Continued Reform of the European Human Rights Convention System - Better Balance, Improved Protection

Poursuite de la réforme du système de la Convention européenne des droits de l'homme - Un meilleur équilibre et une protection améliorée

High-Level Conference in Copenhagen, Denmark, 11-13 April 2018, organised by the Danish Chairmanship of the Committee of Ministers of the Council of Europe

Conférence de haut niveau à Copenhague, Danemark, 11-13 avril 2018, organisée par la présidence danoise du Comité des Ministres du Conseil de l'Europe

Proceedings
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Directorate General of Human Rights and Rule of Law, Council of Europe
Direction Générale Droits de l'Homme et Etat de droit, Conseil de l'Europe

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PROGRAMME

Wednesday 11 April
Mercredi 11 avril

10.00 - 18.00	Access badges and pins for Ministers should be collected at the Danish Chairmanship "Hospitality Desk" in the lobby of the Copenhagen Admiral Hotel (Toldbodgade 24-28, DK-1253 Copenhagen). Badges/pins for the whole Delegation can be picked up by a member of the Delegation or by Embassy employees. Visible badges/pins must be worn at all times.
18.30	Departure from the pier in front of the Copenhagen Admiral Hotel with cruise boats to the reception. Visible badges/pins must be worn. There will be a one-hour cruise of the Copenhagen harbour before arriving at the reception (warm coats recommended).
19.30 - 21.00	**Reception for all Conference Delegates** Venue: Thorvaldsens Museum (Bertel Thorvaldsens Plads 2, DK-1213 Copenhagen). Visible badges/pins must be worn for access. Dresscode: Semiformal/Business formal.
21.00 - 21.30	Cruise boats will be departing for Copenhagen Admiral Hotel at 21.00, 21.15 and 21.30 from the same destination as when arriving to Thorvaldsens Museum. Approx. 10 min. voyage. Walking back to hotels is an alternative option (walking to Copenhagen Admiral Hotel takes approx. 15 min.).

Thursday 12 April
Jeudi 12 avril

08.30	Departure from the pier in front of the Copenhagen Admiral Hotel with cruise boats to the Conference venue, Eigtveds Pakhus. Approx. 10 min. voyage. Visible badges/pins must be worn.
08.45 - 09.30	**Arrival at the Conference venue** Conference venue: Eigtveds Pakhus (Asiatisk Plads 2G, DK-1448 Copenhagen).

	Visible badges/pins must be worn for access to the Conference venue. Media/press will be present at the lobby and will have access to the main Conference room for pictures just before the opening of the Conference. Ministers (pins only) will have access to a separate VIP room throughout the Conference (room IV). In the main Conference room (room III) there will be a meeting table for all Heads of Delegation and other speakers. Behind the Heads of Delegation there will be room for one additional Delegation member. Other Delegation members will be able to follow the proceedings of the Conference from an adjacent room via video link on a big screen (room II). Access control to the main Conference room will be enforced by a system of distinct badges/pins for Heads of Delegation and access passes for the additional Delegation members (one access pass for each Delegation to share).
09.30 - 09.45	**Opening of the Copenhagen Conference** **Søren Pape Poulsen** Danish Minister of Justice, Chairman of the Conference
09.45 - 10.30	**General remarks** **Thorbjørn Jagland** Secretary General, Council of Europe **Michele Nicoletti** President of the Parliamentary Assembly, Council of Europe **Guido Raimondi** President of the European Court of Human Rights **Dunja Mijatovic** Commissioner for Human Rights, Council of Europe
10.30 - 12.30	**1st Working Session** Statements by Heads of Delegation according to the Speakers List.
12.30 - 14.00	**Group Photo and Lunch** Heads of Delegation and other speakers are invited to

	lunch at Restaurant Kanalen (5 min. walk). Seating according to Seating Plan. Before walking to lunch there will be a short group photo session for Heads of Delegation and other speakers. All other delegates are invited to lunch at Eigtveds Pakhus (ground floor).
14.00 - 15.15	**2nd Working Session** Statements by Heads of Delegation according to the Speakers List.
15.15 - 15.30	**Coffee Break**
15.30 - 16.45	**3rd Working Session** Statements by Heads of Delegation according to the Speakers List. Interventions by the Conference of INGOs of the Council of Europe, The European Network of National Human Rights Institutions (ENNHRI) and the Danish Institute for Human Rights.
16.45	**Return to hotels – refresh – transit to evening venue** Cruise boats from the Conference venue to Copenhagen Admiral Hotel will depart shortly after the last intervention at the 3rd Working Session. Visible badges/pins must be worn. Walking back to hotels is an alternative option (walking to Copenhagen Admiral Hotel takes approx. 15 minutes).
19.00	Departure for the dinner with busses from Copenhagen Admiral Hotel. Visible badges/pins must be worn. Arrival at Tivoli Gardens. Walking through Tivoli to the dinner restaurant.
19.10 - 19.30	**Dinner for all Conference delegates** Venue: Restaurant Gemyse, Tivoli Gardens (Vesterbrogade 3, DK-1620 Copenhagen).
19.30 - 22.00	Seating according to Seating Plan for Heads of Delegation and other speakers. No seating plan for other participants. Dresscode: Semiformal/Business formal.

22.15 - 23.15	Busses will be waiting and depart at 22.15, 22.45 and 23.15 for the Copenhagen Admiral Hotel from the same destination as when arriving to Tivoli. Walking back to hotels is an alternative option (walking to Copenhagen Admiral Hotel takes approx. 15 minutes).

Friday 13 April
Vendredi 13 avril

08.30	Transport by cruise boats to the Conference venue, Eigtveds Pakhus. Approx. 10 min. voyage. Departure from the pier in front of the Copenhagen Admiral Hotel. Visible badges/pins must be worn.
09.30 - 10.00	**Conclusion by the Chairman of the Conference** **Adoption of the Copenhagen Declaration** **Press Conference facilities open** All press related questions can be directed to press advisor Jakob Kronborg (jac@jm.dk)

WELCOMING ADDRESS
DISCOURS DE BIENVENUE

Mr Søren Pape Poulsen

Minister of Justice

Mr. Secretary General, President of the Court, President of the Parliamentary Assembly, Madam Commissioner. Distinguished colleagues and guests:

It is a great pleasure for me to open the Copenhagen Conference on "Continued reform of the European Human Rights System – better balance, improved protection."

As one of the founding fathers of the Council of Europe, and among the first States to ratify the European Convention on Human Rights, Denmark is delighted to be holding the Chairmanship and hosting this conference. It is a huge honour, and a responsibility that we take very seriously.

We have placed continued reform of the Convention system at the centre of our Chairmanship.

We have done so because Denmark is and has always been a strong supporter of human rights and the Convention System.

And because we must remain committed to continuously improve the Convention system and take the necessary steps to ensure its relevance and effective functioning.

Discussing reforms is not new. Reform of the European human rights system has been on the agenda of the Council of Europe for a long time. Since 2010 within the framework of the Interlaken Process.

Much has been achieved. And we must continue this important work.

Because it is no time to rest.

At a time where Europe faces many difficult challenges, we need to remain committed, and take all necessary steps to ensure the future of our human rights system.

In a series of political conferences, in Interlaken, Izmir, Brighton and Brussels, Member States have stressed the importance of moving the centre of gravity of the European system closer to the national level.

And for good reason. Accepting the shared responsibility, between Member States and the Strasbourg system, is vital if we are to ensure the future of human rights in Europe.

This has marked a “new deal” for the Convention system.

A deal on a more effective and focused Convention system. Where the Strasbourg Court can focus on identifying serious, systemic and structural problems, and important questions of interpretation. And where Member States take on a larger role and responsibility for protecting and enforcing human rights at home.

A deal that offers better balance and improved protection.
A deal we must seal. By all States Parties ratifying Protocol 15.

And a deal which we should build on. In Copenhagen, and in the future.

Placing great emphasis on subsidiarity should not be seen as an attempt to limit or weaken human rights protection.

On the contrary, subsidiarity should operate to strengthen human rights by reinforcing the role and responsibility at the national level.

And we need to do better in this regard.

The failure to effectively implement the Convention at national level, in particular in relation to serious structural human rights problems in some countries, remains a principal challenge.

This is unacceptable.

It affects European citizens, who are denied basic rights and freedoms. It affects the functioning of the Court, receiving thousands of repetitive cases, and it affects Europe and European cooperation as a whole.

States must fulfil their responsibility to implement and enforce the Convention at national level.

And we need a strong commitment to execute the judgments of the Court. Fully, and promptly.

The Court has done an impressive job to bring down the backlog.

In 2010, when the reform process was started, the number of cases pending before the Court amounted to more than 140,000. And it continued to grow. Reaching more than 160,000 cases!

Entering into 2018, the Court had managed to reduce this number to 56,000.

This clearly testifies to the impressive ability of the Court to reform and streamline its working methods.

Well done, I have to say.
Nevertheless, the Court's caseload still gives rise to serious concern.

We need to address this issue further.

[Today, in this building, France will, as the 10th country, ratify Protocol 16. Thereby introducing a new institute of advisory opinions. This is an important development. But, on the short hand, it may give even more work to the Court.]

We need to ensure that the Court has the necessary tools and resources to do its important job. Today. And tomorrow.

There are other key challenges we need to address.

We need to ensure that the Court and its judgments are of the highest possible quality.

Therefore, ensuring a better procedure for the selection and election of judges is essential.

And there is still room for improvement.

Finally, Ladies and gentlemen, a key Danish priority is to ensure a stronger dialogue and interplay between the national and the international level.

On their respective roles and on the development of the Convention system.

Civil society should be involved in this dialogue, which will ensure that the development of human rights is more solidly anchored in our democracies.

We need to strengthen the avenues for such dialogue.

By improving access to third party interventions in cases, which may affect several member states.

By ensuring that the important turns in case-law takes place in the Grand Chamber, ensuring transparency.

And by discussing developments in the case law of the Court. With respect for the independence of the Court, of course.

Denmark is willing to take the lead. As a follow up to the Kokkedal Conference, we will therefore invite Member States, and other stakeholders, to an informal meeting, in what we hope will be a new and important dialogue.

We do so, because we strongly believe that dialogue, also on difficult questions, between all stakeholders, is the only way to ensure a strong European human rights system for the future. With broad support and ownership.

Ladies and gentlemen,

I am pleased to present a draft Declaration to you today, which addresses all the issues I have touched upon today and more.

If we get it right, the impact will be great.

We will get a substantial package of measures that builds on common sense, and addresses the current challenges facing the Convention system.

But also an agreement that makes clear that the protection of human rights goes hand-in-hand with democracy and the role of national parliaments.

I hope that together we can find consensus.

The benefits will be stronger protection of rights, more easily enforced, more widely respected.

I look forward to hearing your views, and to working with you during the conference.

OPENING ADDRESSES
DISCOURS D'OUVERTURE

Mr Thorbjørn Jagland

Secretary General of the Council of Europe

Prime Minister, distinguished guests,
It is a pleasure to be here.

The Danish Government made clear from the outset of its Chairmanship that strengthening our Convention system would be a priority. And I thank them for that. I was equally clear from the beginning of my first mandate that strengthening that system – and the European Court of Human Rights – would be a priority for me.

The current reform process began at Interlaken, with milestones at Izmir, Brighton and Brussels. It was agreed that the Committee of Ministers would take stock of our progress by the end of 2019 and decide how to move ahead. And here in Copenhagen we have the opportunity to consider what has been achieved so far, and the challenges that remain.

Certainly, the progress to date has been impressive. For example, when I took office the Strasbourg Court had a large and increasing backlog of cases. But from a high water mark of 152,000 applications pending in 2011, that number receded to 56,000 last year.

This is because we took deliberate action.

Protocol 14 streamlined procedures.

And a constant and concerted effort to increase the efficiency of working methods has delivered.

The same can be said for cases pending before the Committee of Ministers:
Where the total number has fallen from 10,000 in 2016 to 7,500 in 2017. Again, this is no accident. Repetitive cases are now closed as soon as the individual applicants' situations are resolved. We took a series of

initiatives to ensure better dialogue between the Committee of Ministers and national authorities. And, consequently, member states too have done a lot.

Structural problems are being remedied in many countries – concerning, for example, prison conditions and the length of judicial proceedings. Domestic capacities have been improved, and effective remedies put in place. And new structures have been adopted by parliaments and governments to better monitor the implementation of the Court's judgments against their own country.

So in the areas in which the Convention system has been most widely challenged – the efficiency of the Court and the execution of its judgments – progress has been made. But there are areas in which further work must be done.

They have already been identified in the Steering Committee for Human Rights report on the Convention system's future: in particular, strengthening the authority of the Court, its judges, its case law. But also preserving the Convention's coherent and paramount place within European and international law.

Together, we must consolidate the authority of the Strasbourg Court and the Convention system as a whole. This means working hard to ensure acceptance of the Court's judgments – all judgments – by all Convention actors. This is the backbone of our "shared responsibility".

I have heard it said that the Court lacks the democratic legitimacy of national parliaments. This is wrong-headed. The separation of powers is part of the checks and balances found in healthy democracies. Sometimes politicians will not like judgments handed down by a court. But that is the nature of the legal process.

Those courts – our Court – are there to protect people against the arbitrary use of state power. Politicians cannot set aside constitutional provisions by simple majority vote because they do not like them. The same is true for human rights in Europe.
The Convention and the Court's judgments are part of a collective guarantee set up by the member states under international law. There are also those who claim that the Court can go too far in its interpretation of the Convention. This too is wrong.

We have to keep in mind that the Convention is a living instrument which must be interpreted in the light of present day conditions and of the ideas prevailing in democratic States today. This is fundamental.

As a consequence, for example, we have witnessed the decriminalisation of same sex relationships in Europe following the 1981 Dudgeon judgment. Who among us would now argue against this?

And years after, in 2015, in *Oliari and Others v. Italy*, the Court recognised same-sex partnership taking into account a trend among member states towards the legal recognition of same-sex couples.

Of course our Organisation must continue to work closely with member states to ensure that we have a shared understanding of the law – And how it can best be implemented.

Indeed, all Convention actors have a say in the interpretation of the Convention in response to modern challenges. Together, we have already developed various tools for joint working, which should be used to their fullest. These include judicial dialogue, which will be enhanced by Protocol 16, most recently ratified by France.

But also dialogue between the Strasbourg Court and other national authorities, with – Observations and third party interventions – Exchanges of view between the Court's President and the Committee of Ministers – And close contact between the Court Registry, the Department for the execution of judgments and domestic government agents and other authorities.

Similarly, our standard-setting activities facilitate meaningful dialogue with the high contracting parties. And we must also strengthen co-operation with member states to help them implement the Strasbourg Court's judgments.

Because the efficient execution of judgments remains central to the judiciary's credibility. So too is the authority of the judges who serve on its bench. This means that lawyers of only the highest ability should be selected and elected as judges.

Overall, what more can be done – While respecting the separation of powers – With a fully independent European Court of Human Rights that maintains the right of individual petition?

In order to meet this challenge, the Court will need sufficient resources. Equally, it will require the principle of shared responsibility to be upheld, with member states demonstrating the political will to implement the Convention.

Because the reality today is that the biggest problems are not in fact due to the Strasbourg Court per se. Rather, they are because too often countries still have laws or practices that are not in line with the Convention. Or they are too slow to implement judgments from the Strasbourg Court.

The Council of Europe will be supportive of further efforts to change this. But primary responsibility for rectifying these issues rests at the national level. This, after all, is what the principle of subsidiarity is about. This has long been a source of consensus. And on this subject I warmly welcome the most recent ratifications of Protocol 15 to the Convention.

I know that the four countries that have yet to sign or ratify will do their utmost to move quickly. I also hope that progress will soon be made on the European Union's accession. This should help ward off the danger of fragmentation of human rights protection in the European and international legal space.

More broadly, that risk is being examined by the Committee of Experts on the System of the European Convention on Human Rights. And I look forward to hearing its conclusions. It is easy to take for granted what the Convention system has given to Europe in its near 70 year history – But the reality is that human rights, democracy and the rule of law are not inevitable.

We need the institutions, laws and political will to uphold these things. Eroding them would undermine the common legal space that safeguards Europe's unity and peace. But together we can not only prevent this; we can strengthen our Convention system further still.

Mr Michele Nicoletti

President of the Parliamentary Assembly of the Council of Europe

Excellencies,
Secretary General of the Council of Europe,
Ladies and Gentlemen,

Allow me to thank the Minister of Justice of Denmark, Mr Søren Pape Poulsen, for hosting us.

The topic of our debates today – the Continued Reform of the European Human Rights Convention System – is of utmost importance.

The genesis of our Convention goes back 70 years ago to the famous Hague Congress and let me quote a few sentences from the Final Resolution here:

"…Human rights are the essential bases of our efforts for a United Europe and that a Charter of Human Rights is insufficient unless rendered legally binding by agreement to be reached between the member states…". For this reason, the resolution continued: "it is essential for the safeguarding of these rights that there should be established a Supreme Court with supra-state jurisdiction to which citizens and groups can appeal, and which is capable of assuring the implementation of the Charter".

With the creation of the Council of Europe – and the adoption of the European Convention on Human Rights – this visionary idea became a reality. As a constitutional instrument of the European public order, the Convention provides a solid legal foundation for European unity. Recalling the origins of the Convention, allows us to rediscover and reaffirm the close link between the idea of a Supreme Court and the vision of a more United Europe.

Today, when human rights, democracy and the rule of law have to face numerous – old and new – threats, we must recall the circumstances in which the Convention was drafted, its function and its purpose.

We must recall that, although the Convention system was not the idea of governments, it was their creation, it operates to their advantage and it remains first and foremost their responsibility.

States have the obligation to protect the rights of every human being within their jurisdiction; states have the obligation to implement judgments of the Court when the rights of individuals have been violated. Domestic implementation – as well as unconditional implementation of the Court's judgments – are the fundamental principles that are essential for the efficient functioning of the Convention system.

At the same time, we should not underestimate the importance of the role of the Convention's control mechanism – the European Court of Human Rights – which provides a safeguard for violations that have not been remedied at national level and authoritatively interprets the Convention.

Let me put it straight.

The Convention system works because a single catalogue of rights is applied throughout Europe, according to a common interpretation. This is only possible because a single, independent court is empowered to definitively interpret those rights. If rights were interpreted differently in every jurisdiction, the result would be legal chaos and the universality of these rights – which is *the* typical element of human rights – would be weakened and finally destroyed.

The Convention system of collective enforcement can only work with the Court as an independent decision maker on all matters of interpretation and application of rights. The drafters of the Convention understood this, and they drafted Article 32 of the Convention on the "Jurisdiction of the Court" with the deliberate intention of achieving it.

For the Convention system to continue to be effective, we must reaffirm this principle, in the clearest possible terms.

Ladies and gentlemen,

The title of our Conference puts an emphasis on "Better Balance" and "Improved protection".

Indeed, the Convention system is a sophisticated machine, a delicate mechanism with carefully balanced parts. Interfere with one part, careless to its nature and purpose, and the entire system is disrupted.

I fear that we are seeing a growing failure to appreciate the importance of the Convention and the delicate balance of the system it created. This is short-sighted and dangerous in the extreme.

Of course, we have to balance the universality of these rights and the supranational character of the Court with the respect for diversity and with the principle of subsidiarity, which are both cornerstones of our European civilization. But some things are matters of principle. There is a point beyond which change becomes incompatible with principle.

Do the member States still accept collective enforcement of human rights and its implications, in terms of shared responsibility and the margin of appreciation, under the supervisory authority of the Court? Or, does the defence of national sovereignty outweigh the commitment to international co-operation? One path leads to conflict, the other to stability and security. In our democratic societies the sovereign power belongs first of all to the citizens and the Convention system was built to reaffirm the primacy of citizens upon political national absolutism. We should not change that course today.
Excellencies,
Ladies and gentlemen,

I see that the Parliamentary Assembly will be invited to give full effect to the Copenhagen declaration. We will of course play our role.

As a statutory body of the Council of Europe and one of the Convention actors, electing the Judges of the European Court of Human Rights, the Parliamentary Assembly is willing and ready to contribute to the process of the reform of our Convention system and we commit ourselves solemnly to do our best in order to guarantee the highest standard of decisions in this matter.

Through our reports, we will continue to contribute to the reform process with our substantive expertise and political vision. We will also continue to follow the implementation of judgments of the Court.

Through our capacity-building activities for national parliaments, we will continue to contribute to ensuring better implementation of the Convention at the national level, helping parliaments to develop human rights expertise and oversight mechanisms.

In a spirit of shared responsibility and collective action, let me emphasise the need to ensure that the reform process is open and inclusive. All Convention actors, including the Secretary General, the Parliamentary Assembly, the Commissioner for Human Rights and NGOs, which often intervene as third parties, are important stakeholders

of the reform process. Their perspectives must be taken into account, for the reform process to be truly effective.

Ladies and gentlemen,
Democracy and freedom in Europe are facing new and growing challenges. We will not be able to meet them if we forget the basic principles of this Organisation and waver in the face of populism and autocratic arrogance. The drafters of the Convention were visionaries, but their vision came from bitter experience. Their creation was based on a determination to take concrete, practical steps to prevent repetition of the horrors of their recent past.

Now is not the time to abandon their principles and undo their careful work.

Now more than ever is the time to recall the courageous spirit that guided the founding fathers of the Council of Europe to strengthen our common legal framework of human rights, our common defence system, as well as our single, independent, supranational European Court of Human Rights.

Thank you for your attention.

Mr Guido Raimondi

President of the European Court of Human Rights

Ministers,
Ladies and Gentlemen,

Firstly, I would like to express my sincere thanks to our hosts for organising this fifth high-level reform conference of the Convention system and for having placed the European Court of Human Rights at the heart of their presidency of the Committee of Ministers. Next, my thanks go to all delegations present for their hard work in coming up with this final text, reaffirming your deep and abiding commitment to the European Convention on Human Rights.

In the spirit of Interlaken, Izmir, Brighton and Brussels, the Copenhagen draft Declaration is first and foremost a **political** declaration of commitment to the European Court of Human Rights and the Convention system, as well as the right of individual application. The important number of Ministers present today testifies to this commitment.

It is a **practical** declaration, with a strong message acknowledging the importance of retaining a sufficient budget for the Court to do its job properly (calling on States to support temporary secondments and consider making voluntary contributions), and recognizing that appointing judges of the very highest quality will play its role in ensuring the long-term effectiveness of the system.
It is also a **dynamic** declaration which, building on the Brussels declaration, affirms an increased State participation in the Convention process: starting from effective national implementation of the Convention through to systematic execution of Court judgments. Sharing responsibility entails action, and not merely reaction, on the part of Member States.

The draft Declaration recognises the hard work and the notable results achieved by the Court during the course of the Interlaken process. It acknowledges the Court's sustained efforts to reduce its backlog, through continually **reforming and streamlining working methods**: currently there are under 56,000 pending applications before the Court. This is approximately a third of the number of applications which were pending before the Court on the eve of the Interlaken conference. The current figure is therefore impressive, but we have to recognise that significant challenges remain. There are still too many cases raising important issues which take too long to adjudicate.

That being said, the Court has successfully exploited the tools provided by Protocol no. 14 and continues to develop new working methods particularly for dealing with the most straightforward cases. It has also invoked the notion of shared responsibility in introducing more streamlined procedures and sharing more of the burden of case processing with Governments – I refer here to the so-called immediate simplified communication. More generally the Court is interested in exploring new ways of cooperating with Governments with a view to furthering the common goal of making the Convention system more effective. A starting point is greater transparency as to

the substance of pending cases so that Governments are aware of issues and thus are in a position to address them proactively. I am pleased to mention the encouragement and assistance that we have received from Government Agents, who play an important role as actors in the Convention system.

The draft Declaration welcomes the Court's efforts to continue developing its working methods. It also notes the positive effects of the Court's pilot judgment procedure as a tool for improving national implementation by tackling systemic or structural human rights problems. The recent judgment of the Grand Chamber in the case of *Burmych* testifies to the fact that once the Court has established the principles in the pilot judgment, it will be for the State concerned to legislate or take the necessary measures, and it will do so under the supervision of the Committee of Ministers.

The draft Declaration encourages the Court's initiatives to enrich judicial dialogue through the Superior Courts Network which was created in 2015. There are now 67 member courts from 35 States. There is certainly an appetite for dialogue and exchange of information to which the Court is responding. Another way to promote interaction between the national and the European level, as underlined in the draft Declaration, is through increased third-party interventions brought by Member States, particularly in Grand Chamber cases. The Court will now explore ways in which it can support this call for increased dialogue.

Indeed, the Court has always sought to respond quickly and efficiently to the challenges laid down each step of the way along the Interlaken process: from the swift implementation of Protocol No. 14 and the reduction of the backlog of manifestly inadmissible cases, to the strict and consistent application of the admissibility criteria, to now preparing to receive requests for Advisory Opinions when Protocol No. 16 comes into force, which we now know will be later this year. We were informed just last week by President Macron that the law authorising ratification of Protocol No. 16 had been promulgated. This will, in principle, be the tenth ratification which means that the Protocol will enter into force three months after the deposit of the relevant instrument with the Secretary General. I take this opportunity to thank those Governments which have made this possible.

The Court and the Member States are together in a partnership with a common goal as I have said, yet they have distinct roles. In recognising their separate missions in this context, it is worth stressing the fundamental principle of judicial independence and the need for respect for the lawful authority of the judiciary, which underpins the Court's role. "The authority of the Judiciary" was the theme of this year's Judicial Seminar, which marked the opening of the Court's judicial year. It proved to be a very relevant and popular topic with the Court's guests. It is also a theme which the Secretary General has put at the forefront of the agenda of the Council of Europe. While it is, of course, open for Member States to discuss the development of the Court's case-law, this must be done in a way that is consistent with full respect for the Court's independence and the binding nature of its judgments.

You may rest assured that post-Copenhagen and in the run-up to the fast approaching 2019 deadline, the Court will continue to use its creativity and expertise to respond to the challenges ahead, streamlining working methods and improving judicial policy and case management.

The Convention and its control mechanism remain crucial for the stability and security of the community of Council of Europe States and beyond. In these difficult times where the values which underpin the Convention and the whole Organisation are increasingly challenged, it becomes even more important to have an independent judicial body offering redress to victims and maintaining a clear line of principles to remind States of their commitments, thereby relentlessly pursuing the steady work of consolidation and repair of the twin and mutually interdependent foundations of European society, that is democracy and the rule of law.

The draft declaration to be adopted today confirms the full support of the State Parties to the Convention and to the Court. No doubt it will assist the States and the Court in the forthcoming years in their joint effort to ensure an excellent level of protection of human rights on our continent.

Ms Dunja Mijatovic

Commissioner for Human Rights of the Council of Europe

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.

STATEMENTS BY HEADS OF DELEGATION
DISCOURS DES CHEFS DE DÉLÉGATION

Albania/Albanie: Ms Etilda Gjonaj

Distinguished Participants, dear Colleagues, Ladies and Gentlemen,
I am honoured to be here today in occasion of the discussions for the reform of the European Court of Human Rights, and I want to express my gratitude for the Danish hospitality.

Since becoming a Member of the Council of Europe, Albania has demonstrated a genuine commitment to the full and timely implementation of the decisions of the European Court and has addressed internal, structural problems in line with the Convention spirit. It is true that States' proper implementation of the judgments of the Court is the key to its authority and reputation. However, it should be noted that even States which do timely implement the Court's judgments, as Albania does, could be found in difficulties to enforce especially those judgments which bring a considerable financial burden.

In this respect, it is worth pointing out that the Court should consider its effect especially in small States. The Court can deal out with groups of judgments relevant to systematic problems as long as the Member States have shown evidences that the mechanisms, that are established, confirm fair balance between the individual rights and community interests.

