among judges. We continued to work successfully with the European Court of Human Rights. Only last year four judges of the Court visited Azerbaijan. Next month, we also plan to hold a joint conference on the European Court's case-law.

However, as the İzmir Declaration sets new tasks we understand that these measures are not sufficient.

According to the statistics of 2010, 38% of the European Court's judgments revealed violations of the right to a fair trial. A new declaration therefore provides for ensuring the existence of the effective domestic remedies. In our opinion this is inevitable, because the judiciary should be constantly modernised. Having this in mind, we continued to implement judicial reform and CEPEJ highly evaluated Azerbaijan's experience in selection of judges. Administrative courts, which play a key remedial role in the relations between state and individuals, were set up in 2010 and commenced activities in January 2011. Given the interconnection between the efficiency of the administration of justice and the workload of judges, we have continued to increase the number of judges. Last year this number was raised by 25%, meaning that the overall figure doubled compared with 2006.

We should not forget about the financial element of the judicial efficiency. Financing of the judiciary has been constantly raised: in comparison with 2000 judicial salaries increased by 28 times and courts' budgets augmented by 18 times.

We welcome the review of European Union accession to the Convention, but this issue should be thoroughly dealt with in order to avoid future collisions and legal gaps.

We believe that effective implementation by member states and the by Court of the Interlaken and İzmir Declarations, backed up by the political will, will give a strong impetus to decrease the backlog of the Court, thereby making a significant contribution to ensuring the rights of 800 million Europeans.

In conclusion I should like to paraphrase a well-known idea of the prominent lawyer and one of the first presidents of the European Court of Human Rights - René Cassin: it's time to fight for human rights to the last.

Thank you for your attention.

Belgium: Mme Paule Somers

Directrice adjointe à la Cellule stratégique du ministre de la Justice

Excellences, Mesdames, Messieurs,

La Belgique tient tout d'abord à remercier vivement les autorités turques pour la grande qualité de leur accueil et l'organisation de cette Conférence.

Notre pays tient à réaffirmer son engagement et sa détermination à trouver des solutions pour permettre, tant à ses propres institutions qu'à la Cour, de jouer leurs rôles essentiels pour garantir la protection des droits de l'Homme.

A cet égard, elle se félicite de la création d'un Panel consultatif d'experts sur les candidats à l'élection de juges à la Cour. La grande qualité des juges est un élément essentiel pour permettre une application cohérente et diligente des principes d'interprétation de la Convention.

Dans le même temps, au niveau national, un développement des programmes de communication de la jurisprudence de la Cour à tous les professionnels concernés contribuera à une meilleure mise en œuvre de la Convention. Nous souhaitons avant tout qu'en assumant leurs responsabilités en interne, les autorités belges parviennent à limiter le nombre de requêtes déposées devant la Cour, réalisant ainsi en Belgique un premier filtre nécessaire.

Au-delà, la Belgique est convaincue que l'élaboration et la publication du guide pratique sur la recevabilité contribueront également à établir un filtre important lors du dépôt de requêtes.

La mise en place d'un système de rotation entre les juges du collège actuel a déjà permis le traitement de nombreuses requêtes. Les résultats positifs de ce système pourraient être élargis à un nombre plus important de juges ainsi qu'au filtrage des requêtes répétitives.

Enfin, en ce qui concerne les mesures provisoires, la Belgique insiste pour que la Cour ait égard au principe de subsidiarité et souhaite qu'elle motive, brièvement au moins, l'application de la mesure dans chaque cas d'espèce.

Je vous remercie de votre attention.

Bosnia and Herzogovina: Mr Sven Alkalaj

Minister for Foreign Affairs

Minister Davutoğlu, Secretary General, Excellencies, ladies and gentlemen,

To begin, I should like to thank the Turkish Chairmanship of the Committee of Ministers of the Council of Europe, and Mr Davutoğlu personally, for organising this extremely important high-level conference and for the traditional Turkish hospitality.

After Interlaken, we are fully aware that the İzmir Conference has come at just the right time as a matter of urgency, recognised unequivocally as such by delegations in their contributions.

For over half a century, the European Court of Human Rights has been making a vitally important contribution to consolidating the rule of law and democracy. After fifty years of existence we now have to look to the future of the Court.

I have always believed that reform aims to bring about change and make things better. For that reason, we, as States Parties to the European Convention on Human Rights, are to respect and to provide the Court's institutional independence and, at the same time, contribute to its efficiency.

It is well known that the number of new applications has increased substantially over the last ten years. The aim is to reaffirm the principle of the right of individual application, and there can be no question of modifying substantive rights and freedoms guaranteed by the Convention.

This basic principle must be preserved, while ensuring that Court can process and adjudicate with sufficient speed. At the same time it is necessary to ensure that the Court maintains the quality and the coherence of its case-law.

A good deal of progress has already been made, especially since the entry into force of Protocol No. 14; yet further urgent measures are needed.

Bosnia and Herzegovina strongly supports the reform of the Court. In that regard, we welcome and support today's adoption of the İzmir Declaration as a clear political determination to get to grips with the reform of the Court.

We are convinced that the European Union's accession to the Convention, welcomed by various delegations, will contribute to developing a coherent system of fundamental rights protection throughout the continent.

At the same time, we are convinced that States Parties have the primary responsibility to respect human rights and to prevent violations and we need a better and more systematic use of the principle of subsidiarity.

We have to reaffirm the right of individual petition whilst attempting to regulate the increase in the number of new applications, bearing in mind that long-term effectiveness of the control system of the European Convention on Human Rights can be secured first and foremost at the national level.

I should like now to turn to the situation on implementation of the Court's judgment in the *Sejdić and Finci* case.

The judgment confirmed that some key provisions in the country's constitution are incompatible with the European Convention on Human Rights.

I have to make it clear that Bosnia and Herzegovina appreciates all the efforts of the Council of Europe to assist in the constitutional reforms in Bosnia and Herzegovina, particularly in the implementation of the Court's judgment in *Sejdić and Finci*.

Beyond any doubt, there is a strong political will among all parties represented in the Parliament of Bosnia and Herzegovina to implement the judgment of the European Court of Human Rights in the case of *Sejdić and Finci*.

We expect that the execution of the judgment in accordance with the standards of the Council of Europe, the recommendations of the Parliamentary Assembly and the opinions of the Venice Commission will take place without delay.

In conclusion, I should like to offer our great appreciation to the Turkish Chairmanship for its efforts to organise this Conference as the next step in preserving our unique mechanism for the protection of human rights and in finding effective general measures to preventing new violations from taking place.

Thank you for your attention.

Bulgaria: Ms Nina Nikolova

Government Agent, Director of the Procedural Representation of the Republic of Bulgaria before the European Court of Human Rights

On behalf of the Bulgarian delegation, I should like to express our appreciation to the Turkish Chairmanship and to Mr Davutoğlu for the initiation and excellent organisation of this event.

We believe that this conference is a natural continuation of the process launched in Interlaken and that it will contribute to maintaining the momentum of the decisions taken there. The high political esteem which the States Parties to the Convention attribute to the future of the European Court of Human Rights and the securing of the protection of human rights in Europe has to receive its practical application as envisaged in the Declaration and the Action Plan.

Very soon it will be one year since the entry into force of Protocol No. 14. Throughout that period we have all contributed with common efforts to make real the agreed further steps and to implement the much needed reforms of the Court. Now we can witness some of the expected results though we have not found the lasting solution. We realise that this ongoing process is a long-term one and we have to follow our objectives confidently.

Bulgaria gives strong support to the efforts of the Court to find internal resources for the reorganisation of its work by creating a filtering mechanism through which to reduce the number of the applications. We all can see the positive results of the work of the single-judge formations. We believe that the Court should continue in its efforts to streamline proceedings and reject rapidly the inadmissible applications. We are encouraged by the effect of these first steps and will stand for their continuation as well as for discussing other options and alternatives.

We should like to underline our understanding that the principle of subsidiarity which is supported by all states along with the right of the individual petition, should be the basis for the reform of the Court. Our understanding is that the primary responsibility for the protection of the fundamental human rights and securing the implementation of the Convention values and standards belongs to the states. The European Court of Human Rights must not be a court of fourth instance. For this reason it is essential for the Court to give priority to cases with great importance for the interpretation of the Convention which can have an impact on national legislation.

We are all beneficiaries of the values enshrined in the Convention and as such we must be persistent in our responsibilities and continue to ensure the better

implementation of the Convention mechanism. In this context we underline the importance of ensuring the clarity and consistency of the Court's case-law.

Bulgaria also considers that the Court still has some margin of interpretation of the rules of admissibility which can be an effective tool for reducing the burden of the applications. We expect that the strict application of the admissibility criteria will additionally contribute to resolving the Court's backlog.

In conclusion, I should like to underline that through the process launched at Interlaken and continuing today the states have taken serious steps to create a common vision for the European system of protection of human rights. In this context the Government of Bulgaria is expecting the accession of the European Union to the Convention which is now approaching in a fruitful process of negotiations. This will be one step further in assuring the credibility of the Convention mechanisms.

Finally, let me once again express our gratitude to the organisers for the opportunity to share our vision on the prospects of reforming the European Court of Human Rights.

Croatia: Mr Dražen Bošnjaković

Minister of Justice

Dear colleagues, ladies and gentlemen,

I wish to express my sincere gratitude to the Turkish authorities and the Council of Europe for the organisation of this important conference to take stock of the progress carried out since Interlaken and continue with the Convention system reforms.

At the outset, allow me to assure you that Croatia continues to be a strong supporter of the European Court of Human Rights in its unique role as a subsidiary mechanism for the protection of human rights of individuals in Europe.

In the spirit of shared responsibility, member states should take additional measures for better implementation of the Convention standards in order to avoid significant increase in the number of applications before the Court. Prevention is one of the most important areas where we should focus on our efforts.

Therefore, my country will continue to undertake not only measures for more efficient execution of judgments and decisions of the Court, as well as measures aimed at enhancing the knowledge of legal professionals of the Court's well-established case-law, but especially various measures embedded in all policies and work of public administration aimed at respecting and protecting human rights of every individual.

We are convinced that in the long run these would be the best possible contribution a state can give for reducing the number of applications before the Court.

Ladies and gentlemen,

To ensure sustainable functioning of the Convention system, further measures are also needed at the level of the Court and by the Committee of Ministers.

We find it necessary for the Court to be consistent in applying its own interpretation principles, new admissibility criteria adopted in Protocol No. 14, and to give a clear reasoning for rejection of the referral requests to the Grand Chamber.

Furthermore, we consider it important to start a reflection on an assessment of the efficiency of the current admissibility criteria.

An additional work should be undertaken to establish mechanisms enabling the Court to deal with the current huge backlog. In that respect we welcome the Court's efforts to explore together with member states further possibilities to deal more efficiently with inadmissible applications.

That should include immediate strengthening of the Registry, while on a long-term basis we believe that a more efficient filtering system should be established. All relevant options should be explored, if necessary also those including amendments to the Convention.

Croatia welcomes a further reflection upon the idea to allow highest national courts to request advisory opinions from the Court in cases arising from systematic problems.

As regards interim measures Croatia deems that requests for interim measures should be treated in full conformity with the principle of subsidiarity, based on the facts of each individual case, and processed in the shortest possible time by the Court.

The supervision of the Court's judgments, a very important element for the efficiency of the Convention system, should be fair, just and seen as directed at the protection of human rights of individuals. The Committee of Ministers, while supervising the implementation of judgments, should refrain from any political observations but rather focus on legal analysis stemming from the Court's judgments.

Ladies and gentlemen,

We should provide our support to the Court by adopting the İzmir declaration, with the creative and effective measures contained therein. Therefore, Croatia endorsees the İzmir Declaration, as we find it necessary to keep the momentum and take decisions restating our determination and political will to reaffirm objectives already assigned by in Interlaken.

We must ensure that the Convention system remains an effective one. At the same time we should not lose sight of our overall objective which is to secure in our countries the rights and freedoms set down in the Convention to every individual, who should be able to seek and receive justice at home.

Finally, let me point out that we see this conference as a continuation of the long-term process on the future role of the Court, especially in the context of the accession of the European Union to the Convention. My country welcomes further discussions on that very important issue.

I thank you for your attention.

Cyprus: Mr Euripides Evriviades

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Cyprus to the Council of Europe

My delegation joins previous speakers in thanking the Turkish chairmanship for holding this review conference. Judging from the constructive spirit that has prevailed during the preparatory work, I express the confidence that our deliberations will be crowned with success. The draft declaration before us is a compromise, striking a balance between national positions of 47 States Parties and between idealism and pragmatism. And this is not always easy to achieve.

The İzmir Conference, being a continuation of the process launched in Interlaken, should follow the letter and the spirit of the Interlaken Declaration. It can provide added value in the implementation of the already agreed Action Plan. The Contracting Parties must ensure the effectiveness of the mechanism in the short, medium and long terms. Failure is not an option.

The right of individual application, which is the cornerstone of the mechanism and which remains unprecedented in the field of international protection

of human rights, remains sacrosanct. As High Contracting Parties, we have undertaken the solemn obligation under Article 34 "not to hinder in any way the effective exercise of this right". Current and future admissibility criteria as well as the concept of pilot judgements, or of repetitive cases for that matter, should therefore not be applied in any manner which might restrict this right. And this remains our long-standing and principled position on the possible introduction of a fee, which may very well be contrary to the Convention.

We also look forward to the European Union's envisaged accession to the Convention.

The measures taken by the Court thus far to implement Protocol No. 14 are encouraging. Its long-term effectiveness in helping to solve the backlog problem will have to be further assessed. On its own, it cannot solve the Court's backlog problem.

Subsidiarity can only function properly if:

- all contracting parties fulfil their duty to secure that the Convention rights are fully respected;
- provide a truly effective remedy for breach of Convention rights and freedoms;
- and execute fully and rapidly the Court's judgments under Article 46. And this is crucial in guaranteeing the credibility and the viability of the entire Convention system.

Rights and freedoms enshrined in the Convention can only be safeguarded through the respect of the core principle of the total independence of the Court. It must carry out its duties without any influence or pressure.

Czech Republic: Mr Marek Ženíšek

Deputy Minister of Justice

Ladies and gentlemen,

Like the previous speakers, I should express our gratitude to the Turkish chairmanship for organising this conference and having been able to reach consensus on the draft declaration.

As it did in Interlaken, our delegation supports the draft declaration, being aware of the fact that it represents a compromise. That said, we nevertheless regret that the text does not show greater ambition on the way to a solution of growing problems that the Court has been facing since 1998. From then on, the reform of the system has been an ongoing process. Yet sometimes it seems to be forgotten that a reform may require some brave, even unpopular, steps to be taken for the sake of the preservation of what is being reformed. Let me raise three points now.

First, in our opinion, access to the Court clearly needs some regulation which would not create discriminatory obstacles. We do understand the symbolic dimension of introducing fees, but here, the very future of the system is at stake and it requires pragmatic solutions which would obviously not prevent the Court from adjudicating well-founded applications. Will the Court, however, be able to play this role if the number of incoming cases continues to grow? We believe that all practical aspects of such measure can be resolved in a satisfactory way so that, for example, people without sufficient means could still resort to the Court.

Second, in the same vein, I should promote the idea that the Court applies the principle *de minimis non curat praetor*, going even beyond the criterion of admissibility introduced by Protocol No. 14, as it has already done in two recent German cases, *Dudek* and *Bock*. An international court is obviously not intended to be a small-claims local tribunal and it is important to convey this message, in particular when we do not have any regulation of access to the Court which would invite people to think twice before lodging an application.

Last but not least, as to the issue of a statute for the Court, our preferences go to a separate document, which would not only ensure a certain degree of flexibility of selected organisational or procedural rules contained in Section II of the Convention, but also enable certain other rules existing outside the Convention to benefit in clarity, transparency, authority and legitimacy. I should add that we find it difficult to understand why the States Parties' involvement – and civil society's involvement possibly too – in the conception of procedural rules would in itself endanger the Court's independence which indeed cannot be questioned in the exercise of the Court's judicial function. National courts remain independent although their rules of procedure are usually laid down by parliaments.

To conclude, I should like to assure you that our history in the 20th century makes us strongly attached to the Court and we want it to succeed in fulfilling its essential mission in the upcoming years and decades. I hope that today's discussion will help us become more ambitious in achieving that goal.

Thank you for your attention.

Denmark: Mr David Michael Kendal

Deputy Head of the Department of International Law, Ministry of Foreign Affairs

Mr Chairman, Excellencies,

Allow me first of all to express Denmark's gratitude to the Turkish chairmanship for arranging this important High Level Conference. It is both significant and timely that we are gathered here in İzmir to discuss the ever-important issue of the European Court of Human Rights, and how we together can increase the Court's capacity and effectiveness.

Mr Chairman,

Denmark is a strong supporter of the Court. We place high emphasis on the unique role of the Court in protecting and promoting human rights. The Court does this through a real and comprehensive judicial process, and this is the particular value of the Court. It is the aim of maintaining and strengthening this unique role that has guided Denmark in the preparatory work for the İzmir Conference.

With the entry into force of Protocol No. 14 and the important process launched at Interlaken last year, we find that we have a very good basis for moving forward. We see the İzmir Conference as building naturally on this process, and creating greater impetus for its realisation.

Mr Chairman,

During the preparation of the İzmir Declaration Denmark has consistently underscored the importance of finding practical solutions to the problems facing us. We believe that the work already undertaken in the various bodies in the Council of Europe points us in the right direction and should continue.

We warmly support the Draft Declaration and support that this conference send a clear signal that the deliberations on a filtering mechanism should continue within the established structures in Strasbourg.

Similarly, while we have not taken a final position on the issue of a possible system of fees, we believe that the ongoing work in Strasbourg provides the right venue for coming up with proposals to be considered. Careful examination of the details of such proposals will inform us as to the right way forward.

As we have said earlier, we do not believe that – in the short term – the notion of advisory opinions provides the right vehicle for solving the Court's acute problems of over-burdening. The urgency of the issues facing the Court makes it par-

amount for us to focus on those solutions which can help address the backlog in the nearest future.

Mr Chairman,

We are greatly heartened by what we see as strong support for making the Court function more efficiently, without endangering its role in protecting human rights. We highly appreciate the continuing efforts by the Court itself and the Registry to this effect. We, as states, must support these efforts.

In conclusion, allow me again to thank the Turkish chairmanship. The calling of this conference is the expression of a dedication to addressing the challenges faced by the human rights system of the Council of Europe. We are pleased to be part of the collective endeavour in meeting these challenges, and look forward to continued strong co-operation in this respect.

Thank you, Mr Chairman.

Estonia: Mr Lauri Bambus

Undersecretary for Legal and Consular Affairs, Ministry of Foreign Affairs

Mr Chairman, Excellencies, ladies and gentlemen,

On behalf of the Estonian Delegation, I should like to thank Turkey for organising the High Level Conference on the Future of the European Court of Human Rights in İzmir. It gives us the opportunity to highlight the importance which we all attach to the Court reform process.

Estonia welcomes the fact that the implementation of the Interlaken Declaration and Action Plan has been given serious attention by the Committee of Ministers, the member states and the Court itself and resulted in positive action.

Estonia has already taken steps towards implementing the Interlaken Action Plan. For example, Estonia has seconded a Supreme Court legal adviser to the Registry of the Court. And in order to further promote the principle of subsidiarity, Estonia has introduced a new legal remedy by granting parties to the court proceedings the right to file a request to expedite the proceedings.

Estonia continuously supports the efforts to reform the Court in order to guarantee its long-term effectiveness. At the same time we should like to under-

score that, with regard to access to the Court, the right of individual petition, the fundamental principle and, indeed, the cornerstone of the convention should remain unaffected. In this very context we would, as we said it in Interlaken, find it difficult to envisage the introduction of Court fees to be paid by applicants, of the requirement that applicants should in all cases be represented by a professional lawyer and, even more so, that only the two official languages of Council of Europe should be allowed in oral and written procedures before the Court. Such ideas, if implemented, would act as effective barriers for many applicants and, indeed, introduce discriminations based on social, economic and linguistic grounds.

We agree, however, that urgent need for new filtering mechanisms exists. Estonia also endorses the future establishment of a statute for the Court where provisions related to the organisational and procedural matters that would be subordinated to the simplified amendment procedure will be found.

In this context, Estonia also supports the initiative of our conference to call upon the Committee of Ministers to reflect on possible ways of rendering the admissibility criteria already established by Protocol No. 14 more effective and on whether it would be advisable to introduce additional admissibility criteria to further the effectiveness of the Convention system.

In conclusion, I should like to confirm that Estonia continues to consider the Court of Human Rights to be one of the major achievements of the Council of Europe, that it will remain a wall of protection of the rights and freedoms of more than 800 million Europeans and that, as such, it requires our constant and wholehearted support.

Thank you very much for your attention!

Finland: Ms Päivi Kaukoranta

Director General, Ministry of Foreign Affairs

Distinguished hosts, distinguished delegates,

With reference to the kind invitation letter by the Minister of Foreign Affairs of the host country, I have the privilege to reassure that my government too

regards the Strasbourg Court as indeed the very heart of the European system of protection of human rights.

It is of utmost importance that such a long-lasting reform which would assure sustainable functioning of the control mechanism of the Convention can be carried through during this decade, as indicated in the Interlaken Declaration of 2010.

Permanent solutions will be saluted as the control mechanism has undergone several major reforms, which have in fact continued with greater vigour from the beginning of 1990s.

Notwithstanding the many positive measures taken at various levels, the total numbers, and especially those of clearly inadmissible applications, have continued to rise and are almost unmanageable.

Moreover, as a result of the Court's as such sagacious prioritisation policy, clearly inadmissible applications are determined to stay at the end of list of cases beyond a reasonable time.

Mr Chairman,

We are in a situation where we need to explore open-mindedly fresh avenues. In doing so we shall remain mindful of the need to ensure that all future measures, even drastic ones, serve the fundamental purpose of protecting and developing human rights. This includes, *inter alia*, that the right of individual petition, the cornerstone of the Convention mechanism, and the real access of applicants to the Court will be respected and secured to the maximum possible.

Accordingly, a system of fees or other possible new procedural rules or practices concerning access to the Court require further reflection. We have, however, serious doubts of the effectiveness and functioning of a system of fees.

As regards clearly inadmissible cases, it might be that we do not have any more the luxury to fully maintain the glorious judicialisation of the complaint resolution mechanism, as instituted by Protocol No. 11 to the Convention.

Accordingly, the possibility that certain senior Registry lawyers be given the competence to reject clearly inadmissible cases is to be taken seriously.

If need be, this could be accompanied, for example for a given period, by an additional filtering mechanism consisting of another category of judges than those on the bench.

These judges could also be given the competence to decide on the substance of repetitive applications in the same vain. This would build upon the fact that in repetitive cases, the Court's interpretation is not necessary.

We strongly believe that the Court's prioritisation policy should lead to more precedent-type rulings by the Grand Chamber. It may also be advisable to give the Grand Chamber the power to deliver non-binding advisory opinions under

the new system proposed, in order to further reinforce implementation of the Convention.

As regards interim measures, we share the view that the Court's power to indicate these measures is a crucial factor in guaranteeing the practical and effective character of the right of individual petition and the protection of human rights. Indeed, also here the primary responsibility to secure effective protection of the relevant Convention rights rests on the national authorities, so that the Court has to intervene only in a subsidiary manner.

Finally, Mr Chairman,

We relish the future accession of the European Union to the Convention, the crux of which is that also the acts of the European Union will be subject to external human rights control by an international court, namely our Strasbourg Court.

