Proceedings/Actes

High Level Conference on the Future
of the European Court of Human Rights

Conférence de haut niveau sur l'avenir
de la Cour européenne des droits de l'homme

Brighton, 18-20 April/avril 2012

Council of Europe
United Kingdom Chairmanship

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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The future of the European Court of Human Rights

L'avenir de la Cour européenne des droits de l'homme

High-level conference organised in Brighton, United Kingdom, 18-20 April 2012
by the United Kingdom Chairmanship of the Committee of Ministers of the Council of Europe
Conférence de haut niveau organisée à Brighton, Royaume-Uni, les 18-20 avril 2012
par la présidence du Royaume-Uni du Comité des Ministres du Conseil de l'Europe

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Directorate General
of Human Rights and Rule of Law
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PROGRAMME

BRIGHTON, 18-20 APRIL/AVRIL 2012

Wednesday 18 April
Mercredi 18 avril

13.00-20.00	Registration, Thistle Hotel	Enregistrement, Hôtel Thistle
18.30-20.30	Reception for all Conference delegates, Brighton Museum	Réception pour tous les participants de la Conférence, Musée de Brighton

Thursday 19 April
Jeudi 19 avril

8.00-9.00	Registration	Inscription
9.00	Opening of the Conference	Ouverture de la Conférence
9.15	Welcoming addresses by The Rt Hon Kenneth Clarke QC MP, Lord Chancellor and Secretary of State for Justice, Chairman of the Conference and by The Rt Hon The Lord Wallace of Saltaire, Lord-in-Waiting	Discours de bienvenue par The Rt Hon Kenneth Clarke QC MP, Lord Chancellor et Secrétaire d'Etat à la Justice, Président de la Conférence et par The Rt Hon The Lord Wallace of Saltaire, Lord-in-Waiting
9.30	Opening adresses	Discours d'ouverture
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	Address by Mr Thorbjørn Jagland, Secretary General of the Council of Europe	Allocution de M. Thorbjørn Jagland, Secrétaire Général du Conseil de l'Europe
	Address by Mr Jean-Claude Mignon, President of the Parliamentary Assembly of the Council of Europe	Allocution de M. Jean-Claude Mignon, Président de l'Assemblée parlementaire du Conseil de l'Europe
	Address by Sir Nicolas Bratza, President of the European Court of Human Rights	Allocution de Sir Nicolas Bratza, Président de la Cour européenne des droits de l'homme
	Address by Mr Nils Muižnieks, Council of Europe Commissioner for Human Rights	Allocution de M. Nils Muižnieks, Commissaire aux droits de l'homme du Conseil de l'Europe
10.30	Coffee break	Pause café

10.45	Statements by heads of delegation – Part One	Déclarations des chefs de délégation – partie I
13.00-14.30	Lunch	Déjeuner
13.30-14.30	National Human Rights Institutions seminar on "Court reform, subsidiarity and domestic implementation – National Human Rights Institutions perspectives", chaired by John Wadham, Legal Counsel, Equality and Human Rights Commission (UK)	Séminaire des Institutions nationales de droits de l'homme sur « la réforme de la Cour, subsidiarité et mise en oeuvre au niveau interne – perspectives des Institutions nationales des droits de l'homme », présidé par John Wadham, Conseiller juridique, Commission pour l'égalité et les droits de l'homme (Royaume-Uni)
14.30-15.20	Statements of the heads of delegation – Part Two	Déclarations des chefs de délégation – partie II
15.20	Exchange of views on national implementation	Echange de vues sur la mise en oeuvre au niveau national
15.30-16.30	Interventions by Council of Europe Principals and Heads of Delegation, and representatives of NHRIs and INGOs	Interventions des hauts représentants du Conseil de l'Europe et des chefs de délégation ainsi que des représentants des NRHI et OING
16.30	Coffee break	Pause café
16.45	Resumption of interventions on national implementation	Résumé des interventions sur la mise en oeuvre au niveau national
18.15	End of session	Fin de la séance
20.00	Group photo of Heads of Delegation, Royal Pavilion, Brighton	Photo de groupe pour les chefs de délégation, Royal Pavilion, Brighton
20.15	Dinner for Heads of Delegation, Royal Pavilion, Brighton	Diner pour les chefs de délégation, Royal Pavilion, Brighton

Friday 20 April
Vendredi 20 avril

9.30	Conclusion of the exchange of views on national implementation	Conclusion de l'échange de vues sur la mise en œuvre au niveau national
11.00	Conclusions by the United Kingdom Chairmanship of the Committee of Ministers	Conclusions présentées par la présidence du Royaume-Uni au Comité des Ministres
11.30	Adoption of the Declaration and Close of the Conference	Adoption de la Déclaration et clôture de la Conférence

WELCOMING ADDRESSES – DISCOURS DE BIENVENUE

The Rt Hon Kenneth Clarke QC MP

Lord Chancellor and Secretary of State for Justice

Ministers, Your Excellencies, My Lords, Ladies and Gentlemen,

On behalf of the Chairmanship of the Committee of Ministers and the Government of the United Kingdom, I'd like to offer you a very warm welcome to the UK, and to the city of Brighton and Hove.

As one of the founder members of the Council of Europe, and as the first State to ratify the European Convention on Human Rights, the UK is delighted to be holding the Chairmanship and hosting this conference. It is a huge honour, and a responsibility that the Government is taking very seriously.

Before I say more about the subject of this conference, I would like to introduce my colleague Lord William Wallace, a minister in our Foreign and Commonwealth Office, and I think he would like to offer some words of welcome.

The Rt Hon The Lord Wallace of Saltaire

Lord-in-Waiting

Ministers, Your Excellencies, My Lords, Ladies and Gentlemen,

It is my great pleasure to represent the United Kingdom Foreign and Commonwealth Office at this important conference. The Foreign Secretary has asked

me personally to pass on his sincere apologies that he cannot be here today, due to unavoidable diary commitments. He is looking forward to visiting Strasbourg in May to conclude our Chairmanship.

The Chairmanship of the Committee of Ministers is literally a once-in-a-generation opportunity. We have been proud to lead the work of this remarkable organisation for these six months – not just in the field of human rights, but also in its wider activities, including on democracy and the rule of law.

Winston Churchill was of course one of the strongest proponents in the 1940s, when the Justice Secretary and I were at primary school, of creating this organisation. In 1949, the treaty that created the Council of Europe was signed in London. In some ways, this is almost a homecoming for the Council of Europe. And we are delighted to have on display here in Brighton the original Treaty of London.

