



# proceedings

## **European Ministerial Conference on Human Rights**

and Commemorative Ceremony  
of the 50th anniversary of the  
European Convention  
on Human Rights

**Rome, 3-4 November 2000**

French version:

*Conférence ministérielle européenne sur les droits de l'homme et cérémonie  
commémorative du 50<sup>e</sup> anniversaire de la Convention européenne des droits de  
l'homme*

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## Foreword

In the field of human rights protection, Europe, which in the first half of the twentieth century experienced what were perhaps the most massive human rights violations in history, today sets an example to other regions of the world. It is only right that attention should be drawn to this when presenting the proceedings of the ministerial conference held to mark the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Over these fifty years, it has been possible to bring together almost all European states around respect for freedom, democracy and the rule of law. These states are committed to recognising that every person under their jurisdiction enjoys the rights and fundamental freedoms set out in the European Convention on Human Rights, and to complying with the judgments of the European Court of Human Rights in disputes to which they are party. The Convention, with its unique control system, has an important future before it. It must continue to play its central role as a constitutional instrument of European public policy on which the well-being of individuals and the democratic stability of the Continent depend.

And yet, despite the progress that has been made, conflict and crisis situations resulting in serious and massive violations of the most fundamental human rights have been deplored in certain parts of Europe in the recent past, and persist even today. Furthermore, very large numbers of individual applications continue to reach the European Court of Human Rights, to the point of jeopardising the current system's viability. The ministerial conference therefore called upon the Council of Europe member states to shoulder fully the responsibility that falls to them in the first place for ensuring that human rights are respected, and, to this end, to ensure constantly that their law and practice conform to the Convention and to execute the judgments of the European Court of Human Rights. It also asked the Council of Europe to take the necessary steps in the short and medium term to ensure the effectiveness of the Court.

With regard to the protection of human rights and fundamental freedoms, no battles are won in advance, nor can past victories be taken for granted. Far from being self-satisfied, the member states taking part in the conference gave new impetus to their commitment to protect these rights and freedoms effectively, both in their domestic legal systems and at European level. The declaration and two resolutions adopted by the conference thus constitute a genuine programme for intergovernmental co-operation within the Council of Europe in the field of human rights, a programme whose implementation has already begun and will continue over the years to come.

WALTER SCHWIMMER,  
*Secretary General of the Council of Europe*





# Programme

## Friday, 3 November 2000

8.00-8.45 a.m.	Registration
8.45 a.m.	Photocall
9.00 a.m.	Opening of the conference Speeches: <ul style="list-style-type: none"><li>– Secretary General of the Council of Europe, Mr Walter Schwimmer</li><li>– Minister for Foreign Affairs of Italy, Mr Lamberto Dini</li><li>– President of the Parliamentary Assembly of the Council of Europe, Lord Russell-Johnston</li></ul> Presentation of sub-themes 1 and 2 and opening of discussions Introductory reports presented by the Secretary General of the Council of Europe  Sub-theme I: <i>Institutional and functional arrangements for the protection of human rights at national and European level</i> First speaker: President of the European Court of Human Rights, Mr Luzius Wildhaber  Sub-theme II: <i>Respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues</i> First speaker: Minister for Foreign Affairs of the Netherlands, Mr Jozias Van Aartsen
12.00-12.30 p.m.	Audience with the Holy Father for Heads of Delegation, Vatican City, <i>Sala Clementina</i>  For other participants: reception given by the Italian Ministry of Foreign Affairs, <i>Palazzo della Farnesina</i>

*Ministerial Conference and Commemorative Ceremony of the 50th anniversary of the Convention*

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1.15 p.m.	Luncheon hosted by the Secretary General of the Council of Europe for heads of delegation, <i>Palazzo della Farnesina</i>  For other participants: luncheon given by the Italian Ministry of Foreign Affairs, <i>Palazzo della Farnesina</i>
3.00 p.m.	Continuation of discussions on sub-themes I and II
6.00 p.m.	End of session
6.30 p.m.	Reception given by the President of the Italian Republic, <i>Palazzo del Quirinale</i>

**Saturday, 4 November 2000**

9.00 a.m.	Continuation of discussions  Adoption of political texts concerning the sub-themes (resolutions) and the theme (declaration). Possibly, adoption of a political text on a topical issue
11.00 a.m.	Close of the conference
11.00-11.30 a.m.	Press conference given by the Chair of the conference and the Secretary General of the Council of Europe

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**Commemorative Ceremony for the 50th anniversary  
of the European Convention on Human Rights**

*Palazzo della Farnesina*

**Saturday, 4 November 2000**

11.30 a.m.	Opening of the ceremony  Speeches: <ul style="list-style-type: none"><li>– Minister for Foreign Affairs of Italy, Mr Lamberto Dini</li><li>– President of the Parliamentary Assembly of the Council of Europe, Lord Russell-Johnston</li><li>– Secretary General of the Council of Europe, Mr Walter Schwimmer</li></ul>
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- President of the European Court of Human Rights,  
Mr Luzius Wildhaber
- Director of the Aire Centre, Mrs Nuala Mole
- The United Nations High Commissioner for Human  
Rights, Mrs Mary Robinson

12.45 p.m. Close of the ceremony

*Campidoglio – Sala Giulio Cesare*

1.30 p.m. Ceremony for the opening for signature of  
Protocol No. 12 (non-discrimination) to the European  
Convention on Human Rights, followed by a reception  
given by the Mayor of the City of Rome



## **Statements made at the opening session**

*Palazzo della Farnesina  
Rome, 3 November 2000*

### **Mr Walter Schwimmer, Secretary General of the Council of Europe**

Allow me first to express my deep thanks to the Italian Government for its initiative of convening this ministerial conference on the occasion of the fiftieth anniversary of the European Convention on Human Rights. This excellent initiative allows us not only to look at the results achieved over the last fifty years, but also and above all to discuss the question raised in the main theme of this conference: "what future for the protection of human rights in Europe?"

This conference comes at an appropriate moment. Europe, and the Council of Europe, has undergone profound changes over the last decade. At the informal ministerial conference on human rights held ten years ago here in Rome, there were twenty-three delegations of member states seated at the conference table. It suffices to look around this table today to note the tremendous scale and speed of the enlargement of the Council of Europe since 1990. It is also a great pleasure to note the presence today of representatives of several non-member states, including states that have applied for membership and observer states of the Council of Europe. The same is true for representatives of other international organisations and institutions as well as non-governmental organisations.

Europe has changed, and it has definitely changed for the better. The values and principles for which the Council of Europe stands – democracy, rule of law, human rights – are now shared in a greater Europe. This is both an immense source of joy and a momentous challenge; for we all know from our experience in the last ten years that it is not an easy process to anchor those principles and values firmly in all branches of government and in all parts of society. It involves hard work, and the Council of Europe has worked, and works, very hard to protect and promote its values and principles throughout the Continent, and especially in the new member states and candidate states.

### **Courageous choice**

The process of enlargement of the Council of Europe is nearing its completion. We are expecting soon new member states in the Organisation. And a few weeks ago the people of Serbia made a very courageous choice which will smooth the way for them to join the European family of democracies.

We should therefore use the opportunity offered by this conference and the experience gained over the last decade to discuss where Europe stands and where it should go in an area that is crucial for its identity and its stability: the protection of human rights.

More particularly, the two sub-themes chosen for the conference are sufficiently broad to enable us to fix priorities for the future. sub-theme I concerns, first of all, our institutional machinery for human rights protection. The enlargement of the Organisation has had a deep impact on the control system of the European Convention on Human Rights and our other human rights mechanisms, and several new mechanisms have also been created in the last ten years. We should examine how to maintain and improve their effectiveness in the years to come. The European Convention on Human Rights must remain the backbone of human rights protection in Europe, and I am pleased to note that the draft European Union Charter of Fundamental Rights recognises this. The Council of Europe observers to the convention drafting the European Union charter text insisted on the necessity to incorporate explicit references to the European Convention on Human Rights thereby guaranteeing an equivalent level of protection and even offering scope for further progress. And an additional very useful step would be, as already proposed by Finland, if the European Union were to consider accession to the European Convention on Human Rights.

### **Possible improvements**

Full execution of judgments of our Court of Human Rights is essential and we must never compromise on this point. None of our human rights mechanisms operates in isolation: they are in constant interaction with the national level. We should also look at improvements that are possible in respect of the various national arrangements for the protection of human rights.

The second sub-theme allows us to discuss a number of current human rights challenges which in the longer or shorter term pose a threat to the stability of our Continent and our societies. This obviously includes the question of serious and massive violations, also in situations of conflict or crisis. In the past, this item would have been unthinkable as a topic on the agenda of a high-level meeting of the Council of Europe. Today, it is a necessary topic for discussion, for we should indeed draw lessons from our experiences in order to do better in the future. For my part, I have taken the unprecedented step of using the powers of investigation under Article 52 in respect of a single state party in relation to the conflict in the Chechen Republic of the Russian Federation. The Council of Europe is for the time being the only international organisation which maintains a presence in the area. Our three experts have just begun their second six-month mandate. Their eyewitness reports furnish us with first-hand information and allow us to act and bring pressure on the competent authorities to identify and search for missing persons. The Council of Europe experts have also contributed to the re-establishment of the court system on the territory of the Chechen Republic. The population of this war-torn region depend on and encourage the Council of Europe to help normalise life in Chechnya.

I am pleased that the abolition of the death penalty, a clear priority for the Council of Europe, will also be on the agenda of this conference. Europe is now a death penalty-free zone, and this should also entail the abolition of the death penalty in time of war.

The Council of Europe has changed into a more political and operational organisation. One thing has not changed: the protection of human rights is and remains at the heart of its mission. This conference should give fresh impetus for political decisions and strengthen active human rights protection all over Europe.

**Mr Lamberto Dini,  
Minister for Foreign Affairs of Italy**

On behalf of the Italian Government, I should like first of all to welcome all the esteemed participants in the ministerial conference on human rights, which we have the pleasure of hosting here in Rome. We are here also to commemorate the fiftieth anniversary of the European Convention on Human Rights in the city where it first saw the light of day.

This conference will also offer the opportunity to reaffirm and update the message of peace and civilisation which the Council of Europe has helped to spread over fifty years of its activities.

On 5 May 1949, the Statute of the Council of Europe was signed in London. Thus was born a far-seeing workshop for ideas and content of a high ethical value, led by a vanguard of ten sovereign states committed to a process of political rapprochement, to the concept of putting national instruments to common use and creating an influence shared by all in the future.

At the time, the hopes raised by the signature of the Treaty of London were high, in particular for those who, with the horror of the second world war still fresh in their memory, saw the Consultative Assembly – which brought together, for the first time, parliamentary representatives of different European states – as the expression of the mutual democratic will of the people of the old Continent.

The Council of Europe made an essential contribution to the respect and protection of fundamental human rights.

I firmly believe in the important achievements in the field of codifying rights: the 1961 European Social Charter and its 1996 revision, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987, the Framework Convention for the Protection of National Minorities of 1995, and, especially, in the twelve protocols that have extended and enriched the Convention signed in Rome in 1950. But at the same time, I think also of the long work of the European Commission and Court of Human Rights in establishing the substantial case-law relating to the Convention.

Yet the road before us is still a long one. Every day we are made aware of serious and repeated violations of human rights, of even the most fundamental among them. In too many countries, too many people see their dignity despised and humiliated, often in the face of general indifference.

The Council of Europe has fulfilled, convincingly and consistently, its role as the conscientious watchdog of the Continent, so attracting the respect and attention of those countries that saw the Council as the guarantor and defender of fundamental freedoms.

Let us remind ourselves that the Council of Europe has changed from an organisation of twenty-three member states to one encompassing forty-one today. This is a proof that the totalitarian regimes of central and eastern Europe have not been able, among the peoples they have held subject to their authority, to quash their aspirations towards democracy, freedom and -justice; nor to eradicate from their consciousness these same aspirations which -ultimately manifested themselves both inevitably and irresistibly.

The 1993 Vienna Summit of Heads of State and Government confirmed the indivisible and interdependent nature of human rights. It is this facet of their character which has led the Council of Europe towards more effective protection systems, including also, with the adoption of the European Social Charter, economic and social rights. The charter has become a very useful instrument for reducing social tensions and guaranteeing decent living and working conditions.

### **Growing awareness**

The very nature of the Council of Europe and the scope of its undertaking necessitate a profound and timely reflection on the way forward to ensure its correct functioning. I am thinking, for example, of the European Court of Human Rights, which finds itself today faced with an increasing number of potential applications from a population of some 800 million individuals, whose growing awareness of their rights can only increase this tendency.

This conference can be the venue and the occasion for assessing the progress already made and for defining the perspective of the Council of Europe's future action.

The outcome of our discussions will show, I am sure, the attention paid by the Council to social phenomena likely to worsen the situation, or to introduce difficulties or even danger threatening the harmonious development of our society.

On this point, the European Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, which I had the honour to chair last October in Strasbourg, was a most successful experiment in collaboration between government delegations, specialised organs, independent experts and representatives of civil society; it constituted a unique event which gave the Council of Europe the opportunity to reaffirm its role as a source of ideas and initiatives in the search for new solutions adapted to the real world.



Once more, our Organisation and the countries that belong to it were able to give a lucid analysis of the principal ills that beset modern European society, drawing up a realistic account, without complacency or false modesty, of the serious difficulties which all western countries may have to face in the present socio-economic climate. In addition to the alarming resurgences of racist behaviour, the Strasbourg conference expressed concern, in particular, at the manifestations of xenophobia and intolerance directly related to the migration flows of recent years, which have drawn our attention to grave social, legal and humanitarian problems. On the basis of contemporary law and guarantees concerning fundamental freedoms, Europe must commit itself to the drawing up of new codes of conduct aimed at protecting the weakest in society, and thus allow us to strengthen the values of the solidarity of mankind and respect for peoples who, having grievously suffered in wars, now aspire only to a better and fairer way of life.

And we must not forget, in our enumeration of the deprived members of society, those subjected to the most heinous and barbarous forms of exploitation. I am thinking of trafficking in women and children, and the victimisation of immigrants, who are often used as virtual slaves by organised crime in drug dealing and other illicit activities.

We must condemn such activities high and loud, without reserve or hesitation, to help bring about maximum collaboration between the countries of origin, of transit and of destination of these unfortunate masses. We must eliminate criminal activity and restore to these individuals the right to lead a decent life.

It is Europe's task, in the first place, to fight against such clandestine phenomena and to oppose the exploitation of these people's lack of hope, by means of agreements, on-the-spot training and development initiatives in the countries of origin. To those who have already fallen victim to these odious traffickers we should show our solidarity with their suffering and the abuse of their dignity.

That is why I believe that the Council of Europe can be legitimately proud to welcome into the great family of international legal instruments Protocol No. 12, covering non-discrimination. Appropriately, we shall be signing this tomorrow at the *Campidoglio*. It represents one of the most progressive international agreements in the fight against racism.

### **The abolition of the death penalty: a fixed criterion**

To conclude, I should like to recall a theme which traditionally recurs in the thoughts and conduct of the Council of Europe: the abolition of the death penalty. Since Protocol No. 6 to the European Convention on Human Rights was adopted in 1983, the abolition of capital punishment has been a constant and common priority of our Organisation. The battle fought by the Council of Europe has become, in recent years, a fixed criterion in the evaluation of a prospective member state's ability to preserve the life of its citizens. On this subject, I should like to pay tribute to the parliamentary side of the Council of Europe. Without the zealous action of the Parliamentary Assembly, it would never have been possible to attain our goal. This fight for fairness represents

the latest and greatest in a long series of measures aimed at strengthening respect for human dignity and the fundamental rights of the individual.

This is why Italy, at the end of its six-month chairmanship, will present to the Committee of Ministers on 9 November a solemn declaration in favour of the creation of a Europe free from the death penalty.

Life is our most precious possession. Progress, social advances and economic development are phenomena that influence the ordered march of society. The globalisation of the economy, of trade and of means of communication, the discoveries in the fields of science and technology, and even the evolution of human thought have all helped to revolutionise our habits – our way of learning, of working and of speaking. I believe we are making our way towards a new order of things.

Yet this constant advance towards the future, so exhilarating yet so confounding, should not make us lose sight of what lies at the centre of this universe driven by dynamic events: humankind. A humankind with its hopes, utopias and rights – right to life, right to respect.

It is up to us first and foremost, fellow members of the Council of Europe, defenders of democratic values of liberty and pluralism everywhere, to make sure that these hopes, utopias and rights are not obscured and oppressed.

**Lord Russell-Johnston,  
President of the Parliamentary Assembly of the Council of Europe**

I have been repeatedly told by our hosts that I should not speak for longer than four minutes. It would be against my humble nature not to comply with this request, so you will perhaps forgive me if, in these circumstances, I leave out rhetoric and platitude. This gathering of ministers and the occasion we are celebrating are too important to be wasted on empty verbiage.

As we meet here in Rome to celebrate the fiftieth anniversary of the European Convention on Human Rights, more than 15 000 registered applications are pending before its Court. More than 700 letters are received every day and almost 200 telephone calls are taken from all over Europe.

These are not empty statistics, and should not be treated as such. Behind every application there is a human life, a story, sometimes plain and ordinary, but often tragic. But behind every letter, every call and every visit to the Court's headquarters in Strasbourg, there is hope. Hope that grievances will be heard. Hope that wrongs will be made right. Hope that justice will be done.

It is this hope, and trust, of hundreds of millions of people living in Europe, from Grozny to Rome to the Isle of Skye, that should set our agenda for today. When we all leave for our capitals, let us not leave behind only empty declarations and speeches.

Our mechanism for the protection of human rights, unique in the whole world, needs a renewed commitment – political and financial – to continue to

do what it was set up for and what the people in Europe expect it to do, that is deliver justice and protect the rights of Europe's citizens against the might of Europe's states.

### **Concrete acts**

This is an expectation that cannot be fulfilled through diplomatic "shoulder-clapping", but only through concrete acts, which are:

- firstly, the Convention's and the Court's primacy in human rights questions in Europe cannot be endangered;
- secondly, additional money to meet the exponentially growing burden of applications must be made available;
- thirdly, the Court's decisions must be respected unconditionally and by all.

In conceiving and creating the Convention in the aftermath of the second world war, our predecessors showed great vision, resolve and political courage. Fifty years later, we have an opportunity to demonstrate that we too can act with the same resolve, vision and courage – not for our own glory, but for the ideals we believe in. The ideals of justice and human rights. The ideals that safeguard our freedom.

### **Presentation of the two introductory reports on the sub-themes of the ministerial conference**

#### **Mr Walter Schwimmer, Secretary General of the Council of Europe**

It is my duty and honour to present to you, as a general introduction to the discussions of this conference, the two reports which I have prepared on the two sub-themes of this conference. I can reassure you that I will not read them out; they are in your file.

Let me just make the preliminary comment that it is rather exceptional for the Secretary General to act as rapporteur at a ministerial conference. In most cases, it is the governments of member states that prepare reports on the themes to be discussed. However, the Steering Committee for Human Rights preferred that I perform this task and I have accepted the invitation with pleasure. None the less, I should point out that such reports are intended to stimulate debate and decision-making, and the reports for this conference are no exception. For this reason, I have conceived my reports not so much as technical information documents describing ongoing work in the Council of Europe – even if they do contain some information of that kind – but more as critical and forward-looking papers identifying priority areas and proposals for the short and medium term. The structure of the reports mirrors that of the two draft resolutions which have been submitted for adoption by this conference. They cover a lot of ground and it is not possible here and now to go over all the issues raised.

This presentation will therefore be confined to highlighting just a few points made in the two written reports which I believe are central questions facing Europe, and the Council of Europe, in the field of human rights today. Of course, the fact that a specific issue is not mentioned in my presentation today does not mean that it is of lesser importance. I therefore refer to my written reports for a number of concrete proposals which I will not repeat orally.

I should like to begin by stating a simple truth: *human rights protection begins and ends at home*. It may be surprising to hear the Secretary General of an international organisation stress the responsibility of national authorities to protect and promote human rights inside their own legal systems. To avoid any misunderstandings, let me stress straight away that this does not detract from the essential role which the Council of Europe and its human rights protection systems have to play. However, I believe that this phrase reflects very well the experience with human rights protection which the Council of Europe has built up over the last fifty years. It also sums up, and allows us to analyse, the main challenges facing us in today's Europe.

First of all, *human rights can only be truly protected at home if that home is stable and democratic*. Conversely, there can be no question of a stable democracy if the human rights of all or part of the population are flouted. Putting the house in order is certainly first and foremost the responsibility of governments of individual member states, but it is not theirs alone, as the very existence of the Council of Europe demonstrates. Europe has, unfortunately, been confronted with pockets of instability and even outright crisis and conflict situations in which human rights have been violated on a massive scale: Bosnia and Herzegovina, Kosovo and Chechnya, to name but a few. In the face of such situations, there is a need for rapid and effective international responses. For the Council of Europe, there are lessons to be learnt from our experience with the Chechen conflict. We need to remain firm in our condemnation of such massive and serious violations, but at the same time, there is a need to improve our response capacity. We must bear in mind that our experience and role in such situations is relatively recent, and I believe that the time has come to create and fund a rapid response capacity in the Secretariat in the form of a human rights task force and an intervention fund. These could play a vital role in helping the state concerned to restore quickly a minimum level of respect for human rights. In addition, our political response capacity needs to be improved.

If one takes seriously our statutory mission of achieving a greater unity in Europe through the maintenance of human rights, we must, where necessary, not shy away from developing and implementing new forms of constructive pressure whenever a country does not live up to the basic duties and principles inherent in membership of this Organisation. I feel this requires urgent attention from the Committee of Ministers and the Parliamentary Assembly; for realism tells us that new challenges will undoubtedly arise in the future.

The recent events in the former Yugoslavia provide the most eloquent illustration of the fact that *human rights begin at home*. We must pay tribute to the courage and democratic spirit of the people of Yugoslavia who have themselves shrugged off the yoke of totalitarian dictatorship and chosen the path of democracy, rule of law and respect for human rights, thereby following in the

steps of the neighbouring countries. The role of the Council of Europe must be to encourage, reinforce and assist this transition in every way we can, even and especially now in the fragile early stages of this process. As is the case with Bosnia and Herzegovina, the clear perspective must be to bring the country into the stabilising European community of standards and values which the Council of Europe constitutes, whilst remaining vigilant that the necessary progress is indeed made.

However, the importance of respect for human rights for stable and cohesive societies at home is not only illustrated by such spectacular examples. There are worrying signals of increasing racism and other forms of discrimination and intolerance throughout Europe. These were recognised in the major European Conference organised in Strasbourg only three weeks ago as a European contribution to next year's world conference against racism. In the longer term, these phenomena pose a serious threat to stability and cohesion because they are inherently divisive factors for each society. I believe this conference should express support for the various institutions and activities of the Council of Europe which deal with these and related problems: the European Commission against Racism and Intolerance, but also the pioneering Framework Convention for the Protection of National Minorities and its Advisory Committee.

I regard it as a sign of the times that Protocol No. 12 on non-discrimination has been added to the European Convention on Human Rights. This will give the Court a solid legal basis for dealing with discrimination complaints, so far not covered by the Convention, and thus enhance further the stabilising and unifying role of the Convention system on our Continent. The protocol will be signed by many member states tomorrow and I trust that others will soon follow suit.

Social rights, too, are important for stability. Too often, the protection of social rights is set apart as a less important area of human rights protection. There is thus a wide gap between this practice and the officially proclaimed theory that all human rights are indivisible. Unfortunately, invisibility of indivisibility seems to be current practice. Regarding social rights as a lesser category of human rights – if they are considered to be human rights at all – is first of all plainly wrong; if one thinks of persistent poverty, the situation of many elderly people, child abuse and so on, one must admit that some of the gravest affronts to human dignity lie precisely in the social sphere. But relativisation of these rights is also dangerous for it overlooks the fact that these rights are essential for social cohesion and peace, and thus for stability. In my written report on sub-theme I, I therefore plead for a rethinking of our traditional categorisations of human rights. I feel obliged to note here that the draft texts submitted for adoption by this conference pay only limited attention to the importance of social rights in our societies.

*Human rights protection begins at home*; it requires much more than a stable and democratic system. It presupposes the availability and accessibility of effective legal procedures before independent courts capable of offering legal redress within a "reasonable time", to use the words of Article 6 of the Convention. It presupposes the existence of a whole range of countervailing powers and watchdogs that help prevent or redress any abuses of power, such

as ombudsmen and national human rights institutions, and a vibrant civil society with critical and independent media and NGOs. It also presupposes the existence of a democratic human rights culture in all branches of government, not least in those involved in law enforcement.

In most of these areas, Europe as a whole has made significant progress over the last fifty years and the Council of Europe has made its own contribution thereto, by setting standards and providing concrete assistance to member states. However, a lot remains to be done, for example as concerns the full integration of human rights standards and values in our educational and professional training systems.

Another area where further encouragement would seem necessary is transparency of government. Active and passive transparency are hallmarks of open, democratic and accountable government; they offer important safeguards against abuse of power, corruption and other evils. In this age of the "information society", it appears incongruous that not all member states recognise a right of access for individuals to information held by public authorities. However, legislation is being prepared in several countries and I believe that it should be possible, in the next few years, to transform the basic principles which are currently being drawn up in the Council of Europe into a binding European convention on access to official information. I invite this ministerial conference to recognise this as a medium-term objective.

*Human rights protection begins and ends at home*; it is so to speak in the middle, in between the beginning and the end, that international protection of human rights steps in and it is here that our human rights protection systems come into play. In particular, where human rights protection machinery at home fails to prevent or remedy an alleged human rights violation, individuals have the possibility to submit their case to the European Court of Human Rights.

We will be commemorating the fiftieth anniversary of the Convention tomorrow and, of course, this is a proper occasion to pay tribute to the great achievements and success of this unique bill of rights. This conference should, however, also look to the challenges that lie ahead.

Here, I want to be frank with you: I see a few key areas that call for action. The first is the workload of the European Court of Human Rights. As we speak, the Court has more than 15 000 individual applications pending before it. The reform brought about by Protocol No. 11 – establishment of a full-time Court in place of the former two-tier system of Commission and Court – is not sufficient to cope with this massive influx of cases. I know the Court is working hard to rationalise further its working methods – President Wildhaber will address this issue in a moment – but it seems totally unrealistic to expect that this will lead to a capacity increase on a scale commensurate with the number of cases brought to Strasbourg. So, what should be done?

First, it is necessary to come to an understanding that the budgetary requirements of the Court are, in the short term at least, outside the control of the Secretariat and of the Court itself, as they depend on the number of individual applications. In this vein, I asked the Committee of Ministers last January to examine the role and operation of the Court with a view to proposing a



method of financing that does not penalise the Council of Europe's other activities in the medium term. For example, the Committee of Ministers could decide to treat the Court's budget as a "separate basket" within the Ordinary Budget, or alternatively, and after detailed scrutiny of requests received, include the additional budgetary requirements of the Court in a zero real-growth coefficient of adjustment of the Ordinary Budget. In one way or the other, the Court should be provided with the necessary financial and human resources.

A second measure is a further reform of the Convention system. This raises a number of fundamental questions, some of which are mentioned in my written report on sub-theme I. Several ideas have been floated already, and while it is premature for this conference to indicate the precise direction that such a reform should take, I do believe that this conference should launch an urgent in-depth study of the various options. However, it is already possible to identify one main parameter for any future reform: the principle of subsidiarity must be firmly maintained if not reinforced. This dictates that, in the first instance, it is the job of the national authorities, in particular the courts, to protect the rights and freedoms of the Convention. The Strasbourg system should only operate on a subsidiary basis, namely when the national legal system has failed to provide adequate protection. We should resist any temptation to assign to the Strasbourg Court a role which should, and can only, be fulfilled by national courts and other authorities. The Convention system rests on the assumption that there are effective protection systems in place at the national level. Once again, this means that *human rights protection begins at home*.

Therefore, a third category of measures concerns this national level. I would stress that such measures are essential not only to reduce the flow of cases coming to Strasbourg, but, naturally, first and foremost, to improve human rights protection within the national legal systems. There is still much to be done to ensure that the courts and other public authorities are fully aware of the Strasbourg case-law, for example through training and dissemination and translation of judgments. How many contracting states have proper guarantees in place to ensure that draft legislation is systematically screened on its compatibility with the Convention? National human rights institutions and government agents can play a pivotal role in these respects.

There is a second main aspect of the Convention system that calls for attention: the execution of judgments of the Court. This is fundamental to the credibility and effectiveness of the Convention system. There is so far good compliance with judgments, but I must draw attention to a worrying tendency, at least in some cases, to politicise the Committee of Ministers' role of supervising the execution of judgments. This is wholly alien to the judicial nature of the Convention procedure.

It is a fundamental requirement of the rule of law that all judgments must be executed, even if there is a political context to the case at hand. This is as true in Strasbourg as it is at the national level. Unfortunately, it would seem necessary to start thinking about possible responses, political and other, to late or even non-execution of a judgment by a contracting state. In this respect, I welcome the increased attention which the Parliamentary Assembly has paid in recent years to the question of the execution of judgments. More generally,

I would stress that this supervisory role of the Committee of Ministers places it in an ideal position to note the existence of certain structural problems which individual cases may exemplify. Excessive length of proceedings in criminal and civil cases, torture and other ill-treatment during police interrogations, and non-execution of national judgments are obvious examples of such problems. It is of course in the first place for national governments and parliaments to solve them, but the Council of Europe can assist in finding solutions through a comprehensive effort. The Committee of Ministers can see to it that such issues are also taken up in our intergovernmental work, assistance programmes can be devised for the countries concerned and the Commissioner for Human Rights may also play a useful role here.

*Human rights protection ends at home.* Our European human rights standards, the judgments rendered by the Court, the recommendations made by our specific bodies for the prevention of torture, for the protection of social rights, for the protection of national minorities or in the field of racism and intolerance, etc. – all of these can only, and must be, implemented by the member states at the national level.

I am convinced that both the member states and the Council of Europe should give more attention to the implementation of standards. A moment ago, I stressed the importance of the execution of judgments, but the same is true for country-specific recommendations produced by our other human rights mechanisms. We must acknowledge that there are occasions when member states, while demonstrating the political will to implement these recommendations, sometimes encounter genuine difficulties of different kinds (financial, infrastructural or otherwise) in giving effect to them.

An example is the improvement of prison conditions following recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Member states turn to the Council of Europe for assistance, and in many cases we unfortunately do not have the means to respond favourably to such requests.

To answer this type of request I have obtained authorisation from the Committee of Ministers to create a new head in the Ordinary Budget called "Intervention Fund". Unfortunately, at the moment, this is an empty box that needs to be filled if we want to mean business in this or in other important areas of our activities.

Before I conclude, allow me to make a last observation in relation to the European Convention on Human Rights. It concerns its place in the wider European institutional architecture. In a few weeks' time, the European Union intends to proclaim officially its Charter of Fundamental Rights. I congratulate the Union on this important achievement. Of course, we are particularly pleased that the charter establishes a direct link with the European Convention on Human Rights as far as the interpretation of the charter is concerned. It is vital that the process of European construction proceed without construction errors, in order to create a Europe without dividing lines. Accession of the Union to the Convention, as advocated by many, would be an important step in this respect and allow for impartial control of EU institutions by an independent court, similar to the way national courts are subjected to



control by the Strasbourg Court. I hope that the forthcoming intergovernmental conference will show the political vision and enable an agreement to be concluded to make such accession legally possible. Within the Council of Europe, a preliminary examination could be carried out in the meantime in order to look at the amendments that could be envisaged to the Convention in order to remove legal obstacles to accession. I therefore solemnly call upon the European Union to accede to the European Convention on Human Rights.

In this new century, the Council of Europe has an important role to play in encouraging and ensuring that human rights are effectively protected at home. This brief *tour d'horizon* has, I hope, served to highlight some key challenges facing us in the field of human rights. Whether they concern our response to situations of serious and massive human rights violations, the immediate needs of the Court and the future reform of the Convention system or the need for an increased focus on implementation of standards, finding solutions to all these issues requires the political will of the governments of our member states. In particular, it is essential that the Committee of Ministers fully assumes its role as the political guardian of our standards and mechanisms in the field of human rights, alongside the Parliamentary Assembly. It has been said that the Council of Europe is about human rights or it is about nothing. I can only agree, and therefore ask our member states to give priority consideration to this area, which is at the heart of the community of values that the Council of Europe constitutes.



## Part I

### *Institutional and functional arrangements for the protection of human rights at national and European levels*

#### **Introductory report of Mr Walter Schwimmer, Secretary General of the Council of Europe**

##### **1. Introduction: the development of a European system of human rights protection**

What began as an experiment or even an adventure fifty years ago with the adoption of the European Convention on Human Rights has since developed into an impressive constellation of machinery for the protection of human rights at European level. Not only has the Convention system itself grown to maturity through gradual reinforcement of the supervisory system – the entry into force of Protocol No. 11 two years ago certainly was a landmark in this regard – but also other human rights conventions have been drawn up since 1950 which complement the Convention in various ways: they contain different standards, they provide for a supervisory mechanism of a different character, or both.

Some key dates may suffice to illustrate this:

- 1950: adoption of the European Convention on Human Rights;
- 1961: adoption of the European Social Charter;
- 1987: adoption of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
- 1994: adoption of the Framework Convention for the Protection of National Minorities;
- 1995: adoption of the collective complaints protocol to the European Social Charter;
- 1996: adoption of the revised European Social Charter;
- 1996: adoption of the Convention on Human Rights and Biomedicine.

In addition, certain non-convention-based institutions in the field of human rights have been established in the wake of the two summits of the Council of Europe: the European Commission against Racism and Intolerance (ECRI) was created by the Vienna Summit of 1993 and the Council of Europe

Commissioner for Human Rights was instituted last year, after the Strasbourg Summit of 1997.

At the political level, mechanisms have been set up by the Parliamentary Assembly and the Committee of Ministers, respectively, in order to monitor compliance by member states with their commitments as members of the Organisation.

All in all, this picture is surely an impressive one, and one must pay tribute to the courage, foresight and perseverance of all those who were involved in bringing about this wide-ranging human rights protection machinery: the Governments of our member states, the Parliamentary Assembly, non-governmental organisations as well as individuals both outside and inside the Secretariat.

At national level, too, significant progress can be noted in developing and reinforcing institutional and functional arrangements for the protection of human rights over the last fifty years. Among many examples to be found in many member states, reference can be made to improved access to legal counselling and to justice, a stronger respect for the independence of the judiciary, the rise of constitutionalism, the impressive Europe-wide development of the ombudsman institution and, to a lesser extent, of independent national human rights institutions, and enhanced accountability of administrative authorities, including through control by independent courts.<sup>1</sup>

More generally, the post-war period has seen an unprecedented development of the role of the courts in our societies and legal systems. This role has expanded not only on account of the gradual widening of their jurisdiction (compare the development of administrative law) and the development of what has been termed a “claims culture” in society, but our legal systems have also moved away from earlier positivistic attitudes (which saw the role of courts essentially as being limited to applying the law) towards a very different conception which recognises the law-making function of the courts as legitimate and necessary in modern societies. This phenomenon has gone hand in hand with, and is partly explained by, important changes in the function of legislation. In the past fifty years, the law’s role in society has shifted considerably from codification to modification: a growing instrumentalisation of laws and regulations as tools to further certain policy aims and bring about social change. In addition, laws increasingly contain open-ended expressions, thus (sometimes deliberately as a result of political compromise) opening the way for a more important interpretative role of the courts. All these changes point towards a more active and protective role of the courts.

These various developments have created a huge potential for human rights protection, both within national legal systems and in the framework of the Council of Europe. Of course, this potential has acquired an historic new dynamic with the momentous changes in central and eastern Europe since

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1. The key role played by non-governmental organisations, the media and other parts of civil society will not be addressed here since it would be inappropriate to consider these actors as “institutional or functional arrangements” for the protection of human rights. Their role will be highlighted in the introductory report on the second sub-theme (in section 5 on human rights and civil society).

1989, which led to a doubling of the membership of the Council of Europe and a corresponding increase in the geographical reach of our human rights instruments.

At first sight, one may wonder, given this density and variety of available mechanisms and institutions, why it was considered necessary to include this sub-theme on institutional arrangements at national and European level in the agenda of this ministerial conference.

However, a closer examination of the issues involved shows that this choice is fully justified.

Firstly, there are a number of issues relating to the functioning of the Convention's mechanisms which require political attention. This concerns both the Court and the Committee of Ministers. They will be addressed in sections 2 and 3 below, respectively.

Secondly, it would seem necessary to raise some issues concerning a distinct area of human rights protection: the protection of social rights (section 4).

Thirdly, a European ministerial conference on human rights held on the occasion of the fiftieth anniversary of the Convention seems an excellent occasion to reflect upon the future of our human rights protection systems in the wider context of European construction. Some thoughts on this subject will be offered in the concluding part of this report (section 5).

Questions concerning the protection of human rights and the implementation of European standards at national level will not be addressed separately but will be integrated in appropriate places in the different parts of this report.

Similarly, human rights mechanisms and institutions other than those connected with the Convention or with the European Social Charter will not receive separate treatment here. They will be referred to in the introductory report on the other sub-theme of the conference: "Respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues".<sup>1</sup>

## **2. The European Court of Human Rights**

The outstanding success of the Convention is largely due to the exemplary work done by the former Commission and Court of Human Rights and, in the last two years, by the new Court of Human Rights. It is therefore appropriate to begin by paying tribute to the vast body of case-law which they have built up over the years, which has given concrete content to the Convention rights, specified the nature of the obligations of contracting states and adapted the Convention standards to evolutions in society, always bearing in mind the overriding interest of the effectiveness of the human rights guarantees

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1. As a last, general caveat, it must be stressed that it is neither possible nor appropriate for these reports, which are intended to be introductory, to examine in detail the functioning of each of the different institutions and mechanisms or to do justice to the manifold results achieved by them; each arrangement on its own would be a fitting subject for, and merit, a lengthy analysis. These reports will therefore be limited to highlighting what would appear to be the most important issues and questions that deserve the political attention of the member states and their ministers responsible for human rights.

guaranteed by it. The case-law of the new Court shows continuity rather than a radical break with the past, a welcome indication that development of the case-law will respect the *acquis*. It is thanks to this case-law that a European human rights law exists which permeates the national legal orders of our member states. Thus, the Convention has acquired such an established and fundamental place in the European legal order that it has appropriately been described as a constitutional instrument of European public order. However, one should not forget either that other great achievement of the Convention: offering a European judicial remedy for aggrieved individuals against any form of state action or inaction which they believe violates their rights under the Convention. The recognition of the right of individual petition, considered too controversial in 1950 to be fully incorporated into the Convention system, is nowadays an integral part of it, thanks to Protocol No. 11 and the state practice which preceded its adoption.

This is not to say that everything is satisfactory. One cannot but be seriously concerned by the tremendous and continuing increase in the number of individual applications that reach the Court. At the ministerial conference held ten years ago in Rome celebrating the fortieth anniversary of the Convention, my predecessor, Catherine Lalumière, presented a report in which she expressed concern at the fact that, at the time, there were 2 000 individual applications pending before the Commission at the admissibility stage. Today, there are more than 15 000 applications pending before the Court.

It is partly in response to the need to rationalise the Convention procedure that Protocol No. 11 was elaborated, setting up a single Court of Human Rights replacing the former two-tier system of Commission and Court. Of course, the new permanent Court, set up only two years ago, has needed, and probably still needs, some time to reach full cruising speed and deal with this mass of applications in the most efficient way possible.

Nonetheless, it seems totally unrealistic to expect that the – necessary – practical measures such as increased financial and human resources for the Court and a further streamlining of the Court's internal working methods would in themselves be capable of solving the workload problem through the capacity increases or input reductions they could bring about.

This raises the question of a further reform – amendment – of the Convention system. In this regard, some ideas were already mentioned by the President of the Court, expressing personal views at a meeting in Strasbourg on 8 June 2000. He tentatively mentioned some of the reform options that could be examined with a view to limiting the influx of cases into the Convention system: (i) raising the hurdles which the individual applicant has to overcome in order to have access to the Court for a full decision on the merits by giving the Court a certain discretion to refuse adjudication and to select, for example, only those cases which actually contribute to preserving or raising the standard of human rights protection in Europe as a whole as well as in the country concerned; (ii) instituting a preliminary reference procedure whereby national courts could refer questions to the Strasbourg Court, comparable to the procedure used by national courts vis-à-vis the Court of Justice of the European Union under Article 234 of the Treaty on European Union; (iii) allow specially elected senior registry officials to carry out the filtering functions now

performed by committees of three judges; and (iv) again separating the filter function and the judicial function and assigning them to two different bodies: a tribunal of first instance and a Court (the idea being that it would not be necessary for both organs to operate on a full-time basis or to be composed of forty-one members).

Some of these options – and there are more, such as wider possibilities for the Court to give advisory opinions, the introduction of some form of class actions, and so on – obviously raise fundamental questions about the objectives of the Convention system. We may ask ourselves with President Wildhaber whether, with 41 states, 800 million inhabitants and a likelihood of 20 000 applications per year, it is realistic to continue to give all applicants a right to have their cases dealt with by the Court. Or should the Court become more like a quasi-constitutional court, perhaps not accessible for everyone but at least able to hand down decisions without undue delays that undermine the credibility of the whole system? In the future, should the Court not be dealing first and foremost with the major problems that are of fundamental importance in the country concerned and for the application and interpretation of the Convention in general? Is the Court not simply getting bogged down by numerous clear-cut but time-consuming cases, such as those concerning the length of proceedings before the domestic courts? Should such cases be dealt with on the merits by the European Court of Human Rights?

These are very difficult questions indeed. However, it is necessary to address them, and to address them urgently. They require in-depth study and the time does not yet seem ripe for rushing into political decisions at this ministerial conference as to the direction which the convention system should take in the years to come and the fundamental purposes it should serve.

However, it is only right and proper to ask that the governments of the member states give political attention to these questions and to expect that this conference will acknowledge the urgent need to launch a thorough study of all possible reform options, with a view to taking a political decision in the not too distant future. It should be stressed – and the few options mentioned already demonstrate this – that the ultimate decision as to the functions we wish to assign to the Convention system and the objectives it should pursue remains eminently political, for it is directly linked to the process of European construction and architecture. So far, the Convention system has been able to fulfil two key roles: to provide an avenue of redress accessible for every individual with human rights complaints and to elucidate, safeguard and develop the legal standards of human rights protection laid down in the Convention.<sup>1</sup> Should the first role be sacrificed or curtailed in order to allow the Court to continue to fulfil the second one? Or is it possible to find less radical solutions?

These questions among others will have to be addressed in the context of the Steering Committee for Human Rights and the Committee of Ministers' Liaison Committee with the Court.

There is another, domestic, dimension to this whole issue. The role of the Convention system cannot be dissociated from the protection role of national

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1. See the *Ireland v. United Kingdom* judgment of 18 January 1978, Series A No. 25, paragraph 154.

authorities. The Court has time and again referred to the principle of subsidiarity: the whole logic of the Strasbourg system rests on the fundamental premise that it is primarily for national authorities, especially the courts, to protect the rights laid down in the Convention. If the Strasbourg system is suffering under an exorbitant workload, is this not because there is something wrong with the capacity of national courts and other authorities to offer adequate protection of the Convention rights or, at the very least, with the faith of individuals in the capacity of national courts to offer an effective remedy for their human rights complaints? Are the length of proceedings cases against Italy and other countries not a case in point?

It must be stressed that this phenomenon is not limited to any particular part of Europe. The statistics indicate that in many contracting states, increasing numbers of individuals are turning to Strasbourg.

It would appear that much more can and should be done at the national level: establishing effective preventive and remedial/compensatory mechanisms at national level; systematic training of prosecutors, judges and the police in the Convention should become standard practice in all contracting states as an integral part of their national training; and publication and dissemination of key Strasbourg judgments for the legal community, if necessary in translated form, etc. These needs have been fully recognised and addressed by some of our member states which have undertaken impressive efforts, for example in the field of training.

However, training of judges and law enforcement officials is not sufficient if the legal and political climate is such that they are reluctant to take the protective decisions required in order to observe the Convention rights. The status, authority and working conditions of judges must therefore be such that they can exercise their judicial role in full independence, free from any direct or indirect political interference. For, as long as that is not fully guaranteed, judges will all too often be inclined – even if they know full well that their judgment will violate the Convention – not to address what they fear might be embarrassing questions but to leave it to litigants and their lawyers to bring the matter before the Court in Strasbourg. Conversely, individuals who have confidence in their national courts will be less inclined to pursue their case in Strasbourg.

Of course, it is, fifty years hence, a most welcome fact that the Convention has been given direct effect in almost all contracting states, which creates good opportunities for effective protection of its rights at national level. However, as the experience in several contracting states shows, this in itself is again not sufficient to guarantee such protection: national judges must also be made aware of the Convention standards as interpreted in the Strasbourg case-law.

In short, the Convention system rests on the assumption that there are strong and effective protection systems in place at national level. Here, the question arises of whether the overburdening of the Convention system should not be attributed, in part at least, to the fact that not enough is done at national level. As was noted in the introduction above, there is an impressive potential for domestic protection. The question is: is that potential fully exploited?

Let us ask ourselves: how many contracting states pursue active training and information policies as regards the Strasbourg case-law? How many contracting



states have proper guarantees in place so that draft legislation is systematically screened on compatibility with the Convention? Here, government agents and national human rights institutions, for example, can play a pivotal preventive role by ensuring that the different government departments are fully aware of potential compatibility problems. Inevitably, individuals who believe that national authorities have had insufficient regard to their fundamental rights and freedoms will turn to the Strasbourg Court.

However, it is not only the number of applications that is revealing. It is also the nature of the cases brought to Strasbourg. More and more, the Court is being asked to fulfil a function which really should be carried out by national courts: that of establishing in great detail the facts of the case and/or acting as a further court of appeal ("fourth instance"). Surely, this should not be necessary if, in accordance with Articles 6 and 13 of the Convention, national procedures not only exist but also function which allow examination of the substance of Convention issues.

It is my firm belief that, in examining options for a further structural reform of the Convention system, the maintenance of the principle of subsidiarity should be an overriding consideration. Solutions that would envisage a departure from this principle, by assigning to the Court functions that simply must be carried out by national authorities, would be fundamentally flawed. This would not only be totally impracticable in terms of workload and resources needed, it would also, in the long run, be detrimental to the ultimate objective of the Convention: the effective protection of the fundamental rights and freedoms of every individual. The primary duty to protect these rights lies with national courts and other authorities; it is at the national level that violations of these rights can and should be prevented or remedied most effectively. In other words, any solutions to the workload problem in Strasbourg cannot and should not be a substitute for solutions within the legal systems of the contracting states. On the contrary, consideration should be given to including, with the control system of the Convention, further incentives for national authorities to assume fully their primary responsibilities under the Convention. But here again, one also has to ask whether existing possibilities for doing so are sufficiently exploited.