Thank you.

France: M. Laurent Dominati

Ambassadeur, Représentant Permanent de la France auprès du Conseil de l'Europe

« Le monde peut vivre dans l'incroyance, mais pas dans l'injustice » disait au 11e siècle l'homme d'Etat Nizam Al-Mulk, iranien, au service de la dynastie seldjoukide. Nous avons fait des progrès depuis le 11e siècle. Merci aux autorités turques et à leur sagesse pour l'organisation de cette conférence et pour l'action menée durant leur présidence.

Nous pouvons être fiers de la Cour européenne des droits de l'homme dont l'autorité et l'influence dépassent les limites de nos 47 Etats. Son succès est tel auprès de nos 800 millions de concitoyens qu'elle est désormais en danger. Le nombre de requêtes pendantes atteint aujourd'hui le chiffre de 150 000. Cet engorgement nuit à l'efficacité de la Cour et impose une réforme. Celle-ci est nécessaire afin d'en assurer la pérennité. Une dynamique a été lancée à Interlaken. Des mesures concrètes ont été prises, notamment par la Cour, d'autres pistes sont ouvertes ici à İzmir.

Nous devons réfléchir au type de Cour que nous voulons pour l'avenir et mener nos travaux dans une vision à long terme.

Soit une Cour capable de traiter des milliers et des milliers de requêtes et risquant de se transformer en juridiction d'appel, soit une Cour se concentrant sur les grands principes, s'imposant aux Etats, de protection des droits de l'Homme.

C'est dans le cadre de cette réflexion générale que doivent être étudiées les conditions d'accès à la Cour : la question des frais, qui englobe celle d'un dépôt ou de pénalités. Mais aussi d'autres moyens : la présentation de la requête par un avocat ou l'utilisation d'une des langues officielles du Conseil de l'Europe.

Il en va de même pour l'examen d'un mécanisme de filtrage. Après les études, il faudra une décision politique.

La France a ses préférences, elle attendra la poursuite des travaux, afin de n'éluder aucune piste.

Il était indispensable d'aborder la question des mesures provisoires, qui crée une « situation alarmante » pour la Cour, pour reprendre le terme de son président. Nous nous félicitons des pistes proposées, dont nous évaluerons la portée dans un an.

Nous nous réjouissons de voir réaffirmer le principe de subsidiarité car il nous paraît important de maintenir cette relation de confiance entre la Cour et les Etats. Une jurisprudence claire et prévisible est indispensable pour les juridictions nationales. Parallèlement, les Etats doivent respecter sans faux-fuyant les arrêts de la Cour, et adapter si nécessaire leurs systèmes nationaux.

Ahmed Hachim, un poète turc, a écrit : « Les cigognes contemplent ces mystères et semblent méditer ». De retour à Strasbourg, telles les cigognes turques et alsaciennes, nous méditerons et trouverons les solutions pour que se renforce la protection des droits de l'Homme en Europe, grâce à cette institution unique qu'est la Cour européenne des droits de l'homme.

Georgia: Mr Levan Meskhoradze

Government Agent before the European Court of Human Rights

I should like to take this opportunity and express Georgia's deep appreciation to the Turkish chairmanship of the Committee of Ministers for the organisation

of this very important event to discuss the future of the European Court of Human Rights. It is a great honour for me to participate in this very special event and express Georgia's strong support towards the reform of the Court.

Georgia welcomes the measures already taken by the Court to implement Protocol No. 14 and follow up the Interlaken Declaration.

Nevertheless, experience has shown that Protocol No. 14 will not allow for effective treatment of the constantly growing applications before the Court. Other measures are inevitable to make the Court more effective, enhance the domestic implementation of the Convention and make the execution of judgments more efficient. We believe that in order to tackle the challenges ahead of us the work should be continued at different levels.

In the first place, we need to enhance the convention system. Like most delegations, we attach great importance to the "filtering" mechanism. Nevertheless, filtering is one option on which we work but it should not be the only way we have to explore in case we need to find a lasting solution.

True reform can be carried out only with joint contributions from states and the Court.

The Court needs to explore all possibilities provided by the Convention. We would particularly like to stress the importance of uniform implementation of the Convention and coherence and consistency of the Court's case-law. On the other hand, the principle of subsidiarity should be more clearly reflected in the Court's jurisprudence. It is the pillar of the system. It must be respected and implemented.

Indeed, there is shared responsibility with the Court, but we should not forget that it is the primary responsibility of the contracting parties to guarantee, at the domestic level, the application of the Convention.

Georgia shares the position that priority in the reform process remains the effective implementation of the Convention at national level. In the light of the shared responsibility, states should intensify their efforts to guarantee human rights and fundamental freedoms, through the establishment of effective domestic remedies capable of providing redress.

We should further like to stress the importance of the effective execution of the Court's judgments as one of the crucial elements for guaranteeing the credibility of the convention system and its supervisory body.

Ladies and gentlemen, let me conclude by stressing the need to carry out the necessary reforms of the Convention mechanism without any delay. Georgia is entirely committed to the reform process, and will play its part in taking it forward.

Germany: Mr Max Stadler

Member of the German Bundestag, Parliamentary State Secretary, Federal Ministry of Justice

Minister Davutoğlu, President Çavuşoğlu of the Parliamentary Assembly, Secretary General Jagland, President Costa, Commissioner Hammarberg, Ministers, Ambassadors, ladies and gentlemen,

The European system for the protection of human rights is unique throughout the world. Approximately 800 million citizens can file an application with the European Court of Human Rights if they feel their rights have been violated.

One court for 800 million citizens? This ratio demonstrates just what a gargantuan task the Court has taken on. These figures alone also suffice to show that this task cannot be fulfilled by one court only. It is therefore good to know that this Court is not on its own. After all, an application can only reach the Court once all domestic remedies have been exhausted. Whenever we talk about the task faced by the Court, we are therefore also addressing the member states.

And to see that all member states, one year after the Interlaken conference, have gathered in İzmir to talk once again about the future of the European Court of Human Rights also demonstrates that we are well aware that this is our own responsibility, too. I would very much like to thank the Turkish chairmanship for making the reform of the Court the subject of a conference of ministers, and for making such a decisive contribution to ensuring that we do not run out of steam. It is a great pleasure for me to be able to participate in this conference.

There are, thus, 47 for 800 million! At Interlaken we began to join forces to ensure that the Court can continue to do its job effectively. Here in İzmir, we now take a look at what has been achieved so far. And this is something we can be proud of.

The Interlaken process has pointed us in the right direction for safeguarding the legal protection provided by the Court in Strasbourg. We have to act at domestic level whilst also taking on the Strasbourg structures.

First and foremost, we are required to take action as member states. After all, it lies within our power to decrease the flood of applications. If effective legal remedies are available at the domestic level to permit scrutiny of possible violations of the Convention, then redress can already be provided at national level. I believe that this also includes the creation of a domestic human rights remedy to a national constitutional court. Human rights cases that are dealt with at the domestic level prevent excessive case-loads in Strasbourg. Ultimately, we must structure our own domestic legal position so that ordinary law does justice to the

standards set forth in the Convention. The execution of judgments handed down by the Court is of key significance in this context, and we must be conscious of this as member states.

The Court, however, must also make use of all possibilities available to it under the Convention system to ensure that proceedings are concluded as expeditiously as possible, and – in particular – that inadmissible applications and petty matters are rejected at an early stage. Effective filtering to remove manifestly inadmissible applications, which constitute the vast majority of the applications filed, is of decisive importance in efforts to eliminate the backlog of cases.

I firmly believe, however, that the Convention system has also reached its limits in this respect. And this is why we need to think about making an addition to the system. Germany has proposed that a judicial filtering mechanism be set up within the Court to make it possible to ease the burden created by inadmissible applications being filed with the Court, whilst at the same time ensuring a judicial decision-making in each case. I consider this to be an important point, which brings me to the end of my statement, and my appeal: let us not be rash in dealing with the achievements of the Convention in our efforts to achieve decisive reforms.

Thank you very much for your attention!

Greece: M. Ioannis Ioannidis

Secrétaire d'Etat à la transparence et aux droits de l'Homme, Ministère de la justice, de la transparence et des droits de l'Homme

Excellences, Mesdames et Messieurs,

Je tiens à remercier la présidence turque du Comité des Ministres du Conseil de l'Europe pour avoir organisé et accueilli la Conférence de haut niveau sur l'avenir de la Cour européenne des droits de l'homme. Les travaux de cette conférence réaffirmeront notre attachement à la Convention européenne de sauvegarde des droits de l'Homme et des libertés fondamentales et nos efforts conjoints visant à réformer la Cour européenne des droits de l'homme.

La Déclaration d'Interlaken et le Plan d'action ont établi le contexte d'un processus de réforme de la Cour, de manière à rendre celle-ci plus efficace et viable

dans le long terme, comme constituant le mécanisme par excellence de protection des droits de l'Homme en Europe.

Victime de son succès, le système de protection des droits établi par la Convention souffre lui-même de problèmes systémiques analogues à ceux rencontrés au niveau national. Améliorer et renforcer les règles de procédure, les pratiques et les outils à la disposition de la Cour doit être une priorité, aussi bien des Etats membres que du Comité des Ministres et de la Cour. Pour ce faire, nous devons réfléchir à l'adoption de mesures concrètes.

Nous croyons que la Conférence d'İzmir est une occasion pour évaluer les développements récents et les progrès accomplis à ce jour, ainsi que pour planifier de nouvelles améliorations, et ce, dans l'esprit de responsabilité partagée.

Il faut à la fois préserver le droit au recours individuel et faire face à la surcharge de la Cour en parvenant à un équilibre entre le nombre de requêtes et le nombre de jugements rendus. De surcroît, il est nécessaire de poursuivre la réflexion sur la question des requêtes irrecevables ainsi que sur les moyens d'assurer l'exécution des arrêts définitifs de la Cour.

A ces axes prioritaires, destinés à remédier aux insuffisances structurelles, s'ajoute le besoin de clarté et de cohérence de la jurisprudence, l'application effective du principe de subsidiarité et l'instauration de voie de dialogue entre la Cour et les juridictions nationales.

Ayant à l'esprit que le mécanisme de contrôle le plus important et le plus précieux ne peut pas porter ses fruits, si son fonctionnement durable n'est pas assuré, la République Hellénique se félicite de cette conférence en tant que cadre approprié pour l'échange de vues sur les moyens pour atteindre les objectifs fixés à Interlaken. La Déclaration que nous adopterons, inscrite dans ce processus de réforme, doit contribuer à asseoir l'avenir à long terme de la Cour européenne des droits de l'homme.

Excellences, Mesdames et Messieurs, hier matin, lors de notre visite au site magnifique d'Ephèse, nous avons pu admirer la façade de la Bibliothèque de Celsius, sur laquelle figurent quatre statues : σοφία (la sagesse), αρετή (la vertu), επιστήμη (la science) et έννοια (la raison ou, selon certains, la perception, alors que d'autres l'interprètent comme la fortune). C'est en les combinant, que nous nous montrerons à la hauteur des attentes des justiciables européens.

Je vous remercie pour votre attention.

Hungary: M. Róbert Répássy

Ministre d'Etat à la Justice, ministère de l'Administration publique et de la Justice

Mesdames et Messieurs, chers collègues,

D'abord, je tiens à remercier le gouvernement turc d'avoir organisé cette conférence de haut niveau, qui fournit l'occasion d'examiner dans quelle mesure nous sommes arrivés à la mise en œuvre des tâches définies par la Conférence d'Interlaken il y a un an, et quelles mesures supplémentaires sont nécessaires afin d'assurer l'efficacité du fonctionnement du mécanisme de protection juridique établi par la Convention européenne des droits de l'homme, à savoir : l'efficacité du fonctionnement de la Cour européenne des droits de l'homme. Cette conférence assure que le cas de la protection des droits de l'Homme et la question de la réforme de la Cour restent continûment sur l'ordre du jour, et attire l'attention des États membres sur l'importance du respect intégral de leurs obligations dérivant de la Convention.

Je trouve très utile d'avoir un aperçu – dans le cadre de cette conférence – sur l'évaluation des effets du Protocole nº 14, et d'avoir connu les expériences concernant l'impact du Protocole nº 14 sur l'efficacité du rôle de surveillance du Comité des Ministres et de la Cour. Vu qu'il est entré en vigueur il y a encore moins d'un an, nous ne pouvons évidemment pas attendre que le nombre des cas à traités cumulés depuis de nombreuses années soit déjà réduit considérablement ; pourtant, en connaissant les derniers résultats, nous considérons prometteur pour l'avenir les potentialités inhérentes des amendements introduits par le Protocole nº 14. De même, l'an passé depuis l'adoption de la Déclaration d'Interlaken n'était pas suffisant pour atteindre ses objectifs, mais il est déjà clair que nous nous dirigeons dans la bonne direction vers une application plus efficace de la Convention.

En ce qui concerne de nouvelles mesures, il est très important de prévoir des recours efficaces au niveau national, toutefois, la Cour ne peut pas continuer la pratique de permettre de plus en plus des exceptions à la conformité aux critères de recevabilité ; ainsi, par exemple, par l'exemption de l'obligation de l'épuisement des voies de recours internes donnée à un requérant potentiel, la Cour met fin au principal système de filtrage, qui peut empêcher un afflux de requêtes déposées à Strasbourg. La Cour – dans son avis sur le projet de Déclaration à adopter par cette conférence – en substance, dit qu'elle pourra observer le principe de subsidiarité lorsque les Etats respecteront leurs obligations en vertu de la Convention.

Il semble donc que la Cour ne tient pas compte du fait que le principe de subsidiarité n'est pas destinée à protéger les Etats, à les libérer de l'obligation d'honorer leur engagements juridiques internationales, mais c'est une caractéristique inhérente du système de la protection juridique internationale, sans laquelle le bon fonctionnement de la protection juridique au niveau internationale ne peut pas être assuré, particulièrement en vue du rôle d'établissement des faits et du filtrage des forums des voies de recours internes.

La Hongrie souligne l'importance de fournir du droit de recours individuel, et l'importance du respect du principe de subsidiarité, qui forment les fondements de base du régime de protection des droits établi par la Convention. Dans ce contexte, et en reconnaissant que la tâche de veiller aux droits énoncés dans la Convention est surtout confiée aux États parties, nous renforçons notre engagement à réaliser les objectifs fixés dans la Déclaration d'Interlaken, et soutenons la Déclaration d'İzmir qui renforcent ces objectifs.

Mesdames et Messieurs, je vous remercie de votre attention.

Iceland: Ms Ragnhildur Hjaltadóttir

Permanent Secretary, Ministry of the Interior

Let me first, on behalf of Iceland, express our thanks to the Turkish government for organising this important conference and for the excellent hospitality here in the beautiful town of İzmir.

The Icelandic Minister of the Interior, Mr Ögmundur Jónasson, sends his best regards to the meeting. Unfortunately he was not able to attend.

The European Court of Human Rights is a cornerstone in the safeguarding of human rights and we recognise its extraordinary contribution to the protection of human rights in Europe.

Iceland welcomes the review of the rules under which the European Court of Human Rights operates. The discussion taking place among the member states of the Council of Europe about the current situation of the Court and its future role is both necessary and timely. Such discussions should be an ongoing process among the member states and the Court itself.

Iceland reaffirms its worries concerning the current caseload of the Court and the risk that it can effectively undermine the rights of individuals to lodge applications, as the Court cannot, within an acceptable time-limit, address cases regarding fundamental human rights and have the potential of establishing important precedents.

As the Danish delegation expressed at the Interlaken conference last year, the Court is to some degree a victim of its own overwhelming success.

Iceland supports proposals which are designed to reorganise the work of the Court in order to create a better filtering of clearly inadmissible cases. We hope that Protocol No. 14 to the Convention will to some extent mitigate the problems caused by the increased number of applications but more will be needed – we all agree on that.

The Interlaken conference last year was an important contribution to the review process, the State Parties marked the way forward and now we are evaluating the progress and deciding how to continue our important work in order to increase the efficiency of the European Court of Human Rights. We stress the importance of the subsidiarity principle, whereby the primary responsibility for securing human rights lies with the states themselves.

But at this point it is of decisive importance for the future of the European human rights system to focus on the Court itself and its internal organisation in the quest for solutions which will enable the Court to come to grips with its caseload.

Iceland supports all measures taken to tackle current problems regarding the workload the Court is facing, but we also stress the need to pursue long-term strategic reflections about the future role of the Court in order to ensure sustainable functioning of the Convention mechanism, as stated in the declaration.

Elaboration of a simplified amendments procedure for provisions relating to organisational matters is important in this context.

Our task here in İzmir is to evaluate further actions for pursuing the measures introduced at the Interlaken ministerial meeting. We have on the table a declaration addressing the challenges the Court and the member states are facing, which Iceland supports.

Therefore, Iceland finds it important to examine all possibilities for new measures and procedural rules concerning access to the Court aiming at increasing the productivity. We also stress the importance of not taking actions leading to significant barriers for individual applications. The idea of accessibility is a fundamental element for human rights in Europe – our challenge is to strike a balance between an open pathway to the Court and its possibility to deliver for human rights in Europe.

In this context it should considered carefully whether charging fees to applicants harmonises with that ideology.

We must never forget that all measures taken must serve the fundamental purpose of protecting and developing human rights in Europe.

Ireland: Mr Peter White

Co-Agent for the Government of Ireland before the European Court of Human Rights

Mr Chairman, ladies and gentlemen

I wish to thank the Turkish authorities for their leadership in organising this conference and to pay tribute to their efforts in bringing the draft Declaration and Follow-up Plan to this advanced stage.

It is almost one year since Protocol No. 14 entered into force for all High Contracting Parties and with it much needed reforms. The preliminary results are that it has had a positive effect. It is clear however that further action is required to bring about the necessary balance between applications introduced and applications disposed of.

Since Interlaken all stakeholders have been working hard to ensure that the reform process is a success. Ireland endorses the Declaration and Follow-up Plan which will be adopted at İzmir. It is vital to the future of the Court that the momentum of the reform process commenced last year is maintained and where necessary strengthened.

Ireland reiterates its belief that subsidiarity and improved implementation of the Convention at the national level are key to a successful reform process. Implementation at the national level takes many forms, ranging from ensuring availability of effective domestic remedies; ensuring prompt execution of judgments; where applicable taking into account the developing case-law of the Court; and working to raise awareness in national authorities of the Convention standards and case-law.

High Contracting Parties should also play a role in ensuring that applicants and their representatives are fully informed in relation to the Convention case-law and the admissibility criteria. Ireland commends the Registry and the Court for producing the "Practical Guide on Admissibility". We have sought to ensure maximum distribution of the Practical Guide in Ireland.

The reform process is not just about effective implementation at national level. The Court has an important role to play and it is to be commended for the way in which it has adapted to the challenging circumstances in which it finds itself. Further adaptations may have to be considered. The İzmir Declaration reiterates the need for rigorous application of admissibility criteria and, in accordance with the principle of subsidiarity, avoidance of reconsideration of questions of fact and law already decided by national courts.

Following Interlaken, important developments worth mentioning have taken place: Ireland places particular importance on the need to ensure that the Court is comprised of the highest quality judges with the necessary expertise and practical experience. We welcome the creation of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights. In this regard, Ireland notes and welcomes the call for further reflection on the criteria for office as judge of the Court.

Ireland also welcomes the efforts of the Committee of Ministers to put in place the new standard and enhanced procedures for supervising the execution of judgments with a view to increasing effectiveness and efficiency.

It is evident from the discussions to date that while progress has been made, further work remains to be done. While the initial reports on the operation of the single judge are encouraging, new provisions as regards the filtering of cases are necessary. Ireland looks forward to working with other High Contracting Parties towards elaborating proposals as to how filtering of cases might best be done; and we remain open-minded as to how to proceed. The issue of a simplified amendment procedure and fees for applicants are also issues which remain to be examined. In this regard, Ireland takes note of the Opinion of the Court on the need to ensure its independence and not to impose on it administrative burdens.

One year on from Interlaken it is important that we not only maintain the forwards direction but that we do so with renewed pace. This is not about reform for the sake of reform but filling the very real need to ensure that the European Court of Human Rights maintains its role as the cornerstone of human rights protection in Europe.

Thank you.

Italy: M. Alfredo Mantica

Sous-secrétaire d'Etat aux Affaires étrangères

Monsieur le Ministre Davutoğlu, Monsieur le Secrétaire Général Jagland, Monsieur le Président de l'Assemblée parlementaire Çavuşoğlu, Monsieur le Président de la Cour Costa, Messieurs les Ministres,

La délégation italienne souhaite vivement vous remercier et remercier avec vous la Présidence turque du Comité des Ministres du Conseil de l'Europe et tous ceux qui ont contribué à organiser cette conférence à haut niveau, dans une ville qui – carrefour de la culture orientale et occidentale – est elle-même un instrument pour la réalisation de la paix et du respect des droits de l'Homme.

Le Gouvernement italien exprime son soutien au projet de Déclaration sur le suivi d'Interlaken qui introduit principes et règles pour l'amélioration de la fonction et des travaux de la Cour européenne des droits de l'homme.

A cet égard, l'Italie bien comprend les difficultés auxquelles il faut faire face, nées depuis l'entrée en vigueur du Protocole n° 14, y compris le nouveau règlement de la Cour. Il s'agit de difficultés qui peuvent être résolues par un contrôle plus efficace de la Cour, aux termes des critères sur la recevabilité des recours établis dans la Convention, qui ont le but d' éviter un engorgement devenu chronique depuis plusieurs années. La Cour a déjà instauré un système de filtrage à travers la désignation du juge unique, solution dont mon pays apprécie beaucoup le potentiel aide qu'elle pourra constituer pour le travail de la Cour. D'autres mesures pourraient être successivement évaluées.

Afin que les efforts pour faciliter le bon déroulement des fonctions puissent bien réussir, c'est primordiale que tout se passe toujours dans le respect du principe de subsidiarité, en accord donc avec une correcte répartition des tâches d'actuation de la Convention. Une interprétation claire, en cohérence avec le principe de subsidiarité, reste tout évidemment essentielle pour la collaboration entre les Etats et la Cour.

L'Italie a bien accueilli et mis en œuvre les indications du Président de la Cour, communiquées dans sa déclaration du 29 janvier 2011 sur les demandes de mesures provisoires, en assurant au niveau national l'effet suspensif accordé et donnant aux requérants la possibilité de rester sur le territoire italien avec l'adoption de mesures qui peuvent leurs assurer une protection efficace.

L'Italie est favorable à une modification de la Convention par un nouveau Statut de la Cour, fondé sur le consensus de tous les Etats ; au même temps, mon Pays est conscient que ce résultat demande un travail attentif aux implications qui peuvent intervenir dans les ordres intérieurs nationaux, auxquelles s'ajoute

maintenant l'adhésion de l'Union européenne à la Convention, dont l'accord est actuellement à l'examen des Etats contractants.

Dans l'effort commun pour mieux adapter la structure et le fonctionnement de la Cour aux exigences de nos jours, l'Italie est convaincue que l'information et la formation représentent de plus en plus un instrument nécessaire qui joue au jour le jour un rôle fondamental. C'est bien pour cette raison qu'on a visé organiser la formation nationale sur la Convention des droits de l'Homme, comme elle est interprétée par la Cour, des autorités judiciaires et en général des fonctionnaires publiques, à travers la coopération des administrations et des autorités compétentes.

Plusieurs programmes de formation sont en cours pour les magistrats, chez le Conseil Supérieur de la Magistrature, et pour les avocats, organisés par les Barreaux et des Universités.

