



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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“70 years of the Council of Europe and 60 years of the Court”

The 2019 HELP Network Conference

Strasbourg, 4 July 2019

Speech by Linos-Alexandre Sicilianos,

President of the European Court of Human Rights

(Madam Deputy) Secretary General,

Dear Ambassadors,

Distinguished colleagues and guests,

It is my pleasure and honour to be with you this morning for the opening of the 2019 HELP network conference, organised under the auspices of the French Presidency of the Committee of Ministers.

As President of the European Court of Human Rights, I wish to show not just my personal support for this important European Programme but also the Court's institutional support.

This year's network conference celebrates 70 years of the Council. My address to you today will look two important anniversaries: 70 years of Europe and 60 years of the Court.

On 5 May 1949, 70 years ago this year, the Statute of the Council of Europe was signed in London by 10 founding States and set up an organisation whose aim was to institutionalise human rights by safeguarding and realising the ideals and principles which were Europe's common heritage. Three months later, my own country, Greece, became the first country to join the group of ten founding fathers.

Three distinct but inter-connected concepts made up this common heritage: individual freedom, political liberty and the rule of law. These were considered to be principles which formed the basis of all genuine democracy.

On 4 November 1950, a treaty was opened for signature in Rome: the Convention for the Protection of Human Rights and Fundamental Freedoms, which will celebrate its own 70th anniversary next year in 2020. In this treaty, human rights were identified and supervision of their realisation was entrusted to an enforcement mechanism – the European Court of Human Rights.

However, the Court nearly never saw the light of day. At the Senior Officials Conference, held in Strasbourg between 8 -17 June 1950, a serious difference of opinion had arisen over the fundamental question whether a European Court of Human Rights should be created at all. The representatives of a number of States were opposed to the creation of a Court on the ground that the needs of the Convention would be covered by the Commission and the Committee of Ministers. Other representatives felt that only the creation of an independent Court would be able to ensure the efficient protection of human rights. The potential of the Court to limit national sovereignty was a concern.¹ The compromise solution of optional jurisdiction was sought. Only those States who wanted to would declare their willingness to accept the Court's jurisdiction (and for a limited period of time).

¹ See H. Lauterpaacht, *Transactions of the Grotius Society*, Vol. 35, Problems of Public and Private International Law, Transactions for the Year 1949 (1949), "The Proposed European Court of Human Rights".

In the early days, the work at the Court was scarce. Between 1959 and 1976 just 18 cases were brought. Over that period there were seven years in which no cases were brought at all. The first Belgian Judge, Henri Rolin, in a lecture given in 1965 (“Has the Court got a future?”) hesitated as to whether he deserved the title of “Judge” at all.² For the first fifteen years the Court was dealing with little more than one case per year, yet it still laid down some important founding principles for its case-law (see, for example, *Lawless v Ireland* (1960)) and the *Belgian Linguistics* case (1968)).

It was not until the 1970s that the Court started to become a real player in European integration³. Indeed, one academic has called this period an era of landmark Strasbourg jurisprudence.⁴ Examples may be given of the seminal cases of *Golder v. the United Kingdom* (1975), *Tyrer v the United Kingdom* (1978), *Airey v Ireland* (1979) and *Marckx v Belgium* (1979), where the Court begins to develop its concept of the effective protection of rights, the living instrument doctrine, positive obligations, and restrictions on interferences.

² Michael O’Boyle and John Darcy: *The European Court of Human Rights: Accomplishments, Predicaments and Challenges*, *Germany Yearbook of International Law*, Vol. 52, 2009, p. 142.

³ Elisabeth Lambert Abdelgawad, “The European Court of Human Rights”, in *The Council of Europe: Its Law and Policies*, Oxford University Press (2017), p. 229.

⁴ Ed Bates, “The Evolution of the European Convention on Human Rights: From its Inception to the Creation of a Permanent Court of Human Rights”, Oxford University Press (2010), p. 320

Business picked up through the 1990s with the enlargement of the Council of Europe and the accession of States from Central and Eastern Europe. There were 7,771 applications pending on 31 December 1998. That figure rose to 160,000 applications in 2011, and is currently at approximately 58,000.

The importance of the European Convention on Human Rights and the Court's jurisprudence in the 1990s was underlined by the Court's President from 1985 to 1998, Rolv Ryssdal, who noted that the Convention had become "*the single most important legal and political common denominator of the States of the continent of Europe in the widest geographical sense.. a constitutional law for all Europe in the field of human rights protection*".⁵

However, the major revolution in the Convention system occurred in 1998 with the entry into force of Protocol No. 11 creating a single full-time European Court of Human Rights. This change put an end to the European Commission's filtering function, enabling applicants to bring their cases directly before the Court. Indeed, on 26 November 2018, the Court celebrated 20 years of the "New Court".

⁵ R. Ryssdal, 'The coming of Age of the ECHR', 1 (1996) EHRLR 18 at 18.

But the challenge of adapting the Court and the Convention system to the enlarged community of States and the absence of a filtering mechanism remained. 2010 marked the beginning of what has been called the “Interlaken process”. A major conference was held in Interlaken, Switzerland, under the Swiss chairmanship of the Committee of Ministers, in order to lay down a roadmap for the evolution of the European Court of Human Rights. With milestones at further Inter-Governmental conferences at Izmir, Brighton, Brussels and Copenhagen, Member States of the Council of Europe States have addressed the problems facing the Court and the Convention system. These conferences have, in particular, led to the adoption of Protocols No. 15 and 16 to the Convention. Contracting States agreed that by the end of this year, 2019, the Committee of Ministers would take stock of the progress made over the last ten years and decide how to move ahead.

For the last decade, the Court has significantly improved its working methods, enabling it to bring the number of pending cases under control. This has also resulted in the procedure becoming ever more sophisticated, and practitioners of the system can sometimes feel a little lost.

For this reason, I have co-authored a procedural guide entitled “The Life of an Individual Application under the ECHR”. The purpose of the guide is to examine the various phases of the procedure before the Convention bodies and to provide a practical guide for users, including and indeed especially for those representing applicants.

A key theme which has been developed through the various Declarations has been the implementation of the Convention at the national level. That’s where HELP comes in. Member States have realised that the HELP programme is a crucial tool in raising awareness of the Convention and training judges, prosecutors, lawyers, and national officials. Indeed, the Brussels and Copenhagen Declarations from 2015 refer specifically to HELP.

It has been said that the European system is coming into the age of subsidiarity; I firmly believe that is to the benefit of us all. You, as national actors in the Convention system have a crucial role to play. That is why I am so pleased to see so many of you here for the 2019 HELP Network Conference. I wish you a very fruitful two days and look forward to cooperating further with HELP during my Presidency.

Thank you!