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***Maintaining the independence and effectiveness
of the European Court of Human Rights is a matter for us all***

Seminar on the occasion of the 20th Anniversary of the New Court
Strasbourg, 26 November 2018

Speech by Dunja Mijatović
Council of Europe Commissioner for Human Rights

Dear President, Excellencies, ladies and gentlemen,

It is an honour for me to participate in this conference today. The celebration of the 20th anniversary of the single, full-time European Court of Human Rights provides a good opportunity to highlight the importance of this institution for the lives of hundreds of millions of people living in Europe. And the necessity to preserve its ability to continue doing so.

The entry into force of Protocol 11 fulfilled the dream born from the ashes of WWII that citizens could apply directly to an international court to obtain redress for the violation of their human rights by states.

Over the last two decades, the Court has become the lighthouse for all those who seek protection of their rights. With its judgments, it has made a decisive difference for thousands of people, a difference sometimes as concrete as a life spent unjustly in prison or lived in freedom.

The Court's judgments not only set the human rights standards in Council of Europe member states, but also underscore the values which define our democracies. It is thanks to the Court that victims of torture have access to redress; that relatives of murdered persons can obtain some measures of justice; that people of different sex, gender, colour, ethnicity can claim their rights on an equal footing.

The Court made remarkable achievements that make us, as Europeans, proud of it. At the same time, this creates huge expectations and places great responsibilities both on judges, political leaders and us all, elected officials, civil servants, citizens. During my work I have witnessed the enormous expectations that people put on the Court and on its ability to change their lives. We must not betray them. The success of the Court rests on our common ability and willingness to respect its independence and ability to interpret the Convention as a living instrument, protecting the hundreds of millions of individuals from state abuses and arbitrariness.

Unfortunately, several trends in different European countries worry me.

The first is the problems surrounding the non-implementation of Court judgments. At the end of 2017, more than 7,000 judgments of the Court were still awaiting full implementation by member states. Behind each of those cases, there are real human beings whose rights continue to be violated because of the reluctance or inability of states to uphold the basic principle of the rule of law.

Another tendency that undermines people's ability to enjoy their human rights is that several member states "cherry-pick" judgments depending on their acceptance by current political authorities. We are talking about people who have been kidnapped, forcibly disappeared, unjustly detained, tortured, ill-treated, stripped of their right to vote. People who are waiting for an answer about what happened to their loved ones. Children who are still educated separately because of the origin of their parents; asylum-seekers pushed-back or kept in inhumane conditions. Journalists killed while reporting on issues of public interest. These are some of the very same preoccupations that the Europeans of 70 years ago had and that gave birth to the Council of Europe. Ignoring these rights is ignoring the *raison d'être* of our organisation.

The trend of selective or non-implementation is often accompanied by a political rhetoric which delegitimises the Court, and as a consequence the Council of Europe and the values and principles it stands for.

At the root of the problem lies the belief that governments can decide whether or not to implement the Court's judgments on the basis of the political, electoral and sometimes personal interest of the rulers in charge.

This belief is profoundly erroneous and dangerous. It is erroneous, because the essence of our system is that member states agreed to uphold the judgments of the Court. It is dangerous because eroding the Court's authority and fomenting citizens' distrust towards the Court will result in a manipulation in forging the public's opinion on democracy. The consequence will be the collapse of the rule of law and human rights.

We all have the responsibility to prevent this. Members of governments and parliaments, elected international officials, civil servants, individual citizens, we must all stand up when we see that the Court is under attack. In particular, governments and parliaments must respect the Court's judgments and avoid taking actions that may undermine its authority. The Council of Europe, NGOs, and civil society must remain vocal in defending the Court.

As we celebrate the Court's anniversary, we must remember that the people out there look at us with enormous expectations. The workload of the Court is not only about statistics, or about the need to save an institution flooded with complaints: it is about human beings turning to the Court because they feel unable to find justice at home. The problem is not that people complain, but that they have reasons to do so. We have to make sure that the Court continues to live up to these expectations. Preserving the Convention system as the home of freedoms, justice and human dignity must be our common priority.

As Commissioner for Human Rights, I intend to devote a significant part of my work to this endeavour.

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 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 have already used and will continue using. Such interventions in fact can make a difference when they help the Court gather a broader understanding of the context of a case and of the human rights issues at stake. These submissions have so far focused on three main areas - the protection of human rights defenders, migration, and the rights of people with disabilities - and concern cases which can potentially have wide-ranging consequences for human rights protection in Europe.

The third line of action that I intend to develop is my contribution to the execution of judgments. As I mentioned earlier, the non-execution of Court judgments remains a major problem in many member states. Some important judgments have still not been implemented, sometimes several years after they were issued. This represents a denial of justice for the people concerned and risks undermining the system of human rights protection as a whole, thus discrediting the whole organisation in the eyes of the public.

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 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 am currently devoting some thought to this issue.

In today's celebration, let's not lose sight of our mission or become complacent. Yes, the Court has achieved a great deal, but we still have a lot of work to accomplish if we want to preserve the Court as a fundamental pillar of our contemporary and future society. The Court has developed important tools to achieve this goal: interim measures, pilot judgments – just to name a few. This should continue.

As an Organisation which promotes human rights, democracy and the rule of law, we all have a particular responsibility to ensure that the European Court of Human Rights remains the lighthouse for all those seeking protection of their human rights.