Le Ministère de la Justice a préparé la traduction en italien du Guide pratique sur la Recevabilité, en réponse à l'invitation du Greffier de la Cour.

Enfin, pour faciliter leur évaluation des cas, les intéressés et les avocats auront aussi à disposition, sur les sites institutionnels nationaux, un guide dans leur langue – qui se trouve d'ailleurs dans le site de la Cour aussi – pour évaluer correctement s'il existe une situation qui relève de la Convention et pour bien présenter – le cas échéant – la requête à la Cour.

Je souhaite réaffirmer, Monsieur le Président, l'engagement de l'Italie dans le travail qui nous attend ; la coopération et la bonne volonté de tous – Etats membres et Cour – aboutiront certainement au résultat que nous souhaitons le plus: renforcer le respect des droits humains dans notre entourage pour le faire plus fort et plus respecté dans tout le monde.

Merci, Monsieur le Président.

Latvia: Ms Aiga Liepina

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Latvia to the Council of Europe

Your excellencies, ladies and gentleman,

It is my pleasure to address the High Level Conference today in the beautiful city of İzmir. We are grateful to the Turkish Chairmanship for the efforts made for organising the event.

The Latvian Authorities attach great importance to the process of reform of the Strasbourg Court, which is the highest judicial instance in Europe. It is of utmost importance that the Court complies with its own established criteria of the reasonable length of proceedings, which currently is the greatest challenge faced by the Court.

We are pleased that Protocol No. 14 has finally entered into force and, without prejudice to the present problem of the excessive caseload, we still believe that the Protocol has contributed significantly to streamlining proceedings before the Court. Still, the Protocol is not yet applied to its full capacity (the three-judge committee setting is yet developing, the option to decrease the number of judges in chambers has not yet been used).

We truly believe in the need to continue the reform process; however, the next steps should not undermine the results of the previous intergovernmental discussions. It would be counter-productive to come back to ideas that have previously been discussed and gained no support among the delegations, such as additional filtering mechanism for inadmissible applications and advisory opinions. In our view during the further process of the Court's reform we should seek new, fresh ideas. For example, we could discuss in greater detail possible filtering mechanism for dealing with repetitive cases and convening audit of the Court.

We are ready to continue discussion on the possible introduction of the court fee, however, this is not a mechanism able to significantly decrease the number of incoming manifestly inadmissible applications received by the Court.

At the same time, we are against the proposal to introduce new admissibility criterion or criteria. The existing admissibility criteria are sufficiently broad and exhaustive. On the other hand, we see a room for improvement in ensuring more coherent and consistent application thereof by the Court.

Finally, given the current case-load of the Court, we look with great caution at any ideas to vest the Court with new functions, especially those not directly linked to the judicial ones.

Dear colleagues,

We note the reform of the supervision of execution of the Court's judgments. We believe more can be done in this field. The agenda for the human rights meetings of the Committee of Ministers is gradually becoming longer, as the Court produces more judgments and decisions that the Committee is able to process. The Committee should be able to work in smaller settings (such as informal settings to discuss execution of groups of judgments touching upon particular issues), thus increasing the supervision processing capacity and decrease its length, while preserving the quality of the supervision of execution.

Undoubtedly, the primary and greatest responsibility for implementing the Convention standards is at the national level. A lot still has to be done in this area and we believe that the process of preparation of national reports in follow-up to the Interlaken will be used as an opportunity to re-evaluate the efficiency of the existing national human rights mechanisms.

We also highly value the "Practical Guide on Admissibility" released by the Court, the idea of which we have supported since 2006 as an important tool in improving the quality of individual applications.

We are pleased with the pace of negotiations concerning European Union accession to the Convention. We hope that the Court will be well-prepared to face new challenges at the moment of entry into force of the accession agreement.

To conclude, we express our strong view that the result of the reform process should preserve the status quo of the Court in terms of independence of its judges and performance of its judicial powers.

Thank you!

Liechtenstein: Ms Aurelia Frick

Minister of Foreign Affairs, Justice and Cultural Affairs

Honourable Chairman, dear colleagues, high representatives of the institutions of the Council of Europe, ladies and gentlemen,

I am very happy indeed to take part in this important Conference in the historical city of İzmir. I thank you, Mr Chairman, for your kind invitation.

It is the spirit of Interlaken that has brought us together here. It is exactly this spirit that should continue to guide our work on the follow-up to the Interlaken commitments regarding the reform of the Strasbourg Court. Additional reform efforts are both urgent and indispensable. This becomes abundantly clear when looking at the latest statistics of the Court. In the first three months of 2011 alone, the Court has registered almost 19 000 new applications. This constitutes a staggering rise of applications of 22% compared with the figures for the same period in 2010. Thus, it is not surprising that the number of pending applications has grown to almost 150 000. This means that we have come even closer to the situation in which the Court really suffocates from the backlog of applications. It is therefore essential that we continue our efforts to support the Court and to ensure that these figures diminish as soon as possible.

Mr Chairman,

As regards the specific issues that have been discussed during the preparations of this Conference in İzmir, I would like to emphasise a few points to which Liechtenstein attaches particular importance.

First of all, we fully agree with the assessment of the President of the Court that, even under the most optimistic scenario, Protocol No. 14 will not be sufficient to avoid the need for further reform. In this light, Liechtenstein is of the view that the pressing work on the various other reform issues should be continued and concluded as soon as possible. When doing so, high priority should be given to measures that can help alleviate the situation of the Court in the short and medium term. At the same time, in line with the Interlaken Action Plan, it should be born in mind that there might soon be a need to discuss more fundamental steps in order to assure the sustainable functioning of the control mechanism of the Convention.

In this context, let me also emphasise the importance of the principle of subsidiarity. Above all, our efforts at the national level are required. The Strasbourg Court should only serve as the last resort for applicants.

However, the Court also has an important role to play. I would therefore like to recall the proposal that I made at the Interlaken Conference, namely to conduct an audit of the Court. We are convinced that the result of such an audit would confirm inter alia that Protocol No. 14 is not sufficient and that further reform steps are urgently needed. In other words, this proposal is not meant to make the life of the Court more difficult or to interfere with the important principle of independence of the Court. It is solely aimed at ensuring that the Court can make the most efficient use of its limited resources and alleviate its situation as soon as possible.

Another issue Liechtenstein attaches great importance to is filtering. As regards "internal filtering", we encourage the Court to continue its efforts to

streamline its single-judge procedures, for instance by grouping together a certain number of single judges who then, for a limited period, concentrate on clearly inadmissible applications. In this light, we also trust that the Court will find a reasonable way of dividing its human resources in respect of those cases which are clearly inadmissible and of those to which it attaches special importance. Also, we strongly support the establishment of a new "external filtering mechanism" and we think that the further discussions on this should be given high priority.

On the other hand, Liechtenstein is against the introduction of a system of fees for applicants to the Court. In addition to our reservations to such a system from an "access to the Court perspective", we are not convinced that such a system, if appropriately administered, would really significantly reduce the Court's workload because it would require a considerable bureaucracy within the Court.

In closing, Mr Chairman, I would like to express my gratitude to you and the Turkish authorities for your hospitality. I am very much looking forward to participating in the ministerial session in Istanbul in two weeks. I thank you for your attention.

Lithuania: Mr Tomas Vaitkevičius

Vice-Minister of Justice

Dear colleagues, ambassadors, ladies and gentlemen,

First of all, I should like to express a sincere gratitude to the Turkish authorities for their hospitality in organising this conference.

My government appreciates this opportunity to express its views on the post-Interlaken process, which is to ensure the long-term efficiency of the system of the European Convention on Human Rights.

The Court is in a unique position because it can offer solutions to the "hard" cases, to develop criteria for the interpretation of the Convention and to offer guidance to states on how to ensure adequate protection of human rights and freedoms. Ideally, it should also be able to offer advisory opinions to the highest national courts seeking clarification on such issues. However, to fulfil this, so to

say, "constitutional" task, the Court is first of all required to manage the flow of incoming applications and solve the problem of backlog cases.

We do not mean that the Court should be left alone with this task. On the contrary, we consider that full respect by the Court for the principle of subsidiarity, both procedural and substantive, would help us all to accomplish this task.

The states are required to have effective domestic remedies. In a specific situation of backlog cases the requirement to use the newly established domestic remedies would help to reduce the number of backlog cases and result in their quicker resolution.

The respect for the substantive aspect of subsidiarity should continue to be ensured by means of the doctrine of the margin of appreciation, serving the need for due regard to the state's identity, culture, historical and political context as the differences of the domestic contexts may cause and justify diverse choices when implementing conventional rights.

We should naturally consider various other means for helping the Court to deal with its case-load. Introduction of fees could be one such option. It raises, however, a difficult issue of how not to prevent applications in "real" cases and, at the same time, how to ensure that the system of fees is not merely an additional financial and administrative burden on the Court. At the same time we support the idea of making public and thus foreseeable the rules on the application of Article 41 of the Convention. The transparency of the decisions of the Court in this and other fields would also contribute to the reduction of the number of applications.

There are many ways how to deal with the applications at the Court and how to protect the Convention rights in our respective countries. In this connection, the requirement to provide information regarding the implementation of the Interlaken Action Plan can be a useful tool for exchanging good practice and sharing practical knowledge of how to properly "bring the Convention standards home", and what pitfalls to avoid. One thing to avoid is the Interlaken reporting mechanism becoming yet another formality, another burden to discharge and forget.

In continuing our discussions on the future of the Convention system, the main idea should be to preserve its most valuable aspect. We believe, it is the trust in the Court and, more generally, in human rights.

Thank you for your attention.

Luxembourg: M. Robert Biever

Procureur général d'Etat

Monsieur le ministre des Affaires étrangères et Président du Comité des Ministres, Monsieur le ministre de la Justice, Monsieur le Secrétaire Général du Conseil de l'Europe, Messieurs les Présidents de la Cour et de l'Assemblée Parlementaire, Mesdames, Messieurs,

Mes sincères remerciements vont d'abord au Gouvernement turque pour l'organisation de cette conférence. Elle nous permet de réaffirmer notre engagement à maintenir l'acquis de notre système de garantie des droits et libertés pour nos citoyens et de rechercher ensemble des réponses concrètes aux exigences d'aujourd'hui.

Si la déclaration d'Interlaken a permis d'identifier les déficiences du système actuel et d'apporter des réponses en la forme du plan d'action, force est de constater qu'un an après les défis restent énormes. En effet, l'entrée en vigueur du Protocole nº 14 et malgré le début de la mise en œuvre du plan d'action d'Interlaken, les problèmes demeurent pour une large partie les mêmes. Il est essentiel pour nous de souligner que le droit de recours individuel est la pierre angulaire du mécanisme de la Convention et doit le rester. Mais force est de constater que le système actuel touche à ses limites et qu'il faut donc continuer à réfléchir à des remèdes durables et efficaces.

La Cour a tiré très largement profit des opportunités dont elle dispose depuis l'entrée en vigueur du Protocole nº 14. Les réflexions sur d'autres moyens susceptibles de réduire la charge de la Cour comme un système de filtrage, l'introduction d'autres critères de recevabilité ainsi que des changements supplémentaires à opérer au niveau des juges ou du greffe doivent être poursuivis et accélérés. De même il faudra également peser l'impact d'éventuels avis consultatifs à demander par les juridictions nationales à la Cour sur la charge supplémentaire de travail qu'engendrerait cette mesure ainsi que l'allongement probable des procédures nationales dans une telle hypothèse.

Si l'introduction de frais à charge du requérant peut certainement être envisagée comme un moyen supplémentaire pour empêcher l'introduction de requêtes manifestement irrecevables voir non fondées, il faut éviter que ce mécanisme porte in fine atteinte au droit de recours individuel.

De notre côté, et conformément aux engagements pris à Interlaken, nous avons initié des changements législatifs dans le but de nous conformer à la jurisprudence de la Cour et le Luxembourg a été un des premiers pays à mettre à la disposition de la Cour un juge national.

Par les déclarations d'Interlaken et d'İzmir nous les Etats membres, montrons clairement que nous voulons nous engager et persévérer dans le chemin des réformes engagées, ceci dans l'intérêt du citoyen et de ses droits les plus fondamentaux. Je vous remercie.

Malta: Mr Peter Grech

Attorney General

Chair, Honourable Ministers, distinguished ladies and gentlemen,

On behalf of the Government of the Republic of Malta, first of all, I wish to thank the Government of the Republic of Turkey for the generous hospitality and the excellent organisation of this conference.

Malta very much appreciates the efforts of the Turkish Chair of the Committee of Ministers to take concrete steps in response to the call in the Interlaken Action Plan for future Chairmanships of the Committee of Ministers to follow up the Interlaken Declaration – a declaration which after all strengthens the already invaluable work of the Council of Europe in its mission to foster the rule of law, and to protect fundamental human rights and democracy.

It is evident at this stage, and has been clear for some time, that steps need to be taken in order to prevent the Convention and the Court from becoming victims of their own success and popularity.

In this regard it is clear that measures are required in order to balance the numbers of new cases and the numbers of cases which the Court decides each year and to tackle the backlog of cases – a point which was addressed in a very concrete manner in the Interlaken Declaration and Action Plan.

The Government of Malta believes that the principle of subsidiarity and the proper training of judges and other public officials in the domestic sphere constitute essential elements in the proper and efficient implementation of the Convention.

If effective remedies are consistently made available domestically there may be less need for recourse to the Court. On the other hand one must also be fully aware that domestic situations and social and economic scenarios vary considerably within Europe and that judicial activism on the part of the Court will,

applied with the required spirit of moderation and mutual respect, nevertheless be called for as an important element in maintaining the Convention as a living rather than a static instrument and in the effective protection of human rights.

The Government of Malta notes with satisfaction the increased use of the HUDOC database and of the Court's website in providing important information to citizens and to professional sectors about the case law and the workings of the Court and in implementing the principle of accessibility of the law in the field of the Convention.

The government is rather cautious, however, although open to discussion, about the possible introduction of court fees since it is not yet convinced of the productivity of such a measure.

On the other hand the government recognises the need for new filtering mechanisms which however need to be implemented as an integral part of the exercise of the judicial function of the court.

We also see that one of the biggest challenges is that of putting into place proper co-operation mechanisms for the adoption and effective implementation of general measures capable of remedying so called structural violations of the Convention.

This task is rendered more complicated where such structural violations are intimately linked to sensitive and important elements of the State party's social and economic order. However this is not and should not be or be seen as an insurmountable task.

In conclusion, Chair, I once again thank the Turkish authorities for this commendable initiative and confirm the support of the Government of the Republic of Malta for the text of the Draft Declaration.

Thank you for your attention.

Moldova: M. Vladimir Grosu

Agent du Gouvernement devant la Cour européenne des droits de l'homme

Tout d'abord, je voudrais féliciter la Présidence Turque du Comité des Ministres du Conseil de l'Europe pour nous avoir donné la possibilité de continuer les réflexions sur le futur de la Cour européenne des droits de l'homme. Je

voulais aussi remercier tous ceux qui ont contribué à cet échange de vue très enrichissant et actuel.

Il y a longtemps déjà que les discussions on été entamées sur la nécessité d'assurer l'efficacité à long terme de l'application de la Convention européenne des droits de l'homme sur le plan national et européen. Or, à presque une année après l'entrée en vigueur du Protocole n° 14, la Cour européenne des droits de l'homme continue d'être confrontée à un problème qui a gardé toute sa complexité originelle. Eu égard au flux incessant de requêtes adressées à la Cour, je crois qu'il est impératif que les mesures nécessaires soient prises dans l'immédiat sur le plan national pour consolider de manière substantielle les mécanismes de protection et de garantie des droits de l'Homme. Comme l'a démontré la conférence d'Interlaken l'année dernière et celle d'aujourd'hui à İzmir, le principe de la subsidiarité garde toujours la place centrale dans le système de la Convention.

Bien que le Comité des Ministres soit mandaté d'examiner d'avantage l'opportunité d'introduire une procédure permettant aux hautes juridictions nationales de demander des avis consultatifs à la Cour concernant l'interprétation et l'application de la Convention, je crois qu'il existe déjà une très riche jurisprudence de la Cour Européenne pour chaque Etat et sur diverses aspects. Les cours suprêmes nationales doivent être encouragées à utiliser cette jurisprudence pour clarifier certaines dispositions de leurs législations dans la lumière de la Convention et donner au système judiciaire les orientations nécessaires pour éviter de nouvelles violations des droits de l'Homme.

De même, plus d'attention doit être payé aux critères de recevabilité des requêtes pour qu'ils soient mieux connus et compris, surtout si les statistiques nous montrent que la plupart des requêtes portées devant la Cour sont déclarées irrecevables. L'expérience de mon pays à cet égard indique sur la nécessité de consolider l'information des gens sur l'admissibilité et la procédure devant la Cour européenne, et peut-être on pourrait envisager une telle fonction pour les bureaux du Conseil de l'Europe dans les différentes capitales, par exemple.

Dans le même ordre d'idées, dans préjudicier l'accès à la Cour, l'abandon définitif de l'idée de paiement de frais nous parait prématuré et la poursuite des réflexions dans ce sens n'est pas privée de justifications.

En terme d'exécution, nous ne devons pas ignorer le rôle des législatifs et des autorités locales dans la mise en œuvre des standards de la Convention et donc une implication plus consolidée de l'Assemblée parlementaire et du Congrès des pouvoirs locaux et régionaux du Conseil de l'Europe à ces travaux seraient souhaitable.

Enfin, nous attendons l'adhésion de l'Union européenne à la Convention, ce qui, nous espérons, conduira à une vraie complémentarité entre les efforts déployés à Strasbourg et Bruxelles pour la promotion des valeurs européennes et à la construction *de facto* d'un cadre juridique et normatif paneuropéen.

Monaco: M. Philippe Narmino

Ministre plénipotentiaire, Directeur des services judiciaires, Président du Conseil d'État

La Principauté de Monaco tient à s'associer aux félicitations et remerciements exprimés par les délégations qui l'ont précédée à l'endroit de la Présidence turque du Comité des Ministres du Conseil de l'Europe et des organisateurs de la Conférence d'İzmir.

L'entrée en vigueur du Protocole nº 14 à la Convention européenne des droits de l'homme avait été qualifiée « de véritable bouffée d'oxygène » pour la Cour de Strasbourg soumise à la pression étouffante d'un nombre de nouvelles requêtes toujours croissant et d'un nombre inquiétant d'affaires en souffrance.

Malgré la courte période d'observation entre l'entrée en vigueur du protocole et la première évaluation préliminaire de son impact sur le fonctionnement de la Cour, les informations à ce jour disponibles révèlent des tendances plutôt encourageantes dont nous ne pouvons que nous réjouir.

Pourtant, et la Conférence d'Interlaken avait déjà été l'occasion de l'affirmer, la réforme introduite par le protocole ne peut suffire à elle seule à garantir un avenir serein à la Cour. Le processus de réforme engagé à Interlaken en février 2010 doit s'accompagner d'autres efforts visant à donner à la Cour les moyens de continuer ses missions de protection des droits fondamentaux dans des conditions acceptables.

Nombre de mesures concrètes ont déjà été appliquées, certaines avant même l'entrée en vigueur du Protocole nº 14, et plusieurs propositions de nouvelles mesures abordées à Interlaken ont fait l'objet d'examen, de débats, de discussions et de réflexions. A cet égard, doit être salué le dynamisme de la Cour et des acteurs de la réforme pour les mesures déjà mises en œuvre.

Toutes mériteraient des commentaires mais la délégation de Monaco se bornera à évoquer les points qui lui paraissent favoriser l'efficacité du système de protection des droits de l'Homme.

Très attachée au droit de recours individuel et confirmant sa volonté de mettre en œuvre les adaptations législatives nécessaires, la Principauté de Monaco est convaincue que le respect du principe de subsidiarité, en application duquel les juges nationaux sont les premiers protecteurs des droits et libertés énoncés par la Convention, demeure essentiel. A ce titre, la formation des juges nationaux au droit conventionnel et la large diffusion de la jurisprudence de la Cour constituent des initiatives indispensables que les autorités monégasques s'efforcent de développer.

Dans le but de renforcer encore le bon fonctionnement de la subsidiarité, la Principauté de Monaco est favorable à la création de tout outil de travail de nature à s'assurer que la saisine de la Cour n'intervient qu'à bon escient. Ainsi, le guide sur la recevabilité des requêtes a été porté à la connaissance des avocats de la Principauté.

Dans cet ordre d'idée, Monaco est d'avis, ainsi que le suggère la Cour, qu'il est temps désormais de mettre en place une règle de représentation obligatoire des requérants par avocat ou autre professionnel du droit et de n'admettre en conséquence que les requêtes présentées avec l'assistance de tels professionnels.

Une telle règle, au demeurant en vigueur dans l'ensemble des Etats – à tout le moins pour ce qui concerne leurs plus hautes juridictions nationales – aurait le mérite de marquer la véritable portée d'une saisine de la Cour de Strasbourg. Elle ne serait pas pour autant dissuasive mais limiterait sans doute le nombre de saisines dans des proportions significatives, en évitant les requêtes manifestement irrecevables ou infondées.

En revanche, exiger des requérants le paiement de frais ne semble pas compatible avec le droit de recours individuel et de libre accès à la Cour et pourrait être regardé comme discriminatoire. Pour des raisons de principe, la délégation de Monaco n'y est pas favorable.

En ce qui concerne le système de filtrage, la désignation de vingt juges uniques a eu des résultats qualifiés de « prometteurs ». Toutefois, d'autres pistes doivent être explorées pour compléter ce système qui ne saurait à lui seul régler les problèmes de fonctionnement de la Cour. La Principauté de Monaco avait fait part, à Interlaken, de certaines idées-force qui devraient orienter la réflexion sur le filtrage des requêtes.

S'agissant de sa mise en œuvre, Monaco demeure fermement attaché à ce qu'un juge au moins puisse superviser chacune des décisions d'irrecevabilité, afin que le contrôle de la décision finale conserve dans tous les cas un caractère judiciaire.

Enfin, l'attribution à la Cour d'une compétence consultative afin de permettre aux Etats de solliciter son avis s'inscrit certes dans l'objectif de renforcer le principe de subsidiarité mais n'est pas sans présenter des inconvénients immédiats.

Sur le court terme, étendre la compétence consultative de la Cour peut sembler inopportun en ce que cette mesure aurait pour effet immédiat d'accroître sa charge de travail en augmentant le nombre de saisines. Sur le long terme, cette proposition de réforme pourrait contribuer à réduire le nombre de requêtes, mais cet effet – souhaitable – demeure hypothétique et ne pourra pas être objectivement mesuré. En outre, des questions liées à cette procédure se posent dans divers Etats européens, notamment celle de l'effet suspensif de la saisine de la Cour à ce titre, au regard de la nécessité de respecter un délai raisonnable pour le traitement des procédures.

La route est encore longue mais les éléments du premier bilan de l'impact du Protocole nº 14 sur le fonctionnement de la Cour et des acquis du processus de réforme lancé à Interlaken sont prometteurs et encourageants. Si nous sommes loin d'être arrivés à destination, nous pouvons au moins nous convaincre d'être sur la bonne voie.

Montenegro: Mr Duško Marković

Deputy Prime Minister for Political System, Internal and Foreign Policy, Minister of Justice

Honoured Chairman, respected Secretary General of the Council of Europe, distinguished President of the Committee of Ministers, respected President of the Parliamentary Assembly, distinguished President of European Court of Human Rights, honoured Commissioner for Human Rights, ministerial colleagues, ladies and gentlemen,

Allow me first to congratulate on behalf of the Government of Montenegro the country which is chairing the Committee of Ministers of the Council of Europe – Turkey – on the excellent organisation of this high-level meeting, which represents another confirmation of the commitment to one of the most urgent challenges within the Council of Europe – improving the efficiency of the Court, which has been widely recognised as a protector of fundamental human rights and freedoms for more than 800 million citizens of Europe.