It would seem, for example, that the assistance and co-operation programmes of the Council of Europe should be much more tailored to addressing structural problems which stand in the way of effective human rights protection at national level. One possibility which would merit reflection would be to create a European support fund or other mechanism to assist states in overcoming such obstacles. This could be a means of providing targeted training and assistance in the drafting of legislation in conformity with European standards and thus of offering a form of back-up for the protection system of the Convention and other human rights mechanisms.

After all, we must not forget that the effectiveness of the Convention and of the protection of the rights guaranteed by it is a collective responsibility of all states parties. This is, for example, the basic philosophy underlying the inter-state application procedure of Article 33 of the Convention. Seen in this light, lodging an application against another state is, contrary to what is often

thought, not an unfriendly act against that state but it can be an exercise of that same collective responsibility for upholding respect for our common European human rights standards which can be to the benefit of all, not least the country that is asked to answer allegations of human rights violations. There are obviously situations of massive and serious human rights violations in respect of which it would be morally wrong to remain idle and where the need to exercise collective responsibility is at its most acute. This matter will be addressed further in the report on sub-theme II.

### **3. Supervision of execution of Court judgments by the Committee of Ministers**

The area of execution of judgments of the European Court of Human Rights is a fundamental aspect of the Convention system which deserves full attention at the ministerial conference, because it is the key aspect in the proper functioning of the Convention's mechanism. Indeed, a judgment of the Court is by no means the end of the story. Looking back on the experience of the past decades, there are certainly positive elements to be noted. The record so far has been one of general compliance with and execution of judgments of the Court. It is also a positive feature that, today, it is uncontested that, depending on the case, such execution may require not only payment of just satisfaction to the victim, but also general measures (whether through legislative changes, a change of domestic case-law or measures of another kind) to prevent a repetition of the violation found, as well as individual measures such as non-expulsion or release of the victim from detention. In addition, the need has been recognised to modernise the rules of procedure of the Committee of Ministers so as to enhance the position of the successful applicant and increase transparency of the procedure vis-à-vis that applicant and the wider public. The draft revised rules were finalised recently; they will be forwarded soon to the Committee of Ministers for adoption.

Nonetheless, it would seem necessary to recall the need for the Committee of Ministers to respect the judicial nature of the Convention procedure. In certain cases, there seems to be a tendency to politicise the procedure, which is wholly alien to the role of the Committee as an organ of the Convention. This is not to say that there is never a political context to a judgment and its execution, for there may well be one. In this respect, court cases in Strasbourg are not different from cases before national courts. What matters is that such a context must never be allowed to lead to immunity and to departure from the firm rule that judgments must be executed in all cases, even where this might be politically embarrassing or uncomfortable. This is nothing less than a key requirement of the rule of law. Unfortunately, there are increasing signs that it is becoming urgent to examine possible responses, political and other, to late or even non-execution of a judgment by a contracting state.

Here again, the Convention role assigned to the Committee of Ministers can and should be looked at from a totally different angle. Not only is execution and supervision thereof central to the credibility of the Convention system as a whole, as already indicated, it also presents excellent opportunities for effective action to prevent human rights violations in the future. Because of this supervisory role, the Committee of Ministers is ideally placed to note the

existence of structural problems in contracting states likely to engender more cases on the same issue in the future and, on the basis of this information, to ensure that such problems are addressed in the intergovernmental programmes as well as in assistance programmes for the countries concerned. To give just a few examples of such problems repeatedly revealed by the Court's judgments in respect of different states: non-execution of decisions of national courts by the executive; excessive length of proceedings in civil and criminal cases; and torture and ill-treatment during police interrogations. I would welcome it if on such issues (and there are more) a comprehensive effort would be undertaken – quite apart from the individual cases which, however serious they may be, are mere symptoms of the problem – in order to address the underlying structural problems. Of course, it is in the first place for the contracting states themselves to do so, but the Council of Europe, as a framework for co-operation and assistance, as well as the Commissioner for Human Rights, also have a role to play here.

This is not to minimise the importance of ensuring that Court judgments are also fully executed in respect of the individual victim. As stated, it is nowadays accepted that individual measures may be required which go well beyond payment of just satisfaction. However, difficulties are still being encountered in ensuring satisfactory follow-up in order to remove the consequences which the violation has had for the applicant, for example through a re-opening of judgments of national courts after the finding of a violation in a Strasbourg judgment. The recent adoption by the Committee of Ministers of a recommendation to member states on this question is a positive first step, which should be followed by concrete measures of implementation by the member states. In this respect, it is encouraging to note recent developments in national case-law and legislation in some states, as well as developments under way in certain other states.

It is particularly encouraging that the Parliamentary Assembly has, in recent years, paid increasing attention to the question of execution of judgments of the Court, insisting on the fundamental importance of proper execution for the effectiveness of the Convention's mechanism. It has thus addressed numerous questions (written and oral) to the Committee of Ministers or its Chair concerning individual cases and, at its most recent session, considered a comprehensive report on the issue (Document 8808) leading to a recommendation on ways to improve such execution.

#### **4. The protection of social rights**

Human rights are indivisible. The fundamental notion underlying all human rights, whether they are classified as civil, political, social, economic or cultural, is human dignity: the need to respect and uphold the dignity of every human being in all situations and in all its manifestations. The principle of indivisibility has been reaffirmed time and again in European and international fora, including at the World Conference on Human Rights in Vienna in 1993. The importance and everyday relevance of this principle becomes abundantly clear when we look at the realities of our societies. It is in the social

sphere where perhaps the greatest number of attacks on the dignity of the individual can be seen. One only has to think of the persistence of poverty and long-term unemployment, the situation of many elderly people, the disabled, children who are abused, the social dimension of migrations, and so on.

Yet, there is a wide gap between the official recognition of this indivisibility and giving concrete effect to it. It somehow seems as if we have become hostage to the categorisation of human rights into civil and political rights, on the one hand, and social rights, on the other. It is one thing that the implementation of the Universal Declaration of Human Rights has led, both in the Council of Europe and in the United Nations itself, to two distinct instruments for these two categories of rights. But are the consequences that have been drawn from this fact not too rigid, with the result that we lose sight of that unifying underlying notion of human dignity? Invisibility of indivisibility seems to be current practice.

It would seem that the explanation for this wide gap between theory and practice lies to a large extent in the manner in which the question of the protection of social rights is frequently approached. It is argued, first, that social rights are just as important as civil and political rights but that their different character requires a different protection mechanism. Social rights, it is said, do not lend themselves to judicial protection whereas civil and political rights do. While there is already much to be said against the simplicity of such traditional thinking,<sup>1</sup> the next step in this reasoning is fundamentally flawed: it seems that for some, because the system of protection of social rights is not judicial, it should or can be taken less seriously than the system for the protection of civil and political rights. From there, it is only a very small step to the conclusion – even if it often remains implicit – that social rights are a less important category of human rights or even that they are not human rights at all.

We see this when comparing the operation of the twin conventions of the Council of Europe: the European Convention on Human Rights and the European Social Charter. Is the European Social Charter really taken seriously as the full counterpart of the Convention in the area of social rights? If we look at the negative attitudes of some contracting states towards their obligations under the Charter and the need to follow up recommendations, are we not seeing the very opposite?

Of course, there are positive developments to be noted: the relaunch of the European Social Charter decided at the ministerial conference in Turin in 1990 has resulted in a revised European Social Charter and in an innovative Collective Complaints Protocol to the Charter. The Parliamentary Assembly is campaigning for more ratifications of the revised Charter and I hope that a good number of such further ratifications will take place between now and the fortieth anniversary of the Charter next year.

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1. This is amply illustrated in the various papers and contributions to the Colloquy on the Social Charter of the 21st Century, Strasbourg, 14-16 May 1997. A main point is of course the fact that most social rights are judicially protected at the national level.

However, these positive steps are only a partial answer to the questions outlined above. On a more fundamental level, is it not time to rethink our traditional categorisation of human rights? Can Europe credibly claim to be a Europe of human rights as long as social questions are seen in terms of social problems, an amalgam of difficulties and obstacles, not as a natural feature of life in any society inseparably linked to the dignity of each of its members?

Reinforcing the social dimension of human rights could be a way of overcoming the consequences of categorisations. In addition, more thought should be given to the question of judicial protection of social rights, also at European level. From the point of view of indivisibility of human rights, one can only be satisfied with the fact that the drafting work on the EU Charter of Fundamental Rights has resulted in a text encompassing the traditional different categories of rights. But this raises the question of whether a similar return to human dignity as the basis for all human rights should not be undertaken by the Council of Europe. I believe there are ample reasons for doing so and I regret that this issue has not been given a more prominent place in the texts to be submitted to the ministerial conference.

## **5. Concluding observations**

This report has focused on the two oldest human rights conventions of the Council of Europe. However, they are part of a much broader constellation of institutions and arrangements. The coexistence of this multitude of arrangements has made it necessary to pay increased attention to the question of synergies and complementarity between them. Earlier this year, this subject was examined in depth at a conference organised by the Irish Chair of the Committee of Ministers.<sup>1</sup> Among the many valid points made, one general issue should be highlighted: the coexistence of different mechanisms should not lead to a situation of paralysis, namely a situation where the existence of another mechanism becomes an excuse for inaction under a different mechanism. Whether it is the Commissioner of Human Rights, the procedure under Article 33 or that of Article 52 of the Convention, the political monitoring systems or any other arrangement, all these mechanisms should be governed by two key principles: unity of purpose and specificity of competence. The various arrangements ultimately serve the common goal of ensuring respect for and protection of human rights in Europe. This should always be borne in mind. In this spirit, and with a view to enhancing synergies and complementarity between the different human rights treaty bodies of the Organisation, consideration should be given to organising – as is the case within the United Nations system – annual meetings of such bodies. More generally, the different actors within the Organisation (specialised ministers, Committee of Ministers, Parliamentary Assembly, Steering Committees, etc.) would do well to take into greater account the results of the various human rights mechanisms so as to anticipate and address, in a timely and adequate fashion, issues which are clearly of a structural nature (for example, length of domestic proceedings).

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1. Conference on the Protection of Human Rights in the 21st Century: Towards Greater Complementarity within and between European Regional Organisations, Dublin, 3-4 March 2000.

In view of its statutory position, the Committee of Ministers has to play a key role in promoting synergies so that the common goal is achieved. This presupposes vigilance to ensure that the different institutions can do their work. Most treaty-based mechanisms cannot fully determine their own workload; there is an autonomous growth which, realistically, cannot be managed under the zero budget-growth of the Council of Europe in recent years. Other solutions will have to be found and here, as in other respects, it is vital that our member states recommit themselves to giving full political support to the human rights work of the Council of Europe, which constitutes the backbone of the Organisation and which responds to real needs existing in our societies.

Finally, the ministerial conference is also a proper forum for looking at the place of the Council of Europe's human rights institutions in the broader context of European integration. In a few weeks' time, the European Union is expected to adopt its Charter of Fundamental Rights. Similarly, a new inter-governmental conference will examine important institutional issues concerning the future development of the European Union.

Both the Committee of Ministers and the Parliamentary Assembly have stressed the importance of a coherent development of European construction, without "construction errors" so to speak, in order to create a Europe without dividing lines. This is important in all areas, but especially in the field of human rights, where the principle of universality is fundamental.

It is therefore most welcome that the EU Charter of Fundamental Rights establishes a direct link with the European Convention on Human Rights as far as the interpretation of the Charter's provisions is concerned, even if it is to be regretted that no such link was made in relation to the revised European Social Charter.<sup>1</sup> However, the Parliamentary Assembly, the European Parliament and the European Commission, amongst many others, have advocated that the European Union go one step further and become a Party to the Convention. This would create an additional organic link between human rights protection in the Union and the Strasbourg system for the protection of human rights. It would provide for external control of EU institutions by an independent Court, similar to the way the national courts and other authorities are subjected to control by the Strasbourg Court. I hope that the forthcoming intergovernmental conference will show political vision and reach agreement on appropriate amendments to the treaties so as to enable such accession to the Convention. As far as the Council of Europe is concerned, making such accession possible will require some prior amendments to the Convention. I would express the wish that already now a preliminary technical study be undertaken by our expert bodies, with the participation of the European Commission, in order to identify the amendments that could be envisaged, without prejudice to the ultimate decision about accession itself, but simply with a view to removing legal obstacles to accession. A similar approach could be followed with regard to a possible accession by the Union to the European Social Charter.

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1. It is hoped that this question will be pursued in another context, for example during the discussions on the future status of the EU Charter.



## **Statement by Mr Luzius Wildhaber, President of the European Court of Human Rights**

Fifty years of the Convention have brought about a European human rights area which includes 41 states and 800 million potential applicants entitled to submit applications in 37 languages, as well as a Court which has received more than 10 000 applications this year.

Making it possible for individuals to lodge applications against states was a wholly new experiment that was destined to become the cornerstone of the extraordinary success of the Strasbourg human rights system. Thus, fifty years ago the foundations of a European constitution of fundamental rights were laid. It is the distinguishing mark of the Convention that its terms have remained relevant and contemporary. To take but one example, notions such as private and family life have evolved to take in such modern issues as bioethics, data protection and industrial pollution.

A fiftieth anniversary is an opportunity to focus on prospects. Nearly two years after the major overhaul by Protocol No. 11, the Convention system is under pressure. Its annual case-load, which has increased by 500% over the last seven years, is still rising. This trend will not disappear; indeed it is likely to amplify.

Yet if the Convention system is to remain credible it must be able to deal with cases within a reasonable length of time, while preserving the quality of the Court's judgments. The effective execution of the Court's judgments will likewise be crucial.

With that in mind at the recent anniversary ceremony before the Parliamentary Assembly, I identified five points for the contracting states.

Firstly, they must ensure that their legislation is in conformity with the Convention standards and above all set in place practices and procedures that guarantee those standards. The Court in Strasbourg cannot be a substitute for effective national protection. The right to an effective remedy in respect of allegations of Convention breaches is a key element of the Convention system, as the Court confirmed only last week in a judgment finding that an applicant complaining of the length of judicial proceedings under Article 6 of the Convention was also entitled to an effective remedy under Article 13 whereby to raise that complaint in the first instance at national level.

Secondly, the states must provide the Court with the necessary means to cope with its growing case-load so that it can function in the way that the governments and parliaments of the contracting states intended when they adopted and ratified Protocol No. 11. In plain language, we need some 3.8 million euros or 3 million dollars' worth of extra resources to allow us to recruit additional temporary lawyers plus back-up staff. We also need arrangements allowing for the separate treatment of the Court's budget.

Thirdly, states must continue to respect the Court's independence and to propose candidates of the highest calibre for election to the Court under conditions that secure that independence.

Fourthly, states must execute in good faith the Court's judgments where appropriate by amending domestic law. Beyond the strict execution of individual judgments, I would exhort governments to take into account even those judgments which do not directly concern them and I would also encourage them to have at least the important decisions of principle translated into their national language, thereby making them accessible to their judiciary at all levels.

Finally, states must be prepared, if it becomes necessary, to engage in a further, possibly far-reaching, reform of the Convention system. The Court is not yet in a position to put forward precise proposals on reform. We do think, however, that individual complaints must continue to constitute the backbone of the system. Personally, I have little doubt that the Court will need an element of discretion if it is to be in a position to give judgment without undue delay and concentrate on priorities. The Court would in any event urge that it be fully consulted and involved in any process of reform.

The recent adoption of the European Union Charter of Fundamental Rights has confirmed the place of the Convention as a permanent and important feature of the European constitutional landscape. The recognition by the charter of the Convention as the primary source for the substance of the rights set out in the Convention, however they are formulated, and at least implicitly of the Court as the final interpreter of such rights, makes it clear that the Union too accepts the common heritage of the Convention states and paves the way for closer co-operation between the Strasbourg Court and the Court of Justice of the European Union. The European Union should now take this process to its logical conclusion by acceding to the Convention, under modalities and procedures to be agreed.

The member states of the Council of Europe gave birth to a human rights protection system that has become unique in its scope and effectiveness. You must continue to take care of it. You must take the steps necessary to guarantee the Convention system's survival in this century. I am confident that the resolution adopted by this conference will make clear that the Council of Europe states remain committed to its future and are prepared to give concrete effect to that commitment.



## Part II

### *Respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues*

#### **Introductory report of Mr Walter Schwimmer, Secretary General of the Council of Europe**

##### **1. Introduction**

The title of this sub-theme reflects a truth that may have appeared almost irrelevant to our Continent for decades but which has been brought with force to the forefront of political attention during the ten years that have passed since the informal ministerial conference on human rights was held here in Rome to celebrate the fortieth anniversary of the European Convention on Human Rights. Respect for human rights is a *sine qua non* for the development and maintenance of stable democratic societies in Europe as well as elsewhere.

This very same truth inspired the creation of the Council of Europe and the development of its human rights machinery in the wake of the second world war. Significantly, its Statute provides that “the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation” and that one of the methods by which the Council’s aim of achieving a greater unity between its members is to be pursued is “the maintenance and further realisation of human rights and fundamental freedoms”. None the less, this truth was for a long time almost taken for granted in Europe until the events in central and eastern Europe in the late 1980s. Suddenly, what seemed self-evident became a formidable challenge for the Council of Europe: assisting the countries of central and eastern Europe in their transition from communism to free, open and democratic societies adhering to the rule of law and where fundamental rights and freedoms are respected. We all know that this transition process has encountered difficult phases, involving varying degrees of instability for several countries, which were inseparably linked to difficulties in anchoring democratic human rights values in their societies and branches of government.

Sadly, we were even more forcefully reminded of the importance of human rights observance for stability through the tragic conflicts and crises that have appeared in our Continent over the last ten years: the war in Bosnia and Herzegovina, the Kosovo tragedy, the conflict in Chechnya, not to mention areas of ongoing tension such as Nagorno-Karabach or Abkhazia. While the background, nature and intensity of the violence involved is different for each

of these situations, it is invariably the population that has suffered most severely from them, their most basic rights and freedoms being ignored on a massive scale.

The potential for situations of conflict or tension – and hence the relevance of establishing and developing societies where the human rights of all are respected and protected – is by no means restricted to new or candidate member states. One is compelled to think of the – very real – human suffering which has resulted from the situations in Northern Ireland, the Basque country or South-East Turkey. Post-conflict rehabilitation and restoration of human rights may be a long and difficult process, but it is not impossible, provided the conflict is settled through political solutions which give the basis for developing a climate that is receptive to respect for human rights. In the past five years, this was borne out by positive developments in such different situations as Northern Ireland, and Bosnia and Herzegovina.

However, it would be wrong to think that such potential for conflict or tension exists only in respect of certain situations in specific countries. It is significant that the Declaration on combating racism, xenophobia, anti-Semitism and intolerance adopted at the First Council of Europe Summit of Heads of State and Government (Vienna, October 1993) expresses alarm at the “resurgence of racism, xenophobia, the development of a climate of intolerance, the increase in acts of violence, notably against migrants and people of immigrant origin, and the degrading treatment and discriminatory practices accompanying them” as well as at “the development of aggressive nationalism and ethno-centrism which constitute new expressions of xenophobia”. Likewise, the declaration pointed to the risk that forms of social exclusion may develop which are likely to foster social tensions and threaten the cohesion of European societies. The heads of state and government were convinced that these various manifestations of intolerance “threaten democratic societies and their fundamental values and undermine the foundations of European construction”. Finally, the Vienna Declaration recognised that the protection of national minorities is an essential element of stability and democratic security in our Continent.

These points were echoed in the Second Council of Europe Summit (Strasbourg, October 1997), *inter alia*, in the general statement that “the promotion of human rights and the strengthening of pluralist democracy both contribute to stability in Europe”.

What does all this mean for the Council of Europe of today? In a speech delivered at the aforementioned conference organised by the Irish Chair of the Committee of Ministers earlier this year, I said:

“The exponential enlargement of the Council of Europe over the past ten years has brought about a variety of human rights challenges which require the different forces inside the Organisation to come into play. Indeed, enlargement must not lead to a lowering of our human rights standards and requires special vigilance to that effect. Equally, we must recognise that, given the nature and scale of the different human rights problems that have arisen in the wake of the enlargement process, the traditional treaty-based approach is no longer sufficient in all cases. A far more comprehensive approach is called for, including rapid and imaginative responses.”

Against this general background, this introductory report will deal with some key challenges to respect for the human rights and dignity of all, which in the shorter or longer term pose a threat to democratic stability and cohesion in Europe. It will also address the question of the Council of Europe's response to those challenges.

## **2. Serious and massive violations of human rights**

There is little doubt that situations of serious and massive human rights violations pose the most acute threat for stability and cohesion, both within societies and on the wider European scale. It is therefore appropriate that this issue be addressed at the ministerial conference.

None the less, the preliminary point must be made that it would have been unthinkable for this issue to be on the agenda of a high-level meeting of the Council of Europe as recently as ten or fifteen years ago. The very fact that it is a subject for urgent political discussion shows the changes which Europe and the Council of Europe have undergone in recent years.

It is true that, during that same period, the treaty-based approach has gradually been complemented by more visible political and operational approaches, including an active presence in the field in areas such as Kosovo and Chechnya, for example.

However, we should not delude ourselves into believing that the current responses to situations of serious and massive violations are satisfactory. Is it realistic to expect that the Committee for the Prevention of Torture (CPT), set up as a preventive mechanism, can on its own effectively address situations in which torture is practised on a large scale? Similarly, can one expect the system of individual applications under the Convention to provide a suitable response and put an end to situations of massive violations? Is a recommendation of the Committee of Ministers to member states in itself sufficient to eradicate the phenomenon of trafficking of human beings, especially of women and children? The answers must clearly be no, and the public as well as non-governmental organisations rightly expect additional, more effective responses from an organisation which has been described as "the conscience of Europe".

This issue goes to the heart of the philosophy and mission of the Council of Europe and raises the question of the duties of each state inherent in membership of the Organisation.

Over the last ten years, the enlargement process has by and large been dominated by the political wish to welcome new member states into the Organisation, in order to support them on the road to democratisation, even where serious criticism could be levelled against them as far as respect for human rights was concerned. In most cases, this "logic of inclusion" was considered preferable to the "logic of exclusion", because it was felt to contribute more to democratic stability and be more beneficial for the populations concerned.

While I do not wish to call into question the political wisdom of this general approach, it is questionable whether the full consequences have been drawn from it. Especially in the field of human rights, I do not believe that this “logic of inclusion” has been pursued consistently once a country has been admitted as member of the Organisation. Membership of the Council of Europe certainly offers possibilities for enhanced co-operation with and assistance to the country concerned, and the operation of our treaty-based and other human rights mechanisms can only be beneficial for that country. However, bringing a country into these cohesive and stabilising structures also presupposes that all actors involved ensure that membership actually fulfils this cohesive and stabilising function to the full. If not, what is the point of membership? This places a special responsibility, in the first place on the government of the country itself, but also on the Committee of Ministers, the governments of the other member states and the Parliamentary Assembly. One very concrete concern is that the necessary financial consequences must be drawn if the Council of Europe is to play a meaningful role in providing assistance to new member states. We know this is a long-term task necessary for long-term stability in our Continent, and there should be a sound basis for it in the general budget, without stop-gap solutions, such as having recourse to voluntary contributions by individual countries, however generous they may be.

These responsibilities become particularly acute in the face of serious and massive violations of human rights. Such situations should simply not be allowed to happen in a member state and, where they do occur, the Committee of Ministers should not shy away from its moral and political responsibility to take action: reminding the state concerned in clear terms of its responsibilities as a member state and under the relevant human rights conventions, dispatching high-level political missions to the country, making public statements on the matter, and so on.

The Secretary General, too, has responsibilities in this regard, including under the Convention. Reference is made to the – hitherto under-used – powers of inquiry which Article 52 of the Convention confers on the Secretary General. In the context of the events in Chechnya, I decided that, given the scale of the violations reported, I should avail myself of these powers, thus departing from the past practice by using them for the first time in respect of a single state party. Expert analysis has confirmed that the replies received from the Russian Federation on the manner in which the Convention was applied in Chechnya were unsatisfactory and failed to meet the obligation under Article 52 to provide adequate explanations. In the light of this unsatisfactory conclusion of the Article 52 procedure, I referred the question of the Russian Federation’s implementation of commitments concerning human rights to the Committee of Ministers under the monitoring procedure (Article 1 of the 1994 Declaration on compliance with commitments accepted by member states of the Council of Europe). More generally, I confirm what I stated at the aforementioned conference in Dublin, namely that, given the continued existence of potential pockets of instability and sources of human rights violations in today’s Europe, I shall not hesitate in the future to use these powers again in respect of other states parties, whether they be old or new member states of the Organisation.

Likewise, individual governments of member states should never forget that, as states parties to our human rights conventions, they share collective responsibility for upholding the human rights systems of the Council of Europe. In this connection, special attention must be drawn to the possibility under Article 33 of the European Convention on Human Rights for any contracting state to bring an application before the Court of Human Rights against any other contracting state. Fifty years ago, the drafters of the Convention intended to base the collective enforcement of the Convention rights first and foremost on such inter-state complaints. This procedure is, it should be recalled, not confined to allegations of violations in individual cases and is thus a more appropriate means of addressing widespread human rights violations than the individual complaints system would be. In addition, especially in areas of conflict or crisis, whether emergency rule applies or not, local remedies for aggrieved individuals are generally not available or effective. The “individual approach” is therefore mostly inadequate for dealing with large-scale violations. Finally, allowing the Court to rule, in the more general manner possible in the context of inter-state cases, on compliance of certain laws or practices with the Convention is an important means of ensuring that such laws and practices are, where necessary, rapidly brought into line with European standards.

In the light of the practice of the last decades, I can only note hesitations of contracting states to use this procedure,<sup>1</sup> remind the governments of the comparative advantages it offers and, above all, recall that the effectiveness and credibility of the collective enforcement system of the Convention relies on the active co-operation of all partners in this system. I regret therefore that the draft texts submitted to the ministerial conference do not even mention this possibility to make use of the procedure envisaged by Article 33 of the Convention.

When considering the question of the Council of Europe's response to serious and massive violations, it is important to draw some lessons from the recent experience with the conflict in Chechnya.

First of all, this experience has made it absolutely clear that there is no contradiction in insisting on full responsibility and accountability of a member state with regard to its human rights performance in such a situation, while at the same time offering assistance with a view to finding solutions to alleviate the human suffering invariably engendered by conflict situations, providing human rights expertise on the ground, and contributing to working out longer-term solutions to end the underlying conflict. That is a first positive conclusion.

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1. Since the Convention's entry into force, only twenty-one applications have been brought by states, dealing with no more than seven situations. Recently, the Parliamentary Assembly appealed on several occasions to member states, as contracting states to the Convention, to refer to the Court alleged breaches of the Convention and its protocols by the Russian Federation in the context of the Chechnya conflict (see, for example, Recommendation 1456 (2000) on the conflict in the Chechen Republic – Implementation by the Russian Federation of Recommendation 1444 (2000)). However, no application under Article 33 of the Convention has been introduced so far.

Also positive is the general recognition that a state remains under a duty to respect human rights, including where this concerns the behaviour of its armed troops and security forces in the context of anti-terrorist or any other operations involving the use of force. The fight against terrorism can never be an excuse for the state itself to violate basic human rights, if the state is not to resort to terror itself. This is an important political confirmation of what has been spelt out clearly in the case-law of the European Court of Human Rights: if it were otherwise, there would be a risk of destroying human rights and democracy on the very ground of defending those values.<sup>1</sup>

None the less, there are a number of areas of concern where improvement is possible and indeed necessary. These are, in my view, the result of the fact that the practice of the Council of Europe's involvement in such situations is relatively recent.<sup>2</sup>

*Enhance the capacity of the Organisation to respond to situations of serious and massive violations of human rights.*

There is a need to enhance our capacity to respond to such situations of serious and massive violations, especially at the earliest possible stage, both in terms of our technical response capacity and the political response capacity of the Organisation.

The first point refers to our capacity to mobilise, at short notice, the human and financial resources necessary to deploy our expertise wherever it is needed. Increasingly, the Organisation is being called upon to be a human rights fire fighter and to contribute to the rapid establishment of a minimum level of respect for human rights in hot spots around Europe: Bosnia and Herzegovina, Albania, Kosovo, Chechnya, etc. So far, the Secretariat has, in co-operation with other organisations, by and large been able to respond to these challenges, although with increasing difficulty. These additional tasks draw heavily on the existing staff of the human rights sector, including the human rights treaty bodies. In order to be able to pursue this work in an effective and credible manner in the future, I propose to examine possibilities for creating additional capacity in the Secretariat by setting up a "human rights task force" which would be flexible and able to react rapidly to the evolving needs on the ground. Such a task force could be also instrumental in meeting the crying need for human rights training for personnel (to be) deployed in field missions, an area where the Council of Europe has gained a wide experience. In order to boost the Council of Europe's capacity for quick response to urgent requests, I have also proposed to the Committee of Ministers the setting up of an intervention fund to be financed, inter alia, by the credit balance of the Ordinary Budget by the end of the budget year. This proposal is still under consideration.

The second question raises the fundamental issue of the Council of Europe's political response to situations of large-scale human rights violations. I do not

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1. See the Klass and others v. Germany judgment of 6 September 1978, Series A No. 28, paragraph 49.

2. It is recalled that in the past, the Council of Europe as such did not yet generally assume an important role in respect of such situations (for example, the "troubles" in Northern Ireland or the peak of the anti-terrorist operations in South-East Turkey).



believe anyone would contest that this political response should comprise a firm stance against such violations. However, when it comes down to giving teeth to such condemnations, we suddenly appear to enter the realm of *realpolitik* and *raison d'état*: disproportionate emphasis is put on assistance to, and co-operation with, the country, at the expense of backing up our demands for full respect of human rights, if necessary with tough measures. We should not be as naive as to think that effective investigations into violations, full accountability for perpetrators of violations, redress for the victims and, ultimately, restoration of respect for human rights can be attained simply by organising seminars and training sessions. Those indisputably useful tools are more geared towards prevention of future violations. They do not constitute an effective and credible measure capable of putting an end rapidly to ongoing violations. More generally, the question must be asked: is co-operation an aim in itself? Is it more important than respect for human rights? The Statute of the Council of Europe quoted in the introduction of this report suggests otherwise. If one takes seriously the principle that a greater unity in Europe is to be achieved through the maintenance of human rights, it must be recognised that there are limits to what can be achieved through a consensus-based approach. Experience in different regional organisations has shown that there is a point where this approach cannot always be maintained if it is not to be perverted into a system under which a single state – more often than not the state that is the object of the discussion – is in a position to block certain decisions.

Another part of the explanation for this imbalance is the fact that, for the Committee of Ministers at least, the range of political response options is basically very limited: it is either co-operation or the ultimate sanction envisaged by Article 8 of the Statute: suspension of the state concerned from the Council of Europe. While one can, in principle, understand the reluctance of member states to resort to that extreme measure, the very logic of Council of Europe membership, the credibility of the Organisation and, last but not least, public opinion simply demand that some form of effective action is taken. There is a wide gap between the two existing options, and it would seem that the time has come to move away from this “all or nothing” dilemma and to devise new forms of constructive pressure and warning which can be more effective in ensuring restoration of respect for human rights wherever they have been violated on a massive scale. I therefore believe that it is important that the Committee of Ministers and the Parliamentary Assembly examine this question together in a serene way, that is, outside the context of any particular situation.

#### *Possible standard-setting work*

While the human rights standards of the Council of Europe have more than proven their relevance where normal circumstances prevail in society, their significance in situations of conflict and crisis is a subject that has received much less attention in the Council of Europe. Are they sufficiently adapted to situations which may involve, for example, extra-judicial killings, rape practices, disappearances, trafficking in human beings, etc? It would be useful to examine whether the perceived gap between our human rights standards and the vital question of the protection of individual rights in situations of conflict

and crisis or tension is apparent or real and I fully endorse the idea that our intergovernmental committees take up this issue, taking due account of existing norms, also in the field of humanitarian law.

One specific area where the time seems ripe for standard-setting is the abolition of the death penalty also in time of war. Europe can rightly pride itself for the tremendous progress made in the abolition of the death penalty and putting moratoria on executions. The year 2000 is the third consecutive year in which no death sentences have been executed in the forty-one states that are members of the Council of Europe. This is a major achievement which needs to be consolidated soon by formal abolition, and ratification of Protocol No. 6 to the Convention by the very few member states that have not yet done so. Any step backwards would be unthinkable and intolerable. On the contrary, the Council of Europe should continue to move forward and take up the recommendation which the Parliamentary Assembly made already in 1994, namely to prepare a new additional protocol to the Convention which excludes the possibility of maintaining the death penalty for acts committed in time of war or of imminent threat of war. At the same time, we should pursue our efforts to persuade countries in other regions of the world that the death penalty has no place in a civilised society. This is particularly important *vis-à-vis* countries that have observer status with the Council of Europe and which are deemed to share our fundamental values in the field of human rights and human dignity.

*The need for more emphasis on preventive action*

Finally, this question of serious and massive violations of human rights has reminded us forcefully of the old truth that to prevent is better than to cure.

Much of the human rights work of the Council of Europe is geared towards prevention, for example in certain specific fields such as ECRI's role of assisting states in combating racist and intolerant attitudes, and the prevention of ill-treatment through the work of the CPT. As regards potential CPT work for the prevention of violations outside the geographical area of the Council of Europe, attention must be drawn to the possibility of inviting non-member states to accede to the convention against torture, which will materialise when Protocol No. 1 to this convention has obtained the last two ratifications necessary for its entry into force.

However, I believe we can and should do more in the field of prevention generally through stepping up work in the field of education, training and awareness-raising. Since these issues are not confined to prevention of massive and serious violations, they will be addressed below (in section 5: Human rights and civil society).

Especially as concerns latent or emerging problems that may degenerate into crises or other situations where human rights are violated on a massive scale, the Council of Europe should be more pro-active and better able to anticipate such situations. In May this year, the Italian Chairmanship drew attention to the need to apply early warning and monitoring systems that reflect the strength of the Organisation's commitment to effective protection for the main values of our civilisation. It should be examined how existing procedures and



institutions could be given such an early warning role: one could think of including an urgent action element in the Committee of Ministers' monitoring procedure. Likewise, the Commissioner for Human Rights could play a role to this effect.

However, it cannot be stressed enough that the existence of early warning mechanisms in itself is not sufficient: what is necessary above all is the political will to take effective preventive action once such early warnings are received. In this regard, one can only subscribe to what the United Nations High Commissioner for Human Rights stated in a lecture delivered in London a year ago in respect of the Kosovo tragedy:

"There are many lessons to be learned from Kosovo, but to my mind the most important is that Kosovo represented a failure by the international community to act in time to prevent a tragedy which everyone predicted. For ten years, observers on the ground had been warning about the need for action to address a deteriorating human rights situation in Kosovo. Nobody could have failed to see the red light flashing. What was lacking was the foresight and the political will to do something before the situation reached crisis point. The result was an attempt at conflict management instead of conflict prevention with an appalling cost in human lives and material damage."<sup>1</sup>

This only illustrates why it is important to enhance also the Council of Europe's response to flagrant failures of member states to respect our human rights standards, as was advocated above.

### **3. Equality and non-discrimination**

The persistence or resurgence of various forms of discrimination and inequality should be taken as a serious threat to stability and cohesion in our societies and in Europe. These phenomena constitute the very opposite of cohesion; they are inherently divisive factors for each society.

A key challenge for the very near future is how states will solve the problem of racism and intolerance. This was the subject of a separate European conference which the Council of Europe organised last month as a European contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Since the general conclusions and the political declaration of this conference provide important signposts for the development of new policies and strategies at European and national levels, only a few areas of concern will be highlighted here.

While there is undeniably a growing recognition by the governments of our member states of the need to take effective measures against racism and intolerance and to persuade public opinion in this regard, extreme vigilance is called for in the field of immigration and asylum policies. At a time when such policies become more and more restrictive, to the point where "fortress Europe" has become a reality for many, there is a real risk of a growing gap or even contradiction between such policies and the accepted need to fight racism and promote tolerance. This is a high-risk area, because experience has

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1. "Meeting the Challenge of Human Rights", Sounding the Century Lecture, London, 23 September 1999.

shown that especially in this field it is only too tempting, even for mainstream political parties, to adopt elements of extreme right-wing racist discourse which contributes to a “banalisation” of racist and xenophobic thinking. The Council of Europe should perhaps address more directly the risks that political parties with such extremist elements pose for a growing number of our member states.

Governments should stand firm to protect the human rights of aliens also and especially in the context of immigration policies and, just as importantly, make every effort to explain to their populations that these rights belong to every human being without discrimination. At the same time, one must recognise that aliens residing in our countries constitute in many respects a vulnerable category from the point of view of human rights. As developments in several member states have shown, this reality forces us to reflect on the kind of “citizenship” we want to have for Europe: an exclusive one based on formal criteria or an inclusive one based on someone’s long-term presence in, and belonging to, society? The universality of the human rights approach taken by the European Convention on Human Rights clearly suggests the latter.<sup>1</sup> I therefore welcome the idea launched by the Italian chairmanship to take up the question of the rights of migrants in the intergovernmental work of the Council of Europe, possibly in the form of a new protocol to the Convention. But here, as elsewhere, measures at national level are the most effective ones and it must be recalled that the European Commission against Racism and Intolerance has found that, in a substantial number of member states, there is still no adequate framework of legal measures against discrimination. Given the scale of the problem in today’s Europe, this situation should be addressed without delay. Likewise, it goes without saying that states could usefully review their existing legislation in various fields with a view to removing provisions that could be discriminatory or produce discriminatory results, along the lines of the non-discrimination review project developed by the Council of Europe in the context of the Stability Pact for South Eastern Europe. Finally, having appropriate laws is one thing, but eradicating widespread everyday or institutional racism is another. Here, important efforts are necessary in the field of training of police and immigration officers, to name just two key categories of civil servants.

In only a few years’ time, ECRI has been able to formulate many useful general and country-specific recommendations concerning measures to combat racism and intolerance. The time now seems ripe for considering further steps in order to reinforce further the independence and legal basis of this mechanism. The experience gained with this mechanism shows that it has proven its worth and asserted itself as an integral part of our human rights system.

The importance of the protection of national minorities for the stability of our continent was stressed at the highest political level at the first Council of Europe Summit in 1993. Seven years later, the Framework Convention for the Protection of National Minorities, which is the first ever – and for the time being only – general international treaty in the field, has been ratified by no less than thirty-two states, and its Advisory Committee has already

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1. Article 1 of the Convention provides that the Convention’s rights and freedoms shall be secured to “everyone within the jurisdiction” of the contracting states.

commenced the first monitoring cycle foreseen. The committee has developed good co-operation with the states parties, not least through country visits and other forms of dialogue, and the Committee of Ministers has rightly been very attentive to the requirement of independence when electing the members of the Advisory Committee. The first opinions on four state reports are about to be transmitted to the Committee of Ministers. Given the legal nature and independent status of these opinions on countries' implementation of the framework convention, it goes without saying that the Committee of Ministers, when deciding on recommendations to be addressed to individual countries, should base itself on the legal assessment made by the Advisory Committee, which was specifically set up for this purpose.

An important recent breakthrough at European level is the adoption of Protocol No. 12 to the Convention, which will be opened for signature tomorrow. Many member states have announced their intention to sign this new instrument against discrimination and others are invited to follow suit as soon as possible, thus marking their firm commitment to the fight against discrimination of any kind, including racial discrimination. As a sign of the times, the protocol decisively puts an end to the unnecessarily limited character of the prohibition of discrimination in the Convention, which had become no longer tenable in today's Europe. It thus gives the Court of Human Rights a solid legal basis for dealing with allegations of discrimination and for developing a case-law which can only assist the contracting states in combating discrimination in all its forms, not only discrimination based on race and related grounds, but also discrimination based on gender, sexual orientation, disability, membership of a minority, and so on. Even if it has not been possible to include *expressis verbis* a positively worded equality principle in the new protocol, the latter may, as its preamble indicates, be expected to contribute also to bringing closer the positive realisation of the principle of equality, beyond prohibiting discrimination in a strict sense.

Equality between women and men is an area where important progress has been made in the last fifty years. Gradually, Europe has shifted away from a rather limited vision of equality (as the mere absence of discrimination) to a broader approach which encompasses economic, social, civil and political equality between the sexes. In most countries, equality of rights for women and men is laid down in the constitution or other legislation. None the less, this must remain a priority area for the Council of Europe. Women remain under-represented in many sectors of society and there is still a long way to go towards full equality in practice. The work of the Council of Europe in recent years has focused on gender-mainstreaming so as to ensure that the gender equality perspective is taken into account in all areas and at each stage of decision-making processes. However, such mainstreaming is not only important for the national level. The gender perspective should also be taken into account in the interpretation and application of international human rights instruments including the Council of Europe's conventions and, here again, one may expect a positive impact from Protocol No. 12 to the Convention. In this context, the increase in the number of female judges of the Court – even if it is still not on par with the number of male judges – should also help to make a difference.

However, in some respects it is difficult to speak of progress in the full enjoyment of human rights by women. Regression seems a more appropriate word to describe the manifold manifestations of violence against women, be it within the family, at work or elsewhere, and which take an extreme form during armed conflict. It is simply unacceptable that, in this Europe of the twenty-first century, sexual exploitation and trafficking degrades an increasing number of women and girls to a state of slavery and the ministerial conference should give a strong political impulse for redoubling our efforts to combat these phenomena.

#### **4. Human rights and technological developments**

The unparalleled development of technology and its applications in our societies has raised fundamental questions about ethics, the need to respect and protect human dignity and, consequently, about human rights. These developments are essential to social and economic progress and make an important contribution to improving the quality of life. We should never forget that those developments also contribute to progress towards full realisation of human rights. Medical research and technology leads to improved health care; the Internet provides enormous possibilities for exercising the right to receive and impart information and ideas; biological research contributes to reducing the levels of pollution in the environment, etc.

However, we are forced time and again to consider also the risk of possible abusive applications of new technologies. The human rights challenges are extremely varied: they concern the personal autonomy of every individual, the physical and mental integrity of the human being, other aspects of privacy such as confidentiality of private communications and data protection, the right to protection of a healthy living environment, and the right to protection from racial discrimination and incitement to various forms of hatred or any other activities which (seek to) degrade human beings.

A general consideration which arises whenever new technologies appear on the market is the question of access, more particularly equal access opportunities for all. All too often, the costs involved or the special skills needed make access at the most a very theoretical possibility for the less privileged sectors of our societies. Here, stability and cohesion of our societies demands special measures and policies to ensure equality of opportunity. The alternative is simple: a division of society into "haves" and "have-nots", whether it be in the field of information technology (and thus knowledge), access to sophisticated forms of health care, or other areas. We should not allow the already existing gaps to widen and deepen.

In the field of biomedicine, the Council of Europe has developed specific legal instruments, including those on such topical questions as the prohibition of cloning of human beings. There is no doubt that the control systems of our general human rights conventions will be more and more confronted with issues arising out of technological developments. At the same time, standard-setting work is under way in fields such as organ transplantation, biomedical research and human genetics, and research on the human embryo and foetus.

In view of the central mission of the Council of Europe to protect human rights and promote their respect, the conference should address these challenges arising out of new technologies and provide a clear political signal that respect for human dignity and human rights may never be sacrificed on the altar of technological progress but that the two should go hand in hand.

## **5. Human rights and civil society**

The relationships between human rights and civil society are as complex and interlocked as those between democracy and human rights. If we take civil society in the wide sense of all parts and actors of society that are not directly connected with the exercise of public authority, it is clear that the existence of a strong civil society is a sign of democratic health, of an open society, where freedom of expression, freedom of association and assembly, and freedom of religion are fully respected, a society with a lively debate on issues of public concern, with public scrutiny of any exercise, or non-exercise, of public authority. Thus, civil society – NGOs, the media, and last but not least individual members of society – plays an indispensable role in drawing the attention of the public and of authorities to problems that need to be addressed, including human rights problems. Civil society actors are vital to stability and cohesion, not only because of this early warning role, but also on account of their capability to turn sectoral or segmented interests into issues of public interest, that is of interest to society as a whole. In a genuine democracy, based on human rights values, each member of society's enjoyment of human rights is an issue of public concern. In short, a vibrant civil society and the existence of a human rights culture are in many respects two sides of the same coin.

By the same token, the attitudes of public authorities and of officials towards civil society are a measure of democracy and of respect for human rights. Listening to the voices of civil society, early consultation of sectors likely to be affected by any envisaged new policy, transparency and accountability of administrations, respecting the freedom of the media, promotion of media pluralism and religious pluralism are hallmarks of democratic government, of a "civil service" in the true sense of the word. They are diametrically opposed to the oppressive and stifling attitudes and policies which characterise totalitarian regimes.

On most of these issues, the Council of Europe undertakes a wide range of activities: promoting and protecting media freedoms, advocating and supporting the setting up of ombudsmen and national human rights institutions as important interfaces between government and civil society, running a Police and Human Rights Programme, etc. While this is not the place to elaborate on all these issues, one important area will be highlighted where work is under way and two others where there would seem to be a need for further action at European level.

Transparency of public administrations, including a guaranteed right of access of every individual to documents held by public authorities, is a topic which has been under consideration for a while in the Steering Committee for Human Rights. The aim is to arrive at a legal instrument which will define the basic principles governing such a right of access to official information. This is

clearly a matter closely linked to public accountability of public authorities in a democratic society and to freedom of information. In the last decades, more and more member states have recognised this and adopted laws providing for such a right of access, subject, of course, to legitimate restrictions relating to privacy, the need to protect national security, etc. The same is true for the European Union, which has established regulations in this field. Other states are preparing legislation recognising access rights. So far, it is still an open question whether the text to be adopted in the Council of Europe will be legally binding or not and the experts appear to await political guidance on this issue. It is submitted that it would be an important and concrete result if this ministerial conference would adopt a clear position and signal political willingness to adopt the draft principles on access in the form of a Council of Europe convention.