The promotion and protection of human rights continues to be at the very heart of British foreign policy and this has formed our over-arching priority for this Chairmanship. The British Government's determination to pursue opportunities to enhance political and economic freedom around the world and to oppose tyranny and to hold repressive regimes to account remains undiminished. That is why our Chairmanship of this organisation has been so important, and has not just been about the reform of the Strasbourg Court.

We are also proud to have supported the ground-breaking Council of Europe Recommendation on Lesbian, Gay, Bisexual and Transgender rights, and we have contributed to the new Council of Europe Unit set up to promote this.

In addition, we are supporting the implementation of the rule of law across the Council of Europe with the development of practical guidelines for legislators on "the principles of good law-making".

And we have promoted freedom of expression on the Internet, along with good internet governance, by supporting the adoption of the Council of Europe's strategy on this complex subject.

But it is Court reform that is our subject today. The document that the Justice Secretary will introduce continues the work of the previous conferences in Interlaken and Izmir, hosted respectively by our colleagues from Switzerland and Turkey. I am sure they will appreciate the challenge we have faced in our turn in preparing the draft Declaration, now on the table before us today. The views of each and every member State of the Council of Europe are equally important, and equally valid. They are also richly diverse.

But this is a challenge we have thoroughly enjoyed. This is due in large part to the constructive and supportive approach you and your officials have taken in working closely with us at all levels, in Strasbourg, in London and in your own capitals.

The Declaration draws strength from the energy that we have all put into finding and agreeing the right way forward. We are very grateful for the support you have shown, and we look forward to working with you to finish the job at this Conference.

OPENING ADDRESSES – DISCOURS D'OUVERTURE

The Rt Hon Kenneth Clarke QC MP

Lord Chancellor and Secretary of State for Justice

Ministers, your Excellencies, My Lords, Ladies and Gentlemen,

In Brighton at the moment there is on display a copy of a rather historic document about which the British get very excited: the Magna Carta of 1215. This illustrates that, from almost eight centuries ago, this country has had a long-standing commitment to what we now call human rights. The Magna Carta first established, in the face of a tyrannical king, that no man should lose his property or his liberty except by due process of law. It took us a few centuries to get it right, but it is today one of the great achievements of modern Europe that more than 800 million people share a common framework of decent basic standards: extending from the furthest coasts of Iceland to the borders of Iraq, from the Atlantic to the Pacific.

I hope we all agree that these standards are not just an expression of our shared belief in freedom and justice. They also reflect our shared national interests – because it is only by advancing human rights that we secure our ability to live, travel, and trade in a more open, stable and prosperous world.

But to survive and remain relevant, all institutions of a certain age need to adapt to the modern world. As a veteran Minister, I always seek to adapt myself.

This process is building on the excellent work done at the Interlaken and Izmir Conferences. I had the privilege of attending the Izmir Conference, and since then the UK as Chair has sought to maintain the momentum of reform to ensure that the very real challenges the Convention system faces are met head-on.

We are all in no doubt of the urgent need to reform the Strasbourg Court, and the Convention system. This reform is not designed to weaken human rights, nor to undermine the profoundly important shared values in the Convention – but to strengthen them, and advance justice, democracy and freedom.

As the Prime Minister said when he went to Strasbourg in January, the ability of the system to operate effectively is under threat. The key problem is that the Court is being asked to do too much, which endangers its ability to focus on what matters.

The backlog of 150,000 cases facing long delays in Strasbourg is not a new issue. And the Court, working with member States, has made very good progress in tackling the huge number of inadmissible cases. We pay tribute to their work.

However, in making inroads on this veritable tidal wave of litigation, it has revealed a far tougher problem. Each year, the Court receives far more admissible cases than it can properly consider in a timely manner: very roughly, 3000 admissible cases each year with the capacity to hear only about 2000.

This will inevitably lead to a change in the nature of the backlog but it will mean there is still a backlog and unacceptable delay unless we act at this Conference. It will move from being made up mainly of inadmissible cases to being made up mainly of admissible cases. But the fact that there will still be a queue really matters. The cases stuck waiting will include serious ones – individuals who are in custody or have been subject to torture, or who have had an unfair trial, or who have been denied free speech. Those cases should not wait years before they are determined. Reform is urgently needed to ensure these cases are heard.

The backlog of 150,000 cases facing long delays in Strasbourg is not a new issue. And the Court, working with the States Parties, has made very good progress in tackling the huge number of inadmissible cases. We pay tribute to their work.

As a matter of principle and practicality, it has always been accepted that the primary responsibility for enforcing the rights in the Convention must lie with States. States must stop breaches in the first place. And where breaches do occur, States must offer proper legal remedies in national courts.

The Court is there as the ultimate arbiter and guarantor. It may sometimes need to overrule national courts – where they have clearly failed to apply the Convention obligations, or where there are significant points of interpretation that need resolution. But as the Court itself has always recognised, these cases should be exceptional: it cannot act as just another layer of appeal. It has to focus on the most serious human rights violations which urgently require the attention of an international Court of this kind.

It is solutions to these problems that we have been collectively seeking through this reform process. We have all worked together, as 47 States Parties, to produce a package that helps sort out the delays and improve human rights on the ground. The draft Declaration we have before us seeks to speed up the momentum of this process. We believe it will help ensure more cases are

resolved nationally, freeing the Strasbourg Court to focus its attention promptly on the most serious ones.

Our shared priority is to show that it is possible to bring sensible and meaningful reform to the Court without weakening human rights, giving up on the Convention, or undermining decent standards across Europe. I am therefore pleased to commend this draft Declaration to you:

- It makes clear the responsibility of national governments to implement the Convention effectively, and the judgments of the Court;
- It helps clarify the relationship between the Court and national authorities, based on the key principle of subsidiarity;
- It gives the Court tools to manage its workload back to sensible proportions;
- It helps ensure that the Court and its judgments of the highest possible quality;
- And it emphasises that we have to be constantly aware of our responsibility to ensure that the Convention system is operating effectively.

With luck and a following wind, it is my hope that that is what we will achieve in the coming days.

If we get this right, the prize is a very important one.

Not just a substantial package of measures, with common sense running through it like the letters through a local sweet delicacy known as Brighton rock, which you may procure as a souvenir .

What we need here is real progress in tackling the Court's backlog effectively, while preserving the right of individual petition.

We need a clear signal to our citizens that the ultimate goal is not for the Court to process ever more cases and deliver ever more judgments, but for the rights enshrined in the Convention to be protected and respected.