Over a year after Interlaken, ministers of member states competent for matters related to the European Convention on Human Rights are again at the same table, gathered to recall the recent implementation of the Action Plan of the Interlaken Declaration and to define further steps in its implementation. Montenegro, today as then in Interlaken, wishes to convey strong support to the process of reforms of the European Court for Human Rights and the improve of its efficiency, which will represent specific contribution to each member state of the Council of Europe, but also to the organisation in its efforts to strengthen its position in the European institutional structure. In that sense, I wish to express also my personal satisfaction for harmonisation of the Declaration, whose adop-

tion at this conference will represent the new driving force for the complete process initiated in Interlaken.

Montenegro has marked a very important date in the calendar of the year behind us: on 17 December our country became a candidate for European Union membership. At the same time, by acquiring European Union candidate status, we have received from our European partners a set of key recommendations, whose fulfilment represents a condition for opening of the accession negotiations. The most important of seven key recommendations is also the first measure of the Action Plan of the Interlaken Declaration, and that is the rule of law. Rule of law, which signifies independence and efficiency of the system of justice, law-respecting society and legal safety of its citizens and protection and promotion of human rights and fundamental freedoms.

Therefore, please allow me to say something about the activities we have conducted and to give in a couple of sentences a short overview of the results achieved in this field. Only four months after receiving the recommendations, we have drafted the analysis of the necessary amendment of the Constitution, in the part referring to the selection of the highest judicial function holders; determined amendments to the Criminal Procedure Code, which completely decriminalise slander; and prepared the final texts of amendments and supplements to the set of general laws in the sphere of the judiciary, which will provide higher transparency in elections, career progress and disciplinary responsibility of the highest judicial function holders. Of course, we have conducted the capital reform interventions with the full support of our partners from European Commission and the Venice Commission. It is worth mentioning that we have an ongoing intensive reform of the system for enforcement of the judgments. We are introducing into our legal system private enforcement agencies, the system of free legal aid in accordance with the international standards in this area, and the system of enforcement of criminal sanctions through strengthening of alternative sanctions and measures. The first notaries have been also appointed in Montenegro. All the aforementioned represents the proof of our commitment to the strengthening of the rule of law, which results in promotion of the national mechanisms for protection of human rights and fundamental freedoms, in accordance with the principle of subsidiarity, which is the cornerstone of the Interlaken Declaration.

On the other hand, bearing in mind that the application of law is one of the greatest challenges, we are conducting in Montenegro intensive education on European law, with emphasis on the practice of the European Court of Human Rights. In the curriculum of the training centre for judicial function holders, the practice of the Court in Strasbourg holds a special position and is conducted in accordance with the annual educational programmes. Also significant at this level is the role of Montenegro's government agent before the European Court,

whose obligation is to help raising awareness on human rights and the duties of their obedience. The Office of the Agent of Montenegro before the Court has published the Collection of Chosen Judgments of the Court in Strasbourg; a new Collection is in preparation; and the Strasbourg practice is being published in Montenegrin language on the website of the Supreme Court of Montenegro.

Montenegro, as a respectable and reliable European partner, gives special attention to the enforcement of the judgments of the European Court of Human Rights. I would like to emphasise here that we do not see the judgments from Strasbourg as decisions against the country, but as acts in favour of the country, which contributes to the raising of the level of awareness on protection of human rights and freedoms, which is above all, the interest of all our citizens. At the moment, there are something over 700 complaints before this Court against Montenegro, which is the expected number. However, since our goal is to reduce this number, we are dedicated in Montenegro to strengthening the institution of constitutional appeal, as the last remedy before Strasbourg and the most important instrument for realisation of the principle of subsidiarity. In the same context, we strongly support all the activities aimed at improving the efficiency of the Court's Registry, and we will confirm our support as soon as possible by seconding one of the Montenegrin judges, which will contribute to the faster and better decision-making process on complaints.

Ladies and gentlemen,

Montenegro consistently supports all the activities aimed at strengthening the Convention system, such as the foundation of the rule of law, essential democracy and common European identity. We strongly support the principle of subsidiarity, in accordance with which the previous protection of human rights at national level through the system of efficient remedies is of fundamental importance. We also find it necessary to make citizens more familiar with the admissibility criteria for complaints before the Court, which would contribute to the reduction of the number of unfounded complaints. We support the principle *de minimis non curat praetor*, because we think it is necessary to find mechanisms for preventing the trivialisation of the decision-making process of the Court, thus protecting its authority and freeing its capacities for ruling on heavy violations of human rights.

Therefore, it is my great pleasure to support the Declaration on behalf of Montenegro and express the readiness to conduct all the necessary activities on implementation of recommendations set out in it.

Netherlands: Ms Ellen Berends

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Netherlands to the Council of Europe

Your Excellencies, ladies and gentlemen,

Let me start by [following others in] paying tribute to you, Your Excellency, and to the Turkish Government for hosting this important conference. It is a fitting and integral part of the ongoing follow-up to the Interlaken conference fourteen months ago. This occasion provides me with an opportunity to set out the views of the Dutch Government.

First of all, I wish to express my government's continued commitment to upholding and strengthening the Council of Europe's human rights system, in which the Court plays a major role alongside other actors.

It cannot be stressed enough that the primary responsibility for securing the rights and freedoms enshrined in the Convention rests with member states. Member states should continuously and actively monitor their own activities for compliance with the provisions of the Convention by which they have undertaken to be bound.

Just as important, the system provided for by the Convention presupposes trust in national legal systems. More confidence should be placed in the capacity of national legal proceedings, provided of course that they are available and accessible to the individual, to secure the rights enshrined in the Convention, unless clear shortcomings have been demonstrated. Further development of the margin of appreciation doctrine should allow the Court to concentrate on the most serious human rights violations. More confidence in national legal systems should also bring a halt to the alarming increase in requests for interim measures, to which President Costa alluded in his recent statement.

In addition to these general comments, let me conclude by referring to several important issues.

- The Dutch Government favours a continuing pursuit of a more efficient filtering system, and further reflection on how to deal with repetitive applications and on advisory opinions.
- We stress the importance of a strict application and interpretation of the admissibility criteria, as a crucial instrument for the Court to manage its caseload.
- At domestic level, the government is in the process of establishing a new system of court fees. We are of the view that a system of court fees might also be appropriate in Strasbourg.

- Our experience with our national procedures for nominating judges to both European courts is highly satisfactory. We feel other states could benefit from our experience, and we look forward to discussing it in the working group recently established for that purpose.
- We support the formulation of a statute for the Court. Not only would such a statute make it possible to avoid prolonged proceedings to modify Convention provisions on institutional, organisational or procedural matters; it would also provide an additional and flexible instrument for resolving issues that are currently unclear, including the procedural questions surrounding requests for interim measures.
- Last but not least, an improved system of checks and balances could further strengthen the authority of the Court's case law. In particular, the Committee of Ministers should play a more active role in developing standard setting within the Council of Europe.

Thank you.

Norway: Ms Astri Aas-Hansen

State Secretary, Ministry of Justice and the Police Deputy Minister of Justice

Excellencies, Mr Secretary General, ladies and gentlemen,

I would like to start by thanking the Turkish chairmanship for organising this highly important conference.

The European Court of Human Rights plays a critical role in improving human rights protection in Europe. It is the final guarantor, when national authorities fail to ensure the rights and freedoms enshrined in the Convention.

The right of individual petition is a fundamental pillar of the Convention system. However, it is being undermined by the ever-increasing backlog of cases. Norway strongly supports necessary reform that will ensure all applicants a decision within a reasonable time.

I therefore urge all relevant actors to give full effect to the Interlaken and İzmir declarations. Effective measures must be taken quickly in order to reduce the number of clearly inadmissible and repetitive cases and to increase the Court's case processing capacity. Norway supports the introduction of a new filtering

mechanism, a simplified procedure for amendment of certain provisions of the Convention, a procedure allowing national courts to request advisory opinions from the Court, and further consideration of a system of fees for applicants.

In my view, priority should be given to strengthening the Court's Registry. As the Court itself has pointed out on a number of occasions, this could substantially increase its case processing capacity. Strengthening the Registry does not require any amendment of the Convention, and should preferably start in 2012. This would enable the Court to deal with a larger number of applications within a reasonable time.

Furthermore, Norway proposes to transfer the competence to reject clearly inadmissible cases from single judges to senior Registry staff. This would be the most flexible and cost effective filtering mechanism. Providing all applicants with a decision within a reasonable time is more important than insisting on decisions by judges also in clearly inadmissible cases. Allowing the Registry to process these applications would allow the judges to concentrate on more important cases.

Finally, Norway supports an additional mechanism that would make it possible to strengthen the Court with temporary judges if necessary. This would increase the overall flexibility of the Court, and is essential in order to ensure that all cases can be decided within a reasonable time. There is clearly a limit to how many cases 47 judges can deal with.

To sum up: although I believe that effective measures must be taken rapidly to reduce the inflow of applications to Strasbourg, I also think that it is essential to strengthen the Court's case processing capacity, at least in the short and medium term. As noted in the Interlaken Declaration, the growing backlog of cases causes damage to the effectiveness and credibility of the Convention and its supervisory mechanism. The ideas for a solution are on the table. We are all responsible for using this opportunity to maintain the Court as a final guarantor of human rights in Europe.

Thank you.

Poland: Mr Maciej Szpunar

Undersecretary of State, Ministry of Foreign Affairs

Excellencies, ladies and gentlemen,

I should like to start by thanking Turkey for organising this important Council of Europe conference.

The first positive results of the entry into force of Protocol No. 14 and the Interlaken process are already noticeable. This is particularly true with respect to the treatment of manifestly inadmissible and repetitive applications. Although the real impact of these reforms will only become clear later, the Court should be encouraged to continue to make full use of them.

Any further reforms that go beyond Protocol No. 14 should be adopted with caution. Rather than create new fixed structures which could rapidly become obsolete or insufficient, it would be wiser to make the whole system more adaptable to possible future challenges.

This is why for several years now Poland has been proposing a statute of the Court that allows certain provisions relating to procedural and organisational issues to be amended more easily. We hope that the İzmir conference will give this idea new impetus.

Any reforms of the Convention system cannot be truly successful if the principle of subsidiarity is not fully applied. A possible solution to the Court's heavy case-load is the further development of the system of domestic remedies, general as well as specific.

I would like to draw your attention to the publication from last year's fourth Warsaw Seminar, devoted to the post-Interlaken Process, which is available here. It includes many interesting contributions regarding the idea of the Statute and general domestic remedies.

The cornerstone of the Convention system is and should remain the right to individual complaint. Any future reforms must not be detrimental to this right. For this reason, Poland does not support the introduction of fees for applicants to the Court. Any other possible new procedural rules or practices concerning access to the Court should be elaborated in consultation with civil society.

Poland has in the past strongly supported the reform of the Convention system and will continue to participate actively in this vital process.

Thank you for your attention.

Portugal: M. Américo Madeira Bárbara

Ambassadeur Extraordinaire et Plénipotentiaire, Représentant Permanent du Portugal auprès du Conseil de l'Europe

Monsieur le Président, Excellences, Mesdames et Messieurs,

Le Portugal félicite la Présidence turque du Comité des Ministres pour l'organisation de cette conférence et remercie l'excellent accueil dans cette jolie ville d'İzmir, qui se tient à un moment crucial où, en poursuivant l'esprit d'Interlaken, une définition ou redéfinition de voies s'impose ainsi que les choix de solutions qui puissent garantir le bon fonctionnement des instances de contrôle, tout en préservant les principes consacrés dans la Convention européenne des droits de l'homme et dans ses protocoles additionnels.

Les autorités portugaises sont conscientes des difficultés auxquelles la Cour européenne des droits de l'homme est confrontée devant l'afflux croissant d'un nombre important de requêtes, pour la plupart manifestement irrecevables ou nettement mal-fondées, et sont engagées dans la recherche et l'approfondissement de solutions permettant son bon fonctionnement.

Dans cet esprit de coopération et de partage de responsabilités, le Portugal accueille favorablement plusieurs propositions de résolution de litiges à l'amiable, de la part de la Cour, surtout dans des affaires qui font l'objet d'une jurisprudence bien établie.

De même, le Portugal coopère avec le Service de l'exécution des arrêts de la Cour, conformément aux nouveaux modèles de contrôle récemment adoptés, en mentionnant les mesures de caractère individuel et de caractère général adoptées pour chaque affaire, en exécutant de manière stricte chaque arrêt, tout en se souciant de prévenir que des situations analogues ne se reproduisent.

D'ailleurs, en 2010, le gouvernement portugais a créé une Commission nationale pour les droits de l'Homme, organisme de coordination interministérielle, ayant pour compétences notamment la coordination visant à l'acquittement par le Portugal des obligations résultant des instruments internationaux dans le domaine des droits de l'Homme.

Le Portugal accorde, par ailleurs, une importance toute particulière à la diffusion et à la traduction de la jurisprudence de la Cour, notamment dans des affaires plus importantes du point de vue des situations sous-jacentes et de celui des solutions juridiques trouvées, afin que les magistrats portugais en prennent connaissance et l'applique. La jurisprudence la plus importante fait partie des programmes de formation des magistrats et des agents des forces de sécurité.

Néanmoins, les autorités portugaises sont conscientes de la nécessité d'adopter de nouvelles mesures permettant d'éviter l'engorgement de la Cour. Sachant que les mécanismes actuels de filtrage sont insuffisants, les autorités portugaises considèrent que, outre le fait qu'il faudrait exploiter toutes les possibilités ouvertes par le Protocole n° 14 concernant les critères de recevabilité des requêtes, plusieurs solutions préconisées sont également envisageables dès lors que les principes fondamentaux inscrits dans la Convention européenne des droits de l'homme et ses protocoles additionnels sont préservés, en particulier le droit de requête individuelle et la nature juridictionnelle de toutes les décisions.

Le Portugal ne rejette pas la possibilité d'introduction d'un système de frais pour les requérants, dès lors que ce système est suivi *ab initio* de mécanismes appropriés d'aide judiciaire ou d'exemption, de manière à ce que nul ne soit privé de saisir la Cour en raison d'un manque de moyens.

Nous considérons que le renforcement des moyens humains et matériels dans la phase de filtrage est inévitable et accueillons au départ les différentes modalités possibles, dès lors que le pouvoir de décision revient toujours au juge.

Par contre, nous envisageons avec un certain scepticisme la possibilité d'introduire des avis consultatifs, lesquels, étant naturellement de nature non contraignante, ne produiront à notre avis que peu d'effets utiles et seront même susceptibles de contribuer à jeter une plus grande perturbation dans le fonctionnement de la Cour et des instances judiciaires nationales.

Outre ces solutions, le Portugal considère comme étant essentiel pour l'avenir de la Cour, le renforcement effectif du principe de la subsidiarité en tant que concept central d'interaction entre les instances nationales et le système international, de façon à ce que ces instances nationales fonctionnent effectivement comme les premiers garants des droits fondamentaux.

A cet effet, l'adoption de mécanismes de procédure internes appropriés s'impose ainsi qu'une perception réaliste de ces mécanismes comme étant des moyens effectifs permettant de se conformer pleinement au principe de l'épuisement des recours internes.

La reconnaissance équilibrée de la « marge d'appréciation » des Etats s'impose également ainsi que le fait de ne pas considérer la Cour comme étant une quatrième instance d'appel.

Finalement, comme une certaine doctrine le souligne, la tendance généralisée d'octroi d'indemnités, souvent élevées – au détriment d'une jurisprudence de la Cour comme jurisprudence essentiellement de valeurs – pourra encore faire accroître dangereusement l'afflux de requêtes et surcharger la tâche de la Cour.

Cette réflexion est notre apport à l'amélioration de l'efficacité du rôle de la Cour dans l'application du droit conventionnel, si important à nos démocraties

et aux défis qui se présentent aujourd'hui à la protection des droits de l'Homme dans nos sociétés.

Je vous remercie.

Romania: Mr Doru Costea

Secretary of State, Ministry of Foreign Affairs

Monsieur le Président, Mesdames et Messieurs,

Permettez-moi, tout d'abord, de saluer l'initiative de la présidence turque du Comité des Ministres d'organiser cette réunion.

Cette réunion marque une étape importante dans le processus de reforme de la Cour, dont l'adoption du Protocole n° 14 et de la Déclaration d'Interlaken a attesté formellement le besoin.

La conférence est aussi une excellente opportunité pour la Roumanie de réaffirmer son ferme attachement aux principes et aux valeurs consacrés par le système de la Convention européenne des droits de l'homme.

Toute consciente de l'ampleur des défis auxquels la Cour est appelée à répondre, la Roumanie exprime son entier soutien pour la mise en œuvre des mesures cohérentes, efficaces et compatibles avec le droit de recours individuel, droit qui se trouve au cœur de la construction conventionnelle.

Ladies and gentlemen,

Following this line of thought, we are of the opinion that it is essential when analysing future commitments, to keep in mind the principles deriving from the Interlaken Declaration. Among them, we underline the importance of strengthening the principle of subsidiary and the need to ensure the clarity and consistency of the Court's case-law.

Romania, a member state of the European Union, supports the process of its accession to the European Convention on Human Rights, given its importance for the development of a coherent protection of fundamental rights at European level.

We believe that states are first called to create a legal environment that provides for the observance and effectiveness of the rights enshrined in the Conven-

tion. The experience stands proof for the efficient supporting role of the Court and of the Committee of Ministers in achieving this important commitment.

In this respect, Romania highlights the important progress that has been made through the introduction of the procedures of pilot judgments and friendly settlements, together with the new mechanism of supervision of the enforcement of judgments rendered by the Court. Romania stresses the importance of applying strictly the principle in virtue of which the States Parties have the choice of means to deploy in order to comply with their obligations under the Convention, as interpreted by the Court in its case-law.

As for the new directions indicated in the present declaration, as a principle, we consider that no procedural rule or measure should affect the right of individual petition in its substance, nor should it impose an excessive burden on applicants.

Romania understands the potential positive effects of introducing a system of fees. An amendment of this importance should be preceded by a consistent analysis of the actual system. In order to ensure the substance of this initiative, we see it desirable to first evaluate its concrete impact on the activity of the Court, the costs and the practical steps necessary for its implementation and, above all, its compatibility with the Convention.

On the application of the admissibility criteria and rules of competence, we recall that according to the Convention, the Court is the only authority called to interpret them. The principles of independence and impartiality of judges as enshrined in the Convention recommend it in this pursuit.

We also believe that the initiative of introducing a new attribution of the Court, notably the advisory opinions, must be thoroughly examined before assuming legal and political engagements.

The Conference Declaration to be adopted in İzmir represents an important link in the on-going reflection process on the reform of the Court. Romania stands ready to actively and positively contribute to the continuation of this exercise.

Russian Federation: Mr Alexander Konovalov

Minister of Justice

Ladies and gentlemen,

I am honoured to participate in the İzmir High-Level Conference on the Future of the European Court of Human Rights, which stands at the heart of the protection mechanism guaranteeing these rights. I would like to thank the Turkish Chairmanship for the organisation of this conference, which gives us the opportunity to assess the progress since the Interlaken Conference in February of last year.

The Russian Federation authorities consider the Conference in İzmir as an important step in the process of reform of the Court. The main message of the Turkish Chairmanship to work in a spirit of compromise and co-operation was met with understanding by the Russian Federation authorities. We share the Turkish Chairmanship's view that the reform of the Court should remain a top priority of the wider reform of the whole Convention mechanism and that the reform of the Court retains its relevance, even more so after a year since the Interlaken Conference.

I would like to reiterate that the Russian Federation authorities attach great importance to ensuring the effective functioning of the Court and to finding a reasonable balance between the paramount responsibility of the states for the observance of the European Convention and that role, which the Court is destined to play.

We recognise that the existing problems of the Convention's supervisory mechanism oblige us to proceed in our search for its further improvements designed to ensure that the Court, which faces the very serious challenges, is able to perform its essential functions fully and on a long-term basis by strictly adhering to the principle of subsidiarity, which implies that the Court should intervene only in extreme cases where the domestic institutions are incapable of ensuring effective protection of the rights guaranteed by the Convention.

In our view, the Court should concentrate its activities on the systemic problems, concerning the implementation by the state-participants of the Convention of their obligations under the Convention and to ensure the comprehensive and consistent interpretation of legal provisions of the European Convention in the process of adjudicating cases, in particular those concerning serious violations of human rights, which would serve as a legal guidance to the state-participants of the Convention.

Securing the consistency and predictability of the Court's position in questions of its own competence would allow stabilizing the Court's case-law and contributing to the mutual understanding between the Convention's institutions, on the one hand, and the governments of the Contracting Parties, on the other.

As to the follow-up plan to the Interlaken conference, the Russian Federation's view on it is as follows.

The introduction of a system of charging of reasonable court fees upon submission of an application, as one of the measures, which will allow dissuading manifestly ill-founded is supported by the Russian Federation authorities.

The principle of subsidiarity should be fully respected when dealing with requests for interim measures. The Court can intervene in the national asylum and immigration procedures only in exceptional circumstances. At the same time, member states should secure the existence of effective remedies in order to deal rapidly with situations giving rise to orders on interim measures under Rule 39 of the Rules of Court.

With regard to a new filtering mechanism within the Court, the Russian Federation authorities note with satisfaction the first reassuring results of the new single judge formation and consider that the work on this issue should be continued in the relevant committees of experts of the Council of Europe.

Extending the Court's competence to issue, upon requests of national highest courts, advisory opinions concerning the interpretation and application of the Convention's provisions can be agreed upon provided that it is consistent with constitutional provisions and legislation of the member state concerned.

The Russian Federation authorities consider that the most preferable way of dealing with repetitive applications would be ensuring effective implementation of the Convention at national level and giving priority to the resolution of repetitive cases by way of friendly settlements and unilateral declarations.

The Russian Federation authorities welcome the progress on the draft agreement on accession of the European Union to the Convention and believe that such accession should be based on the principles of equality of all Contracting Parties and guaranteeing equal protection of human rights to each person under their jurisdiction.

Thank you for your attention.

Serbia: Ms Dragana Filipović

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Serbia to the Council of Europe, on behalf of Ms Snežana Malović, Minister of Justice

Mr Chairman, Your Excellencies, distinguished colleagues, ladies and gentlemen,

At the outset, let me express our appreciation and gratitude to the Turkish chairmanship for all its efforts in the run-up to the İzmir Conference. The absolute significance of this conference is in the fact that it has been organised to evaluate the results achieved in the implementation of Protocol No. 14 and the reform process launched by the Interlaken conference, but also to highlight the priorities for the future.

Since its admission to the Council of Europe, the Republic of Serbia has continuously supported the system of protection of human rights based on the Convention for the Protection of Human Rights and Fundamental Freedoms. We have supported all necessary amendments with the aim to increase the effectiveness of the Court contained in Protocol No. 14.

In the important process of the reform of the Court, the Government of Serbia recognises and remains focused towards all results-oriented activities envisaged to promote and improve the system of protection of human rights grounded on democracy, rule of law, common European values, but also on the respect for legitimate differences regarding the way of the implementation of the Convention in different States Parties.

I should like to use this opportunity to address several key issues.