Secondly, it seems appropriate to raise, under this heading of human rights and civil society, a question which most of us have perhaps taken for granted for a long time but which seems very relevant in today's Europe: what do we mean when we speak of "democracy", "democratic institutions" or "democratic society"? While the promotion of pluralist democracy is at the very heart of the work of the Council of Europe, alongside respect for the rule of law and the protection of human rights, it is surprising to note that attention has been given almost exclusively to the latter two. It is true that several texts adopted by the Committee of Ministers and the Parliamentary Assembly deal with this or the other specific aspect of democracy (for example, participation of young people in political life, financing of political parties, etc.) but there is no concise text bringing together the key principles and elements that characterise a pluralist democracy based on respect for human rights. Such a text – which would not aim to be legally binding – would be a useful reference and of great educational value in a Europe which is more and more confronted with trends which threaten democratic and human rights values and where there is a widely recognised need to educate young people in the values of democratic citizenship. It is suggested that the ministerial conference recognise the need to elaborate such a text in the framework of the Council of Europe, the European organisation with statutory competence in this field.

Finally, if there is one thing that has clearly been illustrated by the Council of Europe's experience with assisting countries in transition towards democracy and respect for human rights, it is the fact that it is one thing to bring laws and regulations into line with European standards, but quite another to change attitudes and mentalities. Here, one must recall the negative conclusion that efforts in the field of human rights education and awareness-raising so far have been clearly insufficient, which was reached at a colloquy organised by the Council of Europe two years ago in commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights. Only very few member states, old or new, can say that they pursue a consistent policy of ensuring that human rights values and principles are fully integrated and made operational in different levels and forms of general education, in university education and professional training for the legal professions, for the police and for any other civil servants, especially those dealing directly with the public.



It is hoped, first of all, that this ministerial conference will recognise the importance of such measures as necessary investments in creating and maintaining a genuine human rights culture in society, in preventing human rights violations and preventing crime, and, ultimately, in peace and tolerance. At this juncture, it must be stressed that human rights education is as much, if not more, about the need to respect the human rights of other members of society than it is about gaining knowledge of one's own rights. Secondly and more importantly, it is hoped that the recommendations resulting from this conference will not remain empty words or promises, but the start of comprehensive efforts at national level to take such measures in the fields of education and training. It should be added that the Council of Europe has so far never received the means to carry out a general continent-wide human rights awareness and training programme. Such a programme could be an excellent way of stimulating and assisting national efforts in this field and serious consideration should be given to this idea.

## **6. Concluding remarks**

The overall conclusion of this report can be brief. There are still several areas of concern in the human rights field where action by the Council of Europe is required, either in terms of standard-setting and other forms of intergovernmental co-operation, in terms of assistance and awareness-raising activities, or in the form of a combination of both. This will not be easy within the current budgetary constraints of the Council of Europe, but this report has hopefully demonstrated that the required additional financial investment is certainly very modest when seen in the light of the long-term harvest they yield for stability, cohesion and peace in Europe. It is important that this first European ministerial conference on human rights in the new century recognise these current human rights challenges and that it provide appropriate political impulses for taking corresponding action.

### **Statement by Mr Jozias Van Aartsen, Minister for Foreign Affairs of the Netherlands**

I am honoured to open today's debate on current issues concerning respect for human rights, the second sub-theme of this conference. Human rights are as prominent on our agenda today as they were fifty years ago. But that does not mean that we have made no progress in protecting those rights. The Convention for the Protection of Human Rights and Fundamental Freedoms has proved a landmark in securing respect for human rights and human dignity in the western world.

The Convention is now part of our legal heritage. But this was not the case forty or even thirty years ago. In the late 1960s for instance, it happened that a court in a small provincial town in the Netherlands was unable to pass judgment within the legally required time-frame. The reason was that one of the parties in the case referred to the European Convention on Human Rights. But no copy of the Convention could be found in the court's library. In fact, a copy had to be sent by the Ministry of Justice in The Hague.

Fortunately, things are very different now. In the Netherlands, as in many other European countries, the Convention has become a living instrument of law. It gives citizens in forty-one countries on the Eurasian continent legally enforceable rights.

It is therefore appropriate that today and tomorrow should be days of celebration. But at the same time, we must not be so blinded by what we have achieved that we cannot see what we still have to do.

I want to turn the spotlight on two issues that call for our particular vigilance and to which you, Mr Secretary General, drew our urgent attention in your introductory report (and your statement of this morning).

The first is the protection of human rights during armed conflicts, internal disturbance and tension, and the second is non-discrimination.

### **Human rights and armed conflicts**

Serious violations of human rights still occur in member states of this very Organisation, almost always in situations of internal armed conflict. As we all know, the norm is that civilians must never be intended victims of armed conflict. Reality, however, is steadily moving away from that norm. Most armed conflicts today are internal conflicts. In such conflicts, civilians are often the primary victims, not by accident, but because they are deliberately targeted or callously exploited as pawns in the political game. Restrictions on humanitarian access usually have a similar background: innocent civilians are deliberately deprived of food and medicine as another move in the same political game. Such practices blur the distinction between military and civilians, and make warfare degenerate into complete barbarity.

The international community must not accept this. Better use should be made of existing instruments of international humanitarian law, but also of instruments of this Organisation. The Netherlands calls for a coherent and integrated approach to conflict prevention and conflict resolution. It is important to be aware of what other organisations are doing in this field. I recall for example the meeting that the Netherlands organised in the Security Council last September together with our Canadian colleagues on the subject of "protection of civilians in armed conflict". We can all learn from each other. The Council of Europe is in an eminently suitable position to look into the present legal situation, to identify possible shortcomings in the legal protection of individuals and to put forward proposals to address these shortcomings. One such proposal might well be the creation of a regional mechanism for the interstate monitoring of the observance of human rights in non-international armed conflict. For us, this would be a logical consequence of the commitments undertaken fifty years ago.

### **Non-discrimination**

The other issue on which I want to turn the spotlight is non-discrimination. The principle of non-discrimination is at the heart of human rights protection. Nevertheless, I do not think that there is a single representative here today



who can look the others in the eye and say that discrimination does not occur in his or her country. Unfortunately, it is still a daily occurrence throughout Europe. The grounds for discrimination and the forms it takes are numerous. Often, the victims are those members of our societies whose voice is not strong enough to claim equal treatment and equal protection under the law: women, of course, but also persons belonging to ethnic, national and religious or other minorities. Vulnerable groups such as immigrants, refugees and asylum seekers are often faced with discrimination and intolerance.

That cannot go on. We have the obligation to continue the moral and legal battle we entered into fifty years ago and to tackle the problem of discrimination. The adoption of Protocol No. 12 to the Convention is an important milestone. I call upon all of you to sign up to the protocol tomorrow. Our Human Rights Ambassador will be putting her signature to it on behalf of the Netherlands.

Finally, I shall add a few words on the first theme of this conference. What really matters is that judgments of the Court be properly implemented by the states concerned. Words are not enough. The Parliamentary Assembly recently adopted useful proposals on this subject. They deserve our full attention.

Let us follow in the footsteps of the founding fathers of the Convention and face up to the issues that are before us today. Let this ministerial conference be not only a celebration of the past, but also a commitment to the future.



## Part III

### *Statements by heads of delegations<sup>1</sup>*

#### Member states

##### **ANDORRA**

##### **Mr Albert Pintat, Minister for External Relations**

I would like to begin by thanking the Italian Government for organising this commemorative conference in the eternal city, which fifty years ago witnessed the birth of the European Convention on Human Rights.

During the last half century, enormous progress has been made in Europe in the protection of human rights, and the European Convention on Human Rights is the central instrument of this progress. Most speakers this morning, under the first sub-theme, paid tribute to the Convention and all those who work daily to implement it, particularly the judges. I will not go back over the effectiveness of this text and the huge mechanisms it has brought into being, nor all the other instruments which complement it, in particular the European Social Charter, the revised version of which I will have the honour of signing tomorrow on behalf of the Principality of Andorra.

Allow me, however, to make special mention of two institutions which deserve our particular gratitude: the European Court of Human Rights and the Commissioner for Human Rights. The former institution has for the last fifty years been the pillar of the Council of Europe, and the Organisation must continue to give it priority so that it can manage the huge increase in applications. The latter institution, which was created very recently and is brilliantly headed by Mr Alvaro Gil Robles, has already proved its worth in urgent situations. Let us therefore give it the resources it deserves.

It is precisely in emergency situations that the Council of Europe must guarantee that human rights are respected and react when they are violated. We could ask whether the Organisation used its full potential during the bloody conflicts which have shaken our continent in recent years, such as the

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1. Only those statements for which the text was made available to the Secretariat appear in the publication. For the full list of participants in the conference, please refer to the Appendix.

war in Bosnia and Herzegovina, the tragedy in Kosovo and the Chechen conflict. The offices opened up in crisis areas represent a great step forward in effectively fighting attacks on fundamental rights and freedoms. However, we need to go further than this and prove that we can be flexible and imaginative. For this reason, Andorra gives its support to two projects currently being discussed in the Committee of Ministers: the creation of an "intervention fund" to provide an immediate response to cases of serious and massive violations of rights and the setting up of a "human rights task force" which is able to mobilise rapidly. Perhaps we should also make better use of the possibilities offered by certain articles of the European Convention on Human Rights, such as Article 33, which allows a member state to bring a complaint to the Court against any other high contracting party, or Article 52, according to which the Secretary General may request explanations from a member state. It is not a question in either case of interfering in the internal affairs of a state, but of prompting them to respect their human rights commitments. This respect is the key element of democratic stability in Europe.

One of the major challenges facing the Council of Europe in the next few years is, therefore, to act more effectively and more rapidly in situations which lead to massive human rights violations.

Another challenge is to ensure the development of attitudes and mentalities through training and awareness-raising. Only effective education in human rights will enable us to combat discrimination, exclusive nationalism and ethnocentricity, which are the main obstacles to social cohesion and the effective functioning of democracies in Europe. The Council of Europe, which is faithful to the principle of "all different, all equal", the spirit of the United Nations conference, must intensify its programmes for fighting discrimination, whether on the basis of race, religious belief or sex.

In half a century, considerable progress has been made in the area of equality between men and women. However, this equality is often purely theoretical, as women are still under-represented in many areas of economic and political life, and are often still the victims of sexism in the workplace and sometimes sexual exploitation. This conference must give new impetus to the protection of women's rights.

The first fifty years of the Convention have allowed us to put in place effective mechanisms for the protection of rights, and we must now move with determination and optimism towards concrete action and prevention.

## **AUSTRIA**

**Mr Albert Rohan,  
Permanent Under Secretary of State**

At the outset, I should like to thank the Government of Italy for hosting this conference commemorating the fiftieth anniversary of the European Convention on Human Rights. I am also pleased to extend the Austrian

Government's appreciation to Secretary General Schwimmer and his team for their tireless efforts to promote the effective protection of human rights in all member states.

The European Convention on Human Rights remains the cornerstone of the many remarkable achievements of the Council of Europe. I would like to mention in this context also the two key instruments for the protection of national minorities, which brought about a new era in human rights protection, namely the Framework Convention for the Protection of National Minorities, to which Austria is a party, and the European Charter on Regional and Minority Languages, which we intend to ratify early next year. Tomorrow, Austria will sign another landmark instrument, which is the Protocol No. 12 to the European Convention on Human Rights.

We can indeed be proud of these achievements. However, the human rights system of Strasbourg will never be so sophisticated as to effectively protect the rights of every person on a daily basis. The building and preservation of societies where every human being can live in dignity and safety will remain the continuous responsibility of each and every government.

Human rights violations are often rooted in the disrespect of the individual, in prejudice and ignorance, denial and rejection of diversity. Austria is convinced that knowledge and understanding of human rights constitute an essential remedy to counteract these phenomena and are the best investment in a peaceful future.

Human rights education, which includes substantive training and dissemination of information, is a long-term process and has to be carried by strong political commitment and leadership. With this in mind, Austria has in recent years – in addition to previous activities – launched new projects and established new structures in the field of human rights education and training. I should like to mention just a few:

- in 1997, a Service Centre for Human Rights Education was established in Vienna, which is today the leading institution in Austria promoting human rights education in schools;
- in 1998, the government appointed a human rights co-ordinator in each federal ministry with a view to strengthening human rights activities;
- since 1999, the Federal Academy of Public Administration has offered a human rights programme, which is open to the entire civil service, including immigration officers, police, prison staff, judges and prosecutors, and which focuses on international instruments and mechanisms for the protection of human rights as well as the implementation of these standards in Austria.
- Austria has also taken decisive steps to reinforce national structures for the protection of human rights. Thus, a Human Rights Advisory Council, which is composed, *inter alia*, of NGO experts, has been established in the Ministry of the Interior. Though its sub-commissions the council investigates and monitors police conduct, carries out surprise visits to police stations in Austria, similar to the Committee for the Prevention of Torture at the European level, and advises the minister.

Austria highly values the important human rights system in Strasbourg and welcomes the increasing awareness in European countries regarding the availability of efficient legal remedies. The ever-increasing number of individual applications to the Court is also a sign, however, that there remains considerable room for improvement in the field of human rights in both the old and the new member states.

The more effectively human rights standards are implemented in our countries, the less recourse to the European Court will be necessary. Austria is convinced that substantive and continuous human rights education and training as well as the development and strengthening of national structures and mechanism for human rights will do its share in this context.

As Secretary General Schwimmer pointed out in his report to this conference, Strasbourg is based on the principle of subsidiarity. We should not forget that it remains primarily the responsibility of governments to ensure that persons living on their territory can fully enjoy all human rights and fundamental freedoms. Since even the best national judicial system will never be without flaws, it is, however, reassuring to know that individual cases can be heard and judged by a body of lawyers of the highest professional and moral quality, as provided for by the control mechanism of Strasbourg. In the interest of every individual living on our territory, it is our responsibility to make sure that the European Court of Human Rights preserves this high quality by providing it with the necessary support.

## **BELGIUM**

**Mr Louis Michel,  
Deputy Prime Minister and Minister for Foreign Affairs**

Fifty years ago, the protection and promotion of human rights became fully fledged elements of the European identity. Two features of this Convention greatly contributed to this development, namely its binding nature and the existence of an effective mechanism of appeal, and particularly individual petition, to the European Court of Human Rights.

The slowness of the procedure at national level, the increased vigilance of our societies to abuses or violations of existing rights and the accession of new countries to the Council, all oblige the Court to handle a considerable increase in work, which could eventually threaten to paralyse it.

I would like to make one comment on the most effective way of dealing with this development, both at the level of the Council of Europe and within each member state. It is firstly the responsibility of member states to combat and eliminate the internal conditions or dysfunctions which give rise to these petitions. Belgium, for example, together with the Council of State, has set up a system for ensuring that all its draft legislation is compatible with the Convention and is conducting an active training and information programme.

Alongside the case-law, the work of the Committee of Ministers is contributing to the development of the Convention by the adoption of protocols. One example is Protocol No. 12, which I will sign tomorrow. I would like to stress the importance of this protocol, which will change the nature of the Convention by establishing a general principle of non-discrimination. From now on, any form of discrimination, by any public authority, can be brought before the Court. This will help in particular to strengthen the social dimension of human rights and will have positive repercussions on efforts under way to ensure complete equality in practice between men and women.

Furthermore, I am delighted that this increased awareness of the importance of these common values has also led in the European Union to the solemn proclamation of the Charter of Fundamental Rights, expected to take place at the Nice Summit in December. Belgium believes that this charter should be binding in the future. In our opinion, it foreshadows the future European Constitution, which we are in favour of. In our concern to ensure that the case-law of the Court of Justice in Luxembourg is in line with that of the Court in Strasbourg, I would like to add that Belgium has always been in favour of European Union accession to the European Convention on Human Rights.

The other point I would like to mention is the fact that respect for human rights is a key factor in democratic stability, cohesion and therefore peace in Europe. While this truth was considered self-evident up to the end of the 1980s, it became a challenge for European leaders following the events which have occurred mainly in central and eastern Europe.

In several European countries, we are currently seeing a resurgence of the phenomena of racism, xenophobia, anti-Semitism and aggressive nationalism, the victims of which are vulnerable groups such as immigrants or minorities. These worrying tendencies are threatening democratic societies and the fundamental values which are the foundation of the European structure.

The serious and massive violations of human rights which have been committed in Europe in recent years make us wonder whether our current responses are sufficient. The traditional approach principally based on the treaties has shown its limitations.

We must therefore reflect together on a way of improving our strategy towards these violations. Public opinion is bound to support action which is more efficient, more imaginative and better co-ordinated by international organisations such as the Council of Europe, OSCE, United Nations and the European Union.

In any case, the enlargement of the Council of Europe must in no circumstances mean weakening the determination to enforce human rights standards.

Having said that, I would like us to consider the following points:

- now, more than ever, we need to stress preventive action. Education, awareness-raising and training have an essential role to play here;

- when serious violations are observed, it is essential to apply to the country in question a policy which both strongly condemns the violations and requires action against impunity, and at the same time offers to assist the victims and provide expertise to help find long-term political solutions to the conflict;
- finally, there is no binding legal order without sanctions. This is true at both national and international level. Sanctions can be a useful instrument of persuasion provided that they are selective and have a well-identified political objective and that their psychological and socio-economic consequences are not the opposite of those sought.

Wherever possible, Belgium favours dialogue and positive incentives, without of course turning a blind eye or being complacent, as this would undermine the very foundations on which we want to build the Europe of tomorrow.

I would also like to mention a very sensitive subject, which is currently at the heart of the human rights debate.

Immigration and political asylum are two facets of the same human reality. At European level, we have not yet succeeded in finding a joint response. Each state reserves the sovereign right to deal with these painful subjects in its own way, as if the unit for measuring human suffering varied according to each national identity. A common and proactive policy on economic immigration, together with coherent responses based on inviolable rights in the area of political asylum, would allow us to tackle, if not master, these phenomena, which, I remind you, are our collective responsibility. The principle of “everyone for himself” quickly becomes selfishness, and a humanist Europe becomes a contradiction in terms.

Several key questions need to be asked and clear, perhaps bold or even generous, answers need to be given.

For example:

- What is the annual capacity of our countries to absorb economic immigrants?
- Is this opening up a response to the serious demographic instabilities which we are witnessing?
- Do we share the same ethical criteria for assessing how to translate into reality our humanist commitments?
- What means are we prepared to devote in a concerted and co-ordinated way to co-operation projects in order to provide the people in the poorest countries with real prospects?
- Should the public authorities not shoulder their political responsibility again in the humanitarian sector and in the field of human rights, without denying or reducing the role of NGOs and civil society? Have the public authorities not taken the easy option and given up their prerogatives or their obligations in these areas?



All these paths and measures require not only political determination on the part of states but also greater co-operation between the relevant international organisations, if we are to make best use of the necessary means. The construction of a democratic and stable Europe which respects human rights comes at a price. It is in all our interests to participate according to our means. It is in all our interests to take part with determination and optimism.

## **BULGARIA**

**Ms Nadezhda Mihailova,  
Minister for Foreign Affairs**

The fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms is a symbolic occasion for us to celebrate together – east and west – our common support for the values that brought down the wall that divided Europe for half a century. This is the moment to pay tribute to the vision and will of the co-founders of our Organisation who enshrined the principles against which the achievements and failures of European civilisation could be measured. There was a time when half of our continent steadily progressed in the quest for the protection and promotion of human rights, while for the rest of Europe the Convention provided but a beacon of hope inspiring them to resist and ultimately reject their plight in the name of freedom and democracy. Fifty years later, through its judicial monitoring machinery, the Convention provides for one of the most advanced and effective international human rights protection systems.

In this context, the accession of the Republic of Bulgaria in 1992 to the European Convention of Human Rights, and subsequently to other milestone instruments of the Council of Europe, provided valuable guidance and support to our people in the process of transition to a democratic system of government based on the rule of law. The ratification on 12 October by the National Assembly of the Republic of Bulgaria of Protocols Nos. 4 and 7 to the Convention is further proof of our commitment to the strengthening of our common system of protection of human rights and fundamental freedoms.

In the course of these past eleven years, Bulgaria has achieved the stability of its democratic institutions, guaranteeing full respect and effective protection of human rights, including the rights of persons belonging to minorities. Indeed, Bulgaria has often been cited as an example of an ethnically tolerant society, which generates stability in the region. The goal was far from being easy to achieve and therefore we insistently defended the advantages of the Bulgarian ethnic model against the background of the one Milošević created in Yugoslavia during the four wars he waged in the region.

Yet, regrettably, eleven years after the collapse of the Berlin Wall, other less visible barriers are still being maintained and even reinforced, which infringe upon a basic human right – the right to freedom of movement. Restriction of this right affects also other basic rights. Our citizens believe that they are entitled to equal treatment with citizens of other European countries. The European continent is our common home to which we all belong. After

forty-five years of forced separation, erecting new internal walls would shatter the hopes of people engendered by the momentous events at the end of the 1980s. It is our firm conviction that until this basic right is guaranteed within our Continent to all Europeans without discrimination, irrespective of nationality, a truly united Europe will remain a distant ideal.

Today, fifty years after the European Convention on Human Rights was signed in Rome, one of the cradles of European civilisation, its contribution to democratic stability and cohesion in Europe is unquestionable and its mission is as relevant as ever, including in South-east Europe. This is even more evident in the light of recent developments in the Federal Republic of Yugoslavia.

Bulgaria has always supported the democratic forces in Yugoslavia in their struggle for a peaceful transition to a pluralist democratic system. We welcome the commitment of the newly elected Yugoslav president, Mr Vojislav Kostunica, as well as the democratic forces in Serbia to the introduction of democratic principles and the initiation of radical changes in their country. In our view, the events in Belgrade mark the beginning of the end of an era. This is a very promising start, but the full success of the democratic transition will depend on changes taking hold throughout Serbia as well. The people of Yugoslavia are in desperate need of European solidarity and support because it takes more than the political retirement of one person to change a communist political system.

The people in Serbia have suffered much and for too long. Bulgaria believes that the prospect of a better future has finally come. Respect for human rights and fundamental freedoms, including the rights of minorities in the Federal Republic of Yugoslavia, are essential. In this regard, we would encourage the more prominent role that different ethnic groups aspire to in Yugoslavia's democratisation process. This will substantially contribute to the stability of the whole region.

The establishment of democratic institutions and the rule of law in the Federal Republic of Yugoslavia will also have a positive effect on the situation in Kosovo. The establishment of legitimate institutions as a result of the recent elections there will create the conditions for the people of Kosovo to be involved in an active dialogue with all factors with respect of their role in defining the future of the region.

Therefore, I am confident that it is our common interest to welcome in the near future a democratic and politically stable Yugoslavia amongst the community of democratic nations. This would not only be beneficial for the country itself, but also for the entire region and would generate democratic stability in all of greater Europe. Thus, our common dream would finally come true.

In conclusion, let me reiterate our view that the progress of our societies in the twenty-first century would be measured not solely by economic indicators, but by the extent of our effective protection of human rights, by our respect for the dignity and freedom of the individual. We have the necessary instruments at our disposal notably our unique common system of human rights protection. We are determined to preserve and strengthen this system. Our conference and the commitments we jointly undertake are eloquent proof of our common resolve to succeed in this noble endeavour.

## **CROATIA**

**Mr Tonino Picula,  
Minister for Foreign Affairs**

When talking about the protection of human rights, we may as well start with a simple question: What does the concept of human rights stand for today? The first thing that comes to one's mind, and quite rightly so, is the notion of enjoying equal, fundamental rights that are guaranteed to all the individuals in a particular society. However, another important thing which often escapes us is the notion of our duties and obligations. Human rights are our own fundamental rights, but more than that, they are our own fundamental obligations. It is, therefore, of utmost importance to realise that the implementation of principles of human rights protection should start with us, with every single individual.

In today's world, human rights do not only merely represent our moral duty to respect the rights of others, they have also become a security concern, as well as a basis for sustainable economic development and political stability. Human rights are central to the normal functioning of any democratic society. Therefore, it is the obligation of each and every one of us to ensure their effective protection, primarily through the full implementation of the norms stipulated by the rule of law that guarantees basic freedoms and rights to all the citizens. The world today is inhabited by four times as many citizens as a century ago. It means that our concern should be four times greater, and mechanisms for the protection of basic human rights four times more effective.

The reason we are all gathered here today is, indeed, a very special one – the marking of the fiftieth anniversary of the European Convention on Human Rights, the world's major treaty in this domain.

Fifty years after its birth, the Convention still stands as a unique legal document of its kind. As the protection of human rights is not an issue that requires merely a general, declaratory support, but rather demands a developed system in practice, the greatest contribution and strength of the Convention lies in its effective mechanisms. The proof of that are other similar regional treaties that do not, however, provide the same mechanisms as those established by this Convention. The establishment of the European Court of Human Rights and the binding nature of its decisions are surely some of the most important ones.

The European Convention on Human Rights, therefore, remains one of the most basic human rights instruments ever created. Here, one should also stress the great number of states parties that have pledged to ensure that the rights guaranteed by the Convention are enjoyed by all their citizens. As a result, we now have around 800 million Europeans living under the jurisdiction of the European Court of Human Rights, which is, I am sure we all agree, an impressive figure. The number of countries that have accepted its mechanisms has been gradually increasing over the past fifty years, especially after the collapse of the Berlin Wall, which testifies to the importance of the Convention and the protection of human rights in general.

Although some of the core principles and goals of its implementation have remained unchanged since its entry into force, one should also stress that the

Convention has over time become a living instrument, adjustable to the necessities of the moment. A good example for this are its eleven protocols, as well as the twelfth protocol that is opened for signature during this conference, providing for additional gradual adjustments to the Convention and the extension of its scope. In this respect, it is our firm belief that the future of the protection of human rights, both at European and national level, can be further enhanced. Although the Convention offers a good framework for the protection of human rights, we believe that one can never say there is no room for further improvements. Therefore, further work should be done on finding even more effective protection mechanisms. The establishment of independent courts and the possibility of obtaining protection within national systems is one of the basic requirements for the effective functioning of the international protection mechanisms.

When it comes to Croatia, the elections at the beginning of the year have resulted in major changes, making room for an increased level of human rights protection. Significant recognition of the progress Croatia has made in respecting the fundamental values of democracy, human rights and the rule of law has come recently from the Council of Europe, when the monitoring process was formally closed at the plenary session of the Parliamentary Assembly. We are also working on raising the awareness of the public and encouraging the development of a civil society, as we believe that a closer co-operation between governments and NGOs plays an essential role.

We are also pleased to inform you that, indeed, quite a lot has been achieved in Croatia in the past few months, especially in the domain of legislation. Three bills regulating the rights of national minorities that had passed the parliamentary procedure in May 2000 can count as some of those achievements. The reason is that these bills conform to the standards of the Council of Europe, ensuring the implementation of constitutional provisions of the protection of human rights and the rights of national minorities.

Whilst welcoming new human rights initiatives, such as the Charter of Fundamental Rights of the European Union, it is important to acknowledge the fact that the European Convention on Human Rights still represents the basic instrument that allowed Strasbourg's mechanism to become the most powerful regional system for the protection of human rights.

And finally, I would like to use this opportunity to thank everybody who made this most important gathering possible and congratulate you on the most successful organisation.

## **CYPRUS**

**Mr Nicos Koshis,  
Minister of Justice and Public Order**

It is a real honour and pleasure for me to represent the Government of the Republic of Cyprus at this important conference convened to mark the fiftieth anniversary of the signature of the Convention for the Protection of Human Rights and Fundamental Freedoms. Allow me to begin by congratulating and

thanking the Council of Europe and the host country Italy for organising this venue. Indeed, the adoption of the Convention for the Protection of Human Rights and Fundamental Freedoms in the ruins of the second world war is a most important landmark in the history of human rights.

It is internationally recognised that it has played a pioneering role in this respect mainly because it provides the machinery for its implementation: through the former Commission and Court of Human Rights, and in the last two years, since the entry into force of Protocol No. 11, the new Court of Human Rights.

The Secretary General of the Council of Europe, Mr Walter Schwimmer, in his two excellent and most enlightening introductory reports, for which I would like to take this opportunity to warmly congratulate him, has produced, in my opinion, a very accurate assessment of the progress made during these fifty years in developing and reinforcing institutional and functional arrangements for the protection of human rights. And, he very rightly finds this progress impressive.

But he also highlights certain problems and shortcomings in the operation of the Convention and in the field more generally, which need further addressing. Such issues, as mentioned, are:

- ensuring the effectiveness of the European Court of Human Rights;
- improving the Committee of Ministers' supervision of the execution of Court judgments;
- improving the effectiveness of the Council of Europe's response to serious and massive violations of human rights;
- promoting the principles of equality and non-discrimination;
- protecting further human rights in connection with technological developments, etc.

My government not only shares the concerns of the Secretary General but is very anxious to see that solutions are sought in order that human rights be promoted and protected on a uniform basis by all member states of the Council of Europe.

Cyprus ratified the Convention, soon after its independence, in 1962. It has since ratified all its additional protocols, the latest ones being Protocol No. 6 in 1999 and Protocol No. 7 this year. It has also ratified all the other Council of Europe conventions pertaining to the protection and promotion of human rights including the revised European Social Charter, with the exception only of the Convention on Human Rights and Biomedicine and its protocol, which we signed and we are taking the necessary measures for its ratification presently.

We believe that we honour our legal commitments under these instruments.

And yet, Cyprus continues to be a victim of gross violations of the most basic human rights protected by the Convention of 1950. The execution of the judgment of the European Court of Human Rights in the case brought by Titina Loizidou against Turkey is still pending.

The Secretary General of the Council of Europe recommends that political attention be given to the problems monitored in the operation of the Convention.

On behalf of my Government, I strongly support the adoption of the two draft resolutions and the draft declaration before us.

## **CZECH REPUBLIC**

**Mr Petr Uhl,  
Deputy Vice-Prime Minister on Human Rights  
and Government Representative for Human Rights**

We have met today to recall that fifty years have elapsed since the European Convention on Human Rights was opened for signature here in Rome. Over these five decades, it became the most significant international treaty of regional importance in the field of human rights protection. As my country became a member of the Council of Europe relatively recently, only at the beginning of the 1990s, we do not feel fully competent to form an opinion on the long history and development of the Convention. For this reason, I would prefer to focus on the present significance, and in particular the future, of this Convention. This is especially so in the light of the fact that since the time of its foundation, the membership of the Council of Europe has risen considerably to at present more than forty countries, which have often experienced quite different developments in modern history. Moreover, new candidates are standing on its threshold.

It is precisely the different development of the member countries in the modern history of Europe that is so important for the future of the Convention. As it appears, it is not enough to have common traditions and to belong to the same region. Certain political regimes in Europe and their antagonisms had managed to sever so many historical ties that it will now take a lot of time to restore them.

The fiftieth anniversary of the Convention is an opportunity to draw up a balance sheet of its functioning. In particular, of the functioning of its control mechanism as a pan-European system of human rights protection. What was an absolutely original aspect by which the Convention contributed to the development of international law was not the catalogue of fundamental human rights it guaranteed, however important they are, but the effective control mechanism which it established and which includes a collective guarantee of the observance of commitments which the states parties assumed, and, above all, the right of individual complaint of violation of such commitments.

The jurisprudence of the former Commission and the Court had won general respect in the member states and constitutes today a recognised all-European standard of human rights observance. However, with the increasing number of complaints, the Convention increasingly became "a victim of its own success". And the symptoms of an "excessive saturation" of the control mechanism became plain to see after the fall of the iron curtain and the rapid enlargement



of the Council of Europe to encompass countries of central and eastern Europe. An attempt to solve this situation was the negotiation of Protocol No. 11, which meant the abolition of the Commission and the establishment of a permanent Court. However, after two years of work of the new Court, it has become more and more evident that certain problems not only persist but are even deepening. An example is the widening gap between the number of registered communications containing complaints and the number of settled matters.

The Czech Republic has been actively participating in the Council of Europe discussion seeking a way of coping with this new development. An internal reform of the working methods and procedures of the Court has its objective limits and apparently cannot solve the situation completely. Basically, we must proceed from the implementation of the principle of subsidiarity of the Strasbourg control mechanism: the control of the observance of the fundamental rights guaranteed in the Convention is, in the first place, a matter for national judicial bodies in individual member states in conformity with common European jurisprudence. The European Court of Human Rights should have the time and scope for dealing, above all, with such complaints the settlement of which contributes to the general development of jurisdiction in the field of pan-European human rights standards. In this connection, I would like to mention the sensitive question of possible recodification of the very text of the Convention, for example of the provisions defining the conditions of admissibility of complaints. The Czech Republic takes with all seriousness the considerations about seeking a balance between the mentioned principle of subsidiarity and the traditional postulate of the right of individual complaint.

One of the prerequisites for the future successful development of the European system of human rights protection will, however, be also the preservation of unified standards of such protection in the greater Europe. The Czech Republic therefore follows with attention the standard-setting activities of other regional groupings, in particular the preparation of the Charter of Fundamental Rights of the European Union and the discussion on the extent to which it is to be binding on EU member states.

Another substantial reform of the Convention and of its control system is undoubtedly a long-term perspective. However, the Court needs an immediate cure so as to be able to overcome its pressing problems. In our view, it is worth mentioning at this juncture the question of whether in the short-term the Court will be able to meet the expectations of the member states and the European public while strictly keeping to the Council of Europe principle of zero budget-growth. The Czech Republic welcomes any open discussion on this subject.

## **DENMARK**

**Mr Niels Helveg Petersen,  
Minister for Foreign Affairs**

Adopting the European Convention on Human Rights, spelling out human rights in a legally binding form and providing for interstate and individual

applications, was indeed a very bold undertaking fifty years ago. I sometimes wonder if we would have the courage to take a similar giant's step today. We – and millions of Europeans – may consider ourselves very fortunate that our predecessors did have that courage.

Representing one of the fourteen original signatories to the European Convention on Human Rights, it is thus a deeply gratifying pleasure – and with a certain amount of pride – to realise that the Convention is indeed a success far beyond expectations fifty years ago. In truth, expectations were mixed and the beginning was slow, but within fifty years a legal system has been consolidated which gives true meaning to the notion of international protection of human rights.

The Convention has not stamped out violations of human rights; they appear in all our countries – and sometimes even on a massive scale. But the Convention has contributed significantly to making Europe a better place to live.

The international protection system set up in Strasbourg is still after fifty years very advanced – if not unique. Not only does it provide satisfaction to victims of violations, the provisions of the Convention and Strasbourg case-law are invoked before and applied by Danish Courts of law and administrative authorities. The Convention is an authoritative source of inspiration when legislation is drafted, and existing legislation has been amended to respect the interpretation of the Convention as developed by the judicial authorities in Strasbourg.

The developing case-law and the growth of the Council of Europe from fourteen to forty-one member states clearly illustrate that the protection of human rights is not static. It is a process which requires continuous adaptation, not only of our own legislation, but also of the institutional framework. We welcome the efforts of the Court of Human Rights to rationalise its procedures, but there can be no doubt that additional resources are necessary. We – the member states of the Council of Europe – must be prepared to provide the additional funds needed to ensure that we have an efficient and expedient court of human rights in Europe, so that it will continue to enjoy the confidence of our citizens and the national authorities who apply the law.

The international legal supervision set up by the European Convention on Human Rights was unique fifty years ago. It still is probably the most advanced human rights monitoring system in the world. But, we must keep the subsidiary nature of the Convention system in mind. Human rights are not realised by international monitoring bodies; they are carried out in the national legal and social infrastructure – in a joint effort by legislators, administrators and courts of law. But, other institutions have emerged with a strong potential for supporting this effort. The independent national human rights institutions with a mandate not only to research and educate, but also to advise governments and other authorities on legislation and other human rights issues have proved a very useful addition to the traditional bodies and non-governmental organisations dealing with human rights. The Council of Europe is giving valuable support to the European network of these national human rights institutions.



The influence and importance of the European Convention on Human Rights is not only exerted internally in our own countries and in Europe, it has had a major influence in shaping human rights instruments in other parts of the world and globally. There might, however, be room for closer co-operation in particular between Strasbourg and the human rights institutions of the United Nations in Geneva. Perhaps, a useful activity for our new Human Rights Commissioner.

The first fifty years of the European Convention on Human Rights is a success story. But, it requires further and continuous efforts to ensure that it remains a success story. The people of Europe deserve that we make that effort.

## **ESTONIA**

### **Mr Märt Rask, Minister of Justice**

The consistent and effective work of the Council of Europe and its member states in building up a system for the protection of human rights, which is based on the recognition of the common European values, deserves great appreciation. The Convention for the Protection of Human Rights and Fundamental Freedoms, concluded fifty years ago, is a genuine step forward in the legal regulation of human co-existence.

Starting from the beginning of the 1990s, the activities of the Council of Europe have acquired a new dimension: countries of central and eastern Europe, as well as Estonia, have become members of the Council of Europe. The new members include countries which had to re-build their political and legal system relying on European cultural and legal traditions after living under a totalitarian regime for several generations. The Republic of Estonia has received valuable assistance from the Council of Europe in restoring democracy and adopting the human rights standards prescribed by the Convention. And now, in turn, we are ready to share our experience with the other new member states of the Council of Europe and with its future possible members.

The Constitution of the Republic of Estonia, adopted by a referendum in 1992 and, in particular, its Chapter on "Fundamental rights, freedoms and duties", was largely inspired by the European Convention on Human Rights and its protocols.

Estonia has made great efforts to set up democratic institutions for the protection of human rights. It has built up a requisite legal basis for the operations of the institutions and a mechanism for ensuring and protecting human rights. As the Estonian Minister of Justice, I can confirm that this is an ongoing process, and the completion of the reforms of the Estonian court system, prison system and criminal probation system, as well as the training of judges, prosecutors, prison officials, public servants and other target groups, constitute priorities for Estonia today. These reforms require substantial funding and effective training programmes. In these fields, we are looking forward to an extensive exchange of experience and co-operation.

I would like to stress the great work done by the Council of Europe on issues regarding the uniform standards of the court system, access to justice and alternative dispute resolution, as well as on issues concerning the independence and impartiality of judges.

In his introductory report, the Secretary General pointed out the principle of subsidiarity and the primary role of the national courts in protecting the rights laid down in the Convention. The Estonian Constitution entitles everyone whose rights and freedoms are violated to have recourse to the courts. At present, the national courts are not always prepared to use the Convention and the case-law of the Convention bodies in solving disputes concerning fundamental rights and freedoms. However, more and more Estonian national courts are referring in their judgments to the case-law of the European Court of Human Rights, in particular, in cases regarding freedom of expression and family law. The HUDOC database of case-law available on the Internet serves as a good tool for judges and other practitioners at the national level. Presently, the most significant judgments of the European Court of Human Rights are being translated into Estonian.

It is important for the future of the Council of Europe to ensure the effective implementation and development of the Convention and to enhance the effectiveness of the Court. Protocol No. 12 to the European Convention on Human Rights, to be opened for signature tomorrow, is a step forward in this respect.

To conclude my speech, I would like to quote an Estonian writer, Heino Kiik, who has said that “the state is a person who speaks with you in the language of law”. The European Convention on Human Rights is a language that unites the peoples of Europe. However, this language must be guarded, learnt and taught.

I would like to take this opportunity and thank the Italian Government and all the organisers of the conference for the hospitality with which we all have been received in the ancient and beautiful city of Rome.

## **FINLAND**

**Mr Johannes Koskinen,  
Minister of Justice**

Over the past fifty years, the Council of Europe has through its human rights activities greatly contributed to the well-being of all Europeans, a democratic peaceful development of European societies and the maintenance of peace and stability in Europe. The indivisibility and interdependence of human rights has been emphasised in the standard-setting work of the Council of Europe. The centrepiece in the Council's efforts has been and continues to be the European Convention on Human Rights with its excellent control mechanism. Finland is pleased with the fact that a significant number of states have adhered to the European Social Charter or the revised Social Charter.

As was the case with my country and many other states, the phase prior to the ratification of the Convention was of great importance, not only as regards the legislative work but also the development of human rights culture itself. Already in this context, reforms were carried out.

Within the Convention control mechanism, the value of the system of individual complaints should be highlighted. Through this system, national legislation and practice are under constant review. This indeed is the purpose of the international control mechanisms as a last resort. States should make every effort to prevent violations of human rights and especially similar types of violations from occurring. In this work for strengthening the rule of law, the enlightened role of national courts cannot be overemphasised. Normally, they are the last national checking points before the international control mechanisms. For the credibility of the European human rights regime, it is also of utmost importance that states fully implement the judgments of the European Court in the framework of the legal nature of the Convention procedure.

In this connection, I would also like to underline that wide co-operation among all actors of civil society as a whole, including non-governmental organisations, is needed for human rights protection at the national as well as the European level.

The access of an individual applicant to the Court for a decision on the merits is the most valuable asset of the whole control system. This element should remain untouched in any reform of the procedure. This principle does not prevent us from considering, for example, the possibility that senior registry officials be given the power to decide whether complaint letters fulfil the standards required for their registration. The position of Finland is clear when discussions on the fate of the Convention system continue: we find it important that the prerequisites, including financial resources, of the effective functioning of the Court are secured also in the future.

An important reason to celebrate the fiftieth anniversary of the Convention is the fact that the it is, through the interpretation by the European Court, very much a living instrument, which has proven its ability to face the challenges posed by new developments in society. This feature is also evident in the recent adoption of Protocol No. 12, marking the dedication to remove all discrimination.

Also, after the adoption of the European Union Charter of Fundamental Rights in December in Nice, the commitment to the European Convention should remain firm. Indeed, as a parallel and complementary process to the charter, it is important for the European Union to accede to the Convention and thereby subject itself to external international control in human rights cases. What the accession requires from the Council of Europe should be examined in advance at the earliest convenience.

I have highlighted a few issues that deserve the close attention of all member states of the Council of Europe. This does not mean that our achievement, the European Convention on Human Rights, is seriously under threat. I believe

that with our common, result-oriented efforts we shall also in the future be able to guarantee the proper functioning of the European Court of Human Rights, an invaluable tool lacking in many parts of the world. Therefore, while we appeal to all governments present here to reflect upon the responsibility the European Convention confers upon you, we appreciate the achievements it represents.

## **FRANCE**

**Mr Jacques Blot,  
French Ambassador to Rome**

When the first states, one of which was France, signed the Convention for the Protection of Human Rights and Fundamental Freedoms fifty years ago, nobody could imagine the extraordinary extension of its field of application. Today, from Reykjavik to Vladivostok, via Oslo and Nicosia, the same rights and freedoms as guaranteed by this document are enforced, and it is the same Court, the European Court of Human Rights, which ensures that they are really upheld.

This development has entailed considerable changes in the functioning of this now permanent court of law, the competence of which now covers almost 800 million people.

As Mr Schwimmer has just suggested, new reforms are inevitable if the Court is to continue to play its fundamental role of interpreter and guardian of its Convention. In this respect, I would like to state that the French authorities are wholly available to take part in the debate which must take place if we are to improve the current functioning of this court of law.

However, since the system set up by the Convention is a subsidiary mechanism, the effective implementation of the rights and freedoms which it secures are the primary responsibility of the states, and it is first and foremost they who must guarantee their protection, based on the case-law established by the Court.

Everything begins and ends at national level. This means first of all that the judgments of the Court must be taken into account when national laws are being prepared, even though states remain able to choose their legislation and their regulations. It also means that Court judgments must be executed, and this is not necessarily limited to the payment of compensation for a violation of the Convention.

It is indeed the responsibility of the states, in accordance with their commitments under Article 1 of the Convention, to take the necessary measures to avoid similar violations occurring in the future. These measures can include the modification of certain laws or the challenging of old decisions.

In certain, albeit rare, cases the mere payment of compensation to the injured party leaves a feeling of dissatisfaction and of incompleteness, even though considerable measures may have been taken at national level to avoid similar situations occurring again in the future. In such cases, which are mainly criminal cases, the subsidiary position of the Court in relation to national courts of law does not allow it to completely repair the prejudice on its own. For this reason, some states have taken the initiative of establishing new appeal machinery, which comes into play after the judgment of the European Court. This procedure gives a convicted person the opportunity to ask for a domestic judgment to be re-examined if the Court in Strasbourg rules that it is not in line with the provisions of the Convention.

As you know, this right of petition was recently granted in France by the law of 15 June 2000. The implementation of such a mechanism doubtless constitutes in itself a small revolution in our procedural system, as it is an exception to the fundamental principle of the intangibility of the *res judicata*.

The French authorities passed this law to show their commitment to, and unfailing support for, a system set up fifty years ago, which has adapted to all the changes which have taken place since then and which, we can be sure, will continue to develop over time.

## **GEORGIA**

### **Mr Irakli Menagarishvili, Minister for Foreign Affairs**

It has been already fifty years that the European Convention on Human Rights has been greatly contributing to human rights protection and, thus, to the establishment of European public order.

I think it goes without saying that European public order must cover all levels of social hierarchy. I believe it is this criterion that must become decisive when speaking of the efficiency of European bodies.

European public order cannot be established without adequate attention to all the existing conflicts in Europe and particularly those in the post-communist space, including the so-called "frozen conflicts". Nowadays, these conflicts, caused by the agony of totalitarianism, constitute the main source of serious violations of human rights in our Continent.

Consequently, I would like to touch upon point 8 of the draft resolution and stress our agreement with the opinion underlined in the CDDH report, which states that the list of offences in this point is non-exhaustive.

We strongly believe that the conference must not restrict itself to the identification of such an insufficient list and that the resolution must reveal the real situation in member states.

We are convinced that the situation when there are hundreds of thousands of internally displaced persons and refugees, and the state is unable to protect

their fundamental rights and freedoms is absolutely unacceptable in the Europe of today.

Georgia's territorial integrity, peace, welfare and the fundamental rights of its citizens are infringed by conflicts in Abkhazia and former South Ossetia. A whole range of principles from property rights to the right to life are violated on these territories. Some 300 000 persons have been expelled from their homes. This is another illustration of the already confirmed fact that democracy and security are indivisible and interdependent concepts.

The only acceptable method for the resolution of the conflict for the Georgian authorities is a peaceful settlement with the active involvement of the international community. We believe that the Council of Europe is the proper forum, which, coupled with other international organisations, is able to ensure peace without use of force.

Presently, we repeatedly hear that the Council of Europe, by admitting central and eastern European states, has practically fulfilled its function and achieved the main goals laid down by its founding fathers. However, this is not the case. Moreover, these tasks have even been extended. We assume that the Council of Europe, which imposes obligations on its member states, must itself bear its portion of responsibility before these states, especially in the light of the latest developments on the Continent. We believe that its experience and prestige, in conjunction with the activities of other international organisations, could be of paramount importance in the achievement of positive results.

The European Convention once again clearly affirms that there is a possibility of attaining a common European set of standards and rules. This precedent not only grants but also imposes on us an obligation to extend the work started by the Convention and to make it more efficient and universal in order to rid Europe of conflicts.

It is stated in the preamble to the Convention that our common aim is "to achieve a greater unity among its members". We are convinced that protection of human rights does include proper reaction to the already existing conflicts and preventive measures as well. In this, we see a crucial role for the Council of Europe.

