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– Better Balance, Improved Protection”

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Council of Europe Commissioner for Human Rights

Ministers,
Excellencies,
Ladies and Gentlemen,

It is a great pleasure for me to be here today. I attach a particular significance to the fact that one of my first public appearances as Commissioner for Human Rights concerns the role of the Court and of the Convention system in general.

The European system of human rights protection has proved to be successful in protecting human rights and has become a source of inspiration for countries and courts in other parts of the world. Within this system, the Court plays a vital role. Its judgments have indeed shaped our present and will certainly define our future.

Through its case-law, the Court has been the lighthouse for all those who sought protection or justice and has indelibly marked some of the most topical human rights issues that Europe has faced over the past seven decades. Its role in protecting the right to life and prohibiting torture, for example, has not only ensured respect for human dignity, but also reminded us which values should define a democratic society.

Although I have just started my mandate as Commissioner, the Court's case-law has been a particularly important reference point in my past work in the field of freedom of expression. I have often used and invoked judgments protecting that right and setting out the basic principles relating to the protection of journalists, from the protection of their sources, to the protection of their safety and the right of access to information. In times of continuous digital changes, the notion of the Convention as a “living instrument” has also been particularly important.

New information technologies have radically changed the way we live and interact. These changes have opened up new opportunities but did not come without risks, in particular for our privacy. New Technologies have also offered more avenues to increase surveillance and data collection. Here the Court has played a key role in protecting individuals from arbitrary interference by the state in their private and family life.

In the field of migration, the Court delivered landmark judgments, having a lasting impact on the protection of the human rights of asylum seekers in Europe. It prevented the deportation of people to countries where they are at risk of torture and restricted the possibility of detaining migrant children, pushing states to consider alternatives to detention, as my predecessor constantly emphasised in his work.

Lastly, another example of the multiple facets of Article 8 is the assertion that everyone has the right to respect for the most intimate part of his or her private life. Thus the Court has acknowledged that same-sex couples can also come under the protection of the right to respect for family life.

As Commissioner for Human Rights, I know I have a particular role and responsibility in relation to our system of protection of human rights.

I intend to contribute to this important endeavour, building on the legacy of the Office, along three main lines of action.

First, I will continue to increase the awareness of national authorities and civil society about the Convention system. I will help member states to remedy structural problems that may hinder the protection of human rights, in order to prevent repetitive applications before the Court. I will also engage in public debates to contribute to raising awareness about the Convention's system and the need to sustain its long-term effectiveness.

Providing the Court with objective and impartial information through third party interventions is another tool at my disposal that I intend to use. I have seen that such interventions have made a difference in the past and have helped the Court gather a broader understanding of the context of a case and of the human rights issues at stake. I therefore intend to build on the work of my predecessors, and in particular of the latest Commissioner, who has intervened in the Court's proceedings on several occasions.

The third line of action that I intend to develop is my contribution to the execution of judgments. Non-execution of Court's judgments remains a major problem in many member states. Some important judgments are still not implemented, sometimes several years after they have been issued, despite clear guidance given by the Court. This represents a denial of justice for the people concerned and risks undermining the system of human rights protection, thus discrediting the whole organisation in the eyes of people.

I intend to contribute to the execution process during the visits I will carry out in Council of Europe member states and as part of my continuous dialogue with national authorities, including at regional and local level.

In addition, I intend to reflect on whether and how to use the possibility to submit written communications on the execution of judgments. The new rule 9 that the Committee of Ministers amended in 2017 provides the Commissioner with this power, and I will devote some thought to this issue in the coming months.

In conclusion, in today's discussion, it is important to remember that if we split judgments into "good" and "bad" based on political, national or personal convenience, we would contradict the principle of universality and interdependence of human rights, thus demolishing the system of human rights protection that has been painstakingly created over the past seven decades.

To avert this danger, member states must first protect all rights equally, then strictly respect the independence of the Court, and finally avoid misinterpreting the principle of subsidiarity to restrict the Court's role. When we talk about subsidiarity and margin of appreciation, we should consider them as tools to reinforce human rights protection at national level, not to weaken the powers of the Court and Council of Europe bodies.

Any new attempts to reform the system should not undermine the ability of the Court to interpret the Convention in a dynamic way. This is a prerogative that member states must respect in order to enhance human rights protection in a rapidly changing world.

Declarations can set roadmaps, but do not solve human rights problems alone. We need a principled approach to human rights: stressing that they are treaty based and universal; that they apply regardless of culture, religion, or political systems; that they belong to everyone without exceptions. For this to

happen, governments, parliaments and the judiciary have to better incorporate human rights standards and the Court's case-law in their work. If member states of the Council of Europe will not do it, who will? As an Organisation which promotes human rights, democracy and the rule of law, we have a particular responsibility to ensure that this happens.

It is therefore your task to respect, protect and fulfill the human rights enshrined in the European Convention on Human Rights. It will be mine to help you find adequate solutions to the problems you face, by using the vast array of tools at our disposal: from the case-law of the Court to the work of other Council of Europe institutions, notably monitoring bodies. In this endeavour, I will also rely very much on the crucial role that national human rights structures and NGOs play in the protection and promotion of human rights in national contexts.

Millions of people look to the Court as the guarantor of freedoms, justice and human dignity. Member states cannot afford to betray these expectations. They must ensure that the European Court of Human Rights remains independent and effective.