Due to the importance given by the Government to the national implementation of the Convention and ensuring independence of the judiciary, Albania has undertaken, during the last three years, a difficult and courageous path of reform in the justice system to bring it in line with European standards of democracy, human rights, and the rule of law. The reform, internationally supported by our valuable partners, is focused on three main pillars: Re-evaluation of the judges and prosecutors through the vetting process; setting up independent, accountable and efficient justice institutions; strengthening the fight against organised crime and corruption through the establishment of special courts, prosecution, and police bodies.

Now, we are in the phase that Albania is showing not only the good will but even the courage to implement the most unique and radical judicial reform in all countries which aspire the EU accession. In addition, at the political level, the Government of Albania intends to support the implementation of the Convention at the national level through establishing a think-tank of wise persons providing expert opinions on the matters relating to the standards of the Convention. With regard to the protection of human rights, Albania is making significant process. In guaranteeing and respecting human rights, such as the adequate treatment of prisoners, with focus in mental measures persons, in the right for non-discrimination, minorities' rights, the property rights, *etc.*

Finally, in the end of my statement, on behalf of the Albanian Government, I want to encourage the Council of Europe's State Members contribution to the reform of the European Court of Human Rights and to ensure the full commitment of the Albanian Government in fulfilling its obligations. Let me wish to all of you a very enriching Conference and all the very best in our deliberations.

Thank you.

Andorra/Andorre: Mr Xavier Espot Zamora

Ministre de la Justice de la Principauté d'Andorre

Monsieur le Président,
Monsieur le Secrétaire Général,
Monsieur le Président de l'Assemblée Parlementaire,
Monsieur le Président de la Cour Européenne des Droits de l'Homme,
Madame la Commissaire des Droits de l'Homme,
Mesdames et Messieurs les Ministres et les Secrétaires d'Etat,
Mesdames et Messieurs les Ambassadeurs,
Mesdames et Messieurs,

Depuis le premier arrêt de la Cour Européenne des Droits de l'Homme, le 14 novembre 1960, dans lequel la Cour examinait une affaire non pas sur le fonds, mais tranchait sur des questions de procédure, le chemin recouru par les Etats membres et la Cour peut être qualifié pour le

moins de remarquable. Et pourtant, les questions qui se présentent à la Cour sont quelque part souvent les mêmes. Dans l'Affaire Lawless, la Cour se prononçait sur « l'équilibre entre les justiciables », c'est-à-dire entre les Etats et les requérants, et à ce moment-là, sur les fonctions de la Commission des Droits de l'Homme dans les procédures, qui était questionnée.

58 ans plus tard, nos gouvernements se questionnent toujours sur certains arrêts, sur les fonctions de la Cour pour faire face aux défis d'aujourd'hui, et comment elle y répond. Nos gouvernement sont souvent ennuyés ou même se sentent outragés de certains arrêts de la Cour. Mais ce qui ressort de ces presque 60 ans de jurisprudence de la Cour, c'est que l'importance de chacun de ses arrêts est inestimable. Même le plus «anodin» des arrêts, au départ, si cela est possible, peut avoir des conséquences vraiment inespérées dans la vie de nos Etats. L'Andorre en est un exemple parfait. Par un arrêt du 26 Juin 1992, dans l'affaire *Drozd et Janousek contre la France et l'Espagne*, la Cour a contribué sans aucun doute à la transformation de la Principauté d'Andorre en un Etat de droit moderne, doté d'une Constitution écrite, faisant ainsi pas à son acceptation dans la Communauté internationale et à sa future adhésion au Conseil de l'Europe.

Dans cette affaire, un citoyen espagnol et un citoyen tchécoslovaque, arrêtés, détenus et jugés en Andorre pour vol à main armée, rendaient responsable la France et l'Espagne de certaines supposées violations de la Convention Européenne des Droits de l'Homme pendant la procédure pénale. Dans cette affaire, jugée en Grande Chambre, la Cour trancha en affirmant à l'unanimité que les autorités judiciaires d'Andorre étaient indépendantes et libres de toute interférence d'un autre Etat. L'Andorre n'étant pas à ce moment-là partie de la Convention, la Cour n'était donc pas compétente pour juger les violations alléguées de l'article 6, et en ce qui concernait les violations de l'article 5, concluait qu'il n'y avait pas eu de telle violation, et rejetait donc la requête des plaignants. Cet arrêt fut décisif du point de vue de la reconnaissance internationale d'Andorre, dans la mesure où il permit d'effacer les dernières réticences sur la réforme institutionnelle de notre pays qui, désormais, était devenue indispensable.

Même si pendant ces derniers 25 ans, l'expérience de l'Andorre par rapport à la Cour Européenne des Droits de l'Homme peut sembler a priori moins large ou signifiante que celle d'autres pays, de par le moindre temps écoulé ou de par ses petites dimensions, il est quand même évident que nous avons aussi été condamnés à différentes reprises. Les décisions ont pu nous plaire plus ou moins, mais nous les

avons toujours pleinement respectés et mis en œuvre, étant donné que du travail de la Cour en découlent toujours des effets positifs pour les États, en termes de législation, d'institutions judiciaires, gouvernementales et administratives, ou de vie démocratique.

Quelles que soient les modifications structurelles nécessaires et les nouveaux mécanismes introduits pour améliorer le fonctionnement de la Cour, quels que soient les efforts requis de toutes les parties prenantes à cette institution, qui est une vraie source d'inspiration pour tant d'autres juridictions, la Principauté d'Andorre les soutiendra et les mettra en œuvre si nécessaire. Mais au-delà, la Principauté d'Andorre soutiendra toujours la Cour dans son travail, dans son œuvre générale, qui dépasse chacun de nos Etats, et de nos préoccupations politiques présentes et conjoncturelles.

Le Gouvernement d'Andorre réaffirme son plein engagement envers les dispositions de la Convention Européenne des Droits de l'Homme, et envers la tâche de la Cour. La Convention doit rester un instrument vivant, et ce sont les citoyens et la Cour qui le rendent vivant. Ne laissons donc pas s'affaiblir cet instrument, et pour cela, soyons des Etats et des gouvernements engagés dans l'œuvre de la Cour, et travaillons pour mettre en œuvre les dispositions et recommandations de la Déclaration que nous adopterons aujourd'hui.

Je vous remercie de votre attention.

Armenia/Arménie: Mr Artak Asatryan

Deputy Minister of Justice,
Deputy Agent of Armenia before the ECHR

Dear colleagues,
Ladies and Gentlemen,

Allow me to begin by welcoming the initiative of the Danish Chairmanship of the Committee of Ministers of the Council of Europe for organising and hosting this High-Level Conference. I would like to highlight the important role of Denmark in furthering the continued reform of the Convention system as a main priority of their

Chairmanship. Efforts were made to push for yet another debate on the future of the Convention system by prioritising the "strengthened dialogue" between Strasbourg organs and the States Parties.

In past reforms of the Convention system, the focus has been primarily on enhancing the position of the individual applicant seeking redress for a rights violation by a State Party, whereas, the Copenhagen Declaration that we will adopt tomorrow is aimed at establishing **more structured and effective interaction between the national and European Levels**.

Given the Court's role in nesting "supranational judicial diplomacy" and human rights development concepts which goes beyond traditional understanding of adjudication, its impact on national law making policy is indispensable. Therefore, we hope that the Copenhagen Declaration - in rebalancing the Convention system and enhancing the position of the States Parties – will bring to mutually beneficial results without prejudice to the interests of any of the actors.

Armenian authorities believe that the proposed forms for stronger interplay with the Court, in particular the ability to indicate State Party's support for the referral of the Chamber case to the Grand Chamber, the increased third-party interventions, including through Government Agents Network, will not be used as a tool for subjecting the Court to unnecessary political pressure and undermining its independence and impartiality.

Although the Court's efforts in bringing down the backlog are welcoming, these methods first of all affect the States Parties concerned. In this context, it is highly commendable that the Declaration encourages the Court to continue to explore the avenues to manage its caseload in cooperation and dialogue with the States Parties.

The Copenhagen Declaration welcomes the future coming into effect of Protocol 16 which will further contribute to strengthening judicial dialogue and exchange of information on the Court's case-law. The Armenian authorities articulate particular importance to the development of synergies between the Court and the national judicial bodies. The said was also demonstrated by signature and ratification of Protocol 16 and by including a specific point in draft 2018-2023 Strategy on Judicial and Legal Reforms in Armenia and the Action Plan deriving thereof on establishment of legal mechanism to ensure proper implementation of the right to seek advisory opinions.

In the frameworks of the High-Level Conferences in Interlaken and beyond the Armenian authorities have confirmed their strong support and attachment to the Convention system and the Court. We take the opportunity to reiterate our commitment to take appropriate steps to ensure proper functioning of the system at national level. The strategic and policy papers adopted in the course of previous years and those in the process of development have taken stock of the pillars identified through the Interlaken process by envisaging specific objectives on further raising the effectiveness of the national implementation of the Convention and the Court's judgments.

In concluding my remarks, let me once again welcome the reform process of the Convention system believing that this High-Level Conference can become another platform for furthering new and more effective mechanisms and modalities for sustainable development of the system.

Austria/Autriche: Ms Karoline Edtstadler

Mr. Chairman,

At the outset, let me join the warm thanks to Denmark and the Council of Europe for organising this important high-level event.

[The drafting process for the Copenhagen Declaration was led by a committed Danish team. Many thanks to them, all delegations and the representatives of the Court who were so actively engaged in finding a workable compromise text.]

The conference affirms the commitment and political will of all Parties to the European Convention to safeguard the Convention rights now and in the future.

The conference continues the very impressive and successful sequel of high-level conferences, from Interlaken to Izmir, Brighton and most recently Brussels. This entire process clearly demonstrates the continued political importance attached to the rights enshrined in the Convention as common European values. The action plans adopted at

these conferences have been crucial for the functioning of the Convention system as a whole and of the Court in particular.

Indeed, Austria applauds the Court for the enormous work undertaken in streamlining its working methods and reducing the backlog of cases signifantly. Here, I want to stress Austria's position that all measures designed to enhance the efficiency of the Court must not hamper the effectiveness of the right of individual application.

At the same time, we, the Member States, must ensure that the entire Convention system stays sustainable in the future. Full execution of the Court's judgments is crucial. We have to take the Court's standards seriously and implement them properly at the national level. As suggested by the Danish chair, cooperation and dialogue between the Court and the members states, including national courts, seem very well suited for further improvement, meeting the challenges of today and tomorrow. We must be well aware that the system of protecting the Convention rights and its proper functioning cannot be taken as granted. It needs the continuous support of all member states!

In that spirit, Austria fully supports the Copenhagen Declaration. In particular, we welcome the high importance attached to the right of individual application – the cornerstone of the Convention system. We agree that all efforts have to be taken to further improve the implementation of the Convention at state level.

This brings me to the upcoming Austrian chairmanship in the European Union during the second half of 2018 and one of Austria's political priorities:

Austria is strongly in favour of an accession of the European Union to the European Convention of Human Rights. During our chairmanship, we will thus support all efforts to find reasonable answers to the open questions in ordner to take a big step forward in this complicated process.

To conclude, I would like to to point out that the functioning of the Convention system should not be considered by itself, but in a wider context: The Convention system is a manifestation of the common European values, notably the rule of law. Strengthening and safeguarding the rule of law promote peace, stability and prosperity within Europe. This very aim of the visionary founders of the Council of Europe and the wise drafters of the European Convention has not lost

any of its relevance today. On the contrary, it is more important than ever.

Thank you.

Azerbaijan/Azerbaïdjan: Mr Chingiz Asgarov

Government Agent of Azerbaijan

Dear Mr. Chairman,

Your excellences Mr Ministers, Dear colleagues, Ladies and Gentlemen,

I am pleased to join previous speakers in thanking the Danish authorities for the excellent organisation of this High-Level Conference. We've already enjoyed a warm welcome and an excellent hospitality.

We've been working on improvement of a human rights protection system in Europe for many years and adopted important instruments and declarations in this regard. At the same time, rising disappointment about the smooth operation of the system requires that further steps to be taken in the years to come to enhance the Court's ability to ensure effective protection of human rights. This will require a combined effort of the Court, Parliamentary Assembly, the Committee of Ministers and Member States. Possible avenues of moving forward have been outlined in the extensive study conducted by the Council of Europe's Standing Committee on Human Rights.

It is time to understand that there should be no difference in treatment of human rights and freedoms. Consequently, we call on the Court to ensure application processing based on transparent and unambiguous criteria, in particular as regards giving priority to particular applications. Otherwise, Member States will still face practical difficulties in dealing with communications related to events which occurred long time ago.

The need to raise effectiveness of the Court also requires that the system of election of judges, in particular at the level of the Parliamentary Assembly, to be improved. We believe that all Member-States should be equally represented in the Assembly's Committee on Election of Judges.

The same principle is also well related to the operation of the system of supervision of execution of the Court's judgments. During the last few years we heard the voices at the DH meetings of the Committee of Ministers that the situation when the deputies continuingly discuss several judgments delivered in respect of certain – not more than dozen Member States – while other not less important cases are being left without due attention is not normal. The Secretariat of the Committee of Ministers might be asked to develop relevant proposals. We also believe that the Committee of Ministers will extend the referral to Article 46 § 4 of the Convention in cases of deliberate failure to execute the Court's judgments.

With this in mind we may not underestimate the duties of Member States to secure due enforcement of the Court's judgments. At recent DH meeting we informed the deputies about the most significant reform undertaken in Azerbaijan in the field of criminal policies. I should underline that the Court's case law was largely referred to during preparation of revolutionary amendments to the legislation in the field of criminal and penal law.

Meanwhile, we continue to take measures aimed at strengthening the independence and efficiency of judiciary. CEPEJ has commented the scale and results of judicial reforms, expansion of judicial self-governance, implementation of ICT and transparency in Azerbaijan. At the end of 2017 my country received the Council of Europe's "The Crystal Scales of Justice" Award for the project called "Court Pulse – The Management Revolution".

In line with provisions of the draft Copenhagen Declaration recently we established that the status of a judge of the Court elected in respect of Azerbaijan shall be equal to that of the judge of the Constitutional Court.

To conclude, we support adoption of the draft Copenhagen Declaration, which, among other issues, takes the stock of the current reform process, proposes new measures and provides guidance for the future work.

Ladies and gentlemen,

We believe that the success of the Convention system reform depends mainly on our mutual efforts and willingness to tackle challenges faced within the Council of Europe system of protection of human rights.

I thank you for your attention.

Belgium/Belgique: Mr Daniel Flore

Directeur général, DG Législation, Libertés et droits fondamentaux

Monsieur le Président,
Chers Collègues,
Mesdames, Messieurs,

Au nom de Monsieur le Ministre de la Justice, Koen Geens, je remercie les autorités danoises pour l'organisation de cette Conférence. Pour avoir vécu l'organisation d'une Conférence ministérielle, nous savons l'investissement que cela représente.

L'actualité nous montre que les droits et libertés fondamentales sont au cœur de nos défis quotidiens. Elle nous montre combien les Etats sont les premiers garants de leur sauvegarde et qu' une juste balance des intérêts concurrents en présence constitue la seule bonne application du principe de subsidiarité, déjà largement évoqué ce matin.

Par l'adoption de la déclaration et la participation de chaque Etat qui compose le Conseil de l'Europe, nous nous devons d'affirmer, aujourd'hui encore, notre **engagement profond et constant à l'égard de la Convention**. Nous avons choisi d'axer la précédente Conférence ministérielle sur le concept essentiel de la responsabilité partagée entre tous les acteurs du système de la Convention.

La Belgique s'était, lors de la Déclaration de Bruxelles, engagée à une implication plus accrue de son Parlement national dans la mise en œuvre de la Convention, à l'instar de ce qui se pratique déjà dans plusieurs Etats membres. A cet effet, deux rapports annuels faisant état des arrêts récents rendus par la Cour à l'égard de notre pays ainsi que de leur état d'avancement au stade de l'exécution, ont déjà été établis pour être présentés au Parlement fédéral, en y joignant les Plans et bilans d'action déposés.

Dans le même esprit, le Bureau de l'Agent du Gouvernement belge transmet immédiatement tous les arrêts rendus contre la Belgique à une plateforme d'institutions actives en matière de droit de l'Homme et organise des réunions régulières avec nos partenaires- autres Ministères et hautes juridictions- impliqués dans l'exécution des arrêts.

Pour répondre à ses engagements internationaux par des mesures concrètes, notre Ministre de la Justice s'est personnellement investi sur

la question des personnes détenues ou internées. Il s'est d'ailleurs rendu à Strasbourg le 13 mars dernier pour prendre part aux débats thématiques du Comité des Ministres sur le surpeuplement carcéral et les conditions de détention. Soucieux d'augmenter la communication avec le Comité des Ministres sur la question essentielle de la mise en œuvre des arrêts pilotes ou visant une problématique structurelle, le Ministre a informé le Comité des progrès en cours pour la réduction de la surpopulation carcérale et décrit les différentes étapes de modernisation et de construction de centres de détention adaptés aux normes recommandées par le CPT.

J'ai par ailleurs le plaisir de vous annoncer la ratification, le 4 avril dernier, par la Belgique du Protocole n°15 à la Convention qui n'attend plus aujourd'hui que trois Etats pour entrer en vigueur.
Pour conclure, la Belgique s'inscrit avec un enthousiasme renouvelé dans les objectifs de la Déclaration. Elle s'attachera tout particulièrement à renforcer – à titre préventif comme curatif - le système européen de protection des droits de l'Homme, à défendre l'autorité de la Cour et à améliorer encore la mise en œuvre de ses arrêts.

Soyez convaincus de notre engagement quotidien et de notre pleine collaboration à cet égard.

Bosnia and Herzegovina/Bosnie-Herzégovine: Ms Belma Skalonjic

Ministers, Excellencies, Ladies and Gentlemen,

The Delegation of Bosnia and Herzegovina has a great honor to take participation in the ministerial conference in Copenhagen dedicated to the reform of the European Convention System, in order to achieve better balance and improve human rights protection for all European citizens and others within our scope of responsibility and jurisdiction. We also use this opportunity to congradulate to the Danish Chairmanship for excellent work they have performed in the past months.

Our Delegation is aware that we are expected to bring some good news here today in relation to Protocol 15 to the Convention. It is true that there has been a delay on the part of Bosnia and Herzegovina and unfortunately, today we remain the only State that has not signed Protocol No. 15. However, I am very glad to be able to inform you today that some positive developments occurred last month. On March the 13th the Presidency of BiH adopted a Decision that Bosnia and Herzegovina is to sign Protocol No. 15 and the Permanent Representative of BiH has been authorized to sign it on behalf of Bosnia and Herzegovina. In accordance with the domestic procedure, the Decision of the Presidency has been sent to the Ministry of Foreign Affairs and the Ministry will send an Instruction, along with the Decision, to our Permanent Representative in Strasbourg. It is hard to give the exact dates at the moment, but we expect all this to be implemented within a month from now.

Regarding the Draft Declaration, we use this opportunity to reiterate our commitment to the independence of the Court, binding character of its judgments and support the right of individual application in order to achieve individual human rights protection. In that regard, we fully understand and support the need to strengthen the capacity of the Court, in order to enable it to continue to develop its jurisprudence in accordance with its unique principles of interpretation.

As the High Contracting Party to the Convention, we are aware that we have to take on and implement our part of responsibility. In that respect, the implementation of the Court´s judgments is central to the effectiveness of the Convention system. Bosnia and Herzegovina has so far implemented comprehensive set of general measure, under the supervision of the Committee of ministers. The implemented measures contributed directly to improvement of the national legal system in many areas. However, there are some outstanding issues and our national authorities keep put efforts to reach final soulution in line with the Convention standards.
We use this opportunity to confirm our full dedication to the reform process that will keep the convention mechanism to develop and cherish, we own that to the future generations of the citizens of Europe.

Bulgaria/Bulgarie: Mr Evgeni Stoyanov

Vice-Minister of Justice

Dear Ladies and Gentlemen,

I would like to thank the Danish Chairmanship for the present initiative that has given us the opportunity to continue the serious debate for the future of the European Court of Human Rights. It is an honour for me, along with the representatives of the other States Parties, to confirm once again Bulgaria's strong support for an efficient and working Convention system.

The outlining of the future of the Court requires clear and explicit definition of both its and the national authorities' roles within the frame of the Convention, especially in the light of the serious number of pending applications. The entry into force of Protocol 16 and the future accession of the EU to the Convention will add new aspects to the responsibilities of the Court and may deepen further the backlog problem.

Bulgaria supports the principle of shared responsibility underlined in the draft declaration. In this context, we share the view of the importance of prevention and improvement of the implementation of the Convention in the national legal systems. That is why, in 2016 we introduced a national mechanism for preliminary assessment for compliance of legislation with the Convention and the Court's jurisprudence.

We deem the effective implementation of the Court's judgements is of key importance for the protection of human rights in Europe and we appreciate the significant role of the Committee of Ministers in this process. The pilot judgments against Bulgaria triggered the accomplishment of some long-due legislative reforms. As a result, and in line with the ongoing Court reform for only five years the pending applications against Bulgaria have dramatically decreased over six times from 3800 in 2012 to only 600 at present.

One of the founding ideas of the Convention is the entrustment of responsibility for its implementation to the national authorities, the Court's part being limited to observing the compliance with commitments assumed by States Parties. This is the manner, in which the States' margin of appreciation in implementing the Convention and the Court judgements at national level should be apprehended. In this respect, Bulgaria welcomes the efforts of the Court to interpret the Convention in

a careful and balanced manner, as well as the strengthening of its dialogue with the States, especially via their participation as third intervening parties in cases before the Grand Chamber.

We reiterate that further measures are necessary to deal with the problem of the high number of applications. We appreciate the Court's efforts particularly in terms of the filtration of inadmissible applications and the publishing of pilot judgments in view of the effective disposition of repetitive violations. We believe Protocol 15 will additionally facilitate the Court in this task.

Bulgaria comprehends the seriousness of the problems standing before the Convention system, but unfortunately, there is no plain solution to tackle with existing hardships. The only successful path forward is the common and consistent effort of the States Parties, the Court and the other institutions of the Council of Europe to implement the measures already agreed upon and to elaborate new balanced ones in this respect.

Thank you.

Croatia/Croatie: Mr Drazen Bosnjakovic

Distinguished Ministers, Excellencies, Ladies and Gentlemen,

Firstly, let me say that there is no doubt that the European Human Rights Convention system presents one of the most significant mechanisms which made remarkable contribution to the protection and promotion of human rights and the rule of law in Europe. We express our deep commitment to the Convention and the obligations under it as well as attachment to the right of individual application to the Court as a key aspect of the system. On this occasion, I would like to express my strong support to the process of the reform and the efforts put into the Copenhagen Declaration as a welcomed and necessary step in the reform of the Convention system.

Regarding the issue of the caseload, as one of the major challenges posed to the Convention system, we believe that it is of crucial

importance to create and take measures to reduce the backlog. This can be done with development and improvement of the Court's working methods, co-operation of all the actors involved, securing sufficient funds, and so on. I strongly believe that the European Court of Human Rights should act as a safeguard for damages that have not been resolved at the national level. Through clear and consistent judgments, it should provide States Parties with the framework for the implementation of the Convention at the national level.

Finally, let me conclude by saying that the reform process has led to significant developments and improvements of the Convention system. I would like to express the satisfaction and note that the States Parties express commitment to making efforts in setting the system that addresses the Convention violations promptly and effectively. However, there is always room for improvement and I strongly believe that we will be able to address any future challenges together.

Dear Colleagues, in regard to our constant efforts to improve the legislative and legal framework, I would like to inform you that the Republic of Croatia and a group of States against corruption will organise the Conference in October 'Strengthening of transparency and accountability' with the aim of corruption prevention. We believe that it is a great opportunity for us to meet again to further enhance our co-operation.

Thank you for your attention.

Cyprus/Chypre: Mr Spyros Attas

We wish to thank the Danish Chairmanship for its hospitality and commend it for choosing a very pertinent subject as its priority, namely, securing the future of the European Convention system- seeing the issue from the perspective of a better balance between the Court and the member states to afford individuals improved protection.

The extremely high number of cases before the Court, which has threatened the viability of the Convention system, has been a compelling reason for this exercise, starting with the Interlaken Conference. (A year

before the set assessment of the measures undertaken in the context of the Interlaken process, we are called upon by the Danish Chairmanship to review where we are).

At the outset, we need to acknowledge the measures implemented by the Court, adapting its procedures in order to be able to cope with increasing volumes of applications. These measures have had a significant impact in decreasing the workload and expediting justice. Nevertheless, volumes of applications continue to seize the Court. This suggests that member states seem to be far still from effectively implementing the European Convention of Human Rights at home. We need to do a lot more in undertaking our shared responsibility under the Convention system.

Shared responsibility requires States Parties to effectively implement the Convention at national level, address structural issues, ensure that effective domestic remedies are in place and that the European court's judgements are implemented fully and promptly.

Implementation of the Court's judgements is a *sine qua non* for the credibility of the Convention system and the full protection of the rights of all individuals on the European continent. The member states, therefore, need to act, individually, as well as collectively in the Committee of Ministers, to ensure the execution of the Court´s judgements.

We further need to empower the Court to fulfil its own functions as the guarantor of human rights in our continent, not only by decreasing its workload through better implementation at home, but also by making available to the Court the resources necessary to deal with its workload.

We remain fully committed to securing the future of the Convention system. We look forward to a thorough reflection on progress and requirements in view of the 2019 milestone.

In closing, we wish to underline that the European Convention on Human Rights is the cornerstone of democratic security in Europe and we need to work collectively to ensure the future of the Convention system.

Czech Republic/République tchèque: Mr Petr Jäger

Deputy Minister of Justice of the Czech Republic

Mr President,
Ladies and Gentlemen,

The Czech Republic, alongside some other nations, commemorates this year one hundredth anniversary of the creation of an independent republican state. Since then, we have had to overcome many ups and downs, such as two totalitarian regimes. As a result of this experience, I can only reiterate how important it is for us to be part of a European system of protection of human rights which we want to be fully sustainable, operational and ready to respond to high expectations of the citizens of Europe.

Let me turn nonetheless for inspiration much further back, to a historical queen of the host country of this conference, a young princess who in 1205 married a great Danish king Valdemar II and changed her name to Dagmar. Both her husband and her father, the third king of Bohemia, worked hard to consolidate and develop assets inherited from their ancestors.
This is our task today as well. We inherited the Convention system from our forefathers and our task is to consolidate and develop this unique asset in the forthcoming decades.

At the Brussels conference, we pointed out the challenge of numerous Chamber cases which, by their very nature, require more detailed responses from Strasbourg. In spite of the fact that the working methods of the Court have evolved since 2015 – and we can commend the Court for that –, we must admit that no solution to the core problem has emerged so far. The Declaration we are to adopt rightly underlines the seriousness of the situation. We do expect that a comprehensive analysis of the Court's backlog and of its causes will indeed enable us to identify appropriate solutions and finally meet the challenge, but not at the expense of the right of individual application.

In Brussels, we also evoked the need for the States to provide the Court with resources, support and cooperation. Nothing has changed in our opinion in that regard. We are particularly pleased to see allusions in the Declaration to the necessity to retain a sufficient budget for the two European components of the Convention system. We have to be aware, though, that allusions do not suffice, but reality and action truly matter, especially in the difficult times for the Council of Europe's finances.

Moreover, I should highlight the importance of ensuring that judges of the highest calibre sit on the Court. This calls all actors involved in the process of selection of candidates and election of judges to responsibility. While the States have to find enough excellent candidates at national level – which is sometimes an uneasy task –, the ultimate responsibility for choosing the most suitable one rests with the Parliamentary Assembly. It would be desirable to draw consequences from the fact that the three candidates on the list can hardly be equal in their aptitude to serve as judge.