And, finally, let me express our optimism that the resolution covering all of the above will largely determine the Council of Europe's future activities.

## **GERMANY**

**Mr Eckhart Pick,  
Deputy Minister of Justice**

Ladies and gentlemen, 4 November 1950 was a great day in the history of Europe and in the history of human rights. It was a special date for the Federal Republic of Germany, too, which was included in the ranks of the initial signatories to the Convention. That day marked my country's return to the community of constitutional democracies, only a very short time after the end

of the second world war. Over the last fifty years, we have tried to live up to the vote of confidence this involved, and we continue to regard that as an obligation.

However, 4 November 2000 is also an important day, for a large number of Council of Europe member states are going to sign Protocol No. 12 here in Rome. Germany will again be among the signatories. This further protocol, prohibiting all forms of discrimination, gives out an important political signal. And here I mean, in particular, a signal against abominations like racism, xenophobia and anti-Semitism, which, unfortunately, are currently afflicting all Council of Europe member states.

A draft political declaration has been prepared for us today. In it, we are to welcome the increasing attention which the European Union is paying to the Charter of Fundamental Rights. I would have preferred our ministerial conference to have warmly welcomed the drafting of the Charter of Fundamental Rights without any reservations.

As you are aware, the authors of the Charter of Fundamental Rights took the European Convention on Human Rights as their starting point and guide. The Charter of Fundamental Rights is not intended to push the European Convention on Human Rights into the background. Rather, the aim is to take the great human rights achievements of the European Convention on Human Rights and apply them to the organs of the European Union, while developing them further in the spirit of the Convention. Precisely in order to avoid possible contradictions between the two human rights instruments, the following clause was included in the charter, and I quote:

"In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection."

We therefore have no grounds here for scepticism about the charter. On the contrary, I believe that the member states of the Council of Europe should welcome the human rights advances that the charter involves, while examining, in the medium term, the aspects that should be incorporated into the Convention.

Lastly, I should like to make a few comments about the Court and its huge workload. This is a matter of great concern to all of us. The Court rightly criticises the length of court proceedings in the member states. Now, however, it runs the risk of its own proceedings taking an unreasonable amount of time. In this connection, the draft resolution provides for a study by the Liaison Committee, together with the Court and the Steering Committee for Human Rights. As you are aware, the Court President has put forward a somewhat different proposal. I would plead for a compromise solution here: four or five leading jurists could be asked to prepare a draft of the study, although I would naturally expect it to be drawn up in close co-operation with the Liaison Committee, the Court and the Steering Committee for Human Rights.



## **GREECE**

**Mrs Elissavet Papazoi,**  
**Alternate Minister for Foreign Affairs**

I am particularly happy that our conference in this beautiful eternal city, instead of having the character of a mere commemorative event, has turned out to be a substantive ministerial gathering. I believe that all documents before us are of great significance, because they reaffirm our determination to create a homogeneous – in terms of values and principles – pan-European space, where groups of people and individuals, irrespective of origin or residence, enjoy the same rights and freedoms.

At a time when a rapid increase in individual applications to the Court on minor issues can be observed, the Council of Europe should give first priority to the serious cases of the massive violation of human rights which threaten to undermine the credibility of the Council in the eyes of our people.

We must make full use of all measures and processes at our disposal in the fight against the deplorable phenomena that are still taking place, such as depriving thousands of people of their homeland, property and families.

We all agree that new technologies are very beneficial to our societies, but they have also become a source of novel cases of the violation of human rights, particularly in the fields of biotechnology and the Internet. We support all relevant initiatives of the Council and especially the negotiation of a new convention on cybercrime, in which we must ensure a balance between prevention of crime and freedom of expression.

Greece will sign Protocol No. 12 tomorrow, considering it as a firm step in our efforts to radically combat discrimination, including gender problems.

Unquestionably, however, the entry into force of the protocol will lead to a further increase in the number of individual applications, putting more strain on the already overloaded European Court. Under these circumstances, member states must agree to strengthen drastically the Court by providing the necessary human and technical resources, and by increasing its financial support through the Ordinary Budget of the Council of Europe.

It is very important to stress, at this point, that when dealing with strengthening and modernisation of the Council's supervisory machinery, we should always keep in mind three basic principles:

- the European Court of Human Rights must remain a judicial body totally independent of any political interference or influence;
- the Court's judgments must be fully respected by all member states, without any conditions, reservations or linkages;
- the Committee of Ministers should supervise effectively the execution of the Court's judgments in line with its relevant mandate.

In this respect, I would like to express satisfaction for our awareness of the *Loizidou* case and our firm determination to ensure compliance with the relevant judgment of the Court.



The Greek Government and people are grateful for the fifty years of hard, professional and consistent work carried out by the Court. Regarding the more effective implementation of the Convention in our domestic legal order, allow me to mention, in an indicative manner, the establishment and operation of the National Commission for Human Rights, the Ombudsman's Office in Athens and a direct effect which is given, in practice, by the national courts to the case-law of the European Court. In this respect, we encourage co-operation between the public sector and NGOs.

Finally, and most importantly, the revision of the constitution, which is currently under way, touches upon a number of human rights provisions with a view to their adaptation to the most recent developments of the jurisprudence of the European Court and other international monitoring mechanisms.

In addition to the Council's efforts, our governments should show the necessary political will and strength to respond effectively to regrettable phenomena such as racism and xenophobia, bearing in mind that all these problems have as their main source poverty, unemployment, underdevelopment, regional conflicts and massive migration movements.

In concluding this statement, I would like to express once more our warmest congratulations to the Italian Presidency for the excellent organisation of this event and for all that has been done for the promotion of our common objectives.

## **HUNGARY**

**Mrs Ibolya Dávid,  
Minister of Justice**

It was in this city fifty years ago that the representatives of the Council of Europe member states, prompted by appalling memories of fascism and the second world war, signed the European Convention on Human Rights. This Convention created a system of legal redress which is unique in the world. The case-law established by the Convention is based on individual applications. The decisions of the European Court of Human Rights are binding and compensation may be ordered if a right is violated. The hundreds of judgments given by the Court have had a considerable impact on the legislation of the member states and, as a result, on the lives of millions of European citizens. The procedure of the Court has proved to be the most efficient system for protecting human rights at international level. However, this is also a solemn moment. Let us not forget that, although the Convention has had a great deal of success, Europe is still not free of human rights violations.

The system which aims to guarantee rights has unfortunately proved to be less efficient in the areas of prevention and legal remedies. It is, therefore, our responsibility to discover the causes of these shortcomings and to find ways of resolving them.

Experience has shown that in today's Europe, mass violations of human rights are most often caused by discrimination against national, ethnic and religious minorities, and by violence.

As a result, there are large sections of the population which do not feel safe in their own countries. The resulting migratory flow also causes serious tensions in receiving countries.

However, these tensions and violations can be prevented by respecting the rights of minorities. It is for this reason that we attach importance to international obligations and the strengthening of the control mechanism.

As regards the guarantees provided by the Convention, the strengthening of the prohibition on discrimination is only one step in the process. On its own, it is not enough to effectively guarantee the rights of minorities.

We hope that our efforts to promote the protection of human rights will be able to meet this challenge. We also hope that these activities will help to prevent violations of the rights of minorities, as well as migration.

In conclusion, I would like to mention that, in addition to the fiftieth anniversary of the Convention, Hungary is also celebrating another anniversary.

Ten years ago, on 6 November 1990, Hungary became a member of the Council of Europe and signed the Convention. Over the last ten years, we have worked to ensure that our national legislation and its application are in line with the Convention. Our aim was to guarantee the protection of human rights, and therefore the rights of minorities, at the highest level. We can observe with satisfaction that our actions have often received international recognition.

It is in this spirit that we wish to continue our efforts to prepare a common future for Europe, a future which is both safer and happier.

## **ICELAND**

**Mrs Sólveig Pétursdóttir,  
Minister of Justice**

There is an old European saying that "all roads lead to Rome". This was an established truth in my country and one of the first books written in my language 800 years ago was a travel description to Rome.

Now again all roads lead us to Rome to commemorate an historical event. The adoption of the European Convention on Human Rights was clearly a landmark event. It became a model for all the coming conventions prepared in international and in regional co-operation.

One of the most important contributions of the European Convention on Human Rights is the effective enforcement machinery which the Convention provides, namely the European Court of Human Rights.

The Court has, through its case-law, made the Convention a living instrument. It has reacted to new demands and changed circumstances, by interpreting the provisions of the Convention in a dynamic manner with its sole aim of providing the maximum protection of human rights.

Many steps have been taken in the last fifty years on our long road towards a better protection of human rights in the world. In Europe, we have achieved progress which nobody could foresee in 1950. Still, there is much left to be done. Sadly, we have been witnessing serious and massive violations of human rights in some parts of Europe. The final goal, that all human rights will be fully respected, still seems to be some way off.

Once again, we will be able to take a new step towards the promotion of human rights here in Rome when Protocol No. 12, on the prohibition of discrimination, is opened for signature. In my opinion, this may be the beginning of a new era in human rights protection in Europe. I can refer to the Icelandic experience. Five years ago, the human rights provisions in our constitution were amended. The court system was challenged by the difficult task of applying a new provision which explicitly states the principle of equal rights. Indeed, this brings about new dimensions for the interpretation of human rights. The protocol is likely to impose further obligations for most member states of the Council of Europe to take measures to guarantee human rights. This, we must bear in mind when we entrust the European Court of Human Rights with the complex task of applying this fundamental principle of human rights, the prohibition of discrimination.

The most important thing is certainly that this new protocol provides better protection for human rights, particularly social rights. Therefore, I am proud to be in the first group of member states to sign this protocol on behalf of my government. This is a significant event, which emphasises our commitment to the belief that all human rights are indivisible and interdependent.

However, we must not forget that the European Court of Human Rights is constantly facing new challenges. The volume of cases is ever increasing. The coming into force of Protocol No. 12 will certainly lead to a yet heavier workload. The Secretary General, Mr Schwimmer, rightly stated that human rights protection begins at home. The effectiveness of a court system is a key factor for effective human rights protection. In Iceland, we have striven to rebuild our court system to reach that goal. We have now succeeded in shortening the procedure before the courts significantly. There is hardly any backlog at all.

This should be the goal for the Council of Europe.

The European Court of Human Rights is indeed the hallmark of the Council of Europe and the key to the success of the human rights protection in Europe. In my view, it is of utmost importance to provide it with necessary resources. If we want to continue to support the Court's good work, we should all bring home the message of how urgent this matter is. It should be our first priority to ensure the effectiveness of the European Court of Human Rights.

Let me conclude by thanking the Italian Government for organising this event in this historical and beautiful city.

## **IRELAND**

**Mr John O'Donoghue,  
Minister of Justice, Equality and Law Reform**

I wish to congratulate the Italian Presidency of the Council of Europe on the organisation of this conference. Ireland fully associates itself with the statement on behalf of the EU by the French Presidency.

The European Convention on Human Rights is the foundation stone of modern human rights protection. Internally in Europe, it is playing a central role in the process of reconstruction and integration on the basis of democracy and human rights. Externally, it is model for other regions. Indeed, it has now developed into the strongest and most effective human rights treaty there is.

The rights and values it enshrines and maintains are as relevant today as they were when the Convention was signed in 1950. As has just been stated by the French EU Presidency, the Convention must remain the essential reference point for the protection of human rights in Europe, in terms of both guaranteed rights and the judicial protection of those rights. The Convention is a living document, which is adaptable to take account of evolving understanding of what are fundamental rights.

This is illustrated by the adoption of various protocols to the Convention, the latest of which, Protocol No. 12, provides further elaboration of the principle of non-discrimination. I am pleased to announce that I will tomorrow sign this protocol on behalf of the Government of Ireland.

Ireland is proud to have been among the original drafters and co-signatories of the Convention. One of the first states to ratify, Ireland was also the first party to recognise the unconditional and permanent right of individual petition to the former Commission on Human Rights and ultimately to the Court of Human Rights itself. The Convention has had a substantive influence in the development of our national understanding of human rights and on legislation in Ireland. Recent events in Ireland demonstrate its relevance in finding peaceful solutions to long-standing conflicts and to achieving reconciliation between divided communities and peoples.

The Convention is an important element in the Good Friday Peace Agreement. It was incorporated in respect of Northern Ireland last month and, I am pleased to confirm, the Irish Parliament will shortly be considering the necessary legislation incorporating the Convention into Irish domestic law. I look forward to a development of interaction between the Court of Human Rights and the Irish judiciary and legal profession as the process of incorporation in Ireland is concluded.

Its incorporation into our domestic law underlines the central importance we attach to the Convention, which, irrespective of developments elsewhere, including in the EU, must remain the cornerstone of human rights protection.

Looking to the future, the European Convention and the Court of Human Rights face serious challenges. The cornerstone of the entire system is an effective and credible implementation by member states of the judgments of the Court. Failure to secure execution of judgments within a reasonable time-frame threatens to undermine the achievements of the past fifty years. I strongly support the resolution on this issue which will be adopted at this conference.

I welcome the strong mandate from this conference for an urgent review of the different options for action. At Ireland's initiative during its recent Presidency, a Liaison Committee between the member states and the Court to study these problems was established. This group has an important role to play in the period ahead.

Mr Chairman, I wish to make a brief reference to improving the protection of social rights, which is referred to in Resolution No. 1 before this conference. Tomorrow, on behalf of Ireland, I will also sign and ratify the revised European Social Charter of the Council of Europe and the Additional Protocol on Collective Complaints. This step will complement the incorporation of the European Convention on Human Rights into our domestic law.

Finally, in the context of this, the fiftieth anniversary of the signing of the Convention, I want to mention some important developments which have taken place in Ireland recently.

Firstly, Ireland has, with the enactment of our Employment Equality Act and our Equal Status Act, which prohibits discrimination on nine separate grounds, put in place the necessary legislative framework which permits not just the ratification of the ECHR, but its full application. I am proud to be able to declare at this forum that Ireland possesses some of the finest and strongest anti-discrimination legislation in Europe.

Secondly, as part of Ireland's Presidency of the Council of Europe, a major human rights conference took place in Dublin in March last to enhance complementarity between international organisations in human rights protection. This conference made an important contribution to the understanding of the need for coherence in action. I am pleased today to be able to provide a compilation of the papers from this conference for the information of all delegations who are present.

Thirdly, a major conference organised by An Garda Síochána, the Irish Police Force, is taking place in Dublin today and will continue tomorrow on the subject of "Policing and human rights". This initiative is being launched in response to the Council of Europe's programme entitled "Police and human rights – 1997 to 2000". Its purpose is to raise awareness of human rights and policing issues and to identify best practice from a national and international perspective.

Finally, following the enactment of the Human Rights Commission Act (2000), Ireland is now establishing a Human Rights Commission with a very broad mandate and remit, not only in the context of strengthening and underpinning the constitutional protection of human rights in its own jurisdiction but also, in conjunction with its counterpart in Northern Ireland, with a view to the

development of an enlightened human rights culture in the island of Ireland as a whole, in line with the ideals in the Good Friday Agreement, to which I have already referred. Delegates will be aware that the Council of Europe has been active in the promotion of human rights commissions and has adopted several important recommendations on the subject.

## **ITALY**

### **Mr Piero Fassino, Minister of Justice**

The European Convention on Human Rights was signed fifty years ago, right here in Rome. Hosting the signature ceremony for what The Economist has called the most effective international human rights system was a privilege that Italy, in keeping with its legal traditions, intends to continue to celebrate. This is also the reason why, on taking its turn to chair the Committee of Ministers of the Council of Europe, our country wished to devote a significant part of its programme specifically to the human rights sector, the content of which reflects the Italian Government's conscious, active commitment to promoting and safeguarding the values of democracy, respect for human rights and the rule of law that we all share. Evidence thereof is to be found in the recent conclusions of the European Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Strasbourg, at which the participating states adopted a political declaration that was of considerable significance in human rights terms and was hence also much appreciated by the NGOs present.

Our country takes a dynamic view of this commitment and is therefore striving for a Convention capable of keeping in constant step with the changing context in which the above-mentioned rights are safeguarded and promoted. Action taken so far is consistent with this objective: the opening for signature in Rome of Protocol No. 12 on prohibition of discrimination, to take place tomorrow on the occasion of the ceremony celebrating the fiftieth anniversary of the Convention; the recent resumption of work on a protocol to the Convention on the rights of persons deprived of liberty, following the Court's lead; the Italian proposal to give the Court competence to issue advisory opinions in matters of safeguarding minority rights; the proposal to study possible ways of updating and supplementing the Convention; and the particular importance that the Italian Government attaches to the Consultative Council of European Judges.

But that is not all. Italy is fully and resolutely committed because this is not only a foreign affairs but also a domestic concern. Ensuring domestic compliance with the provisions of the Convention is in fact a priority for the Italian Government, which during the year 2000 has continued its efforts to develop new means of improving the effectiveness of the justice system and reducing the length of proceedings, as the Council of Europe has itself recognised.



Although we in fact consider that the high standard of Italian legislation on the protection of rights and procedural guarantees is not without relevance to the length of proceedings, Italy reacted constructively to earlier resolutions on excessive delay and actively co-operated in the drafting of the recently approved resolution on the subject. It must, none the less, be said that there is still a need to introduce standardised methods of statistical analysis for more accurate evaluation of the efficiency of all legal systems, currently inexistent at the European level, as already pointed out in the concluding texts of the Conference of European Ministers of Justice held in London last June.

As regards domestic compliance with the Convention, we are not starting from scratch. Following a lengthy period during which a "passive" attitude prevailed towards the problem raised by the Court of Human Rights, this matter began to figure high on the national political agenda with the series of measures taken by my predecessor, Mr Flick.

The government is making a tangible effort to implement the necessary structural reforms, and a reversal of the trend can already be noted in the civil courts, where for the first time in years the number of cases brought to a conclusion exceeds the number of new cases. To speed up this process, greater attention is now being paid to organisational measures affecting the management of proceedings, as can be seen from recent increases in the number of judges and the recruitment of administrative staff.

Italy is, moreover, the second European country, after Spain, to have established a domestic remedy: the Pinta Bill on just satisfaction in cases where proceedings are excessively long, which given its completeness and innovative ideas could serve as a model for other countries with the same problem, has already been passed by one house of parliament, despite concerns about the considerable burden, both financial and in the form of an increased workload, that its implementation may impose on our country.

The ultimate aim is to reconcile the right to justice for all, including those who were in part excluded from the courts by the slowness of proceedings or by access difficulties, with preservation of the high level of internal guarantees inherent in our system. A reduction in the length of proceedings cannot in fact be achieved at the cost of citizens' rights, but must rather go hand in hand with an overall improvement in conditions of access to the courts, foreseeably resulting in an increase in demand for justice.

In this connection it should be said that the government wished to buttress its statements of principle with tangible action concerning expenditure on the entire justice sector, which over the past four years has grown at a rate second only to that of the education system. Most recently, the 2001 budget allocated 11 500 billion lire to the judicial system, a 7% increase compared with 2000.

The legislative reforms implemented so far give shape to a more modern system, in which respect for human rights takes on new meaning and is construed in the most active sense. In a complex society such as ours, the legal system – in particular the civil courts – cannot in fact cope with constant



growth in demand if it does not succeed in transforming itself into an integrated system of justice. That means a system which begins with the preliminary investigation and eventually, but not automatically, ends with ordinary court proceedings under a traditional procedure.

The reforms introduced, indeed, give shape to such an integrated system, which might be likened to a series of concentric circles. The first, outermost circle consists of a preliminary investigation service designed to allow more precise, efficient identification of the avenues to be taken and the available alternatives.

The second consists in introducing and disseminating alternative forms of dispute resolution, generally known by the acronym "ADR". The recent bill providing for speedier civil proceedings and ADR in fact aims to establish a first filter along these lines. It concerns an alternative solution which is not solely to be relied on at the pre-judicial stage, but may also be implemented, in so far as circumstances permit and it serves a useful purpose, under the court's supervision where proceedings have already commenced.

The third, innermost circle of this integrated system of justice is court proceedings proper. Even if limited, and hence more efficient, proceedings must, none the less, be backed by appropriate organisational improvements. Increasing reliance on information technology will be essential throughout the system, from the preliminary investigation to the service of documents. In this connection, I wish to point out that a considerable financial effort has also been made in this sector, where expenditure rose from the already substantial sum of 253 billion lire in 1998 to 289 billion in 1999.

Introducing a high degree of flexibility, through an integrated approach and dynamic policies, is the best means for a system of justice to meet the demands of a constantly changing society. It is thus the fastest road to a justice system increasingly at the service of the public and ever more effective in defending and promoting all human rights.

## **LATVIA**

**Mrs Ingrida Labucka,  
Minister of Justice**

We have come together for two very important purposes – commemoration of the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms and opening for signature of its Protocol No. 12.

Both on the all-European level and in Latvia in particular, the Convention is an effective tool for securing the observance of human rights. Protocol No. 12 is a significant step towards ensuring a more effective protection. Until now, the Convention required application of the principle of non-discrimination only to the rights and freedoms provided for in this Convention. After Protocol No. 12

comes into force, the scope of the Convention will be extended and discrimination in the exercise of any rights provided for in the law will become a violation of the European Convention on Human Rights.

This is an important development in human rights law since individuals will be granted a possibility to turn to a court of international standing for adjudicating discrimination issues arising out of the exercise of any rights provided for in the law. Formerly, individuals' opportunities to protect their rights using the non-discrimination clause were rigidly restricted. For now, there exist no other international courts where individuals can be protected from discrimination. Taking into account that all people are equal and that securing this equality is a duty of each state guided by the principle of legality, Protocol No. 12 will serve as a strong impetus for the states to fight against discrimination even harder than they have done before. It will also bring the Convention closer to the people of Europe, as now even if only indirectly, through the prism of non-discrimination, it will embrace a much wider scope of individual rights, address concerns and will be relevant to a much larger scope of life situations.

However, in order to secure full observance of human rights, it is not enough to sign a new protocol to a convention or to pass a new law. Indeed, the states have to ensure full and effective functioning of all the possible mechanisms for protection and promotion of human rights. This ought to be done not only by ensuring a proper legal framework and judicial recourse, but also by means of special state policies designed for social integration and social protection. The member states are also responsible for educating the society for better understanding of human rights issues. Only then will the Convention be capable of effectively reaching its aims.

The Republic of Latvia, concerned for a strong protection of human rights, has implemented a programme for integration of the society. Thus, it has created a successful model for deepening the understanding of human rights and the development of the society.

During its presidency over the Council of Europe, one of the ultimate priorities of Latvia is the promotion of human rights standards and their observance. Within the limits of the rights and duties imposed by the status of presidency, Latvia will work on securing the observance of the European Convention on Human Rights in all the member states of the Council of Europe. In doing so, we will devote special efforts to deepening society's understanding of human rights through mass media, since it is one of the most powerful means of information and education in the contemporary world.

Further, Protocol No. 12 to the European Convention on Human Rights will raise new questions to solve.

The effectiveness of the Convention in achieving its aims is largely due to the fact that for the first time in history an effective enforcement mechanism for protection of human rights has been established. However, in common with many national judicial systems, the European Court of Human Rights faces the problem of being overloaded. This problem urges a quick solution as Protocol No. 12 to the European Convention on Human Rights will extend the scope of the Convention and inescapably enlarge the workload of the Court. Latvia sets as its task to work on finding a solution for this problem.

As the presiding state, Latvia will dedicate its attention to securing the execution of the judgments of the Court in all member states. We will also closely follow all the developments within the domain of human rights in Europe, in particular the discussion on the legal and political implications of the European Union Charter of Fundamental Rights.

I thank you for your attention and wish you all both fruitful work and a pleasant stay here in Rome.

## **LIECHTENSTEIN**

**Mrs Andrea Willi,  
Minister for Foreign Affairs**

Fifty years ago tomorrow, on 4 November 1950, the then members of the Council of Europe confirmed their deeply held belief in the fundamental freedoms that provide the basis for justice and peace in the world by signing the European Convention on Human Rights here in Rome.

There can be no doubt that the adoption of the Convention was and remains one of the Council of Europe's greatest achievements. The Convention remains the most highly developed and effective international instrument in the field of human rights. And it is not only the rights protected and its role as a model for other regional and international human rights agreements that are important, the supervisory and protective machinery the Convention and its protocols put in place for dealing with alleged violations are at least as important. The Convention pursues a unique objective and is a milestone in the development of international law, to which Liechtenstein also attaches great importance.

As a party to the Convention, Liechtenstein is strongly committed to its objectives and continues to work at international level for the effective protection of human rights. The provisions of the Convention have also shaped Liechtenstein law.

The Council of Europe's human rights work has been continuous. The Council has constantly made improvements both organisationally and to the Convention's content. Two years ago, for instance, the Court was established as a permanent body. This has increased its impact.

With Protocol No. 12 and the ban on discrimination, a further advance has been made. It gives me great pleasure to sign the protocol on Liechtenstein's behalf.

We regard a further protocol on the rights of individuals whom public authorities have deprived of their liberty as an important task for the Steering Committee for Human Rights.

Both the Court and the Committee of Ministers will have to cope with new challenges in future. The Court's workload is increasing steadily. It has 800 million potential applicants. The admission of new member states, which we would welcome, would no doubt bring more cases. Problems and possible

improvements are being discussed under the heading “reform of the reform”. This issue will also be on the agenda during Liechtenstein’s chairmanship of the Committee of Ministers next year.

The Committee of Ministers also needs the right conditions for supervising execution of the Court’s judgments. Liechtenstein will do what it can to help find an effective solution.

The European Convention on Human Rights, whose fiftieth anniversary we are celebrating, must be our guide and model in all of this. Any new arrangements and instruments must always also give expression to its spirit and content.

I should like to close by sincerely thanking the Italian Government for their excellent conference organisation and for the impressive hospitality extended to us here in this beautiful city.

## **LITHUANIA**

**Mr Oskaras Jusys,  
Deputy Minister for Foreign Affairs**

Today we are marking the fiftieth anniversary of the adoption of the Convention for the Protection of Human Rights and Fundamental Freedoms. This Convention became the first international legally binding instrument on human rights and even today has no equivalent globally. It started a new era in defining relations between a state and an individual. Thus, today is an appropriate occasion on which to discuss what we can do to strengthen further the effective protection of human rights and fundamental freedoms.

My sincere thanks go to Italy, the current Chair of the Committee of Ministers, for organising this important event.

I am particularly glad to welcome here today my colleagues from forty-one Council of Europe member states. Your participation is witness to the fact that the Convention and the Council of Europe’s human rights protection system have not become the concerns of a few, but their importance and vitality are constantly being reaffirmed by ever more countries willing and able to undertake the noble commitments of human rights protection at an international level.

The promotion and protection of human rights has a very wide meaning and broad applications. The Council of Europe is a truly pan-European organisation entrusted with the tasks of promotion of human rights, rule of law and pluralistic societies through its standard-setting and democracy-building activities. The Council is making a major contribution to long-term conflict prevention and peace building in Europe.

Recent developments in the Federal Republic of Yugoslavia suggest a new page in South-eastern European politics, yet democracy has yet to firmly set its foot everywhere in Europe. Also, serious and massive human rights violations

in some parts of the European continent highlighted the fact that the Council of Europe's human rights protection mechanisms, while being effective for the protection of an individual (in a co-operating state), are not sufficiently exploited to effectively respond to or prevent massive violations. Here, the key to deterrence is in the battle against the impunity of the perpetrators.

We live in a developing world and witness ever-emerging spheres where the human rights outlook and the principle of equal dignity for all as the very foundation of human rights are vital. Here, I have in mind, first of all, the challenges – or the opportunities – provided by technological advances, and would encourage further activities of the Council of Europe in addressing the implications of these changes.

The most prominent role in enforcing compliance with human rights standards is played by the European Court of Human Rights, the decisions of which are binding on member states. As has been stated in a judgment of the Court, "the Convention creates over and above a network of mutual, bilateral undertakings, objective obligations which [...] benefit from a 'collective enforcement'". Yet, ironically, the successes of the Court now are working against it, since the Court is under the increasing pressure of new applications. I would see an effective response to the increasing pressures on the Court as one of the primary tasks of the Council of Europe and its member states. We should make every effort to ensure the effective functioning of the Strasbourg system or we will lose our people's confidence.

The Convention for the Protection of Human Rights and Fundamental Freedoms was ratified by Lithuania after an examination of its compatibility with national regulations. Now, we are witnessing the direct application of its decisions by our national courts. The Strasbourg Court is regarded in our country as a real guarantor for the protection of human rights of all the inhabitants of Lithuania. This year, the Court made several decisions in Lithuanian cases. Their implementation according to the effective procedures recently adopted in the national legal system bolsters the trust of our citizens that their rights will be protected.

Finally, I must not forget to mention the importance of the training programmes on human rights organised by the Council of Europe for judges from eastern Europe. The unique jurisprudence of the European Court of Human Rights provides an enormous source of interpretation of the Convention of which every legal practitioner should be aware. The efficiency of direct application of the Convention by national courts would prevent the need to resort to the services of the Court of Human Rights.

## **LUXEMBOURG**

**Mrs Lydie Polfer,  
Deputy Prime Minister and Minister for Foreign Affairs and Trade**

My generation has been lucky enough to grow up without knowing the horrors of war. It has, on the other hand, benefited from the creation of international

instruments and institutions which protected it from a repeat of the horrors of the two world wars. The credit for building safeguards against abuses by states of their neighbours, or even their own people, goes to the founding fathers of Europe, whose wisdom and vision of the future we are celebrating by paying tribute to this Convention. The Council of Europe was the first political organisation created to restore Europe's soul and courage, to rebuild a continent ravaged by extreme nationalism and disregard for others, and to protect it against future excesses.

In 1950 the Council of Europe, founded on respect for human rights, democracy and the rule of law, three elements which are inseparable from the blossoming of the individual in society, adopted a convention for the protection and safeguarding of human rights which met the demands and aspirations of the time.

Whatever we may say about it, the Convention has stood the test of time. It has developed thanks to its control mechanism and through a rich and complex body of case-law. It has grown organically over the years, with the addition of protocols. We are currently preparing to sign the twelfth protocol at the end of this conference. The Convention is a living instrument, which has been able to adapt to meet the challenges of a changing society.

The democratic revolution of 1989 fundamentally changed the European order, creating conditions which enabled the former people's democracies to open up to the fundamental values defended by organisations such as the Council of Europe.

Since the beginning of the 1990s, the European Convention on Human Rights has become an essential reference for the new democracies of central and eastern Europe, which have, moreover, sought to join the Council of Europe. Respect for human rights is a key factor in stability leading to this "democratic security", and the promotion of this respect was declared a principal objective of our Organisation at the first summit in 1993, which really set the seal on the opening up to these countries.

As new members began to join, the Convention was able to extend its protective and reparatory influence throughout the Continent in the interest of 800 million Europeans. Our common desire is that in the near future, those countries which are in the process of joining the Organisation and those which have not yet applied to join become members of the Council.

Commemorating the *acquis* of the Convention also means paying tribute to the part played by the judges and members of the then Commission who, two years ago, passed on the torch to the new legal body created by Protocol No. 11. The purpose of transforming the former structure into a permanent Court of Human Rights was to further improve the application of the Convention.

In the light of the problems faced by the new Court, we are, however, entitled to ask whether it has been a victim of its own success. No one doubts the good intentions of the member states in setting in motion the reforms of 1998, but in spite of the very serious efforts to rationalise and restructure by the Court and its registry, the judges are experiencing enormous difficulties in coping with an ever-increasing number of applications.



Should we already be thinking about new reforms? As a first step, member states must be more vigilant in ensuring that the rights guaranteed by the Convention are fully protected first of all in their domestic law, and applied by their national courts, observing the subsidiarity between the supra-national control mechanism and national courts. Secondly, the Court itself should make concrete proposals concerning its future development, particularly on the basis of studies already carried out into the possibility of a filtering system for its legal procedures, if necessary at the level of senior registry officials or into the creation of a first-instance jurisdiction. Finally, for the Court and the whole Convention system to maintain their independence and credibility, it is essential that member states provide the Court with the resources needed to carry out its tasks and responsibilities with the necessary serenity. This is a collective responsibility which none of our governments may shirk.

As regards the political and standard-setting work of the Council of Europe in protecting and promoting rights and freedoms over and beyond the Convention, Luxembourg attaches great importance to the following: strengthening mechanisms for preventing conflicts, intensifying the Organisation's responses to serious and massive violations of human rights, in particular in crisis or post-crisis situations, generalised abolition of the death penalty in time of peace and of war, resolute application of the principles of equality and non-discrimination, and the definition of appropriate measures to protect the individual against the abuses inherent in new technologies, whether in communications, biomedicine, genetics or the environment.

In this context, we salute the vigilance and perseverance of the Parliamentary Assembly, and also the action taken by the Commissioner for Human Rights who has shown, within a year of the creation of this new institution, that it has a role to play in strengthening the instruments for promoting and protecting the fundamental values of the Council of Europe.

Finally, I would like to mention the European Union Charter of Fundamental Rights. Despite the upheaval and anxieties it has caused outside the Union, particularly within the Council of Europe, I believe that its general provisions, in particular Article 52.3, protect the character and scope of the rights guaranteed by the Convention.

In view of this, it is comforting to note that the European Union, which was for a long time wrongly considered to be free-market and mercenary above all else and lacking in real humanism, has made its own contribution to the promotion and protection of human rights on our Continent.

We will now need to examine further the possibilities for the accession of the Union and its institutions to the Convention, in order to be sure that the decisions and case-law resulting from the mechanisms for protecting human rights in Europe are consistent in the future.

Luxembourg will be among the countries continuing to work towards the best possible protection of human rights in Europe and for the maintenance and future development of the European Convention on Human Rights, in the spirit of its writers and respecting the principles and fundamental objectives of the Council of Europe.



## **MALTA**

### **Mr Austin Gatt, Minister of Justice and Local Government**

We celebrate today the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Fifty years ago, no one would have imagined that the Convention was going to become a sign of the times. Today, it is a symbol which requires the skills of a semiologist to be interpreted correctly and which makes all government action subject to the ever-changing cultural codes being transmitted by society.

We believe that society has to ensure human dignity and that it is possible to control the excesses of governments or of society in general.

Human dignity goes beyond physical survival.

As Pierre Teilhard de Chardin has written in his essay "Some reflections on the rights of Man":

"Society, embracing the individuals which comprise it, must in its own interest be so constituted that it tends to create the most favourable environment for the full development of what is special to each of them."

There is no doubt that the Convention has helped enormously to turn this idea into reality and through the dynamic interpretation of its provisions it has bravely abandoned the narrow vision of its drafters and responded to our deeper understanding of the phenomenon of Man.

In one significant area it has radically changed our views because our old conceptions about the necessity of the death penalty as a deterrent against crime were shaken when the European Court of Human Rights decided that waiting eternally on death row is equivalent to cruel and inhuman treatment.

This was a short step away from the drawing up of Protocol No. 6 to the Convention for the abolition of the death penalty in time of peace and opening up the way for the possibility of the complete abolition of capital punishment.

At the time of ratifying Protocol No. 6, my country had already gone beyond the minimum standards set by the protocol because it had repealed the death penalty for civilians even in time of war. To conform to the standards of this protocol, my government has also removed the death penalty for treason for soldiers in time of peace.

But we felt that this was not enough: we have taken the process a step further by abolishing capital punishment for all persons – even those carrying out military duties – and even in time of war.

So, now, capital punishment has completely been removed from our statute books.

We hope that as many countries as possible become contracting parties to the obligations of the Convention about the abolition of capital punishment. In our view, it is philosophically unacceptable for a state to claim that it observes a canon of fundamental human rights while its laws allow it to eliminate

persons in the same cold-blooded way in which they have carried out their heinous crimes.

Is not this too narrow a concept of the right to life even though the 1950 version of the Convention still preserved the current state of the laws of many countries at that time?

Fifty years of the European Convention and its abundant case-law should now lead us to think of justice not as a “measure for measure” but as a justice where the “quality of mercy is not strained”.

To follow this direction would actually be covering the same path as the evolution of man from a vindictive animal to an intelligent, tolerant human being.

It is with this idea in mind that we express our wish to see more countries abolishing capital punishment and to stop all executions while they are amending their laws.

Europe should become an area free from capital punishment.

## **MOLDOVA**

**Mr Nicolae Tăbăcaru**  
**Minister for Foreign Affairs**

Ten years ago, in this beautiful capital of the Latin world with thousands of years of democratic traditions, the fortieth anniversary of the European Convention on Human Rights – the first international legal instrument to foresee the supremacy of fundamental human rights and freedoms – was celebrated. Ten years in a historical dimension do not represent a significant period. Yet, this decade represented for Europe's fate a genuine turning point, making the Continent's nations free of the burden of confrontation between the two ideological blocs. The young European democracies knocked firstly at the door of the Council of Europe, requesting assistance in development and consolidation of democratic values. This is proved by the fact that at today's conference the number of states participating has doubled compared with the celebrations of 1990. Indeed, the events from central and eastern Europe, the considerable extension of the Council of Europe's geography through accepting new members, have raised new challenges for the Organisation. The Council of Europe has been and will be challenged to ensure stability and democratic security on the whole Continent. In these circumstances, the Council of Europe was in a position to adjust its activity also by reforming its mechanisms of applying and controlling the European Convention on Human Rights provisions.

In this sense, the Republic of Moldova is not an exception. As in the case of other central and eastern European states, my country, at the moment of its accession to the Council of Europe, subscribed to a series of commitments, among which was the European Convention on Human Rights and its

additional protocols. I have to confess that the national implementation of this European instrument's provisions had a positive impact on the whole society, offering to the citizens of my country the international guarantee of protection of their fundamental rights, reforming the whole legal system in the Republic of Moldova, thus making it compatible with European norms and standards. It is for certain that today the European Convention on Human Rights represents the basic pillar of our young democracy.

During the five years of my country's membership of the Council of Europe, numerous missions monitoring the respect of Moldovan commitments *vis-à-vis* the Organisation have registered significant progress in the democratisation of our society including the respect for human rights and protection of the representatives of national minorities. Yet, this cannot satisfy us completely as long as the Transnistrian region of the Republic of Moldova continues to be outside the Convention's protection umbrella, thus the fundamental rights of approximately 700 000 inhabitants being violated. This issue should be a subject of maximal concern of the international community. Unfortunately, the visits made by the missions of several international and regional organisations in this region of my country and the numerous appeals made by the leadership of these bodies to the leaders of the eastern region of the Republic of Moldova have not received appropriate reactions. This does not mean that the responsibility for the massive violations of human rights does not lie with them. We have to further react with more promptness to such situations.

In fact, last year's tragic events in the Balkans, as well as other regions of tension, have shown that unfortunately the European organisations, including the Council of Europe, reacted promptly only in cases of bloody armed conflicts. The issue of latent conflict settlement – as in the case of Transnistria – and establishment of the rule of law and human rights protection should be a clear priority of the Council of Europe and the European community in general. In this sense, the elaboration of mechanisms aimed at preventing new conflicts in the geographical area of the Council of Europe is imperative. The Italian chairmanship of the Committee of Ministers of the Council of Europe underlined rightly that nowadays Europe stringently needs to act in a preventive manner, applying new early warning and monitoring systems for a full protection of human rights, which are the supreme value of European civilisation.

On this occasion, allow me to welcome the introductory report of the Secretary General of the Council of Europe, which states that the Organisation should consolidate its capacity to react to the situations of massive violations of human rights, especially at an early stage, through its technical capacities as well as political means. Indeed, the Organisation, in its capacity as a promoter and protector of human rights, needs additional resources in order to respond to the current challenges. In this context, I believe that the initiative of Mr Walter Schwimmer to set up within the Organisation's Secretariat a Human Rights Task Force, which will be flexible and able to react rapidly to the evolving needs on the ground, is more than appropriate. On my side, I would like to assure you that the Republic of Moldova would try to support the establishment and activity of this task force through all available means.

Concerning the development of the European legal framework on protection of human rights, I would like to congratulate the Council of Europe's

Secretariat for drawing up so rapidly Protocol No. 12 to the Convention. Its opening for signature proves once again the European family's adherence to common human values.

Last, but not least, I would like to make a brief remark regarding the significance of the words "human rights, rule of law and democracy". These are very simple words indeed. As Hanna Suchocka mentioned in her contribution during the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights a year ago:

"Let us not forget that giving these simple words their true meaning requires a constant effort from all of us wherever we are, whatever our responsibilities may be. These words need constant action."

To the above, I would like to add that a full implementation of and respect for human rights implies our commitment to renew our responsibilities and to redouble our efforts in this respect. Fundamental human rights protection will achieve a maximal efficiency once we think globally and act locally.

#### **NETHERLANDS**

See Part II, Statement by Mr Jozias Van Aartsen, page 55.

#### **NORWAY**

##### **Ms Hanne Harlem, Minister of Justice**

We are today celebrating the fiftieth anniversary of the European Convention on Human Rights. This convention has had a tremendous significance for democratic stability and human rights in Europe. The success and influence of the Convention is largely due to the active role of the Court, which in a courageous way has contributed to the protection of human rights and the strengthening of the rule of law in member states.

It is therefore with concern that we observe the difficulties of the Court today. The Court has implemented some effective reforms, but this is not enough to cope with the steadily increasing case load. As long as the number of incoming cases by far exceeds the number of outgoing cases, the backlog will continue to grow, and at some point the Court will have difficulties in observing the standards concerning reasonable length of proceedings that it asks domestic courts to observe.

This is a situation that needs urgent action. Without an effective and well-functioning Court, the Convention will lose its unique and crucial role. It is first of all necessary to grant the Court sufficient resources to cope with its backlog. But granting more resources is only a short-time remedy. In the long run, more fundamental changes of a procedural or structural character are needed.

The President of the Court, Judge Wildhaber, has presented a number of ideas which could relieve the Court of its steadily increasing backlog. I find these ideas very interesting and I think they should be explored further as soon as possible.

While some of these measures can be adopted by the Court itself, others might need an amendment of the Convention. I would especially like to address one possible reform that I believe should be explored and discussed.

One of the extraordinary qualities of the Court, and one of the aspects that surely has contributed to its importance, is that the Court deals directly with individuals. Individual complaints must still be the core of the Court's work, as it is through individual complaints that national legislation and administrative practice are tried against the standards of the Convention. The question should, however, be asked whether the Court's mission is to have a full trial of every individual complaint, or whether it should concentrate on grave violations and cases of principle.

Therefore, further consideration should be given to developing a filtering mechanism. Such a mechanism is well known in many national legal systems.

It can be argued that such a reform will weaken the Convention system, by giving the individuals of the member states a weaker position than today. On the other hand, if the Court can concentrate mainly on the cases of principle and complaints where serious violations seem to have taken place, the level of protection of the Convention will be clarified and developed further, and the national courts will find guidance from the Court's case-law when deciding cases which raise questions under the Convention.

In the present situation, when the Court has to make priorities, it is, in my view, most important that the Court deals with cases of principle and serious violations in a thorough and convincing manner. This might be the best way to maintain the high respect for the Court so that its judgments will continue to give important guidance to national authorities on the basic values enshrined in the Convention.

I hope we can all contribute to a constructive reform that will ensure the Court's vitality for the coming decades. An efficient and well-functioning Court is crucial for the continued importance of the European Convention on Human Rights.

## **POLAND**

**Mr Jerzy Kranz,**  
**Under Secretary of State at the Ministry of Foreign Affairs**

"We the peoples of the United Nations... determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person". Although this passage from the preamble to the United Nations Charter

opened a new chapter, the 1948 Universal Declaration of Human Rights was seen as subversive because its title included the adjective “universal”.

For its part, the European Convention on Human Rights, which was signed in Rome in 1950 and whose fiftieth anniversary we are celebrating today, was revolutionary for two reasons. The first reason is that after the second world war, and faced with the expansion of communism, it expressed the political will to build a new Europe on the basis of common values, particularly those of respect for the rights of the individual. The second reason is that, politically, the adjective “European” implied the whole of Europe, despite the iron curtain, which for half a century deprived many Europeans of their fundamental rights.

In 1950, it was not only a case of opposing an ideology centred on contempt for human beings, but also of setting the example of a new concept in the protection of human rights. The birth of the Council of Europe and the adoption of the Convention formed a framework within which human rights were not only considered as granted by the state, but as a natural attribute of every individual.

Although fundamental freedoms constitute the very foundations of justice and peace in the world, they are mainly preserved by means of a truly democratic political system and efficient mechanisms for promoting, supervising and implementing human rights.

In the course of its application, the Convention has proved the efficiency and confirmed the success of a system based on individual complaints examined by an international legal body. The individual has therefore become not only the subject of international legal rules but also one of the principal beneficiaries.

The place of Europe in the world depends not only on its political, military or economic strength, but also on its role in promoting the model of a democratic state governed by the rule of law. Poland is profoundly attached to such a concept of Europe.

According to the message of Pope John Paul II to celebrate the thirty-third World Day of Peace on 1 January 2000, “an offence against human rights is an offence against the conscience of humanity as such”. The Pope also added on that occasion that “humanity’s honour in the twentieth century has been preserved by those who have spoken and worked on behalf of peace and human rights”. In our opinion, this has been and continues to be the role of the Council of Europe, and this is the function of the Convention.

The development of the law of nations – and the Convention is one example – has led today to the limiting of state power and to the more effective protection of human rights. Fundamental rights are no longer the preserve of the state.

International relations are not founded on state sovereignty, but on the equality of state sovereignties as proclaimed by international law. If all attempts to influence the human rights situation in a country amounted to intervention, international politics and the law of nations would paradoxically be reduced to instruments of illegality. The alleged contradiction between the submission of the state to international law and its sovereignty is therefore misleading.

In reality, the international community's tolerance of fundamental human rights violations hides a poorly camouflaged insult to the victims. It is therefore necessary for international law to provide individuals with protection which is at least as effective as that provided to states. It is in this perspective that we need to see the task of the Council of Europe and the European Court of Human Rights.

The President of the European Court recently underlined the fact that the Convention could not be based on a double standard or submit to the political pressure of some states which are accused of human rights violations.

The essential message of fifty years of the application of the European Convention is still relevant. The real interests of the international community are better served by democracies than by dictatorships. Political changes in Europe since 1989 only serve to confirm this theory. To quote La Bruyère, "There is no fatherland in tyranny".

## **PORTUGAL**

### **Mr Francisco Seixas Da Costa, Secretary of State for European Affairs**

We are assembled here today because of a common will surrounding several principles which constitute the basic values of today's European democratic societies. These principles are also shared by many other states in other parts of the world.

The period since the second world war has enabled the people of Europe to come to terms with the weight and the tragedy of their recent history, which was marked by a conflict of unprecedented proportions.