And – importantly – we hope to get an agreement that makes clear that the protection of human rights goes hand-in-hand with democracy and the role of democratically-elected national parliaments.

If we can agree them, the reforms will ensure that institutions which we have established to guard against over-bearing governments and abuse of human rights are modern, effective and focus on the most serious cases. I hope that together we can find consensus. The consequence will be stronger rights, more easily enforced, more widely respected.

I look forward to hearing your views, and to working with you during the conference and I hope we can produce the desired objective by tomorrow morning .

Mr. Thorbjørn Jagland

Secretary General of the Council of Europe

Ministers, Ladies and Gentlemen,

We find ourselves together for the third time in as many years. During this period of reform, the Committee of Ministers, the Court, our expert committees and many others have been working hard. The process and the draft Declaration that we have on the table today show the following:

- all member States recognise the Court's extraordinary contribution to human rights protection in Europe;
- all accept the ultimate authority of the Court to interpret the Convention;
- all have unanimously reaffirmed their attachment to the right of individual petition;
- all accept that they must fully implement the Court's judgments.

The draft Declaration also underlines the principle of subsidiarity that has underpinned the work of the Court from the very beginning and the doctrine of the margin of appreciation set up and developed by the Court itself.

My conclusion is therefore that the process which started in Interlaken has underlined and strengthened the authority of the Court.

But we have two main challenges that still need to be met.

Firstly – to improve the national implementation of the Convention, so that fewer violations occur, effective remedies are readily available, structural and systemic problems are resolved, the Court's judgments are fully and rapidly executed – and thus fewer applications are made to Strasbourg; or at least, fewer admissible applications.

Secondly, to improve the Court's capacity to respond to applications that are made, whether admissible or not. The Court should be able to give the appropriate response to every application within reasonable time.

National implementation

When it comes to the first point, it is clear that effective human rights protection begins and ends at home. The meaning of the Court was never to take responsibility from the national courts. Therefore I am pleased to see that the Declaration emphasises the shared responsibilities of States and the Court for the effective implementation of the Convention.

I understand that changes to institutions, laws and administrative practices often need time and may sometimes need money. But where there are shortcomings, States Parties' obligations under the Convention require genuine efforts

towards constant progress on implementation. These efforts are an investment, not a cost.

This is especially so where structural and systemic problems give rise to repetitive applications; and even more so, where those problems are well-known and long-standing. These cases, which are almost by definition well-founded, often affect the core institutions of democracy, and are of great importance to the respect for human rights and the rule of law.

It is very important to understand that there are strong institutional links between the European Convention on Human Rights and the Council of Europe's different bodies and activities. The Court is not an isolated body and cannot operate in an institutional, political or social vacuum.

The Council of Europe has for many years been supporting member States to implement the European Convention on Human Rights at national level. Activities include the provision of legislative expertise, training and capacity development as well as dissemination of training materials. The aim of the institutional reforms during my term of office has been to improve our delivery of these services.

A lot can be done, even within current institutional constraints and limited resources. I am personally committed to ensuring better co-ordination of all co-operation activities. We need to target our activities more closely to those areas where the European Court of Human Rights, the execution process, the Human Rights Commissioner or monitoring mechanisms have identified shortcomings.

As in many areas, co-operation with the European Union will be crucial. Joint programmes represent already the largest source of funding for Council of Europe's technical assistance and co-operation projects. Through our new Directorate General of Programmes and the strengthening of our field presence, we will ensure that joint programmes are reinforced and better targeted. Our aim is to avoid any unnecessary duplication of activities, nor should important issues identified by the Strasbourg Court or human rights monitoring mechanisms be left overlooked or unattended.

Execution of judgments

Rapid and efficient implementation of the Court's judgments is essential for the authority and credibility of the Convention mechanism.

The annual report presenting the Committee of Ministers' supervision of the execution of judgments acknowledges that, despite positive indication in last year's figures, there remain many important and complex structural problems in the domestic processes of member States. I therefore support the idea to reflect on more effective measures that could be taken in respect of States that persist-

ently fail to implement judgments of the Court, notably those relating to repetitive cases and serious human rights violations.

The second main challenge, which I mentioned, relates to the Court's capacity to respond to applications made.

For the Convention system to remain effective, it is indispensable that the Court is allowed to continue playing its role fully, efficiently and independently.

Thanks to new working methods that give full effect to the Single Judge system introduced by Protocol No. 14, there have been encouraging signs from the Court that the long-standing problem of the backlog of clearly inadmissible applications may finally be coming under control. I can only applaud President Bratza and the Court for their efforts, welcome their results and encourage further innovations within the current legal framework. I look forward to the fulfilment of the Court's stated expectation to deal with new applications as they arrive and to progressively eliminate the backlog.

I also welcome the amendment of the existing admissibility criteria introduced by Protocol 14. It should make it easier for the Court to declare inadmissible cases in which the applicant has not suffered a significant disadvantage.

We must be honest and realistic about the possible budgetary aspects of certain proposals. I am highly sensitive to the budgetary situations of our member States, but if our words are to be backed up by action, we must recognise that some small budgetary efforts may be unavoidable. One possibility might be to set up a special fund, in particular for the backlog of the Court, to which member States could contribute on a voluntary basis.

The Statute of the Council of Europe and the European Convention on Human Rights entrust the Secretary General with tasks that relate both to the effective implementation of the Convention and to the efficient functioning of its institutions. I reiterate my absolute commitment to the fulfilment of these obligations. I will spare no effort to make sure that the Council of Europe is and remains the most efficient partner to our member States in their efforts to fulfil their obligations under the Convention.

I will return to what I said from the outset: the process from Interlaken to Izmir and now Brighton has strengthened our common recognition of the importance of the Convention system and the Court.

This is an important signal to all Europeans that peace on our continent must continue to be built on human rights and the rule of law. The effectiveness and responsiveness of this Court depend upon the right of individual application. The States Parties have themselves freely chosen to submit to an international judicial control mechanism, because they are deeply convinced that this is a vital safeguard for liberty and peace across our continent. They are, as a result, obliged to respect the standing, independence and authority of the Court, in the same way as they show respect for their own courts at home.

As political leaders we all have an obligation to convey to our citizens that an international convention system that gives the same rights to everybody, may lead to judgments from the Court with which not everyone will agree. From time to time even a majority in our societies may disagree.

But we have to keep in mind that human rights are very often about protecting the rights of minorities.