Firstly, the principle of subsidiarity in the protection of the rights guaranteed under the Convention should remain the cornerstone for the parties to the Convention and for the Court as well. It means that the states have a duty under Article 1 of the Convention to secure the Convention rights and freedoms at the national level, compliance of the legislation and practice with the standards contained in the Convention and the protocols thereto, and to fully execute the judgments rendered by the Court. On the other hand, we believe that the Court should give effect to the new admissibility criteria and the principle *de minimis non curat praetor*, apply other admissibility criteria fully, constantly and foreseeably, and secure the consistent and coherent application and interpretation of the substantive provisions of the Convention.

Further on, the right of individual petition is another crucial element in the system established by the Convention on human rights. In this regard, Serbia

considers that this principle will not be jeopardised by the introduction of a threshold for the submission of individual applications to the Court. On the other hand, Serbia supports more efficient processing of cases classified as "well-established case-law", although it stresses the importance of establishment of clear and consistent criteria and procedure to be applied for the classification of these cases.

The Government of Serbia is in favour of the idea of intensifying the meetings of the Court with the government agents on a regular basis, foreseeable rules concerning the application of Article 41 of the Convention, duly reasoned decisions of the panels of five judges to reject requests for referral of cases to the Grand Chamber and giving priority to the resolution of repetitive cases by friendly settlements or unilateral declarations when appropriate.

Also, I would like to underline that we welcome the regulation of the pilot judgments procedure by the new Rule 61 of the Rules of the Court and consider that the regulation of the procedure of the issuance of unilateral declarations would be of greater use of this mechanism by the states. This mechanism as well as the conclusion of friendly settlements would significantly contribute to the efficiency of the Court.

Ladies and gentlemen,

Serbia advocates that the Committee of Ministers examines the modalities for a procedure allowing the highest national courts to request advisory opinions from the Court, concerning the interpretation and application of the Convention.

Finally, Serbia remains dedicated and strongly supports the measures envisaged to ensure the effectiveness of the control mechanisms defined by the Convention.

Thank you for your attention.

Slovak Republic: Mr Emil Kuchár

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Slovak Republic to the Council of Europe

Mr Chairman, Ministers, ladies and gentlemen,

First I should like to thank the Turkish Government for organising this important conference.

The fact that supporting the human rights protection mechanism created by the European Convention on Human Rights – in particular the European Court of Human Rights – has been a priority for many Committee of Ministers' chairmanships, including the current one, proves that functioning of the Court system is central to the Council of Europe member states. On the other hand, using more sceptical language, this might also indicate that miraculous solution how to reform the control mechanism of the human rights protection to make it more efficient has not been found yet.

We undoubtedly appreciate progress that was achieved after the Interlaken Conference taking also into account first encouraging results and impact of Protocol No. 14. At the same time we share the common view that the issue of reform of the Court has remained relevant than ever.

Let me briefly touch upon two points. Slovakia belongs among those State Parties to the Convention that sees the control mechanism established by the European Conventions on Human Rights as unique. Our approach is that its unique character should be retained. This includes, *inter alia*, the right of individual petition. My country will support all measures aiming at dissuading clearly inadmissible applications. There must be enough room for the Court to deal with well-founded applications. However, no reform should affect the very cornerstone of the right of individual application. No matter how genuine our reform intentions are, if we lose sight who should benefit from the reform of the Court in the first place, we fail. Therefore we are convinced that the right of individual application must be examined with maximum of expertise and sensitivity.

As regards the implementation of the Convention at national level we only reiterate our previous statements. We are aware that more must be done in order to guarantee and protect human rights at national level. We know that more involvement by the State Parties is needed, we must do better.

The second point I should like to refer to relates to the issue of interim measures requested in accordance with Rule 39 of the Rules of Court. It is encouraging that this timely issue is reflected in the İzmir Declaration. In this connection we welcome developments in the Court's practice of dealing with interim measures.

Indeed, as it is stated, *inter alia*, in the Declaration we are about to adopt, the European Court of Human Rights cannot be seen as an immigration appeals tribunal or a court of fourth instance. Member states, while committed to protecting human rights and fundamental freedoms of their citizens, cannot simply challenge the risk of becoming hostages of the Convention system. In this connection, we would support putting in place a system of prioritisation of cases in which interim measures have been applied.

What we also see as crucial not only in relation to the application of interim measures of the Court but also with respect to the Convention system as a whole is its subsidiary role. As my country stated on numerous occasions, the principle of subsidiarity has to be maintained and even strengthened. I will confine myself to re-emphasising this core principle of the Convention mechanism.

To conclude, Slovakia subscribes to the principles of the İzmir Declaration and is pleased to support it.

Thank you.

Slovenia: Mr Aleš Zalar

Minister of Justice

Dear colleagues, esteemed ladies and gentlemen,

I am very happy and pleased that after just over a year we meet again at the common table with a double purpose: on one hand, to mark the results already achieved of the process which started last February in Interlaken and, on the other, to give the plans that were laid out there a new impetus and enthusiasm for a brighter future of the European Court of Human Rights. Firstly, I would especially like to thank the Turkish authorities for the excellent organisation of this important conference and for the hospitality extended to us here.

The year behind us is important for several reasons. Certainly, the most important one is the entry into force of the Protocol No. 14 in June 2010, which brought important procedural changes to the functioning of the Court that will largely contribute to facilitating the Court's task in dealing with the increasing case-load. We feel optimistic about the data provided by the Court regarding the

first provisional evaluation of the impact of the Protocol No. 14 since its entry into force.

Already during the preparations for the conference in Interlaken, Slovenia advocated the establishment of some sort of a judicial council for unbiased evaluation of candidates recommended by the States Parties to be appointed as judges of the European Court of Human Rights, so we are especially satisfied to see the concrete result of the process initiated in Interlaken which is manifested in the establishment of an advisory panel for this purpose. An important aspect of ensuring impartial and high-quality judges is also the process of selection of candidates in the States Parties. In this regard, we therefore support further activities directed towards analysing good national practices.

I should especially like to emphasise the concern of the Republic of Slovenia regarding the tendencies to introduce a system of court fees for the access to European Court of Human Rights, such as is the practice in national systems. In our opinion, the introduction of such a system would interfere with the individual right to appeal which represents an important pillar of the existing convention system; we therefore oppose the introduction of court fees from the symbolic standpoint if not otherwise. Besides, the European Court of Human Rights is not a court at the level of a Council of Europe member state where court fees are appropriate; it is an international court of human rights and fundamental freedoms and we estimate that a court fee system is inappropriate in this case. Last but not least, the introduction of court fees would also impair the external legitimacy of the Court – it could make an impression that access to the Court is being hindered by administrative barriers. We therefore share the views of the Court that the introduction of court fees is inappropriate.

On this occasion I would also like to mention our views regarding the currently very concerning issue of a new filtering mechanism that would go beyond the existing system where a single judge decides on the issue of clearly inadmissible cases. Considering the increase of applications filed with the Court, modifications of the existing system of filtering will probably have to be inevitably considered in the future.

Regardless of the possible modalities of the future filtering system, Slovenia is convinced that this competence should remain in judicial hands and therefore we do not support the establishment of a system where such competence would be given to the Registry of the Court since a judicial decision on every application filed with the Court is the essential achievement of the existing system and an important aspect of its legitimacy.

At the end, I should only like to emphasise our support to the possibility that the highest national courts could address requests to the European Court of Human Rights for advisory opinions on the interpretation and application of the Convention, since in our view it would have a positive impact on national courts'

jurisprudence and would, last but not least, lead to the strengthening of the subsidiarity principle. Therefore, we support the inclusion of this item in the declaration which will be adopted here.

The views presented are some of the essential red lines supported by Slovenia in the further process of the reform of the Court.

Thank you for your attention.

Spain: Mr Juan Carlos Campo Moreno

State Secretary, Ministry of Justice

Ministers, Secretary General of the Council of Europe, President of the Parliamentary Assembly, President of the European Court of Human Rights, Commissioner for Human Rights, dear friends,

First of all, my delegation wants to thank the Turkish Chairmanship of the Committee of Ministers for its great hospitality. Secondly, I should like to praise the excellent work done by all actors in the organisation of this meeting, in particular for the drafting of the İzmir Declaration, which will be adopted tomorrow.

It is a pleasure for me to be here today to share with you the views of Spain on a topic as relevant as the future of the European Court of Human Rights. Yesterday, I was able to visit the land of Heraclitus of Ephesus, the philosopher who identified oppositional processes as wars and said that justice was strife. In other words, that our universe and our justice are the result of those strives.

This is why we are not only here to take stock of the progress achieved since the Interlaken Conference, in February 2010, but mainly to discuss and adopt essential decisions for the future work of the Court, in order to offer a better justice to our citizens.

I shall briefly address four topics that have been on our agenda for the past months: court fees, filtering and repetitive applications, advisory opinions and interim measures.

- As far as court fees are concerned, Spain could support introducing a system of charging fees upon submission of an application to the Court, which we believe is not discriminatory, but may have a symbolic result.

- Regarding the filtering system in relation to repetitive applications. On the one hand, we believe that a filtering mechanism must always have a jurisdictional component. On the other hand, we agree that we have to start working on the amendment of the Convention as soon as possible, in order to ensure the functioning of the Convention mechanism on the long-term.
- With regard to advisory opinions, we consider that the modalities for a possible procedure allowing the highest national courts to request such opinions have to be further explored by the Committee of Ministers.
- Finally, when adopting interim measures, the Spanish delegation understands that, in accordance with the principle of subsidiarity:

– the Court should provide the reasons for their adoption,
– the defendant state should have the opportunity to address to the Court its observations on the merits of the case; and,
– if appropriate, interim measures adopted should be subject to revision.

Otherwise, interim measures might produce serious consequences for our systems.

In conclusion, I should like to highlight the need for action. These four topics are good starting points. But I believe that we cannot avoid the most important question: which kind of European Court of Human Rights do we really want? Do we want to keep treating equally all cases? Or do we agree to establish priorities, to recognise that some cases are more important than others?

The Spanish delegation considers that we have to wage this long strife, identified long ago by Heraclitus of Ephesus as the only way to improve the justice that our citizens deserve.

Thank you.

Sweden: Mr Carl Henrik Ehrenkrona

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Sweden to the Council of Europe

Excellencies, Ladies and Gentlemen,

Unfortunately, neither our Minister for Foreign Affairs, Carl Bildt, nor our Minister for Justice, Beatrice Ask, could attend today. They both very much

regret this. I would like to convey their sincere thanks to our Turkish hosts for organising this important conference here in İzmir, as a follow up to the very successful conference in Interlaken arranged last year by Switzerland.

Sweden is a strong supporter of the legal order created by the European Convention on Human Rights and the Court. It has been a party to the Convention since 1952. There is no doubt that during its 60 years of existence, the Convention has played a very significant role in the protection of human rights in Europe. It has also served as a source of inspiration for other international human rights instruments and other human rights bodies. Through the unique system of individual application and binding judgments, the Court has continuously developed and enhanced the protection of human rights for persons within the jurisdictions of the States Parties. We have a duty to ensure that the Court will be able to continue to perform this vital task in years to come and that the necessary resources are put at its disposal.

The Convention system cannot function efficiently unless we assume our responsibility to fully implement and apply the Convention at national level. We should not forget that first and foremost, the responsibility for guaranteeing that an individual's human rights are respected lies with the national parliaments and governments, and the national authorities and courts. The role of the Court is a subsidiary one. Establishing effective domestic remedies and executing the Court's judgments by speedily introducing the necessary legal amendments are measures that assist in relieving the burden of the Court. By taking such measures it is possible to avoid so-called repetitive applications being brought to Strasbourg.

The Court is not a fourth instance court. This means, among other things, that we expect it to exercise restraint in reconsidering questions of fact and national law that have been considered and decided by national courts. It is essential that the Court's case-law continue to be clear and consistent. If the present trend of an ever-increasing caseload persists, there is a serious risk that the quality and coherence of the Court's case-law will suffer.

Clearly inadmissible applications make up a large part of the Court's caseload. We are convinced that finding a solution to this problem is of utmost importance to the proper functioning of the Court in the long term. Increased efficiency in rejecting complaints that are clearly abusive, and – where possible – applying the principle *de minimis non curat praetor* is necessary for the Court. New ways of dealing with the so-called filtering mechanism should also be encouraged.

As a specific measure it is important to provide objective information to potential applicants on the requirements and limits of the Convention system. The Court's efforts in this respect should be welcomed and encouraged.

However, in finding adequate mechanisms or ways to discourage complaints that are clearly inadmissible, we do not believe that introducing a system with

application fees is the proper solution to the problem. In doing that, most certainly there is a clear possibility that we run the risk of putting into place obstacles to access to justice particularly targeted towards individuals with scarce resources, no matter what the substance of the claim might be, and still without necessarily discouraging, specifically, the applicants with clearly inadmissible cases.

Furthermore, one should not forget the special role of the Committee of Ministers in supervising execution of the Court's judgments. Here there is room for improvements. The collective responsibility of the states in this field should be emphasised. That judgments are respected and implemented is fundamental to the credibility of the system.

However, in spite of our efforts to better equip the Court to handle the increasing mass influx of cases, internally by rationalising work within the Court and its Registry and externally by means of Convention amendments – I am thinking in particular of Protocol No. 14 – the backlog of pending cases is still increasing, and now exceeds 150 000. This has made it impossible for the Court to deliver judgments and decisions within reasonable time frames.

I should also like to express my Government's concern over the role which the Court has assumed in asylum and migration cases, acting as a last resort for those who have been refused asylum or residence permits in a Convention state. This development, and the way the Court applies Rule 39 in such cases, has created a very difficult situation both for the Court and for the State Parties concerned. This is one area where the principle of subsidiarity is of particular importance. Let me, in this regard refer to the Statement by the President of the Court on requests for interim measures on 11 February, in which he underlined that the Court is not an appeal tribunal from the asylum and immigration tribunals of Europe, and that where national immigration and asylum procedures carry out their proper assessment of risk and are seen to operate fairly and with respect for human rights, the Court should only be required to intervene in truly exceptional cases.

To conclude, we should like to underline that Sweden fully supports the current reform process towards a long-term effectiveness of the Convention system. It is vital that we as Contracting States succeed in safeguarding for the future this unique system for protection of human rights in Europe. As we all know, the process has been going on for a number of years and yet it is currently in a dynamic phase with the implementation of Protocol No. 14 and the Interlaken declaration. The present Conference brings further valuable impetus to this work.

At the same time, we wait for the negotiations on the accession of the European Union to the Convention to be finalised. Sweden supports a swift accession. For the European Union and its member states, accession will confer Convention

rights to individuals with regard to actions and measures adopted by the Union, its institutions or bodies, and it will be an important step towards achieving a common European human rights standard in the greater Europe.

Thank you.

Switzerland: M. Michael Leupold

Secrétaire d'Etat

Je souhaite tout d'abord remercier et féliciter les autorités turques pour avoir organisé cette Conférence, à peu près une année après l'adoption de la Déclaration d'Interlaken le 20 février 2010. La Turquie a ainsi accepté l'invitation adressée aux Présidences futures du Comité des Ministres de suivre la mise en œuvre de cette Déclaration.

La tâche n'était évidemment pas facile. Une année est peu de temps, non seulement pour évaluer les progrès depuis Interlaken, notamment les effets du Protocole nº 14, mais également pour préparer le terrain pour arriver à un consensus allant au delà des résultats qu'on a pu obtenir à Interlaken. Cela est particulièrement vrai pour la question des frais de justice, du nouveau mécanisme de filtrage et de la procédure d'amendement simplifiée.

Dans ces conditions, le projet de Déclaration, qu'on va adopter demain, témoigne, lui aussi, du sens de compromis et de ce qui semble faisable dans la situation actuelle – pas plus, et pas moins. Aussi, le mérite de la Conférence d'İzmir résidera avant tout dans le fait, qu'elle nous démontre avec force que le but de nos efforts est encore loin d'être atteint et qu'il faut maintenir, voir renforcer l'engagement politique en faveur d'un mécanisme de contrôle à même de faire face au défis d'aujourd'hui. Ce défi n'a rien perdu de sa portée, au contraire: depuis la Conférence d'Interlaken, le nombre des affaires pendantes continue d'augmenter, cela malgré les différentes améliorations déjà réalisées.

Ce projet de Déclaration s'inscrit pleinement dans la conception de celle d'Interlaken, qui vise à parvenir progressivement, par un assortiment de mesures adoptées à plusieurs niveaux, à une amélioration sensible et durable de la situation de la Cour. Nous restons confiants que ce but peut être réalisé.

Cet espoir ne devrait pas nous empêcher d'approfondir des réflexions stratégiques sur le rôle futur de la Cour à long terme. Les paragraphes pertinents dans le Préambule et la partie Mise en œuvre de la Déclaration méritent notre plein soutien.

Pour aborder brièvement quelques unes des mesures qui font l'objet du Plan de Suivi:

Concernant les frais de justice, nous pensons qu'il s'agit là d'une des – rares – mesures susceptibles d'être réalisées à court terme. Nous sommes convaincus que l'introduction de frais, même modestes et facile à gérer, contribuerait effectivement à décharger la Cour de nombre de requêtes manifestement irrecevables – ceci sans pour autant décourager les requêtes recevables.

Nous sommes sensibles au problème des mesures provisoires qui occupe, à juste titre, une place importante dans le Plan de Suivi.

Nous souscrivons également au paragraphe consacré à l'article 41 de la Convention. Rien que la quantité d'arrêts rendu par la Cour rend indispensables des règles prévisibles et transparentes pour les parties.

Le Plan de suivi fait référence au nouveau critère de recevabilité. Vu les cas d'application peu nombreux jusqu'ici, il nous semble justifié de réitérer l'invitation à donner plein effet à ce nouveau critère.

Pour terminer avec un point qui, à première vue, semble plutôt accessoire, mais qui, en réalité, pourrait s'avérer fort utile: l'intensification des contacts entre les agents et la Cour et son greffe. Nous sommes en effet convaincus que de tels contacts sont dans l'intérêt de l'ensemble des participants au litige et, finalement, dans l'intérêt d'une bonne administration de la justice. Permettez-moi dans ce contexte d'adresser nos vifs remerciements au Président de la Cour, M. Jean-Paul Costa, pour tous les efforts déployés en vue d'une réforme durable du mécanisme de contrôle de la Convention.

Mesdames et Messieurs, à l'instar de la Conférence d'Interlaken, la Conférence d'İzmir ne marquera pas la fin des discussions sur les réformes. Sachez que vous pourrez compter aujourd'hui comme à l'avenir sur le soutien de la Suisse.

Je vous remercie de votre attention.

"The former Yugoslav Republic of Macedonia": Mr Mihajlo Manevski

Minister of Justice

Dear Ministers, ladies and gentlemen,

I thank the Government of the Republic of Turkey for the very successful organisation of this conference on the reform of the European Court of Human Rights.

The effective protection of human rights and fundamental freedoms is the cornerstone of the democratic development and the legal system of the states.

The Republic of Macedonia fully supports the goals of this conference and conveys its highest consideration to the European Court of Human Rights and highly appreciates the activities being taken by the Council of Europe for the improvement of the system for efficient protection of human rights and the functioning of the Court.

Joining the Declaration of Interlaken, within the frameworks of its chairmanship of the Committee of Ministers of the Council of Europe from May to November 2010, the Republic of Macedonia put the reform of the European Court of Human Rights and the Action Plan on the top of its agenda.

In Skopje, on 1 and 2 of October, a Conference was held on one of the essential principles of the Convention identified in Interlaken – the principle of subsidiarity.

Twenty-eight member states of the Council of Europe and representatives from non-governmental organisations from a number of member states took part in the conference. A number of conclusions were adopted, regarding the affirmation and improvement of the process of reform of the system of the Convention, initiated in Interlaken, and which continues today in İzmir.

The conference in Skopje has provided strong support and continuity of the reforms and a bridge between Interlaken and İzmir.

In the conclusions, the commitment of the Parties to several key elements was underlined in particular:

- Ensuring full protection of the Convention at national level and exercise and protection of the rights and freedoms guaranteed by the Convention, as an integral part of the internal law of all member states.
- The principle of subsidiarity presupposes collective and joint responsibility of the governments in the States regarding the commitments taken on from the Convention, regionally, locally and nationally.

- Legislative authorities should adopt laws in accordance with the Convention, and the executive authorities should apply them pursuant to the Convention. Faced with a given problem or prior to the adoption of especially important decision, each government should ask itself: “What would Strasbourg say?”
- The national judge must be familiar with the Convention and the case-law of the Court and apply it in reality, if necessary to the detriment to a national law.
- National parliaments were urged to be the key element in the application of the principle of subsidiarity, whereby they were invited to become more engaged in the careful consideration of the harmonization of the laws and the case-law of the Court with the Convention.
- Persistent assessment is necessary regarding whether there are effective legal remedies within the state.

Ladies and gentlemen,

In my opinion the İzmir Declaration is a balance of all factors for the realisation and real reflection of the progress of the Interlaken Action Plan. I expect this conference to be a strong impulse for future engagements for successful realisation of the reform process in the application of the Convention.

It is my strong belief that we move certainly and continuously in the process of reforms with a clearly defined basic objective.

I hope that there will be continuity of the efforts for finding out a possibility for a system of future possible collection of taxes, taking account of the circumstances of each member state, without disturbing the right to an individual petition, which must not be restricted or obstructed.

The improvement of the filter mechanisms, the tackling of the repetitive applications as well as the admissibility criteria, are measures that have demonstrated a significant step forward, and that should continue to be developed and implemented.

Ladies and gentlemen,

The Declaration that is to be adopted at this conference will be a strong expression of our joint political will and commitment for future upgrade of the Convention system and efficient functioning of the European Court of Human Rights.

Thank you.

Ukraine: Ms Valeriya Lutkovska

Government Agent before the European Court of Human Rights, Ministry of Justice

Mr Chairman, fellow-participants in the conference, ladies and gentlemen,

First of all, let me express my gratitude to the authorities of the Republic of Turkey for having initiated such an important event and for its perfect organisation.

And now, a few theses concerning Ukraine's attitude to the subject under discussion.

The right of individual petition is undoubtedly a cornerstone of the Convention mechanism. Further realisation of the Interlaken Process should in no way lead to complicating the access to the Court, which is an effective mechanism for the protection of human rights and fundamental freedoms that has been confirmed by long-time practice and human destinies.

The question of charging fees for applying to the European Court is of special interest for Ukraine. We are concerned, that imposition of charges might deprive a large number of potential applicants of the opportunity to apply to the Court. On the other hand, such a measure might really have a positive influence on the operation of conventional bodies. Accordingly, this question demands a thorough study, particularly concerning the possible outcomes of such measures for an effective access to the Court by potential applicants, namely those in a vulnerable state, like people in custody, those on low incomes, etc.

Moreover, we agree with the proposal of creating a filtering mechanism for applications, observing herewith, that such mechanism should contain clearly defined criteria and should be comprehensive.

As to the advisory opinions concerning the interpretation of the Convention we would like to notice that such procedure might lead to overloading of the Court. On the other hand, in cases when the national courts need to become familiar with the legal position of the Court concerning certain issues laid down in the case-law, they may address the respective national authorities, empowered to represent the state before the Court. Undoubtedly, these authorities employ high-level experts on the Court case-law, who are most interested in putting the case-law of national courts in line with the Convention.

We also welcome measures aimed at improving the procedure of implementing measures under Rule 39 and the rest of the initiatives aimed at the improvement of the Convention mechanism.

Finally, I should like to express my gratitude to the organisers of this conference one more time for the opportunity to express our attitude to the reform of the Court.