Finally, let me return to Queen Dagmar. Her fate was to pass away in childbirth, after only seven years at the king's side. Then, however, she became a legend, portrayed in Danish folksongs as a mild, patient and universally loved queen.

For human rights in the Europe of today and tomorrow we want a better vision yet: not that of a souvenir or legend of something ideal, but rather a perspective of a continuously living reality. Let's hope that by adopting the Declaration we are making the right step towards achieving this vital aim.

With that in mind, let me finish my speech by expressing gratitude to the Danish authorities for all their efforts in the area of the reform of the Convention system, and in particular for organising this conference.
Thank you for your attention.

Estonia/Estonie: Mr Annely Kolk

Undersecretary for Legal and Consular Affairs, Ministry of Foreign Affairs of Estonia

Mr Chairman,
Excellencies,
Ladies and Gentlemen,

On behalf of the Estonian Delegation, I would like to thank Denmark for organising this High Level Conference and for the prepared Declaration. The Conference provides an excellent platform for stock-taking and considering on how to strengthen the Convention system and improve the efficiency of the Court.

Estonia is a strong supporter of the European Human Rights system. As we celebrate this year our country's 100-year anniversary, we are proud to be part of a system that is built on a Europe-wide shared commitment to the values and principles of humanity, respect and the universality of human rights. One of the core messages that all the previous High Level Conferences have underlined is that this shared commitment calls for shared responsibility to keep the system strong. It calls for all the actors of the Convention system to act according to their competence and roles in supporting the system and guaranteeing its long-term effectiveness.

Much progress has already been made since the start of the reform process. By introducing different working methods, the Court has managed to considerably reduce its backlog and tackle the systemic and structural violations of human rights more efficiently. Although Estonia welcomes the Court to continue to review and develop new working methods, one should be cautious that it does not come at the cost of the interest of justice.

Despite the efforts to improve the system, many challenges remain. The caseload continues to be the hardest one to tackle. In this regard, by placing the principle of subsidiarity in the central place, Estonia welcomes that the Declaration strongly reaffirms the commitment of the States to fulfil their primary responsibility to implement and enforce the Convention at the domestic level.

As the Declaration is also dedicated to improving the dialogue between different national and European stakeholders, Estonia calls the member states to ratify the 16th Protocol to promote the judicial dialogue between the national courts and the Court of Human Rights and looks forward to its coming into effect.

Lastly, the success of the European Human Rights system depends significantly on the authority and independence of the Court. These are not the easiest times for judiciary in Europe. The more important it is to make every effort to uphold and enhance the authority of the Court by properly implementing its rulings. Every effort should be made to avoid interfering or questioning the Court's role as the final arbiter of the scope and content of the Convention.

Finally, Estonia supports the adoption of the Declaration and we hope that all stakeholders will be more conscious about their obligations and will fulfil their part of the shared responsibility.

Thank you very much for your attention!

Finland/Finlande: Mr Antti Häkkänen

Minister of Justice

Excellencies, Ladies and Gentlemen,

The future of Europe depends on our ability to protect and develop democracy, the rule of law and human rights. I share the concern expressed by Secretary General Jagland and many human rights mechanisms that the rule of law in Europe is eroding. History shows that a collapse of the rule of law may lead to catastrophes. Therefore, we must not yield an inch to those who question human rights and the rule of law.

Here in Copenhagen we are conscious of the need to respect, preserve and defend the independence of the European Court of Human Rights so that the Court can perform its duties with integrity and efficiency.

The European Court of Human Rights, in its current form, began its work nearly 20 years ago. Ever since then, the Court has been continuously reformed, largely as a victim of its own success.

The Court deserves every recognition for its real achievements. The reforms already implemented have produced remarkable results, although the Court has had very limited resources. In the near future, Finland is especially looking forward to the entry into force of Protocol no. 16 to the Convention. The new opportunity for legal dialogue between the Court and the highest domestic courts will reinforce implementation of the Convention, in line with the principle of subsidiarity.

It is of crucial importance not to question the competence of the European Court of Human Rights. We must not take the law into our own hands. We must not dictate conditions of interpretation to the independent and autonomous Court. The binding rulings of the Court must not be challenged for political motives. Constructive dialogue is necessary, but the role of each party must be respected. Also the European Union must show its commitment to respecting human rights by acceding to the Convention as soon as possible.

The right of an individual to lodge an application to the Court is the most valuable element of the Convention system. It must be maintained. At the same time, we have to take care of the capacity of the Court to examine applications rapidly. Repetitive applications continue to

overload the Court. This is due to failures to comply with human rights obligations.

Ladies and Gentlemen,
There is a cure for the continuous need for reform.
First, States must respect human rights and guarantee them for all within their jurisdiction.
Second, domestic legislation, policies and practices must comply with the Convention and its dynamic interpretation.
And third, the judgments must be enforced effectively.

The obligation to implement human rights rests with us, the Contracting Parties. But the responsibility is shared and the stakeholders are numerous. It is of utmost importance to create and maintain a safe and enabling environment for civil society. The role of the civil society is crucial for the implementation of the Convention.

Finland will take over the chairmanship of the Committee of Ministers in November this year. We will emphasise the *back to basics* philosophy. Legal obligations and their independent monitoring are at the heart of the Council of Europe and the European Human Rights Architecture

Ladies and Gentlemen,
The Council of Europe has been the backbone of human rights in Europe for nearly 70 years. Finland is strongly committed to ensuring that it continues to be so also in the future.
Thank you.

France: Ms Nicole Belloubet

Garde des sceaux, ministre de la Justice

Monsieur le Président du Comité des ministres,
Monsieur le Secrétaire général du Conseil de l'Europe
Monsieur le président de la Cour européenne des droits de l'Homme
Mesdames et Messieurs les ministres,

Je remercie, au nom de la France, les autorités danoises, qui ont pris l'initiative de cette Conférence de Copenhague, consacrée à la poursuite de la réforme du système de la Convention européenne des droits de l'homme.

Dans la continuité des Conférences d'Interlaken, Izmir, Brighton et Bruxelles, cette Conférence est l'occasion de rappeler l'attachement commun des Etats membres du Conseil de l'Europe au système de la Convention et à la Cour EDH, qui fêtera ses 60 ans en 2019 et dont le président Macron rappelait, dans son discours à la Cour en octobre dernier, qu'elle constitue « une réalisation unique, qui honore l'Europe ».

Le système européen de protection des droits et libertés fondamentaux, repose en effet sur le mécanisme de recours individuel devant la Cour, grâce auquel est assurée la primauté des droits des individus. La France attache le plus grand prix à la préservation et au développement de ce système, qui a permis à la Cour d'apporter une contribution décisive à la protection des droits de l'Homme sur le continent européen, prenant en compte, dans de nombreux domaines, la diversité des sociétés européennes, sans renoncer au caractère universel des droits de l'Homme.

Nous avons la responsabilité de cultiver cet acquis en réaffirmant la nécessité de renforcer l'autorité et les moyens de la Cour, de respecter son indépendance, sans laquelle elle ne peut assurer sa mission de juridiction internationale, et d'assurer efficacement l'exécution de ses arrêts, avec la force obligatoire qui s'y attache et qui s'impose à l'ensemble des parties à la Convention.

Prenant en compte l'enracinement de la Convention dans nos ordres nationaux, la Déclaration que nous allons adopter entend mettre l'accent sur le principe de subsidiarité, déjà visé par le Protocole 15 et selon lequel la responsabilité de la mise en œuvre de la Convention incombe au premier chef aux Etats parties. Ce principe de subsidiarité implique que les Etats parties sont les premiers acteurs de la protection des droits de l'Homme consacrés par la convention. Notre ambition doit être que tous ces Etats se dotent des moyens d'assumer effectivement ce rôle.

La pleine application de la Convention et des arrêts de la Cour implique notamment une mise en cohérence des législations et pratiques nationales, une action déterminée pour surmonter les problèmes systémiques et structurels graves, l'instauration de recours nationaux effectifs, la pleine implication de nos systèmes administratifs et judiciaires, de nos parlements, de nos institutions nationales pour les droits de l'Homme et de la société civile.

Elle passe également par un dialogue permanent des juges. Celui-ci est déjà possible aujourd'hui grâce au réseau des cours supérieures, auquel

les juridictions suprêmes françaises sont très attachées. Il doit se renforcer avec l'entrée en vigueur du Protocole 16, qui instaure la possibilité, pour les plus hautes juridictions des Etats, d'adresser des demandes d'avis consultatifs à la Cour sur des questions de principe relatives à l'interprétation ou à l'application des droits et libertés définis par la Convention ou ses protocoles. A cet égard, je me réjouis vraiment d'annoncer que la loi française autorisant la ratification du protocole 16 a été publiée le 4 avril dernier au JORF et que j'aurai l'honneur, dans quelques minutes, de déposer son instrument de ratification, permettant l'entrée en vigueur du Protocole 16.

La France, qui assurera la présidence du Comité des Ministres de mai à novembre 2019 n'ignore pas les défis posés au système de la Convention. Elle entend consacrer son action et son énergie à relever pleinement ces défis. Elle le fera notamment dans la continuité du processus de réforme engagé lors de la Conférence d'Interlaken, qui a confié au Comité des Ministres le soin de se prononcer, avant fin 2019, sur la question de savoir si les mesures prises jusque-là sont suffisantes pour assurer le fonctionnement durable du mécanisme de contrôle de la Convention ou s'il y a lieu d'envisager des changements plus profonds.

Je vous remercie.

Georgia/Géorgie: Ms Thea Tsulukiani

Minister of Justice of Georgia

Dear Colleagues, Excellences, ladies and gentlemen,

- I wish to express my gratitude to the Danish Chairmanship for organizing this conference and steering the consultation process over the Draft Copenhagen Declaration.

- Let me dedicate the few thoughts I would like to share with the honorable audience - professionals serving the Court and making it one of the highly reputed judicial institutions in the world.

Backlog of the Cases

- In 2012 following the Interlaken call we announced a priority policy to settle the cases, lodged with the European Court of Human Rights, at the national level with a purpose of providing prompt redress to the victims of human rights violations and relieve the docket of the Court.

- Since then, total of 123 cases are struck out of the list of the cases against Georgia - in 83 cases friendly settlements were reached, whereas in 40 cases unilateral declarations were entered by the Government of Georgia.

- These efforts aimed at dealing with the past shortcomings are complemented by the institutional reforms in the country that led to the significant reduction in applications lodged with the Strasbourg Court against Georgia attesting to the increased confidence in local institutions including the judiciary.

- In particular, only 89 applications against Georgia were allocated to the judicial formation in 2017, 157 - in 2013, while in 2012 (when we had the Government change) 367 applications, 395 - in 2011 and 375 - in 2010.

- However not only the Convention but the Court too is a "living instrument" …

- Therefore, we all need to explore further means to enhance its' effectiveness

- Given our own experience of the applicants' positive attitude towards settlement of a case instead of litigation we believe one of the ways to do that could be setting an Alternative Dispute Resolution (ADR) at the European level.

- What we suggest for the Committee of Ministers, in consultation with the Court, and other stakeholders to begin reflecting on the matter and see if it could be possible to set up a special division for in-court mediation to which relevant cases, be it simple or more complex, could be remitted thus diminishing the Court's backlog.

The Selection Process of the Judges of the ECHR

- At the level of declarations there is widely-held consensus that the selection process of Judges for Court and I mean both parts – national selection process and PACE institutions - need to be fair, transparent and efficient.

- As highlighted in the 2017 report of the Steering Committee for Human Rights some challenges in this respect relate to the enhanced interaction between the Committee on the Election of Judges and the Advisory Panel in order to prevent possible hazards of the political process; concerns with respect to the composition of the Election Committee and with regard to the need of their reasoned recommendation, etc.

- In 2016 Georgia established one of the most open, inclusive and transparent process of national selection. We regret that the same or similar standard of transparency was missing at the level of the Committee, its work being opaque in the eyes of the Georgian society and the candidates themselves who were expressly denied any access to the information concerning their own candidacy.

- In addition, I do believe that the only sentence published on the website "the candidates did not qualify" harms the reputation of those candidates in the eyes of their own students, or even causes damage to the national court's reputation when the candidate is an acting judge.

- Both public and the candidates ask for more transparency and feeling of fairness at the Committee level. We can but effectively respond to their needs.

Third Party Interventions

- In this regard, the Court's procedure need to allow the States Parties to have the relevant information well in advance and thus make informed decision whether to intervene as a third party.

- States should be aware about the pending "matters of principle" since they might have the same issues of interest. Unless the States, mostly with the help of their Embassies, communicate with each other, there is no formal and effective means of communication between the States and the Court.

- As a solution to this problem we suggest a mechanism of official notification to be envisaged by the Rules of Court as exists in the cases of nationals lodging an application against another country.

Discussions regarding the New Mechanism of Inter-State Cases

- As we believe the process of exploring ways - how to handle more effectively cases related to inter-State disputes arising out of situations of inter-state conflict - should not affect the admissible inter-state applications and cause any delay in their examinations.

Court's Registry

- I already expressed my appreciation to the dedicated and professional team called the Registry which provides valuable support to Honorable Judges of the Court. However, we can do more so that the judges and the lawyers are not overwhelmed and have more time to concentrate on real and complex legal issues.
- Remarkably, as means of supporting the Court's Registry during the last 5 years Governement of Georgia seconded 4 prosecutors.

- These secondments, I believe have lasting value both for us and the Court. However, individuals working at the Government Agents' Offices have unique experience that can be also well invested into the Court.

- Thanks to their experience, these are lawyers who can start dealing with the cases against other countries than the one they had been representing the very first day of their work at the Court. Unfortunately, this experience has been excluded from secondments and maybe needs to be reviewed.

- In concluding it is important that we all remain committed to the Copenhagen Declaration to become reality sooner than later.

I thank you very much for your attention!

Germany/Allemagne: Ms Katarina Barley

Member of the German Bundestag and Federal Minister of Justice and Consumer Affairs

Minister Poulsen,

President Nicoletti of the Parliamentary Assembly,
Secretary General Jagland, President
Raimondi,
Commissioner Mijatovic,
Ministers, Ambassadors, Ladies and Gentlemen,

The Council of Europe's human rights protection system is recognized as the most effective international human rights protection system in the world. In the preamble to the Convention, the High Contracting Parties reaffirm their "profound belief in those fundamental freedoms which are the foundation of justice and peace in the world".
This statement is today as significant as it was in 1950.
It is almost twenty years since the European Court of Human Rights has become a permanent institution. Since then, much has changed in the world and also in the European Human Rights system. I do not need to reiterate here the story of the dramatic increase in applications – the Court becoming a victim of its own success - and the joint efforts to cope with this.

Germany is convinced that in the end the solution lies not with the Court but with the Member States. We have to address the problems posed by the still enormous number of individual applications at home.

This conference demonstrates the commitment of Governments to engage in this effort and to ensure a positive future for the Court and the Convention System.

The Declaration rightly focusses on the responsibility of Member States to comply with the Convention. Germany fully supports all measures designed to strengthen the implementation of the Court's judgments. As we know from experience, such implementation can at times be burdensome for the authorities. In the long run, however, it is the only way to bring about a better future not only for the Court, but for all the citizens of Europe.

In this sense, the principle of subsidiarity plays a major role in the development of the Convention system. First and foremost, Member States have to fulfil their duties; the Court checks that they do so. Structural problems which the Court's judgments bring to light can be fixed, even though this may involve difficult legislation and may cost money. The Court's guidance on the States' obligations will help all of us in finding the right solutions within our national systems.

The declaration has also focussed on the need for dialogue and communication between all stakeholders in the European human rights system. I am grateful to the Danish chairmanship for highlighting this issue because I do believe that the necessary development of human rights law cannot be successful if it is not continually discussed and explained. The Court itself knows very well that it does not exist in a vacuum but needs to be aware of current developments. Dialogue and discussion in an appropriate setting – without any appearance of undue influence on the Court – can therefore only be beneficial.

Ladies and Gentlemen,

The Declaration of Copenhagen shows that Member States are recognizing their responsibility for a properly functioning human rights system in Europe. We should now concentrate our efforts on putting this into practice.

Thank you very much for your attention!

Greece/Grèce: Mr Stylianos Perrakis

Madame la Présidente, Excellences, chers Collègues,

Tout d'abord, les remerciements de notre délégation à la présidence danoise pour son hospitalité et l'organisation de cette conférence et surtout pour avoir mené à bien l'exercice difficile d'aboutir à un texte de compromis acceptable par tous. Nous saluons le dévouement et les efforts notamment de la part du Représentant Spécial Rasmus Kieffer Kristensen ainsi que de mon collègue à Strasbourg l'ambassadeur Arnold de Fine Skibsted pour la maitrise et l'efficacité des discussions

durant les négociations qui ont précédé notre conférence ici à Copenhague.

Alors, Copenhague. Encore une étape dans cet itinéraire géographique et historique d'un processus important, coïncidant avec une période de crise, ou les valeurs fondamentales du Conseil de l'Europe, telles qu'illustrée au Statut (préambule - article 3) et de la CEDH, sont défiées. A ce niveau, réside l'obligation des Etats membres pour une responsabilité partagée, devant un système objectif de protection des droits fondamentaux de l'Homme, créant des droits et des obligations.

A cet effet, nous avons souligné, dès le début du processus d'élaboration de la Déclaration à adopter, qu'il convenait d'éviter dans le texte de la Déclaration de donner l'impression que les Etats se méfient de la manière dont la Cour interprète la Convention. Aussi nous avons souligné qu'il fallait éviter de donner l'impression que les Etats considèrent qu'il y a des chasses gardées ou des domaines auxquels l'intervention de la Cour serait indésirable et qu'il est également très important d'empêcher l'altération du système de protection de droits de l'Homme à laquelle pourrait aboutir la création de mécanismes distincts pour l'examen des requêtes interétatiques.

La Cour est le pilier d'un système international, le plus avancé et efficace dans l'ordre juridique international, au profit de l'individu/personne humaine, en toute circonstance, et sous la juridiction des Etats parties. Il s'agit d'un système instauré par un instrument, qualifié de *constitutionnel* et *vivant,* qui connait une interprétation dynamique, correspondant aux défis d'aujourd'hui. Dans cette construction juridique, la Cour a le sens du fonctionnement dans le cadre d'une Convention des droits de l'Homme et dans le contexte d'une application/interprétation d'un droit international «humanisé» - avec le passage du temps, élaboré par diverses instances internationales composant la justice internationale et l'appareil institutionnel droits de l'Homme, dont les jurisprudences élargissent le champs de protection des victimes des violations des droits de l'Homme. Je réitère qu'il est très important de sauvegarder l'indépendance et l'autonomie de la Cour comme instance internationale.

A mon sens, montrer sa confiance à la Cour est la voie la plus efficace pour le renforcement du système européen de protection des droits de l'Homme. Restent, sur le volet de l'ordre national, quelques remarques afin de préserver le système européen au profit des citoyens et de toute autre personne sous la juridiction des «47». A cet égard, c'est l'exécution et la mise en œuvre des arrêts de la Cour qui constitue un

défi qui nécessite une détermination ponctuelle, afin que l'ordre juridique national soit à la hauteur - par toutes ses composantes plurielles, afin de réaliser la jouissance des droits de l'Homme de toute personne. Le principe de subsidiarité – mis en exergue depuis longtemps, d'ailleurs, par la Cour européenne des droits de l'Homme, comme la marge d'appréciation, notion et contenu difficiles à saisir et à gérer- ne signifie dans sa mise en œuvre ni un préjudice au caractère international du système ni à la position et au rôle de la Cour en vertu de la Convention.

Certes il appartient aux Etats, en premier lieu, de garantir les droits énoncés dans la Convention. Mais c'est une obligation internationale que de se soumettre à la Cour et à son contrôle international.

La Grèce reste fermement déterminée à renforcer davantage le dialogue entre juges, à faciliter l'exécution des jugements et, d'une manière générale, à apporter son soutien à la fonction judiciaire de la Cour, y compris, permettez-moi de vous en informer ici, par la ratification imminente des Protocoles 15 et 16 à la Convention. Ceci parce que nous considérons que la Convention et la jurisprudence de la Cour de Strasbourg constituent un excellent instrument d'harmonisation normative/ réglementaire d'une culture droits de l'Homme, répandue dans notre grande Europe.

Hungary/Hongrie: Mr Krisztian Kecsmar

Mesdames et Messieurs!
Chers Collègues!

En premier lieu, j'aimerais exprimer ma gratitude envers le Gouvernement danois pour avoir organisé cette conférence de haut niveau, nous offrant la possibilité d'examiner en profondeur l'ampleur actuel de l'exécution des missions fixées lors des conférences à Interlaken, à Izmír, à Brighton et à Bruxelles et de passer en revue quelles mesures ultérieures sont nécessaires en vue d'assurer l'efficacité du mécanisme de protection juridique créée par la Convention européenne de sauvegarde des droits de l'homme, notamment l'efficacité du fonctionnement de la Cour européne des droits de l'homme, la CEDH. Cette conférence a pour résultat que la protection

des droits de l'homme ainsi que la réforme de la CEDH demeurent à l'ordre du jour et attirent l'attention des États à l'importance de l'accomplissement de leurs devoirs découlant de la Convention.

Nous sommes plus que convaincus que pour la poursuite réussie de la dimension des droits de l'homme, se trouvant au centre de l'activité du Conseil de l'Europe et reposant sur l'activité de la CEDH, il est nécessaire de renouveler le système sans cesse et de se rendre à l'évidence que la dimension des droits de l'homme ne peut pas se dissocier des défits actuels que nous envisageons. Il est force de constater que le plus grand défi que l'Europe envisage actuellement est la question migratoire dans tous ses volets.

Le Gouvernement hongrois soutient l'exécution de la réforme extensive du système conventionnel. Il est important de mettre en oeuvre des mesures efficaces sans tarder dans l'objectif de rattraper l'arriéré de la CEDH et de maintenir son fonctionnement. Il est dans notre intérêt commun que la CEDH puisse continuer de remplir son rôle de gardien de la Convention européenne des droits de l'homme.

Nous trouvons important de réduire la charge de travail de la CEDH, en particulier en ce qui concerne les affaires dites répetitives. Ainsi, la CEDH pourrait davantage se consacrer aux affaires significatives et complexes. Dans cet objectif, il convient de traiter l'exécution des jugements de la CEDH en priorité. Si les États membres exécutent lesdits jugements de manière complète, efficace et rapide, ils ne se retrouvent pas à nouveau devant la CEDH et les organes compétents du Conseil de l'Europe. Il s'ensuit que les États membres doivent prêter une attention toute pariculière à l'exécution des jugements de la CEDH.

Compte tenu de la brieveté du temps à ma disposition, j'aimerais seulement aborder certaines questions particuliérement importantes, visées par la Déclaration.

La Hongrie considère l'exécution adéquate des jugements comme étant de la plus haute importance. J'aimerais attirer votre attention au fait qu'en 2017 la Hongrie a établi un recours préventif et compensatoire pour se conformer aux exigences de l'arrêt pilote Varga, concernant le sujet de la surpopulation carcérale, un sujet qui par ailleurs touche plusieurs Hautes Parties Contractantes. En vertu de ce recours préventif, les personnes qui ne sont pas placées en prison dans des conditions adéquates ont la possibilité de solliciter un placement conforme aux exigences de Strasbourg. Dans le cas où ce dernier n'est pas possbile - faute de capacités nécessaires - ces personnes sont en

droit de déposer une demande compensatoire jugée par des cours indépendantes. Á notre plus grande satisfaction, en novembre 2017, dans sa décision Domján, la CEDH a considéré les recours établis susmentionnés efficaces. Par conséquent, nous sommes heureux d'avoir pu alléger la charge de travail de la CEDH d'autour de 8000 demandes en cours devant la CEDH.

J'aimerais bien souligner, que la Hongrie joue un rôle actif dans le processus visant à améliorer l'exécution des jugements. Les jugements de Strasbourg et leur exécution sont au centre de l'attention publique. Les organes du pouvoir législatif, exécutif et judiciaire participent également de manière active au processus de l'exécution des jugements. Tous les participants s'efforcent de mettre en oeuvre le mieux possible les décisions de Strasbourg par les moyens à leur disposition.

Dans l'optique de vous fournir quelques exemples, la conformité aux critères de Strasbourg constitue un aspect important dans la procédure législative. Les cours nationales et la Cour Constitutionnelle font de plus en plus refèrence à la jurisprudence de la CEDH. De surcroître, le Ministère de la Justice élabore chaque année un rapport à l'attention des comités compétents du Parlement sur l'exécution des jugements de la CEDH par des autorités nationales et sur l'activité de la représentation du gouvernement, tout cela en vue d'assister le législateur.

Cependant, l'on ne peut pas passer sous silence le fait que la qualité des jugements de la CEDH, leur caractère clair et constistant ou bien que les jugements ne débordent pas les limites de la Convention et par conséquent les engagements des États membres et en conséquence dont la mise en oeuvre ne posent pas de difficultés constituent tous une condition préalable d'importance ultime de l'exécution efficace desdits jugements. Nous trouvons important que la Déclaration fasse référence à cette circonstance de manière non-équivoque. La Déclaration fait aussi référence au principe de subsidiarité et au fait qu'au niveau national il appartient aux autorités nationales d'assurer les droits de l'homme et la CEDH ne constitue pas un organe de quatrième instance, son rôle consiste à examiner si les mesures prises par des États membres sont conformes aux exigences de la Convention.

Mesdames et Messieurs!
Chers Collégues!

J'aimerais noter, que nous apprécions les efforts de la Présidence en exercice, contribuant au succès du processus de réforme en cours depuis des années, nous sommes convaincus qu'à la suite de la Conférence de Copenhague ces efforts prendront un élan souhaitable et nous soutenons ces efforts. Nous déclarons notre engagement envers l'accomplissement de ce processus et nous soutenons l'adpotion de la Déclaration de Copenhague.

Je vous remercie pour votre attention.

Iceland/Islande: Ms Sigridur A. Andersen

Thank you.

Like others before me, I would like to start by thanking the Danish Presidency for the initiative here today and thereby giving us the opportunity to address this fundamental topic of human rights. It has been very interesting to participate in and to follow the process that has led to the Declaration that we have before us.

Participating countries obviously lean to a bit different approaches in regard to the Convention and the role of the Court. In some regard, this is quite normal and no news to us, really. But in some sense, this reflects the challenges Europe is facing and the democratic political pressure that has emerged as a consequence of those challenges. Well, Iceland, along with the Nordic countries, has taken pride in human rights and, if I may, even Iceland has been in the forefront of human rights in some instances. And Iceland emphasises that human rights are universal, irrespective of borders religion, or status of the individual, and we politicians should really recognise that human rights are a prerequisite for the individual liberty and freedom which is really the aim that we should all support, in my view at least.
But overall, Iceland agrees with the Draft Declaration. It is a bit long, in my opinion, if I may say so. The phrase 'less is more' applies to politics as well as in other fields. But we support the Draft Declaration, and we welcome, especially, the emphasis on the rule of law.

Thank you.

Ireland/Irlande: Mr Seamus Woulfe

Attorney General

Mr Chairman, Ladies and Gentlemen,

Ireland commends Denmark for the considerable effort that has clearly been invested into both its Chairmanship of the Council of Europe and this conference. The Declaration builds on what are now in many respects established and successful reform initiatives aimed at strengthening the protection of human rights across Europe.

Of course, there will never be a flawless mechanism to achieve this most delicate and complicated of responsibilities that is the European Convention on Human Rights system but I would suggest that on taking a step or two back all would agree that what the Court and the States Parties have achieved - so far - has been quite remarkable.