It cannot be left to a majority within a society to protect such rights. They cannot be subject to shifting political winds.

As a consequence of the devastating nationalism and wars in the 20th century, the world moved from nationalism towards internationalism. The UN was established and the Universal Declaration of Human Rights was adopted. It was based on the belief that basic human rights do not come from any majority or any authority. They come from the fact that we are all human beings and that every nation has an obligation to uphold these rights by law.

The European Convention on Human Rights is the only real and concrete realisation of the Universal Declaration of Human Rights. Let us take new steps to strengthen this system further.

Mr. Jean-Claude Mignon

President of the Parliamentary Assembly of the Council of Europe

Ladies and Gentlemen,

I thank the UK Chairmanship for giving us a further opportunity, following the conferences held in Interlaken and Izmir, to discuss the current situation and the future of the European Court of Human Rights.

At the beginnings of the European Convention on Human Rights there was no binding right to lodge individual applications, nor even a Court, since it was established in 1959. However, the Convention system gradually gathered momentum, leading to the outcome with which we are familiar today. A Court which has greatly advanced human rights in Europe and elsewhere. But also a Court inundated by the inflow of applications. It is said to be a victim of its success. Yet can we really talk of "success" in these circumstances? Is the Court not rather a victim of deficiencies at the national level? We should not overlook the

fact that about half of the cases pending before the Court concern only four respondent States, that just one of these States accounts for 27% of all applications and that 80% of applications concern just ten States, out of a total of 47.

These statistics must give us pause for thought when we consider how to reinforce the effectiveness of the Convention, including the authority of the Court. Not so as to stigmatise any particular State, but with a view to assessing the tangible consequences of given reform measures.

First there is the issue of subsidiarity. One can but be in favour if subsidiarity means that the Court is not a fourth tier of justice and that, in principle, it is for the States to apply the Court's case-law and to draw the necessary conclusions from it, possibly by changing their legislation and practice.

However, the limits to this reinforcement of subsidiarity lie in the limitations of the national legal systems themselves. Let us not invert the situation. It is true that the States Parties are in principle best able to assess the necessity and the proportionality of the specific measures they have to take. However, in a way we also asked the Court, particularly following the enlargement of the Council of Europe, to make good the weaknesses of a number of member States with regard to the rule of law.

It is therefore the Court that must have the last word in deciding how to interpret the Convention in each case brought before it.

This case-law system sometimes encounters very strong opposition at national level, as was recently the case in the United Kingdom or in France on the questions of the status of members of the prosecution service, police custody and prisoners' right to vote. A fine balance has to be struck, in so far as the Court is sometimes accused of usurping a legislative role, and it does sometimes assume that role to a certain extent. However, could things be any different? The preamble to the Convention refers not only to the maintenance but also to the further realisation of human rights, which allows the Court to interpret the Convention and its protocols as a "living instrument", "in the light of present-day conditions".

It goes without saying that, in exchange, the Court must exercise a degree of self-restraint and refrain from interfering in matters which there is no vital need to address and which closely concern national traditions. The case concerning the display of crucifixes in classrooms, in which the Grand Chamber took account of the situation's complexity, is a good example. Whenever social issues are involved, only those values that command a broad consensus should be set up as fundamental principles.

The Court must also make its case-law as clear and coherent as possible. Any improvements to its HUDOC database could but have a positive impact in terms of clarification for users. The translation and dissemination of the Court's case-law is also of extreme importance, and indeed often absolutely essential to permit national courts to take it into account.

One comment I would make in a strictly personal capacity is that the Court has no advocates general, which detracts from the emergence of a clear public doctrine. Budgetary constraints do not permit the creation of such offices. Despite that, I propose that we reflect on means of making the Court's case-law better known, better understood and hence better applied.

One input from this conference will be enhanced recognition of the role of the Parliamentary Assembly of the Council of Europe and of the national parliaments.

The election of the Court's judges by the Assembly is of vital importance, as the Court's authority naturally depends on the stature of its members and the quality of their decisions. It is important above all this year, when a very large number of the judges will be replaced. The initiatives taken by the Parliamentary Assembly, including the interviews with all candidates now conducted by its Sub-Committee on the Election of Judges, and by the Committee of Ministers, with the recent adoption of guidelines on the qualifications required of candidates, have already improved the process and will allow further improvements in future, a fact that I welcome.

However, that is not the only parliamentary contribution to the implementation of the Convention and the functioning of the Court. It is indeed important that national parliaments systematically check that draft legislation is compatible with the Convention, that they closely monitor the action taken to execute judgments against their States and that they ensure that changes to national legislation are in line with the measures recommended by the Court.

Execution of judgments is still a major weak point. The Committee of Ministers has reformed its procedures to make them more effective. Our Assembly very closely monitors the situation regarding execution of judgments in the countries with the greatest shortcomings in this field. A number of national parliaments have also adopted a dynamic approach in these matters.

I also welcome the exemplary work done by the Parliamentary Assembly's Monitoring Committee, which verifies that States are honouring the commitments they entered into upon acceding to the Council of Europe. However, the Organisation also has a whole series of other mechanisms to monitor respect for human rights, ranging from the Venice Commission to the European Committee for the Prevention of Torture (the CPT), via ECRI (the European Commission against Racism and Intolerance), to mention but a few. Let us make the best possible use of these mechanisms.

I wish to conclude by making a general observation and a suggestion as to what the Brighton Declaration should say as a matter of priority.

First the observation: In a recent report our Committee on Legal Affairs disclosed that the annual cost, within the Council of Europe's budget, of hiring a judge at the European Court of Human Rights is higher than the annual contri-

bution made by 15 member States. In other words, the contribution paid by these 15 States does not even suffice to cover the cost of their own judge in Strasbourg.

Second my suggestion: Let us focus our efforts on those areas where the needs are most strident. Let me explain. We should not focus solely on the reform of the Court. It is regrettable that the Court is obliged to waste time and effort hearing repetitive applications against "persistent defaulters". However, during a recent visit to Moldova I received confirmation that the time taken to deal with these repetitive applications has most unfortunate human consequences. Similarly, it is not acceptable that the Committee of Ministers continues to be confronted with unacceptable delays in the execution of judgments handed down by the Court. The Convention system as a whole is in difficulty. The States must ensure that the Court continues to fulfil its primary task as the guarantor of human rights standards in Europe. They must first and foremost guarantee the effective protection of human rights at national level.

Only by enabling the Council of Europe, through its political action, to ensure compliance with the values and standards States undertake to support as members of our Organisation will we make it possible for the Court to play its role to the full.