Thank you for your attention!

United Kingdom: Rt Hon. Kenneth Clarke QC MP

Secretary of State for Justice, Lord Chancellor

Mr Chairman, may I begin by repeating the thanks expressed by other delegations for the warm welcome and hospitality that you have given us here in the city of İzmir. Like others who have spoken, I should like to congratulate you on choosing as the topic for this conference the reform of the European Court of Human Rights. Many delegations have today welcomed the progress we have made on Court reform, but also highlighted the urgent need to maintain the momentum that has begun. I should like to echo and reinforce these views.

The British people have an unshakeable belief in individual liberty, freedom, fairness and a sense of what is right. Every day, the news from north Africa and the Middle East reminds us that human rights are integral to our view of the world. People there are fighting for their basic freedoms – freedoms which we in Europe are able to rely on the Convention to protect. The United Kingdom remains as committed to the Convention as the day we first ratified it, 60 years ago last month.

But the power of the Convention relies on an effective and efficient Court process which applies human rights consistently and carefully. This includes due respect for the decisions of national courts and of democratic national parliaments. I fear that the Court's current position and backlog – even with the changes brought about by Protocol No. 14 – are unsustainable. Indeed, my fear is that they could threaten the authority of and respect for the Convention itself.

In the opinion of the Government of the United Kingdom, we must find better ways for the Court to focus quickly, efficiently and transparently on the important cases that require its attention. Judges need the time and the means to produce high quality reasoned judgments on the sensitive issues before them. And we must ensure that the best possible candidates become judges of the

Court. Steps in this direction will help the Court in its important work: providing binding interpretations of the Convention and intervening on truly significant issues where national courts have failed.

But most fundamentally, the British government thinks that we need to reaffirm that it is individual states and their courts which have primary responsibility for implementing the Convention and granting effective remedies for any violation. In this way, we ensure that our citizens can take full ownership of their rights.

This boundary is of paramount importance. If the Strasbourg Court is too ready to substitute its own judgment for that of national parliaments and courts that have through their own processes complied with the Convention, it risks turning the tide of public opinion against the concept of international standards of human rights, and risks turning public opinion against the Convention itself. In Britain, it is going to be really quite difficult to persuade Parliament to pass legislation to comply with the Court's judgment on vote for prisoners. This is regarded by our Parliament as a domestic political issue, on which there are valid arguments on both sides.

These concerns are deeply held by the United Kingdom Government, and we have heard the same concerns expressed by other delegations who have spoken already. For this reason, the United Kingdom is going to dedicate its forthcoming chairmanship to delivering on the desire of colleagues around this table for Court reform. We want to see a strong and effective Court that is respected by the people of Europe and around the world. That requires urgent and real reform to how it operates. This must be our shared priority in the coming months.

Other guests

United States of America: Mr Harold Hongju Koh

Legal Adviser, Department of State

On behalf of the United States of America, I am honored to attend this High Level Conference on the Future of the European Court of Human Rights. On behalf of President Obama and Secretary of State Clinton, let me congratulate President Jean-Paul Costa, the Vice-Presidents, Judges and Registry of Court on this historic occasion, as well as the Government of Turkey for hosting this most important event.

I have followed the work of your Court for many years, as a professor of international human rights law, and as Assistant Secretary of State for Democracy Human Rights and Labor during the Clinton Administration. Your Court has worked distinguished historical achievements, and has courageously tackled far-reaching reforms. The European Convention and the Court rose from conflict's ashes as what your former President Luzius Wildhaber called an "innovative, perhaps even revolutionary, reaction to the mass murders, atrocities and inhumanities of the Second World War." For nearly six decades, the European Court of Human Rights has flourished and produced a pioneering jurisprudence of more than 10 000 judgments that now guides more than 800 million Europeans, 47 European countries, and influences many other nations.

No international tribunal has broader influence. The Court's cases extend from Reykjavik to Vladivostok, from Aruba to Tahiti, from Cap Verde to Iraq. As "the conscience of Europe," you are now the final arbiter of human rights and fundamental freedoms within Europe, and along with the European Court of Justice in Luxembourg, function as one of this continent's two constitutional courts. Your Court has not only entrenched its critical institutional position within Europe–particularly after 1998, when you became the Convention's sole judicial organ–but has also promoted the harmonization of the jurisprudence of your Court and the European Court of Justice, and the adherence of the European Union to the Convention system.

What has marked this Court's work through the decades has been its innovation and partnerships. You have adjusted to address a skyrocketing and unrelenting workload of as many as 100 000 applications per year, and at this conference you have again taken important steps to tackle pressing reforms. You have encouraged the introduction of national measures, promoted more effective filtering, and sought to create more transparent methods for supervision of execution of judgments. But as we all know, the challenge of persuading member states to comply with Court judgments continues.

You have also partnered with national constitutional courts to build a European system for the protection of human rights and fundamental freedoms. And increasingly, you have joined a vital and visible judicial dialogue with courts in other regional systems, including the Inter-American Court of Human Rights and the African Court on Human Peoples' Rights, not to mention our own United States Supreme Court, which has cited your judgments in recent landmark decisions. Your work illustrates for your sister courts and judges important substantive lessons regarding such principles as tolerance, pluralism, transparency, and protection of minorities, as well as crucial empirical lessons regarding such procedural principles as subsidiarity, margin of appreciation, and the relationship between international and municipal law.

As the U.S. State Department's Legal Adviser, I have traveled here to affirm that this global dialogue must continue: not just with other countries' judges and courts, but also with the legislatures and executive branches of your partner nations. Your work reaffirms our common conviction that human rights are universal, inalienable, indivisible, and indispensable. From your jurisprudence, we learn important lessons about the jurisdictional reach of national human rights obligations, the dividing line between human rights and humanitarian law, accountability and impunity, and the duty of nation-states to afford remedies to their own citizens. All courts face what some call "the countermajoritarian difficulty," because judicial protection of human rights necessarily challenges electoral majorities and tests governmental outcomes against constitutional standards. But never let it be said that your work is anti-democratic. To the contrary, your work reinforces democracy and promotes the rule of law by guaranteeing free elections, clearing political space for the freedoms of association, expression, and religion, combating discrimination, and clearing the channels for political change.

Most important, let us never forget, as President Costa said on your 50th anniversary, that "the Court is a human institution," dedicated to a noble calling: "the protection of human beings." In just over half a century, the commitment of many dedicated human beings has transformed the European Convention far beyond what one skeptical minister derisively called "some half-baked scheme to be administered by some unknown court." Our President, Barack Obama,

likes to quote the words of the Reverend Martin Luther King, Jr.: "the arc of the moral universe is long, but it bends toward justice." During your distinguished history, this Court has aided that transnational process of moral development by staunchly supporting democracy, human rights, and the rule of law. As President Wildhaber observed, this Court aspires to be "the ultimate expression of the capacity – indeed the necessity – for democracy and the rule of law to transcend frontiers." Like all living institutions, your Court must adapt, evolve, and grow to preserve in the future the values it has protected in the past. I have come here to reaffirm that the United States of America has learned from you, supports you, and will continue to partner with you, as we work hard together to strengthen justice's moral arc.

Thank you.

Conférence des ONG internationales du Conseil de l'Europe : M. Jean-Marie Heydt

Président

Monsieur le Président, Mesdames et Messieurs les Ministres,

Je tiens, en premier lieu, à remercier la présidence turque du Comité des Ministres du Conseil de l'Europe qui a pris l'initiative, dès la conférence de haut niveau d'Interlaken qui a vu le jour grâce à la présidence suisse, de programmer un suivi actif dans le processus de réforme de la Cour européenne des droits de l'homme.

Déjà, à l'occasion d'Interlaken, nous avons pu proposer une contribution issue de la diversité de la société civile organisée, contribution qui représentait la synthèse de nos approches et nos différences européennes.

Nous savons à quel point la Convention européenne des droits de l'homme, depuis son entrée en vigueur, et la Cour européenne des droits de l'homme, depuis sa création, ont connus un grand succès. Elles ont exercé une influence très importante sur les droits et libertés des 47 Etats membres. Et vous le savez, l'Union européenne ne s'y ait pas trompée en prenant la décision, lors du Traité de Lisbonne, d'adhérer à la Convention européenne des droits de l'homme.

Cependant, le succès de la Cour ne doit pas l'empêcher de rester à dimension humaine, être à la portée des individus, car à quoi bon avoir une justice performante pour l'application des textes mais qui, par le poids des rouages et des mécanismes, la rendrait exsangue … elle deviendrait intrinsèquement incompatible avec les valeurs mêmes auxquelles nous croyons dans les droits de l'Homme.

Nous savons tous que si la Cour a atteint un tel seuil critique d'engorgement, il n'existe pas de solutions miracles, et ce n'est certainement pas le fait d'imposer des frais pour le requérant qui permettrait d'améliorer la situation. Au contraire, ce choix limiterait l'accès du requérant à la Cour en générant une discrimination par l'argent et non par la qualité de recevabilité ou non de sa requête !

C'est pourquoi

- nous réaffirmons avec vigueur l'attachement des OING au droit de recours individuel, qui doit rester la pierre angulaire du système de la Convention européenne ;
- nous affirmons que la diminution des affaires portées devant la Cour doit résulter de l'amélioration de la mise en œuvre de la Convention dans les Etats membres et non de mesures limitant le droit de recours individuel,
- nous restons fermement opposé au principe de prévoir des frais imputables au requérant.

Par contre, nous sommes profondément convaincus que,

- si les requérants étaient mieux accompagnés, de façon claire et reconnue, cela contribuerait et faciliterai aussi un travail de qualité, en amont, un travail national de prévention, qui limiterait les recours à l'échelon européen.

A ce sujet, je tiens à rappeler que la société civile organisée, notamment les 360 organisations membres de la Conférence des OING du Conseil de l'Europe qui, grâce à leurs très nombreux relais partout en Europe, seraient en mesure de continuer à guider, conseiller, voir même représenter juridiquement des personnes ou groupes de personnes qui souhaitent introduire une requête. Ainsi, nous serions en mesure de jouer un rôle non négligeable, de par nos réseaux nationaux en Europe, en informant et en expliquant de façon consultative, générant de fait une diminution de l'engorgement de la Cour par des requêtes non fondées.

En conclusion de mon propos, je voudrais remercier le Comité directeur des droits de l'Homme et ses comités subordonnés qui ont réalisés un travail remarquables depuis des mois. Cependant, je me dois de redire que nous restons très fortement opposés à la proposition de demander des frais aux requérants, même au nom de l'équilibre budgétaire de la Cour.

Comment pourrait-on comprendre :

- que nous avons la chance de disposer d'un formidable instrument juridique auxquels adhèrent nos 47 Etats membres ;

- que nous avons l'avantage d'être doté d'une Cour pour l'application de la Convention européenne des droits de l'homme ;
- que nous avons le privilège de vivre dans un espace géographique où nos droits ne sont pas que des mots mais se concrétisent dans les réalités de notre quotidien.

Imposer des frais aux requérants ce seraient générateur d'un vrai scandale de discrimination au pays des droits de l'Homme !

Je vous remercie pour votre attention.

European Group of National Human Rights Institutions: Ms Beate Rudolf

German Institute for Human Rights

I address this Ministerial Conference on behalf of the European Group of National Human Rights Institutions (the European Group) for the promotion and protection of human rights, representing 35 national institutions from across Council of Europe member states accredited under the 1993 UN "Paris Principles" (NHRIs). The European Group commends the Turkish Government for convening this Ministerial Conference at what is a crucial time for the future of the European Court of Human Rights. Indeed, it marks a useful opportunity to evaluate the progress made since the Interlaken Ministerial Conference and to weigh future developments.

NHRIs

NHRIs play a pivotal role at the national level not least in terms of the implementation of the Interlaken Action Plan. European NHRIs have acted upon the Interlaken Declaration, including by striving to ensure that applicants are better informed of the admissibility criteria, seeking to establish enhanced co-operation in the execution of judgments process, holding round-table debates on the reform of the Court and disseminating information on the Court and recent case-law of prominence.

Draft İzmir Declaration

The European Group broadly welcomes the draft İzmir Declaration as a platform for reflection on the Interlaken measures under way and indeed on the pressures which continue to hinder the Court's work. The European Group is fully supportive of the initiative to reform the Court, ensuring the right of individual application, and considers that the Interlaken roadmap – with its specific timeframes and objectives – should remain the template for reform. However we find that the draft İzmir Declaration raises some concerns.

Subsidiarity

While recognising the importance of the principle of subsidiarity, we are concerned as to the tenor of the discussions on this issue. We would wish to remind delegations of the fundamental role the Court plays as a supervisory mechanism of the Convention, complementing national jurisdictions using an internationalist approach, thereby rendering an extraordinary contribution to the protection of human rights in the Council of Europe.

We would remind delegations of the helpful analysis provided by the jurisconsult – that in essence, the principle of subsidiary must start with the national authorities – to ensure that legislation and practice does not violate human rights and when this occurs, to provide proper redress. In this respect, the number of continuing cases being brought before the Court, ongoing findings of violations and in particular repetitive applications, are matters of concern. It is only by addressing these matters that ultimately the caseload of the Court will be reduced, and protection of fundamental rights in Europe be enhanced.

Independence of the Court

The European Group is also concerned by some of the language in the latest draft Declaration which could have the inadvertent effect of impinging on the independence of the Court and to potentially place inappropriate political pressure on it. Proposals for reform of the Court must ensure they maintain the independence of the Court as a judicial body free from state interference.

Fees

The European Group considers that the proposal to introduce fees has not been conclusively proven to generate significant benefits, which could outweigh the possible dissuasive effect that such a fee system may have on applicants who need to access the Court. In addition, administering such a system will be burdensome for the Court.

Interim measures

As regards interim measures we recall that in the Court's recent Opinion it unequivocally states that interim measures are essential to ensuring the practical and effective nature of the right to individual petition and to the protection of fundamental rights. We are of the opinion that introducing effective remedies with suspensive effect at domestic level and prioritising consideration of Rule 39 cases at the Court level will meet the states' and the Court's legitimate concerns.

New admissibility criteria

The European Group finds discussion on the potential introduction of new admissibility criteria premature at this stage. The European Group emphasises that there should be no curtailment of the right to individual petition. The full effects of Protocol 14 are yet to be established. The Convention system is overloaded by meritorious repetitive cases, inadmissible applications and the backlog that they are creating.

The European Group is convinced that the increased emphasis on national implementation such as effective execution of judgments, timely implementation of the jurisprudence of the Court and addressing repetitive applications at source should in due course significantly address the backlog of meritorious cases.

Regarding the number of inadmissible applications, all the relevant parties must make a concerted effort to find solutions in order to increase the awareness in all member states about what the Court can and cannot do for possible applicants. We believe that NHRIs can play an instrumental role in this process in terms of cooperation with the Council of Europe organs and governments, through diffusion of information about the Convention system and training of legal professionals.

Conclusion

To conclude, this ministerial conference is testament to the gravity of the situation facing the Court and of the efforts by all actors to ensure its sustainability. In our search for solutions we must remember however that the system builds on the right to individual petition which has made the European Court of human rights a key actor in Europe to redress human rights violations that would otherwise remain unaddressed.

Conclusions

Concluding remarks

presented by the Turkish Chairmanship of the Committee of Ministers of the Council of Europe

Let me begin by thanking all the participants for their most interesting presentations and the many concrete proposals that have been made, which will be very valuable for our work to come.

Our conference has been important as an opportunity for all member states to express, at high level, their positions on the different issues currently under discussion.

Your contributions will provide vital political impetus for the ongoing work in Strasbourg.

Diverse views have been expressed on certain issues, but there has been unanimity on the most important one: the need for urgent action.

Our Convention is crucial for Europe, for the Council of Europe and as a symbol to the world of Europe's commitment to the universal values of human rights.

Europe must remain visibly united in its commitment, which will be completed and reinforced by European Union accession to the Convention – many delegations underlined the need to complete the negotiation process as soon as possible.

The Court is the unique, central element of the Convention system and fundamental to its effectiveness.

Participants welcomed the Court's internal reforms, intended to give rapid effect to the entry into force of Protocol No. 14, enhance productivity and ensure provision of information to applicants on the Convention and the Court's role as a subsidiary control mechanism.

The Court's significance depends upon the right of individual application, which participants agreed to be the cornerstone of the system.

There was unanimous emphasis on the importance of the principle of subsidiarity, in all its aspects.

First and foremost, this means that effective implementation of the Convention at domestic level is essential to the proper functioning of the system.

Sustainable functioning of the system, however, also requires the Court to give full effect to the principle of subsidiarity.

The Court must apply fully and strictly the admissibility criteria set out in the Convention, in particular the requirement that applicants exhaust domestic remedies.

Similarly, the Court should respect the margin of appreciation that States enjoy when applying certain Convention rights.

The more the national system is effective in ensuring and protecting human rights, the lesser is the need for the Court's intervention, in particular to reconsider questions of fact or law that have already been duly considered by domestic authorities.

This should apply in particular to the Court's indications of interim measures under Rule 39 of the Rules of Court.

It was observed that the Court is not an immigration appeals tribunal and should only give such indications in exceptional circumstances.

In such cases, the Court should then rapidly determine the merits of the underlying application.

Some participants considered that allowing certain national courts to request advisory opinions from the Court could reinforce subsidiarity and help address the problem of repetitive applications, although others feared a possible increase in the Court's workload.

It has been suggested that such a system could provide similar benefits to the pilot judgment procedure, which was itself welcomed by participants.

The Court's authority as the Convention's control mechanism is dependent on prompt and full execution of its judgments, including the adoption of general measures, in accordance with the principle of subsidiarity.

Such execution is especially important in repetitive cases.

Delegations welcomed the Committee of Ministers' new working methods for supervising execution.

Clarity, consistency and foreseeability of the Court's case-law are essential to proper and consistent implementation of the Convention at national level.

The same principles apply to the judicial policy on awarding just satisfaction, which should be made public.

The Court's case-law, however, will only remain as good as its judges – participants underlined the importance of the judges' independence and competence; they therefore welcomed the creation of the advisory panel of experts on candidates for judge and encouraged further work to optimise national selection procedures.

Participants took note with satisfaction of the encouraging preliminary results of Protocol No. 14, in particular implementation of the new single judge formation and the new competences of three-judge committees.

They encouraged the Court to exploit the full potential of Protocol No. 14, including in the operation of the single judge procedure and when applying the new admissibility criterion.

But all participants agreed that even if the preliminary results are encouraging and more could be achieved, Protocol No. 14 will not ensure the long-term effectiveness of the Convention mechanism.

The Conference addressed the problem of the ever-increasing number of applications.

In this context, different ways of regulating access to the Court were proposed, including introducing a system of fees for applicants and requiring that they have legal representation from the outset.

At this stage, there was no consensus on these issues.

All agreed that a more productive structure for filtering inadmissible applications was necessary, although there were diverging views on its possible nature

Delegates recognised that the number of repetitive cases was also highly problematic and wished to continue reflection on how to deal with them more efficiently.

There was widespread recognition of the value of a simplified procedure for amending certain Convention provisions, which could facilitate the implementation of reforms in future.

This could be achieved by introduction of a statute for the Court, the possible final content of which is being carefully considered.

I am grateful for the support that has been expressed for the draft İzmir Declaration.

And as we adopt the Declaration, I promise our full support to future chairmanships of the Committee of Ministers in their efforts to ensure an effective and sustainable Convention system.

Remarques finales

présentées par la Présidence turque du Comité des Ministres du Conseil de l'Europe

Je tiens tout d'abord à remercier tous les participants de leurs très intéressantes interventions et des nombreuses propositions concrètes qui ont été formulées. Ces contributions seront très précieuses pour la suite de nos travaux.

Notre conférence était importante, car elle a permis à tous les Etats membres de faire connaître, à haut niveau, leur position sur les différentes questions à l'étude.

Vos contributions donneront une impulsion politique décisive aux travaux menés à Strasbourg.

Les opinions divergent sur certaines questions, mais il y a unanimité sur la plus importante : la nécessité d'agir sans tarder.

Notre Convention revêt une importance cruciale pour l'Europe et pour le Conseil de l'Europe ; elle symbolise de surcroît aux yeux du monde l'attachement de l'Europe aux valeurs universelles des droits de l'Homme.

L'Europe doit rester visiblement unie dans son engagement, qui sera complété et renforcé par l'adhésion de l'Union européenne à la Convention ; de nombreuses délégations ont souligné la nécessité de faire aboutir les négociations le plus rapidement possible.

La Cour est au centre du système de la Convention, elle est essentielle à son efficacité.

Les participants se sont félicités des réformes internes opérées par la Cour, visant à donner rapidement effet au Protocole n° 14, à améliorer la productivité et à faire en sorte que les requérants soient mieux informés sur la Convention et sur le rôle de la Cour en tant que mécanisme de contrôle subsidiaire.

L'influence de la Cour dépend du droit de recours individuel, que les participants se sont accordés à considérer comme la pierre angulaire du système.

Les participants ont unanimement insisté sur l'importance du principe de subsidiarité, sous tous ses aspects.

La première corollaire de ce principe est qu'une application effective de la Convention au niveau national est indispensable au bon fonctionnement du système.

Toutefois, pour assurer un fonctionnement durable du système, la Cour doit-elle aussi mettre pleinement en pratique le principe de subsidiarité.

La Cour doit aussi appliquer intégralement et rigoureusement les critères de recevabilité définis dans la Convention, et en particulier l'obligation pour les requérants d'épuiser les voies de recours internes.

De même, la Cour devrait respecter la marge d'appréciation dont jouissent les Etats dans l'application de certains droits prévus par la Convention.

Plus le système national garantit et protège efficacement les droits de l'Homme, moins la Cour a lieu d'intervenir, en particulier pour revenir sur des questions de fait ou de droit qui ont déjà été dûment examinées par les autorités nationales.

Cela devrait s'appliquer en particulier aux mesures provisoires indiquées par la Cour en application de l'article 39 de son Règlement.

Il a été souligné que la Cour n'était pas une juridiction d'appel en matière d'immigration et qu'elle ne devrait donner de telles indications que dans des circonstances exceptionnelles.

En pareil cas, la Cour devrait alors se prononcer rapidement sur le fond de l'affaire en cause.

Selon certains participants, autoriser certaines juridictions nationales à demander des avis consultatifs à la Cour permettrait de renforcer la subsidiarité et aiderait à résoudre le problème des requêtes répétitives. D'autres craignent au contraire que cela n'alourdisse la charge de travail de la Cour.

Il a été suggéré que cette mesure pourrait aussi avoir des retombées positives sur la procédure des arrêts pilotes, procédure dont les participants ont par ailleurs reconnu l'utilité.

L'autorité de la Cour en tant que mécanisme de contrôle de la Convention repose sur une exécution rapide et intégrale de ses arrêts, y compris par l'adoption de mesures générales, conformément au principe de subsidiarité.

La bonne exécution des arrêts est particulièrement importante dans les affaires répétitives.

Les délégations se sont félicitées des nouvelles méthodes de travail du Comité des Ministres en matière de surveillance de l'exécution des arrêts.

Il est essentiel que la jurisprudence de la Cour soit claire, cohérente et prévisible pour une application correcte et cohérente de la Convention au niveau national.

Les mêmes principes s'appliquent à la politique de la Cour en matière d'octroi d'une satisfaction équitable, principes qui devraient être publics.