We very much welcome the emphasis that the Declaration puts on national implementation of the Convention, the importance of third party interventions and to the binding commitment that is the full execution of judgments. We are glad that it follows previous Declarations in recalling the right to individual petition as the cornerstone of the system.

We also welcome the references to subsidiarity which, reflecting the Court's case law and the important work of Brighton, reiterates that it is the States Parties who are entrusted with the day to day responsibility of securing Convention rights, subject of course to the supervision of the Court in Strasbourg.

To this end we recall the words of Minister Pape Poulsen at Kokkedal in November when he said that '*The key value of the Strasbourg system lies in having an independent Court, whose authority is uncompromised, and whose decisions we accept as legally binding'*.

Ireland is proud to have been the first State Party to formally recognise the binding authority of the Court in Strasbourg when we submitted a declaration to that effect with the Treaty office in the early part of 1953. I can't say whether it is by design or serendipity that, as we gather here in Copenhagen, tomorrow marks 65 years to the day when Denmark joined Ireland and became the second State Party to submit itself to the binding authority of the Court.

It is impossible to overstate the value of strong, authoritative and independent courts that – precisely because of those attributes – are enabled to uphold and secure fundamental human rights. It is not impossible to take those prerequisite conditions for granted.

Though perfection might be a futile aspiration it is incumbent on the States Parties, in conjunction with the Court, to continually improve and indeed *refine* the system, always, as in any process of refinement, alert to the indispensable.

We welcome and support the Copenhagen Declaration as a constructive piece of work that we very much hope will achieve its aim of further strengthening the system and accordingly enhancing human rights protection across Europe.
Thank you.

Italy/Italie: Mr Raffaele Piccirillo

We (I) would like to thank the Danish Presidency for having initiated a renewed discussion on the future of the European Convention on Human Rights. This remains a vital debate for the wide community of the Convention States.

As we all know, the preparation of this High-level Conference has begun well before the Danish Authorities took on the Chairmanship of the Committee of Ministers and we cannot but appreciate their efforts and achievements in this respect.

Let me recall with appreciation that the Danish presidency has conducted the whole process in a very transparent way, by consulting and involving all relevant stakeholders, including the Court and especially the civil society in a more effective way than in the past. This call for an open and inclusive discussion is to be saluted with enthusiasm since civil society organizations are key players in the Convention System.

Indeed, We (I am) are grateful to the Danish Presidency for the opportunity given to the Member States to contribute to the discussion of

the draft Declaration, the final version of which will be officially approved at the end of the Conference.

One of the priorities of the Danish initiative - in line with the demand of participation of the civil society -has been to find a more effective way to improve and strengthen the dialogue between MS and the Court in their respective roles and we did share and support this view throughout the drafting process.

As declared in the provisions 33 to 41, the goal to achieve a better interaction between the Court and the MS can be pursued by supporting third-party interventions, especially in cases before the Grand Chamber. A better interaction could also be achieved by allowing States parties to support the requests of referral to the Grand Chamber submitted by another State party in cases when issues of general importance are at stake.

Last but not least, the creation of the Superior Courts network is another step towards an increased judicial dialogue, which is "*intrinsic to the very nature of the Convention system and beneficial for both sides*", as portrayed by a former president of the Court.

With the aim to foster mutual understanding in relation to the judicial protection of human rights, we hope that in the near future the Court will agree to introduce the reasoning of the decisions rejecting Gran Chamber's referral requests. This would assist in ensuring transparency and would allow MS to better comprehend the Court making-decisions processes. It appears to be in full continuity with the introduction of reasoning for single judge decisions in 2017.

Speaking about dialogue, we cannot but mention the principle of subsidiarity and the concept of margin of appreciation, which constitute an essential part of the judicial dialogue within the Convention System. In the Declaration, we find a balanced description of how the principle of subsidiarity shall work, considering, as the ground point, that the protection of human rights is a common task, a shared responsibility. From this perspective, the margin of appreciation could be regarded as a tool for the national courts to guarantee the effectiveness ("the other side of the coin") of the Convention rights under the national legal system.

Not less important in the Draft declaration is the part related to the so called "caseload challenge". The Italian delegation was determined in stressing the importance for the Court to ensure the efficiency through a long-term and comprehensive reform. This includes also a review of the

Court's working methods and a deep analysis of the backlog in respect of each State in order to find the most appropriate solutions.

We are glad that in the Declaration this point is well underlined (art. 54), along with the proposal of a much more limited recourse to the well-established case-law procedure (art. 28 of the Convention), which could not be considered as a short cut to bring down the Court's backlog. On the other hand, the declaration openly encourages the Court to process those applications that are straightforward and repetitive by recurring to simplified procedures and by indicating priority criteria. In this respect, Declaration envisages the need of a constructive dialogue also between the Government Agents and the Registry of the Courts by means of proper consultations on new procedures and working methods created by the Court.

The Declaration finally reiterates in a clear way the challenge for the member states to ensure their full commitment in the national implementation of the Convention and in the execution of the Court' judgments, as it was established in the Brussels declaration.

In conclusion, let me underline once again the primary role of an Independent and highly efficient Court in the ever-better protection of human rights in Europe, by continuing to anchor Europe to common values especially when going trough periods of conflict, crisis and change. We cannot forget that when governments fail to meet their obligations under the Convention, the Court guarantees the right of individual application, thus safeguarding that human rights grounded in Europe's history and conscience prevail over temporary contingencies.

The Convention system and the Court are indeed extremely precious.

Latvia/Lettonie: Mr Aiga Liepina

Ambassador – Director of International Organisations and Human Rights Policy Department

Mr Minister,
Excellences,
Dear colleagues!

Let me start by conveying my gratitude to the Danish hosts for organising this event. Also, allow me to express our sincere compliments to the Danish chairmanship and your colleagues in particular, Mr Minister, for the efforts and constructive approach taken during the intensive negotiations on the text of Copenhagen Declaration. We consider that the final text constitutes a constructive step towards strengthening human rights protection in Europe.

Mr Minister,

Three years have passed since the adoption of the last Declaration within the framework of the comprehensive reform process launched in Interlaken. Today it is fitting to assess how the main issues the 2015 Brussels Declaration identified as crucial for the future viability of the Convention system, have changed over these three years.

The Declaration we are to adopt at this Conference continues to emphasise the principle of subsidiarity, and we note with satisfaction that since the Brussels Declaration, the focus within this principle has been on the primary responsibility of the States to ensure the rights and freedoms guaranteed by the Convention. We welcome that the Copenhagen Declaration properly acknowledges the States' obligations as an integral component, and a key prerequisite, of the subsidiarity.

In this regard, let us recall that in the 2015 Brussels Declaration we did put a strong emphasis on implementation of the Convention at the national level, and the Copenhagen Declaration rightly acknowledges this as the still existent challenge confronting the Convention system. In an ideal world, the Court would deal only with important questions of interpretation and application of the Convention in the light of the present-day situation. In reality, however, we still see too many repetitive applications arising from the structural and systemic problems. The Copenhagen Declaration also acknowledges the challenges posed by the situations of conflicts and crisis in Europe. This additionally causes an increase in the number of applications pending before the Court, and - might create a wrong impression that the responsibility for such an increase lies entirely with the Court. Therefore, we strongly support the call for the comprehensive examination of causes of the influx of cases in order to identify the best ways of addressing them, be it at the level of the Court, or at the national level.

Another important issue stressed in the Brussels Declaration was the proper execution of the Court's judgments. The Committee of Ministers was encouraged to use all the tools at its disposal to put pressure on the governments reluctant to execute the Court's judgments. In addition, we

called upon the states to increase significantly the resources and capacity of the Department for the Execution of Judgments of the Council of Europe.

Today, three years later, we are happy to see that these efforts are bearing fruit. The situation with the execution of judgments has improved significantly, achieving exemplary progress over the last years in terms of the number of closed cases. We hope that this overall positive trend will remain in the coming years, and thus will further strengthen the credibility of the Convention system.

Mr Minister,

In conclusion, we have to acknowledge that the Convention system is never going to be absolutely perfect; neither will our national systems. Their constant evolution and response to the changing situation in Europe and globally is a natural process, and therefore, the reform is an ongoing process. At the same time, reforms should not be our aim in themselves. Our aim is to utilise systematically the full potential this organisation has in order to further advance a sustainable and prosperous European society.

Thank you!

Liechtenstein: Mr Daniel Ospelt

Ambassador

Chair,

Let me start by thanking the Danish chairmanship on behalf of Liechtenstein for its commitment to the reform process of the European human rights system and for your kind hospitality. The excellent infrastructure and the pleasant surroundings provide a good basis for our discussions.

The negotiations for the declaration we will adopt tomorrow were not easy at times. Thanks to the skill and motivation of the chairmanship, however, we were able to agree on a compromise with the common aim of further promoting the protection of human rights in our Member States.

For Liechtenstein, it is particularly important that the Copenhagen Declaration strikes a balance emphasising the autonomy of Member States implementing the Convention on the one hand, and on the other hand affirming the important and indisputable function of the European Court for Human Rights as the guardian of Convention rights in Europe. Once more affirming the right to individual application as a cornerstone of the Convention system also has a high priority for Liechtenstein.

We welcome that the conclusive version of the Declaration does justice to these important principles, which have guided the reform process since its initiation in Interlaken 2010. And we further appreciate that the Declaration puts a strong emphasis on the main issue we should consider when addressing past, current and future challenges to the Court, the case-load in particular: That Member States have a legal obligation to secure the Convention rights to all their citizens and to implement judgments of the Court fully, effectively and promptly.

Liechtenstein has repeatedly demonstrated its high commitment to the Convention and the Court in the past and continues to do so in the future. This includes not only the rapid implementation of judgments, but also financial support to the work of the Court and to the German translation of the practical guide on admissibility criteria and its revised version.

The reform process has been successful so far, but as the title of our conference aptly indicates, it will not end with the adoption of this Declaration. Strengthening the protection of Convention rights in Europe, implementing Court judgments and ensuring the basis of the Court's work – including by adequately funding the court and by providing political support – are on-going challenges for all of us. Liechtenstein is willing and able to contribute to the implementation of these tasks.

Let me conclude in supporting what Spain said on the transparency of the appointment of the members of the Advisory panel!
Thank you for your attention.

Lithuania/Lituanie: Ms Ginte Bernadeta Damusis

Ambassador

Mr Chairman,
Mr Secretary General,
Ministers,
Excellences,
Colleagues,

Lithuania would like to thank the Danish chairmanship for its tremendous work in preparing the Copenhagen declaration which reaffirms our commitments to the protection of human rights, democracy and the rule of law, and which received unanimous support from all 47 Member States.

Lithuania reiterates its full support to the independence and authority of the European Court of Human Rights and aligns itself with the main goal of the Declaration to continue the reform process that was initiated by the previous high-level conferences in Interlaken, Izmir, Brighton and Brussels.

Ladies and Gentlemen,

The Declaration further elaborates the principle of subsidiarity, which is one of cornerstones of the Convention system. However, the principle of subsidiarity should never be used as means to avoid the implementation of the Court decisions under the false pretext of national traditions, values or circumstances. In this regard, Lithuania would like to underline that the decision as to whether there has been a violation of the Convention ultimately rests with the Court.

The Declaration also reiterates that the effective national implementation is the responsibility of the States. Lithuania is fully committed to the implementation of the Court decisions even if the implementation of judgements might be complicated, costly or unpopular. Lithuania is deeply concerned that not every Member State seems to be convinced that the execution of Court judgements is a key obligation.

Furthermore, Lithuania congratulates the tireless efforts of the Court to tackle the caseload challenge effectively, but fully agrees that there is a need to take further actions. We recall that majority of the backlog cases is a consequence of the unsolved structural problems on national level.

Therefore, we stress the call expressed in the Declaration to the Committee of Ministers to conduct a comprehensive analysis of the Court's backlog, identify and examine the causes of the influx of cases from the States Parties so that the most appropriate solutions may be found.

Finally, we encourage all relevant actors to duly implement the goals set by the Declaration and the previous declarations and at the same time to continue with the ratification of the Protocols 15 and 16 to the Convention. By all means, European states need to secure an effective and focused Convention system, which must remain the fundamental safeguard of human rights in Europe. Therefore, Lithuania notes with appreciation the call for a stronger dialogue expressed in the Declaration and the Danish Chairmanship's initiative to host, before the end of 2018, an informal meeting of the States Parties and other stakeholders, with the aim to consider further ways for strengthening the Court's independence and the implementation of the Court decisions.

I thank you.

Luxembourg: Mr Félix Braz

Ministre de la Justice du Luxembourg

Monsieur le Président du Comité des ministres, Cher Sören,
Monsieur le Secrétaire général,
Monsieur le Président de l'Assemblée parlementaire,
Monsieur le Président de la Cour,
Madame la Commissaire aux droits de l'homme,

Les défis que rencontre actuellement le Conseil de l'Europe sont énormes. Les solutions à trouver pour relever ces défis se situent clairement à notre niveau - aux niveaux politique et national : lorsque les États membres remplissent le rôle que leur confère la Convention en appliquant de bonne foi les principes généraux résultant de la Convention tels qu'interprétés par la Cour, le principe de subsidiarité signifie que la Cour pourra accepter leurs conclusions dans telle ou telle affaire.

Ce sont les États membres qui doivent montrer par leurs actions, en particulier les raisonnements des juridictions nationales, s'il y a lieu de s'en remettre à eux en vertu du principe de subsidiarité. La Cour devra toujours rester l'arbitre ultime en ce qui concerne la portée et le contenu de la Convention.

Monsieur le Président,
La Déclaration que nous sommes appelés à endosser sur initiative de la Présidence danoise ne devra en aucune manière être lue ou perçue comme une limite que la « politique » souhaite imposer au pouvoir et à l'autorité de la Cour. Comme l'a dit le Président Macron dans son discours devant la Cour en octobre 2017, « les 47 États-membres ont reconnu un enracinement commun dans ces principes que porte la Cour. Ils ont admis qu'une part de leur droit, de leurs croyances et de leurs principes se trouve là. »

Nous sommes à Copenhague pour thématiser – aussi - les points sensibles.

Nos efforts prétextant des soi-disant « réformes » ne devront pas nous mener à une remise en cause d'un système unique et inégalé dans le monde dont peuvent se prévaloir aujourd'hui les 820 millions de citoyens européens contre des atteintes – toujours encore trop fréquentes – de leurs droits les plus fondamentaux.

Malgré nos expériences traumatisantes de par le passé et encore actuelles, l'Etat de droit et la démocratie restent des données fragiles en Europe.

C'est le discours politique que nous menons à titre national quant à l'importance du rôle de la Convention et de la Cour qui conditionnera nos opinions publiques de nos citoyens et leur adhésion autour de la Convention et de la Cour. Nous devons tous être conscients de cette énorme responsabilité.

Le système que nous avons réussi à créer il y a presque 70 ans fait partie de notre DNA européenne. Plutôt que le « réformer » encore et encore, il s'agit aujourd'hui de le préserver en dépit des évolutions politiques et géopolitiques qui viennent diviser/brouiller notre unité et mettent en péril nos traditions européennes communes.

N'oublions pas que c'est la Cour européenne des droits de l'homme qui a fait des droits de l'homme le bien commun de toute l'Europe.

Compromettre et restreindre l'autorité de la Cour serait irresponsable. Plus que jamais nous avons besoin d'une Cour indépendante, impartiale et forte de son autorité.

Et c'est donc bien à nous, responsables nationaux, d'assurer la pérennité de cette institution unique qu'est la Cour, par la mise en œuvre en interne des principes inscrits dans la Convention, par le respect et l'exécution effective des arrêts de la Cour, par la qualité de nos Juges nommés à la Cour et par le financement adéquat de ses moyens et services.

Le Luxembourg continuera à œuvrer dans ce sens.

Je vous remercie.

Malta/Malte: Mr Owen Bonnici

Chair, Your Excellencies Colleagues,

Ladies and Gentlemen,

In the first place on behalf of the Government of Malta I would like to thank the Government of the Kingdom of Denmark for the excellent organisation of this conference and for its warm and generous hospitality.
The European Convention on Human Rights is a fundamental hallmark of European legal and political culture and heritage and it is therefore essential that the Governments of Europe should reaffirm their commitment to it.

The Convention is a unique and ambitious enterprise which has contributed substantially to the rule of law, to political stability and to peace in Europe for a considerably long time. It is fundamental that it should continue to do so.

The right to individual petition given to all persons within the territory of Member States of the Council of Europe requires the unreserved support and commitment of our Governments.

As Governments we are necessarily the defendants in all cases before the Court in all individual petition cases and it is natural that we may not always agree with the outcome of cases.
However it is essential to us as democratic Governments to maintain the unqualified political maturity and commitment towards accepting this unique mechanism provided by the Convention.
The protection of fundamental human rights is of course not a matter for international bodies acting in isolation. It is obvious that human rights protection requires shared responsibility and subsidiarity to a very wide extent.

This, in our opinion is a recognised principle. The Convention is in one way or the other embedded in the legal systems of Member States either through Constitutional provisions or through laws with constitutional status or by other legally binding means within domestic legal systems.
The problem here is a question of extent, modality and effectiveness rather than one of legal recognition of fundamental rights as such. It is also a problem likely to present serious challenges not in situations where the modification of national laws or the catering for particular situations is a relatively painless operation but when the execution of court judgements mandates difficult, politically unpopular and expensive decisions which inevitably leave their effects on other sectors of society and of the economy.

Nevertheless, as Governments our commitment to the Convention even at a national level has to be complete or it is no commitment at all.
The strengthening of the efficiency of our national courts in implementing the convention is therefore essential to the survival of the effectiveness of the Convention itself.

On this point I am pleased to inform this Conference that my Government since it election in 2013 has given top priority to the strengthening of the efficiency and fairness of the legal system by introducing a sustained programme of legal and Constitutional reform and by substantially increasing the resources available to the Courts.

We are already seeing good results but the commitment and the process of reform has to be sustained. There are no' one stroke', 'quick fix' solutions in the field of the administration of justice.

As correctly stated in the draft Declaration, the implementation of the Convention at national level does not only involve the Courts but it also involves a number of key stakeholders in the human rights field such as Ombudsmen, Equality Commissions and independent national human rights institutions.

It is likewise important that our Governments sustain a continuous dialogue leading to concrete measures in support of the effectiveness of the Convention mechanism at national level.

In this regard I am also pleased to inform this Conference that my Government is in the process of finalising a Bill to be presented to Parliament for the establishment of a national human rights institution based on the Principles Relating to the Status of National Institutions (known as 'The Paris Principles'). This body would intervene even before cases reach the domestic courts. And this should further assist in the implementation of the Convention at national level.

The Execution of Judgements of the Court, especially when it touches upon socially, economically or politically sensitive issues or upon legal or constitutional regimes which have been in place for a long time, is also a challenging exercise.

In this regard we welcome the reference in the draft Declaration to the effect that this process sometimes requires what is referred to as 'rapid and flexible technical assistance to States Parties' particularly when systemic issues are involved. The process of assistance should provide a further opportunity for understanding and dialogue with a view to seeking sustainable solutions which would also avoid further recourse to the organs of the Convention or to the political organs of the Council of Europe.

In this regard we also stress the need to further strengthen the dialogue both on the judicial and on the political level between the domestic players and the European level of implementation of the Convention.

The dialogue at the political level should not be seen as a tool for political leverage in the operation of the system but it rather represents a

means for the strengthening of the implementation of the Convention through engagement in open dialogue as an alternative to the adoption of inward looking and defensive political positions.

Several measures such as the creation of the Superior Courts Network, Protocol 16, the dialogue between Government Agents and the Registry of the Court and the use of thematic discussions in the Committee of Ministers are all very laudable initiatives which should greatly assist the working of the Convention system as a whole.

This should ultimately also help to address the caseload issue. This is a problem about which we have come a long way since Interlaken but which presents and will continue to present a persistent challenge particularly in the light of the dynamic international political situation which unfortunately produces unforeseen crises situations in rapid succession.
Improved methods of selection of judges are of course a positive development but exercises in this field must still give due account to the resources of our domestic legal systems and to the need seek diversity within the composition of the Court.

As I stated before, we have come a long way since Interlaken and our work has proved fruitful. Our spirit of dialogue has been strong and our dedication to the Convention consistent.

My Government therefore fully supports this process of dialogue demonstrating the shared commitment to the Convention system and sees that this is reflected in an articulate, organised and balanced manner in the Draft Copenhagen Declaration which we also fully support.

Thank you for your attention.

Republic of Moldova/République de Moldova: Ms Victoria Iftodi

Mesdames et Messieurs les Ministres,
vos Excellences, Mesdames et Messieurs,

Chers collègues,

Je suis heureuse de nous voir tous réunis et si nombreux. Je souhaite que cette rencontre scelle notre dialogue, et qu'elle incarne la collaboration entre nos différents pays. J'attends beaucoup des échanges que nous avons ensemble. Aussi je serai brève.

La Cour siégeant à Strasbourg est apparue comme l'un des plus puissants contrôles des autorités nationales. Mais la justice laxiste pousse un nombre croissant d'individus à fonder tous leurs espoirs sur la Cour.

En raison de la sensibilisation accrue des citoyens européens à leurs droits en vertu de la Convention, la Cour est devenue victime de son propre succès.

Les citoyens européens, y compris les Moldaves, actionnent de plus en plus leurs gouvernements en justice à Strasbourg, dans leur quête sans fin d'une justice efficace.

L'un des objectifs clés du système européen des droits de l'homme consiste à assurer des droits uniformément définis à toute personne relevant de la juridiction des Etats membres.

Je tiens à nous féliciter tous d'avoir évité à remettre en question :

- l'universalité des droits protégés par la Convention;
- l'indépendance de la Cour européenne des droits de l'homme, libre de toute influence politique;
- le champ d'application de la compétence de la Cour en matière d'interprétation et d'application de la Convention;
- l'obligation inconditionnelle des États Parties de mettre en œuvre les arrêts de la Cour.

Il est bien sûr nécessaire de réformer les systèmes de justice nationaux et d'améliorer leurs performances en matière de réparation des violations des droits fondamentaux. De telles réformes contribueraient à alléger la Cour européenne des droits de l'homme, qui est constamment surchargée.

Il serait plus facile pour la Cour si les États traitaient la part du lion de ces questions dans leurs propres systèmes judiciaires nationaux. Cela simplifierait également le travail de la Cour, qui est d'une

grande importance pour nous tous. Trouver donc des solutions au niveau national est également l'un des défis les plus importants.

Je voudrais souligner encore une fois la nécessité d'efforts supplémentaires pour identifier les solutions les plus appropriées pour les principaux défis du système de la Convention, à savoir la charge de travail de la Cour et sa première cause, la mise en œuvre inadéquate de la Convention dans de nombreux États.

Je suis convaincue qu'il est nécessaire de donner à la Cour les moyens nécessaires pour accélérer le processus d'examen des affaires, car «la justice trop tardive est un déni de justice».

Toutes ces considérations mises à part, la République de Moldova soutient la déclaration qui sera soumise pour adoption à cette conférence, en tant qu'engagement qui ouvre la voie à renforcer la protection des droits fondamentaux.

En saisissant cette occasion, je voudrais également vous assurer de l'engagement du gouvernement moldave vers les valeurs communes européennes, celles de liberté, de démocratie et de respect des droits de l'homme.

Voilà, Mesdames et Messieurs, ce sont les quelques considérations que j'ai souhaité évoquer dans cette brève intervention.

Aux termes de mon propos, je souhaite féliciter les autorités danoises et le Conseil de l'Europe pour l'excellente organisation.

Je vous remercie pour l'attention.

Monaco: Mr Laurent Anselmi

Directeur des Services Judiciaires, Président du Conseil d'Etat

Mesdames et Messieurs les Ministres, Chers collègues,
Mesdames et Messieurs,

La Principauté de Monaco s'associe très sincèrement aux remerciements, exprimés par les Délégations qui l'ont précédée, aux Autorités danoises pour la tenue de cette Conférence.

Depuis les Conférences d'Interlaken, d'Izmir, de Brighton et de Bruxelles, le chemin parcouru mérite d'être mis en lumière, tant les réformes entreprises par la Cour européenne des droits de l'homme et mises en œuvre par les Etats ont porté leurs fruits ; et ce, avec un seul objectif : sauvegarder un système de protection des droits de l'homme auquel nous sommes indéfectiblement attachés.

C'est à ce titre que je souhaiterais rappeler que Monaco a été parmi les premiers Etats à ratifier le Protocole 15, le 13 novembre 2013.

Réactifs, proactifs et créatifs ; les Etats, comme la Cour, ont su l'être. Pour Monaco comme pour nous tous, c'est un motif de réelle satisfaction et un encouragement à la persévérance.

Aussi, ne peut-on qu'accueillir favorablement les différentes perspectives que recèle la Déclaration qui nous est soumise.

La Principauté se félicite, en particulier, de ce que cette Déclaration fasse une large place aux principes de responsabilité partagée et de subsidiarité.

Il est clair, en effet, que le dispositif instauré par la Convention ne peut être pleinement efficient qu'à la condition d'être appliqué, au quotidien, par tous les sujets de droit, en tant que partie intégrante du droit interne des divers Etats signataires. Et surtout, les juges nationaux de nos Etats de droit doivent s'en emparer pour devenir les premiers garants des droits et libertés énoncés par la Convention.

Dès son admission, le 5 octobre 2004 au Conseil de l'Europe, mon pays s'est résolument inscrit dans cette perspective.

De fait, aujourd'hui, les stipulations de la Convention européenne des droits de l'homme sont régulièrement invoquées devant les juridictions monégasques qui s'attachent, dans leurs décisions, à assurer, en toute occurrence, la primauté du droit conventionnel sur le droit positif interne.

La responsabilité partagée, prônée par la Déclaration, implique, de surcroit, une exécution entière et effective des arrêts de la Cour. Il en va là - également - du bon fonctionnement du système de la Convention. C'est en pleine conscience de cette obligation cruciale que Monaco s'attache à promptement mettre en œuvre les arrêts de la Cour qui sont prononcés à son encontre.
Cette préoccupation se manifeste surtout lorsqu'il s'agit de prendre des mesures générales consécutivement à un arrêt de condamnation. C'est dans ce cadre, et à la lumière de cet impératif, que la Principauté, à plusieurs reprises, n'a pas hésité à reformer son droit et sa pratique judiciaire.

Mais les autorités monégasques n'attendent pas d'être condamnées pour réagir. Dans une démarche proactive, elles sont également très attentives aux arrêts concernant d'autres États à l'effet de prévenir tout contentieux européen lorsqu'il apparaît acquis que des normes de droit interne ne sont pas conformes aux exigences résultant de la jurisprudence de la Cour de Strasbourg.

A ce titre, des réformes significatives ont été entreprises et c'est là le lieu de souligner le rôle des agents de gouvernement auprès de la Cour, comme source d'information quant aux évolutions nécessaires du droit interne.

Sur un tout autre point, la Déclaration met l'accent sur un nécessaire dialogue entre les juridictions nationales et européennes. Par ces interactions, qui doivent s'inscrire dans la durée, l'effectivité de la Convention se trouve, aussi, renforcée.

Le réseau des Cours supérieures offre un forum pertinent à ce dialogue. C'est pourquoi la Principauté se félicite de sa récente création ; elle y a rapidement pris part, au travers de ses deux plus hautes juridictions : le Tribunal Suprême et la Cour de Révision.

Dans cet esprit collaboratif, Monaco souscrit pleinement à la Déclaration en ce qu'elle encourage les Etats à accroitre l'utilisation et la coordination de tierces interventions. Mais cela ne pourra utilement se concevoir qu'à charge, pour la Cour, d'identifier et de communiquer aux Etats les affaires importantes, portant sur des questions de principe et appelant une telle participation de leur part.