Sir Nicolas Bratza

President of the European Court of Human Rights

Mr Chairman, Ministers, Secretary General, Excellencies, Ladies and Gentlemen,

May I begin by thanking the United Kingdom Government for organising this conference following on from those held in Interlaken and Izmir and for the efforts made to consult the Court throughout the process. We appreciate too the initiatives of different Governments to maintain the impetus of the reform process launched at Interlaken and to reinforce the effectiveness of the Convention system. I would also take this opportunity to express my gratitude to all those who have contributed to this process, including the non-governmental organisations which have been tireless in their support for the Court.

Let me say immediately that I welcome the fact that, as at the Interlaken and Izmir conferences, the Declaration starts by a reaffirmation of the firm commitment of member States to the Convention and to the protection of fundamental rights. At a time when human rights and the Convention are increasingly held responsible in certain quarters for much that is wrong in society, it is worth recalling the collective resolve of member States of the Council of Europe to maintain and reinforce the system which they have set up. We should not lose sight of what that system is intended to do, that is to monitor compliance with the minimum standards necessary for a democratic society operating within the rule of law; nor should we forget the Convention's special character as a treaty for the collective enforcement of human rights and fundamental freedoms. It is no ordinary treaty. It is not an aspirational instrument. It sets out rights and freedoms that are binding on the Contracting Parties.

The Declaration also reaffirms the attachment of the States Parties to the right of individual petition and recognises the Court's extraordinary contribution to the protection of human rights in Europe for over 50 years. In setting up a Court to guarantee their compliance with the engagements enshrined in the Convention, the member States of the Council of Europe agreed to the operation of a fully judicial mechanism functioning within the rule of law. The principal characteristic of a court in a system governed by the rule of law is its independence. In order to fulfil its role the European Court must not only be independent; it must also be seen to be independent. That is why we are, I have to say, uncomfortable with the idea that Governments can in some way dictate to the Court how its case-law should evolve or how it should carry out the judicial functions conferred on it.

I would respectfully submit that these elements must be borne in mind in any discussion of proposals for reform. Convention amendment must be consistent with the object and purpose of the treaty and must satisfy rule of law principles, notably that of judicial independence. The true test of any proposed amendment is the extent to which it will actually help the Court cope more easily with the challenges facing it.

Having said that, there is much in this Declaration with which the Court is in complete agreement. I refer in particular to the emphasis placed on steps to be taken by the States themselves, the recognition of the shared responsibility for the system requiring national authorities to take effective measures to prevent violations and to provide remedies. The text outlines the different areas for action in a comprehensive manner. It also rightly underlines the important role of the Council of Europe in providing assistance.

Let us be clear: the main issue confronting the Court has been, and continues to be, the sheer quantity of cases. Failure to implement the Convention properly at national level is a primary source of the accumulation of meritorious cases

which constitute the most serious problem that the Court has to cope with. It is also a regrettable fact that over 30,000 of the pending cases relate to repetitive violations of the Convention, in other words cases where Contracting Parties have failed to take effective steps to remedy the underlying systemic problem previously identified by the Court. It is to be hoped that the Declaration will provide a stronger basis for dealing with this unacceptable situation.

Yet we also know that while more effective action by States both generally and following a judgment finding a violation is indispensable for the long-term survival of the Convention system, it will not provide a solution in the short to medium term. That is why the Court has developed a clear strategy as to how to approach its case-load. We fully accept that we have a responsibility, particularly in the current difficult economic climate, to make the most efficient use of the resources made available to us. We are pleased that in a recent report, which has not yet been made public, the Council of Europe's external auditors have expressed their clear approval of the policy and strategy choices that the Court has made in the organisation of its work. I should also say that the latest figures are likewise a source of encouragement, with a 98% increase in the number of decided applications and a significant decrease in the number of pending applications since last summer. Cases are also coming in at a lower rate than in previous years. The perspective of reducing or even eliminating backlog, and attaining the balance referred to at Interlaken, is now a real one but this will require additional resources and that is why I strongly welcome the Secretary General's proposal to set up a fund.

These promising statistics should not, however, lull us into a false sense of security, into a feeling that no further action is needed to help the Court. In particular, as the Court points out in its preliminary opinion for this Conference, efficient filtering and more effective prioritisation still leave a very large volume of cases not catered for.

Moreover these are cases which are likely to be admissible and well-founded.

So what more needs to be done? In its preliminary opinion the Court set out its own view on future action. But in the process of the preparation for the Conference there has been much discussion on whether it is right and necessary to reinforce the notion of subsidiarity and the doctrine of margin of appreciation; whether some new form of admissibility criterion should be added to the arsenal of admissibility conditions that are already available to the Court and which allow it every year to reject as inadmissible the vast majority of the applications lodged with it; or again whether dialogue with national courts should be institutionalised through advisory opinions?

As to subsidiarity, the Court has clearly recognised that the Convention system requires a shared responsibility which involves establishing a mutually respectful relationship between Strasbourg and national courts and paying due

deference to democratic processes. However, the application of the principle is contingent on proper Convention implementation at domestic level and can never totally exclude review by the Court. It cannot in any circumstances confer what one might call blanket immunity.

The doctrine of margin of appreciation is a complex one about which there has been much debate. We do not dispute its importance as a valuable tool devised by the Court itself to assist it in defining the scope of its review. It is a variable notion which is not susceptible of precise definition. It is in part for this reason that we have difficulty in seeing the need for, or the wisdom of, attempting to legislate for it in the Convention, any more than for the many other tools of interpretation which have been developed by the Court in carrying out the judicial role entrusted to it.

We welcome the fact that no proposal for a new admissibility criterion is now made in the Declaration and we are grateful for the efforts to take on board the Court's concerns in this respect. In this context may I repeat that it is indeed the Court's practice to reject a case as inadmissible where it finds that the complaint has been fully and properly examined in Convention terms by the domestic courts.

The Court has discussed the idea that superior national courts should be enabled to seek an advisory opinion from Strasbourg and distributed a reflection paper on it; it is not opposed to such a procedure in principle, although there remain unanswered questions about how it would work in practice.

Mr Chairman, before concluding, I would wish to reiterate the Court's unequivocal support for the rapid accession of the European Union to the Convention. We of course fully subscribe to the call in the Declaration for a swift and successful conclusion of the work on the accession agreement.