Toutefois, la qualité de la jurisprudence de la Cour est avant tout conditionnée par la qualité des juges. Il est essentiel que ceux-ci soient indépendants et compétents, comme l'ont souligné les participants, qui ont par conséquent accueilli avec satisfaction la création du Panel consultatif d'experts sur les candidats à l'élection de juges et encouragé la poursuite des travaux visant à optimiser les procédures nationales de sélection.

Les participants ont pris note avec satisfaction des premiers résultats encourageants de la mise en œuvre du Protocole nº 14, et en particulier de la nouvelle formation du juge unique et des nouvelles compétences des comités de trois juges.

Ils ont encouragé la Cour à tirer pleinement parti du Protocole nº 14, y compris dans l'application de la procédure du juge unique et du nouveau critère de recevabilité.

Tous les participants se sont cependant accordés à dire que, même si les premiers résultats sont encourageants et que l'on peut en espérer des bénéfices supplémentaires, le Protocole nº 14 ne suffira pas à garantir l'efficacité à long terme du mécanisme de la Convention.

La Conférence s'est penchée sur le problème de l'augmentation exponentielle du nombre de requêtes.

A cet égard, diverses modalités ont été proposées pour réguler l'accès à la Cour, notamment l'instauration de frais de justice pour les requérants et l'obligation de se faire représenter dès le début de la procédure par un avocat.

A ce stade, il n'y a toutefois pas de consensus sur ces questions.

Tous les participants se sont accordés sur la nécessité d'une structure plus efficiente de filtrage des requêtes irrecevables, bien que les vues divergent sur la forme qu'elle pourrait prendre.

Les participants sont convenus que le nombre d'affaires répétitives pose également un problème très sérieux. Ils souhaitent poursuivre la réflexion sur les moyens de les traiter plus efficacement.

De nombreux participants ont reconnu l'intérêt d'une procédure simplifiée d'amendement pour certaines dispositions de la Convention, ce qui pourrait faciliter la mise en œuvre de futures réformes.

Cette procédure pourrait être instaurée par le biais d'un Statut de la Cour ; une réflexion approfondie est en cours sur ce que pourrait en être le contenu final.

Je me félicite du soutien recueilli par le projet de déclaration d'İzmir.

Au moment d'adopter la Déclaration, je tiens à assurer les futures présidences du Comité des Ministres de notre soutien plein et entier dans les efforts qu'elles déploieront pour préserver l'efficacité et la viabilité du système de la Convention.

İzmir Declaration

27 April 2011

The High Level Conference meeting at İzmir on 26 and 27 April 2011 at the initiative of the Turkish Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference"),

1. Recalling the strong commitment of the States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and to the control mechanism it established;
2. Expressing its determination to ensure the effectiveness of this mechanism in the short, medium and long terms;
3. Recognising again the extraordinary contribution of the European Court of Human Rights ("the Court") to the protection of human rights in Europe;
4. Reaffirming the principles set out in the Declaration and Action Plan adopted at the Interlaken High Level Conference on 19 February 2010 and expressing the resolve to maintain the momentum of the Interlaken process within the agreed timeframe;
5. Recalling that the subsidiary character of the Convention mechanism constitutes a fundamental and transversal principle which both the Court and the States Parties must take into account;
6. Recalling also the shared responsibility of both the Court and the States Parties in guaranteeing the viability of the Convention mechanism;
7. Noting with concern the continuing increase in the number of applications brought before the Court;
8. Considering that the provisions introduced by Protocol No. 14, while their potential remains to be fully exploited and the results so far achieved are encouraging, will not provide a lasting and comprehensive solution to the problems facing the Convention system;
9. Welcoming the ongoing negotiations on the modalities of European Union accession to the Convention;
10. Welcoming the concrete progress achieved following the Interlaken Conference;
11. Considering, however, that maintaining the effectiveness of the mechanism requires further measures, also in the light of the preliminary contribution by the President of the Court to the Conference and the opinion adopted by the Plenary Court for the Conference;

12. Expressing concern that since the Interlaken Conference, the number of interim measures requested in accordance with Rule 39 of the Rules of Court has greatly increased, thus further increasing the workload of the Court;
13. Taking into account that some States Parties have expressed interest in a procedure allowing the highest national courts to request advisory opinions from the Court concerning the interpretation and application of the Convention;
14. Considering, in the light of the above, that it is time to take stock of the progress achieved so far to consider further steps in the pursuit of the Interlaken objectives and to respond to the new concerns and expectations that have become apparent since the Interlaken Conference;
15. Recalling the need to pursue long-term strategic reflections about the future role of the Court in order to ensure sustainable functioning of the Convention mechanism;

The Conference:

1. Proposes, firstly, to take stock, in accordance with the Interlaken Action Plan, of the proposals that do not require amendment of the Convention and, secondly, having also regard to recent developments, to take necessary measures;
2. Welcomes the measures already taken by the Court so far to implement Protocol No.14 and follow up the Interlaken Declaration, including the adoption of a priority policy;
3. Takes note of the fact that the provisions introduced by Protocol No. 14 will not by themselves allow for a balance between incoming cases and output so as to ensure effective treatment of the constantly growing number of applications, and consequently underlines the urgency of adopting further measures;
4. Considers that the admissibility criteria are an essential tool in managing the Court's caseload and in giving practical effect to the principle of subsidiarity; stresses the importance that they are given full effect by the Court and notes, in this regard, that the new admissibility criterion adopted in Protocol No. 14, which has not yet had the effect intended, is about to be shaped by the upcoming case law and remains to be evaluated with a view to its improvement, and invites the Committee of Ministers to initiate work to reflect on possible ways of rendering the admissibility criteria more effective and on whether it would be advisable to introduce new criteria, with a view to furthering the effectiveness of the Convention mechanism;
5. Reaffirms the importance of a consistent application of the principles of interpretation;
6. Welcomes the recent creation of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights, responsible for examining the candidatures proposed by States Parties before they are transmitted to the Parliamentary Assembly of the Council of Europe;

7. Invites the Committee of Ministers to continue its reflection on the criteria for office as judge of the Court and on the selection procedures at national and international level, in order to encourage applications by good potential candidates and to ensure a sustainable recruitment of competent judges with relevant experience and the impartiality and quality of the Court;
8. Notes with interest the adoption of a new approach in relation to the supervision of execution of Court judgments by the Committee of Ministers;
9. Adopts the Follow-up Plan below as an instrument, which builds on the Interlaken Action Plan while taking into account recent developments in the Council of Europe, the Court, and the Committee of Ministers as well as the concerns and expectations that have emerged since the Interlaken Conference.

Follow-up Plan

A. Right of individual petition

The Conference:

1. Reaffirms the attachment of the States Parties to the right of individual petition as a cornerstone of the Convention mechanism and considers in this context that appropriate measures must be taken rapidly to dissuade clearly inadmissible applications, without, however, preventing well-founded applications from being examined by the Court, and to ensure that cases are dealt with in accordance with the principle of subsidiarity;
2. Reiterates the call made for the consideration of additional measures with regard to access to the Court in the Interlaken Declaration and therefore invites the Committee of Ministers to continue to examine the issue of charging fees to applicants and other possible new procedural rules or practices concerning access to the Court;
3. Welcoming the improvements in the practice of interim measures already put in place by the Court and recalling that the Court is not an immigration Appeals Tribunal or a Court of fourth instance, emphasises that the treatment of requests for interim measures must take place in full conformity with the principle of subsidiarity and that such requests must be based on an assessment of the facts and circumstances in each individual case, followed by a speedy examination of, and ruling on, the merits of the case or of a lead case. In this context, the Conference:

- Stresses the importance of States Parties providing national remedies, where necessary with suspensive effect, which operate effectively and fairly and provide a proper and timely examination of the issue of risk in accordance with

the Convention and in light of the Court's case law; and, while noting that they may challenge interim measures before the Court, reiterates the requirement for States Parties to comply with them;

- Underlines that applicants and their representatives should fully respect the Practice Direction on Requests for Interim Measures for their cases to be considered, and invites the Court to draw the appropriate conclusions if this Direction is not respected;
- Invites the Court, when examining cases related to asylum and immigration, to assess and take full account of the effectiveness of domestic procedures and, where these procedures are seen to operate fairly and with respect for human rights, to avoid intervening except in the most exceptional circumstances;
- Further invites the Court to consider, with the State Parties, how best to combine the practice of interim measures with the principle of subsidiarity, and to take steps, including the consideration of putting in place a system, if appropriate, to trigger expedited consideration, on the basis of a precise and limited timeframe, of the merits of cases, or of a lead case, in which interim measures have been applied;

4. Welcomes the contribution of the Secretary General, which recommends the provision to potential applicants and their legal representatives of objective and comprehensive information on the Convention and the case-law of the Court, in particular on the application procedure and the admissibility criteria, along with the detailed handbook on admissibility and the checklist prepared by the Registry of the Court, in order to avoid, insofar as possible, clearly inadmissible applications;
5. Calls on the Secretary General to implement rapidly, where necessary in co-operation with the European Union, the proposals regarding the provision of information and training contained in the report which he has submitted to the Committee of Ministers.

B. Implementation of the Convention at national level

The Conference:

1. Reiterates calls made in this respect in the Interlaken Declaration and more particularly invites the States Parties to:

a. Ensure that effective domestic remedies exist, be they of a specific nature or a general domestic remedy, providing for a decision on an alleged violation of the Convention and, where necessary, its redress;

b. Co-operate fully with the Committee of Ministers in the framework of the new methods of supervision of execution of judgments of the Court;

c. Ensure that the programmes for professional training of judges, prosecutors and other law-enforcement officials as well as members of security forces contain adequate information regarding the well-established case-law of the Court concerning their respective professional fields;
d. Consider contributing to translation into their national language of the Practical Guide on Admissibility Criteria prepared by the Registry of the Court;
e. Consider contributing to the Human Rights Trust Fund.
2. Invites the States Parties to devote all the necessary attention to the preparation of the national reports that they must present by the end of 2011, describing measures taken to implement relevant parts of the Interlaken Declaration and how they intend to address possible shortcomings, in order that these reports provide a solid basis for subsequent improvements at national level.

C. Filtering

The Conference:

1. Notes with satisfaction the first encouraging results of the implementation of the new single-judge formation. It nevertheless considers that, beyond measures already taken or under examination, new provisions concerning filtering should be put in place;
2. As regards short term measures, invites the Court to consider and evaluate the system of filtering by judges, of the existing bench who dedicate their working time to single-judge work for a short period, and to continue to explore further possibilities of filtering not requiring amendment to the Convention;
3. As regards long-term measures, invites the Committee of Ministers to continue its reflection on more efficient filtering systems that would, if necessary, require amendments to the Convention. In this context, it recalls that specific proposals for such a filtering mechanism that would require amendments to the Convention have to be prepared by April 2012.

D. Advisory opinions

The Conference:

1. Bearing in mind the need for adequate national measures to contribute actively to diminishing the number of applications, invites the Committee of Ministers to reflect on the advisability of introducing a procedure allowing the highest national courts to request advisory opinions from the Court concerning the interpretation and application of the Convention that would help clarify the provisions of the Convention and the Court's case-law, thus pro-

viding further guidance in order to assist States Parties in avoiding future violations;
2. Invites the Court to assist the Committee of Ministers in its consideration of the issue of advisory opinions.

E. Repetitive applications

The Conference, whilst reiterating the calls made in the Interlaken Action Plan concerning repetitive applications and noting with satisfaction the first encouraging results of the new competences of committees of three judges:
1. Invites the States Parties to give priority to the resolution of repetitive cases by way of friendly settlements or unilateral declarations where appropriate;
2. Underlines the importance of the active assistance of the Court to States Parties in their efforts to reach friendly settlements and to make unilateral declarations where appropriate and encourages the Court's role in this respect as well as the need for creating awareness of friendly settlements as an integral part in the Convention for settling disputes between parties to proceedings before the Court;
3. Considers that the Court, when referring to its "well-established case-law" must take account of legislative and factual circumstances and developments in the respondent State;
4. Welcomes the ongoing work of the Committee of Ministers on the elaboration of specific proposals that would require amendment to the Convention, in order to increase the Court's case-processing capacity, and considers that the proposals made should also enable the Court to adjudicate repetitive cases within a reasonable time;
5. Welcomes the new Rule 61 of the Rules of the Court adopted by the Court on the pilot-judgment procedure.

F. The Court

The Conference:
1. Assures the Court of its full support to realise the Interlaken objectives;
2. Reiterating the calls made in the Interlaken Action Plan and considering that the authority and credibility of the Court constitute a constant focus and concern of the States Parties, invites the Court to:

a. Apply fully, consistently and foreseeably all admissibility criteria and the rules regarding the scope of its jurisdiction, *ratione temporis*, *ratione loci*, *ratione personae* and *ratione materiae*;

b. Give full effect to the new admissibility criterion in accordance with the principle, according to which the Court is not concerned by trivial matters (*de minimis non curat praetor*);
c. Confirm in its case-law that it is not a fourth-instance court, thus avoiding the re-examination of issues of fact and law decided by national courts;
d. Establish and make public rules foreseeable for all the parties concerning the application of Article 41 of the Convention, including the level of just satisfaction which might be expected in different circumstances;
e. Consider that decisions of the panels of five judges to reject requests for referral of cases to the Grand Chamber are clearly reasoned, thereby avoiding repetitive requests and ensuring better understanding of Chamber judgments;
f. Organise meetings with Government agents on a regular basis so as to further good co-operation;
g. Present to the Committee of Ministers proposals, on a budget-neutral basis, for the creation of a training unit for lawyers and other professionals;

3. Notes with satisfaction the arrangements made within the Registry of the Court that have allowed better management of budgetary and human resources;
4. Welcomes the production by the Court's Registry of a series of thematic factsheets dealing with different case-law issues and encourages the Court to pursue this work in relation to its case-law on other substantive and procedural provisions which are frequently invoked by applicants;
5. Encourages furthermore the States Parties to second national judges and, where appropriate, other high-level independent lawyers to the Registry of the Court.

G. Simplified procedure for amendment of the Convention

The Conference, taking account of the work that has followed the Interlaken Conference at different levels within the Council of Europe, invites the Committee of Ministers to pursue preparatory work for elaboration of a simplified procedure for amending provisions relating to organisational matters, including reflection on the means of its introduction, i.e. a Statute for the Court or a new provision in the Convention.

H. Supervision of the execution of judgments

The Conference:

1. Expects that new standard and enhanced procedures for supervision of the execution of judgments will bear fruit and welcomes the decision of the Committee of Ministers to assess their effectiveness at the end of 2011;
2. Reiterates the calls made by the Interlaken Conference concerning the importance of execution of judgments and invites the Committee of Ministers to apply fully the principle of subsidiarity, by which the States Parties have in particular the choice of means to deploy in order to conform to their obligations under the Convention;
3. Recalls the special role given to the Committee of Ministers in exercising its supervisory function under the Convention and underlines the requirement to carry out its supervision only on the basis of a legal analysis of the Court's judgments.

I. Accession of the European Union to the Convention

The Conference welcomes the progress made in the framework of negotiations on accession of the European Union to the Convention and encourages all the parties to conclude this work in order to transmit to the Committee of Ministers as soon as possible a draft agreement on accession and the proposals on necessary amendments to the Convention.

Implementation

The Conference:

1. Invites the States Parties, the Committee of Ministers, the Court and the Secretary General to ensure implementation of the present Follow-up Plan, which builds on the Interlaken Action Plan;
2. Invites the Committee of Ministers to:

a. Continue its reflection on the issue of charging fees to applicants, including other possible new procedural rules or practices concerning access to the Court, and on more efficient filtering systems that would, if necessary, require amendments to the Convention;
b. Reflect on the advisability of introducing a procedure allowing the highest national courts to request advisory opinions from the Court;
c. Pursue preparatory work for elaboration of a simplified amendment procedure for provisions relating to organisational matters, including reflection on the means of its introduction, i.e. a Statute for the Court or a new provision in the Convention.

3. Invites the Court to consider and evaluate the system of filtering by judges, of the existing bench who dedicate their working time to single-judge work for

a short period, and to continue to explore further possibilities of filtering not requiring amendment to the Convention;

4. As regards Rule 39, expresses its expectation that the implementation of the approach set out in paragraph A3 will lead to a significant reduction in the number of interim measures granted by the Court, and to the speedy resolution of those applications in which they are, exceptionally, applied, with progress achieved within one year. The Committee of Ministers is invited to revert to the question in one year's time;
5. Invites the States Parties, the Committee of Ministers, the Court and the Secretary General to pursue long-term strategic reflections about the future role of the Court;
6. Invites the Committee of Ministers and the States Parties to consult with civil society during the implementation of the present Follow-up Plan, where appropriate, involving it in long-term strategic reflections about the future role of the Court;
7. Reminds the States Parties of their commitment to submit, by the end of 2011, a report on the measures taken to implement the relevant parts of the Interlaken Declaration and the present Declaration;
8. Invites the Committee of Ministers to confer on the relevant committees of experts the mandates necessary in order that they pursue their work on the implementation of the Interlaken Action Plan in accordance with the calendar defined therein and in the light of the goals set out in the present Declaration;
9. Asks the Turkish Chairmanship to transmit the present Declaration and the Proceedings of the İzmir Conference to the Committee of Ministers;
10. Invites the future Chairmanships to follow-up the implementation of the present Declaration jointly with the Interlaken Declaration.

Déclaration d'İzmir

27 avril 2011

La Conférence de haut niveau, réunie à İzmir, les 26 et 27 avril 2011, à l'initiative de la Présidence turque du Comité des Ministres du Conseil de l'Europe (« la Conférence »),

1. Rappelant l'attachement fort des Etats Parties à la Convention de sauvegarde des droits de l'Homme et des libertés fondamentales (« la Convention ») et au mécanisme de contrôle instauré par celle-ci ;
2. Exprimant sa détermination à assurer à court, moyen et long termes l'efficacité de ce mécanisme ;
3. Reconnaissant à nouveau la contribution extraordinaire de la Cour européenne des droits de l'homme (« la Cour ») à la protection des droits de l'Homme en Europe ;
4. Réaffirmant les principes figurant dans la Déclaration et le Plan d'Action qui ont été adoptés à la Conférence de haut niveau d'Interlaken, le 19 février 2010, et exprimant la détermination de maintenir l'élan du processus d'Interlaken dans les délais convenus ;
5. Rappelant que le caractère subsidiaire du mécanisme de la Convention constitue un principe transversal et fondamental dont à la fois la Cour et les Etats Parties doivent tenir compte ;
6. Rappelant également la responsabilité partagée de la Cour et des Etats Parties pour garantir la viabilité du mécanisme de la Convention ;
7. Relevant avec préoccupation la progression continue du nombre des requêtes introduites devant la Cour ;
8. Considérant que les dispositions introduites par le Protocole n° 14, bien que leur potentiel reste à être pleinement exploité et que les résultats obtenus jusqu'ici soient encourageants, ne fourniront pas une solution durable et globale aux problèmes auxquels le système de la Convention se trouve aujourd'hui confronté ;
9. Saluant les négociations en cours relatives aux modalités d'adhésion de l'Union européenne à la Convention ;
10. Se félicitant des avancées concrètes obtenues à la suite de la Conférence d'Interlaken ;
11. Considérant cependant que le maintien de l'efficacité du mécanisme nécessite des mesures supplémentaires à la lumière également de la contribution préliminaire du Président de la Cour à la Conférence et de l'avis adopté par la Cour plénière pour la Conférence ;

12. Exprimant des préoccupations quant au fait que, depuis la Conférence d'Interlaken, le nombre de mesures provisoires demandées conformément à l'article 39 du Règlement de la Cour s'est fortement accru, augmentant ainsi la charge de travail de la Cour ;
13. Tenant compte du fait que certains Etats Parties ont exprimé un intérêt pour une procédure permettant aux plus hautes juridictions nationales de demander des avis consultatifs à la Cour concernant l'interprétation et l'application de la Convention ;
14. Estimant, à la lumière de ce qui précède, qu'il est temps de faire le bilan des progrès accomplis à ce jour en vue d'examiner d'autres mesures dans le sens des objectifs d'Interlaken et de répondre aux nouvelles préoccupations et attentes qui se sont manifestées depuis la Conférence d'Interlaken ;
15. Rappelant la nécessité de poursuivre une réflexion stratégique à long terme sur le rôle futur de la Cour afin d'assurer le fonctionnement durable du mécanisme de la Convention ;

La Conférence :

1. Se propose, d'une part, d'établir conformément au Plan d'Action d'Interlaken, l'inventaire des propositions ne nécessitant pas d'amendements de la Convention et, d'autre part, tenant compte également des développements récents, de prendre les mesures nécessaires ;
2. Se félicite des mesures déjà prises à ce jour par la Cour pour mettre en œuvre le Protocole n° 14 et donner suite à la Déclaration d'Interlaken, y compris l'adoption d'une politique en matière de priorités ;
3. Prend note du fait que les dispositions introduites par le Protocole no 14 ne permettront pas, à elles seules, d'établir un équilibre entre les requêtes introduites et celles conclues de manière à assurer un traitement efficace du nombre des requêtes en progression continue, et souligne en conséquence l'urgence d'adopter des mesures supplémentaires ;
4. Estime que les critères de recevabilité sont un outil essentiel pour gérer la charge de travail de la Cour et pour donner un effet concret au principe de subsidiarité ; Souligne l'importance que la Cour leur donne plein effet et note, à cet égard, que le nouveau critère de recevabilité adopté dans le Protocole n° 14, qui n'a pas encore eu l'effet escompté, est sur le point d'être modelé par la future jurisprudence et reste à évaluer en vue de son amélioration et invite le Comité des Ministres à initier des travaux pour réfléchir aux moyens possibles de rendre les critères de recevabilité plus efficaces et déterminer s'il serait opportun d'introduire de nouveaux critères en vue de renforcer l'efficacité du mécanisme de la Convention ;
5. Réaffirme l'importance d'une application cohérente des principes d'interprétation ;

6. Salue la création récente d'un Panel consultatif d'experts sur les candidats à l'élection de juges à la Cour européenne des droits de l'homme chargé d'examiner les candidatures proposées par les Etats Parties avant qu'elles ne soient transmises à l'Assemblée parlementaire du Conseil de l'Europe ;
7. Invite le Comité des Ministres à poursuivre sa réflexion sur les critères de la fonction de juge à la Cour, et sur les procédures de sélection au niveau national et international afin d'encourager les candidatures des bons candidats potentiels et d'assurer de manière durable le recrutement de juges compétents et bénéficiant d'une expérience pertinente, ainsi que l'impartialité et la qualité de la Cour ;
8. Note avec intérêt l'adoption d'une nouvelle approche en matière de surveillance de l'exécution des arrêts de la Cour par le Comité des Ministres ;
9. Adopte le Plan de Suivi ci-dessous qui prend appui sur le Plan d'Action d'Interlaken tout en tenant compte des développements récents au sein du Conseil de l'Europe, de la Cour et du Comité des Ministres, ainsi que des préoccupations et attentes qui se sont manifestées depuis la Conférence d'Interlaken.