Pour le reste, il est clair que d'autres progrès sont encore réalisables.

Parmi ceux-ci, il parait expédient, comme l'y invite la Déclaration, que la Cour continue à veiller à la clarté et la cohérence de ses arrêts et procède à une lecture prudente et équilibrée de la Convention. Que la Convention soit un instrument vivant, justifiant une interprétation dynamique, la Principauté ne peut qu'y adhérer tant elle voit, dans le Conseil de l'Europe, une communauté d'Etats de droit dont la vocation, dans le concert des Nations, est de porter les standards de protection des droits naturels et imprescriptibles de l'Homme à la hauteur des exigences de notre temps.

Mais nous formons aussi tous nos vœux pour que cette interprétation prenne en compte les impératifs d'intelligibilité et de prévisibilité de la règle de droit lesquels constituent également de telles exigences.

En conclusion, la Principauté, dans le sillage de nos présents travaux, n'aura de cesse de poursuivre ses actions avec la ferme intention de concourir, aux côtés de chacun de vos Etats, à la pérennisation et à l'optimisation du dispositif conventionnel.

Mais le progrès ne va pas de soi et la Cour est toujours confrontée à des difficultés ainsi qu'à de nouveaux défis. Cela a nécessairement un coût. Humain, bien sûr. Technique, d'évidence. Mais Budgétaire naturellement. Désormais, il importera que la Cour, à l'aune de chacun des objectifs dessinant son avenir, donne de l'ambition à ses moyens. A nous, les Etats, de donner des moyens à son ambition.
Je vous remercie.

Montenegro/Monténégro: Mr Zoran Pazin

Deputy Prime Minister

Dear Mr. Poulsen, Dear colleagues,
Excellences, Ladies and gentlemen,

Montenegro welcomes the initiative of the Danish Presidency for the Member States of the Council of Europe to give a significant new impulse to the reform of the European human rights protection system through the adoption of the Copenhagen Declaration. We support this

initiative as a timely and resolute response to increasingly complex challenges on the road to full protection and affirmation of human rights and freedoms in Europe.

The single system of European human rights protection is a product of common values that we as Europeans are obliged to develop, nurture and protect, as a guarantor of freedom and European quality of life for our citizens.

The text of the Copenhagen Declaration, which we have agreed on, is an unequivocal statement of the political will to make the human rights protection system in Europe even more effective, with strong affirmation of the principle of shared responsibility, that is, the need for timely protection of human rights to be exercised, as priority, at the national level.

In Montenegro, we look forward to working with our European partners on this important reform project, because we know that by strengthening the European mechanism for human rights protection, we simultaneously strengthen the national capacities to provide our citizens with the highest level of protection of human rights and freedoms, guaranteed by the European Convention on Human Rights.

It was precisely the implementation of the European Convention through the jurisprudence of the European Court of Human Rights that was the main focus of the reform of the Montenegrin judiciary, as a central process in the transformation of Montenegro into a society of European values.

Therefore, Montenegro has always been and will continue to stand ready to implement all the judgments of the European Court of Human Rights, without exception and regardless of their economic or other implications.

We are grateful to the European Court of Human Rights for all the judgments protecting any of the rights of Montenegrin citizens that are guaranteed by the European Convention. None of these judgments are considered as cost or loss for Montenegro. On the contrary, all the judgments of the European Court contribute to the development and improvement of the knowledge and capacity of the Montenegrin judiciary to better protect the rights and freedoms of our citizens according to the highest European standards of justice and equity.

Consequently, Montenegro strongly supports the initiative and contribution of our today's host, the Kingdom of Denmark, aimed at further reform and strengthening of the international level of human rights protection in Europe, alongside the parallel strengthening of domestic legal mechanisms for the protection of human rights and freedoms guaranteed by the European Convention.

Allow me also to express gratitude to the Advisory Panel of Experts on the excellent cooperation and support that this body provides to us when referring judges to work in the European Court of Human Rights. We will continue to actively contribute to the reform of the Court through participation in all initiatives that seek to ensure the sustainability of the European human rights protection system for future generations. We are confident that the Copenhagen Declaration will make a significant contribution to these efforts.

Montenegro will, therefore, be a reliable partner in all initiatives that we have jointly planned through this Declaration, primarily through the strengthening of judicial institutions at the national level that are the most powerful guarantor of respect for human rights and freedoms.

Thank you for your attention!

Netherlands/Pays-Bas: Mr Ferdinand Grapperhaus

Minister of Justice and Security

Ladies and gentlemen,

Let me first of all thank our Danish hosts for their hospitality, but most of all for organising a conference on such an important topic as the strength, authority and effectiveness of the Convention system.

A system put in place to facilitate cooperation in the fields of human rights, the rule of law and democracy in the whole of Europe, almost seventy years ago. This cooperation requires our continuous attention and support in order to uphold our effective and rule-based European

system. In order to ensure that as member states together we can address the various challenges we are facing.

The Netherlands Government remains strongly committed to the Convention mechanism. The proper functioning of the system established under the European Convention of Human Rights is essential for the 'constitutional well-being' of Europe.

In this regard my Government endorses the comprehensive approach of the reform process in more recent documents, such as the Brussels Declaration and the CDDH report on the longer-term future of the system of the European Convention on Human Rights. Our attention should encompass the Convention system as a whole, and not focus exclusively on the Court. And we welcome that the draft Copenhagen Declaration adopts a similar approach.

Precisely for that reason my Government also endorses the emphasis in the draft declaration on the principle of subsidiarity. When discussing the Convention system, we should include the role played by domestic actors. The principle of subsidiarity has been part of the fabric of the Convention mechanism from the outset. It is indispensable for an international human rights court as it delineates responsibilities of the national actors and those of the Strasbourg institutions. We believe that the draft declaration strikes a balance between

- on the one hand the residual role of the Strasbourg institutions by ensuring that a proper margin of appreciation is left to national authorities when dealing with certain human rights matters
- and on the other hand the primary responsibility of national authorities to fully implement the Convention acquis and to fully execute judgments in which a violation has been found in any case to which they are a party.

In our view Protocol 16 highlights the third dimension of the principle of subsidiarity: the dialogue between both jurisdictional layers in the context of this pre-arranged division of responsibilities. In that regard, we should not overlook the fact that the reform negotiations themselves serve a very useful purpose of facilitating a continuous dialogue between State representatives, the Court and civil society and other stakeholders such as the Parliamentary Assembly.

We also welcome several other aspects of the draft declaration which aim to strengthen the authority of the Convention system, such as the reaffirmation that there can be no exceptions to the obligation under Article 46 of the Convention to abide by judgments of the Court, the

selection and election process of judges to the Court, and the independence of the Court.

Ladies and gentlemen, let me conclude. A real challenge concerning the future of the Convention system lies back home: the need to convince the wider public of the continued need for European guardianship in a politically sensitive field such as human rights. I for my part will do my best to address that challenge. I sincerely hope, you will do the same. Thank you.

Norway/Norvège: Mr Torkil Åmland

Mr Chairman, Excellencies, ladies and gentlemen,

Thank you

First of all, I would like to thank the Danish chairmanship for hosting this conference, and for leading us through the negotiations.

Challenging times for human rights

These are challenging times for human rights in Europe, and therefore challenging times for the European Court of Human Rights. It is crucial for our continent that the Court remains an effective protector of the human rights of its some 820 million inhabitants, in situations where their national systems fail to provide sufficient protection.

Norway is a loyal supporter

The Court and the Convention system need our support more than ever. I am proud to say that Norway is, and always has been, a staunch supporter of the Court. We are its largest voluntary financial contributor. But just as important, we, like many other states, loyally execute the Court's judgments. Our national courts also do their utmost to ensure that the provisions of the Convention are enforced at the national level.

Support the emphasis on the national level

We are therefore pleased to support a declaration that provides strong support for the Convention system and the Court by emphasising the importance of implementation at the national level.

60 000 applications last year

Member states must be mindful of their responsibility. Last year the Court received more than 60 000 applications. Many of these cases should have been resolved at the national level, and should not have been submitted to the Court at all. The large number of repetitive applications is of particular concern in this regard.

Subsidiarity, the margin of appreciation

Our responsibility to implement the Convention at the national level is closely linked to the principle of subsidiarity and states' margin of appreciation. We are pleased that these important elements in the Convention system, which have been developed by the Court in its case law, are reflected in the declaration before us.

Increased dialogue

The Danish chairmanship has emphasised the need for closer dialogue between the national level and the Court. Norway supports the call for an enhanced and constructive dialogue that fully respects the independence of the Court. As indicated in the declaration, making greater use of third party interventions before the Court can be an important opportunity for states to express their points of view and a means of strengthening the Convention system as a whole.

Previous declarations Reduced backlog

In conclusion, I would like to express Norway's appreciation of the way the Court has responded to the calls for reform in previous declarations. As a result of the reform measures already adopted and the Court's own massive efforts, the backlog has been considerably reduced in recent years. The Court's achievements in this regard are impressive.

The Court's special account

At the same time, the high number of pending cases still gives reason for concern. Norway would like to reiterate the call made in the declaration, and encourage member states to consider making voluntary contributions to the Court's special account. This account has been set up to strengthen the Court's capacity to deal with priority cases. The court will inevitably be affected by the financial challenges the Council of Europe is facing.

Thank you.

Poland/Pologne: Mr Piotr Wawrzyk

Undersecretary of State of the Ministry of Foreign Affairs

Mr Chairman, Ministers, Ladies and Gentlemen,

This year Poland is celebrating the 25th anniversary of its accession to the European Convention on Human Rights. In just a few weeks – we will commemorate 25 years of Poland's belonging to the European Court of Human Rights' jurisdiction.

Many Polish citizens have submitted their cases to the Court's assessment as an expression of their confidence in the Convention values and mechanisms. And Poland has gained a rich experience in the proceedings before the Court. More than once we were confronted with challenges similar to those mentioned in the draft Declaration.

Thanks to this fact, Poland could directly contribute to the creation of many new solutions by the Court: pilot judgment procedure, friendly settlement with general measures or resolution of straightforward cases by unilateral declarations.

We also know how often the execution of the Court's judgments requires innovative approaches – as was the case with two first ever pilot judgments in the Court's history successfully executed by Poland.

We also know that sometimes you should not wait for the Court's judgment but take general measures once a case is communicated – as we did with the prison overcrowding.

All this speaks for flexible and result-oriented cooperation between the Court and governments *vis a vis* the case-load challenge.

The reform process has brought however many other ideas, sometimes radical. Poland could not accept curtailing the right of individual application or limiting the Court's jurisdiction or authority. Instead, we have always advocated, and still do, for balanced solutions rooted in the strong Convention basis and the principle of cooperation. Equally important are effective States' capacities for the execution of the Court's judgments.

We started developing such capacities back in 2006. Today we have in Poland solid structures and mechanisms of the execution process involving all relevant stakeholders. If at the beginning of the Interlaken process - 8 years ago - Poland ranked very high in the Court's statistics of incoming applications, adopted judgments or cases under execution, today these figures have dropped sharply for Poland.

The progress does not concern Poland only. There also are many good practices in other States. Thanks to the high engagement and support by the Department for the Execution of Judgments many difficult cases have been implemented.

A special tribute we owe to the Court. Not only for the impressive change in statistics. We appreciate the Court's contribution to the national implementation by its judgments containing practical tests and criteria that are helpful both for national authorities' work and training activities. We value the Court's enhanced dialogue with national legal systems – not only through the Superior Courts Network – but also through judgments.

The Copenhagen Declaration negotiated so successfully by the Danish presidency confirms and consolidates the positive approach of shared responsibility to solving the challenges. Mr Minister, great thanks to you and your team for this timely yet uneasy initiative to give further impulses to the reform process. Congratulations!

Portugal: Mr Joao Maria Cabral

I would like first of all, on behalf of the Portuguese authorities, to extend to the Danish Government our sincere thanks and congratulations for the impulse given to the reform of the European system of protection of human rights, as consubstantiated in the convening of this Copenhagen Conference and in proposing the draft and leading the negotiation of the Declaration that we will formally adopt tomorrow.

It is an honor and a privilege to be able to contribute to the making of this historical landmark.

Although intact in its identity – of which the respect for human rights and fundamental freedoms constitutes a basic element – the Europe of 1949, is not the same as the Europe of today. Nor are the problems that our continent faces the same or the solutions needed to tackle them. Suffice to consider that the Europe covered by the protective system of the Convention includes nowadays more than 800 hundred million citizens.

Hence the importance of the Declaration we are about to adopt, inscribed in the context of a process of reform initiated in Interlaken.

The Declaration is based in a clear separation of competences, deepening concepts that have been developing through the jurisprudence of the European Court of Human Rights.

Over its first three chapters, a renewed and strengthened adherence to the principles of subsidiarity and margin of appreciation are guaranteed.

Member States, by subscribing to this Declaration, reiterate that they assume the primary responsibility for the protection of human rights, be it through their promotion and protection, be it through the reparation of their abuses and through the fast, complete and effective implementation of the Court's decisions.

On the other hand, in the perspective of a desirable dialogue with internal jurisdictions, we believe it is essential that in accordance with the margin of appreciation the Court continues to accept the factual base of a case, as established by national courts through a fair process, as well as the interpretation of internal legislation carried out by national courts.

We are also aware that an effective European supervision is very much dependent on a modification of present functioning conditions of its

institutions, namely through an adequate financing and through improved procedures for nomination of Judges.

We recognize and appreciate the permanent effort of the Court, facing a growing volume of complaints and we therefore accept the simplification of procedures, the mechanisms to deal with repetitive cases, or the proposals for friendly settlement. They all deserve our utmost attention.

But we also deem as essential, for a correct assimilation of jurisprudence at national level and for the preservation of the Court's prestige, that the arguments presented by the partiesand the specific conditions of each case be always taken into consideration.

Also, the Declaration recognizes the permanence of the foundational characteristics that make this special system of human rights protection unique and appealing, namely the possibility for the Court to receive applications from any individual or any group of individuals that consider that their rights, as recognized by the European Convention of Human Rights or its Protocols, are being violated by one of the High Contracting Parties.

We are also certain that making individual application judgments dependent on decisions to be taken in the framework of inter-State cases, as indicated in paragraph 45, will not harm the Court's present policy of priorities, by maintaining urgent situations at the forefront.

I do not wish to finish without a reference to the special way in which Protocol 16 is referred to in the Declaration. Contrary to what happens with Protocol 15, object of an appeal to ratification, Protocol 16 is mentioned as having, possibilitando, important and meaningful effect on the functioning of the Convention system, thus reiterating the facultative nature of the Protocol, and admitting that its entry into force may even increase in the short term the workload of the Court.

I finish the way I started. New times demand new solutions. May therefore the commitment of each Member State contribute to the construction of a Europe, ever more just and more respectful of Human Rights. My country reaffirms its readiness to play its part in this common endeavor.

Thank you very much.

Romania/Roumanie: Mr Alexandru Gradinar

Ambassador Extraordinary and Plenipotentiary of Romania to the Kingdom of Denmark and Iceland

Mr. Chairman,

On behalf of Romania, I have the pleasure to join the other participants in expressing my gratitude to the Danish Chairmanship for organizing this Conference and for the excellent management of the entire process on the negotiation of the Copenhagen Declaration.

The setting up of the European Court of Human Rights has become, in time, one of the most outstanding European achievements. The Court has acted, during the last 50 years with dedication, imagination and open spirit, bringing a unique contribution to the protection of the core values of the Council of Europe, in particular the development and safeguard of Human Rights. This Conference represents the perfect opportunity for expressing our unanimous support for the Court, a chorus to which Romania adds its voice.

This Conference, stressing in essence the necessary balance we wish to achieve between all the actors involved in the conventional system for the protection of human rights, marks a useful step in the process of its long term reform, and we commend the tremendous progress achieved since the beginning of this process.

It is clear that the implementation of the reform measures adopted so far is an undeniable success, which we must congratulate ourselves for. On the other hand, although the results so far are very encouraging, we, as participants and beneficiaries of the conventional system, must remain lucid about the need to continue to strengthen our efforts to overcome current and future challenges which we will face.

In this context, we welcome the initiative of the Danish Presidency to take stock, through this draft Declaration that we are going to adopt tomorrow, of the evolution of this reform, in order to have a clear picture of what is still to be accomplished.

Romania recognizes that it is first of all the responsibility of all States parties to the Convention and our duty towards our citizens to ensure full protection at the national level of the rights and freedoms guaranteed by the Convention and its Protocols.

The realities of the world have changed. They are evolving and the Convention system must take note and adapt. In this respect, there is a need for finding the best-suited solutions in order to deal with the pressing issues the Court is confronted with. The Declaration underlines the state of play today. The Court's backlog is still at a concerning level, the current situations of conflict which make for an important source of new applications, as well as repetitive cases lingering because of the non-enforcement of pilot judgments are two of the causes which are identified in the Declaration.

From its own experience, Romania is fully aware of the need to provide proper execution of a pilot judgment. However, it is also because of that experience that we are now here commending the extraordinary and useful assistance provided by the Service of the Execution of Judgments to the Committee of Ministers and encouraging all States to take full advantage of its expertise, at the earliest stage.

During our further works, we should also not lose sight of the important measure enshrined in the Declaration - assisting the Court in its analysis of the cases through third party interventions, which will lead to greater cohesion of the Court's case law and will also represent a useful mean to consolidate the cooperation between the national authorities from different countries.

I hope that the conclusions of today's Conference will bring important added value to the effectiveness of the long-term system of the Convention and will ensure stronger convergence of the values relevant for a modern, democratic and cohesive Europe, values that we all share.

Romania stands ready to do its part and contribute actively to the implementation of the Copenhagen Declaration, as a concrete expression of our political commitment to a truly effective Convention system.

Thank you.

Russian Federation/Fédération de Russie: Mr Aleksandr Konovalov

Minister of Justice

Dear colleagues,

First of all, on behalf of the Russian Government, I would like to thank the Danish Government for initiating and carrying out an excellent work on the drafting of the Copenhagen Declaration. We highly appreciate an opportunity to express our view on the future of the Convention system during the high-level expert conference in Kokkedal last year, during the recent negotiation meetings in Strasbourg and, certainly, here, at the high-level conference in Copenhagen.

I would recall that the Convention was drafted almost seventy years ago and, although it is, undoubtedly, a solid basis for protection of human rights and fundamental freedoms, the system of ensuring its observance by the High Contracting Parties has changed several times since then, and quite significantly. I think, it is a natural and unavoidable process that certain issues arise and have to be solved when an international instrument is being applied so often, so intensively and for such a long period of time by dozens of Governments and thousands of people.

The Russian Federation has closely participated in the latest reform of the Convention system that started back in 2010 at the Interlaken conference. We consider that huge progress has already been achieved by both, the Court and the High Contracting Parties. However, there is still a long way to go. And we believe that the Copenhagen Declaration will become another milestone in this reform process.

The Russian Government notes that the negotiations over the text of the Copenhagen Declaration, expectedly, have revealed serious differences in the assessment by the Convention member-States of the vectors of the development of the Court's case law and of its working methods. We appreciate that the Danish Government has managed to build a balanced text of the declaration on the basis of all the heated debate and the multitude of opinions.

The Russian Federation finds it important and opportune that, for the first time in the Interlaken process, a declaration contains guidance as to the order of resolving inter-State cases and individual applications

stemming from the same situation, as well as touches upon the issues of fact-finding in inter-States cases.

It is also of high significance that the declaration confirms the need for clarity and consistency in the Court's case law, underlines the importance of careful interpretation of the Convention in compliance with the Vienna Convention on the Law of Treaties.

The Russian Government welcomes that the declaration further develops the principle of subsidiarity and the doctrine of the margin of appreciation and underlines the need for constructive and consistent dialogue between the national authorities and the European institutions.

We believe that further lack of attention to the above issues could have seriously impeded the functioning of the Convention system. For instance, controversial and inconsistent interpretation of the Convention provisions could lead to such situations where the Court even went beyond the scope of its jurisdiction initially determined by the High Contracting Parties or where the execution of the Court's judgments became objectively impossible and contravened the engagements of the States under other international instruments. Such situations would only undermine the value of the Court as a judicial body instituted to set and ensure the highest standards of justice in Europe.

In this context, we are convinced that the hard work on the text of the Copenhagen Declaration was not only intensive, but also fruitful. We consider that the resulting text is balanced and innovative and hope that it will lay a strong foundation for further improvement of the Convention system with due regard to the opinions and interests of all the stakeholders: member States, its peoples, the Court, the Committee of Ministers.

This concludes my statement.

Thank you!

San Marino/Saint-Marin: Mr Nicola Renzi

Ministre des Affaires étrangères, des Affaires politiques et de la Justice

Monsieur le Président,
Monsieur le Secrétaire général,
Excellences,
Mesdames et Messieurs,

Permettez-moi tout d'abord d'exprimer ma sincère gratitude à la présidence danoise pour l'hospitalité qu'elle nous a réservée et pour avoir inclus la réforme du système de la Convention parmi ses priorités.

C'est pour moi un grand plaisir de participer à cette conférence qui, dans la voie tracée par les précédentes, celle d'Interlaken, comme celle d'Izmir, de Brighton et de Bruxelles, aidera à déterminer l'avenir du système de protection des droits de l'homme sur notre continent.

Saint-Marin a toujours été un fervent partisan du travail de la Cour et de son indépendance : toute réforme du système de la Convention doit respecter le principe de l'indépendance de la magistrature, qui est l'élément central du fonctionnement et de l'efficacité d'un organe judiciaire dans un système régi par l'État de droit.

Au cours des 50 dernières années la Cour a joué un rôle central dans la protection et la promotion des droits de l'homme et des libertés fondamentales ainsi que dans la protection et le progrès dans le domaine de l'État de droit.

Le processus de réforme entamé au cours des dernières années a déjà conduit à des améliorations significatives, grâce à l'adoption du Protocole 14 et aux mesures mises en œuvre. Saint-Marin a été parmi les premiers États à ratifier les Protocoles 15 et 16 issus des précédentes conférences, et espère qu'ils seront ratifiés dans les meilleurs délais par tous les États membres.

Ces progrès doivent être protégés et consolidés. Cependant, les réformes mises en place – qui ont contribué à réduire le nombre de cas en cours d'examen - ne suffisent pas à gérer le surcharge de travail de la Cour, qui est en partie la conséquence de son succès.

La déclaration qui sera adoptée demain aborde, de façon claire et systématique, les défis principaux auxquels la Cour doit faire face dans son chemin vers une plus grande efficacité : cela sera possible

seulement avec la collaboration des tribunaux nationaux et des autres organes de l'État.

Mon pays reconnaît le rôle fondamental que les tribunaux nationaux doivent jouer dans l'application et l'interprétation des décisions de la Cour. Les juridictions nationales sont les premières garantes de la protection des droits fondamentaux, et c'est à elles en premier lieu de remédier aux violations, en mettant en œuvre les décisions de la Cour de façon complète, rapide et efficace.

Nous sommes conscients que la résolution des problèmes structurels au niveau national relève principalement de la compétence des États membres, qui doivent adopter des mesures appropriées et concrètes afin d'éviter la duplication des cas. Dans ce contexte, la mise en œuvre des arrêts et le rôle des Parlements nationaux dans la traduction en loi des décisions de la Cour sont fondamentaux.

Malgré la crise financière que le Conseil a traversée ces dernières années, il est nécessaire que la Cour dispose d'un financement adéquat.

Enfin, mon pays soutient l'importance de promouvoir une culture de protection des droits de l'homme parmi les professionnels de la justice au niveau national et cela peut se produire aussi grâce à la collaboration avec les États membres, par exemple à travers la traduction des arrêts de la Cour rendus à d'autres États.

En conclusion, je voudrais réitérer l'engagement total de mon pays en faveur du processus de réforme de la Cour et son soutien à la Déclaration de Copenhague, qui sera adoptée demain : j'espère qu'elle pourra donner un nouvel élan à la réforme de la Cour et qu'elle sera de guide pour le travail qui nous appartient en tant qu'États signataires de la Convention européenne des droits de l'homme.

Merci, Monsieur le Président.

Serbia/Serbie: Mr Mirko Cikiriz

Ladies and gentlemen, distinguished participants,

Please allow me to express our appreciation and gratitude to the Danish Presidency for all the efforts in the run up to the Copenhagen Conference.

Serbia welcomes the initiative of the Danish Presidency for the Member States to reform the Convention system - adoption of the Copenhagen Declaration.

The Republic of Serbia has been implementing the Convention for 15 years and the progress could be seen.

Namely, possibility of reopening of the proceedings after a judgment of the European Court, effectiveness of the constitutional appeal and straightening the system for effective execution of Court's judgments are some of the steps that Serbia has taken and that brought us closer to the Convention and its full implementation.

Serbian courts, in particular the Constitutional Court and the Supreme Court of Cassation more often refer to the case-law of the European Court and accepts the standards set by the Court, resulting that similar cases are now decided at national level.

Entering into force of the Protocol 14 had significant impact on the Serbian repetitive cases before the Court, since a lot of cases have been resolved by friendly settlements. In this way the Republic of Serbia contributed to decreasing the number of this type of cases before the Court.
The other side of the coin in the implementation of the Convention is execution of judgments of the European Court.

Serbia supports the primary role played by national authorities and the margin of appreciation that they may enjoy in implementation of specific measures that should enable the execution of the Court's judgments.

The Republic of Serbia has been making great efforts in order to provide full execution of pilot judgments adopted in respect of Serbia, as well as to undertake general measures that would impact the number of repetitive cases before the European Court.

We believe that further improvements of the system of execution at the national level, participation of all stakeholders in the execution of judgments and bilateral dialogue with the Department for Execution could certainly provide more efficient execution of judgments.

Republic of Serbia will be an ally in all initiatives that we have planned through this Declaration, mostly through strengthening of mechanisms for protection of human rights at the national level.

Thank you for your attention!

Slovak Republic/République slovaque: Ms Monika Jankovska

Dear Minister of Justice, dear Secretary General; dear President of the Parliamentary Assembly, dear President of the European Court of Human Rights, dear Commissioner for Human Rights,
dear colleagues, ladies and gentlemen,

I wish to express my sincere gratitude to the Danish Government and the Council of Europe for the organisation of this important conference.

It gives us an opportunity to reassess the situation of ongoing reform of the Convention system, pointing to existing shortcomings, formulate our common aims and address calls to all concerned in order to provide a due operation of the key system of human rights protection in our region.

It is important to underline that primary responsibility for effective implementation of the Convention on national level lays on the Contracting States.

The Slovak Republic attributes extraordinary importance to this aspect, as evidenced by the fact that we are not a State which would be extremely burdensome to the European Court of Human Rights or the Committee of Ministers of the Council of Europe in respect of its power to supervise the execution of judgments.

As regards the European Court of Human Rights, we welcome part of the declaration calling for the need for clarity and consistency of its judgments.

It is only way to ensure their swift execution and acceptance by all relevant actors, including national authorities, applicants and the general public.

Highlighting the importance of the right of individual application to the Court as the cornerstone of our human rights system, we draw attention to the need for consistent and timely application of Rule 47 of the Rules of Court.
This rule gains importance also in connection with the calls for expedited ratification of Protocol No. 15 by all Member States, which will shorten the deadline for filing an application.

As regards the examination of admissibility, we welcome positive changes in the [obligatory] reasoning of the single judge decisions.
A clearly reasoned decision may reduce the number of manifestly inadmissible applications in the future.

We understand and fully support the efforts of the European Court of Human Rights to look for ways to deal with a huge number of pending cases.

We believe, however, that the European Court of Human Rights should search for extended possibilities of application of the Protocol No. 14 only after the agreement of the Contracting States, taking into account their intention while ratifying it.