Mr Chairman, the introduction by the Convention of the right of individual petition before an international body changed the face of international law in a way that most people would hope and believe was lasting. We do not have to look very far outside Europe today to understand the continuing relevance of the principle that States which breach the fundamental rights of those within their jurisdiction should not be able to do so with impunity.

It is nevertheless not surprising that Governments and indeed public opinion in the different countries find some of the Court's judgments difficult to accept. It is in the nature of the protection of fundamental rights and the rule of law that sometimes minority interests have to be secured against the view of the majority. I would plead that this should not lead governments to overlook the very real concrete benefits which the Court's decisions have brought for their own countries on the internal plane. At the same time I am confident that they understand the value of the wider influence of the Convention system across the European continent and indeed further afield. It is surely not controversial to maintain that

all European partners are best served by the consolidation of democracy and the rule of law throughout the continent. The political stability and good governance which are essential for economic growth are dependent on strong democratic institutions operating within an effective rule of law framework.

Mr Chairman, ladies and gentlemen, the Convention and its enforcement mechanism remain a unique and precious model of international justice, whose value in the Europe of the 21st century as a guarantee of democracy and the rule of law throughout the wider Europe is difficult to overstate. While much has changed in the past 50 years, the need for the Convention and for a strong and independent Court is as pressing now as at any time in its history.

Mr. Nils Muižnieks

Commissioner for Human Rights of the Council of Europe

Ministers, Excellencies, Ladies and Gentlemen,

I assumed office only at the beginning of the month and this is my first official appearance as Commissioner. Thus, I cannot yet refer to insights gained from my own country visits, thematic work or third-party interventions before the Court. However, I believe all of our work is related in some way to the work of the Court – preventing human rights violations through promoting human rights awareness, addressing systemic problems in member States that lead to many complaints, pushing for implementation of human rights standards at the national level, and sharing best practices to address human rights concerns.

In my remarks today, I would like to touch upon several important issues and principles related to the nexus of our work with that of the Court.

Much has been said about the principle of subsidiarity. It has been given a number of different meanings, from the idea that domestic courts should have greater powers to interpret Convention rights to the possibility of allowing States to override decisions of the Strasbourg Court.

The principle of subsidiarity essentially means that the prime responsibility for ensuring respect for the rights enshrined in the Convention lies first and foremost with the national authorities rather than with the Court.

It is thus about effective implementation of the Convention at national level, but also about effectiveness of domestic remedies and the need to swiftly and fully execute the judgments of the Court.

For this principle to function in practice, effective and independent national human rights structures and courts, as well as effective remedies must be in place – so that each individual can find justice at national level.

Whether human rights are implemented and interpreted correctly at the national level will lastly be examined by the Court, as an instance of last recourse.

The Interlaken Declaration and Action Plan have confirmed that national authorities – governments, courts and parliaments – are key to guaranteeing and protecting human rights at national level.

The main message brought by the massive inflow of cases in Strasbourg is that the European Court of Human Rights is essential to many individuals who feel that their rights have not been protected in a European State.

In a number of country reports, my predecessor, Thomas Hammarberg, has focused on the link between the administration of justice and the protection of human rights and I intend to continue this work.

Shortcomings within the judicial system are a significant source of violations of the European Convention, including for instance violations of the right to liberty, and many of the complaints to the Court relate to excessively slow procedures and to failure of member States to enforce domestic court decisions. In several European countries, these decisions are often enforced only partly, after long delays, or sometimes not at all.

My intention is to continue to assist 'high case-count' States (that is States with the highest number of pending applications before the Court) to address the underlying causes of this phenomenon.

I would like my work to be useful in addressing the systematic failure to implement the Convention, particularly in countries where national courts simply do not provide sufficient protection to individual rights. More needs to be done in order to implement the Convention through the national courts.

This of course goes hand in hand with the need to improve domestic remedies. Recourse to an international court should be seen for what it is – essentially a failure to provide proper national remedies.

The desirability or even requirement of having effective national human rights structures was mentioned in early drafts of the Declaration. Bodies such as parliamentary ombudsmen, equality bodies, data protection commissioners, children's ombudsmen, police complaints commissions and other similar mechanisms are important partners for us. When given proper mandates and adequate funding to ensure their independence, such structures have the potential to improve the human rights situation considerably.

Some good practices exist; a couple of national human rights institutions have focused on promoting compliance with the European Convention and encouraging implementation of judgments of the Court. However, as a consequence of the economic crisis, many of these structures have been weakened through budget or staff cuts and some have been done away with altogether. This is unfortunate, as in times of crisis, they are essential sources of assistance for the most vulnerable victims of human rights violations.

Co-operation with national human rights structures should be enhanced with the aim of fostering human rights oriented policies at national level and addressing systemic shortcomings in member States. Furthermore, member States which have not yet done so should consider establishing such institutions, including at the regional or local level.

It is the member States' task to ensure a better implementation of the Convention at the national level. However, non-execution of Court's judgments remains a major problem in the current system.

Though in the majority of cases European States do comply with the Court's decisions, there are also cases of States being strikingly slow to abide by their obligation to execute the judgments. Some important judgments have remained unimplemented after several years despite clear guidance given by the Court and the Committee of Ministers.

As a consequence, many of the judgments issued by the Court concern so-called 'repetitive applications', i.e. cases raising issues that have already been the subject of Court judgments in the past, and which normally should have been resolved by the respondent member States. These 'repetitive applications' contribute to the overloading of the Court and create a risk of delayed decisions in general.

This requires a prompt, full and effective execution by member States so that recurrence of similar violations is prevented.

During the six years of my mandate, I will continue to draw the authorities' attention to the need for the prompt implementation of judgments issued by the Court. I also intend to engage not only with governments, but also with parliaments, judiciaries, national human rights structures and civil society partners to promote more effective implementation of Convention standards by member States.

Subsidiarity should be seen together with another principle – the principle of complementarity. There should be a more intense exploration of joint efforts with other Council of Europe monitoring mechanisms, political bodies, member States, the national judiciaries, and national human rights structures. My Office is eager to work together with others in this endeavour.

My role, as I see it, complements the role of the Court. By highlighting the need for the prevention of human rights violations, identifying and sharing best

practices, raising awareness on the agreed standards, and suggesting remedies for human rights violations, especially in cases of gross or systemic problems, I think my Office can play an important role in ensuring that the Convention system remains effective.

STATEMENTS BY HEADS OF DELEGATION – DÉCLARATIONS DES CHEFS DE DÉLÉGATION

MEMBER STATES – ÉTATS MEMBRES

Albania/Albanie: Ms Brikena Kasmi

Honourable Excellencies,

I would like to highlight my pleasure in attending this ministerial conference in Brighton on the future of the European Court of Human Rights.