The values which united the European democracies were then affirmed in a common instrument, the European Convention on Human Rights, which has constantly served to exorcise this terrible past, at the same time constituting the prelude, albeit fragile, to a new international order.

However, these values were not shared by the whole of Europe. Some countries followed models which, under the extremism of a mythical absolute good, eventually sowed the seeds of a historic tragedy which collapsed and showed its true colours at the end of the 1980s.

Some countries around this table are still paying today for the legacy of that experiment, an experiment which sacrificed whole generations and signed away collective hope and generosity.

The conditions now seem to be ripe to embark upon a new era, a moment of broader sharing of human rights values, in a framework of stability and dialogue in which I truly hope we can find reasons to have confidence in the future.

But can we be confident of the gamble we have taken?



The human rights violations and tensions which continue in the Balkans, and the disproportionate use of violence by the state, are emerging in national frameworks which maintain their theoretical support of our common principles, sectarian terrorism which puts democratic patience to the test on a daily basis and the rapid growth of intolerance, racism and xenophobia in many of our societies. All this forces us to become vigilant and to have the courage to tell the truth, even though this might be embarrassing to *realpolitik*.

Even if it might be uncomfortable for our friends and partners, we must all remain determined to declare that we cannot tolerate actions or omissions which could make Europe more lax in its respect for human rights, the fundamental principles of democracy and defence of the rule of law.

Those who persist along that path, however important as a country or in terms of strategic value, must be denounced and decried. They must be judged according to the value they really give to their word as a state and in the acts they commit.

If we do not do this, we are all just as cynical and opportunist as those who, during the cold war, colluded with dictatorial regimes such as the one which existed in Portugal for around fifty years.

This is a solemn act based on simple foundations because, if we think about it, they merely represent the acceptance of principles of good sense, tolerance and peaceful interaction between peoples. The actual achievement of these simple things is, however, a very complex process. That is so in the case of the European Convention on Human Rights.

I would like to pay tribute, in the name of Portugal, to all those who managed to pool their efforts fifty years ago to establish this important instrument which is now the Convention.

Allow me very briefly to underline some key points.

The creation of a legal system within the Council of Europe, where for the first time citizens could benefit from legal personality under international law, is a real turning point, and led to the establishment and development of a creative case-law which unified the values and fundamental reference frameworks of a European public order.

The Portuguese Government recognises and welcomes that effort and declares its total commitment to active co-operation with the Council of Europe in promoting our common objectives of protecting and strengthening human rights.

The Portuguese Government also considers that there is an urgent need to identify the measures to be taken to assist the Court in carrying out its duties.

The effective protection of social rights is also a key element of the promotion and development of human rights. We consider that the general adoption of the European Social Charter and its mechanisms will be an essential element of the protection of human rights at this level.

Another essential point is abolition of the death penalty, which must be a common and urgent objective. The Portuguese Government urgently calls for

the general ratification of Protocol No. 6 and believes that this protocol should be revised to prohibit the use of the death penalty even in time of war.

Allow me a reference to the Charter of Fundamental Rights of the European Union. For the time being, we shall probably not go as far as we would like in making it legally binding. However, it will, without any doubt, be an “ethical pillar” in a Union seeking to create a real project for civilisation and a reference for the future of the Continent, in an environment of peace, stability and progress for all its citizens.

I would like to conclude by pointing out the presence here of a representative of the Federal Republic of Yugoslavia. I would simply like to say that his participation in this meeting indicates that hope and reason always have a chance.

## **ROMANIA**

**Mr Mihai-Răzvan Ungureanu,  
Secretary of State at the Ministry of Foreign Affairs**

Fifty years ago when the Convention was adopted, the division of our Continent was almost completed. For almost forty years only some of the countries in Europe benefited from the protection of fundamental rights as inscribed in the European Convention. Today, Europe is in the process of defining its new identity. While reaffirming our belief that the future of our Continent lies in its unity and the strength of it in its diversity, we greet the challenging role played by the Council of Europe in this process by proceeding to its enlargement on a fast track.

As many of the members of this great family which is the Council of Europe, Romania has joined the overall efforts to build a democratic European society. We are all bound to recognise the unifying effect that our belonging to this Organisation had and continues to have on our societies, by sharing the same democratic values and human rights principles. In the same way, the European Convention on Human Rights is modelling and unifying our national legislative systems. We are known throughout the world as a family of democracies thanks in part to the pre-eminence of our European Convention on Human Rights. If, nowadays, “European” is similar in meaning to “democratic”, we should also pay a tribute to this Organisation.

The enlargement brought a lot of benefits to all of us, either newcomers or well-established members. Nevertheless, it has never supposed a lowering of the human rights standards. If the Council of Europe is looked upon today as the key promoter of human rights on our Continent this is also because it has continued to develop, in an innovative and even courageous manner, ways and means to ensure compliance with commitments. We, as member states, have the responsibility to watch that the credibility of our organisation is upheld and that it maintains and even enhances its strength there where it is strong, namely in protecting and promoting human rights.

*Responding to serious and massive violations of human rights*

While congratulating the Council of Europe for its achievements, we should not forget that the prevailing threats to the stability of our Continent still call for adjusted modalities of response. The challenges posed by the radical changes in parts of Europe, which sometimes entailed open crises or conflict, have been answered with imaginative solutions. The Secretary General has already mentioned some of them in his report. Still, there are situations waiting for a sustainable solution.

In this respect, I would like to refer to the situation on the left bank of the river Dniester in the Republic of Moldova, where a self-proclaimed and illegitimate regime has continued for years and still does to create tensions which seriously affect the observance of the most elementary human rights in this region. We express our deep concern for the continuation of this unsettled issue and trust that our feelings will be shared by other delegations. The governmental authorities in Chi\_in\_u continue to be obstructed in exercising constitutional control over the territory of the so-called "Republic of Transnistria", while the activities developed there constitute a threat to the stability of a Council of Europe member state.

As proof of the gross violation of human rights in Transnistria, I would highlight the situation of the four people known as the "Ilascu Group" – arrested in Tiraspol and kept hostage without any judgment by authorities unrecognised by anyone in the world, and in breach of all norms of international law. This case is now under consideration at the European Court of Human Rights with a view to restoring the ruling of the principles of the Convention. We are concerned about the fate of all four members of the illegally detained group but even more so about the fate of Mr Ilie Ilascu who is now a Romanian citizen.

The Secretary General has urged us, in his report, to increase the effectiveness of the responses given by our Organisation to the challenges arising from crisis or conflict situations on our Continent. We surely take his urge seriously as we ourselves, on the eve of taking up the chairmanship of the OSCE and, at the same time, as a responsible member of the Council of Europe, are examining possibilities of making better use of the mechanisms of co-operation with other international structures. With a view to reinforcing the actions undertaken by the Council of Europe in crisis situations when human rights are flagrantly violated, we should stress once again that the United Nations and the Organisation for Co-operation and Security in Europe are natural partners of ours. Common actions offer more efficiency and give enhanced visibility to the efforts of the Council of Europe.

The legal and human rights expertise provided by our Organisation is better highlighted through common field missions. We have learned it from the valuable experience in participating in joint teams in Kosovo and Chechnya. This expertise will be called upon in the near future, when the Council of Europe engages in supporting the authorities in new member states to consolidate the rule of law, the progress towards democratisation and respect for human rights. We are, obviously, thinking of Armenia and Azerbaijan, but also of the Federal Republic of Yugoslavia.

Massive and serious violations of human rights in hot spots in Europe need quick and concrete responses. The proposal put forth by the Secretary General in his report, namely the possible setting up of a "human rights task force" deserves our full attention. Such an idea must be seen as part of the logic of international developments. The proposition should be deeply and thoroughly analysed by taking into account the existing capacities of the Organisation and, on the other hand, the possibilities of co-operation with other international organisations sharing the same preoccupations with us.

Prevention is crucial especially in situations of serious and massive violations of human rights. The propositions made by the Italian Presidency and by the Secretary General, as well, should be studied as soon as possible in order to find ways for improving our action. Letting the Committee of Ministers express its view on this subject, we should envisage the possibility of giving more substance to the role of the Commissioner for Human Rights and of enlarging the area of his activity.

Romania has assumed its duties and has thoroughly responded to the call for voluntary contributions to financing the activities of the Council of Europe in Kosovo and Chechnya. Thus, my country has supported through its modest but full-hearted contribution the emplacement of Mr Kalamanov's office in Znamenskoie, with the most valuable participation of the experts provided by this Organisation and the observer mission for the local elections in Kosovo.

Romania is acting as a well-established member of the Council. After eight years of experiencing the activities of the Organisation, Romania is by now in the position not only to receive but also to provide assistance and expertise of its own, where it is required.

#### *Equality and non-discrimination*

We salute the opening for signature of Protocol No. 12 to the European Convention on Human Rights. To a particular extent, the new protocol is the missing link in the European system of protecting human rights. The document is not a guarantee per se for eradicating the phenomenon of discrimination and related intolerance which may easily threaten the stability of a society. Concrete steps are to be taken by national administrations with a view to following up and supporting the implementation of the measures implied by the signing of the protocol.

Romania has fully understood this necessity because it has been confronted with such a phenomenon. The recent law on prevention and sanctioning all forms of discrimination gives an extended base for applying the protocol in its spirit and letter as well.

#### *Human rights and civil society*

We emphasise the genuine and active partnership between the government and the civil society in Romania. Both have worked in drafting and implementing programmes in upholding democracy and the rule of law in our country. Professional NGOs have helped in consolidating democratic achievements but have also induced, through their activities, positive changes

throughout the region. The steady activity and contacts abroad of some Romanian non-governmental organisations, running along with and complementing the contacts maintained by the Romanian authorities with the democratic opposition in Yugoslavia, paved the way, along with the efforts of the entire international community, for the radical democratic changes in Belgrade.

Using the good offices of the local authorities, while the people from Romania were talking to their Yugoslav neighbours, we have built a bridge of confidence across the two sides of the Danube. Both Romanians and Serbs have learned to think in a spirit of co-operation on the way to democracy and to believe in a common prosperous European future. Along with others, Romania has brought its own contribution to the opening of the Federal Republic of Yugoslavia to the democratic world, a process in which the Council of Europe is called to play a major role. The Federal Republic of Yugoslavia's accession to the European Convention on Human Rights should offer the solid ground for membership in the Council of Europe and guarantee the irreversibility of the long awaited democratic changes in Belgrade.

## **RUSSIAN FEDERATION**

**Mr Yuri Chayka,  
Minister of Justice**

Two years ago, the whole of mankind celebrated the fiftieth anniversary of the Universal Declaration of Human Rights. Today the "Great Europe" has its own anniversary. Half a century ago here in Rome, the Convention for the Protection of Human Rights and Fundamental Freedoms was opened for signature and the states parties declared their resolution "to take first steps for the collective implementation of certain of the rights stated in the Universal Declaration".

Today, we can state our firm belief in the effectiveness and the authority of the Convention provided for by its controlling mechanism. The Convention is a living and constantly developing instrument. Additional protocols to the Convention have essentially extended the list of rights established by this document. It is hard to overestimate the influence that the Convention has had on the normative legal process and judicial practice of European and other states.

The last and the most important event aimed at further development and strengthening of the "Law of the Council of Europe" was the adoption of Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

The President of the Russian Federation, Vladimir Putin, has issued a decree and empowered me to sign this document in the course of my present visit to

Rome. We believe that the entry into force of Protocol No. 12 will strengthen the international protection of the most vulnerable groups of society, including persons belonging to minorities.

The European continent has not been bypassed by global challenges. All negative tendencies, such as aggressive separatism, inter-ethnic tensions, ever-increasing nationalism, linguistic and religious intolerance, xenophobia, anti-Semitism and political extremism undermine the democratic foundations of many European countries. They are inconsistent with the common commitment of Europe to promote and protect human rights without any distinction as to race, colour, national or ethnic origin, sex, language or religion. The European Conference against Racism "All different, all equal", which was recently held in Strasbourg, found inadmissible the practice of putting up new barriers or dividing the European continent by the so-called "Brussels Wall".

One should not minimise the threat that terrorism poses to Europe. Such a phenomenon denies basic human rights, democratic values and the rule of law, and threatens the sovereignty and well-being of states and peoples.

Thanks to our common efforts, human rights are recognised everywhere as a matter of legitimate concern to the international community. However, we will never be able to cope with the challenges of our time if the scrupulous work on comprehensive strengthening of the human rights culture is replaced by the policy of dictate and double standards. This is equally true with respect to the policy of isolation of states, which has never contributed to the establishment and consolidation of democracy.

It is common knowledge that primary responsibility for the promotion of human rights rests with states themselves, and the protection of human rights depends first and foremost on the effectiveness of national mechanisms. In his recent message to the federal assembly, the President of the Russian Federation, Vladimir Putin, stressed that "to be a strong state means to give due respect to human rights and fundamental freedoms".

The Russian Federation has made considerable efforts aimed at the improvement of its domestic legislation and practice in the field of human rights. The state Duma approved at first reading a draft law in which additional measures were envisaged to create alternatives to being taken into custody for those people who did not commit grave crimes. The ministry of justice has been creating a special inspection unit to supervise conditions in penitentiary institutions.

Relevant international bodies, including the Council of Europe institutions, should, for their part, assist countries in building national capacity in the field of human rights, by, for example, providing support to such important elements of civil society as non-governmental organisations and mass media. Russia remains interested in such co-operation. A recent positive example of such partnership was the Seminar on Democracy, Rule of Law and Human Rights, which was held under the auspices of the Council of Europe in Vladikavkaz in May this year.



The European Court of Human Rights is one of the most important elements among the human rights mechanisms of the Council of Europe. The Court has to solve many complicated questions arising from the reforming process.

We are convinced that the Council of Europe as a whole and its member states will cope with new challenges in the field of human rights, especially with those which have appeared as a result of the development of new technologies and threats to the environment.

The history of affirmation of the standards of the European Convention on Human Rights clearly shows what Europe can achieve through collective efforts, by developing co-operation based on mutual respect and responsibility.

## **SAN MARINO**

**Mr Gabriele Gatti,  
State Secretary for Foreign and Political Affairs**

I wish to thank the Italian authorities for holding this conference, which allows us to celebrate half a century of the Convention's existence and to reflect on the progress achieved so far and the future of Europe's efforts to safeguard fundamental individual rights.

The exceptional results obtained in this field over the past fifty years are clear to see and indisputable.

In particular, the Republic of San Marino upholds the emergence of a European death penalty-free area, since capital punishment is an unworthy instrument, incompatible with the fundamental values of the Council of Europe.

To that end, we consider it of vital importance that Protocol No. 6 be ratified and come into force in all the member states and in countries joining the Organisation in the future. I also wish to say forthwith that San Marino gives its full backing to the idea of a new protocol providing for abolition of the death penalty even in the event of war or imminent threat of war, so that all possibility of recourse to capital punishment is completely eliminated from our Continent.

As the Secretary General pointed out in his introductory report on the second sub-theme, "Respect for human rights is a *sine qua non* for the development of stable democratic societies in Europe as well as elsewhere". This brings to mind the fundamental concept of the indivisibility and universality of such rights and requires us to identify the most concrete, effective courses of action, since our declarations and the hopes we voice at this conference are susceptible to having an ever-growing influence in real terms, translating into effective protection for every individual victim of a violation.



It is therefore right to celebrate what has already been achieved, but there is no hiding the fact that much remains to be done and that we all have an equal responsibility for the future.

In this respect, while, on one hand, each member state enjoys the same rights within the Council of Europe, on the other hand, the statutory principle of equality imposes the same duties on each state in the struggle to make protection of individuals a lasting, global success.

Preventive action is another absolute priority, and must be strengthened through the work of the Committee for the Prevention of Torture (CPT), the European Commission against Racism and Intolerance (ECRI) and other existing bodies, but also by developing, as far as possible, the wide range of valuable instruments in the education and training sectors, which can have an impact both on young people and on the population as a whole, as well as on specific professional groups, such as members of the judiciary or police officers, who are particularly concerned with human rights issues, often on a daily basis.

Aware that it is only through precise rules that action can be taken and conduct promoted that will give prominence to full respect for human rights, I wish to conclude my intervention by stating the intention of the Government of the Republic of San Marino to sign, tomorrow, Protocol No. 12 (non-discrimination) to the European Convention on Human Rights.

By this act, the Republic of San Marino wishes to renew its commitment to ensuring that the standards of the Convention are, and will remain, an essential point of reference for a full and ever-widening protection of the rights and freedoms of each individual.

## **SLOVAK REPUBLIC**

**Mr Pál Csáky,  
Deputy Prime Minister for Human Rights, Minorities and Regional  
Development**

At the beginning of the twenty-first century, we are seeking principles upon which we can base our future lives. The twentieth century has presented both good and bad examples of human coexistence. The Convention for the Protection of Human Rights and Fundamental Freedoms is undoubtedly one of the most positive examples, and I am convinced that it should also form the future architecture of our common Europe.

Sometimes, apparently complex matters are very simple in reality. I come from the eastern part of central Europe, and I am a member of the Hungarian community in the Slovak Republic. I therefore well understand the problems of our region, and know the extent to which the reasoning of people in post-communist countries is distorted. Please allow me, by way of illustration, to read a short excerpt from an essay by Lajos Grendel, who is, in a European context, probably the most celebrated Hungarian writer living in Slovakia.

Grendel, in his essay entitled *The Ghosts of Central Europe*, writes about the Schmidt family, who live in the eastern Slovak city of Klošice, not far from the Ukrainian border:

“When in 1991 the last Soviet soldier departed the territory of Czechoslovakia, Old Man Schmidt, already considerably advanced in years, announced to the similarly aged Old Mother Schmidt: ‘The Russians have left!’ ‘And who has come in?’ – asked Old Mother Schmidt, who didn’t read the papers, and never watched the news on television. ‘Nobody has come in’ – Old Man Schmidt replied. ‘That’s impossible. I don’t believe it’ – declared Old Mother Schmidt categorically.”

Yes, I am speaking about the mentality of people, about the fact that, instead of the effects of power, principles should pervade these people’s hearts and minds. Freedom is unimaginable without a foundation of principles, and the Convention for the Protection of Human Rights and Fundamental Freedoms represents one of the most important pillars and principles.

The domestic legislature of the Slovak Republic, measures passed for its realisation, as well as international legal obligations currently in force, protect basic rights and freedoms equally – regardless of gender, race, skin colour, faith and religion, political and other beliefs, national or social origin, membership of national or ethnic groups, property, descent, or other status.

The Slovak Republic places significant emphasis on education and prevention in society, which is an effective tool for the dissemination of humane concepts and the idea of fundamental principles and family values, which, as a germ cell in society, creates the most favourable environment for education against racism, racial discrimination, xenophobia and intolerance.

The Slovak Republic is determined to continue in its respect for all the principles contained within the Convention and intends to constantly perfect an effective system for the protection of human rights, which will fulfil the most stringent criteria of a democratic state under the rule of law. Through the planned signing and ratification of Protocol No. 12, the Slovak Republic wishes above all to express its solidarity with the need for a permanent, society-wide updating of principles protecting human rights and individual freedom.

The Convention for the Protection of Human Rights and Fundamental Freedoms has become, and still is, one of the most significant human rights conventions of the Council of Europe. Its provisions contain all the attributes of a modern conception of human rights, founded on the existence of universal and incontrovertible rights and freedoms, interconnected with the arrangement of relations between the state and individuals, and between individuals themselves. The Slovak Republic has joined the common endeavour of European countries to assert human rights more effectively throughout the world, to protect humane qualities and to build democracy. We will also be guided by the fundamental message of the great challenges posed by the third millennium, applicable to all people and all eras – the universal principle of human coexistence: “do unto others as you would have them do unto you”.

## SLOVENIA

### **Mr Alojz Peterle, Minister for Foreign Affairs**

I sincerely feel it is a privilege to be here, in Rome, on the occasion of the fiftieth anniversary of the European Convention on Human Rights. One could hardly find a more appropriate place for the promulgation of the first major European legal document. We Europeans are heirs of the Roman civilisation, and of Roman law as one of its greatest achievements.

#### *Institutional and functional arrangements for the protection of human rights at national and European levels*

Fifty years ago, the European Convention on Human Rights was a unique international instrument in that it not only articulated the minimal standards of human rights, but especially in that it provided for an effective international mechanism to implement these standards – through the European Court of Human Rights. Over the past fifty years, the Convention system has been a great and growing success. However, with 800 million individuals – from Iberia to Siberia – under the Court's jurisdiction, and with the consequent progressive escalation of the number of applications to the Court, its effective functioning could be in peril.

To ensure the effective protection of human rights, certain further steps should be taken.

In view of the Council of Europe's goal to achieve greater unity between its members, the contracting states should invest more legislative effort into transposing the *acquis conventionnel* into the respective national legislations and into their judicial practices. This should be done through the re-trial of cases before national courts – on the basis of the binding nature of the European Court's decisions. Many contracting states have already done that. The Slovenian Criminal Procedure, for example, provides for the re-opening and re-examination of a criminal case on the basis of a judgment of the European Court.

However, under the growing weight of applications, the Court is being compelled to reconsider its functioning. On several occasions, the Court itself referred to the Convention as the constitutional instrument of the European public order.

An appropriate solution would be to introduce constitutional elements into the functioning of the Court. Clearly, what is at issue is the binding nature of the Court's judgments. Analogies should be drawn between the binding competences of the national constitutional courts, on the one hand, and the *erga omnes* effect of the European Court's judgments, on the other. In our opinion, this would be a great step forward.

Here, I would also like to emphasise the important role of the Committee of Ministers as an organ of collective responsibility with regard to the execution of the Court's judgments.

*Respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues*

Following its first and still most important legal document – the European Convention on Human Rights – the Council of Europe continued to develop an abundant corpus iuris, which at present consists of more than 170 international legal documents. In addition, it created many mechanisms for the protection of human rights. In this way, the Council of Europe is efficaciously contributing to the prevention of long-term conflicts as well as to democratic stability and cohesion in Europe.

The root causes of conflicts are economic, social, cultural and humanitarian problems. The Council of Europe has institutionalised many preventive mechanisms to eradicate poverty, to strengthen development co-operation and to ensure respect for human rights.

Another contribution of the Council of Europe is its continued readiness promptly to address issues at the heart of humanity – such as the protection of privacy, the protection of the environment, bioethics, the death penalty, poverty, xenophobia, racism, etc. In this respect, I would particularly like to stress the importance of the newly adopted Protocol No. 12, which introduces a general prohibition on discrimination to the European Convention, and the far-reaching conclusions and commitments adopted at the recently held European conference against racism.

In addition, the Council of Europe performs its useful function with regard to preventing the recurring conflicts. This is particularly important to the states of South-eastern Europe.

I should like to mention, in this respect, the joint activities of the Council of Europe and the Republic of Slovenia – within the Task Force on Human Rights and Minorities of the Stability Pact for South Eastern Europe. I would particularly like to refer to the Conference on National Minorities held in Portoroz in Slovenia in March this year.

In the year 2001, Slovenia will assume the chairmanship of the Stability Pact Working Table on Human Rights and Democratisation. I would like to use this opportunity to invite the Council of Europe to engage in further effective co-operation in South-eastern Europe, thus contributing to its democratic stability and to cohesion throughout the European continent.

**SPAIN**

**Mr Angel Acebes,  
Minister of Justice**

It is a great privilege for me to speak to you on behalf of the Government of Spain at this conference, organised here in Rome by the Council of Europe to mark the fiftieth anniversary of the European Convention on Human Rights.

Half a century ago, the Council of Europe was a newly established organisation with a much smaller membership, which, in this same city of Rome, signed the European Convention as a common code of human rights and public freedoms. Today, the Council of Europe encompasses virtually all the countries of Europe, and the significance of the Convention they bequeathed us is not only as undeniable as ever, but grows with each passing day.

Fifty years ago, the Convention and its system for the protection of human rights were just in the planning stages. Today, as we enter the twenty-first century, the Convention is an international reality, supplemented by a number of other instruments and systems which are also essential for the international protection of human rights.

In Spain, the Convention is part of our domestic law; but more than this, as a result of an explicit constitutional order, the way in which human rights are interpreted in the protection system set up by the Convention is binding on our courts. References to the Convention and the judgments of the European Court are frequently to be found in Spanish court decisions.

On this fiftieth anniversary, I feel a duty to congratulate and express my sincere gratitude to all those who have made it possible for us to come this far: those who in 1948, following the atrocities of a second war, had – or rather dreamed of – the idea of the European Convention on Human Rights and the European Court; those whose efforts made it possible for the dream to come true in 1950; and those who, following the Convention's entry into force in 1953, have done their utmost to uphold it and extend its scope through successive protocols. To those who are no longer with us go our congratulations and appreciation, in the certain knowledge that they shall never be forgotten. Our thanks go also to those with us today and all those working in this field, especially the judges at the European Court of Human Rights, who safeguard the Convention and its system.

It is essential to carry on with the daily work of defending and strengthening human rights. Only in this way shall we be able to create a common area of freedom in which the ideals of justice and liberty can really take shape.

We Europeans have a duty to ensure that all the existing instruments are effective and guarantee the co-ordinated protection of human rights. We must also ensure that this co-ordination extends to all countries and all citizens, as we must never forget that this is a universal ambition.

We must continue to step up international co-operation and collaboration against continuing violations of human rights and fundamental freedoms, such as terrorism that disregards the right to life, human dignity and freedom with its strategy of terror.

This task must always be one of our top priorities since, as was stated back in 1950 in the preamble to the Convention, human rights are “the foundation of justice and peace”.

## **SWEDEN**

### **Ms Britta Lejon, Minister for Democratic Issues and Public Administration**

One of the two main topics of this conference concerns the issue of human rights as a means to achieve stability for democracy and some of the key elements which will contribute to this. Among these elements, measures to promote awareness-raising and public discussion play an important part.

I would like to take this opportunity to focus on a particular aspect of reinforcing democracy, namely the right of public access to official information and its effects on democracy.

Democracy requires public participation in informed discussions on matters of common interest. It also demands that citizens have means of exercising control over the administration in order to promote efficiency and discourage corruption. It is therefore vital for a democracy to ensure transparency within the public administration and guarantee the right of public access to official information.

In my country and many others, there has been a clear link between democracy and access to official information for many years. This link is also evident when we study developments in the European states that have recently been in transition. Very early in their legislative processes, the issue of access to information is confronted and dealt with as part of the building of administrative structures that will serve democratic decision-making. Another recent example is the crisis in the EU Commission, which led to the resignation of the Santer Commission, and where it became clear that greater transparency in the Commission may have prevented much of what caused criticism.

Technical developments have led to faster and often better means of disseminating information from authorities to citizens. This is very positive. One should, however, remember that there are also risks associated with this, particularly with regard to protection of personal data. Openness does not mean that information cannot be protected when necessary. On the contrary, any advanced system of public access to official information must also afford detailed and precise protection of sensitive information.

I represent a country with long-standing traditions and very positive experience of openness in the field of public administration. It is therefore with great enthusiasm and anticipation that I follow the discussions within the Council of Europe on access to official information in the member states. I believe that the ongoing efforts to develop basic principles on public access will serve as an inspiration to states that plan or deal with legislative projects in this field, either in order to introduce new rules on access or – which is the case in Sweden – revise the existing system.

I very much welcome the progress towards greater openness within the structures of the Council of Europe. Now there is a presumption of openness both in intergovernmental co-operation and in the European Court of Human Rights.

It is my sincere hope that co-operation in this field will continue and serve to reinforce democracy – the strengthening and maintenance of which demand constant work.

Allow me now to conclude on a somewhat different note. It is with great distress that I have learned about the Court's very difficult situation lately. The European Court of Human Rights has had an outstanding record for human rights protection over the last decades. Its reputation goes far beyond Europe and it is viewed as an example in other parts of the world. While welcoming the efforts that the Court itself is making in order to rationalise its work, I wish to underline the need for further reform and more financial resources. It has been said many times that the Court is at risk of becoming a victim of its own success. We have to make sure that the risk does not become the reality.

## **SWITZERLAND**

**Ms Ruth Metzler-Arnold,  
Federal Councillor,  
Head of the Federal Department of Justice and Police**

### *The future of the European Convention on Human Rights*

The European Convention on Human Rights has become a permanent fixture in many of our legal systems. It has made a decisive contribution to strengthening and expanding constitutional government at European level and, to quote the late Court President, Rolv Ryssdal, the case-law of the former Commission and the Court has created a real public order of Europe's liberal democracies. The Court itself now recognises the Convention as a "constitutional instrument of European public order."

The huge increase in applications in recent years has raised serious questions about the continued success of the ECHR. We are all familiar with the figures that demonstrate the extent of the increase. President Wildhaber illustrated the alarming situation with a comparison of the Court's workload, which has increased 50% over the last seven years. If we are to be realistic, we must expect it to grow even further.

What is to be done? We all agree that the complexity of the problem means that there can be no easy solution. We must be prepared to listen to all proposals capable of remedying the situation, including long-term ones.

Steps that could be taken without having to change the legal basis of the supervisory machinery (in particular, the ECHR itself and the Rules of Court) include the provision of additional financial and human resources by the member states. Such additional resources could ease the Court's position a little in the short term, and the case for them is therefore a good one and deserves our support. However, we would be deluding ourselves if we hoped to solve altogether or even significantly reduce the workload problem with



additional resources, no matter what quantity they were provided in. In the long term, they would be no more than a drop in the ocean.

The Convention itself must not be excluded from efforts to find long-term solutions. This applies to its procedural provisions, but not only to them. We must now ask ourselves whether all applications of the kind previously examined in order to preserve minimum standards of European human rights protection can be allowed to continue to come to the Court. Not all judgments delivered in Strasbourg in the past really were important for the establishment of European public order.

Discussion of reform must be wide-ranging and it must be carried out quickly. Within the Council of Europe, the relevant committees have an overriding duty to draw up practical proposals. Consideration could also be given to setting up a select group of jurists, whose input would be based on their personal experience of the supervisory procedure. Reforms must also be discussed in appropriate fora within and among the member states.

More than ever before, the ECHR supervisory machinery requires properly established and essentially intact national legal systems if it is to continue functioning effectively. Along with many of my colleagues, I believe that our reform efforts should not be concerned exclusively or even mainly with the procedure before the Court. Rather, if a lasting solution is to be found, the member states must make sure that the Convention standards apply at domestic level, both in national legislation and national case-law and whether before proceedings in Strasbourg or after rulings from the Court, when it comes to taking appropriate action once violations have been found to have occurred.

The Committee of Ministers has the difficult task of monitoring the proper execution of the Court's judgments by the member states concerned. The way it performs this task determines the credibility of the Strasbourg supervisory procedure and will be vital to its future. The Council of Europe Parliamentary Assembly rightly attaches great importance to this point. We must ask ourselves whether the existing legal and practical framework within which the Committee of Ministers is operating is still up to such an important function.

Switzerland is willing and determined to make an active contribution to the discussions about the necessary reforms and to play its part in defending and strengthening human rights protection in Europe. Europe needs the European Court of Human Rights no less now than before.

#### ***"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"***

**Mr Alexander Dimitrov,  
Minister for Foreign Affairs**

At the outset, allow me to express my pleasure and honour for having this opportunity to attend this important conference. I would also like to congratulate and thank the Italian Government and the Council of Europe for the

excellent organisation that has facilitated the holding of this conference in the best possible conditions.

Although the issue of human rights and democratic stability and cohesion in Europe has been considered a resolved issue in Europe for quite some time, the beginning of the new millennium is, however, the right moment to reaffirm the fundamental character of the co-relation between human rights, democracy, economic development and welfare, peace and stability. The last ten years of dynamic transformation from one political system to another in the new European democracies and the turbulent conflicts that we have been facing have reminded us that, unfortunately, this issue is ever more topical. Unfortunately, this basic standard has still not become a widespread reality in Europe. Therefore, I consider that this conference is the appropriate forum to assess what has been achieved in the promotion and protection of human rights and fundamental freedoms and to reaffirm the international consensus that human dignity and human rights should be both a basic standard and an aim to be achieved by all peoples and nations.

This standard was the key inspiration for the creation of the Council of Europe, as well as for the cornerstone of the European international legal human rights protection – the European Convention on Human Rights. Today, marking its fiftieth anniversary, we can proudly underline that for more than a half a century the Convention, with its unique judicial control mechanism, has been playing the central role as the fundamental instrument of European public order upon which the democratic stability of the continent is based.

The inclusion of new democracies in the Council of Europe is of key importance for the establishment of democratic stability in the whole of Europe. We agree with the Secretary General that the enlargement of the Organisation should in no case lead to a lowering of our human rights standards. Furthermore, we consider that Council of Europe membership requires fulfilment not only of all the conditions envisaged in the Statute, but also substantial assistance in overcoming problems related to democratic development. All Council of Europe member states, old or new, should continuously, at the national and international level, work to promote further democracy: appropriate mechanisms should be sought for the effective prevention of disturbances of democratic stability and human rights violations, or for undertaking prompt actions where these occur. The challenge rests not only with governments, but also with civil society. In this regard, non-governmental organisations and their activities assume an ever-increasing and important role in awareness-raising about issues connected with promotion and respect for human rights.

Open conflicts and human rights violations are not alone in disturbing democratic stability. The growing problems of racism, discrimination and all forms of intolerance undermine the pillars of democracy and represent a great challenge for democratic stability in Europe. In this respect, we fully support the activities the Council of Europe has already undertaken to combat racism, discrimination and intolerance. I would especially like to stress here the positive influence of the European Commission against Racism and Intolerance,

whose working methods demonstrate the appropriate measures and actions states need to undertake at the national level in order to eliminate and prevent these negative phenomena.

We consider that the adoption of Protocol No. 12 to the European Convention on Human Rights is a genuine step forward in the protection of one of the fundamental human rights principles – the principle of equality and or non-discrimination. Therefore, it is with great pleasure that the Republic of Macedonia will sign Protocol No. 12 at this conference.

The Republic of Macedonia, by its Constitution, laws and the substantial reforms which are under way, is making substantial efforts to develop its structures in accordance with European standards and processes.

The Republic of Macedonia is strongly committed to developing democracy and to the permanent protection and promotion of human rights, as well as the rights of persons belonging to national minorities, this being one of the immanent indicators of the level of democratic development of states.

Protection of the rights of minorities is one of the fundamental strategic commitments and goals of my government. In this connection, I would like to underline that my country sets a positive example, in a region that has developed a system of protection of the rights of persons belonging to national minorities based on high international standards and practice. This is something that we equally expect from our neighbours, especially in light of the fact that single-nation states do not exist and cannot exist anywhere, especially not in the South-eastern Europe or the Balkans.

Another confirmation of our commitment is the adoption of the Law on Higher Education (in July this year), which provides for the possibility of higher education in the languages of national minorities.

The Republic of Macedonia was among the first twelve states to ratify the Framework Convention for the Protection of National Minorities. It is important that this convention has been signed or ratified by other states in the region of South-eastern Europe, expressing these states' commitment to respecting the rights of persons belonging to national minorities. We support such a development, convinced that it will contribute to the further promotion of good-neighbourly relations, as well as to the strengthening of democratic stability in the region of South-eastern Europe.

Finally, I would like to express our firm belief that the twenty-first century will be more successful in facing the challenges before it, and that it will bring democratic stability and cohesion to Europe with greater respect for the values we share and to which we are committed. I consider that the realisation of these commitments will depend on all of us together, but also on each individual state. I can assure you that the Republic of Macedonia will make its contribution and shall take its share of the responsibility, as it has always done, for the achievement of these common goals.

## **TURKEY**

### **Mr Rüstü Kazım Yücelen, Minister of State responsible for Human Rights**

The Council of Europe today, compared to fifty years ago, has expanded over a larger area, deepened its structures and strengthened its roots in all fields, thus achieving closer unity and solidarity among its members.

The European Convention on Human Rights has been the major instrument in the fulfilment of the main aim of the Council of Europe. The developments realised in the effective protection of human rights and the establishment of higher standards are the greatest achievements of the Council of Europe. This is also the main safeguard for peace, justice and democratic stability in the whole of Europe. Nevertheless, we still have a long way to go. On the road we have embarked upon, we need closer and greater co-operation.

The implementation of the European Convention on Human Rights has greatly evolved over the past fifty years. The nature of the threats to human rights, democracy and the rule of law has changed, and the sources of threats have become more diverse than ever.

The rise of scourges such as terrorism, racist violence, xenophobia and ethnic cleansing, even in the European area, is particularly worrying.

In this context, the human rights protection mechanisms, in addition to ensuring respect for individual human rights, now play a new role in order to cope with the challenges threatening the rule of law and democratic stability.

One should not disregard the fact that the states have to fulfil their main duties and responsibilities with regard to the implementation of Convention standards in an environment where they may be facing complex political, economic and legal problems both in national and international contexts, and even serious dangers threatening their societies.

As another consequence of these developments, preventive measures have acquired greater priority. Among preventive measures, human rights education in various fields and development of civil society organisations at national level, and effective co-operation against organised crime and terrorism at international level are of undeniable importance.

The standards of the European Convention on Human Rights and those developed within the system of human rights protection guide our efforts in Turkey. I am pleased to state that, in developing human rights institutions at national level under my responsibility, we made important progress within the framework of our ongoing comprehensive reform process. The draft legislation on the establishment of an ombudsman is expected to be approved soon in parliament. The drafting of comprehensive legislative amendments is pursued with further impetus in preparation for European Union membership. Various measures are taken to promote the activities of the non-governmental organisations. In the same vein, human rights training provided to our security forces is being reinforced. New structures will be adopted in order to facilitate

access to the standards of the European Court of Human Rights for our judges and our prosecutors.

Turkey deploys every effort in order to eliminate any shortcomings which could be found in its legal order. It is with this understanding that we evaluate and execute the judgments of the European Court of Human Rights.

The high authority of the European Court of Human Rights is an important safeguard for the progress of society. National human rights legislation and practices should be assessed on the basis of common norms, and in a comparative manner in a pan-European context. The credibility of the European Court of Human Rights, and of the human rights protection mechanisms in general, stems from and is strengthened by this authority.

I take this opportunity to emphasise the satisfaction we feel as a founding member of the Council of Europe in celebrating the fiftieth anniversary of the European Convention on Human Rights in an enlarged Europe.

## **UKRAINE**

**Mrs Suzanna Stanik,  
Minister of Justice**

The fiftieth anniversary of the European Convention on Human Rights is an appropriate opportunity to evaluate what we have achieved in the system of human rights protection in Europe. That is also a good occasion to point out problems and possible ways of their solution.

I would like to express my gratitude to the organisers of the conference for the warm welcome and a useful and very concentrated programme.

As already mentioned by the Secretary General, today we have an impressive constellation of machinery for the protection of human rights at European level. All these mechanisms are operating individually and at the same time all of them are components of a single whole.

For fifty years, the control mechanism of the Convention has provided the most developed and richest source of law in the human rights field. This mechanism is called to identify the compatibility of national law and its practice with its requirements.

In Ukraine, we attach great importance to work on ensuring conformity of national legislation with international norms and standards and, particularly, with the European Convention on Human Rights.

Having become a party to the European Convention on Human Rights, Ukraine implemented basic common standards in the field of human rights at national level. We introduced the human rights norms of the Convention into the constitution and other laws of Ukraine. Our law-drafting work is based on taking into account norms set out by the Convention.

As underlined by previous speakers, the most effective protection of human rights begins and ends at the national level. And the important role in that belongs to parliaments, executive authorities, the judiciary, ombudsmen and similar institutions as well as non-governmental organisations.

In the national human rights protection system, the judiciary occupies its own specific place. The need to improve the national judicial system is a subject of concern in many member states. This conference shows evidence of it.

Article 6 of the Convention provides for the right to a fair trial. In Ukraine, we attach paramount importance to the question of judicial system reform.

The Constitution of Ukraine established the main principles for a new judicial system. Ukrainian courts should be territorial and operate on the basis of specialisation. It is expected that courts of appeal should be established and the procedure of judicial supervision should be cancelled.

President of Ukraine, L. D. Kuchma, attaches great importance to this question. He leads the Council on Judicial System Reform composed of representatives of all branches of power in Ukraine.

We realise, and all too well, that the right to a fair trial is based on the principle of equality before the law, and the right to be heard by an impartial and independent judge. Human rights in this context should be ensured by a state and its national courts.

I would like to support the opinion of the Secretary General of the Council of Europe that the role of the Convention cannot be dissociated from the protection role of national authorities.

Confidence of citizens in their national courts and their high professional level will provide for protection of human rights and fundamental freedoms.

National judges must be made aware of the Convention provisions as interpreted in the case-law of the European Court of Human Rights.

In Ukraine, we attach paramount importance to the question of studying the case-law of the European Court of Human Rights as well as improving judges' qualifications.

The President of Ukraine established the Academy of Judges under the Ministry of Justice of Ukraine. One of the main goals of the academy is to study functional practices of the European Court. We badly need the decisions of the European Court in the national language for further publication and dissemination among our judges. We would be very grateful to you for mutual understanding on this question.

We also understand the importance of training law-enforcement bodies and civil servants in the Convention and its case-law. In this regard, we appreciate and expect assistance and co-operation programmes of the Council of Europe, in particular, in the field of human rights. We are convinced that such Council of Europe activity is one of the most important contributions to the promotion of genuine democracy based on human rights values in all member states.

One should not neglect the question of a further reform of the Convention system already mentioned by previous speakers. The need to rationalise the

work of the Convention organs under current conditions is obvious. We welcome the efforts of the Council of Europe in proposing different reform options. We are also convinced that all these proposals, which are the result of long-term comprehensive deliberations within the different bodies of the Council, should be studied in-depth.

We fully support the texts of the draft resolutions and the political declaration of the conference, which reflect the most important issues of human rights protection under contemporary conditions and of improvement of the European control mechanism.

Today's commemoration of the Convention is evidence that only by common efforts shall we ensure the human rights of our citizens and the existence of peace and justice within our societies .

## **UNITED KINGDOM**

### **Lord Bassam of Brighton, Parliamentary Under Secretary of State**

I wish to speak to Resolution I, section A, "Improving the implementation of the Convention in member states".

I am talking about what more we can do in our own jurisdictions to develop a culture of human rights. I mean a culture which goes beyond mere legal compliance, and which brings the Convention alive at every level of society.

Human rights are not something that comes to life in the *Quirinale* on 4 November 2000. They are not something that came to life in Rome in 1950, in New York in 1948, or in Strasbourg, Vienna or The Hague. However significant these places and dates may be in the international atlas of human rights, they are not where human rights come to life.

Eleanor Roosevelt was right.

Human rights come to life in a place which is much too small to be found on any atlas or map.

They come to life in the mind and heart of the individual human person.

Of course, I do not overlook the fundamental importance of law, domestic and international.

I am proud of the leading role played by my country in making the Convention happen in the first place.

And I am proud that my government has now found a way to give even greater effect to the Convention in our domestic law.

But the law is mainly about enforcing minimum standards and about what people can do when things go wrong.



As the draft resolution reminds us, we must also concern ourselves with what is needed to make things go right. With standards that are higher than bare legal compliance. We need to look at prevention as well as cure. Culture as well as compliance.

This is a real challenge for us today.

We are dealing not only with complex social and interpersonal factors such as history and community traditions. We are dealing with the attitudes of individuals. Their instincts. Their emotions.

How do we influence matters such as these? How do we build a culture of human rights? And how do we re-enforce the connection between rights and the responsibilities they entail?

In the short time available today, I want to offer three practical ideas, drawn from recent experience in my country.

First, I believe that there is scope to make more use of the Convention as a statement of fundamental values for the whole of society, relevant to every day life.

Of course, the Convention is about the vertical relationship between public authorities and the citizen. But where that public authority is a court, the court should act compatibly with the Convention whatever the kind of case it is dealing with – including private law matters.

Accordingly, the approach we are following in the United Kingdom is to place every court and tribunal under a duty to act compatibly with the Convention rights in every case that comes before them. And we have backed this up with a massive programme of judicial training – costing 2.5 million pounds – so that all judges fully understand how the Convention is to be woven into the texture of problem solving at all levels.

In this way, the Convention can make its presence felt in all cases, including those where the state is not party. And so people will come to understand that we have in the Convention a common moral language directly relevant to everyday questions and differences.

Second, where the relationship between public authorities and the citizen is involved, we must shift the focus away from litigation and remedies to stopping things going wrong in the first place.

That is why my country has put all public authorities under a statutory duty to act compatibly with the Convention rights, unless that is legally impossible. Again, we have backed that up with a massive programme of guidance and training.

Some of you probably know that the way in which we have incorporated the Convention preserves the sovereignty of our parliament. But you may not all know that we have required all ministers to screen new legislation for compatibility with the Convention and to tell parliament the result when it is introduced.

No one – least of all government ministers – should be allowed to overlook the implications of what they do for the Convention rights. Everyone must think in terms of the Convention rights and responsibilities before they act.

Finally, we need to try new and more imaginative approaches to the question of educating people about the convention and its values. Obviously, human rights and responsibilities cannot be an optional extra on the school curriculum. We are making it a legal obligation.

But we also need to engage the imaginations and enthusiasm of the young at the earliest possible stages. The young can teach the old about the true meaning of a human rights culture.

My country has just spent over one million pounds on advertising the Convention. Our main advert showed a poem written by an 11-year-old boy. The public response has been amazing – nearly 20 000 people have already rung a special number for a free copy of the Convention rights. And we received over 100 000 “hits” on our special website.

We must be ready to consider substantial investment in advertising, using the most modern techniques to get the widest possible appeal.

People who do not understand sometimes say that the Convention is old-fashioned – fifty years out of date. They are wrong for at least two reasons.

First, because as everyone here knows, the Convention is a living instrument and its values are timeless.

But second, because there is a sense in which Europe has yet to rise to the real challenge of the Convention.

If the challenge of the first fifty years has been to put in place a firm legal framework across Europe – especially for those countries which had to come out of the dark night of dictatorship – the challenge of the next fifty is to build a culture where the Convention has life in the heart and mind of every citizen.

## **Non-member states**

### ***HOLY SEE***

**H.E. Monsignor Julián Herranz,  
President of the Pontifical Council  
for the Interpretation of Legislative Texts**

The conference which the Council of Europe has rightly chosen to hold to mark the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms provides an opportunity both to look back over what has been accomplished and take note of an action programme turned towards the future.

First of all, it must be stressed, as reaffirmed by the draft declaration submitted to this conference, "that the Convention must continue to play a central role as a constitutional instrument of European public order on which the democratic stability of the Continent depends". This is a demanding statement which, if it is to be honoured, requires that all the Council of Europe member states and all the Organisation's bodies firmly believe that they are working to uphold the dignity of every human being.

Alas, it has to be recognised that this belief is not yet shared by all; this is why we find ourselves facing situations in which human dignity is flouted and, as a result, human rights are violated.