In this regard, we have doubts whether it was really the intention of the Contracting States to systematically decide on the most serious violations of the Convention, factually and legally complex cases or sensitive moral and ethical issues by the committees of the three judges and whether such changes would not jeopardize the consistency of the case-law of the European Court of Human Rights.
In conclusion, I would like to express my respect for the work of all judges of this international judicial authority.
Thank you for your attention.

Slovenia/Slovénie: Mr Goran Klemencic

Minister of Justice

Honourable Chairman, High Representatives of the Council of Europe, Dear Colleagues, Ladies and Gentlemen,

I thank the Danish authorities for the excellent arrangements for this conference and the extensive preparatory work that has gone into it. Slovenia supports the importance attached to the subsidiarity principle whereby the primary responsibility for the protection of the Convention rights lies at national level. However, the subsidiarity principle must not lead to the fragmentation of European human rights protection or undermine the universality of human rights. Proper functioning of the Court has always been of the utmost importance for Slovenia. We are happy that the independence, authority and role of the Court be maintained, and that the right of individual application be preserved.

It is important to reaffirm the significance of the accession of the European Union to the Convention as a way to improve the coherence of human rights protection in Europe . We need to call upon the European Union Institutions to take the necessary steps to allow the process foreseen by the Lisbon Treaty to be completed as soon as possible.

We wish to strongly encourage, without any further delay, the immediate ratification of Protocol No. 15 to the Convention by those States, which have not done so. We miss however the similar incentive for immediate ratification of Protocol No. 16, although is an optional Protocol. I've said this already at the Brussels High-Level Conference, but I feel a need to reiterate that Protocol No. 16 offers a good example and opportunity for reinforcing the implementation of the Convention at national level.

Slovenia regrets that the consultation with the Advisory Panel during the national selection process is literally not more based on a voluntary basis, but at the other side we fully support that the Conference encourages the Parliamentary Assembly to fully consider the opinions expressed by the Panel.

As for the execution of the judgments of the European Court of Human Rights I very much agree with that part of the Declaration saying that a strong political commitment by the States Parties is needed to execute

these judgments. I am happy to share with you that Slovenia in past three years has put this issue as a priority. In the end of 2015 we had 309 judgments that were not executed by meaning not having final resolutions of the Committee of Ministers. There were some efforts to overcome the problems arising from breaching the right to trial without undue delay already in the past but yet formally it looked we did not execute these judgments. Moreover, we had another 2 pilot judgments and numerous others. By systemic approach we were able to execute majority of them including both pilot judgments, one of them - Ališić case- one month ago.

We had set up intergovernmental working groups, passed laws in these issues, established special project unit at our ministry of justice and we have worked closely with the Secretariat of the Council of Europe - Department for the execution of judgments. All these activities brought us to today's statistics where we have only 27 judgments that haven't been execute yet. Despite having complex and backhome unpopular judgments Slovenia had shown in practice that respecting and fulfilling Court's judgments is leading principle of the rule of law.

Ladies and Gentlemen,

Our joint responsibility for more than 800 MIO Europeans is protection and proper functioning of the convention system and further strengthens the Council of Europe in general. The Council of Europe is not only our shared past which we can be proud of, it also needs to be our shared future. The Council of Europe, by promoting the peaceful settlement through the Court's work remains as relevant as ever to ensure peaceful resolution of disputes within and among states. I assure you Slovenia will remain an active and firm supporter of this important work also in future.

Spain/Espagne: Ms Carmen Sanchez-Cortés

Mr. Chairman, Excellencies, distinguished colleagues,

Let me start my intervention by congratulating and thanking, on behalf of the Spanish Government, the Danish Chairmanship of the Committee of

Ministers of the Council of Europe, for hosting this conference in Copenhagen and for its warm hospitality.

And let me continue by stressing, in this important forum, the firm commitment and the extreme importance that my Government attaches to the respect for human rights and fundamental freedoms, as well as to the whole European Convention System.

Consequently, I am pleased to share with you the views of Spain with regards to the reform of the Convention for the Protection of Human Rights and Fundamental Freedoms. This is indeed an exercise of paramount importance, as we consider that the Convention has a crucial role in order to assure an effective protection of fundamental rights in Europe, as well as to the preservation of democracy and the rule of law as a whole.

But before that, let me briefly refer to the celebration, in 2017, of the 40th anniversary of the accession of Spain to the Council of Europe, a cornerstone in the recent history of my country. And to recall that, in 2019, 40 years would have elapsed since Spain ratified the Convention.

In a few months we will also be celebrating the 40th anniversary of the 1978 Spanish Constitution, fully inspired by the Convention, and which has already been, by far, the longest surviving Constitution in Spanish history.

It is therefore imperative, in our view, to recognize the importance of the Convention system in the development of the democratic societies in which we live and whose values we share, as well as the central role played by the Court.

Mr. Chairman,

The Copenhagen declaration deserves the compliments of my delegation. We also wish to thank all those who have been involved in the drafting process, in which we have been actively participating in the past weeks, trying to reach a compromise text that would encompass our common views.

We appreciate, for instance, the inclusion of references to the jurisprudence of the Court [instead of case-law] as well as to the appropriate involvement of national Parliaments.

It is also very valued by us, the reference to the promotion of the translation of the Court case-law and legal materials into national official languages. This will, undoubtedly, contribute to the broader understanding of the Convention.

In this vein, let me recall that last November 23th, in the framework of the main commemorative event of Spain's accession to the Council of Europe, which was held in the premises of the Parliament in Madrid, the Spanish Minister of Justice, Mr. Rafael Catalá, and the Court's Registrar signed an agreement aiming at further increasing the number of Spanish translations of Court case-law and publications in cooperation with the *Universidad Nacional de Educación a Distancia* (UNED).

Besides, the Ministry of Justice hosts a web page with a view to grant access to the Court´s judgements and decisions translated into Spanish. This will undoubtedly spread the knowledge of the jurisprudence of the Court to the several hundreds of millions of people who are fluent in our language.

Nevertheless, there is, in the view of my delegation, a flaw in the Copenhagen declaration that I cannot fail to refer to.

We consider that we have missed a good opportunity to further enhance the transparency of the Convention system. This opportunity could have been fulfilled by including a specific reference to the transparency in the appointment of the members of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights.

Years ago, we agreed that the Panel had to be composed by members of the highest national courts, former judges of international courts and other lawyers of recognised competence.

And we also agreed that the Panel had to be geographically and gender balanced.

Well, now that transparency is a key factor in all democratic institutions, we believe there is a need to clarify the process through which members of the Panel are appointed.

Mr. Chairman,
The reform process launched 8 years ago in Interlaken, and which has led us to Izmir, Brighton, Brussels and now Copenhagen is developing at a good pace.

In a year, the Committee of Ministers will have to decide if the measures already adopted are sufficient or not for the sustainable functioning of the control mechanism of the Convention.

If the interaction of the European and the National levels works in an appropriate manner within the system of shared responsibility, we will certainly be in the right track.

Let me finish by reassuring that the constructive dialogue between the State Parties and the Court can only lead to the further improvement of the Convention system, for the benefit of all European citizens.

Let's then deepen that dialogue.
Thank you very much for your attention.

Sweden/Suède: Ms Catharina Espmark

- Sweden welcomes this opportunity to reaffirm our strong commitment to the Convention and the Court, which seems more important than ever in current times when human rights obligations are being questioned in some places.

- Sweden fully supports the current reform process towards a long-term effectiveness of the Convention system and notes that the authority and independence of the Court must never be put at risk.

- Great efforts have been made over the years and several reforms of importance will enter into force in the near future.
- One of the greatest challenges – as the Declaration points out – is the Court's case load. Its principal cause is that the Contracting States do not take their full responsibility.

- We still need to focus on national measures.

- It is vital that we as Contracting States succeed in safeguarding for the future this unique system for protection of human rights in Europe.

- We do not defend human rights only for today's citizens, but also for the citizens of tomorrow!

Switzerland/Suisse: Mr Benedikt Wechsler

Ambassadeur

Excellences, Mesdames et Messieurs

Permettez-moi d'abord de répéter les remerciements exprimés aux autorités danoises pour avoir organisé cette Conférence. Le fait qu'il s'agit de la quatrième conférence depuis Rome en 2000 et Interlaken en 2010 démontre bien qu'il s'agit d'un sujet qui tient à cœur dans l'Europe des 47. Il requiert notre attention particulière tant que les principaux buts de toute réforme ne sont pas atteints et tant que les principales causes de la surcharge de la Cour ne sont pas écartées.

La Déclaration que nous adopterons, le souligne à juste titre : le processus de réforme a conduit à des développements significatifs de la mise en oeuvre de la Convention et de son mécanisme de contrôle. Sans ignorer les efforts entrepris par les autres principaux acteurs, il nous semble que jusqu'ici, c'est la Cour qui a le mieux assumé sa part de responsabilité partagée – non seulement par la mise en œuvre de mesures introduites par le Prot. 14, mais également par le développement de mesures d'ordre procédural « à droit constant », susceptibles de réduire sensiblement le nombre de requêtes pendantes.

A l'instar des déclarations précédentes, la Déclaration de Copenhague est conçue de façon large : elle couvre l'ensemble des aspects pertinents, certains d'entre eux sont développés plus avant. A titre d'exemple :

La subsidiarité : le principe n'est pas nouveau, on marche sur un chemin connu. Mais la déclaration de Copenhague rafraichit les couleurs des panneaux indicateurs au bord de ce chemin. Cela vaut pour les deux sens du chemin : le projet de déclaration contient un appel fort aux Etats de mettre en œuvre la Convention au niveau national – voilà une véritable pierre angulaire de tout système de contrôle international. Le

concept des arrêts pilote déjà, et plus encore les développements récents démontrent que la Cour cherche des moyens lui permettant d'impliquer davantage les Etats dans le traitement d'affaires répétitives, des affaires qui ont leur seule origine dans le fait que l'Etat n'a pas répondu à ses obligations. L'autre panneau indicateur nous dirige vers la Cour : celle-ci peut réduire l'intensité de son contrôle, à condition et dans la mesure où les autorités nationales ont fait leurs devoirs et appliqué la Convention conformément aux principes développés par la Cour. Cette approche est reflétée dans la Déclaration [ch. 28] ; la question a été longuement discutée lors de la préparation du Projet – mon Gouvernement salue les développements récents de la jurisprudence qui sont à la base de cette partie de la Déclaration.

Un autre sujet qui occupe une place importante dans le Projet : le dialogue. Les progrès accomplis au cours des dernières années ont pu être réalisés grâce aux discussions continues entre les principaux acteurs du système, y compris la société civile. Nous sommes convaincus que le dialogue doit également être la base de tous les efforts futurs visant à faire de la responsabilité partagée une réalité vécue. Les déclarations précédentes ont déjà reconnu le potentiel du concept de dialogue, notamment en ce qui concerne le dialogue entre les juges (de Strasbourg et des tribunaux nationaux), et le dialogue entre les Agents de gouvernement et la Cour et son greffe. La Déclaration de Copenhague y apporte d'importantes concrétisations, dont je relèverai les suivants: le dialogue entre les Etats Parties et la Cour sur leur rôle respectifs [33], des réunions informelles entre les Etats Parties et d'autres parties prenantes pour discuter les développements de la jurisprudence de la Cour [41], et, troisièmement, le dialogue entre les Etats Parties eux-mêmes, notamment entre les Agents, en vue d'accroître la coordination et la coopération sur les tierces interventions [40]. La Suisse contribuera volontiers à poursuivre et à développer ces échanges.

Les parties du Projet relatives aux tierces interventions – voilà le dernier sujet que j'aimerais mentionner à titre d'exemple – constituent probablement les parties les plus novatrices de la Déclaration. Mon gouvernement souscrit sans réserve aux passages pertinents du Projet [34, 38, 39, 40]. Nous partageons en effet l'avis que les tierces interventions peuvent apporter des éléments essentiels à la Cour, notamment à sa Grande Chambre, quand il s'agit de concrétiser, dans une affaire donnée, l'ordre public européen.

Mesdames et Messieurs, permettez-moi une dernière observation : le Projet rappelle que le CM devra se prononcer, avant fin 2019, sur la

question de savoir si les mesures prises jusque-là sont suffisantes ou s'il faudrait envisager des changements plus profonds du système pour assurer son fonctionnement efficace et durable. Quoi qu'il en soit des résultats de ces réflexions, et peu importe si on est de l'avis que le temps des grandes réformes est passé ou que ce temps n'est pas encore arrivé : La Cour est, et doit rester, un des piliers cruciaux – si ce n'est pas *le* pilier crucial – de l'architecture de la protection des droits de l'homme en Europe. Il est donc important de réaffirmer, une fois de plus, notre « attachement profond et constant à la Convention » [1]. Plus cet attachement connait des suites concrètes – à tous les niveaux pertinents -, plus la tâche de la Cour sera facilitée.
Merci de votre attention.

"The former Yugoslav Republic of Macedonia" / « L'ex-République yougoslave de Macédoine »: Mr Petar Pop-Arsov

Ambassador

Mr. Chairman
Your Excellencies,
Ladies and gentlemen,

First of all I would like to thank our hosts for their warm hospitality. The reforms of the control system of the European Convention on Human Rights are and will continue to be a priority for the Council of Europe. In that direction, I would like to expess my gratitude to the Danish Chairmanship for taking such an important initiative and organising this Conference. Today's discussions and the conclusions wich will arise will be extremly useful for our future work.

This High level Conference is part of the process of reforming the Convention system that was launched in the Interlaken Conference in February 2010, followed by the well known High level Conferences in Izmir, Brighton and Brussels. In this occasion, I would also like to mention the Conference on the principle of subsidiarity "Strengthening Subsidiarity: Integrating the Strasbourg Court's Case law into National Law and Judicial Practice", organized under the Macedonian

Chairmanship of the Committee of Ministers of the Council of Europe, in October 2010 in Skopje. This Conference gave a contribution and support to the Interlaken process, pursuing the commitments stemming from the Interlaken Declaration.
Over the past 60 years, the Council of Europe Convention System has made an enormous contribution to the protection and promotion of human rights and the rule of law in Europe. The Council of Europe has a central role in preserving democratic security and good governance in Europe. The right of individual application before the European Court of Human Rights remains to be the center of the system for the protection of the rights and freedoms set forth in the Convention.

We are facing numerous challenges. One of the most significant is the increase in the capacities of the member states in the process of implementation of the judgments of the European Court of Human Rights at a national level. Also, we must not forget the need for effective monitoring of the process of implementation of the judgments by the Committee of Ministers.

At a national level, the legislature must adopt laws that are in conformity with the Convention. In other words, national authorities must, in one way or another, take ownership of the Convention. The basic question that arises today is whether the national courts can apply, not only the provisions of the Convention, but also the case-law of the Court when necessary. In this context, the experience of those countries where the case law of the Court is directly applicable by the national courts should be emphasized.

Hence, the full and rapid execution of the judgments of the Court is of the utmost importance for the effective judicial protection of victims of human rights violation, for preventing future violation and for guaranteeing the authority and credibility of the Court itself.

The longstanding experience and numerous repetitive judgments and structural problems in many Member States indicate that the introduction of effective remedies is a complex ongoing process in which legislative, executive and judicial authorities must be equaly involved. The introduction of new domestic remedies often requires bargaining and collaboration between various actors.

In today's declaration that we adopt, we point to the central role of the Court. The decision as to whether the Convention was violated or not is in the jurisdiction of the Court, which is the supreme guardian of the Convention. The Court itself is competent to correct the occasional

misinterpretations by the national authorities and to provide a consistent interpretation of the Convention throughout the European continent.

Ladies and gentelmen, Dear Coleagues,
At the end, I would like to say that the Republic of Macedonia fully supports the measures for strenghtenining the long term effectiveness of the European Convention of Human Rights, envisaged in the Declaration we are adopting today.
Thank you.

Turkey/Turquie: Mr Abdulhamit Gül

Honorable Chair of the Committee of Ministers,
Esteemed Secretary General,
Distinguished President of the European Court of Human Rights,
Dear Colleagues and Participants,

I have the pleasure to address today, to these distinguished participants of this Conference, which bears a special significance to the Council of Europe, and would like to extend my deepest regards to each and every one of you.
I would like to thank the Danish Chairmanship for organizing such an outstanding Conference.

Distinguished Participants,
The European Court of Human Rights is one of the most important safeguards of the Council of Europe system, established with the aim of materializing the concept of democratic security.

A significant portion of challenges encountered in functioning of the Court is comprised of dynamics outside of the Court. Today, when we take a look at the dynamics giving rise to a need for reform, we will observe that a substantial part of these are not independent from political and economic developments taking place in the wider European geography.

Striking a balance between security concerns arising from old and new generation terrorist acts and dynamics created by irregular migration and

protection of human rights, brings about new challenges in terms of States. Efforts exerted by the States in this field, make up the main underlying cause behind the dynamics bringing forward the Court's reform.

On the one hand, Turkey is hosting/embracing more than 4 million asylum seekers by preventing irregular migration, and on the other hand, it is countering more than one terrorist organization, primarily FETÖ, DAESH, PKK/PYD/YPG and DHKP-C. Thus, in respect of Europe, Turkey is in a position to stem the irregular migration and terrorism, and it's a country which stops these at the source. So in a way, security of Europe passes through Turkey. I wish to stress that all countries should cooperate to fight against irregular migration and terrorism.

Esteemed Participants,
The Convention System gives precedence to the States Parties' capacity to solve their human rights problems at the national level without deviating from the main principles enshrined in the Convention.

Our Country, within the scope of the principle of subsidiarity, has so far fulfilled any and all responsibility it has undertaken.

On the one hand, it is ensured that international agreements on fundamental rights and freedoms prevail over national laws, and thereby, the Convention has become a part of our domestic law, and on the other hand, the right to individual petition to the Constitutional Court has been introduced.

Turkey, even in these difficult times, has displayed unwavering will to make reforms.

On the 15th July, FETÖ armed terrorist organization attempted a coup against all our democratic institutions upon instructions of its leader residing in Pennsylvania, and despite this coup attempt, we continue our counter-terrorism efforts in line with international obligations, respecting for human rights, democracy and the rule of law. Within this scope, by establishing the State of Emergency Procedures Inquiry Commission, we have made it possible for those, against whom action was taken by Decree Laws, to submit their objections to this Commission. The ECHR has also forwarded more than 30 thousand applications to the Commission with a view to exhausting domestic remedies.

Turkey, within the framework of its obligations arising from the Convention, protects the rights and freedoms of everyone living within its boundaries, primarily in its domestic law.

Distinguished Participants,
The other dimension of "the principle of subsidiarity" is the effective execution of the Court's judgment.

Nevertheless, the Committee of Ministers need to be independent, and avoid political considerations in their supervision of judgments. The scope of Court's judgments should not be widened through interpretation, and margin of appreciation of the States should be respected.

Esteemed Participants,
Our Government maintains close cooperation with all mechanisms of the Council of Europe, especially with the Secretary General. The Unofficial Working Group we have established together with the Secretary General is one of the most concrete examples of this cooperation.

Our judicial authorities, primarily the Constitutional Court, are in close cooperation with the Court in the implementation of principles and standards of the Convention.

Furthermore, our judges and public prosecutors pay thematic study visits to Strasbourg, and within this context, 50 judges and prosecutors will visit the Court and the Council next week.
All judgments of the Court regarding Turkey are translated and published in HUDOC as well as being communicated to the practitioners.

Besides, I would like to express that we continue with "secondment" of our judges and protectors to the Court.

Distinguished Participants,
I would like to draw your attention to certain aspects of the process of selection of judges, which assumes a vital role in protection of the rights guaranteed in the Convention.
We attach importance to the fact that each and every stage of the judge selection process should be carried out in an equal, transparent and consistent manner. To this end, I am of the opinion that, in assessments of both the Advisory Panel and PACE, domestic regulations and preferences of countries should be respected.

Distinguished Participants,
Protection of human rights and freedoms require a wholistic and coherent approach, and the reform process should be carried out in a similar fashion on the basis on impartiality.
Valuing political interests and concerns above principles and standard of law may lead to undermining of impartial image of the system we established together and to destruction of its reason for existence.

With this understanding, once again I would like to extend my regards, and wish for the success of this Conference.

Ukraine: Mr Pavlo Petrenko

Minister of Justice

Dear Mr. Chairman,
Your Excellencies,
Distinguished delegates and participants,

Let me welcome you all and **express on behalf of the Government of Ukraine** my **special gratitude** to You, dear Minister, and to the Danish

Side for **hospitality and excellent organization of the Conference.**
I would like to highlight the **importance of this Conference** with the view of further **reforming of the European Human Rights Convention System** and *to note*, that **Declaration** we are intended to adopt today **could be an efficient tool** for **establishing more effective, focused and balanced Convention system.**

As a member of the Council of Europe, on **17 July 1997 Ukraine ratified the Convention for the Protection of Human Rights and Freedoms and the Protocols thereto**.

Ukraine makes all efforts to fulfil our primary obligation and **to ensure that the rights and freedoms set forth in the Convention and its Protocols** are **fully secured at national level** in accordance with the principle of subsidiary.

I would like to refer to the **Brussels Declaration as of March 2015 where** the Parties were called **to sign and ratify Protocols № 15 and 16 amending the Convention.**

I am pleased to inform you that in October 2017 **Ukrainian Parliament ratified these two Protocols**. This step – another **confirmation of Ukraine's commitment to the ideas and goals of the Convention**, namely, respect and protection of human rights and fundamental freedoms in Europe, and **our intention to actively participate in reforming the Court** to increase its effectiveness.

We fully support the **statement** of the Brussels Declaration that the **national authorities and courts are the first guardians ensuring the full, effective and direct application of the Convention**.

Given the number of cases pending before the Court, **Ministry of Justice of Ukraine assures in its commitment to fulfil our obligations** under the Convention and **supports the proposals set forth in the declaration in this regard**.

I assure you, **Government of Ukraine *takes all necessary*** steps **to ensure proper functioning of the Convention** system on the territory of Ukraine.

Unfortunately, it is not the case with all 47 member-states of the Council of Europe.

I must say that when talking about ways of enhancing the efficiency of the Conventional system **we do not pay proper attention** to the fundamental issues. I mean bona fide **fulfilment by every Party of the Convention of its obligations**.

I am talking about the Russian Federation – the Council of Europe member-state **continuously and steadily breaks rule of law in Europe**.

How **we should face this challenge**? – that is the very question we all have to consider. *We* **fight against aggressor by all possible means, including legal one to protect** violated human rights.

Ukraine submitted a number of applications against Russia to the Court. However, taking into account that **each inter-state application** and especially these ones **are unique and challenging**, *we recognize* that the **Court facing difficulties during consideration of the cases**.

In this regard, *the Ministry of Justice of Ukraine* **highlights the need for special mechanism or other means to address** interstate as well as individual applications resulting conflict between two or more States Parties. In addition, *we propose* **to develop a specific methodology for dealing with such cases**, as well as a procedural timeline for consideration of the inter-states applications.

Dear Ladies and Gentlemen,
In conclusion, I would like to **support the adoption of the Copenhagen Declaration** and to declare our **adherence to the principles of the Council of Europe.**
And finally let me express my sincere appreciation to **you, Mr. Chairman, and to the Danish Side for all efforts made in preparation of this Conference and Declaration,** which, *I have no doubts,* will give a **strong impetus in reforming of the European Human Rights Convention System.**

Thank you for your attention!

United Kingdom/Royaume-Uni: Mr David Gauke

Secretary of State for Justice

Mr Chairman,

I would like to start by commending Denmark for having convened this conference, which has come at the right time to give fresh impetus to further reform of the Convention system. Since the first meeting at Interlaken eight years ago, the reform process has been crucial in securing the future of the Court and the wider Convention system.

As described in the Declaration, that success has been marked by the evolution of the principle of subsidiarity – and in turn, the development of an effective model of shared responsibility. We are all clear that States have the primary responsibility for securing the Convention rights, with the final oversight of the Strasbourg system, notably the Court. For a system on this scale, shared responsibility is the only way to secure rights effectively.

A crucial element is for all States to ensure that they genuinely secure the Convention rights at national level. The United Kingdom is proud of its excellent record before the Strasbourg Court, illustrating our work over decades to ensure the full protection of rights within our national legislation and common law.

Another key driver of shared responsibility has been the Court's consistent application of the margin of appreciation. The margin of appreciation is especially important where national democratic systems choose to secure and balance rights in different, but equally legitimate ways.

We therefore welcome that the Declaration includes these key principles, and hope in future that we will have the opportunity to welcome further evolution of even more of the Court's well-developed case law on these points.

Three other elements of the Declaration are especially important to us.

First, we echo the call for the last four States to ratify Protocol 15 as soon as possible. We want to see this key product of the Brighton Conference – which we were proud to host under our own Chairmanship in 2012 – finally come into force. We also look forward to seeing the effect of Protocol 16, another product of the Brighton Declaration.

Second, we welcome the continued emphasis on the execution of judgments. We strongly support the Chairmanship's efforts to add political impetus to the supervision process.

And third, we underline the strong words in the Declaration on the selection and election of the judges of the Court. In particular, we welcome the call for the Parliamentary Assembly to take full note of the work of the Advisory Panel, and to ensure that it elects the best of the candidates presented to it. This is vital for securing the Court's long-term credibility.

This Declaration does not mark the end of the reform process. As the pressures of workload show, tough challenges remain ahead. We therefore look forward to future chairmanships giving priority to this vital work.

Thank you Mr Chairman.

OTHER GUESTS
AUTRES INVITÉS

European Network of National Human Rights Institutions / Réseau européen des institutions nationales des droits de l'homme

Ms Debbie Kohner, Secretary General

Distinguished Colleagues

I would like to thank the Danish Chairmanship for organising this conference, and their wonderful hospitality.

The European Network of National Human Rights Institutions, ENNHRI, welcomes the recent refinement the draft Copenhagen Declaration, and the integration of the views of a wide range of stakeholders, including National Human Rights Institutions and civil society.

The Declaration has been strengthened by:

- underlining the right of individual applications as a cornerstone of the Convention system,
- introducing a commitment to the adequate funding for the Court;
- [developing the procedure for the selection and election of judges;] and
- emphasising the importance of the supervisory role and independence of the Court, which ultimately is responsible for the interpretation of the evolving principle of subsidiarity.

ENNHRI acknowledges with appreciation the recognition in the Declaration of the crucial role played by National Human Rights Institutions (or NHRIs) in the national implementation of the Convention, and for underlining the importance of establishing an independent NHRI, in compliance with the Paris Principles, in each Member State.

ENNHRI reminds the Conference that NHRIs across the Council of Europe are already actively working towards many of the actions affirmed by the Declaration, including:

- reviewing national legislation and policy for compliance with the Convention;

- receiving individual complaints, and thus reducing the number of cases before the courts;
- bringing human rights expertise and cooperation through third party interventions before the Court;
- multi-faceted support for the national execution of judgments;
- awareness raising of the Convention system; and
- human rights education, including professional training.

ENNHRI recommends that, in the implementation of the Declaration, NHRIs (as well as civil society) are also included in other actions, such as:

- The enhanced dialogue between the national and European levels of the Convention system; and
- Being recipients of timely information on the cases (particularly before the grand Chamber) that could raise questions of principle.

Indeed, the implementation and interpretation of this Declaration will be key, as well as the national implementation of the Court's judgments.

NHRIs, as independent state bodies devoted to the promotion and protection of human rights, are natural partners for this process. ENNHRI, including all NHRIs across the Council of Europe, stands ready to support an implementation that ensures the effective and efficient working of the Convention system to safeguard human rights for individuals across the Council of Europe.