As the representative of the Republic of Albania, I would like to show respect and the highest consideration attached to the latter in respect of all member countries of the Council of Europe.

Firstly, as the country that will take over the following Chairmanship of the Committee of Ministers, I would like to thank the United Kingdom Chairmanship of the Committee of Ministers as organiser of this conference and promoter of the principles of basic human rights and initiator of a great entrepreneurship for the advancement of human rights in Europe.

Allow me to express my deepest appreciation and thanks to the Ministry of Justice of the United Kingdom and the Foreign and Commonwealth Office for hosting the member countries in Brighton.

We show a great gratitude for the Foreign and Commonwealth Office in planning and realisation of such an important Conference that will be remembered through the future years for its fundamental support to the effectiveness and functioning of the European Court of Human Rights. This future belongs to all of us and as such needs our full support.

We are here today to share opinions and ideas on the future of the Court.

But before doing so, excellencies, distinguished ministers, colleagues, ambassadors, please allow me to give an overview of the related developments in Albania.

The existence and effectiveness of an instrument that gives justice is of vital importance for my country as it not only gives justice for the people in fulfilment of rights and liberties but also provides adequate standards throughout its jurisprudence that enlighten our legislation and respect of constitutional rights.

The latest developments of the Convention, after the entry into force of Protocol No. 14 on 1 June 2010, mark radical changes in three main fields, including: strengthening the filtering capacities of the Court regarding ineligible applications; new eligibility criteria in cases where the applicants have not suffered serious damages during the process of the violation of their rights, namely, the prioritisation of cases and taking more effective measures regarding repeated cases, introducing the mechanism of agreement reached between the parties during the early phases of the procedure.

Along with the developments in the Council of Europe the following developments have also been made in Albania.

An action plan to adequately address the recommendation of the Committee of Ministers with regard to the right to property, has been adopted. The action plan establishes a special structure to co-ordinate the issues of properties in institutional level as well as providing a detailed scheme of return and compensation of properties with the aim of final restitution of the property right to the former owners.

The action plan ensures an effective enforcement system of decisions related to property matters providing resolution at the same time to an escalated number of cases of systematic character.

Albania has recently evaluated the implementation of alternative instruments of resolution of cases that are currently under review in the ECHR, assessing the resolution by amicable agreement, or application of unilateral declarations in some of the cases.

Further actions are foreseen in the framework of a more comprehensive document such as the strategy of ownership rights that is currently at the end of the consultation process with interested groups, field donors and international expertise. Such strategy will be adopted in May this year.

Albania is committed to enforcing ECHR decisions, strengthening its cooperation in this respect and reporting on a regular basis to the Committee of Ministers.

New amendments to criminal law that adequately implement the recommendations of MONEYVAL and GRECO have been adopted.

Revision of the criminal procedure code with the aim of regulating fair trial and international jurisdiction relations, as well as a review of time frames and court proceedings is under process.

Distinguished participants of the Brighton Conference,

In the context of objectives to be achieved through developments of this conference, the following need to be highlighted.

More co-operation between the ECHR, higher national courts and States' parliaments serves the improvement of domestic remedies of complaint in order to address the violations of the Convention at national level.

The Albanian Government estimates the amendment to the European Convention and text of the Court Regulation, for the provision of new instruments in support of simplification and acceleration of procedures in the European Court, such as the amendment of Article 35 of the Convention on eligibility criteria of applications as very important. We are aware that it affects positively the individual's right to apply in the Court.

The strengthening of eligibility criteria aims to increase the scale of applications that can identify the violations of fundamental rights or issues of interpretation of the Convention. Albania expresses its full support for the reduction of manifestly ill-found applications that increase the workload of the Court.

In addition, we support the recommendations for improvement and consolidation of the ECHR unified practice, aiming to increase the number of cases for which it has applied the decision-making process by means of a commission with three judges.

In the framework of enforcement of the ECHR decisions, the strengthening of the role of the Committee of Ministers along with the contracting States for identification of individual and general measures for implementation of the Court's decision is a development of fundamental importance for the future of the Court.

Albania encourages other member States to implement the action plans for enforcement, publication of the ECHR decisions together with decisions of the Committee of Ministers and the annual reports to the Parliaments of relevant States.

In taking over the next chairmanship at the Committee of Ministers on 24 May 2012, Albania shows additional support as the policy statement to be approved in this Conference is expected to provide a long term vision of the control system of the European Convention.

We wish to reiterate that the Republic of Albania as a Party to the Convention for the Protection of Human Rights and Fundamental Freedoms reconfirms its deep and firm commitment to the Convention and the fulfilment of its obligation according to the latter, as well as its full devotion to the changes and developments of the Convention and the Court in the short-term and long-term perspective.

To conclude, I hope the Conference will be successful and I wish co-operation among the countries for full effectiveness of the European Court of Human Rights.

Andorra/Andorre: M. Josep Dallerès

Monsieur le Président, Mesdames et Messieurs le Ministres, Chers Collègues, Mesdames et Messieurs,

Permettez-moi, tout d'abord, de remercier le Royaume-Uni pour l'organisation de la Conférence, la chaleur de l'accueil et pour nous avoir forcés à une réflexion sur l'avenir de la Cour, après les conférences tenues en Suisse et en Turquie.

J'ai entendu un jour dire par quelqu'un provenant de la périphérie de l'espace du Conseil de l'Europe que notre système conventionnel (celui du Conseil de l'Europe) et, en particulier, la Cour qui en émane et qui apparaît comme l'élément le plus visible, était perçu comme la flamme d'une bougie donnant espoir partout dans le monde à tous ceux qui œuvrent pour la défense des droits de la personne.

L'image m'a frappé et j'ai trouvé qu'elle illustrait fort bien la réalité des choses: la flamme d'une bougie, dans toute sa fragilité et dans toute sa force.

Qui n'a pas, imprégnée dans sa mémoire, la lueur que peut représenter la flamme d'une bougie brillant dans le noir ? Et quel impact lorsque le noir est le plus absolu !

Les 47 Etats qui constituons en ce moment le Conseil de l'Europe avons en commun des racines qui, depuis l'antiquité, se perdent non seulement dans les fondements mêmes de l'idée d'Europe mais aussi à travers les turbulences de l'histoire qui nous ont menés jusqu'à la fin des atrocités de la deuxième guerre mondiale et au-delà.