A fundamental point has been raised: if we are not convinced that humankind must be at the centre of and benefit from every social or political system, and never be considered as a means, then the imposing edifice whose role it is to defend human rights in Europe may well collapse.

The need for proper education in the values underlying human rights is becoming imperative and the Council of Europe should invest more in this task. A similar wish is expressed in the report presented by the Secretary General on sub-theme II of the conference.

More than ever, Europe needs a genuine anthropology, providing a solid foundation for the laudable efforts that have been made over fifty years to guarantee that human rights are given proper protection.

A dignity that belongs to every human being, every person at every stage of his or her life, from conception until natural death; a freedom linked with a sense of moral responsibility to avoid any individualistic or positivist excess which, in the end, would endanger the very rights whose protection is sought; practical solidarity expressing a sense of closeness to every victim of human rights violations, for an unbreakable bond unites all the members of the human family; a justice system that defends the indivisibility of human rights, as was so aptly pointed out in the report presented by the Secretary General on sub-theme I of the conference; equality without discrimination, but respectful of individual characteristics that require differentiated treatment; and a real universality, because human rights are a reflection of the universal moral law that is written in the heart of every person: these are the principles that should guide the implementation of human rights.

There is cause for encouragement in the fact that at present, these rights are increasingly perceived to be important in Europe. The Convention, whose fiftieth anniversary we are celebrating today, offers all the guarantees of a well-oiled machine. In this connection, it is essential to make a clear-sighted appraisal of the working arrangements of the European Court of Human Rights so that all the necessary measures can be taken to enable it to fulfil its role increasingly successfully.

My delegation hopes that this conference will lead to a new momentum in the defence and promotion of human rights in Europe, in the light of our Continent's cultural, humanist and religious heritage.

## **JAPAN**

**Mr Yohei Kono,  
Minister for Foreign Affairs**

The Government of Japan expresses its heartfelt congratulations on the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The European Convention on Human Rights is the first regional legal instrument for the protection of human rights, and it paved the way for the adoption of the International Covenant on Civil and Political Rights by the United Nations in 1966. In non-member countries of the Council of Europe, like Japan, the European Convention and the case-law of the European Court of Human Rights are useful reference materials for the interpretation of the UN covenant and for the definition of various human rights.

The effective implementation of the Convention with the legally binding judgments of the Court delivered on and respected by the contracting parties has made this instrument a model of the protection of human rights in the international community.

Japan considers that it is necessary for Asia to make further efforts to get common recognition of respect for human rights as a universal value. Japan, as an observer state of the Council of Europe which shares the fundamental values of human rights and principles of democracy, promotes regional dialogue for the better protection of human rights.

Japan, while learning from the experiences of Europe in this field, has co-sponsored with the Council of Europe various seminars for the better protection of human rights in Europe. Japan will continue to do so believing that the protection of human rights is essential for democracy and also for peace and prosperity of the world.

## **MEXICO**

**Ms Rosario Green,  
Minister for Foreign Affairs**

It is an honour for me to be here with you and to attend this ministerial conference, representing Mexico as permanent observer to the Council of Europe. It is an event of major significance for my country, because we share with the nations of this continent an ongoing interest in the strengthening, promotion and protection of human rights throughout the world. It is also an event of major significance, marking the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The codification of the protection of the rights and freedoms enshrined in the Convention provides us with an opportunity to confirm the universality and indivisibility of human rights, and the fact that they are an integral part of a

modern state governed by the rule of law. The European system stands out because of its innovative and pioneering character, and particularly the early setting up of the European Court of Human Rights.

For Mexico, the promotion and protection of human rights are also matters of vital concern, at both domestic and international levels. In recent years, we have taken various steps to extend and strengthen the legal framework, abolish impunity, combat violations and promote a culture of respect for all fundamental freedoms. At international level, we take an active part in negotiating and adopting initiatives in this field, we honour fully our international commitments and emphasise international co-operation in order to strengthen the universal human rights protection system. In addition to being a party to fifty-eight international human rights instruments, Mexico recently signed the optional protocols to the Convention on the Rights of the Child and the Statute of the International Criminal Court. It has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and acceded to the Convention relating to the Status of Refugees.

In addition, at regional level in conjunction with the countries of the American continent, we have been developing mechanisms and instruments to guarantee the protection of human rights in our hemisphere. In the same way as this conference is discussing various aspects of the future of human rights protection in Europe, we in America are working actively to perfect, strengthen and extend our inter-American human rights system. I am pleased to say that one year ago Mexico accepted the jurisdiction of the Inter-American Court of Human Rights, one of whose judges is Mexican, and my country takes an active part in matters relating to the American Convention on Human Rights.

Nevertheless, although reinforcement of our respective regional systems is so important, we need to apply the same endeavour, enthusiasm and conviction at universal level. In these changing, globalised and interdependent times, the human rights theme transcends borders and its effects have an impact on the international community as a whole.

With this in mind, I would like to mention one of the challenges which globalisation poses to human rights: what steps should we be taking to address the various humanitarian crises?

Mexico agrees that the international community must be concerned to promote and protect human rights. But if the international community is to take effective, and indeed forceful action to deal with urgent situations caused by massive and systematic violations of those rights, it is essential that it complies fully with the norms that we have laid down as a community, particularly within the UN, precisely in order to safeguard peaceful coexistence between peoples and nations. Accordingly, we believe that any amendments to the provisions of international law in force must be the result of democratic reflection leading to joint agreements based on the principle of the sovereign equality of all states. Only in this way will the international community's action to address such crises be effective and legitimate.

In conclusion, I would like to convey the Mexican Government's congratulations on the European Convention's fiftieth anniversary, and to reiterate

Mexico's commitment to building an ever safer world free of all threats to the peace, security and well-being of our citizens; in brief, a world in which there is no shortage of respect for the dignity of each and every woman and man.

## **ARMENIA**

**Mr Vartan Oskanian,  
Minister for Foreign Affairs**

Let me say that we are truly honoured to be present here at this meeting. As you know, Armenia is not a member of the Council of Europe, but we are hoping to become one soon. The Council of Ministers is expected to consider our application on 9 November, but we are happy to be here and to be part of this event before our membership.

Truly, this is a moment of rejoicing, congratulations, even self-congratulations. Because fifty years of the Council of Europe's activities in Europe have changed it a great deal. Today, Europe is a much better place, there is much more respect for human dignity, for human rights and there is widespread democracy. Of course, democracy, human rights, human dignity and freedom are not new ideas, they are certainly older than fifty years. But what is new is that we can pursue and advocate these values through appropriate institutional arrangements. Indeed, what the Council of Europe has done is to put in place the mechanisms and the institutions through which we can pursue these values.

As we celebrate this moment, during these two days, we indeed have been self-critical of both the Organisation and our own individual countries. We have taken a stake in the past, we have talked about our mistakes and shortcomings, and we have also looked to the road ahead, the challenges and opportunities. But let me add one more element for rejoicing for all of us. And that is the example of the countries that only recently gained their independence. Countries that were under a totally different regime, where there was no respect for human rights. Those legacies were much embedded in our societies, and now we fight to shed them off. Through the Council of Europe, we have been really successful in making the first very important steps. And that is something that the Council of Europe and all the member states should be proud of.

Indeed, in these past nine years Armenia and, I am sure, the rest of the former Soviet republics and eastern block countries have been blessed by the assistance, vision and contribution that the Council of Europe has made in changing our societies, in putting in place the mechanisms, helping us in institutionalising our societies. I believe we have been very successful. Today, Armenia is a totally different place from what it was ten years ago. And truly, we have not an end by itself for us, but it is the process that has been really beneficial. And as we look forward to our membership in the coming weeks, we are eager also to sign the European Convention on Human Rights, so that we make the processes that we have begun in the past ten years irreversible.

So that whoever comes to power next will be obliged and mandated by these provisions and values that we have embedded in our own societies and will embrace as values that we would like to see our societies build on.

Europe, as I said, is a different place today, but certainly, it is far from being perfect in terms of human rights and democracy. As Lord Russell-Johnston very articulately said in his statement, besides the most obvious violations of human rights on this Continent that we see everyday on our TV screens, there are a great many hidden violations, there are thousands of appeals and applications from individuals and institutions, whose rights are being violated everyday. Indeed, the system is not perfect yet, but we hope and believe that as we enter new phases in these processes, as we celebrate the fiftieth anniversary, we can all together make Europe a better place to live in.

## **AZERBAIJAN**

### **Mr Makhmud Mamed-Guliyev, Deputy Minister for Foreign Affairs**

I would like to extend my gratitude to the Government of Italy for inviting my government to participate in this conference. I pay tribute to the Italian authorities for the excellent organisation of this highly profiled event, which is dedicated to such an important issue as human rights. Every human being regardless of race, sex, nationality, religion and social status has the right to enjoy all human rights in a full and comprehensive manner. Moreover, we, as states and international organisations, have to work together to ensure realisation of this principle through legal instruments as well as different international and regional gatherings. I wish this conference every success in achieving its noble goals.

As the major pan-European organisation, the Council of Europe represents a unique aspiration of the people of Europe to live in peaceful existence by sharing common values and principles. This aspiration lays down a fundamental system of well-defined rules and principles among which the European Convention on Human Rights has a special place. We, as representatives of Azerbaijan, are very glad to celebrate the fiftieth anniversary of the Convention here in Rome together with the other members of our common European family.

For the last fifty years this Convention and its supervisory organs – the European Commission and Court of Human Rights – have proved their significance and importance in terms of ensuring the protection of human rights in the member states of the Council of Europe. We consider this document as one of the most mature and effective instruments in the world. Its provisions which must be met by all member states have, to some extent, universal importance, and could be applied successfully in the rest of the world. The significance of this Convention is not only in the highlighting of human rights issues and problems that have arisen in the member states, but also in showing how the relevant organs should address them. The European Convention on Human Rights is a very useful legal instrument in terms of responding to



the need of ensuring high-level human rights standards in the new member states of the Council of Europe and those countries that aspire to become full members of this Organisation in the near future.

Having regained its independence in October 1991, the Republic of Azerbaijan got actively involved in the pan-European integration process. Nowadays, Azerbaijan implements consistent reforms with a view to establishing the rule of law on the basis of common principles and norms in compliance with the provisions of the European Convention on Human Rights. Democratisation of society constitutes a long-term process, which is related to complexities brought about by the transitional period. Getting rid of the totalitarian regime of the former Soviet Union, we still are suffering from its legacy.

In this regard, the accession of Azerbaijan to European conventions, as well as other international legal instruments, is a strategic and a vital necessity. Our political priorities remain invariable. They stipulate even closer co-operation with international, as well as European, organisations having tremendous experience in the field of human rights protection.

Azerbaijan has acceded to all the major international instruments on human rights. The respective UN structures have already considered initial reports submitted by the Government of Azerbaijan on two International Covenants on Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

As a result of the implementation of European standards, Azerbaijan has already made significant progress in the field of political, socio-economic and cultural development. Political and economic ability have been considerably consolidated in the country. The constructive dialogue among different political forces, free activity of mass media and ongoing market reforms have become clear realities of today's Azerbaijan.

Remarkable progress in ensuring the rule of law, human rights protection and the building of democratic society has been achieved during the last four years since the application of the Republic of Azerbaijan for full membership of the Council of Europe. During the past period, Azerbaijan has acceded to fourteen conventions of the Council of Europe.

As you are aware, Azerbaijan was the first country in the region that abolished the death penalty in February 1998. The next important step towards democratic reform was the abolition of censorship in August 1998.

The Presidential Decree on Measures in the Field of Secure Human and Civil Rights and Fundamental Freedoms of 22 February 1998, and the state programme adopted by the Presidential Decree of 18 June 1998 provided for the creation of the institution of Commissioner on Human Rights (Ombudsman), and a working group has already been created to draft the law.

A number of steps aimed at bringing about judiciary-legal system compliance with international standards including the provisions of the European Convention on Human Rights, its protocols and other European instruments have been taken within the framework of judiciary-legal reform in Azerbaijan during the last years. A series of important codes, as well as dozens of new laws, that defined the status of courts, prosecutor's authorities, advocacy, police, judiciary and other law-enforcement agencies were passed. A goal-oriented fight against corruption, which poses a threat to any democratic society, is well under way. The President of the Republic of Azerbaijan promulgated strengthening of the fight against corruption by his decree this June. The decree instructed the government to elaborate drafts of relevant law and the state programme. An *ad hoc* group, which was set up for this purpose, has already started to fulfil its mission.

Major efforts are being made in the sphere of the reform of the penitentiary system aimed at bringing about correctional-labour legislation in accordance with the standards of the UN and the Council of Europe. The conditions of detention have been significantly improved, the range of rights of those detained has been remarkably enlarged, and the penitentiaries have been transferred under the supervision of the Ministry of Justice in accordance with the new legislation.

The Law on Bars provides for the right to a fair trial and the independence of the legal profession in compliance with Article 6 of the European Convention on Human Rights. In the meantime, this law has been submitted to the Directorate General on Legal Affairs for review.

The relevant articles of the Constitution of the Republic of Azerbaijan, the laws on the constitutional court, on the courts and judges, and the civil procedural and the criminal procedural codes have fixed the range of persons who have the right of inquiry to the constitutional courts and the procedure of application to the constitutional court.

The agreement between the Government of Azerbaijan and the International Committee of the Red Cross on the provision of fulfilment of authorities by the ICRC in the places of deprivation of freedom and free access to prisoners was signed in June 2000 upon the recommendation of the Council of Europe.

Appropriate measures related to the release of persons considered by human rights organisations as political prisoners are being taken in the country. I would like to underline that after the release of eighty-four people this June, the President of Azerbaijan has signed this year's fourth Pardon Decree, which stipulates the release of sixty-four people on 5 October 2000.

As you know, Azerbaijan is now preparing the parliamentary elections to be held on 5 November this year. The legal basis of these elections is laid out in the Constitution of the Republic of Azerbaijan, and newly passed laws and regulatory acts that are in full conformity with international standards. I would like to note the special role of expert assistance of international organisations, including the OSCE Office of Democratic Institutions and Human Rights, and the Commission for Democracy through Law (Venice Commission) of the Council of Europe, in the elaboration of election legislation. The absolute

majority of these recommendations have been taken into account and the Government of Azerbaijan is ready to continue the successful co-operation.

The Government of Azerbaijan is taking all necessary steps to conduct free and fair elections. All appropriate conditions will be ensured for the numerous invited observers. It is well known that the long-term OSCE observation mission is already operating in Azerbaijan. The representatives of the Council of Europe have also been invited to observe the elections.

As the esteemed audience is aware, Azerbaijan is experiencing a difficult period of its history. The sovereignty and territorial integrity of our country has been violated by neighbouring Armenia in a brutal manner. Some 20% of the country's territory is under occupation by Armenian troops, over 20 000 Azerbaijanis have been killed, over 50 000 injured, thousands of women, children and elderly taken hostage and one million Azerbaijan people have become refugees and internally displaced persons, enduring inhuman suffering. Not only have their customary rights been violated, but the very existence of these people is still being undermined due to these severe circumstances. When we speak about human rights, including freedom of speech, freedom of assembly and other rights and freedoms, we should not forget that the human being has to have the right to live and to live in dignity.

We appreciate the serious changes in the sphere of human rights which are taking place in Armenia at present. However, it is an obvious fact that to achieve progress in this regard will be impossible if Armenia continues to violate the human rights of one million Azerbaijani refugees and displaced persons. If we really want to build Europe under a single roof, we should not indifferently respond to the situation around refugees and IDPs in Azerbaijan. Azerbaijan stresses the urgent need for an adequate reaction by the international community aimed at the earliest elimination of the terrible consequences of this conflict.

The unresolved twelve-year armed conflict between Armenia and Azerbaijan harms not only Azerbaijan, but also impedes the establishment of stability in the entire Southern Caucasus region, as well as holds up the democratic development of our nations.

It is a well-known fact the United Nations Security Council passed four resolutions demanding the unconditional withdrawal of occupation forces from the territory of Azerbaijan in 1993. The OSCE has immediately been involved in the issue of settlement of this conflict since 1992. Regretfully, the resolutions and decisions have not been implemented so far.

A number of bilateral meetings between the President of Azerbaijan, Heydar Aliyev, and President Robert Kocharian of Armenia were held during the last two years. The last such meeting was organised in New York at the United Nations headquarters during the millennium summit held under the auspices of this organisation,

Azerbaijan reiterates its adherence to observe the cease-fire regime and to make all efforts to reach a peaceful solution of the conflict based on the norms

and principles of international law within the OSCE Minsk Group. I would like to express my thanks to the Council of Europe for their efforts to assist us in the settlement process.

As you know, Azerbaijan is on the eve of its accession to the Council of Europe and all efforts are being made by our country to become a member of the European family. We consider this process as the realisation of a long-held aspiration of the people of Azerbaijan, which is directly determined by its conscious choice in favour of ensuring European values and standards in Azerbaijan, which considers itself as an inalienable part of Europe.

We believe that the accession of Azerbaijan to the Council of Europe will not only have national and bilateral, but also regional importance. It will serve the democratisation process in the whole region by ensuring first of all the promotion of human rights. Azerbaijan is very much interested in the development of democracy in the neighbouring nations, which to our view should be a guarantee of regional security and stability.

We do not consider accession to the Council of Europe as an end in itself, but as start of a long-term partnership within the united Europe aimed at further improvement of the foundations of free democratic society laid out during the last years in our country.

Azerbaijan relies upon further assistance from the European institutions, especially the Council of Europe, in the development of democratic reforms in our country. On behalf of the Government of Azerbaijan, I would like to reaffirm our commitment to further co-operation with European partners in order to meet the high standards of modern European democracy based, above all, on the protection of basic human rights.

## **BOSNIA AND HERZEGOVINA**

**Mr Jadranko Prlić,  
Minister for Foreign Affairs**

The signing of the European Convention on Human Rights, of which we celebrate the fiftieth anniversary, is the vent of historical meaning which has marked this epoch by real and, what is most important, by successful supports, as well as by remarkable scope in the fight for human dignity and well-being of people and citizens. It joins a line of epoch-making steps forward such as the Magna Carta, the French Revolution and the Universal Declaration of Human Rights.

The Convention has released an enormous creative energy, encouraged and developed the qualities and abilities of the people of our Continent, and enabled and made peace, prosperity and progress in each field of interest. I think one does not exaggerate in saying that its adoption has also been

positively reflected in other parts of the world, encouraging and inspiring men and women to push back the borders of freedoms and rights, and to free themselves from the gloomy inheritance of bygone centuries, which had tied and humiliated all human beings.

In Bosnia and Herzegovina – although with a delay of a few decades — in the Convention for the Protection of Human Rights and Fundamental Freedoms, we see an effective means to better conditions. As is well known, I believe, to all of you, the Convention has been built into the Constitution of Bosnia and Herzegovina – it is an integral part. In what must be a unique situation, rights and freedoms included by this Convention are being directly applied in this non-member state of the Council of Europe.

In spite of the progress achieved in many fields, including, of course, human rights and basic freedoms, there is still a long way for us to catch up with the achievements of the more developed democracies of Europe. However, it is our aim and we will not give up. We are well aware, and the experience of most European countries proves it, that the assurance and respect of the highest level of human rights and freedoms are a prerequisite for the functioning of democratic societies and general progress.

Happy and prosperous society cannot be achieved while inequality, inferiority and discrimination occur on whatever grounds and in whichever field.

After all, we in Bosnia and Herzegovina have suffered the consequences of this over the decades and most drastically during and immediately after the bloody conflict through which we have recently passed. And, after five years of peace in Bosnia and Herzegovina, resistance to implementation of the Dayton Peace Accords still exists. In their everyday life, people still meet obstacles in the realisation of their rights and freedoms: they suffer discrimination on the grounds of religious belief, nationality, gender, age and other bases. Sometimes, they cannot realise their property rights, their right to work and their right to have a home.

However, politics and ideology, which have given birth to tragic consequences in my country and confronted people and citizens, even on the basis of nationality and religion, are losing the battle with the rise of democratic forces. Awareness of the dangers of inequality, inferiority and depriving people of their human rights and freedoms also exists among those who were manipulated by discord and inequality because they themselves have experience of being the victims of the project of evil and discord.

That is why I avail myself of this opportunity to convey to you and your governments our sincere gratitude for the support and help you have been providing us with for years.

The support, persistence and confidence which you have shown to forces which were fighting for human dignity and democratic values in Bosnia and Herzegovina during these years, and in spite of the frustrations you have often experienced, encouraged many among us, especially the citizens of my country. That, of course, obliges us to continue with even greater determination,

responsibility and enthusiasm, and to successfully carry out our activities in order to catch up with the standards of human rights and freedoms suitable for a European country.

## **FEDERAL REPUBLIC OF YUGOSLAVIA**

**Mr Vojin Dimitrijevic,**  
**Representative of the President of the Federal Republic**

Mr Chairman, thank you for the kind words your predecessor in the Chair, the Minister of Justice of Italy, has chosen for my country and for me personally.

It is with great pleasure that I convey to this important conference the greetings and the best wishes for success of the President of the Federal Republic of Yugoslavia, Mr Vojislav Kostunica.

You are probably aware that the new government of the Federal Republic of Yugoslavia will hopefully be sworn in only tomorrow. Nevertheless, the president could not wait for another opportunity for his country to be represented at a gathering under the auspices of the Council of Europe. The presence here of the delegation of the Federal Republic of Yugoslavia is a clear sign that Yugoslavia intends to become a member of the Council and a party to the European Convention on Human Rights as soon as possible. In Yugoslavia, we are fully aware that we have to accomplish much in the process – not only to harmonise Federal Republic of Yugoslavia legislation with the Convention and other international human rights instruments, but to do everything to re-establish and strengthen the social and political factors that ensure the real enjoyment of human rights for all citizens, irrespective of their ethnicity, creed, language, gender and other status: in other words, to create the culture of human rights. This task is not easy but I can assure you that it will be approached with utmost determination.

Finally, Yugoslavia believes that, together with its neighbours in South-east Europe, it can contribute, this time in a positive manner, to the debate on sub-theme II: namely, to demonstrate that there is no democracy without human rights and that democracy taken as the sheer will of the majority, democracy disregarding the interests and aspirations of minorities, national, religious, political and other, ends up in national and international calamity. Prevention of gross and systematic violations of human rights should in fact be one of the pre-eminent concerns of the Council of Europe.

Ladies and gentlemen, thank you again for your kind attention. Be certain that I shall transmit to the people and the Government of Yugoslavia the friendly and encouraging manifestations of support which our delegation observed at this meeting.

Thank you, Mr Chairman, and through you to the Italian Government, for their warm hospitality and the excellent organisation of the conference.



## Other guests

### **ORGANISATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE)**

**Mr Albert Rohan,  
Permanent Under Secretary of State of Austria**

With the adoption of the Charter for European Security last November, the heads of state of the OSCE reaffirmed the key aim of organisation, which is the promotion of democracy, human rights and strong and self-confident civil societies. The heads of state addressed the issue of security and stability through co-operation and stressed that the effective protection of human rights within each country has a direct bearing on international peace and security. The intrinsic link between peace and security and human rights has been recognised through the comprehensive security concept of the charter, comprising politico-military, economic and human security.

It is in this general framework and with the specific aim of improving the security of the individual that the Austrian Chair has assigned special importance to the human dimension of the OSCE. We have organised three supplementary human dimension meetings:

- one on the fight against torture, inhuman treatment or punishment, including the death penalty;
- the second was devoted to trafficking of human beings, in particular of women and girls;
- and a third on the protection and re-integration of refugees and internally displaced persons into their places of origin.

Children are among those most affected by armed conflict. We have, therefore, devoted the annual human dimension seminar to the topic “Children and armed conflict”. In this seminar, we succeeded, for the first time in human dimension events, to bring together two different dimensions: human rights and politico-military aspects.

The central aim of the Austrian Chair-in-Office is to contribute to the improvement of individual lives, *inter alia*, through its network of about twenty missions and other field operations. With this in mind, the Chair is vigilant to give equal attention to conflicts and potential risks to security irrespective of their geographical location:

- the OSCE remains strongly involved in peace-building in South-eastern Europe, in particular, through the fostering of democracy, rule of law and strengthening of civil society;
- we continue to attribute special attention to the so-called “frozen conflicts” in the Southern Caucasus and in Moldova as well as to conflict prevention in Central Asia;
- we are convinced that the OSCE can make a very positive contribution to the alleviation of the suffering of the civilian population in the Northern Caucasus as well as regarding dialogue with a view to bringing about peace and stability.



With regard to Chechnya, I would like to add that the Chair-in-Office is in close contact with the Russian Special Representative of Human Rights in Chechnya, Mr Kalamanov, as well as with the Council of Europe. The Office of Democratic Institutions and Human Rights of the OSCE lends its support to the Russian human rights office aiming at recording and processing human rights complaints. I would also like to mention that the Austrian Chair is giving financial support to the training of Mr Kalamanov's staff.

At their summit meeting in Istanbul last November, the heads of state of the OSCE re-enforced their commitment to ensure full respect for human rights in the OSCE region. By doing so, they did acknowledge that the OSCE has become a key factor in the field of human rights. In order to guarantee a dynamic human rights policy with efficient utilisation of experience, synergies and resources, international activities – be it at headquarters, at the conference table or in the field – have to be well co-ordinated. One of our objectives as current Chair-in-Office is therefore to ensure the efficient use of resources and know-how by further strengthening the co-operation with our partner organisations, such as the Council of Europe.

We are determined to continue our efforts.

## **EUROPEAN UNION**

**Mr Charles Josselin,  
Deputy Minister for Foreign Affairs of France**

I would like to begin by saying how pleased I am to be able to speak on behalf of the European Union at this conference to commemorate the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms, which was signed here in Rome on 4 November 1950.

The rights and freedoms guaranteed by the Convention indeed lie at the heart of the shared values of the fifteen member states which, in the Treaty on European Union, expressly committed themselves to respecting them. Making human rights a reality for all constitutes the basis of the European Union's activity in this area, particularly in the framework of its foreign and common security policies.

The European Union wishes to salute the remarkable work achieved by the Council of Europe to guarantee and promote human rights, not only by creating new standards but also, and above all, by setting up mechanisms to ensure that these rights are really respected.

In this connection, particular tribute should be paid to the European Court of Human Rights, which can be directly appealed to by any person claiming to be a victim of a violation of the Convention by a member state. From its first judgment almost forty years ago (on 14 November 1960) until today, the case-law which it has built up over the years has gradually become integrated into our domestic legal order and acts as a core of common reference.

However, as we all know, the system is in some respects a victim of its own success, and the functioning of the Court is currently threatened by a huge increase in the number of cases brought before it, to the extent that reforms will have to be undertaken in the near future to remedy the situation.

You can be sure that all the states of the European Union are willing to help ensure that the institution remains efficient and that, first of all at the national level, the rights and freedoms set out in the Convention are upheld.

I would like to take this opportunity to confirm the attachment of the fifteen member states to this instrument, which remains the benchmark in the Union for the protection of human rights. In this respect, the drafting of a European Charter of Fundamental Rights must not be seen as a threat to the Convention or to the Court which it instituted, but on the contrary as an additional stone in the construction of the building. As regards the European institutions, the charter widens the protection of fundamental rights, which are to a large extent guaranteed by the Convention. The time had come to give greater visibility to these rights guaranteed within the framework of the European Union. This has now been done, and I, for my part, am convinced that this new text will not weaken the global protection of human rights in Europe, but on the contrary will allow us to make them more accessible to all the citizens of the European Union.

The European Union and the Council of Europe share the same objectives of defending and protecting human rights. The topical questions raised during this conference are among the priorities of the fifteen member states in defining their human rights policy. The struggle against serious and massive violations of human rights, the abolition of the death penalty and the promotion of the principles of equality and non-discrimination are common priorities.

The European Union and the Council of Europe already co-operate in these areas, in particular through joint assistance programmes for central and eastern European countries. Likewise, the contribution of the European Union states to the world conference against racism, which took place within the framework of the Council of Europe, clearly showed the complementary roles which these two regional organisations can play in the defence of human rights.

I call for the strengthening of this co-operation in the years to come.

## **Closing statement**

**Mr Lamberto Dini,  
Minister for Foreign Affairs of Italy**

The discussions at this conference have confirmed the vitality and topicality of the action taken by the Council of Europe, which does not intend to rest on its laurels, but rather seeks to work tirelessly to promote the protection of human dignity and a democratic, free and fair society.

We have discussed in depth all the items on the conference's agenda: improvement of the institutional framework for the protection of human rights at both the European and national levels; reassertion of human rights as an inalienable factor for democratic stability and cohesion in our Continent; and, lastly, the need to guarantee the effectiveness of the work of the European Court of Human Rights.

We have reasserted the need to put Council of Europe resources and instruments to the best possible use so as to offer an effective response to serious, mass violations of the inalienable rights of individuals. This requires close co-operation with other institutions competent in this field, in particular the United Nations, the OSCE and the European Union. We should also remember that the Council of Europe recently enriched its operational capabilities with the creation of a new office, that of the Commissioner for Human Rights, who in a short space of time has already shown great initiative and become a real presence in the hot spots of our Continent.

We have taken this opportunity to review the issues which will, in all probability, become the focus of our concerns and activities in coming years. I am referring to the campaign to eradicate the death penalty, the fight against racism, xenophobia and anti-Semitism, and measures to promote and disseminate the culture of human rights in civil society, where particular attention will have to be paid to the key role played by schools and the education system.

Fifty years after the opening for signature of the European Convention on Human Rights, we can look to the future in full awareness of the role of the Council of Europe, whose action already constitutes an essential, indispensable element of our ethical, judicial and political heritage and a solid foundation for ever-closer union between the members of the European family.

We commit ourselves today to defend and preserve this heritage.

It is with these thoughts in mind that I invite all the representatives of the states participating in this conference to agree to adopt its texts: the first resolution on institutional and functional arrangements for the protection of human rights at national and European levels, the second resolution on respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues and, lastly, the political declaration.



## **Statements made at the commemorative ceremony on the occasion of the 50th anniversary of the European Convention on Human Rights**

**Mr Lamberto Dini,  
Minister for Foreign Affairs of Italy**

We are here today not only to celebrate the fiftieth anniversary of the signature of the European Convention on Human Rights, but also to commemorate the road travelled by European civilisation over the past fifty years.

The decision taken at that time was a happy, far-sighted intuition, and its wisdom has been demonstrated.

In a Europe divided and devastated by the tragedy of the second world war, we unhesitatingly chose the camp of freedom and democracy, the camp of rights. We decided to codify these rights, and recognise their inviolability and indivisibility, in a convention which also established judicial organs to sanction any violation of them.

The Convention enshrines rights and values which we nowadays regard as unrenounceable and inalienable. However, in the Europe of 1950 they were not, and nor are they even today in too many countries. I have in mind the right to life, the right to freedom of thought, religion and expression, the right to a fair trial, to education and to free elections, these last two enshrined in the first additional protocol of 1952. These are values and rights that now form part of our civilisation's ethical and judicial heritage.

The date of 4 November 1950 also marked a new awareness that fundamental human rights are universal and that serious violations of those rights do just as serious damage to world peace. The horrors of the mass exterminations were in everyone's mind, a reminder of the validity of this principle.

In sum, this was an attempt not to undermine state sovereignty but to give it a nobler substance. I believe that we must be guided by the same vision today as we seek to develop the Strasbourg system in order to preserve its efficiency and capacity to respond appropriately to the increasingly difficult challenges of our times.

The story of the Council of Europe's action to promote the protection of human rights, in which the Convention naturally has a central role, is a dynamic one.

At the Congress of Europe, held in The Hague in May 1948, there was a hope that a "European Assembly" would rapidly draw up a charter of human rights and establish a court of justice accessible by all European citizens.

That was an era of congresses, an era abounding in ideas and initiatives.

At The Hague, a declaration, known as the "Message to Europeans", was adopted, which, with extraordinary foresight, set the course which European history was to follow.

Fifty-two years ago, this declaration asserted, and I quote, "Alone, no one of our countries can solve the economic problems of today" and continued, "Human dignity is Europe's finest achievement, freedom her true strength. Both are at stake in our struggle. The union of our Continent is now needed not only for the salvation of the liberties we have won, but also for the extension of their benefits to all mankind."

This is the Europe to which we aspire, an area of shared, inviolable rights, free from oppression and the death penalty, an area of tolerance and understanding, where our diversity can be a factor of enrichment, not division.

I believe we can feel legitimate satisfaction at the path travelled so far. We, nevertheless, have many reasons for concern about the future.

Without stopping halfway through the journey on which we have embarked, we must, with the same degree of commitment, continue our efforts to preserve the heritage of the Council of Europe and to enrich and strengthen it in preparation for the new challenges that lie ahead. We must keep a high profile, so as to ensure that our action for the defence of fundamental rights is always underpinned by a strong moral pressure.

Strasbourg is not only the prestigious seat of an international organisation; it is also our rampart against the aberrations of history, a solemn warning that destruction and death can no longer prevail on this Continent.

Phenomena such as globalisation and migration sometimes provoke negative reactions in some sections of the community, which it is our duty to forestall and censure.

In my opening address to the ministerial conference yesterday, I referred to the role we are called to play in combating racism, xenophobia and trafficking in women and children. Let us never tire of firmly denouncing and condemning such odious, aberrant behaviour. Those guilty of it exile themselves to the margins of civil society. Any hint of understanding or indulgence on our part would constitute a dangerous departure from the ideals that inspire and guide us.

One of the many consequences of the end of Europe's division into two opposing blocs was that it drove the governments and populations of states emerging from the long tunnel of dictatorship closer to those organisations – from the oldest to the most recent – that represent the values of freedom and democracy: the European Union, the Council of Europe, the Central European Initiative, Nato, the OSCE, all of which have experienced a thrust towards an enlargement which is in some cases already well in hand and in others – I am thinking of the European Union – now in the pipeline.

However, this is not an enlargement without conditions.

In fact, in all the organisations I have mentioned recognising and upholding human rights have been, and are, a fundamental membership requirement.

This criterion is certainly not fortuitous, but a universal, objective benchmark for gauging the genuinely democratic nature of political systems and societies. As Tacitus said, it is a rare happiness to think what one wants and to say what one thinks.

I find it significant that the ministerial conference, which closed today, should have taken place only a few weeks before the European Council in Nice, which, on 7 and 8 December next, will solemnly proclaim the Charter of Fundamental Rights of the European Union.

This Charter, the content of which is largely based on the European Convention of 1950, will help to guarantee the protection and visibility of the rights enshrined in the convention itself throughout the European Union. It will therefore be necessary to harmonise whatever is adopted in Nice and the Council of Europe's action and development plans, so as to define a common path to be followed.

Fifty years ago in Rome, the signing of the Convention was the first, fundamental step of a journey on which there was no turning back. Since then, civil society has matured, consciences and the passage of generations have carved pages in the history of Europe in the name of freedom and the defence of rights and dignity of all people.

Nonetheless, Europe will only be able to call itself really complete, at least from the standpoint of the comparability of its member states' legal systems, when the death penalty no longer exists under the national law of any country in Europe. This is also what the right to life means.

**Lord Russell-Johnston,  
President of the Parliamentary Assembly of the Council of Europe**

Very many words have already been poured forth to commemorate the fiftieth anniversary of the European Convention on Human Rights.

By now, it is well nigh impossible to say anything different or new.

One thing, however, stands out.

This is a joyful day for democracy!

This is a day of achievement!

In our stumbling path to create, throughout our Continent, stable, tolerant, peaceful, pluralist societies, after the consuming destruction of the second world war, we have not found the way easy. We have been slow; we have nurtured selfish pride – foreign offices are full of it – and we have witnessed outright failure, as in the Balkans and Chechnya.



But that we are able, half a century after the establishment of the Convention, and the construction of the Court to oversee its implementation, to celebrate, not just its fiftieth birthday, but its success, is a triumph!! We salute those of vision to whose inspiration we owe this. It was appropriate that the European Union was represented by France today when one remembers the remarkable work of René Cassin or Robert Schuman.

And the thought must resound in our minds that if this can be done, what other things lie waiting? Sometimes in politics one grows weary, one yields to pessimism. One wonders if the hopes of one's youth can ever be realised. The candle gutters.

The European Convention on Human Rights was a victory of moral over realpolitik. Not as an exercise in self-righteousness, but as a recognition, born of bitter experience, that the pragmatic tolerance of oppression and injustice is not only ethically wrong, but also the certain way to make worse an already bad situation.

A moment ago, as the coffee cups clattered, I read again the words of the Rapporteur on the Convention, Pierre-Henri Teitgen, to the Parliamentary Assembly: "evil progresses cunningly – one by one, freedoms are suppressed – it is necessary to intervene before it is too late – a conscience must exist somewhere which will sound the alarm – an international Court, within the Council of Europe, and a system of supervision and guarantees could be the conscience of which we all have need". That was on 7 September 1949.

Today, the Court, in implementing the Convention, has accumulated a remarkable body, not only of jurisprudence, but also of institutional and human expertise.

But age also has certain drawbacks and one senses a feeling of, what I can only call, "the anticipation of exhaustion", as the relentless growth of new applications continues, but remains unmatched by resources. Luckily, conventions and courts do not have to submit to the same physical laws of irreversible wear, which makes a human life such an ephemeral experience. What is old can be rejuvenated, and adapted to deal with fresh new situations in a way which senior citizens, like my good self, can only dream about!

It can be done.

So long, that is, as there is a will.

A political will.

It is the lack of will more than anything else which can be blamed for the shortcomings for which the Convention is at times criticised: namely, that the scope of the rights protected is outdated – and the European Union drafting of a charter of fundamental rights has again thrown this into sharp relief – or that its procedures are too slow.

Paradoxically, it is the responsible parties, the member states' governments themselves that, often, are first to cast a stone, rather than directing their energies towards ensuring the additional political and financial support needed.

By now, we surely know that justice is not something upon which to save pennies. It never comes cheap, but its absence costs far more.

I said at the beginning that at this stage in this important commemorative conference, so splendidly organised and presented by our Italian friends, it is impossible to avoid repetition.

But some things, even at times apparently obvious things, need to be repeated and repeated and repeated!

So I repeat the three basic demands – and I use that word, very consciously, rather than the politer “requests” because these things are necessary – the three basic demands the Parliamentary Assembly makes of its member States:

- firstly, to provide the Court with sufficient resources to deal with the growing burden of new applications. This may require a budget separate from the Council of Europe as a whole, as was said by a number of people yesterday;
- secondly, to undertake measures which will confirm and reinforce the Convention’s role as a principal reference, and the Court’s supremacy as an arbitrator in all human rights questions in Europe. This should include negotiating new protocols which adapt the Convention to new challenges – the tidemark of human rights entitlements is slowly, happily, rising!
- thirdly, to respect, and to ensure respect for Court judgments unconditionally, without delay, and by all.

As I said at the beginning, we pay tribute to those whose resolve bequeathed us the Convention and the Court and, in so doing, took a great stride forward for European civilisation.

I conclude by saluting those who give the Convention life today.

The President of the Court, my friend Luzius Wildhaber, presides over the most prestigious group of judges in Europe, if not the world. That is something intense and difficult and heavy.

But he is doing it so well, with that calm, firm kindness, which is his hallmark. And which we want to be the colour of our justice. They are all giving their skill and their judgment, in a way we admire.

I wish to thank them, to assure them of the support they have from the Parliamentary Assembly and to pledge that we will work to strengthen the safeguards of which they are the guardians.

**Mr Walter Schwimmer,  
Secrétaire Général du Conseil de l’Europe**

Fifty years ago today, Europe gave itself a Bill of Rights, signed here in Rome by the twelve states that made up the Council of Europe at the time.

This was an historic and unprecedented step. Two years earlier, the United Nations had adopted the Universal Declaration of Human Rights, which was to

become the direct source of inspiration for the drafting of the European Convention. But the document signed here in Rome was the first text by which sovereign states agreed to be legally bound to secure to everyone within their jurisdiction a whole range of human rights and fundamental freedoms. Moreover, they agreed to set up a supranational control system in order to ensure the observance of their obligations.

Why did these European countries embark on such a daring enterprise? One does not have to look much further back in history. The second world war and the dark days of nazi atrocities had made it clear to everyone that one cannot rely totally on national constitutions alone to safeguard human rights. A collective guarantee was needed.

Perhaps no one has expressed this more eloquently than Pierre-Henri Teitgen, one of the great driving forces behind the creation of the Convention system. When he addressed the Consultative Assembly in September 1949 to argue the case for setting up a supranational system of human rights protection, he said (I quote):

“Many of our colleagues have pointed out that our countries are democratic and are deeply impregnated with a sense of freedom; they believe in morality and in natural law... Why is it necessary to build such a system?

[...] Democracies do not become nazi countries in one day. Evil progresses cunningly, with a minority operating, as it were, to remove the levers of control. One by one, freedoms are suppressed, in one sphere after another. Public opinion and the entire national conscience are asphyxiated. And then, when everything is in order, the ‘Führer’ is installed and the evolution continues even to the oven of the crematorium.

It is necessary to intervene before it is too late. A conscience must exist somewhere which will sound the alarm to the minds of a nation menaced by this progressive corruption, to warn them of the peril and to show them that they are progressing down a long road which leads far, sometimes even to Buchenwald or to Dachau. An international Court, within the Council of Europe, and a system of supervision and guarantees could be the conscience of which we all have need ...”

It is therefore fitting, on this solemn occasion, to pay tribute first of all to the wisdom and vision of all those, whether in the European Movement, the Consultative Assembly or in the governments, who contributed to the creation of this unique system of human rights protection. In 1950, few would have expected that the pioneering work of the drafters of the Convention would lead, fifty years later, to where we are today. The Convention is now in force in forty-one countries – not counting the special position given to the Convention in Bosnia and Herzegovina under the Dayton Agreement. It constitutes an essential bill of rights for 800 million people in Europe. Well over a thousand judgments on the merits have been delivered by the old Court and the new Court together. Every week, hundreds of individuals from all parts of the Continent turn their hopes to the Strasbourg Court.

But figures are only one side of the story. In fifty years’ time, the Convention has grown, thanks to the development of the case-law of the former Commission and the Court, and of the new Court since November 1998, into what has aptly been described as a constitutional instrument of European public order. The standards of the Convention permeate the legal systems of our member states to an extent and with an authority its founding fathers had

never dreamed of. This is the result of the incredible richness of the Strasbourg case-law which has given concrete content to the rights and freedoms and which today forms part and parcel of the Convention *acquis*. Every week, national courts in Europe apply the standards of the Convention as interpreted by the European Court of Human Rights. Innumerable are the changes of national law and practice which the Convention has brought about. I must therefore also pay tribute to the outstanding work of the former Commission, the former Court and the new Court. It is not an exaggeration to say that the law of the Convention is the common law of Europe in the field of human rights and fundamental freedoms.

I believe it is necessary to make one point very clear on the occasion of this anniversary: the Convention may have reached the age of fifty, but it is very much alive and kicking. The Court's own judicial – and perhaps more judicious – expression is that the Convention is a living instrument. This is largely the result of the evolutive case-law through which the continuing relevance of the Convention in today's world is ensured. However, let us not forget that several important protocols guaranteeing additional rights have been added to the Convention in the past decades, including Protocol No. 6 on the abolition of the death penalty. In a few hours' time, Protocol No. 12 on non-discrimination will be signed by many member states. I regard this protocol as a landmark achievement of the Council of Europe, and every signature is a clear demonstration of the political will of the government concerned to combat racism and intolerance by all possible means. The same is true in respect of other kinds of discrimination. I hope and trust that the protocol will soon obtain the number of ratifications necessary for its entry into force. But standard-setting does not stop here. Proposals for new additional protocols have been launched, including on the abolition of the death penalty in time of war.

While we rightly celebrate this fiftieth anniversary, we should not close our eyes to the many challenges that lie ahead for the Convention. The ministerial conference which came to a close this morning has allowed us to discuss them and to indicate pointers for the future. I will just mention three crucial issues: the future functioning of the system of individual applications given the tremendous workload of the Court; the need for increased vigilance of the Committee of Ministers in supervising the execution of judgments; and, finally, the place of the Convention in the wider European architecture, especially the question of accession by the European Union, as proposed by Finland.

The European Convention on Human Rights is a legacy which its founding fathers have given to Europe. This legacy is now in the hands of our generation. However, it is not – in the words of Protocol No. 1 – a “possession” that can be “peacefully enjoyed”. We cannot be complacent as long as human rights continue to be violated. The full realisation of human rights and fundamental freedoms requires constant attention and efforts. The same is true for the proper functioning of the control system of the Convention.

This is not only the responsibility of the European Court of Human Rights. It is first and foremost the responsibility of the governments and the parliaments of our member states, the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe and all others who, as

national judges, as non-governmental organisations or in any other capacity, have a role to play in ensuring that the Convention rights are respected and protected across the Continent. I call on all of them to exercise this responsibility to the full. The Convention exists as a collective guarantee of the individual rights of the 800 million people living in our countries. We must all do our utmost to ensure that our populations can be confident that the Convention is in good hands, now and in the future.

**Mr Luzius Wildhaber,  
President of the European Court of Human Rights**

May I first of all congratulate and thank the Italian Government for their hospitality and for having organised this ceremony, together with the Council of Europe. I should also like to express the satisfaction of the Court at the tenor of the resolution just adopted by the ministers with its recognition of the difficulties facing the Court and of the need for urgent measures. We look forward to further dialogue with the Ministers' Deputies in the Liaison Committee and such expert groups as may and should be appointed to examine the various solutions, which must cater for the short, medium and long term. We are gratified by the consistent and wholehearted support shown by the government delegations in their contributions to the conference.

Our first thoughts today are for the extraordinary achievement represented by the instrument whose fiftieth anniversary we are celebrating. Fifty years ago, few of those involved in the signing ceremony in the Palazzo Barberini can have foreseen the full impact of their actions. The breakthrough in international law and indeed in the conduct of human affairs that was concretised that day was born of the vision of a small group of far-sighted, idealistic lawyers and politicians, led by Pierre-Henri Teitgen and David Maxwell-Fyfe, the rapporteurs in the Parliamentary Assembly. Following up on the work of Eleanor Roosevelt and René Cassin on the Universal Declaration and determined to prevent the recurrence of the devastation of war and the attendant horrendous crimes, they argued that the best way to achieve that end was to guarantee respect for democracy and the rule of law at national level. They realised that only by the collective enforcement of fundamental rights, requiring states to surrender what was at the time an unprecedented degree of sovereignty, was it possible to secure the common minimum standards that form the basis of democratic society. For the first time, individuals could challenge the actions of governments before an international mechanism under a procedure leading to a binding judicial decision. The fact that we take this for granted today is a measure of the progress that has been accomplished since the beginning of the twentieth century.