Plan de Suivi

A. Droit de recours individuel

La Conférence :

1. Réaffirme l'attachement des Etats Parties au droit de recours individuel, en tant que pierre angulaire du mécanisme de la Convention et considère dans ce contexte que des mesures appropriées doivent être rapidement prises afin de dissuader les requêtes clairement irrecevables, sans pour autant empêcher les requêtes bien fondées d'être examinées par la Cour, et faire en sorte que les affaires soient traitées conformément au principe de subsidiarité ;
2. Réitère l'appel lancé dans la Déclaration d'Interlaken pour que soient examinées des mesures supplémentaires en ce qui concerne l'accès à la Cour et invite donc le Comité des Ministres à continuer d'examiner la question d'exiger des requérants le paiement de frais et d'éventuelles autres nouvelles règles ou pratiques d'ordre procédural concernant l'accès à la Cour ;
3. Saluant les améliorations déjà apportées par la Cour à la pratique des mesures provisoires et rappelant que la Cour n'est pas un tribunal d'appel traitant des questions d'immigration ni un tribunal de quatrième instance, souligne que le traitement des demandes de mesures provisoires doit avoir lieu en pleine conformité avec le principe de subsidiarité et que ces demandes doivent être basées sur une évaluation des faits et des circonstances dans chaque cas indi-

viduel, suivie d'un examen et d'une décision rapides sur le bien-fondé de l'affaire ou d'une affaire de premier plan. Dans ce contexte, la Conférence :

- souligne l'importance que les Etats offrent au niveau national des voies de recours, si nécessaire avec effet suspensif, qui fonctionnent de manière efficace et équitable et permettent un examen approprié et en temps opportun de la question du risque conformément à la Convention et à la lumière de la jurisprudence de la Cour ; et, tout en notant qu'ils peuvent contester les mesures provisoires devant la Cour, réitère l'exigence qui s'impose aux Etats Parties de s'y conformer ;
- souligne que les requérants et leurs représentants devraient pleinement respecter l'Instruction pratique sur les demandes de mesures provisoires pour que leur cas soit examiné, et invite la Cour à tirer toutes les conséquences du non-respect de ces directives ;
- invite la Cour, à l'occasion des requêtes relatives à l'asile et à l'immigration, à évaluer et à tenir pleinement compte de l'effectivité des procédures nationales et, lorsqu'il apparaît que ces procédures fonctionnent de manière équitable et dans le respect des droits de l'Homme, à éviter d'intervenir sauf dans les circonstances les plus exceptionnelles ;
- invite par ailleurs la Cour à examiner, en relation avec les Etats Parties, comment concilier au mieux la pratique des mesures provisoires avec le principe de subsidiarité et à prendre des mesures, y compris en examinant la mise en place d'un système le cas échéant, pour déclencher un examen accéléré, sur la base d'un calendrier précis et limité dans le temps, du bien-fondé des affaires, ou d'une affaire de référence dans le cadre desquels des mesures provisoires ont été appliquées ;

4. Salue la contribution du Secrétaire Général qui préconise la mise à disposition des requérants potentiels, ainsi que de leurs conseils, d'informations objectives et complètes relatives à la Convention et à la jurisprudence de la Cour, en particulier sur la procédure de dépôt de requêtes et les critères de recevabilité ainsi que le manuel détaillé relatif à la recevabilité et la check-list préparés par le greffe de la Cour, afin d'éviter, autant que faire se peut, les requêtes clairement irrecevables ;
5. Appelle le Secrétaire Général à mettre en œuvre rapidement, si nécessaire en coopération avec l'Union européenne, les propositions en matière de fourniture d'informations et de formations contenues dans le rapport qu'il a soumis au Comité des Ministres.

B. Mise en œuvre de la Convention au niveau national

La Conférence :

1. Réitère les appels figurant sous ce volet dans la Déclaration d'Interlaken et invite les Etats Parties plus particulièrement à :
   a. Veiller à ce que des voies de recours internes efficaces, qu'elles soient de nature spécifique ou qu'elles constituent une voie de recours général en droit interne, permettent de se prononcer sur une violation alléguée de la Convention et, le cas échéant, d'y remédier ;
   b. Coopérer pleinement avec le Comité des Ministres dans le cadre des nouvelles méthodes de surveillance de l'exécution des arrêts de la Cour ;
   c. Veiller à ce que les curricula de formation professionnelle des juges, des procureurs, et des autres agents chargés de pourvoir à l'application de la loi, ainsi que des membres des forces de sécurité contiennent des informations adéquates sur la jurisprudence bien établie de la Cour dans leurs domaines professionnels respectifs ;
   d. Envisager de contribuer à la traduction dans leur langue nationale du guide pratique sur la recevabilité élaboré par le greffe de la Cour ;
   e. Envisager de contribuer au Fonds fiduciaire pour les droits de l'Homme.
2. Invite les Etats Parties à consacrer toute l'attention nécessaire à la préparation des rapports nationaux qu'ils doivent présenter d'ici à la fin de 2011, en y décrivant les mesures prises pour mettre en œuvre les parties pertinentes de la Déclaration d'Interlaken et la façon dont elles ont l'intention de traiter d'éventuelles lacunes, afin que ces rapports fournissent une base solide pour des améliorations ultérieures au niveau national.

C. Filtrage

La Conférence :

1. Prend note avec satisfaction des premiers résultats encourageants de la mise en place de la nouvelle formation de juge unique. Elle considère néanmoins que, au-delà des mesures déjà prises ou sous examen, de nouvelles dispositions de filtrage devraient être mises en place ;
2. S'agissant des mesures à court terme, invite la Cour à examiner et à évaluer le système de filtrage actuellement en place par des juges qui se consacrent à la fonction de juge unique pour une période limitée, et à continuer à explorer d'autres possibilités de filtrage ne nécessitant pas d'amender la Convention ;
3. S'agissant des mesures à long terme, invite le Comité des Ministres à continuer sa réflexion sur des systèmes de filtrage plus performants qui nécessiteraient, le cas échéant, des amendements de la Convention. Dans ce contexte, rappelle que des propositions spécifiques pour un mécanisme de filtrage qui nécessiteraient d'amender la Convention doivent être préparées d'ici avril 2012.

D. Avis consultatifs

La Conférence :

1. Tenant compte de la nécessité de contribuer activement à la diminution du nombre des requêtes par des mesures nationales adéquates, invite le Comité des Ministres à réfléchir à l'opportunité d'introduire une procédure permettant aux plus hautes juridictions nationales de demander des avis consultatifs à la Cour concernant l'interprétation et l'application de la Convention qui contribueraient à clarifier les dispositions de la Convention et la jurisprudence de la Cour et fourniraient ainsi des orientations supplémentaires permettant d'assister les Etats Parties à éviter de nouvelles violations ;
2. Invite la Cour à assister le Comité des Ministres dans son examen de la question des avis consultatifs.

E. Requêtes répétitives

La Conférence, tout en réitérant les appels du Plan d'Action d'Interlaken à l'égard des requêtes répétitives et prenant note avec satisfaction des premiers résultats encourageants des nouvelles compétences des comités de trois juges :

1. Invite les Etats Parties à privilégier la conclusion des affaires répétitives par des règlements amiables ou des déclarations unilatérales, le cas échéant ;
2. Souligne l'importance de l'assistance active de la Cour aux Etats Parties dans leurs efforts pour parvenir à des règlements amiables et faire des déclarations unilatérales le cas échéant, et encourage le rôle joué par la Cour à cet égard, ainsi que la nécessité de sensibiliser au fait que les règlements amiables font partie intégrante de la Convention pour le règlement des différends entre parties aux instances pendantes devant la Cour ;
3. Estime que la Cour, lorsqu'elle se réfère à sa « jurisprudence bien établie », doit tenir compte des circonstances et de l'évolution législative et factuelle intervenue dans l'Etat défendeur ;
4. Salue les travaux en cours au sein du Comité des Ministres concernant l'élaboration de propositions spécifiques, qui nécessiteraient d'amender la Convention, afin d'accroître la capacité de traitement des affaires par la Cour, et considère que les propositions faites devraient également permettre à la Cour de se prononcer sur des affaires répétitives dans un délai raisonnable ;
5. Se félicite du nouvel Article 61 du Règlement de la Cour adopté par la Cour sur la procédure des arrêts pilotes.

F. La Cour

La Conférence :

1. Assure la Cour de son plein soutien pour atteindre les objectifs d'Interlaken ;
2. Réitérant les appels exprimés dans le Plan d'Action d'Interlaken et considérant que l'autorité et la crédibilité de la Cour constituent un objectif et une préoccupation constants des Etats Parties, invite la Cour à :

a. Appliquer pleinement, de manière cohérente et prévisible, tous les critères de recevabilité et les règles concernant le champ de sa juridiction, *ratione temporis*, *ratione loci*, *ratione personae* et *ratione materiae* ;

b. Donner plein effet au nouveau critère de recevabilité conformément au principe selon lequel la Cour n'a pas à s'occuper de questions insignifiantes (*de minimis non curat praetor*) ;

c. Confirmer, dans sa jurisprudence, qu'elle n'est pas un tribunal de quatrième instance, évitant ainsi le réexamen de questions de fait et de droit décidées par les cours nationales ;

d. Etablir et rendre publiques des règles prévisibles pour toutes les parties concernant l'application de l'article 41 de la Convention, y compris le niveau de la satisfaction équitable qui pourrait être attendu dans différentes circonstances ;

e. Envisager que les décisions prises par les collèges de cinq juges pour rejeter les demandes de renvoi d'affaires devant la Grande Chambre soient clairement motivées, en évitant ainsi des demandes répétitives et en assurant une meilleure compréhension des arrêts de la Chambre ;

f. Organiser des réunions avec les agents du Gouvernement sur une base régulière de manière à développer plus avant une bonne coopération ;

g. Présenter une proposition au Comité des Ministres, sans implication budgétaire additionnelle, visant la création d'une unité de formation de juristes et autres professionnels ;

3. Prend note avec satisfaction des aménagements opérés au sein du greffe qui ont permis une meilleure gestion des ressources budgétaires et humaines ;
4. Se félicite de la préparation par le greffe de la Cour d'une série de fiches thématiques traitant de différentes questions abordées dans la jurisprudence et encourage la Cour à poursuivre ces travaux quant à sa jurisprudence concernant d'autres dispositions matérielles et procédurales qui sont fréquemment invoquées par les requérants ;
5. Encourage par ailleurs les Etats Parties à mettre des juges nationaux et, le cas échéant, d'autres juristes indépendants de haut niveau à disposition du greffe de la Cour.

G. Procédure simplifiée d'amendement de la Convention

1. La Conférence, tenant compte des travaux qui ont suivi la Conférence d'Interlaken à différents niveaux au sein du Conseil de l'Europe, invite le Comité des Ministres à poursuivre les travaux préparatoires d'élaboration d'une procédure simplifiée pour amender les dispositions d'ordre organisationnel, y compris une réflexion sur les moyens de son introduction, c'est-à-dire un Statut de la Cour ou une nouvelle disposition dans la Convention.

H. Surveillance de l'exécution des arrêts

La Conférence :

1. S'attend à ce que les nouvelles procédures de surveillance standard et soutenues de l'exécution des arrêts portent leurs fruits et se félicite de la décision du Comité des Ministres d'évaluer leur efficacité à la fin de 2011 ;
2. Réitère les appels de la Conférence d'Interlaken concernant l'importance de l'exécution des arrêts et invite le Comité des Ministres à appliquer pleinement le principe de subsidiarité, selon lequel les Etats ont notamment le choix des moyens à déployer pour se conformer à leurs obligations en vertu de la Convention ;
3. Rappelle le rôle particulier assigné au Comité des Ministres dans l'exercice de sa fonction de surveillance en application de la Convention et souligne la nécessité d'exercer sa surveillance uniquement sur la base d'une analyse juridique des arrêts de la Cour.

I. Adhésion de l'Union européenne à la Convention

1. La Conférence se félicite des progrès réalisés dans le cadre de la négociation en cours relative à l'adhésion de l'Union européenne à la Convention et encourage toutes les parties intéressées à poursuivre et conclure les travaux afin de transmettre dans les meilleurs délais au Comité des Ministres un projet d'accord d'adhésion ainsi que les propositions concernant les amendements nécessaires à la Convention.

Mise en œuvre

La Conférence :

1. Invite les Etats Parties, le Comité des Ministres, la Cour et le Secrétaire Général à assurer la mise en œuvre du présent Plan de Suivi qui prend appui sur le Plan d'Action d'Interlaken ;
2. Invite le Comité des Ministres à :

a. Poursuivre sa réflexion sur la question d'exiger des requérants le paiement de frais, y compris d'éventuelles autres nouvelles règles ou pratiques d'ordre procédural concernant l'accès à la Cour, et sur des systèmes plus efficaces de filtrage qui nécessiteraient le cas échéant d'amender la Convention ;

b. Réfléchir à l'opportunité d'introduire une procédure permettant aux plus hautes juridictions nationales de demander des avis consultatifs à la Cour ;

c. Poursuivre les travaux préparatoires pour l'élaboration d'une procédure simplifiée pour amender les dispositions d'ordre organisationnel, y compris une réflexion sur les moyens de son introduction, c'est-à-dire un Statut de la Cour ou une nouvelle disposition dans la Convention.

3. Invite la Cour à examiner et à évaluer le système de filtrage actuellement en place par des juges qui se consacrent à la fonction de juge unique pour une période limitée, et à continuer à explorer d'autres possibilités de filtrage ne nécessitant pas d'amender la Convention ;

4. En ce qui concerne l'article 39, s'attend à ce que la mise en œuvre de l'approche énoncée au paragraphe A3 conduise à une réduction significative du nombre de mesures provisoires accordées par la Cour et à la résolution rapide des demandes où elles sont exceptionnellement appliquées, en aboutissant à des progrès d'ici un an. Le Comité des Ministres est invité à revenir sur cette question dans un an ;

5. Invite les Etats Parties, le Comité des Ministres, la Cour et le Secrétaire Général à poursuivre une réflexion stratégique à long terme sur le rôle futur de la Cour ;

6. Invite le Comité des Ministres et les Etats Parties à consulter la société civile dans la mise en œuvre du présent Plan de Suivi, le cas échéant en l'impliquant dans la réflexion stratégique à long terme sur le rôle futur de la Cour ;

7. Rappelle aux Etats Parties leur engagement de soumettre jusqu'à la fin de 2011 un rapport concernant les mesures prises pour mettre en œuvre les parties pertinentes de la Déclaration d'Interlaken et la présente Déclaration ;

8. Invite le Comité des Ministres à conférer les mandats nécessaires aux comités d'experts pertinents afin qu'ils poursuivent leurs travaux de mise en œuvre du Plan d'Action d'Interlaken conformément au calendrier défini dans celui-ci et à la lumière des objectifs précisés dans la présente Déclaration ;

9. Demande à la Présidence turque de transmettre la présente Déclaration et les Actes de la Conférence d'İzmir au Comité des Ministres ;

10. Invite les prochaines présidences à suivre la mise en œuvre de la présente Déclaration conjointement avec celle d'Interlaken.

Appendix/Annexe

Participants

National delegations/Délégations nationales

Albania/Albanie

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Deputy Head of the Directorate of systemisation of legislation and analysis of judicial practice, Supreme Court of the Russian Federation

Mr Andrey Nikiforov
Deputy Head of the Department of Humanitarian Co-operation and Human Rights, Ministry of Foreign Affairs

Mr Vladislav Ermanov
Deputy to the Permanent Representative of the Russian Federation to the Council of Europe

Ms Maria Molodtsova
First Secretary, Department for Humanitarian Co-operation and Human Rights, Ministry of Foreign Affairs

San Marino/Saint-Marin

No nomination/pas de nomination

Serbia/Serbie

Ms Dragana Filipović
Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Serbia to the Council of Europe

Mr Slavoljub Carić
Government Agent of Serbia before the European Court of Human Rights

Slovak Republic/République slovaque

Mr Emil Kuchár
Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Slovak Republic to the Council of Europe

Ms Soňa Danová
Deputy to the Permanent Representative of the Slovak Republic to the Council of Europe

Mr Slavomír Kantor
Desk Officer, Department of Human Rights, Ministry of Foreign Affairs

Mr Peter Drozd
Legal Assistant, Cabinet of the State Secretary, Ministry of Justice

Slovenia/Slovénie

Mr Aleš Zalar
Minister of Justice of the Republic of Slovenia

Ms Andreja Kodermac
Head of Minister's Office, Ministry of Justice

Mr Peter Pavlin
Secretary, Head of Division, Ministry of Justice

Spain/Espagne

Mr Juan Carlos Campo Moreno
State Secretary, Ministry of Justice

Ms Aurora Mejía Errasquín
Director General of International Legal Co-operation and Confessional Relations, Ministry of Justice

Ms Ana Peyró Llopis
Adviser to the State Secretary, Ministry of Justice

Mr Fernando Irurzun Montoro
Agent of Spain before the European Court of Human Rights

Sweden/Suède

Mr Carl Henrik Ehrenkrona
Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Sweden to the Council of Europe

Switzerland/Suisse

Mr Michael Leupold
State Secretary

Mr Frank Schürmann
Government Agent before the European Court of Human Rights

Ms Caroline Trautweiler
Deputy Head, Council of Europe and OSCE section, Federal Department of Foreign Affairs

"The former Yugoslav Republic of Macedonia"/« L'ex-République yougoslave de Macédoine »

Mr Mihajlo Manevski
Minister of Justice

Mr Goran Taskovski
Ambassador of "the former Yugoslav Republic of Macedonia" in Ankara

Ms Radica Lazareska Gerovska
Government Agent before the European Court of Human Rights

Ms Veronika Stanojevska
Junior Associate, Ministry of Justice

Turkey/Turquie

Ministry of Foreign Affairs/Ministère des Affaires étrangères

Mr Ahmet Davutoğlu
Minister of Foreign Affairs

Mr Daryal Batibay
Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Turkey to the Council of Europe, Chairperson of the Committee of Ministers' Deputies

Mr Gürcan Balik
Minister Plenipotentiary, Deputy Director General for Council of Europe and Human Rights, Minister of Foreign Affairs

Mr Kaan Esener
Minister Plenipotentiary, Deputy Director General for Council of Europe and Human Rights, Ministry of Foreign Affairs

Mr Selçuk Ünal
Spokesperson, Ministry of Foreign Affairs

Ms Başak Türkoğlu
Head of Department for Council of Europe, Ministry of Foreign Affairs

Mr Ahmet Tuta
Chief of Cabinet, Ministry of Foreign Affairs

Ms Elvan Haciefendioğlu
Second Secretary, Department for Council of Europe, Ministry of Foreign Affairs

Ministry of Justice/Ministère de la Justice

Mr Ahmet Kahraman
Minister of Justice

Mr Aykut Kiliç
Deputy Undersecretary, Ministry of Justice

Ms Nurdan Okur
Director General, Ministry of Justice

Mr Mehmet Ari
Judge rapporteur, Ministry of Justice

Ukraine

Ms Valeriya Lutkovska
Government Agent before the European Court of Human Rights

Mr Bogdan Kryklyvenko
Deputy Head of Division for Co-ordination of Execution of the European Court of Human Rights Judgments Office, Government Agent before the European Court of Human Rights

Mr Mykola Tochytskyi
Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ukraine to the Council of Europe

United Kingdom/Royaume-Uni

Mr Kenneth Clarke
Lord Chancellor, Secretary of State for Justice

Ms Eleanor Fuller
Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the United Kingdom to the Council of Europe

Mr Simon Jones
European Court of Human Rights Policy, International Commonwealth Office

Mr Derek Walton
Legal Adviser, Commonwealth Office

Ms Sophie Langdale
Lord Chancellor's Private Office, Ministry of Justice

Mr Rob Linham
Joint Head of Litigation, Legislation and European Institutions, Human Rights Division, Ministry of Justice

Observer states to the Council of Europe/Etats observateurs aupres du Conseil de l'Europe

Holy See/Saint-Siège

Monseigneur Aldo Giordano
Observateur Permanent du Saint-Siège, Mission Permanente du Saint-Siège auprès du Conseil de l'Europe

United States/Etats-Unis

Mr Harold Koh
Legal Adviser, Department of State

Japan/Japon

Mr Hiroshi Karube
Consul General, Permanent Observer of Japan to the Council of Europe

Mr Hiroyuki Minami
Consul, Attorney, Consulate General of Japan

Mexico/Mexique

Mr Alejandro Sousa
Legal and Human Rights Officer, Mission of Mexico to the European Union

Non-governmental organisations (NGOs)/Organisations non gouvernementales (ONG)

International Commission of Jurists (ICJ)/Commission internationale de juristes (CIJ)

Ms Roisin Pillay
Senior Legal Advisor, Switzerland

AIRE Centre

Ms Nuala Mole
Director, United Kingdom

Amnesty International

Mr Théo Boutruche
Legal Adviser

Other organisations/Autres organisations

European Group of National Human Rights Institutions (NHRI)/Groupe européen des Institutions Nationales des droits de l'Homme (INDH)

Ms Beate Rudolf
German Institute for Human Rights

Mr John Wadham
Group Director Legal, United Kingdom

Council of Europe/Conseil de l'Europe

Secretary General of the Council of Europe/Secrétaire Général du Conseil de l'Europe

Mr Thorbjørn Jagland
Secretary General of the Council of Europe/
Secrétaire Général du Conseil de l'Europe

Parliamentary Assembly of the Council of Europe/Assemblée parlementaire du Conseil de l'Europe

Mr Mevlüt Çavuşoğlu
President of the Parliamentary Assembly/
Président de l'Assemblée parlementaire

European Court of Human Rights/Cour européenne des droits de l'homme

Mr Jean-Paul Costa
President of the European Court of Human Rights/Président de la Cour européenne des droits de l'homme

Mr Nicolas Bratza
Vice-President of the European Court of Human Rights/Vice-Président de la Cour européenne des droits de l'homme

Ms Françoise Tulkens
Section President of the European Court of Human Rights/présidente de section, Cour européenne des droits de l'homme

Mr Luis López Guerra
Judge, European Court of Human Rights

Ms Ayse Işıl Karakaş
Judge, European Court of Human Rights

Council of Europe Commissioner for Human Rights/Commissaire aux droits de l'Homme du Conseil de l'Europe

Mr Thomas Hammarberg
Commissioner for Human Rights/Commissaire aux droits de l'Homme

Conference of International Non-Governmental Organisations of the Council of Europe/ Conférence des organisations internationales non gouvernementales du Conseil de l'Europe

Head of delegation/Chef de délégation:
M. Jean-Marie Heydt
President of the Conference of International Non-Governmental Organisations/président de la Conférence des organisations internationales non gouvernementales

Council of Europe Steering Committee for Human Rights/Comité directeur pour les droits de l'Homme du Conseil de l'Europe (CDDH)

Ms Almut Wittling-Vogel
Chairperson of the Steering Committee for Human Rights/présidente du Comité directeur pour les droits de l'Homme

Secretariat General of the Council of Europe/Secrétariat Général du Conseil de l'Europe

Private office of the Secretary General/Cabinet du Secrétaire Général

Ms Leyla Kayacik
Adviser, Private Office of the Secretary General

Mr Alexander Guessel
Adviser, Private Office of the Secretary General

Committee of Ministers/Comité des Ministres

Ms Mireille Paulus
Secretary to the Committee of Ministers

Mr Christophe Poirel
Deputy Secretary to the Committee of Ministers

Parliamentary Assembly/Assemblée parlementaire

Mr Petr Sich
Head of the Private Office of the President

Registry of the European Court of Human Rights/Greffe de la Cour européenne des droits de l'homme

Mr Erik Fribergh
Registrar, European Court of Human Rights

Mr Michael O'Boyle
Deputy Registrar, European Court of Human Rights

Office of the Commissioner for Human Rights/Bureau du Commissaire aux droits de l'Homme

Ms Isil Gachet
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Directorate General of Human Rights and Legal Affairs/Direction générale des droits de l'Homme et des affaires juridiques (DGHL)

Mr Philippe Boillat
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Protocol/Protocole

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Mr Can Fisek
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Interpreters/Interprètes

Ms Sally Bailey-Ravet
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