Conference of INGOs of the Council of Europe / Conférence des OING du Conseil de l'Europe

Ms Anna Rurka, President

Mesdames, Messieurs les Ministres, Excellences, Monsieur le Secrétaire Général, Messieurs les Présidents, Chère Commissaire aux droits de l'Homme, Mesdames et Messieurs,

Je tiens à saluer le processus par lequel le travail sur le projet de la Déclaration de Copenhague a été conduit. La prise en compte des propositions faites par les ONG et par la Conférence des OING elle-même montre que le système de la Convention repose sur une

responsabilité collective de toutes les institutions du Conseil de l'Europe et de la société civile à laquelle le Danemark a attaché de l'importance depuis le début de sa Présidence du Comité des Ministres.

Toute discussion sur la responsabilité partagée à l'égard du système de la Convention doit débuter par le rappel du principe liminaire selon lequel chaque Etat membre a la responsabilité « de reconnaître à toute personne relevant de leur juridiction les droits et libertés définis dans la Convention »[1] et de garantir un recours efficace à l'échelle nationale. Ceci n'est pas du tout opposé au droit **de recours individuel supranational qui lui, constitue le pilier et la force du système de la Convention**.

Il convient de saluer les efforts de la Cour quant à la diffusion en plusieurs langues de ses arrêts et rapports, permettant aux juges et aux législateurs, aux avocats et aux justiciables de s'informer. Toutefois, nous ne pouvons pas oublier que la politique d'information et de formation a besoin des moyens matériels, humains et financiers qui doivent être mis à la disposition de la Cour. Il appartient aussi aux ONG de contribuer davantage à ce travail par la diffusion et par la formation, afin de rendre le langage juridique accessible à une plus large partie de la population et de relayer ces informations au niveau national et local. Nous devons sûrement aussi renforcer la diffusion des bonnes pratiques en la matière. En termes d'enjeux démocratiques, il est essentiel de transmettre le message soulignant que la Convention et le droit de recours individuel ne sont pas éloignés de la réalité vécue par des millions d'Européens et d'Européennes. De même que l'engagement des Etats vis-à-vis des droits fondamentaux est bien réel et fonctionnel.
Le rôle de la société civile, dont l'importance a été soulignée dans la Déclaration de Bruxelles ainsi que dans le projet de la Déclaration de Copenhague, est essentiel. Ce rôle concerne le droit à présenter les communications dans le cadre du processus de surveillance de l'exécution des arrêts par le Comité des Ministres, sans oublier son rôle proactif d'information et d'analyse permettant de prévenir la violation de droits.

La Conférence des OING, et à travers elle 298 OING dotées du statut participatif auprès du Conseil de l'Europe, attache de l'importance **au droit de recours individuel, à l'indivisibilité, l'interdépendance et l'universalité des droits fondamentaux**. Comme cela a été proposé

[1] *CDDH, DH-GDR (2015). L'avenir à plus long terme du système de la Convention européenne des droits de l'homme. DH-GDR(2015)R9. Conseil de l'Europe*

par les ONG[2], la lecture et l'interprétation de la déclaration devraient être inclusives afin de reconnaitre, je cite, « l'importance de la mise en œuvre adéquate de tous les droits humains, dans toutes les situations et dans tous les Etats membres ».

La crise des démocraties consolidées et libérales dont l'élément essentiel est l'indépendance des institutions judiciaires nationales, oblige de renforcer la capacité et l'engagement des Etats à appliquer les droits. Il appartient aux Etats de démontrer si les conditions au niveau national sont réunies pour appliquer la Convention d'une manière adéquate aux principes développés dans la jurisprudence de la Cour. Il n'appartient qu'à la Cour de définir les limites et de surveiller la marge d'appréciation octroyée, en tenant compte des droits internes et du pluralisme juridique au sein des Etats membres du Conseil de l'Europe.

Les Etats doivent se conformer aux arrêts définitifs de la Cour, en reconnaissant l'autorité de cette dernière, son indépendance et l'engagement pris vis-à-vis des justiciables pour protéger un ensemble de valeurs et les droits sur lequel le Conseil de l'Europe est construit. Nous espérons que la déclaration présentée à l'adoption aujourd'hui constituera un élan politique qui clora les critiques déstabilisantes à l'égard du système de la Convention.

La réforme ne doit en aucun cas affaiblir les acquis et les principes fondamentaux. Ces principes doivent être rappelés avec *audace, cohérence et fermeté* par tous les acteurs concernés.

Je vous remercie de votre attention.

Non-governmental organisations/Organisations non gouvernementales

Mr Jonas Christoffersen, Danish Institute for Human Rights

Ministers, president of the court, your excellences, ladies and gentlemen

Please allow me first to recognize the unusual transparency of the Danish chairmanship that made the first draft declaration public and thus

[2] Joint NGO Response to the Draft Copenhagen Declaration 13 February 2018

enabled a wide, public debate on the issues at stake. The chairmanship further included civil society organizations and academic experts in the process, in particular in the preparatory conferences in Copenhagen in April 2017 and in Kokkedal in November 2017. The open and inclusive process secured a better democratic debate on the important matter of the future of human rights protection in the Council of Europe member states.

Secondly, I place significant emphasis, as many others do, on the clear support to the European Convention and Court, witnessed not only by the clear text of the Copenhagen Declaration but also by the high level representation here today. The political support is very significant indeed.

Thirdly, I would like to highlight a very important element of the declaration, namely the Copenhagen Declaration's clear language in the need for democratic dialogue on the protection and development of human rights in order to secure ownership and support to human rights. It is in my view evident that human rights must be anchored in the European democracies, but it has to my knowledge never been stated this clearly in a political document of the Council of Europe. The democratic ownership of human rights is absolutely necessary.
Finally, I believe that the most important outcome of the Copenhagen Declaration is the decision to, finally if I may be so frank, initiate a thorough analysis of the capacity of the Court under the current organizational structure. There are no signs, as we say in Danish, in "Sun, Moon and Stars" that we will reach a balanced input/output of the Court. No one has undertaken thorough, independent analysis of the situation with a view to developing concrete proposals to further develop our system. The analysis is key to provide realistic actions for political decision in the not so distant future.

Mr. Minister of Justice Søren Pape Poulsen,

I would like – also on behalf of professor Madsen sitting behind me – to thank the government for its significant interest in taking our advice throughout the process: Professor Madsen and I appreciate the trust you placed in us, although you and your staff did not always follow our advice.

Ladies and gentlemen,
I thank you for the attention.

CONCLUSIONS

Danish Chairmanship of the Committee of Ministers of the Council of Europe

On behalf of the Danish Chairmanship, let me thank you all for your important contributions to this Conference, and to the drafting process for the Declaration.

The Conference has been an important opportunity for us to reaffirm our commitment to the European Convention on Human Rights.

Our commitment, as Member States, to live up to our primary responsibility to of implementing the Convention at national level, and our commitment to the European Court of Human Rights and the right of individual application.

We have also reaffirmed the importance of continuing the successful reform of the Convention system. Building on the important results achieved, and meeting new challenges as they arise.

We have developed a common vision for a more effective, focused and balanced Convention system. A system, where member states take on a larger role and responsibility at national level, and where the Strasbourg Court can focus its efforts on identifying serious systemic and structural problems, and important questions of interpretation and application of the Convention.

This vision, based on shared responsibility, opens a very positive perspective for the future of the Convention system.

A promise of a better balance between the national and European level of the system. And, importantly, a promise of an improved protection of human rights, with better prevention and effective remedies available at the national level.

We have also underlined the need for an increased dialogue, at both judicial and political levels. On our respective roles. And on development of the Convention system. Which will anchor the development of human rights more solidly in our European democracies.

Ladies and Gentlemen, I think we can be proud of the result achieved.

The Declaration contains a range of measures to secure the future of the Court and the Convention. We must now proceed to implement these measures rapidly and effectively. And I call on all those involved in this process to continue to work together in a spirit of co-operation. As we have done here in Copenhagen.

I am again grateful to you all for your support as we adopt the Copenhagen Declaration.

I guarantee Denmark's full support to the future Chairmanships of the Council of Europe as they continue our common efforts to ensure the effectiveness of the Convention system.

I would like particularly to thank:

- all the delegations who have participated;
- the Council of Europe, and particularly its senior officials who have participated in our proceedings;
- the teams who have supported us throughout this process, including from the Secretariat of the Committee of Ministers;
- all the staff who have looked after us here in Copenhagen and worked hard for the Danish Chairmanship;
- and finally, but not least, our interpreters. You have done a great job.

Ladies and Gentlemen,

It has been a real pleasure to welcome you to Copenhagen. I wish you all a safe journey home.

Thank you.

Mr Christos Giakoumopoulos

Director General, Directorate General of Human Rights and Rule of Law, Council of Europe

Mr Minister,

Thank you very much. I would just like to, on behalf of the Secretary General of the Council of Europe and of all my colleagues in the Secretariat, thank you, Mr Minister, and the Danish Chairmanship for this extraordinary work, for the dedication, the efficiency, and the openness during the process of negotiation and preparation of the draft Declaration.

The Copenhagen Declaration, together with all the contributions from yesterday, make out the material that will certainly consolidate and steer the finalisation of the reform process which was initiated some time ago in Interlaken.

This Conference is a real success story, not only because it gives a huge impulse to the human rights protection in Europe and in each and every Member State of the Council of Europe, but also because it was extremely well-organised, Mr Minister, in a pleasant atmosphere that made us all feel among friends and at home.

Again, on behalf of the Secretary General and all my colleagues, I would like to address to you and to our Danish hosts and colleagues a very warm thank you.

COPENHAGEN DECLARATION, 13 April 2018

The High Level Conference meeting in Copenhagen on 12 and 13 April 2018 at the initiative of the Danish Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference") declares as follows:

1. The States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") reaffirm their deep and abiding commitment to the Convention, and to the fulfilment of their obligation under the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention. They also reaffirm their strong attachment to the right of individual application to the European Court of Human Rights ("the Court") as a cornerstone of the system for protecting the rights and freedoms set forth in the Convention.

2. The Convention system has made an extraordinary contribution to the protection and promotion of human rights and the rule of law in Europe since its establishment and today it plays a central role in maintaining democratic security and improving good governance across the Continent.

3. The reform process, initiated in Interlaken in 2010 and continued through further High Level Conferences in Izmir, Brighton and Brussels, has provided an important opportunity to set the future direction of the Convention system and ensure its viability. The States Parties have underlined the need to secure an effective, focused and balanced Convention system, where they effectively implement the Convention at national level, and where the Court can focus its efforts on identifying serious or widespread violations, systemic and structural problems, and important questions of interpretation and application of the Convention.

4. The reform process has been a positive exercise that has led to significant developments in the Convention system. Important results have been achieved, in particular by addressing the need for more effective national implementation, improving the efficiency of the Court and strengthening subsidiarity. Nonetheless, the Convention system still faces challenges. The States Parties remain committed to reviewing the effectiveness of

the Convention system and taking all necessary steps to ensure its effective functioning, including by ensuring adequate funding.

5. It has been agreed that, before the end of 2019, the Committee of Ministers should decide whether the measures adopted so far are sufficient to assure the sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary. Approaching this deadline, it is necessary to take stock of the reform process with the goal of addressing current and future challenges.

Shared responsibility – ensuring a proper balance and enhanced protection

6. Throughout the reform process, the term shared responsibility has been used to describe the link between the role of the Court and the States Parties. This is vital to the proper functioning of the Convention system and, as the ultimate goal, the more effective protection of human rights in Europe.

7. In the Brighton Declaration, it was decided to add a recital to the Preamble of the Convention affirming that the States Parties, in accordance with the principle of subsidiarity, have the primary responsibility to secure the rights and freedoms defined in the Convention and the Protocols thereto, and that in doing so they enjoy a margin of appreciation, subject to the supervisory jurisdiction of the Court. In the Brussels Declaration, the importance of effective national implementation and execution of judgments was given further emphasis.

8. Focusing on the importance of Convention standards being effectively protected at national level reflects the development of the Convention system. The Convention today is incorporated, and to a large extent, embedded into the domestic legal order of the States Parties, and the Court has provided a body of case law interpreting most Convention rights. This enables the States Parties to play their Convention role of ensuring the protection of human rights to the full.

The Conference therefore:

9. Recalls the concept of shared responsibility, which aims at achieving a balance between the national and European levels of the

Convention system, and an improved protection of rights, with better prevention and effective remedies available at national level.

10. Reiterates that strengthening the principle of subsidiarity is not intended to limit or weaken human rights protection, but to underline the responsibility of national authorities to guarantee the rights and freedoms set out in the Convention. Notes, in this regard, that the most effective means of dealing with human rights violations is at the national level, and that encouraging rights-holders and decision-makers at national level to take the lead in upholding Convention standards will increase ownership of and support for human rights.

11. Strongly encourages, without any further delay, the ratification of Protocol No. 15 to the Convention by those States which have not done so.

Effective national implementation – the responsibility of States

12. Ineffective national implementation of the Convention, in particular in relation to serious systemic and structural human rights problems, remains the principal challenge confronting the Convention system. The overall human rights situation in Europe depends on States' actions and the respect they show for Convention requirements.

13. A central element of the principle of subsidiarity, under which national authorities are the first guarantors of the Convention, is the right to an effective remedy under Article 13 of the Convention.

14. Effective national implementation requires the engagement of and interaction between a wide range of actors to ensure that legislation, and other measures and their application in practice comply fully with the Convention. These include, in particular, members of government, public officials, parliamentarians, judges and prosecutors, as well as national human rights institutions, civil society, universities, training institutions and representatives of the legal professions.

The Conference therefore:

15. Affirms the strong commitment of the States Parties to fulfil their responsibility to implement and enforce the Convention at national level.

16. Calls upon the States Parties to continue strengthening the

implementation of the Convention at the national level in accordance with previous declarations, especially the Brussels Declaration on "Implementation of the European Convention on Human Rights, our shared responsibility" and the report of the Committee of Ministers' Steering Committee for Human Rights on the longer-term future of the Convention system; in particular by:

a) creating and improving effective domestic remedies, whether of a specific or general nature, for alleged violations of the rights and freedoms under the Convention, especially in situations of serious systemic or structural problems;

b) ensuring, with appropriate involvement of national parliaments, that policies and legislation comply fully with the Convention, including by checking, in a systematic manner and at an early stage of the process, the compatibility of draft legislation and administrative practice in the light of the Court's jurisprudence;

c) giving high priority to professional training, notably of judges, prosecutors and other public officials, and to awareness-raising activities concerning the Convention and the Court's case law, in order to develop the knowledge and expertise of national authorities and courts with regard to the application of the Convention at the national level; and;

d) promoting translation of the Court's case law and legal materials into relevant languages, which contributes to a broader understanding of Convention principles and standards.

17. Notes the positive effects of the pilot judgment procedure as a tool for improving national implementation of the Convention by tackling systemic or structural human rights problems.

18. Reiterates the significant role that national human rights structures and stakeholders play in the implementation of the Convention, and calls upon the States Parties, if they have not already done so, to consider the establishment of an independent national human rights institution in accordance with the Paris Principles.

Execution of judgments – a key obligation

19. The States Parties have undertaken to abide by the final judgments of the Court in any case to which they are a party. Through its supervision, the Committee of Ministers ensures that proper effect is given to the judgments of the Court, including by the

implementation of general measures to resolve wider systemic issues.

20. A strong political commitment by the States Parties to execute judgments is of vital importance. The failure to execute judgments in a timely manner can negatively affect the applicant(s), create additional workload for the Court and the Committee of Ministers, and undermine the authority and credibility of the Convention system. Such failures must be confronted in an open and determined manner.

The Conference therefore:

21. Reiterates the States Parties' strong commitment to the full, effective and prompt execution of judgments.

22. Reaffirms the Brussels Declaration as an important instrument dealing with the issue of execution of judgments and endorses the recommendations contained therein.

23. Calls on the States Parties to take further measures when necessary to strengthen the capacity for effective and rapid execution of judgments at the national level, including through the use of inter-State co-operation.
24. Strongly encourages the Committee of Ministers to continue to use all the tools at its disposal when performing the important task of supervising the execution of judgments, including the procedures under Article 46 (3) and (4) of the Convention keeping in mind that it was foreseen that they would be used sparingly and in exceptional circumstances respectively.

25. Encourages the Committee of Ministers to consider the need to further strengthen the capacity for offering rapid and flexible technical assistance to States Parties facing the challenge of implementing Court judgments, in particular pilot judgments.

European supervision – the role of the Court

26. The Court provides a safeguard for violations that have not been remedied at national level and authoritatively interprets the Convention in accordance with relevant norms and principles of public international law, and, in particular, in the light of the Vienna Convention on the Law of Treaties, giving appropriate consideration to present-day conditions.

27. The quality and in particular the clarity and consistency of the Court's judgments are important for the authority and effectiveness of the Convention system. They provide a framework for national authorities to effectively apply and enforce Convention standards at domestic level.

28. The principle of subsidiarity, which continues to develop and evolve in the Court's jurisprudence, guides the way in which the Court conducts its review.

    a) The Court, acting as a safeguard for individuals whose rights and freedoms are not secured at the national level, may deal with a case only after all domestic remedies have been exhausted. It does not act as a court of fourth instance.

    b) The jurisprudence of the Court makes clear that States Parties enjoy a margin of appreciation in how they apply and implement the Convention, depending on the circumstances of the case and the rights and freedoms engaged. This reflects that the Convention system is subsidiary to the safeguarding of human rights at national level and that national authorities are in principle better placed than an international court to evaluate local needs and conditions.

    c) The Court's jurisprudence on the margin of appreciation recognises that in applying certain Convention provisions, such as Articles 8-11, there may be a range of different but legitimate solutions which could each be compatible with the Convention depending on the context. This may be relevant when assessing the proportionality of measures restricting the exercise of rights or freedoms under the Convention. Where a balancing exercise has been undertaken at the national level in conformity with the criteria laid down in the Court's jurisprudence, the Court has generally indicated that it will not substitute its own assessment for that of the domestic courts, unless there are strong reasons for doing so.

    d) The margin of appreciation goes hand in hand with supervision under the Convention system, and the decision as to whether there has been a violation of the Convention ultimately rests with the Court.

The Conference therefore:

29. Welcomes efforts taken by the Court to enhance the clarity and consistency of its judgments.

30. Appreciates the Court's efforts to ensure that the interpretation of the Convention proceeds in a careful and balanced manner.

31. Welcomes the further development of the principle of subsidiarity and the doctrine of the margin of appreciation by the Court in its jurisprudence.

32. Welcomes the Court's continued strict and consistent application of the criteria concerning admissibility and jurisdiction, including by requiring applicants to be more diligent in raising their Convention complaints domestically, and making full use of the opportunity to declare applications inadmissible where applicants have not suffered a significant disadvantage.

Interaction between the national and European level – the need for dialogue

33. For a system of shared responsibility to be effective, there must be good interaction between the national and European level. This implies, in keeping with the independence of the Court and the binding nature of its judgments, a constructive and continuous dialogue between the States Parties and the Court on their respective roles in the implementation and development of the Convention system, including the Court's development of the rights and obligations set out in the Convention. Civil society should be involved in this dialogue. Such interaction may anchor the development of human rights more solidly in European democracies.

34. An important way for the States Parties to engage in a dialogue with the Court is through third-party interventions. Encouraging the States Parties, as well as other stakeholders, to participate in relevant proceedings before the Court, stating their views and positions, can provide a means for strengthening the authority and effectiveness of the Convention system.

35. By determining serious questions affecting the interpretation of the Convention and serious issues of general importance, the Grand Chamber plays a central role in ensuring transparency and facilitating dialogue on the development of the case law.

The Conference therefore:

36. Underlines the need for dialogue, at both judicial and political levels, as a means of ensuring a stronger interaction between the national and European levels of the system.

37. Welcomes:

    a) the future coming into effect of Protocol No. 16 to the Convention;

    b) the Court's creation of the Superior Courts Network to ensure the exchange of information on Convention case law and encourages its further development;

    c) an ongoing constructive dialogue between the Government Agents and the Registry of the Court ensuring proper consultations on new procedures and working methods; and

    d) the use of thematic discussions in the Committee of Ministers on major issues relating to the execution of judgments.

38. Invites the Court to adapt its procedures to make it possible for other States Parties to indicate their support for the referral of a Chamber case to the Grand Chamber when relevant. Expressing such support may be useful to draw the attention of the Court to the existence of a serious issue of general importance within the meaning of Article 43 (2) of the Convention.

39. Encourages the Court to support increased third-party interventions, in particular in cases before the Grand Chamber, by:

    a) appropriately giving notice in a timely manner of upcoming cases that could raise questions of principle; and

    b) ensuring that questions to the parties are made available at an early stage and formulated in a manner that sets out the issues of the case in a clear and focused way.

40. Encourages the States Parties to increase coordination and co-operation on third-party interventions, including by building the necessary capacity to do so and by communicating more

systematically through the Government Agents Network on cases of potential interest for other States Parties.

41. Appreciates the Danish Chairmanship's invitation to organise and host, before the end of 2018, an informal meeting of the States Parties and other stakeholders, as a follow up to the 2017 High-Level Expert Conference in Kokkedal, where general developments in the jurisprudence of the Court can be discussed, with respect for the independence of the Court and the binding character of its judgments.

The caseload challenge – the need for further action

42. Improving the Convention system's ability to deal with the increasing number of applications has been a principal aim of the current reform process from the very beginning.

43. When the Interlaken process was initiated, the number of applications pending before the Court amounted to more than 140,000. Since then, the Court has managed to reduce this number considerably despite a continuous high number of new applications. This development testifies to the high ability of the Court to reform and streamline its working methods.

44. Despite notable results, the Court's caseload still gives reason for serious concern. A core challenge lies in bringing down the large backlog of Chamber cases. Having regard to the Court's current annual output in respect of such cases, this may take a number of years.

45. The challenges posed to the Convention system by situations of conflict and crisis in Europe must also be acknowledged. In this regard, it is the Court's present practice, where an inter-State case is pending, that individual applications raising the same issues or deriving from the same underlying circumstances are, in principle and in so far as practicable, not decided before the overarching issues stemming from the inter-State proceedings have been determined in the inter-State case.

46. The entry into force of Protocol No. 16 is likely to add further to the Court's workload in the short to medium term but should ultimately reduce it in the longer term perspective.

The Conference therefore:

47. Welcomes the efforts of the Court to bring down the backlog, including by continuously reviewing and developing its working methods.

48. Recalls that the right of individual application remains a cornerstone of the Convention system. Any future reforms and measures should be guided by the need to enhance further the ability of the Convention system to address Convention violations promptly and effectively.

49. Expresses serious concern about the large number of applications still pending before the Court. Notes that further steps will need to be taken over the coming years in order to further enhance the ability of the Court to manage its caseload. This will require a combined effort of all actors involved: the States Parties in reducing the influx of cases by effectively implementing the Convention and executing the Court's judgments; the Court in processing applications; and the Committee of Ministers in supervising the execution of judgments.

50. Notes the approach taken by the Court in seeking to focus judicial resources on the cases raising the most important issues and having the most impact as regards identifying dysfunction in national human rights protection. Encourages the Court, in co-operation and dialogue with the States Parties, to continue to explore all avenues to manage its caseload, following a clear policy of priority, including through procedures and techniques aimed at processing and adjudicating the more straightforward applications under a simplified procedure, while duly respecting the rights of all parties to the proceedings.

51. Calls upon the Committee of Ministers to assist the States Parties in solving systemic and structural problems at national level and to consider the most effective means to address the challenge of a massive influx of repetitive applications arising from the non-execution of pilot judgments, which can place a significant burden on the Court without necessarily helping to resolve the underlying issue.

52. Acknowledges the importance of retaining a sufficient budget for the Court, as well as the Department for the Execution of Judgments, to solve present and future challenges.

53. Calls upon the States Parties to support temporary secondments of judges, prosecutors and other highly qualified legal experts to the Court and to consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account.
54. Invites the Committee of Ministers, in consultation with the Court, and other stakeholders, to finalise its analysis, as envisaged in the Brighton Declaration, before the end of 2019, of the prospects of obtaining a balanced case-load, *inter alia,* by:

    a) conducting a comprehensive analysis of the Court's backlog, identifying and examining the causes of the influx of cases from the States Parties so that the most appropriate solutions may be found at the level of the Court and the States Parties;

    b) exploring how to facilitate the prompt and effective handling of cases, particularly repetitive cases, that the parties are open to settle through a friendly settlement or a unilateral declaration; and

    c) exploring ways to handle more effectively cases related to inter-State disputes, as well as individual applications arising out of situations of inter-State conflict, without thereby limiting the jurisdiction of the Court, taking into consideration the specific features of these categories of cases inter alia regarding the establishment of facts.

The selection and election of judges – the importance of co-operation

55. A central challenge for ensuring the long-term effectiveness of the Convention system is to ensure that the judges of the Court enjoy the highest authority in national and international law.

56. As part of the current reform process, the Committee of Ministers has addressed this challenge, *inter alia,* by the creation of the Advisory Panel of Experts on Candidates for Election as Judge to the Court ('the Panel') and by the adoption of guidelines on the selection of candidates. The Parliamentary Assembly has also taken important steps to address the challenge, most notably by the establishment of the Committee on the Election of Judges to the European Court of Human Rights.

57. As concluded by the Steering Committee for Human Rights in its 2017 report, addressing the entire process of selection and election of judges, although progress has been made, there is still room for improvement in several areas.

The Conference therefore:

58. Welcomes the advances already made towards ensuring that the judges of the Court enjoy the highest authority in national and international law.

59. Calls on the States Parties to ensure that candidates included on the lists of three candidates for election as judge to the Court all are of the highest quality fulfilling the criteria set out in Article 21 of the Convention. In particular, the national selection procedures should be in line with the recommendations set out by the Committee of Ministers in the above-mentioned guidelines on the selection of candidates.

60. Calls on the Committee of Ministers and the Parliamentary Assembly to work together, in a full and open spirit of co-operation in the interests of the effectiveness and credibility of the Convention system, to consider the whole process by which judges are selected and elected to the Court with a view to ensuring that the process is fair, transparent and efficient, and that the most qualified and competent candidates are elected. The 2017 report of the Steering Committee for Human Rights should serve as a source of reference for this exercise.

61. Underlines the importance of the States Parties consulting the Panel within the agreed three-month time-limit before presenting to the Parliamentary Assembly lists of three candidates for election as judge to the Court, promptly responding to requests for information from the Panel, and fully considering and responding to the opinion of the Panel; and in particular:
    a) calls on the States Parties not to forward lists of candidates to the Parliamentary Assembly where the Panel has not yet expressed a view, and if the Panel has expressed a negative opinion in relation to one or more of the candidates, to give this appropriate weight; and

    b) encourages the Parliamentary Assembly to refuse to consider

lists of candidates unless the Panel has had the full opportunity to express its view, and to fully consider the opinions expressed by the Panel.

Accession by the European Union

63. The States Parties reaffirm the importance of the accession of the European Union to the Convention as a way to improve the coherence of human rights protection in Europe, and call upon the European Union institutions to take the necessary steps to allow the process foreseen by Article 6 § 2 of the Treaty of the European Union to be completed as soon as possible. In this connection, they welcome the regular contacts between the European Court of Human Rights and the Court of Justice of the European Union and, as appropriate, the increasing convergence of interpretation by the two courts with regard to human rights in Europe.

Further measures

64. This Declaration addresses the present challenges facing the Convention system. As the current reform has shown, it will require a continued and focused effort by the States Parties, the Court, the Committee of Ministers, the Parliamentary Assembly and the Secretary General to secure the future effectiveness of the European human rights system, building on the results achieved and meeting new challenges as they arise.

65. Protocols Nos. 15 and 16 can both be expected to have important and significant effects on the Convention system, and point to a clear direction for its future. Their effects will, however, be seen only in the longer term.