Impervious and imperious sovereignty has yielded to a culture of international accountability of states and indeed individuals. From a worldwide perspective, this process is far from complete. Other regional human rights protection systems, and I take the opportunity to greet the representatives of our sister Court, the Inter-American Court of Human Rights, not having had the advantage of a homogeneous core of democratic states at the outset, are at an earlier stage of development. The United Nations procedure is optional and lacks

teeth. The Statute of the International Criminal Court has not yet entered into force. The matrix of this movement is the Universal Declaration of Human Rights. But its fullest and most successful realisation is our Convention, the European Convention on Human Rights.

Two years ago, the Convention system underwent a major reform. The original institutions, the European Court and the Commission of Human Rights, were replaced by a single Court functioning on a full-time basis. The optional elements of the earlier system, the right to individual petition and the acceptance of the Court's jurisdiction, were eliminated, as was the Committee of Ministers' adjudicative role. The Convention process, directly accessible to individuals, had become fully judicial in character in accordance with the first intentions of the drafters. In our celebration today, we must not forget the immense contribution to the Convention's success of the two initial bodies, the Commission from 1954 (and here may I salute the presence of the former president, Stefan Trechsel) and the Court from 1959. Slowly but surely, they built up the confidence of the governments, the legal professions and the citizens.

Through their pioneering case-law, the Convention was given life. Their purposive, autonomous and, at times, creative interpretation of the Convention enhanced the rights protected to ensure that they had practical effect. Just to take one example, the right of access to a court, a right that lies at the heart of the Convention and a key element of the rule of law, was not expressly mentioned in the due process provision, Article 6, paragraph 1. The Court's observation was of beautiful simplicity. "The fair, public and expeditious characteristics of judicial proceedings are of no value at all if there are no judicial proceedings" (Golder 1975, paragraph 35). To this the Court later added that the right of access "would be illusory if a contracting state's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party" (Hornsby, 1997, paragraph 40).

The Court and Commission established the principle that the Convention is to be interpreted as a living instrument, to be construed in the light of present-day conditions. The Convention terms have consequently not remained frozen in the meaning that might have been attributed to them in 1950. The Convention retains its direct relevance fifty years on.

I therefore pay tribute to the work of the present Court's predecessors in both original institutions. They left us an extensive and rich case-law, woven into and inextricable from the very terms of the Convention. I am pleased to be able to report that those high standards have been maintained. There has been no weakening of the protection offered; on the contrary, in some important areas, the new Court has taken positive steps to clarify and strengthen the Convention's reach. But we also inherited a considerable case-load and a situation in that respect which was rapidly deteriorating, a 40% increase in 1999, over 20% this year. We had to learn to run before we could walk and, I say with some pride in the achievement of my colleagues, we did learn to run, but, rather like the Chaplin film *Modern Times*, we are running on an accelerating conveyor belt and we have to run faster all the time just to keep on the same spot.



So we must also use this anniversary to look forward. In doing so, we must keep in mind the ambition and breadth of the original vision, the vision of a Europe-wide common system of protection of human rights. This vision has, I believe, been reinforced by the recent adoption of the draft European Union Charter of Fundamental Rights, which has confirmed the place of the Convention as a permanent and important feature of the European constitutional landscape. The charter discussions have established a consensus that in Europe there can be only one set of common minimum standards whether within or outside the Union. We must be vigilant in ensuring that that consensus is preserved. I reiterate my call that the European Union should take this process to its logical conclusion by themselves acceding to the Convention, under modalities and procedures to be agreed.

Ladies and gentlemen, the authority of an international court such the Strasbourg Court rests essentially on two elements: its independence and its effectiveness. It is therefore by protecting these two aspects that we preserve the future of the system.

As to independence, apart from obviously unresolved questions of the administrative status of the Court within the Council of Europe, this issue has up to now not given too much cause for concern. We should, however, remain vigilant, and this is particularly important in relation to procedures for the election of judges. Put crudely, sitting judges must not be under the impression that their reselection as a candidate will depend on their voting record. I am confident that the informal consultation process carried out by the Committee of Ministers and the controls exercised by the Parliamentary Assembly will ensure that the selection of candidates, a fortiori where the candidate is a sitting judge, is determined solely on the basis of experience, particularly judicial experience and ability.

On effectiveness, a whole range of measures is being, and will need to be, contemplated. Faced with a steadily rising case-load, the Court will continue to refine its practices and procedures within the limits of the Convention terms. This needs to be accompanied by efforts on the part of the contracting states to strengthen human rights protection at national level and particularly to set in place the appropriate procedures within their domestic systems. They must continue to execute judgments in good faith and must be encouraged to implement the Court's case-law in general and to make it accessible to their national courts.

In the immediate future, however, the Court will need more resources, essentially with a view to recruiting case-processing lawyers and maintaining an effective level of information technology. In plain language, if the Court is to have a realistic chance of keeping up with case-load volumes, its budget will have to be increased by about 3.8 million euros or around 3 million dollars. That is not an enormous amount, although in the context of the current budgetary climate within the Council of Europe it would require a derogation from the zero-growth orthodoxy. Let me be entirely clear about this. The Court will make every effort to increase its efficiency, in so far as that does not impinge on the quality of its main judicial work. The Court is ready to explore every avenue that does not affect the substance of the Convention guarantee,



but a pan-European system of human rights protection which has raised legitimate expectations among the 800 million citizens within its jurisdiction requires adequate funds. The case-load will continue to rise, the opening for signature of Protocol No. 12, which we welcome, will also increase the Court's workload. If you want this system to work, you, the governments, are going to have to draw the inevitable conclusions. We are reassured to see that yesterday's conference called for urgent measures.

Finally, reform in the longer term is, in my personal view, an option, if not a necessity. The Court has not come to Rome with concrete proposals and it will, in any case, seek to achieve the maximum within the existing terms. But the process of reflection must start now. I can say on behalf of the Court that we do not support the idea of regional human rights tribunals. A system of requests for preliminary rulings submitted by national courts would be conceivable only if it was accompanied by a drastic reduction in the number of individual complaints. Yet, the Court considers that individual applications must remain the backbone of our system. Personally speaking I have no doubt that the Court will need the introduction of an element of discretion so that it can give judgments without undue delay and can concentrate on priority cases and issues. Again, let me urge that the Court be consulted and involved at every stage of the reform process.

It cannot be said that fifty years ago the Convention immediately ushered in a new era. But it was a turning point; a seed was sown and it has grown, flourished and spread, even beyond the frontiers of Europe. There is no going back to days of absolute impunity for states that abuse human rights. Let us make this anniversary celebration an occasion for reaffirming our determination to progress further.

We have heard some beautiful words over the last two days; beautiful words are of course some comfort, and we are indeed grateful for them, but they must be translated into concrete action after this conference if you want our system to continue to work. In this connection, I would remind you that the final budgetary discussions within the Council of Europe are imminent: you have the opportunity there and then to give us the means we need to carry out our task properly. Do not let it go by. We also need action on reform, so do not delay in appointing a small group of experts, to work in close co-operation with the Court, to come up with realistic proposals which will guarantee effectiveness without depriving the Convention of its fundamental character as a pan-European instrument for the protection of the rights which must and will underpin all our societies.

**Ms Nuala Mole,  
Director of the Aire Centre**

Since I was asked to Chair the NGO forum, which was held here in February in preparation for this meeting, I have today been given the opportunity to add a few words at the end of our discussions on behalf of the NGOs.

We too have made our contribution to the protection of human rights in Europe in the past fifty years in many ways – monitoring and reporting human rights abuses, campaigning for reforms, challenging violations by the states, litigating on behalf of victims. In many member states, particularly the new ones, it is often only the lawyers who work for NGOs who have the willingness or expertise, or sometimes courage, to litigate against the state when violations of the Convention are identified.

We have had the opportunity to read the draft resolutions and to hear the contributions from the Secretary General, the Court, the member states and the Parliamentary Assembly – all of whom are our partners in the common task we have of protecting human rights in Europe.

I say partners because it is only by all of us working together that we will be effective in achieving this.

In many countries, NGOs contribute to the task by working on the ground at national – and even more importantly at local level – to ensure that the Convention's standards are complied with by every local authority in every district court, every village police station and every local prison, and by bringing the attention of central government to any shortcomings.

Our NGO partners – partners in CEEC and the former Soviet Union – tell us how their governments and societies often feel that the Council of Europe has imposed standards on them – as the price of membership – standards which they and the members of their administration and the public might not otherwise have been ready to accept and that this has made the task of ensuring that they are implemented in practice more difficult.

If you – the governments – are prepared to act on the commitments to ensure respect for human rights, which you have expressed yesterday and today, then your task is to ensure that you assume the ownership of these standards in each member state of the Council of Europe.

We feel that one small step you could take would be to ensure a wide dissemination at national level of both the sentiments that each of you has expressed here at this meeting and the text of the resolutions (not to mention, the text of the Convention, which our Dutch friend pointed out to us yesterday took some time to be disseminated in western Europe).

So please, on this fiftieth anniversary, send an expression of commitment to the Convention to every local authority, every district court, every police authority in your country so that – in the actual places where the violation of human rights most frequently occur – they know that compliance with the Convention has full official approval and is expected by the highest level of government, and that violations of the Convention even at the lowest level are completely unacceptable.

Like the other speakers, the NGOs welcome the Secretary General's statement and share the concerns which he and others have expressed about massive violations of human rights which have been occurring in our region in the past decade. They are occurring within the Council of Europe states and a Council of Europe response is required.

We emphasise the necessity of using all the mechanisms at the disposal of the Council of Europe to put an end to them, but most importantly to prevent them occurring in the first place. This is the task of the Committee of Ministers, of the Parliamentary Assembly, of the office of the Commissioner for Human Rights but above all of the Committee for the Prevention of Torture, which has assumed a unique and vital role in identifying and reporting on situations which make it clear that human rights are in grave danger in many states. The torture committee relies heavily on the information supplied to it by NGOs and we, for our part, will continue to offer them all the support we can. But both the other Council of Europe organs, the member states and most importantly the Court, must make sure that they give the committee the vital support that it needs. The committee has always emphasised the importance of early automatic access to an independent lawyer as being central to protect detained persons from ill-treatment as well as the necessity of ensuring the independence and integrity of all medical professionals involved in the criminal justice system. In many member states, these important guarantees are not yet ensured and the risk of violations of the rights of detainees – particularly for those who belong to marginalised groups – remains acute.

It was Pierre-Henri Teitgen – the father of the European Convention on Human Rights – who pointed out fifty years ago that free countries do not go bad overnight. Nor do undemocratic countries adopt the rule of law overnight.

Our concerns are that the Convention should remain – and in some cases become – an instrument whose mechanisms will continue to strengthen the rule of law and the protection of human rights for which it has achieved justified worldwide acclaim.

We have heard a lot about the overburdening of the Court, with which we have the fullest sympathy. We – who can claim to speak for the victims of violations – have an even greater interest than you, the governments and institutions, in ensuring that it continues to function effectively.

Several speakers have suggested that the Court should solve this problem by only adjudicating on the most serious and important cases. No one has suggested what should happen to the others: the Court must not allow the way in which it manages its own success to undermine its whole *raison d'être*.

When each state represented in this room ratified the Convention and Protocol No. 11, you guaranteed to everyone within your jurisdiction that you would secure each of the rights and freedoms of the Convention; that you would provide an effective remedy for violations – and that if someone claimed that you failed to do this you would submit to the compulsory jurisdiction of a court where you would be held accountable for your failures, and that you would comply with any award of just satisfaction that the Court might make.

If you now fail to carry out your undertaking to secure the rights at national level – and many cases go to Strasbourg as a result – it is quite unacceptable that you should seek to avoid your responsibilities to the victims of your violations by restricting the categories of cases that go to the Court to those considered important or major. Curiously, states often mean by this the violations committed by other member states – not them.

Every violation of the European Convention on Human Rights is important, partly because of what it has done to the individual victim but also because most so-called minor violations of human rights are a sign of a fault in the system which permits them to occur. Exposing them exposes cracks in your national systems which you must repair. Our NGO colleagues from the Belgrade Centre for Human Rights kept alive the flame of the protection of human rights when the state had tried to extinguish it. Their presence here today as the envoys of a new Yugoslavia gives us all such pleasure and hope. They emphatically agree with us that it is the myriad so-called minor infractions which create a culture in which it is impossible for human rights protection to flourish. It is also a culture which permits the escalation of large-scale violations.

So, if we are honest about reducing the burden on the Court, whilst affirming our commitment to human rights, we must look for and find mechanisms which will go some way towards achieving that aim without diminishing the protection which every individual has been promised. We have discussed this very real problem at some length with many people.

The admissibility criteria are already very strict. When the Convention was adopted fifty years ago, the test of “manifestly ill-founded” was introduced to exclude cases which clearly fell outside the jurisdiction of the Convention organs. That decision is now taken at the stage of communicating a case to the respondent government.

“Manifestly ill-founded” is no longer in reality a test of admissibility but a negative decision on the merits. No stricter filtering test can be imposed without undermining the guaranteed protection of the Court.

We have four positive suggestions to put to you.

- firstly, an expedited procedure should be adopted for all cases which are excludable for what are – usually simple – technical reasons: failure to meet the six-month limit, violation occurred before ratification, complaints about matters not covered by the Convention, etc;
- secondly, a simplified system for declaring a case manifestly well founded. This would involve a procedure for a rapid finding of a violation and award of just satisfaction. This would extend the practice developed by the old Commission and now by the Court in all the hundreds of Italian undue length of proceedings cases. It would apply that approach to other manifestly well-founded cases from other jurisdictions and relating to other rights. Every week, the Court is required to consider cases which are practically identical to ones where the Court has already found violations.

These cases should be disposed of by the same kind of rapid simplified system which we are suggesting for the technically inadmissible, and states should be severely criticised for permitting repeat violations to occur in this way. If they are unable or unwilling to prevent the violations continuing and the cases keep coming to the Court, they must be speedily settled as soon as they are communicated. The financial resources of the Court are seriously and unnecessarily depleted by adjudicating on repetitions of the same or similar violations – and the governments’ contributions to the costs of the institutions

do not reflect the unnecessary increase they make to the workload. We welcome the French Government's solution to the Hakkar case but consider it essential that all states must adopt mechanisms which will ensure that the judgments of the Court are not only implemented in the case in question but also reflected in immediate effective changes in law and practice.

– thirdly, more use should be made of general measures. In this context, we recommend that the new draft rules of procedure should be adopted. For example, the absence of any provision for civil legal aid or prompt access to lawyers for the detained in several jurisdictions means that many cases which could and should be resolved nationally, now burden the Court unnecessarily;

– fourthly, the Court must adopt a more robust attitude to governments in the application of the Convention standards if it wants to ensure that good practice is encouraged by a strong supportive jurisprudence; a finding of a violation in Strasbourg is a more effective incentive to ensure the protection of Convention rights than any amount of rhetoric.

Finally, whilst we have repeatedly emphasised that we would give priority to the effective protection of the rights we already have rather than to adding more rights, which run the risk of being theoretical and illusory rather than practical and effective, we, nevertheless, warmly welcome the adoption of Protocol No. 12. However, we regret that Part C of Resolution II omits discrimination based on disability, age or sexual orientation.

On behalf of the NGOs who participated in the February meeting, may I pledge our continued commitment to assisting all of you to fulfil your obligations under the Convention to secure the protection of human rights in Europe in the coming fifty years.

### **Mrs Mary Robinson, United Nations High Commissioner for Human Rights**

It is a pleasure for me to participate in this event to mark the fiftieth anniversary of the signature of the Convention for the Protection of Human Rights and Fundamental Freedoms. The struggle to champion and defend human rights is long and hard with many setbacks along the way. Therefore, landmarks on the road to greater respect for human rights should be recognised. Today's event certainly qualifies under that heading.

The European Convention has been a success story. Big strides have been made in developing effective mechanisms to protect human rights in Europe. But we should temper any rejoicing by bearing in mind how far we are from truly realising all human rights for all. Two years ago, at the ceremonies for the fiftieth anniversary of the Universal Declaration of Human Rights, I said that it was an occasion to mark rather than to celebrate. I feel the same way about the European Convention on Human Rights.

Being from Ireland, I take special pride in the role played in the early days of the Council of Europe and the drawing up of the Convention by my compatriot Sean MacBride. As President of the Council of Europe's Committee of

Ministers from 1949 to 1950, Sean MacBride was present at and involved in the negotiations which produced the European Convention on Human Rights. We should pay particular tribute today to such visionary figures as Robert Schuman and René Cassin who worked so hard for this result. And here in Rome, I would like to mention those great fighters for human rights Carlo Sforza and Paolo Barile.

The impulse to conclude the European Convention was the same as that which motivated the drafters of the Universal Declaration of Human Rights: to devise a set of principles and rules which would protect the rights of every individual. It formed part of a resolve in Europe to learn lessons from the terrible conflicts that disfigured the Continent in the first half of the twentieth century and to embed a culture of democracy and respect for the dignity of the individual. As the preamble makes clear, the European Convention was deeply influenced by the Universal Declaration.

The value and durability of the European Convention on Human Rights have been proved by the number of states which have incorporated its provisions into their domestic law over the past fifty years. The basic articles have been supplemented by a series of protocols, providing for further rights, modifying the procedures of the Commission and Court, and covering such vital areas as the death penalty. As the introductory report of the Secretary General puts it, "The Convention has acquired such an established and fundamental place in the European legal order that it has appropriately been described as a constitutional instrument of European public order".

The Convention and Court have also played a key role in increasing human rights awareness and in the promotion and protection of human rights in new and aspiring member states of the Council of Europe. I believe that this influence will continue to be felt in the greatly expanded Council, and it will be important to deepen further the human rights friendly environment in which the Court exercises jurisdiction, and to stress the importance of adhering to and implementing its judgments.

Three features of the Convention are particularly noteworthy: firstly, the requirement on states wishing to join the Council of Europe to uphold the European Convention on Human Rights. Secondly, the Convention's effective control machinery, which allows individuals claiming that their rights have been violated to appeal to a supranational court. This sets the Convention apart from many international human rights treaties. A third significant aspect is the power of the Court to hear inter-state complaints.

The obligation on governments to observe the rights enshrined in the Convention has been a powerful instrument in setting standards and shaping societies in the member states. The effects may in many cases have been less visible in that governments have been deterred from infringing rights covered by the Convention, and conflicts have only become public in instances such as derogation or the threat of suspension. But the impact of the Convention on the evolution of European legislation and society must be regarded as very significant.

The decisions of the Court on individual cases have resulted in a substantive jurisprudence steadily built up over the past fifty years. Many landmark



judgments have been made – on torture, on the treatment of prisoners, criminal laws against homosexuality, freedom of the press, corporal punishment, the rights of the mentally ill and the equal status of children in families, to mention just some examples.

I recall when I was practising as a young lawyer the impact which Strasbourg rulings had on the legal system in Ireland. Ireland was one of the first signatories of the Convention and the first to give permanent and unconditional right of petition. The possibility of taking a case on an important issue of law to the Commission and Court was a most valuable option. The Court represented the outer limit of the legal possibilities, and I can personally attest to the impact it had on Irish jurisprudence.

Today, I see the Convention and the Court from a different perspective. As United Nations High Commissioner for Human Rights, I feel some concern about the future of these institutions, representing as they do what are probably the most effective human rights enforcement mechanisms in existence. The Council of Europe has changed radically from ten member states to the current membership of forty-one. Its remit has expanded to a total population of some 800 million people. The demands being placed on the Court have risen sharply. I understand that the number of individual petitions pending before the Court at the admissibility stage was 2 000 a decade ago, whereas today the number is 15 000.

Like all institutions concerned with protecting human rights, the Court must have the resources to do the job. I think I can speak with authority on the need to have adequate resources to defend human rights! Member states of the Council of Europe should ensure that the Court is given all the resources it needs to carry out its vital work.

It is appropriate that today's ceremony coincides with a further step on the normative front: the opening for signature of Protocol No. 12, which provides for a general prohibition of discrimination. The new protocol extends the remit of Article 14 of the European Convention on Human Rights to prohibit discrimination on any ground by a public authority. I believe that this will strengthen the Court's hand in combating discrimination.

This protocol has particular relevance in that the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance are now well under way. As Secretary General of the conference, which will be held in Durban, South Africa, from 31 August to 7 September next, I see in this event a unique opportunity to re-vitalise the struggle against racism and xenophobia in Europe, and in every part of the world.

The first of a series of regional conferences to prepare for the world conference was organised in Strasbourg last month with the efficiency which has come to be expected of the Council of Europe. I said then that the Council of Europe had a good record in that it has overseen the holding of major conferences on racism in Europe in Vienna in 1993 and in Strasbourg in 1997. The European Youth Campaign against Racism and the European Year against Racism have engaged public attention on issues of discrimination and intolerance, while the reports of the European Commission against Racism and Intolerance permit countries to measure progress and set targets.



But racism and prejudice persist in Europe as elsewhere. I see it as vital that we use the occasion of next year's world conference to devise effective strategies against racism. The more I see of gross human rights violations in the world, the more I am convinced that racism and xenophobia are often root causes of such violations and of many conflict situations. I call on all present, and particularly government representatives, to engage actively in the preparations for the world conference so that we can together produce a ringing declaration against racism and a focused platform of action with a mechanism for review.

Today is a day to salute the far-sightedness of those who founded the Council of Europe and drew up the European Convention on Human Rights. The best tribute we can pay to their vision is to carry the work forward and do our utmost to ensure that the Convention continues to be a strong force for the protection of human rights throughout Europe.

## **Statements made during other events linked to the conference/commemoration**

### **Opening for signature of Protocol No. 12 to the European Convention on Human Rights**

*Campidoglio, 4 November 2000*

**Mr Walter Schwimmer,  
Secretary General of the Council of Europe**

It is a great pleasure and honour for me to open Protocol No. 12 to the European Convention on Human Rights for signature. It is highly significant that this opening for signature takes place in Rome, where the original Convention was signed exactly fifty years ago, on 4 November 1950.

Over the last fifty years, the Convention has remained a living instrument which has constantly been adapted and improved, both by the case-law of the Strasbourg Court and by additional protocols which have added new rights to the Convention.

Protocol No. 12 must be welcomed as a decisive and timely further step, introducing a general prohibition of discrimination which will complement the existing Article 14 of the Convention. The limitations of Article 14 have been pointed out by many in the past: the Parliamentary Assembly and non-governmental organisations, but also the Steering Committee for Equality between Women and Men and the European Commission against Racism and Intolerance.

The protocol is the result of the combined efforts of our member states. I am particularly grateful to the Italian presidency of the Council of Europe which has done its utmost to ensure the adoption of this protocol in time for it to be opened in Rome on the occasion of the fiftieth anniversary of the Convention. Fifty years later, the City of Rome provides us again with a magnificent setting for this ceremony, the Campidoglio inspired by the genius of Michelangelo.

In this festive atmosphere, we should not forget that the opening for signature takes place at a time of worrying political developments. The continued occurrence of racism, racial discrimination, xenophobia, anti-Semitism and related intolerance was on the minds of the ministers of our member states when they

gathered in Strasbourg from 11 to 13 October last for the European conference against racism. In their political declaration they called for decisive action and recognised the key role of the Council of Europe in combating these phenomena.

In today's Europe, the fight against racism and intolerance is an urgent necessity. Signing the protocol and thereby reinforcing the European Convention on Human Rights shows the political commitment of our member states to do so. But the protocol is not only an important legal tool for combating racism and intolerance, it will also help furthering equality between women and men and eradicating other forms of discrimination.

Twenty-five states will sign the protocol today. I hope and trust that those that have not yet been ready to do so today will follow in the near future.

**Mr Lamberto Dini,  
Minister for Foreign Affairs of Italy**

Above all, I wish to thank the mayor of Rome, in my own name and on behalf of all my fellow ministers responsible for human rights, for having made it possible to hold this ceremony of the formal opening for signature of Protocol No. 12 to the European Convention on Human Rights here at the Capitol.

The protocol is of particular importance to the life and the peaceful development of our societies, since it concerns an extremely topical subject, with far-reaching ethical and civil implications, that of the prohibition of all forms of discrimination.

In signing this protocol, we are showing a clear political will reflecting deep-rooted convictions. We are engaged in a struggle for progress and are striving to rid society of a legacy of outdated ideas, ingrained prejudices and irrational phobias that have often raised barriers and led to human exclusion as a result of discrimination on the basis of sex, race, colour, language, religion, political opinion, national or social origin, membership of a national minority, wealth and birth.

This ceremony is taking place very shortly after the end of the European Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Strasbourg at the beginning of October. That conference showed the vitality and modernity of the Council of Europe, ever concerned to take on board crucial new issues arising from social, political, economic and cultural trends in European society. It is only through this concern that the Organisation is able to tackle, and place in the proper perspective, the problems and obstacles that still arise today, in breach of the rules of harmonious co-existence for our peoples and the masses of migrants that have flooded into Europe in recent years and of mutual respect.

None the less, dialogue between cultures cannot be managed in an abstract, academic manner. It entails real contacts and exchanges between individuals and peoples. It is with the very aim of ensuring that these contacts and

exchanges do not deteriorate into tensions and conflicts that the international community is required to accomplish huge efforts of understanding and to manage the situation so that migration does not take place in disorder and confusion, which would ultimately cost human beings most dearly.

By signing this protocol, we are reasserting our faith in respect for human dignity and for the culture and traditions of others, against the broader, more universal background of enhancement of individual freedoms and inalienable human rights.

## **Other events**

### **Statement by His Holiness, John Paul II**

*The Vatican, 3 November 2000*

I am pleased to welcome you today on the occasion of the ministerial conference being held under the Presidency of Italy to commemorate the fiftieth anniversary of the signing in Rome on 4 November 1950 of the European Convention on Human Rights. I greet the Secretary General of the Council of Europe, Mr Walter Schwimmer, the President of the Parliamentary Assembly, Lord Russell-Johnston, and its Secretary General, Mr Bruno Haller.

After the second world war, the Council of Europe adopted a new political vision and embodied a new juridical order, enshrining the principle that respect for human rights transcends national sovereignty and cannot be subordinated to political aims or compromised by national interests. In doing so, the Council helped to lay the foundation for the moral recovery needed after the ravages of the war, and the European Convention on Human Rights proved a vital element of that process.

The Convention was a truly historic document, and it remains a unique legal instrument, seeking to proclaim and safeguard the fundamental rights of every citizen of the signatory states. It was a concrete and creative response to the Universal Declaration of Human Rights, which, in 1948, had emerged from the tragic experience of the war and was deeply rooted in the twofold conviction of the centrality of the human person and the unity of the human family. As such, the Convention represented an important moment in the maturing of the sense of the innate dignity of the human person and the awareness of the rights and duties which flow from this.

It is significant too that, after their liberation from an alien ideology and totalitarian forms of government, the new democracies of eastern Europe turned to the Council of Europe as the focus of unity for all the peoples of the Continent, a unity which cannot be conceived without the religious and moral values which are the common heritage of all the European nations. Their desire to become parties to the European Convention on Human Rights reflects the will to safeguard the fundamental liberties which had for so long been denied them. In this respect, my conviction has always been that the peoples of

Europe, east and west, deeply united by history and culture, share a common destiny. At the heart of our common European heritage – religious, cultural and juridical – is the notion of the inviolable dignity of the human person, which implies inalienable rights conferred not by governments or institutions but by the Creator alone, in whose image human beings have been made (see Genesis 1:26).

Through the years, the Holy See has been involved in the Council of Europe, seeking in its own distinctive way to accompany and aid the Council's ever more extensive work in the field of human rights. Conscious of the unique role which the European Court of Human Rights plays in the affairs of Europe, the Holy See has been especially interested in the jurisprudence of the Court. The Judges are the guardians of the Convention and its vision of human rights, and I am happy to have the occasion today to welcome the President of the Court, Luzius Wildhaber, with the other honourable judges, and to wish you well in your noble and demanding task.

The fiftieth anniversary of the Convention is a time to give thanks for what has been achieved and to renew our commitment to making human rights ever more fully and widely respected in Europe. It is therefore a time to recognise clearly the problems that must be addressed if this is to happen. Fundamental among these is the tendency to separate human rights from their anthropological foundation – that is, from the vision of the human person that is native to European culture. There is also a tendency to interpret rights solely from an individualistic perspective, with little consideration for the role of the family as “the fundamental unit of society” (Universal Declaration of Human Rights, Article 16). And there is the paradox that, on the one hand, the need to respect human rights is vigorously affirmed while, on the other, the most basic of them all – the right to life – is denied. The Council of Europe has succeeded in having the death penalty removed from the legislation of the large majority of its member states. While rejoicing in this noble achievement and looking forward to its extension to the rest of the world, it is my fervent hope that the moment will soon come when it will be equally understood that an enormous injustice is committed when innocent life in the womb is not safeguarded. This radical contradiction is possible only when freedom is sundered from the truth inherent in the reality of things and democracy divorced from transcendent values.

For all the problems now evident and the challenges which lie ahead, we must be confident that the true genius of Europe will emerge in a rediscovery of the human and spiritual wisdom intrinsic to the European heritage of respect for human dignity and the rights which stem from it. As we move into the third millennium, the Council of Europe is called to consolidate the sense of a common European good. Only on this condition will the Continent, east and west, make its specific and uniquely important contribution to the good of the entire human family. Praying fervently that this will be so, I invoke upon you, your families and your efforts in the service of the peoples of Europe the abundant blessings of Almighty God.

**Address by the President of the Italian Republic,  
Mr Carlo Azeglio Ciampi  
*Palazzo del Quirinale, 3 November 2000***

I first wish to thank you for your generous speeches and also for drawing attention to the fact that this conference in Rome is not only the commemoration of an anniversary but also an opportunity to express ever greater support for the protection of human rights.

It is therefore a particular pleasure for me to welcome you to Rome to celebrate the fiftieth anniversary of the signing of the European Convention on Human Rights.

The legal principles established half a century ago now constitute a common heritage for 800 million Europeans. If the peoples of our continent are acquiring an awareness that they share a single culture, this is, to a large extent, thanks to the legal system created by the Convention.

Mr Secretary General, I too have particularly vivid memories of my visit to the Council of Europe on 26 September; I also much appreciated the meeting I had a week later with representatives of the European Court of Human Rights. This gave me further confirmation that values and rules are factors for unity among the citizens of Europe.

Without this heritage, it would also have been more difficult to finalise the Charter of Fundamental Rights to be submitted to the European Council in Nice. Through this instrument recalling, preserving and strengthening the body of law deriving from the European Convention on Human Rights, the European Union intends to set its seal to the indivisibility of the rights to dignity, liberty, equality, citizenship, solidarity and justice. The charter not only lists a number of economic and social rights, but also adds important new rights, such as protection of personal data and bioethical principles, intended to safeguard our citizens' dignity and quality of life.

The Charter of Fundamental Rights is not conceived as an alternative to the Convention. By making reference to the Convention, it consolidates that text's central importance as a European constitutional instrument. It does not require amendments to the constitutions of the member states, nor seek to replace these. It puts forward a structure which, combined with the legal system established by the European Convention, offers a common area of rights and establishes a common denominator among states differing in their legal traditions and sensibilities but resolved to bring to the fore the essential features that they have in common.

The charter seeks to give substance to the concept of European citizenship, while remaining open to all the realities that the Council of Europe signifies. It creates a new vehicle for communication between the peoples of Europe.

You are already fully aware of the role played by the Council of Europe in defining the inalienable rights of European citizens and fostering full respect for those rights. This achievement shows the Organisation's capacity effectively to interpret the needs of our time.

Although significant progress has been made in the recognition and protection of the inalienable rights of the individual, there is no denying that racism, xenophobia and intolerance are still to be reckoned with; they must be countered with determination.

The conference held in Strasbourg under the aegis of the Council of Europe and which closed on 13 October proposed specific legal and political commitments in the fields of education and training. These cannot be disregarded.

With the signing of Protocol No. 12 to the European Convention on Human Rights, which will take place tomorrow, all forms of discrimination will be prohibited throughout the forty-one member states of the Council of Europe. It is a source of satisfaction to me that this significant step towards far-reaching protection of human dignity should take place during Italy's chairmanship of the Council's Committee of Ministers.

It is not by chance that we are celebrating the European Convention's fiftieth birthday – as we did its fortieth – in Rome, for it was here that the Convention was signed in 1950. From the very beginning, Italy was a major player in the efforts to build and consolidate a system for the protection of human rights in Europe.

It is with unswerving enthusiasm and conviction, underpinned by fierce grass-roots commitment, voiced on a number of occasions in our national parliament, that Italy plays a part in promoting advanced forms of protection of individual dignity and freedom.

In the same spirit, I wish you every success with your work.



## Part IV

### Political texts adopted

#### Resolution I

##### **Institutional and functional arrangements for the protection of human rights at national and European levels**

1. The European Ministerial Conference on Human Rights ("the Conference"), meeting in Rome on the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), opened for signature in Rome on 4 November 1950;
2. Noting with satisfaction the outstanding work accomplished in Europe over the last fifty years with regard to the protection and development of human rights, and stressing the unique and crucial role played in this respect by the Convention and its judicial enforcement machinery;
3. Stressing that the development of the legal protection of human rights within the framework of the Council of Europe constitutes a significant contribution towards the realisation of the aims stated in the Charter of the United Nations and of the rights stated in the Universal Declaration of Human Rights;
4. Recalling the political impetus given to the human rights work of the Council of Europe at the First and Second Summits of Heads of State and Governments of 1993 and 1997;
5. Noting, however, that there remains a need to reinforce the effective protection of human rights in domestic legal systems as well as at the European level;
6. Calling upon the member states of the Council of Europe to give new impetus to their commitments in the human rights field, essential for the security and the well-being of individuals and for the stability of the Continent;

##### *A. Improving the implementation of the Convention in member states*

7. Recalling that the Convention contains common basic standards that must be implemented at national level;

8. Recalling that the status of member state of the Council of Europe implies respect for the obligations under the Convention;
9. Recalling the subsidiary nature of the control mechanism of the Convention, which presupposes that the rights guaranteed by the Convention should, first and foremost, be fully protected at national level and implemented by national authorities, in particular the courts;
10. Stressing that everyone whose rights and freedoms, as set forth in the Convention, are violated shall have the right to an effective remedy before a national authority in accordance with Article 13 of the Convention;
11. Welcoming the efforts made by member states to give full effect to the Convention in their domestic law and to conform to the judgments of the European Court of Human Rights ("the Court");
12. Welcoming in this respect the fact that the Convention has been given direct effect in the domestic legal order of almost all member states;
13. Stressing, in any case, the need to improve even further the implementation of the Convention by the member states,
14. Encourages member states to:
  - i. ensure that the exercise of the rights and freedoms guaranteed by the Convention benefits from an effective remedy at national level;
  - ii. undertake systematic screening of draft legislation and regulations, as well as of administrative practice, in the light of the Convention, to ensure that they are compatible with the latter's standards;
  - iii. ensure that the text of the Convention is translated and widely disseminated to national authorities, notably the courts, and that the developments in the case-law of the Court are sufficiently accessible in the language(s) of the country;
  - iv. introduce or reinforce training in human rights for all sectors responsible for law enforcement, notably the police and the prison service, particularly with regard to the Convention and the case-law of the Court;
  - v. examine regularly the reservations they have made to the Convention with a view gradually to withdrawing them or limiting their scope;
  - vi. consider the ratification of protocols to the Convention to which they are not yet party.

*B. Ensuring the effectiveness of the European Court of Human Rights*

15. Paying tribute to the exceptional achievements of the Court and the former European Commission of Human Rights;
16. Concerned by the difficulties that the Court has encountered in dealing with the ever-increasing volume of applications and considering that it is the effectiveness of the Convention system which is now at issue;

17. Noting with interest the creation by the Committee of Ministers of the Council of Europe of the Liaison Committee with the European Court of Human Rights on 11 April 2000 which has the task of maintaining a dialogue between the Committee of Ministers and the Court on the future of the protection of human rights in Europe and on questions relating to the Court,

18. Calls upon the Committee of Ministers to:

- i. identify without delay the most urgent measures to be taken to assist the Court in fulfilling its functions;
- ii. initiate, as soon as possible, a thorough study of the different possibilities and options with a view to ensuring the effectiveness of the Court in the light of this new situation through the Liaison Committee with the European Court of Human Rights and the Steering Committee for Human Rights.

*C. Improving the Committee of Ministers' supervision of the execution of Court judgments*

19. Stressing the importance of the supervision of the execution of judgments for the effectiveness and credibility of the control system of the Convention;

20. Convinced of the need to exercise optimum supervision of the execution of Court judgments, which would help to avoid new violations, and to render such supervision more transparent;

21. Welcoming the adoption of Recommendation Rec(2000)2 of the Committee of Ministers to member states on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights,

22. Calls upon the Committee of Ministers to:

- i. continue consideration of the ways in which this supervision can be made more effective and transparent;
- ii. pursue the revision of its Rules of Procedure concerning Article 46 of the Convention;
- iii. pursue examination of issues such as the necessity to keep applicants better informed during the supervision phase, the possible re-opening or re-examination of the case, and possible responses in the event of slowness or negligence in giving effect to a judgment or even non-execution thereof;
- iv. keep the public better informed of the result of the supervision phase.

*D. Improving the protection of social rights*

23. Recalling the indivisibility and interdependence of all human rights;

24. Recalling the contribution of the case-law of the Convention to the protection of social rights;

25. Reaffirming the importance of the European Social Charter (1961) and the revised European Social Charter (1996) and recalling that a new decisive impetus for the Charter was given by the declaration of the Second Summit of Heads of State and Government (Strasbourg, 10-11 October 1997), which called for the widest possible adherence to the Charter, and welcoming the ratifications which followed or which are being processed;
26. Welcoming the adoption of Recommendation Rec(2000)3 of the Committee of Ministers to member states on the right to the satisfaction of basic material needs of persons in situations of extreme hardship,
27. Encourages member states to accept the greatest possible number of provisions of the European Social Charter and Revised European Social Charter, to ratify the protocol relating to collective complaints, to apply fully in their domestic systems those provisions of the Charter which they have accepted and to implement the above-mentioned Recommendation Rec(2000) 3;
28. Invites the Committee of Ministers to continue consideration in order to improve the protection of social rights in Europe, including through inter-governmental co-operation and assistance.

## **Resolution II**

### **Respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues**

1. The European ministerial conference on human rights ("the Conference"), meeting in Rome on the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), opened for signature in Rome on 4 November 1950;
2. Recalling that in the Vienna Declaration adopted at the First Summit of the Council of Europe (8-9 October 1993), the heads of state and government of member states committed themselves to rendering the Council of Europe fully capable of contributing to democratic security as well as meeting the challenges of society in the twenty-first century, giving expression in the legal field to the values that define our European identity, and to fostering an improvement in the quality of life;
3. Also recalling that the final declaration of the Second Summit of Heads of State and Government of the Council of Europe (Strasbourg, 10-11 October 1997) underlined the essential standard-setting role of the Council of Europe in the field of human rights and expressed full support for an intensification of the Council of Europe's contribution to cohesion, stability and security in Europe;
4. Reaffirming the conviction expressed in the final declaration that the promotion of human rights and the strengthening of pluralist democracy both contribute to stability in Europe;

*A. Improving the effectiveness of the Council of Europe's response to serious and massive violations of human rights*

5. Preoccupied by situations of conflict or crisis in Europe, which pose fundamental questions of respect for human rights;
6. Recognising that terrorism in all its forms and manifestations poses a serious threat for human rights, democracy and the rule of law;
7. Noting that, notwithstanding that the Council of Europe's prime vocation is to defend human rights and that its composition is pan-European, the potential of this Organisation is not sufficiently exploited to respond to serious and massive human rights violations or to prevent such violations,
8. Firmly condemns all situations of serious and massive violations of human rights, including any use of torture, the systematic practice of rape and extra-judicial executions;
9. Requests the appropriate bodies of the Council of Europe to assume fully their respective responsibilities, in accordance with their mandates, so that they can rapidly and effectively respond to, or prevent, such situations:
  - i. the Committee of Ministers as well as the Parliamentary Assembly, each having their own political role to play whenever such violations occur in one of the member states;
  - ii. the Secretary General, who can, in particular, ask any high contracting party to furnish explanations of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention;
  - iii. the Commissioner for Human Rights who has a preventive role which he can exercise with regard to situations of crisis or conflict which could lead to serious and massive human rights violations;
  - iv. the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and those responsible for other Council of Europe bodies and mechanisms, including those monitoring member states' compliance with their commitments (the monitoring exercises), which can play a role in preventing such situations, within their respective areas of responsibility and according to their own specific means of action;
10. Encourages the Council of Europe to develop a wider range of responses to cases of failure of member states to abide by Council of Europe human rights standards;
11. Considers that it would be desirable for the Committee of Ministers to initiate consideration of the protection of human rights during armed conflicts as well as during internal disturbances and tensions, including as a result of terrorist acts, with a view to assessing the present legal situation, identifying possible gaps in the legal protection of the individual and to making proposals to fill such gaps.

*B. Abolition of the death penalty, in time of war as in time of peace*

12. Noting that a few member states have not yet abolished the death penalty nor ratified Protocol No. 6 to the Convention,
13. Urgently requests that the member states:
  - i. ratify as soon as possible, if they have not yet done so, Protocol No. 6 and, in the meantime, respect strictly the moratoria on executions;
  - ii. refrain from extraditing or expelling individuals to countries where they run a real risk of being sentenced to death or being executed;
14. Invites:
  - i. the member states which still have the death penalty in respect of acts committed in time of war or of imminent threat of war to consider its abolition;
  - ii. the Committee of Ministers to consider the feasibility of a new additional protocol to the Convention which would exclude the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war.

*C. Principles of equality and non-discrimination*

15. Expressing its concern about the various threats to the principles of equality and non-discrimination, such as racism, xenophobia, anti-Semitism and intolerance;
16. Recalling the Declaration and Plan of Action on combating racism, xenophobia, anti-Semitism and intolerance adopted at the First Council of Europe Summit (Vienna, 8-9 October 1993) and the Final Declaration of the Second Council of Europe Summit (Strasbourg, 10-11 October 1997), which stress the need to combat racism, xenophobia, anti-Semitism and intolerance;
17. Endorsing the general conclusions and the political declaration of the European Conference "All different, all equal: from theory to practice" held in Strasbourg, from 11 to 13 October 2000 (European Contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance);
18. Deploring, in particular, the recurrent instances of discrimination against migrants, refugees, stateless persons and asylum-seekers on grounds of their national, ethnic or cultural origin, their language, or religion, whether they belong to national minorities or not, and referring notably to the situation of Roma/Gypsies;
19. Expressing also its concern about the continuing inequalities affecting women and welcoming the work carried out by the Council of Europe in order to overcome them;
20. Endorsing also Recommendation Rec(2000)11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation,

21. Encourages member states to reaffirm their commitment to promoting the principle of equal dignity for all as the very foundation of human rights;
22. Stresses the adoption by the Committee of Ministers of Protocol No. 12 to the Convention, which introduces a general prohibition of discrimination;
23. Invites the states parties to the Convention to consider signing Protocol No. 12 and beginning the ratification process with a view to its early entry into force;
24. Encourages member states to consider further legal, policy and other measures at the national level prohibiting incitement to hatred and discrimination;
25. Invites the member states that have not yet done so to consider or reconsider the possibility of becoming a party to the Framework Convention for the Protection of National Minorities (1995) and the states parties to co-operate fully with the monitoring mechanism set up by this Convention;
26. Invites member states to reinforce their co-operation in the framework of the Council of Europe concerning equality of women and men, with a view to:
  - i. promoting increased participation of women: in particular, in decision-making and the balanced representation of women and men in all fields of society;
  - ii. combating all forms of violence against women and particularly trafficking in women and young girls;
  - iii. envisaging new initiatives in order to eliminate inequalities between women and men;
27. Invites member states to implement the recommendations drawn up by the European Commission against Racism and Intolerance (ECRI).

*D. Human rights and technological developments*

28. Aware of the benefits of technological developments, but also of the possible abuses to which they could give rise, and which could threaten human dignity;
29. Welcoming the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine (1997) and its additional protocol on the Prohibition of Cloning of Human Beings (1998),
30. Encourages member states that have not yet signed and ratified the above-mentioned convention and protocol to consider doing so;
31. Supports the activities of the Council of Europe with a view to providing for further protection in fields such as organ transplantation, biomedical research and human genetics and the protection of the human embryo and foetus;



32. Encourages the Council of Europe to:

- i. study appropriate measures in order that other technological developments, such as in the fields of the environment and applied biotechnologies concerning products destined for human consumption, respect the quality of life and the requirements of human rights;
- ii. protect the confidentiality of private communications including those using the Internet;
- iii. pursue its work against uses of the Internet which threaten human rights, such as activities concerning child pornography, trafficking of women, racism and extremist movements.

*E. Human rights and civil society*

33. Reaffirming the importance of human rights education and awareness-raising, and stressing that these are effective ways of preventing negative attitudes towards others and of promoting a culture of peace, tolerance and solidarity in society;

34. Recalling that such education can raise awareness of the responsibility of each individual to respect the human rights and dignity of others;

35. Stressing the importance of human rights education for the legal profession;

36. Recognising the important contribution that ombudsmen, national human rights institutions and NGOs make to the promotion and protection of human rights and welcoming their co-operation with the Council of Europe;

37. Recalling that ensuring transparency within public administrations and guaranteeing the right of access of the public to official information are requirements of a pluralistic democratic society;

38. Recalling the fundamental importance of freedom of expression and information, as guaranteed by Article 10 of the Convention and the relevant case-law of the Court, in regard to the objectives of pluralistic democracy and the protection of human rights, which are at the core of the Council of Europe action, and noting that this freedom and the freedom of the media are often among the first to be affected when massive human rights violations are committed,

39. Welcomes the contribution of NGOs to the preparation of this Conference and the important role they play in civil society, in particular through raising awareness of human rights issues;

40. Invites member states to take all appropriate measures with a view to developing and promoting education and awareness of human rights in all sectors of society, in particular with regard to the legal profession;

41. Requests the Committee of Ministers to examine possibilities for creating a focal point within the Secretariat of the Council of Europe in order to consolidate the co-operation with ombudsmen and national human rights institutions of the member states;

42. Encourages member states which have not yet done so to consider the possibility of establishing ombudsmen and national human rights institutions of the member states in accordance with the relevant recommendations of the Committee of Ministers and to ensure that there are institutions which are able to intervene in the fight against racism and intolerance;

43. Welcomes the ongoing drafting work within the Council of Europe concerning principles which could constitute a minimum basis for access to official information, taking into account the new environment created by information and communication technology;

44. Stresses the necessity of guaranteeing, also in situations of conflict and tension, the freedom and independence of the media, so that they are able to inform the public without being exposed to threats, attacks or arbitrary sanctions;

45. Underlines the importance of the contribution of the media to the achievement of the objectives set out by this Conference, in particular through awareness-raising of the public to human rights questions.

## **Declaration**

### **The European Convention on Human Rights at 50: what future for the protection of human rights in Europe?**

The European ministerial conference on human rights ("the Conference"), meeting in Rome on the fiftieth anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), opened for signature in Rome on 4 November 1950;

Recalling that the inherent dignity of every human being is the basis of human rights;

Reaffirming the central role of the Council of Europe in the promotion and protection of human rights in Europe and the eminent position of the Convention, with its unique system of control, as a concrete realisation of the Universal Declaration of Human Rights with regard to civil and political rights;

Emphasising the impact of the Convention and the case-law of the European Court of Human Rights ("the Court") on the states parties, and the resulting unification in Europe and welcoming the significant progress achieved in this respect across our Continent and notably, through the enlargement of the Council of Europe after 1989, in new member states;

Stressing that the Committee of Ministers' function of supervising the execution of Court judgments is absolutely essential for the effectiveness and credibility of the control system of the Convention;

Expressing willingness to strengthen further the human rights mechanisms of the Council of Europe, and in particular the control mechanism set up by the Convention to enable them, to continue to perform their function of protecting human rights in Europe;

Welcoming the commitment of other international organisations to the advancement of human rights on the Continent;

Welcoming the increasing attention given to human rights within the European Union, as expressed recently through the elaboration of a Charter of Fundamental Rights,

Pays tribute to the real progress in human rights protection made in the past fifty years;

Deplores the fact that, nevertheless, massive violations of the most fundamental human rights still persist in the world, including in our Continent, and calls upon states to put them to an end immediately;

Recalls that it falls in the first place to the member states to ensure that human rights are respected, in full implementation of their international commitments;

Calls upon all member states, to this end, to ensure constantly that their law and practice conform to the Convention and to execute the judgments of the Court;

Believes that it is indispensable, having regard to the ever-increasing number of applications, that urgent measures be taken to assist the Court in carrying out its functions and that an in-depth reflection be started as soon as possible on the various possibilities and options with a view to ensuring the effectiveness of the Court in the light of this new situation;

Stresses the need for synergy and complementarity between the Council of Europe and other institutions, particularly the United Nations, the OSCE and the European Union, each acting in co-operation with the others and within its own field of competence;

Stresses also the need, in regard to the European Union Charter of Fundamental Rights, to find means to avoid a situation in which there are competing and potentially conflicting systems of human rights protection, with the risk of weakening the overall protection of human rights in Europe;

Expresses the wish that the Council of Europe bring together all European states and calls on the latter to make the necessary progress in the fields of democracy, the rule of law and human rights in order to achieve a greater unity in those key fields for the stability of the Continent;

Reaffirms that the Convention must continue to play a central role as a constitutional instrument of European public order on which the democratic stability of the Continent depends.

## Appendix/Annexe

### List of participants/Liste des participants

#### I. National delegations/délégations nationales

##### **A. Member states of the Council of Europe/ Etats membres du Conseil de l'Europe**

##### ***ALBANIA/ALBANIE***

Head of delegation/chef de délégation: Mr Paskal Milo, Minister for Foreign Affairs

Mr Artur Kuko, Diplomat, Ministry of Foreign Affairs

Mr Riza Poda (expert CDDH), Government Agent, Ministry of Foreign Affairs

Mr Leonitev Cuçi, Ambassador

Mr Leonard Maçingo, Security Officer, Ministry of Foreign Affairs

##### ***ANDORRA/ANDORRE***

Head of delegation/chef de délégation: M. Albert Pintat, ministre des Relations extérieures

M<sup>me</sup> Elisenda Vives, directrice du ministère des Relations extérieures, ambassadeur d'Andorre en Italie

M<sup>me</sup> Imma Tor Faus, ambassadeur extraordinaire et plénipotentiaire, représentant permanent d'Andorre auprès du Conseil de l'Europe

##### ***AUSTRIA/AUTRICHE***

Head of delegation/chef de délégation: Dr Albert Rohan, Permanent Under Secretary of State, Ambassador, Ministry of Foreign Affairs

Dr Hans Winkler, Ambassador, Legal Adviser, Ministry of Foreign Affairs

Dr Ulrich Hack, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Austria to the Council of Europe

Dr Ingrid Siess-Scherz, Adviser, Federal Chancellery  
Dr Klaus Famira, Counsellor, Austrian Embassy in Rome

#### **BELGIUM/BELGIQUE**

Head of delegation/chef de délégation: M. Louis Michel, ministre des Affaires étrangères

M. Benoît Cardon de Lichtbuer, ambassadeur extraordinaire et plénipotentiaire, représentant permanent de la Belgique auprès du Conseil de l'Europe

M. Pierre Champenois, chef du Cabinet du ministre des Affaires étrangères

M. Jan Lathouwers, expert du CDDH, chef du Service droits de l'homme, ministère de la Justice

M. Michel Herckens, chef du Service Conseil de l'Europe, ministère des Affaires étrangères

M. Olivier Alsteens, porte-parole du ministre des Affaires étrangères

M<sup>me</sup> Geneviève Renaux, membre du Cabinet du ministère des Affaires étrangères

#### **BULGARIA/BULGARIE**

Head of delegation/chef de délégation: M<sup>me</sup> Nadezhda Mihailova, ministre des Affaires étrangères

M. Dimitar Lazarov, ambassadeur de la Bulgarie à Rome

M<sup>me</sup> Veneta Momtcheva, directrice, Direction «Etats européens», ministère des Affaires étrangères de Bulgarie

M. Radko Vlaykov, porte-parole du ministère des Affaires étrangères

M<sup>me</sup> Stela Trifonova, expert senior, Direction «Droits de l'Homme», ministère des Affaires étrangères de Bulgarie

M. Atanas Mladenov, conseiller de l'ambassade de Bulgarie à Rome

#### **CROATIA/CROATIE**

Head of delegation/chef de délégation: Mr Tonino Picula, Minister for Foreign Affairs

Mr Vladimir Matek, Ambassador

Ms Martina Petek-Stupar, Deputy Head of the Minister's Cabinet

Mr Branko Socanac, expert CDDH, Head of the Human Rights Department, Ministry of Foreign Affairs

Mr Neven Boric, chargé d'Affaires of the Croatian Embassy in Rome

M. Damir Dopar, Security Officer

### **CYPRUS/CHYPRE**

Head of delegation/chef de délégation: Mr Nicos Koshis, Minister of Justice and Public Order

Mr Christophoros Yiangou, Ambassador, Permanent Representative of Cyprus to the Council of Europe

Mr Alecos Zenon, Ambassador of the Republic of Cyprus in Rome

Mr Pantelakis Eliades, First Counsellor, Embassy of Cyprus to Italy

Ms Alikí Pascali, Embassy of Cyprus to Italy

Mr Theophanis Rossidis, Embassy of Cyprus in Rome

### **CZECH REPUBLIC/RÉPUBLIQUE TCHÈQUE**

Head of delegation/chef de délégation: Mr Petr Uhl, Deputy Vice-Prime Minister for Human Rights and Government Representative for Human Rights

Mr Jirí Mucha, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Czech Republic to the Council of Europe

Ms Hana Ševčíková, Ambassador Extraordinary and Plenipotentiary of the Czech Republic to Italy

Mr Karel Hejc, expert CDDH, Director of the Human Rights Department, Ministry of Foreign Affairs

Mr Jan Lorenz, Counsellor, Embassy of the Czech Republic to Italy

### **DENMARK/DANEMARK**

Head of delegation/chef de délégation: Mr Niels Helveg Petersen, Minister for Foreign Affairs

Mr Gunnar Riberholdt, Ambassador of Denmark to Italy

Mr Arne Belling, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Denmark to the Council of Europe

Mr Arnold Skibsted, Head of Department, Ministry of Foreign Affairs

Mr Ulrik Vestergaard Knudsen, Principal Private Secretary, Ministry of Foreign Affairs

Mr Jesper Storgaard Jensen, attaché for General Affairs

### **ESTONIA/ESTONIE**

Head of delegation/chef de délégation: Mr Märt RASK, Minister of Justice

Mr Jaak Jõerüüt, Ambassador of Estonia to Italy

Mr Heiki Pisuke, Counsellor of Minister of Justice

Ms Mai Hion, expert CDDH, First Secretary, Ministry of Foreign Affairs

### **FINLAND/FINLANDE**

Head of delegation/chef de délégation: Mr Johannes Koskinen, Minister of Justice  
Mr Erkki Kourula, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Finland to the Council of Europe

Mr Hannu Kyröläinen, Deputy Director-General for Political Affairs, Ministry of Foreign Affairs

Mr Arto Kosonen, expert CDDH, Director, Ministry of Foreign Affairs

Mr Matti Niemio, Director, Ministry of Justice

Ms Sophie From-Emmesberger, Deputy Permanent Representative of Finland to the Council of Europe

Ms Anu Vuori-Kiikeri, Second Secretary, Embassy of Finland to Italy

### **FRANCE**

Head of delegation/chef de délégation: M. Charles Josselin, ministre délégué aux Affaires étrangères

M. Jacques Blot, ambassadeur de France à Rome

M. Ronnie Abraham, directeur des Affaires juridiques, ministère des Affaires étrangères

M. Jacques Warin, ambassadeur, représentant permanent de la France auprès du Conseil de l'Europe

M. Patrick Henault, ambassadeur itinérant chargé des droits de l'homme

M<sup>me</sup> Hélène Le Gal, conseillère technique du ministre

M<sup>me</sup> Michèle Dubrocard, expert CDDH, sous-directrice des droits de l'homme à la Direction des affaires juridiques, ministère des Affaires étrangères

M. Marcel Escure, sous-directeur des Questions multilatérales à la Direction des affaires stratégiques, ministère des Affaires étrangères

M. Claire D'Urso, chef du bureau des droits de l'homme, ministère de la Justice

M. Gautier Maigne

M. Paul Creis, agent de sécurité

### **GEORGIA/GÉORGIE**

Head of delegation/chef de délégation: M. Irakli Menagarishvili, ministre des Affaires étrangères

M<sup>me</sup> Lana Gogoberidze, ambassadrice extraordinaire et plénipotentiaire, représentante permanente de la Géorgie auprès du Conseil de l'Europe

M<sup>me</sup> Rusudan Lortkipanidze, ambassadrice extraordinaire et plénipotentiaire de la Géorgie en Italie

M. Koté Korkelia, directeur adjoint du département de Droit international, ministère des Affaires étrangères



**GERMANY/ALLEMAGNE**

Head of delegation/chef de délégation: Mr Eckhart Pick, Deputy Minister of Justice

Mr Gerd Westdickenberg, Director General of the Legal Department, Ministry of Foreign Affairs

Mr Klaus Stoltenberg, expert CDDH, Agent for Human Rights, Ministry of Justice

Mr Juergen Jekewitz, Chief of the Division of European and International Law, Federal Ministry of Justice

Mrs Jutta Kemper, Personal Assistant to the Deputy Minister, Federal Ministry of Justice

Ms Gudrun Girng Huber, Public Relations Office, Federal Ministry of Justice

Mr Wolfgang Gaerte, Counsellor, German Embassy

**GREECE/GRÈCE**

Head of delegation/chef de délégation: Mrs Elisabeth Papazoi, Alternate Minister for Foreign Affairs

Mr Athanasios Theodorakopoulos, Ambassador, Permanent Representative of Greece to the Council of Europe

Mr Ioannis Mourikis, Ambassador, Director of the D3 Department, Ministry of Foreign Affairs

Mr Fokion Georgakopoulos, Legal Counsellor, Legal Council of the State

Mr Dionyssios Kountoureas, Senior Counselor, D3 Department, Ministry of Foreign Affairs

Mr Alexandros Spachis, Director of the Office of the Alternate Minister, Ministry of Foreign Affairs

Mr Linos-Alexandros Sicilianos, Professor of International Law

Ms Alik Hadji, Senior Counsellor, Diplomatic Office of the Alternate Minister for Foreign Affairs

Ms Alexandra Mantzila, Third Secretary of Embassy, Diplomatic Office of the Alternate Minister for Foreign Affairs

**HUNGARY/HONGRIE**

Head of delegation/chef de délégation: Mrs Ibolya Dávid, Minister of Justice

Mr Lipot Hóltzl, expert CDDH, Deputy State Secretary, Ministry of Justice

Mr Emikö Györi, Ambassador

Mrs Nora Csiszar, Interpreter

**ICELAND/ISLANDE**

Head of delegation/chef de délégation: Mrs Sólveig Pétursdóttir, Minister of Justice  
Mr Sveinn Björnsson, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Iceland to the Council of Europe  
Ms Björg Thorarensen, expert CDDH, Head of Department, Ministry of Justice

**IRELAND/IRLANDE**

Head of delegation/chef de délégation: Mr John O'Donoghue, T.D., Minister of Justice, Equality and Law Reform  
Mr Justin Harman, Ambassador, Permanent Representative of Ireland to the Council of Europe  
Mr Dermot Cole, Assistant Secretary, Department of Justice, Equality and Law Reform  
M. Michael Walsh, Special Adviser to the Minister of Justice, Ministry of Justice, Equality and Reform  
Mr Tony Cotter, Press Officer, Department of Justice, Equality and Law Reform  
Mr James Gawley, Legal Adviser to the Council of Europe and Human Rights Section, Department of Foreign Affairs  
Ms Oonagh McPhillips, Private Secretary to the Minister, Ministry of Justice, Equality and Law  
Mr Breandan O'Caollai, Embassy in Rome

**ITALY/ITALIE**

Head of delegation/chef de délégation: M. Lamberto Dini, ministre des Affaires étrangères, président de la conférence  
M. Piero Fassino, ministre de la Justice, coprésident de la conférence  
M. Umberto Ranieri, secrétaire d'Etat aux Affaires étrangères  
M. Ugo Intini, sous-secrétaire d'Etat aux Affaires étrangères  
M. Luigi Guidobono Cavalchini Garofoli, chef de Cabinet du ministre  
M. Umberto Vattani, secrétaire général  
M. Maurizio Moreno, directeur général  
M. Claudio Moreno, ministre plénipotentiaire, président du Comité international pour les droits de l'homme

M. Pietro Ercole Ago, ambassadeur, représentant permanent de l'Italie auprès du Conseil de l'Europe

M. Giorgio Lattanzi, ministère de la Justice, Direction générale des affaires pénales

M. Giulio Cesare Vinci Gigliucci, ministre plénipotentiaire

M. Francesco Caruso, conseiller diplomatique au ministère de la Justice

M<sup>me</sup> Elisabetta Cesqui, ministère de la Justice

M<sup>me</sup> Chiara Ingrao, conseillère au ministère pour les questions internationales du Conseil de l'Europe

M. Stefano Moriconi, ministère de la Santé

M<sup>me</sup> Emanuele Pignatelli

M. Gianpaolo Scarante

M<sup>me</sup> Maria Teresa Saragnano

M. Francesco Crisafulli

M. Marcello Marinari

M. Pietro Martello, juge, cour d'appel de Milan

M. Gualtiero Michelini

M<sup>me</sup> Donatella Pavone

M. Chiara Marolla

M. Raffaele Ferrara

M. Claudio Canetri

M<sup>me</sup> Annalisa Creta

M<sup>me</sup> Radha Day

M<sup>me</sup> Federica Flemma

M. Mario Vittorio Zamboni Di Salerano, chef du bureau pour le semestre de la présidence italienne du Conseil de l'Europe

M. Guido Raimondi, président du CDDH

## **LATVIA/LETTONIE**

Head of delegation/chef de délégation: Mrs Ingrida Labucka, Minister of Justice

Mr Martins Perts, Ambassador of Latvia to Italy

Ms Kristine Malinovska, Director of the Legal Department, Ministry of Foreign Affairs

### **LIECHTENSTEIN**

Head of delegation/chef de délégation: M<sup>me</sup> Andrea Willi, ministre des Affaires étrangères

M. Josef Wolf, ambassadeur extraordinaire et plénipotentiaire, représentant permanent de la principauté de Liechtenstein auprès du Conseil de l'Europe

Dr Walter Oehry, expert CDDH, conseiller juridique, ministère des Affaires étrangères

### **LITHUANIA/LITUANIE**

Head of delegation/chef de délégation: Mr Oskaras Jusys, Deputy Minister for Foreign Affairs

Mr Rokas Bernotas, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Lithuania to the Council of Europe

Mr Romanas Podagelis, Ambassador of Lithuania to Italy

Ms Sigute Jakstonyte, Deputy Director of Legal and International Treaties Department, Ministry of Foreign Affairs

### **LUXEMBOURG**

Head of delegation/chef de délégation: M<sup>me</sup> Lydie Polfer, Vice-Premier ministre, ministre des Affaires étrangères et du Commerce extérieur

M. Gérard Philipps, ambassadeur extraordinaire et plénipotentiaire, représentant permanent du Luxembourg auprès du Conseil de l'Europe

M. Paul Faber, ambassadeur du Luxembourg en Italie

M<sup>me</sup> Brigitte Konz, vice-présidente du tribunal d'arrondissement de Luxembourg

M. Raymond Dutreux, premier secrétaire, ambassade du Luxembourg en Italie

M<sup>me</sup> Béatrice Kirsch, secrétaire de légation, ministère des Affaires étrangères et du Commerce extérieur

### **MALTA/MALTE**

Head of delegation/chef de délégation: Mr Austin Gatt, Minister of Justice and Local Government

Mr Joseph Licari, Ambassador, Permanent Representative of Malta to the Council of Europe

Mr Tony Mifsud bonnici, Personal Assistant to the Minister of Justice

### **MOLDOVA**

Head of delegation/chef de délégation: M. Nicolae Tabacaru, ministre des Affaires étrangères

M<sup>me</sup> Iuliana Gorea-Costin, représentante permanente de la Moldova auprès du Conseil de l'Europe

M. Valentin Ciumac, ambassadeur de Moldova en Italie

M<sup>me</sup> Stela Stingaci, deuxième secrétaire, ambassade de Moldova en Italie

### **NETHERLANDS/PAYS-BAS**

Head of delegation/chef de délégation: Mr Jozias Van Aartsen, Minister for Foreign Affairs

Ms Renée Jones-Bos, Ambassador-at-large for Human Rights

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

Mr Roeland Böcker, Agent of the Government of the Netherlands, Ministry of Foreign Affairs

Ms Jolien Schukking, Agent of the Government of the Netherlands, Ministry of Foreign Affairs

Mr Welment Van Aardenne, Deputy Head of Human Rights Division, Ministry of Foreign Affairs

Mr Jacob Struyter Boudier, Legal Adviser, Directorate of Legislation, Ministry of Justice

Ms Marie Florence Va Es, First Secretary

Mr Bart Jochems, Spokesman of the Minister for Foreign Affairs

Mr Willem Van Ee, Personal Secretary to the Minister for Foreign Affairs

### **NORWAY/NORVÈGE**

Head of delegation/chef de délégation: Ms Hanne Harlem, Minister of Justice

Mr Torbjørn Aalbu, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Norway to the Council of Europe

Mr Geir Grung, Ambassador of Norway to Italy

Ms Tonje Meinich, expert CDDH, Legal Advisor, Ministry of Justice

### **POLAND/POLOGNE**

Head of delegation/chef de délégation: Mr Jerzy Kranz, Under Secretary of State at the Ministry for Foreign Affairs

Mr Marcin Rybicki, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Poland to the Council of Europe

Mr Maciej Gorski, Ambassador of Poland to Italy

Mr Krzysztof Drzewicki, expert CDDH, Government Agent of Poland at the European Court of Human Rights

Ms Jolanta Janek, First Secretary, Polish Embassy to Italy

Mr Andrzej Pawilkowski, Security Officer

### **PORTUGAL**

Head of delegation/chef de délégation: Mr Francisco Seixas Da Costa, secrétaire d'Etat aux Affaires européennes

M. Paulo Castilho, ambassadeur, représentant permanent du Portugal auprès du Conseil de l'Europe

M. José Cesar Paulouro, ambassadeur du Portugal en Italie

M. Antonio Henriques gaspar, expert CDDH, procureur général adjoint

M<sup>me</sup> Maria de Lurdes Cavaleiro Ferreira, adjoint au Cabinet du secrétaire d'Etat aux Affaires européennes

M. Miguel De Almeida e Sousa, ministre conseiller, ambassade du Portugal en Italie

M<sup>lle</sup> Claudia Boesch, première secrétaire, ambassade du Portugal en Italie

### **ROMANIA/ROUMANIE**

Head of delegation/chef de délégation: M. Mihai Răzvan Ungureanu, secrétaire d'Etat aux Affaires étrangères

M. Gheorghe Mocuta, secrétaire d'Etat au ministère de la Justice

M. Sabin Pop, ambassadeur, représentant permanent de la Roumanie auprès du Conseil de l'Europe

M<sup>me</sup> Roxana Rizoïu, agent du gouvernement devant la Cour européenne des Droits de l'Homme, ministère de la Justice

M<sup>me</sup> Brandusa Predescu, expert CDDH, directrice des droits de l'homme et du Conseil de l'Europe, ministère des Affaires étrangères

Mr Viorel Tomescu, conseiller diplomatique, ambassade de Roumanie à Rome

### **RUSSIAN FEDERATION/FÉDÉRATION DE RUSSIE**

Head of delegation/chef de délégation: Mr Yuri Chayka, Minister of Justice

Mr Vladimir Kalamonov, Special Representative of the President of the Russian Federation for Ensuring of Human and Civil Rights and Freedoms in the Chechen Republic

Mr Pavel Laptev, Agent of the Government of the Russian Federation at the European Court of Human Rights

Mr Teimuraz Ramishvili, expert CDDH, Director of the Department of International Humanitarian Co-operation and Human Rights, Ministry of Foreign Affairs

Mr Evgueniy Zabarchuk, Deputy Minister of Justice of the Russian Federation

Mr Andrey Vdovine, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Russian Federation to the Council of Europe

Mr Alexandre Vladychenko, Deputy Head of the Department of European Co-operation

Mr Yuri Boichenko, Head of Division, Department of International Humanitarian Co-operation and Human Rights, Ministry of Foreign Affairs

Mr Yuri Berestnev, Deputy Head of the Directorate of Public Law, Main State Legal Department of the President of the Russian Federation

Mr Yuri Ivanov, Head of the Department of International Relations, Ministry of Justice of the Russian Federation

Mr Yuri Boichenko, Head of Division, Department of International Humanitarian Co-operation and Human Rights, Ministry of Foreign Affairs

#### **SAN MARINO/SAINT-MARIN**

Head of delegation/chef de délégation: M. Gabriele Gatti, ministre des Affaires étrangères et politiques

M. Guido Ceccoli, ambassadeur, représentant permanent de Saint-Marin auprès du Conseil de l'Europe

M<sup>me</sup> Barbara Para, ambassadeur de Saint-Marin en Italie

M<sup>me</sup> Daniela Rotondaro, conseillère, ambassade de Saint-Marin en Italie

#### **SLOVAK REPUBLIC/RÉPUBLIQUE SLOVAQUE**

Head of delegation/chef de délégation: Mr Pál Csáky, Deputy Prime Minister for Human Rights, Minorities and Regional Development

M<sup>me</sup> Eva Garajova, ambassadeur extraordinaire et plénipotentiaire, représentante permanente de la République slovaque auprès du Conseil de l'Europe

Ms Jana Kviecinska, General Director, Section on Human Rights and Minorities, Office of Government

Ms Barbara Illková, expert CDDH, Director of the Human Rights Department, Ministry of Foreign Affairs

Mr Andrej Tabacik, Embassy of the Slovak Republic to Italy

Mr Micek, Embassy of the Slovak Republic to Italy



**SLOVENIA/SLOVÉNIE**

Head of delegation/chef de délégation: M. Alojz Peterle, Minister for Foreign Affairs

Mr Leon Marc, Head of the Cabinet of the Minister for Foreign Affairs

Mr Joze Šušmelj, Minister Plenipotentiary, Chargé d'Affaires a.i.

Ms Milena Šmit, Counsellor, Chargé d'Affaires a.i.

Mr Peter Reberc, Minister Plenipotentiary

Mr Andraz Zidar, expert CDDH, Third Secretary

Mr Roman Kreutz, Security Officer

**SPAIN/ESPAGNE**

Head of delegation/chef de délégation: M. Angel Acebes, ministre de la Justice

M. Ignacio Astarloa, sous-secrétaire, ministère de la Justice

M<sup>me</sup> Maria José García Beato, directeur, Cabinet du ministre de la Justice

M. Javier Borrego Borrego, expert CDDH, agent du Gouvernement de l'Espagne, ministère de la Justice

M. Emilio Lorenzo, conseiller aux affaires multilatérales, ministère des Affaires étrangères

M. José De Carvajal, ambassadeur de l'Espagne à Rome

M. José Ignacio Robres, attaché de presse du ministre de la Justice

M. Francisco Benítez, agent du sécurité

**SWEDEN/SUÈDE**

Head of delegation/chef de délégation: Ms Britta Lejon, Minister for Democratic Issues and Public Administration, Ministry of Justice

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

Mr Henrik Jermsten, Director, Ministry of Justice

Ms Eva Jagander, expert CDDH, Director, Ministry for Foreign Affairs

**SWITZERLAND/SUISSE**

Head of delegation/chef de délégation: M<sup>me</sup> Ruth Metzler-Arnold, conseillère fédérale, chef du département fédéral de Justice et Police

M. Philippe Boillat, expert CDDH, sous-directeur de l'Office fédéral de la justice

M. Alfred Ruegg, ambassadeur extraordinaire et plénipotentiaire, représentant permanent de la Suisse auprès du Conseil de l'Europe

M. Frank Schürmann, chef de la Section des droits de l'homme et du Conseil de l'Europe

M. Arthur Mattli, chef de la Section des droits de l'homme et du droit humanitaire, département fédéral des Affaires étrangères

M. Alexei Lautenberg, ambassadeur de Suisse à Rome

M. Christophe Pappa, conseiller diplomatique de la chef du département fédéral de Justice et Police

***"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"***

***«L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE»***

Head of delegation/chef de délégation: Mr Aleksandar Dimitrov, Minister for Foreign Affairs

Mr Igor Dzundev, Assistant to the Minister for Foreign Affairs

Ms Maria Efremova, Assistant to the Minister for Foreign Affairs

Mr Saso Veljanovski, Counsellor, Ministry of Foreign Affairs

Mr Miomir Ristovski, Chargé d'Affaires, Embassy in Rome

Ms Silvana Hadzilomova, Second Secretary, Embassy of the "The Former Yugoslav Republic of Macedonia" to Italy

Mr Saso Petkovski, Security Officer

***TURKEY/TURQUIE***

Head of delegation/chef de délégation: Mr Rüstü Kazım Yücelen, Minister of State responsible for Human Rights

Mr Necati Utkan

Mr Daryal Batibay, Ambassador, Director General of Multilateral Political Affairs and Human Rights

Mr Bahadır Kaleli, Deputy Permanent Representative of Turkey to the Council of Europe

Mr Cahit Keskin, Advisor to the Minister responsible for Human Rights

Ms Esra Cankorur, First Secretary, Embassy of Turkey in Rome

***UKRAINE***

Head of delegation/chef de délégation: Mrs Suzanna Stanik, Minister of Justice

Mr Olexandre Kupchyshyn, Ambassador, Permanent Representative of Ukraine to the Council of Europe

Mr Borys Hudyma, Ambassador of Ukraine to Italy

Mr Borys Tarasynk, Ambassador

Mr Volodymir Yatsenkivskyi, Embassy of Ukraine to Italy

Mrs Laryssa Myronenk, expert CDDH, Ministry of Foreign Affairs

Ms Ludmyla Marchenko, expert, Ministry of Justice

Mr Valeri Mykhailov

#### **UNITED KINGDOM/ROYAUME-UNI**

Head of delegation/chef de délégation: Lord Bassam of Brighton, Parliamentary Under Secretary of State, Home Office

Mr Andrew Carter, Ambassador, Permanent Representative of United Kingdom to the Council of Europe

Mr Martin Eaton, expert CDDH, Deputy Legal Adviser, Foreign and Commonwealth Office

Mr Mark De Pulford, Human Rights Unit, Home Office

Mr Frank McGinley, Foreign and Commonwealth Office

Mr Paul Morrison, Private Secretary to Lord Bassam

#### **B. Non-member states/Etats non membres**

#### **HOLY SEE/SAINT-SIÈGE**

Head of delegation/chef de délégation: S. E. M<sup>gr</sup> Julian Herranz, président du Conseil pontifical pour l'interprétation des textes législatifs

M<sup>gr</sup> Paul Richard Gallagher, envoyé spécial du Saint-Siège auprès du Conseil de l'Europe

Dr Giorgio Filibeck, observateur du Saint-Siège au sein du CDDH, Conseil pontifical «Justice et paix»

#### **UNITED STATES OF AMERICA/ÉTATS-UNIS D'AMÉRIQUE**

Head of delegation/chef de délégation: Ms Corinne C. Boggs, United States Ambassador to the Holy See

Ms Nancy H. Rubin, United States Ambassador to the United Nations Commission on Human Rights

## **CANADA**

Head of delegation/chef de délégation: M. Malcom McKechnie, ministre conseiller, ambassade du Canada en Italie

M. Gilbert Laurin, conseiller à l'ambassade du Canada en Italie

## **JAPAN/JAPON**

Head of delegation/chef de délégation: Mr Mizuho Morita, Consul, Consulate General of Japan in Strasbourg

Mr Akihiko Uchikawa, First Secretary, Embassy of Japan to Italy

## **MEXICO/MEXIQUE**

Head of delegation/chef de délégation: Ms Rosario Green, Minister for Foreign Affairs

Ms Carmen Moreno, Vice-Minister for Foreign Affairs in charge of the United Nations, Africa and the Middle East

Mr Mario Moya Palencia, Ambassador of Mexico to Italy

Mr Héctor Romero, Permanent Observer of Mexico to the Council of Europe

Ms María del Carmen Aguirre, Private Secretary to the Minister for Foreign Affairs

Mr Manuel Hernandez Cardenas, third Secretary, Embassy of Mexico to Italy

## **ARMENIA/ARMÉNIE**

Head of delegation/chef de délégation: Mr Vartan Oskanian, Minister for Foreign Affairs

Mr Gagik Baghdassarian, Ambassador of Armenia to Italy

Mr Vahram Kazhoyan, Ministry of Foreign Affairs

Ms Lilit Daneghian, Head of the Council of Europe Division, Ministry of Foreign Affairs

Ms Christine Mehrabekian, Assistant to the Minister for Foreign Affairs

Mr Christan Ter Stepanian, Permanent Representative of Armenia to the Council of Europe

## **AZERBAIJAN/AZERBAÏDJAN**

Head of delegation/chef de délégation: Mr Makhmud Mamed-Guliyev, Deputy Minister for Foreign Affairs, Ambassador of Azerbaijan to the United Kingdom

Mr İlgar Farzaliev, Deputy Head of Foreign Relations Division, Office of Parliament

**BOSNIA AND HERZEGOVINA/BOSNIE-HERZÉGOVINE**

Head of delegation/chef de délégation: Mr Jandrako Prlić, ministre des Affaires étrangères

M. Nedim Osmanagic, premier adjoint de l'ombudsman de Bosnie-Herzégovine

M. Miroslav Palameta, ambassadeur de Bosnie-Herzégovine auprès de l'Italie

M. Branko Kesic, ministre conseiller à l'ambassade de Bosnie-Herzégovine auprès de l'Italie

**MONACO**

Head of delegation/chef de délégation: Mr René Novella, ambassadeur

**FEDERAL REPUBLIC OF YUGOSLAVIA/  
RÉPUBLIQUE FÉDÉRALE DE YOUGOSLAVIE**

Head of delegation/chef de délégation: Mr Vojin Dimitrijevic, Representative of the President of the Federal Republic of Yugoslavia

Ms Vesna Petrovic, Member of the Delegation

**II. Secretary General of the Council of Europe/  
Secrétaire Général du Conseil de l'Europe**

Mr Walter Schwimmer, Secretary General/Secrétaire Général

Mr Hans Christian Krüger, Deputy Secretary General/Secrétaire Général adjoint

**III. European Court of Human Rights/  
Cour européenne des Droits de l'Homme**

M. Luzius Wildhaber, President/Président

M<sup>me</sup> Elisabeth Palm, Vice-President/Vice-Présidente

M. Christos Rozakis, Vice-President/Vice-Président

M. Georg Ress, Section President/président de section

M. Jean-Paul Costa, Section President/président de section

M. Benedetto Conforti, Judge/juge

M. Antonio Pastor Ridruejo, Judge/juge

M. Luigi Ferrari Bravo, Judge/juge

M. Giovanni Bonello, Judge/juge

M. Loukis Loucaides, Judge/juge  
M. Jerzy Makarczyk, Judge/juge  
M. Ireneu Cabral Barreto, Judge/juge  
M. Riza Türmen, Judge/juge  
M<sup>me</sup> Françoise Tulkens, Judge/juge  
M<sup>me</sup> Viera Stráznická, Judge/juge  
M. Peer Lorenzen, Judge/juge  
M. Karel Jungwiert, Judge/juge  
M. Marc Fischbach, Judge/juge  
M. Josep Casadevall, Judge/juge  
M. Bo\_tjan Zupancic, Judge/juge  
M<sup>me</sup> Nina Vajic, Judge/juge  
M. John Hedigan, Judge/juge  
M<sup>me</sup> Wilhelmina Thomassen, Judge/juge  
M<sup>me</sup> Margarita Tsatsa-Nikolovska, Judge/juge  
M<sup>me</sup> Hanne Sophie Grève, Judge/juge  
M. Rait Maruste, Judge/juge  
M. Egils Levits, Judge/ juge  
M<sup>me</sup> Snejana Botoucharova, Judge/juge  
M. Mindia Ugrehelidze, Judge/juge  
M. Anatoly Kovler, Judge/juge  
M. Michele De Salvia, Registrar/Greffier  
M. Paul Mahoney, Deputy registrar/Greffier adjoint  
M<sup>me</sup> Maud de Boer-Buquicchio, Deputy registrar/Greffière adjointe

#### **IV. Parliamentary Assembly/ Assemblée parlementaire**

Lord Russell-Johnston, President/Président

*Committee on Legal Affairs and Human Rights/  
Commission des questions juridiques et des droits de l'homme*

Mr Gunnar Jansson, Finland, Chairperson

Mr Rudolf Bindig, Germany, First Vice-Chairperson

Mrs Lydie Err, Luxembourg, Third Vice-Chairperson

Mr Cevdet Akcali, Turkey

M. Giuseppe Aleffi, Italy  
Mr Giuseppe Arzilli, San Marino  
Mr Michael Asciak, Malta  
M. James Bordas, France  
Mr Domenico Contestabile, Italy  
Mr Dick Dees, Netherlands  
Mr Thomas Enright, Ireland  
Mr Nickolay Fyodorov, Russian Federation  
Mrs Tayyibe Gülek, Turkey  
Mr Holger Gustafsson, Sweden  
Mrs Marina Ionescu, Romania  
Mrs Anneli Jäätteenmäki, Finland  
Mr Jerzy Jaskiernia, Poland  
Mr Eric Jurgens, Netherlands  
Mr Serhiy Holovaty, Ukraine  
Mr Andreas Kelemen, Hungary  
Mr Nikolay Kovalev, Russian Federation  
Mr Peter Kresak, Slovak Republic  
M. Angelo Lauricella, Italy  
Mr Boris Maltsev, Russian Federation  
Mr Makhmud Mamed-Guliyev, Azerbaijan  
Mrs Natalija Markovic-Dimova, "the Former Yugoslav Republic of Macedonia"  
M. Dick Marty, Switzerland  
Mr Kevin McNamara, United Kingdom  
Mr Joao Bosco Mota Amaral, Portugal  
Mme Lili Nabholz-Heidegger, Switzerland  
Mr Ivo Skrabalo, Croatia  
Mr Michael Spindelegger, Austria  
Mr Cyril Svoboda, Czech Republic  
Mr Csaba Tabajdi, Hungary  
Mr Ivar Tallo, Estonia  
M<sup>me</sup> Renate Wohlwend, Liechtenstein  
Plus Mrs Ana Kachakova, Secretariat of the Delegation of "the Former Yugoslav Republic of Macedonia", Mr Pompilius Celan, Secretariat of the Romanian Delegation, Mrs O. Perminova, Secretary of the Russian Delegation, and Mr Dmitri Piskarev, Secretary of the Russian Delegation



**V. Human Rights Commissioner of the Council of Europe/  
commissaire aux droits de l'homme du Conseil de l'Europe**

M. Alvaro Gil-Robles, commissaire

**VI. Representatives of international bodies and organisations/  
représentants d'instances et d'organisations internationales**

**A. International institutions and organisations/  
instances et organisations internationales**

*Office of the OSCE High Commissioner on National Minorities/  
Bureau du haut-commissaire aux minorités nationales de l'OSCE*

Mr John Packer, Director

**B. Council of Europe bodies/  
organes du Conseil de l'Europe**

*Steering Committee for Human Rights/  
Comité directeur pour les droits de l'homme (CDDH)*

M. Guido Raimondi, président

*Advisory Committee on the Framework Convention for the protection of national  
minorities/Comité consultatif de la Convention-cadre pour la protection des  
minorités nationales*

Mr Alan Phillips, First Vice-President

*Committee on the Rehabilitation and Integration of People with disabilities/  
Comité pour la réadaptation et l'intégration des personnes handicapées (CD-P-RR)*

M<sup>me</sup> Maria do Pilar Mourão-Ferreira, présidente

*European Commission against Racism and Intolerance/  
Commission européenne contre le racisme et l'intolérance (EcRI)*

Mr Nikos Frangakis, Chairman

*European Committee for the Prevention of Torture and Inhuman or Degrading  
Treatment or Punishment/Comité européen pour la prévention de la torture et des  
peines ou traitements inhumains ou dégradants (CPT)*

Ms Silvia Casale, Chairperson

*Steering Committee on Bioethics/Comité directeur sur la bioéthique (CDBI)*

Dr Elaine Gadd, Chairperson

*Steering Committee for Equality between Women and Men/  
Comité directeur pour l'égalité entre les femmes et les hommes (CDEG)*

Dr Clara Collarile, membre

*European Commission for Democracy through Law (Venice Commission)/  
Commission européenne pour la démocratie par le droit (Commission de Venise)*

M. Antonio La Pergola, président

Mr Gianni Buquicchio, Secretary

**C. International courts/  
juridictions internationales**

*International Criminal Tribunal for the former Yugoslavia/  
Tribunal pénal international pour l'ex-Yougoslavie*

M. Almiro Rodrigues, juge

*Court of Justice of the European Communities/  
Cour de justice des Communautés européennes*

M. Antonio La Pergola, président de chambre

**D. Non-governmental organisations/  
organisations non gouvernementales**

*Aire Centre*

Mrs Nuala Mole, Director

*Amnesty International*

Ms Jill Heine, Legal Adviser

*International Federation of Human Rights (FIDH)/  
Fédération internationale des ligues des droits de l'homme (FIDH)*

M. Pierre Boulay, représentant de la FIDH

*Marangopoulos Foundation for Human Rights (MFHR)/  
Fondation Marangopoulos pour les droits de l'homme (FMDH)*

M. Linos-Alexander Sicilianos, professeur

*European Centre (Albania/Albanie)*

Mr Ledi Bianku, Executive Director

## **VII. Other participants/ autres participants**

*Former European Commission of Human Rights of the Council of Europe/ancienne Commission européenne des Droits de l'Homme du Conseil de l'Europe*

Mr Stefan Trechsel, Former President of the European Commission on Human Rights

## **VIII. Italian Presidency Secretariat and members of the Secretariat General of the Council of Europe/ secrétariat de la présidence italienne et membres du Secrétariat Général du Conseil de l'Europe**

*Secretariat of the Conference – Italian Presidency/  
secrétariat de la conférence – présidence italienne*

Mr Mario Vittorio Zamboni Di Salerano, Ambassador, Secretary of the Conference/  
ambassadeur, secrétaire de la conférence

Mr Carlo Cosentino

Ms Flavia Recchioni

Ms Valentina Anselmi

Mr Riccardo Contessi

*Directorate General of Human Rights/Direction générale II – Droits de l'homme*

M. Pierre-Henri Imbert, directeur général/Director General

Mrs Jane Dinsdale, Director/Directrice

*Human Rights Law and Policy Development Division/  
Division du développement du droit et de la politique des droits de l'homme*

M. Jeroen Schokkenbroek, Head of Division/chef de division

M. Alfonso De Salas, administrateur principal/Principal Administrator, secrétaire de la conférence/Secretary of the Conference

M<sup>me</sup> Françoise Mantion, assistante administrative principale/Principal Administrative Assistant

M<sup>me</sup> Katherine Anderson-Scholl, documentation

M<sup>me</sup> Michèle Cognard, assistante administrative/Administrative Assistant

M<sup>lle</sup> Virginie Heck, juriste assistante/Legal Assistant

*Private Office of the Secretary General/Cabinet du Secrétaire Général*

M. Jan Kleijssen, directeur du Cabinet/Director of Private Office

Mr Alexander Bartling, membre du Cabinet

*Secretariat of the Committee of Ministers/Secrétariat du Comité des Ministres*

M. Simon Palmer, administrateur principal/Principal Administrator

*Directorate General of Legal Affairs/Direction générale des affaires juridiques*

M. Jorg Polakiewicz, adjoint au chef de service du conseil juridique et bureau des traités

*Office of the Secretary General of the Parliamentary Assembly/  
Bureau du Secrétaire général de l'Assemblée parlementaire*

M. Gian Paolo Castenetto, directeur/Director

Mr Allard Plate, chef du secrétariat de la commission des questions juridiques et des droits de l'homme/Head of the Secretariat of the Committee on Legal Affairs and Human Rights

Ms Tanja Kleinsorge, cosecraire de la commission des questions juridiques et des droits de l'homme/Co-Secretary of the Committee on Legal Affairs and Human Rights

*Registry of the European Court of Human Rights/  
Greffre de la Cour européenne des Droits de l'Homme*

M. Michele De Salvia, Greffier/Registrar

Mr Paul Mahoney, Deputy Registrar/Greffier adjoint

M<sup>me</sup> Maud de Boer-Buquicchio, Greffière adjointe/Deputy Registrar

M. Roderick Liddell, chef de Cabinet du Président de la Cour/Head of the Private Office of the President of the Court

M. Pascal Dourneau-Josette, adjoint au chef de Cabinet du Président de la Cour/Deputy to the Head of Private Office of the President of the Court

M<sup>me</sup> Loredana Bianchi, assistante administrative/Administrative Assistant

*Division of Relations with Media/Division des relations avec la presse*

M. Wolfgang Roessle, chef de section/Head of Section

M<sup>me</sup> Sabine Zimmer, attachée de presse/Press Officer

Ms Cathie Burton, attachée de presse/Press Officer

Mr Philippe Potentini, Press Officer/Press Officer

M<sup>me</sup> Catherine Taillez, assistante/Assistant

*Audiovisual Service/Régie des moyens audiovisuels*

M. Alun Drake, responsable de l'audiovisuel  
M. Louis Klipfel, coordonnateur TV et photo  
M. Sylvain Piron, coordonnateur technique  
M<sup>me</sup> Ellen Wuibaux, photographe  
Jean-Claude Poirson, cadreur

*Public Relations Division/Division des relations publiques*

M<sup>me</sup> Renée Gautron, chef de la Division des relations publiques  
M. Christian Meyer, Unité «événements, public et cible»  
M<sup>me</sup> Cecilia Howell, Unité des produits d'information

*Protocol/Protocole*

M. Muammer Topaloglu, chef du Protocole  
M<sup>me</sup> Monique Finck, assistante du chef du Protocole  
M<sup>lle</sup> Isabelle Flecksteiner, assistante administrative

*Interpretation Department/Service de l'interprétation*

M<sup>me</sup> Denise Brasseur, chef du Service de l'interprétation  
M<sup>me</sup> Maria Civelli-Steinkoetter  
M<sup>me</sup> Caterina Corsini Passi  
M<sup>me</sup> Elisabeth Heinisch  
M. Alessandro Mazzone  
M<sup>me</sup> Anna Lisa Morganti  
M<sup>me</sup> Ana Kacic-Rossetti  
M<sup>me</sup> Tatiana Liachenko  
M<sup>me</sup> Ania Turi Worontzoff  
M<sup>me</sup> Roberte de Waha  
M. Marc Bernardini

**XIX. Additional participants in the Commemorative Ceremony/  
autres participants à la cérémonie commémorative**

*United Nations High Commissioner for Human Rights/  
haut-commissaire aux droits de l'homme des Nations Unies*

Ms Mary Robinson, High Commissioner for Human Rights

Ministerial Conference and Commemorative Ceremony of the 50th anniversary of the Convention

*Joint Coordinating Committee of the International Ombudsman Institute and European Ombudsman Institute/Comité conjoint de coordination de l'Institut international de l'ombudsman et de l'Institut européen de l'ombudsman (IOI-EOI)*

Mr Anton Canellas, President

*Inter-American Court of Human Rights/  
Cour interaméricaine des droits de l'homme*

Mr Antonio A. Cançado Trindade, President of the Court

Mr Máximo Pacheco Gómez, Vice-President of the Court

Mr Manuel E. Ventura-Robles, Registrar of the Court

*Committee on the Elimination of Racial Discrimination/  
Comité sur l'éradication de la discrimination raciale (CERD)*

Mr. Michael E. Sherifis, Chairperson

*Liaison Committee of the NGOs enjoying consultative status with the Council of Europe/Comité de liaison avec les ONG dotées du statut consultatif auprès du Conseil de l'Europe*

M. Marc Leyenberger, premier vice-président

*Hungarian Civil Liberties Union/Union hongroise des libertés civiles (HCLU)*

Ms Orsolya HEUER, Lawyer

*International Lesbian and Gay Association/  
Association internationale des lesbiennes et homosexuels (ILGA)*

Dr Robert Wintemute

*International Federation of Business and Professional Women/  
Fédération internationale des femmes d'affaires et professionnelles (BPW international)*

Ms Livia Ricci, Past International Chairperson

*European Roma Rights Center/Centre européen sur les droits des Roms (ERRC)*

Ms Dimitrina Petrova, Executive Director

*Insan Haklari Dernegi (IHD) – Turkish Human Rights Association/  
Insan Haklari Dernegi (IHD) – Association turque pour les droits de l'homme*

Mr Selahattin Esmer

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