The Conference therefore:

66. Calls on the Committee of Ministers, as a follow-up to the 2019 deadline and without prejudice to the priorities of upcoming Chairmanships of the Committee of Ministers, to prepare a timetable for the preparation and implementation of any further changes required, including an examination of the effect of Protocols Nos. 15 and 16.

General and final provisions

67. The Conference:

a) Invites the Danish Chairmanship to transmit the present Declaration to the Committee of Ministers;

b) Invites the States Parties, the Court, the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe to give full effect to this Declaration, and follow up as appropriate on measures they have taken; and

c) Invites the future Chairmanships of the Committee of Ministers to ensure the future impetus of the reform process and the implementation of the Convention.

DÉCLARATION DE COPENHAGUE, 13 avril 2018

La Conférence de haut niveau réunie à Copenhague les 12 et 13 avril 2018 à l'initiative de la présidence danoise du Comité des Ministres du Conseil de l'Europe (« la Conférence ») déclare ce qui suit :

1. Les États Parties à la Convention de sauvegarde des droits de l'homme et des libertés fondamentales (« la Convention ») réaffirment leur attachement profond et constant à la Convention, ainsi qu'au respect de leur obligation au titre de celle-ci de reconnaître à toute personne relevant de leur juridiction les droits et libertés définis dans la Convention. Ils réaffirment également leur engagement fort à l'égard du droit de recours individuel devant la Cour européenne des droits de l'homme (« la Cour ») en tant que pierre angulaire du système de protection des droits et libertés énoncés dans la Convention.

2. Les États Parties à la Convention de sauvegarde des droits de l'homme et des libertés fondamentales (« la Convention ») réaffirment leur attachement profond et constant à la Convention, ainsi qu'au respect de leur obligation au titre de celle-ci de reconnaître à toute personne relevant de leur juridiction les droits et libertés définis dans la Convention. Ils réaffirment également leur engagement fort à l'égard du droit de recours individuel devant la Cour européenne des droits de l'homme (« la Cour ») en tant que pierre angulaire du système de protection des droits et libertés énoncés dans la Convention.

3. Le processus de réforme, lancé à Interlaken en 2010 et poursuivi par le biais d'autres Conférences de haut niveau à Izmir, Brighton et Bruxelles, a été l'occasion importante de déterminer l'orientation future du système de la Convention, et de garantir sa pérennité. Les États Parties ont souligné la nécessité d'avoir un système de la Convention effectif, ciblé et équilibré, dans lequel ils mettent en œuvre de manière effective la Convention au niveau national, et dans lequel la Cour peut concentrer ses efforts sur l'identification des violations graves ou répandues, sur les problèmes systémiques et structurels et sur les questions importantes relatives à l'interprétation et à l'application de la Convention.

4. Le processus de réforme a constitué un exercice positif qui a conduit à des développements significatifs du système de la Convention. Des résultats importants ont été obtenus, en particulier en répondant à la nécessité d'une meilleure mise en œuvre au niveau national, en améliorant l'efficacité de la Cour et en renforçant la subsidiarité. Néanmoins, le système de la Convention est toujours aux prises avec des défis considérables. Les États Parties restent déterminés à évaluer l'effectivité du système de la Convention et à prendre toutes les mesures nécessaires pour garantir son fonctionnement effectif, y compris en lui assurant un financement adéquat.

5. Il a été convenu que le Comité des Ministres devrait se prononcer, avant fin 2019, sur la question de savoir si les mesures prises jusque-là sont suffisantes pour assurer le fonctionnement durable du mécanisme de contrôle de la Convention ou s'il y a lieu d'envisager des changements plus profonds. A l'approche de cette échéance, il est nécessaire de faire le bilan du processus de réforme afin de répondre aux défis actuels et futurs.

Responsabilité partagée – assurer un équilibre adéquat et une protection renforcée

6. Tout au long du processus de réforme, l'expression responsabilité partagée a été utilisée pour décrire le lien entre le rôle de la Cour et celui des États Parties. Cela est essentiel au bon fonctionnement du système de la Convention et, en tant qu'objectif ultime, à la protection plus effective des droits de l'homme en Europe.

7. Dans la Déclaration de Brighton, il a été décidé d'ajouter au préambule de la Convention un considérant affirmant qu'il incombe aux États Parties, au premier chef, conformément au principe de subsidiarité, de garantir le respect des droits et libertés définis dans la Convention et ses protocoles et que ce faisant, ils jouissent d'une marge d'appréciation, sous le contrôle de la Cour. Dans la Déclaration de Bruxelles, l'accent a été mis davantage sur l'importance de la mise en œuvre et de l'exécution effective des arrêts au niveau national.

8. Se concentrer sur l'importance de protéger de manière effective les normes de la Convention au niveau national reflète le développement du système de la Convention. La Convention

est aujourd'hui incorporée, et dans une large mesure s'est enracinée, dans les ordres juridiques nationaux des États Parties et la Cour a fourni un corps jurisprudentiel interprétant la plupart des droits protégés par la Convention. Cela permet aux États Parties de jouer leur rôle consistant, en application de la Convention, à assurer pleinement la protection des droits de l'homme.

En conséquence, la Conférence :

9. Rappelle la notion de responsabilité partagée qui vise à atteindre un équilibre entre les niveaux national et européen du système de la Convention et une meilleure protection des droits, avec une meilleure prévention et des recours effectifs disponibles au niveau national.

10. Réaffirme que le renforcement du principe de subsidiarité n'a pas pour but de limiter ou d'affaiblir la protection des droits de l'homme, mais de souligner la responsabilité des autorités nationales pour garantir les droits et libertés énoncés dans la Convention. Note à cet égard que le moyen le plus efficace de traiter les violations des droits de l'homme est d'agir au niveau national, et qu'encourager les détenteurs de droits et les décideurs au niveau national à prendre l'initiative pour défendre les normes de la Convention accroîtra l'adhésion et le soutien aux droits de l'homme.

11. Encourage vivement les États qui ne l'ont pas encore fait à ratifier sans plus tarder le Protocole n° 15 à la Convention.

Mise en œuvre nationale effective – la responsabilité des États

12. L'ineffectivité de la mise en œuvre de la Convention au niveau national, due en particulier à des problèmes systémiques et structurels graves de droits de l'homme, demeure le principal défi auquel se heurte le système de la Convention. La situation générale des droits de l'homme en Europe dépend de l'action des États et de leur respect des exigences de la Convention.

13. Un élément central du principe de subsidiarité, en vertu duquel les autorités nationales sont les premières garantes de la Convention, est le droit à un recours effectif en application de l'article 13 de la Convention.

14. Une mise en œuvre effective au niveau national exige l'engagement et l'interaction d'un large éventail d'acteurs afin que les législations et autres mesures et leur mise en œuvre soient pleinement conformes à la Convention. Cela inclut en particulier les membres du gouvernement, les fonctionnaires, les parlementaires, les juges et les procureurs, mais aussi les institutions nationales des droits de l'homme, la société civile, les universités et établissements de formation et les représentants des professions juridiques.

En conséquence, la Conférence :

15. Affirme la ferme volonté des États Parties de s'acquitter de leur responsabilité de mettre en œuvre et de faire appliquer la Convention au niveau national.

16. Appelle les États Parties à continuer de renforcer la mise en œuvre de la Convention au niveau national conformément aux précédentes déclarations, notamment à la Déclaration de Bruxelles sur « la mise en œuvre de la Convention européenne des droits de l'homme, une responsabilité partagée », et au rapport du Comité directeur pour les droits de l'homme du Comité des Ministres consacré à l'avenir à plus long terme du système de la Convention, en particulier :

    a) en mettant en place et en améliorant les recours internes effectifs, de nature spécifique ou générale, pour les violations

alléguées des droits et libertés protégés par la Convention, surtout en cas de problèmes systémiques ou structurels graves ;

b) en veillant, en y impliquant les parlements nationaux selon des modalités appropriées, à ce que les politiques et la législation soient pleinement conformes à la Convention, notamment en vérifiant, de manière systématique et à un stade précoce du processus, la compatibilité des projets de loi et de la pratique administrative à la lumière de la jurisprudence de la Cour ;

c) en accordant une haute priorité à la formation professionnelle, notamment des juges, des procureurs et autres agents de l'État, et aux activités de sensibilisation à la Convention et à la jurisprudence de la Cour afin de développer la connaissance et l'expertise des autorités et des juridictions nationales en ce qui concerne l'application de la Convention au niveau national ;

d) en encourageant la traduction de la jurisprudence et de documents juridiques de la Cour dans les langues pertinentes qui contribue à élargir la compréhension des principes et des normes de la Convention.

17. Note les effets positifs de la procédure des arrêts pilotes en tant qu'outil pour améliorer la mise en œuvre de la Convention au niveau national en s'attaquant aux problèmes systémiques ou structurels en matière de droits de l'homme.

18. Réitère le rôle significatif joué par les structures nationales des droits de l'homme et les parties prenantes dans la mise en œuvre de la Convention, et appelle les États Parties, s'ils ne l'ont pas encore fait, à envisager d'établir une institution nationale indépendante chargée des droits de l'homme, conformément aux Principes de Paris.

Exécution des arrêts – une obligation clé

19. Les États Parties se sont engagés à se conformer aux arrêts définitifs de la Cour dans les litiges auxquels ils sont parties. Par sa surveillance, le Comité des Ministres veille à ce qu'il soit donné suite de manière appropriée aux arrêts de la Cour, y compris par

la mise en œuvre de mesures générales destinées à résoudre des problèmes systémiques plus larges.

20. Il est d'une importance capitale que les États Parties prennent l'engagement politique fort d'exécuter les arrêts. La non-exécution des arrêts en temps utile peut porter préjudice au(x) requérant(s), alourdir la charge de travail de la Cour et du Comité des Ministres et saper l'autorité et la crédibilité du système de la Convention. De tels manquements doivent être traités de manière ouverte et déterminée.

En conséquence, la Conférence :

21. Réitère l'engagement fort des États Parties à exécuter les arrêts de manière pleine, effective et rapide.

22. Réaffirme que la Déclaration de Bruxelles est un instrument important sur la question de l'exécution des arrêts et fait siennes les recommandations qu'elle contient.

23. Appelle les États Parties à prendre des mesures supplémentaires si nécessaire pour renforcer les capacités à exécuter de manière effective et rapide les arrêts au niveau national, y compris à travers la coopération interétatique.

24. Encourage vivement le Comité des Ministres à continuer d'utiliser l'arsenal des instruments à sa disposition pour s'acquitter de la tâche importante de surveiller l'exécution des arrêts, y compris les procédures prévues à l'article 46 (3) et (4) de la Convention, en gardant à l'esprit qu'il était prévu que ces procédures soient utilisées, respectivement, avec parcimonie et dans des circonstances exceptionnelles.

25. Encourage le Comité des Ministres à examiner la nécessité de renforcer davantage la capacité à offrir rapidement et avec souplesse une assistance technique aux États Parties confrontés au défi de mettre en œuvre des arrêts de la Cour, en particulier des arrêts pilotes.

Surveillance européenne – le rôle de la Cour

26. La Cour offre une garantie si des violations n'ont pas été réparées au niveau national et elle interprète de manière authentique la

Convention conformément aux normes et principes pertinents de droit international public et, en particulier, à la lumière de la Convention de Vienne sur le droit des traités, en portant l'attention qu'il convient aux conditions actuelles.

27. La qualité et en particulier la clarté et la cohérence des arrêts de la Cour sont importantes pour l'autorité et l'effectivité du système de la Convention. Ils fournissent aux autorités nationales un cadre pour appliquer et faire respecter les normes de la Convention au niveau national.

28. Le principe de subsidiarité qui continue de se développer et d'évoluer dans la jurisprudence de la Cour, guide la manière dont la Cour effectue son contrôle.

    a) La Cour, constituant une garantie pour les individus dont les droits et libertés ne sont pas protégés au niveau national, ne peut être saisie d'une affaire qu'après l'épuisement de toutes les voies de recours internes. Elle n'agit pas en tant que « juridiction de quatrième instance ».

    b) La jurisprudence de la Cour indique clairement que les États Parties disposent, quant à la façon dont ils appliquent et mettent en œuvre la Convention, d'une marge d'appréciation qui dépend des circonstances de l'affaire et des droits et libertés en cause. Cela reflète le fait que le système de la Convention est subsidiaire par rapport à la sauvegarde des droits de l'homme au niveau national et que les autorités nationales sont en principe mieux placées qu'une Cour internationale pour évaluer les besoins et les conditions au niveau local.

    c) La jurisprudence de la Cour sur la marge d'appréciation reconnaît qu'en appliquant certaines dispositions de la Convention, comme les articles 8-11, il peut exister un éventail de solutions différentes mais légitimes qui pourraient toutes être compatibles avec la Convention selon le contexte. Cela peut être pertinent dans le cadre de l'évaluation de la proportionnalité des mesures restreignant l'exercice des droits ou des libertés en vertu de la Convention. Lorsqu'un exercice de mise en balance a été entrepris au niveau national conformément aux critères énoncés dans la jurisprudence de la Cour, la Cour a généralement indiqué qu'elle ne substituerait pas sa propre évaluation à celle des tribunaux nationaux, sauf s'il existe des raisons sérieuses de le faire.

d) La marge d'appréciation va de pair avec la surveillance exercée en application du système de la Convention et il incombe à la Cour de se prononcer en dernier ressort sur la question de l'existence d'une violation de la Convention.

En conséquence, la Conférence :

29. Salue les efforts faits par la Cour pour améliorer la clarté et la cohérence de ses arrêts.

30. Apprécie les efforts de la Cour pour veiller à une interprétation prudente et équilibrée de la Convention.

31. Se félicite de la poursuite du développement du principe de subsidiarité et de la doctrine de la marge d'appréciation dans la jurisprudence de la Cour.

32. Se félicite que la Cour applique de manière continue, stricte et cohérente les critères de recevabilité et de compétence, notamment en demandant aux requérants de faire preuve d'une diligence accrue pour soulever leurs griefs tirés de la Convention devant les juridictions internes, et en faisant un plein usage de la possibilité de déclarer des requêtes irrecevables lorsque les requérants n'ont pas subi de préjudice important.

Interaction entre les niveaux national et européen – la nécessité d'un dialogue

33. Pour qu'un système de responsabilité partagée soit effectif, il faut une bonne interaction entre les niveaux national et européen. Cela implique, dans le respect de l'indépendance de la Cour et du caractère contraignant de ses arrêts, un dialogue constructif et continu entre les États Parties et la Cour sur leurs rôles respectifs dans la mise en œuvre et le développement du système de la Convention, y compris le développement, par la Cour, des droits et des obligations énoncés dans la Convention. La société civile devrait être impliquée dans ce dialogue. Cette interaction pourrait ancrer plus solidement le développement des droits de l'homme dans les démocraties européennes.

34. Les tierces interventions sont un outil important dont disposent les États Parties pour engager un dialogue avec la Cour. Encourager les États Parties ainsi que les autres parties prenantes à participer aux procédures pertinentes devant la Cour, à exprimer leurs opinions et positions peut constituer un moyen de renforcer l'autorité et l'effectivité du système de la Convention.

35. En se prononçant sur des questions importantes affectant l'interprétation de la Convention et des questions graves de caractère général, la Grande Chambre joue un rôle central en veillant à la transparence et en facilitant le dialogue sur le développement de la jurisprudence.

En conséquence, la Conférence :

36. Souligne la nécessité d'un dialogue, aux niveaux judiciaire et politique, pour garantir une interaction plus forte entre les niveaux national et européen du système.

37. Salue :

a) l'entrée en vigueur future du Protocole n° 16 à la Convention ;

b) la création par la Cour du Réseau des cours supérieures, visant à assurer un échange d'informations sur la jurisprudence relative à la Convention, et encourage son futur

développement ;

c) le dialogue constructif entretenu entre les Agents du gouvernement et le Greffe de la Cour, permettant des consultations appropriées sur les nouvelles procédures et méthodes de travail ; et

d) le recours à des discussions thématiques au sein du Comité des Ministres pour examiner les principaux problèmes liés à l'exécution des arrêts.

38. Invite la Cour à adapter ses procédures afin de permettre aux autres États Parties d'exprimer le cas échéant leur soutien au renvoi d'une affaire de chambre devant la Grande Chambre. L'expression d'un tel soutien permettrait d'attirer l'attention de la Cour sur l'existence d'une question grave de caractère général au sens de l'article 43 (2) de la Convention.

39. Encourage la Cour à soutenir le recours accru aux tierces interventions, notamment dans les affaires soumises à la Grande Chambre :

a) en notifiant de manière appropriée et en temps utile les prochaines affaires qui pourraient soulever des questions de principe ; et

b) en veillant à ce que les questions adressées aux parties soient disponibles à un stade précoce et formulées d'une manière qui présente les enjeux de l'affaire de manière claire et ciblée.

40. Encourage les États Parties à accroître la coordination et la coopération sur les tierces interventions, y compris en renforçant les capacités nécessaires pour ce faire et en communiquant de manière plus systématique à travers le réseau des Agents de gouvernement sur les affaires pouvant présenter un intérêt pour les autres États Parties.

41. Apprécie l'invitation de la Présidence danoise d'organiser et d'accueillir avant la fin 2018 une réunion informelle entre les États Parties et les autres parties prenantes, en tant que mesure de suivi de la Conférence d'experts de haut niveau organisée en 2017 à Kokkedal, au cours de laquelle les développements généraux de la jurisprudence de la Cour pourront être examinés,

dans le respect de l'indépendance de la Cour et du caractère contraignant de ses arrêts.

Le défi du volume des affaires – la nécessité d'entreprendre d'autres actions

42. Renforcer la capacité du système de la Convention à traiter le nombre croissant de requêtes a été dès le départ un objectif majeur du processus de réforme en cours.

43. Lorsque le processus d'Interlaken a été lancé, le nombre de requêtes pendantes devant la Cour s'élevait à plus de 140 000. Depuis lors, la Cour a réussi à réduire ce nombre de manière considérable en dépit du fait qu'elle ait continué à recevoir un nombre élevé de requêtes. Ce développement témoigne de la grande aptitude de la Cour à réformer et rationaliser ses méthodes de travail.

44. En dépit de résultats notables, la charge de travail de la Cour reste une cause de préoccupation sérieuse. Un défi essentiel est de réduire l'arriéré important d'affaires de chambre. Eu égard au nombre d'affaires de ce type que la Cour est en mesure de traiter actuellement chaque année, cela pourrait prendre plusieurs années.

45. Les défis que posent pour le système de la Convention les situations de conflit et de crise en Europe doivent également être pris en compte. À cet égard, la pratique actuelle de la Cour, lorsqu'une affaire interétatique est pendante, est que les requêtes individuelles soulevant les mêmes questions ou dérivant des mêmes circonstances ne fassent pas en principe, et dans la mesure où cela est possible, l'objet d'une décision avant que les questions de nature plus générale résultant des procédures interétatiques aient été déterminées dans l'affaire interétatique.

46. Il est probable que l'entrée en vigueur du Protocole n° 16 alourdira la charge de travail de la Cour à court et moyen terme mais il devrait en définitive la réduire à long terme.

En conséquence, la Conférence :

47. Salue les efforts faits par la Cour pour diminuer l'arriéré, y compris en révisant et développant continuellement ses méthodes de travail.

48. Rappelle que le droit de recours individuel reste une pierre angulaire du système de la Convention. Toutes réformes et mesures futures devraient être guidées par la nécessité de renforcer davantage la capacité du système de la Convention à répondre aux violations de celle-ci avec promptitude et efficacité.

49. Exprime sa vive préoccupation face au grand nombre de requêtes toujours pendantes devant la Cour. Note que des mesures supplémentaires devront être prises au cours des années à venir afin de continuer à accroître la capacité de la Cour à gérer sa charge de travail. Cela nécessitera un effort conjoint de tous les acteurs impliqués : les États Parties en réduisant l'afflux d'affaires à travers la mise en œuvre effective de la Convention et l'exécution des arrêts de la Cour, la Cour en traitant les requêtes et le Comité des Ministres en surveillant l'exécution des arrêts.

50. Note l'approche de la Cour visant à concentrer les ressources judiciaires sur les affaires soulevant les questions les plus importantes et produisant le plus grand impact pour identifier les dysfonctionnements dans la protection nationale des droits de l'homme. Encourage la Cour, en coopération et en dialogue avec les États Parties, à continuer d'explorer tous les moyens de gérer sa charge de travail en suivant une politique de prioritisation claire, y compris à travers des procédures et techniques visant à traiter et juger les requêtes les plus simples selon une procédure simplifiée, tout en respectant dûment les droits de toutes les parties à la procédure.

51. Appelle le Comité des Ministres à assister les États Parties dans la résolution des problèmes systémiques et structurels au niveau national et à réfléchir aux moyens les plus effectifs de traiter le défi de l'afflux massif de requêtes répétitives découlant de la non-exécution d'arrêts pilotes, qui peut faire peser une charge significative sur la Cour sans nécessairement aider à résoudre la question sous- jacente.

52. Reconnaît l'importance de maintenir un budget suffisant pour que la Cour, ainsi que le Service de l'exécution des arrêts, puissent relever les défis actuels et futurs.

53. Appelle les États Parties à soutenir les détachements temporaires de juges, procureurs et autres experts juridiques hautement qualifiés auprès de la Cour et à envisager de fournir des contributions volontaires au Fonds fiduciaire pour les droits de l'homme et au compte spécial de la Cour.

54. Invite le Comité des Ministres, en consultation avec la Cour et d'autres parties prenantes, à parachever son analyse, comme l'envisageait la Déclaration de Brighton, avant fin 2019, sur les perspectives de parvenir à un volume d'affaires équilibré, notamment :

a) en procédant à une analyse exhaustive de l'arriéré d'affaires de la Cour, en identifiant et en examinant les causes de l'afflux d'affaires provenant des États Parties afin que les solutions les plus appropriées puissent être trouvées au niveau de la Cour et des États Parties ;

b) en examinant comment faciliter le traitement rapide et efficace des affaires, en particulier celles qui sont répétitives, que les parties sont prêtes à régler par le biais d'un règlement amiable ou d'une déclaration unilatérale ; et

c) en explorant les moyens de traiter de manière plus effective les affaires liées à des différends interétatiques, ainsi que les requêtes individuelles résultant de situations de conflits entre États, sans limiter pour autant la juridiction de la Cour, en prenant en considération les caractéristiques propres à ces catégories d'affaires, entre autres en ce qui concerne l'établissement des faits.

La sélection et l'élection des juges – l'importance de la coopération

55. Un défi central pour garantir l'effectivité à long terme du système de la Convention est de veiller à ce que les juges de la Cour jouissent de la plus haute autorité en droit national et international.

56. Dans le cadre du processus de réforme en cours, le Comité des Ministres a traité ce problème notamment en créant le Panel consultatif d'experts sur les candidats à l'élection de juges à la Cour (« le Panel ») et en adoptant des lignes directrices concernant la

sélection des candidats. L'Assemblée parlementaire a elle aussi pris des mesures importantes pour répondre à ce défi, tout particulièrement en instaurant la Commission sur l'élection des juges à la Cour européenne des droits de l'homme.

57. Comme l'a conclu le Comité directeur pour les droits de l'homme dans son rapport de 2017 traitant du processus de sélection et d'élection des juges dans son ensemble, des progrès ont certes été réalisés, mais des améliorations sont encore possibles dans plusieurs domaines.

En conséquence, la Conférence :

58. Se félicite des avancées déjà réalisées afin que les juges de la Cour jouissent de la plus haute autorité en droit national et international.

59. Appelle les États Parties à veiller à ce que les candidats figurant sur les listes de trois candidats à l'élection de juge à la Cour possèdent tous la plus haute qualité répondant aux critères énoncés à l'article 21 de la Convention. En particulier, les procédures de sélection nationale devraient suivre les recommandations énoncées par le Comité des Ministres dans les lignes directrices précédemment citées sur la sélection des candidats.

60. Appelle le Comité des Ministres et l'Assemblée parlementaire à travailler conjointement, dans un esprit total et ouvert de coopération dans l'intérêt de l'effectivité et de la crédibilité du système de la Convention, pour examiner l'ensemble du processus de sélection et d'élection des juges à la Cour afin de garantir son équité, sa transparence et son efficacité, ainsi que l'élection des candidats les plus qualifiés et les plus compétents. Le rapport de 2017 du Comité directeur pour les droits de l'homme devrait servir de source de référence dans ce contexte.

61. Souligne l'importance que les États Parties consultent le Panel dans le délai de trois mois qui a été convenu avant de soumettre à l'Assemblée parlementaire les listes de trois candidats à l'élection de juge à la Cour, répondent rapidement aux demandes d'information du Panel, et examinent pleinement l'avis du Panel et y répondent, et en particulier :

a) appelle les États Parties à ne pas transmettre de listes de candidats à l'Assemblée parlementaire lorsque le Panel n'a pas encore exprimé son avis, et si le Panel a rendu un avis négatif au sujet d'un ou de plusieurs candidats, à donner à cet avis

toute la considération qu'il convient ; et

b) encourage l'Assemblée parlementaire à refuser d'examiner les listes de candidats si le Panel n'a pas eu l'opportunité d'exprimer son avis, et à prendre pleinement en considération les avis rendus par le Panel.

62. Encourage l'Assemblée parlementaire à tenir compte des suggestions formulées dans le rapport de 2017 du Comité directeur pour les droits de l'homme lorsqu'elle révisera son Règlement.

Adhésion de l'Union européenne

63. Les États Parties réaffirment l'importance de l'adhésion de l'Union européenne à la Convention qui constituerait un moyen d'améliorer la cohérence de la protection des droits de l'homme en Europe, et appellent les institutions de l'Union européenne à prendre les mesures nécessaires pour que le processus prévu par l'article 6 § 2 du Traité de l'Union européenne soit mené à bien dès que possible. À cet égard, ils se félicitent des contacts réguliers entre la Cour européenne des droits de l'homme et la Cour de justice de l'Union européenne, et, le cas échéant, la convergence croissante des interprétations de ces deux cours en ce qui concerne les droits de l'homme en Europe.

Autres mesures

64. La présente Déclaration a trait aux défis actuels que doit relever le système de la Convention. Comme le montre la réforme en cours, les États Parties, la Cour, le Comité des Ministres, l'Assemblée parlementaire et le Secrétaire Général devront faire des efforts continus et ciblés pour garantir l'effectivité future du système européen des droits de l'homme, en s'appuyant sur les résultats obtenus et en appréhendant les nouveaux défis qui émergeront.

65. Les Protocoles n°S 15 et 16 devraient tous deux avoir des effets importants et significatifs sur le système de la Convention et indiquent une direction claire pour l'avenir. Leurs effets ne seront toutefois perceptibles qu'à long terme.

En conséquence, la Conférence:

66. Appelle le Comité des Ministres à préparer pour faire suite à la date butoir de 2019, et sans préjudice des priorités des présidences à venir du Comité des Ministres, un calendrier pour la préparation et la

mise en œuvre de tout changement supplémentaire requis, y compris l'examen des effets des Protocoles n°s 15 et 16.

Dispositions générales et finales:

67. La Conférence :

a) invite la présidence danoise à transmettre la présente Déclaration au Comité des Ministres ;

b) invite les États Parties, la Cour, le Comité des Ministres, la Cour l'Assemblée parlementaire et le Secrétaire Général du Conseil de l'Europe à donner pleinement effet à la présente Déclaration et à donner suite en tant que de besoin aux mesures qu'ils ont prises ; et

c) invite les présidences futures du Comité des Ministres à maintenir la dynamique du processus de réforme et de la mise en œuvre de la Convention.

APPENDIX / ANNEXE

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