Nous sommes tous le fruit d'une trajectoire particulière qui nous a forgés tels que nous sommes avec nos tics et nos manies, nos forces et nos faiblesses, nos ambitions et nos renoncements mais avec surtout, pour la première fois dans l'histoire, une envie commune de vivre ensemble en harmonie sur la base d'un programme commun de société qui repose sur trois piliers acceptés par tous : démocratie, Etat de droit, droits de l'homme.

Il se peut que la lueur de la bougie ne dessine pas exactement pour chacun d'entre nous ni tout à fait les mêmes images ni tout à fait les mêmes contours, mais ce qui est important c'est qu'images et contours s'organisent sur un socle commun d'intentions avec un même désir et un commun vouloir.

De là sans doute la difficulté, mais aussi la ferme volonté commune d'aboutir à la déclaration qui nous occupe.

Andorre, nous l'avons énoncé à plusieurs reprises, n'a pas été, n'est pas favorable, à priori, à des modifications substantielles de la Convention.

Cela ne tient qu'à notre manière d'être et d'agir à travers les siècles.

« Conserver les textes autant que possible car même si certains peuvent paraître ridicules c'est parce que nous ne sommes pas capables, peut-être, d'en pénétrer la finesse; ne pas les multiplier mais les faire adaptables au temps qui passe de manière à les conserver et les faire connaître de tous avec rigueur. »

Ainsi glosent les maximes ou conseils que l'on peut trouver dans le Manual Digest, compilation de droit andorran et d'us et coutumes réalisé au dix-huitième siècle à la demande de notre parlement.

- Principe de subsidiarité,
- marge d'appréciation,
- nouveau critère d'admissibilité,
- avis consultatifs,

tous ces concepts, qui ont cristalisé la majeure partie des débats tout au long de ces dernières semaines et montré des positions fort divergeantes, mais aussi un intérêt partagé pour trouver des solutions à l'engorgement de la Cour, nous ont permis d'arriver à un texte de compromis qui certainement ne satisfait personne tout-à-fait : c'est le prix à payer si nous voulons avancer ensemble dans une même direction.

Peut-être eussions-nous préféré, quant à nous, une déclaration centrée sur les procédures, sur la mise en oeuvre de la Convention au niveau national, l'introduction et le traitement des requêtes, laissant le reste pour une réflexion à plus long terme quant au fond, après la pleine application du Protocole n° 14 et, le cas échéant, les résolutions prises par les Etats, après Brighton, au niveau national.

Nous assumons cependant le texte tel qu'il est et nous nous engageons, dès à présent, et avec l'aide de tous, à oeuvrer, au cours de notre prochaine présidence, de manière à le rendre effectif dans les delais prévus.

Armenia/Arménie: Mr Ruben Melikyan

Dear Mr. Chairman, Dear Colleagues,

First of all, I would like to thank the host country – the Government of the United Kingdom for the preparation and organisation of this Conference. We would like also to commend the UK Chairmanship for their transparent manner of working while preparing this draft Declaration.

Now we can state with confidence that the ambitious process of the ECtHR's reforms launched with the Interlaken Declaration two years ago, is progressing in the right direction. And we are already witnessing the first results of these reforms.

But unfortunately, not withstanding the entry into force of Protocol No. 14 and introduced measures, the backlog is still there, so we have to further improve the effectiveness of the Convention system because as it is said "justice delayed is justice denied".

The Government of Armenia believes that proper and effective national implementation and application of the Convention standards are the cornerstones of effectiveness of the Convention system.

In this context we are satisfied that the idea of dialogue between the European Court of Human Rights and national High Courts is reflected in the draft Declaration. While the advisory opinion is seen to be a tool to enhance the dialogue, we are convinced that it's just the beginning of the process aimed to boost mutual confidence and respect. The dialogue would contribute to decreasing the Court's caseload by ensuring resolution of large number of cases at the national level, *inter alia*, by applying reasonably and in uniform manner the doctrine of margin of appreciation when deciding the admissibility of a case.

We attach great importance to the improvement of the processing mechanism as an effective tool for dealing with a high number of clearly inadmissible applications and welcome the idea of engaging the additional judges in filtering of applications, as the advantage of this approach is a greater flexibility and simplicity when compared with other proposals.

The introduction of approaches and ideas mentioned in the draft Declaration will require the adoption of amending instruments by the end of 2013. This timeline overlaps with the chairmanship of Armenia in the Committee of Ministers of the Council of Europe (May-November, 2013). We take this duty and prospect very seriously and are thoroughly considering the form and extent of our contribution.

We'd also like to welcome any significant progress in the process of the European Union accession to the Convention, which will definitely enhance the coherent application of human rights in Europe.

We regret that the Azerbaijani delegation, in its written submission, made an accusatory and vituperative passage with regard to Armenia. Armenia firmly denies such accusations and we consider it an attempt to spread falsified information and abuse in an international forum – High Level Conference on the future of the European Court of Human Rights – by disseminating purely political propaganda.

In conclusion, we believe that our joint efforts will sustain and expand the Court's pan-European and global reputation as a unique international judicial forum which produces high quality jurisprudence.

Dear Colleagues, Armenia expresses full support for the draft Declaration.

Thank you.

Austria/Autriche: Mr Helmut Tichy

Chair,

At the outset I would like to thank the United Kingdom Chairmanship and the Council of Europe for promoting so actively the reform of the Strasbourg Court. After Izmir, the Brighton Conference constitutes yet another significant milestone in the Interlaken Process.

The Declaration, which we shall adopt at the end of this Conference, reflects the substantive progress over the last two years: Protocol No. 14 as well as the Court's impressive performance in taking effective action for coping with the enormous number of cases pending before the Court.

We are well aware that the text of the Declaration reflects a compromise.

Austria has always attached – and continues to do so – the highest importance to the right of individual petition, which is the cornerstone of the Convention system and guarantees the protection of the human rights not secured at the national level. This is why the Court has been created and why it is needed also today.

In the spirit of compromise we accept a reference in the Preamble of the Convention to the principle of subsidiarity and the doctrine of the margin of appreciation as developed in the Court's case-law. The same also applies to the amendment of Article 35(3)(b) of the Convention, given the openness of the Court towards this proposal. We welcome that the two initial proposals no longer figure in the text of the Declaration. I am referring to the proposals to introduce a new admissibility criterion and to grant the Court the power to select the cases it wishes to give judgments on. Austria would not have been in a position – nor will it be so in the future – to accept such proposals. We remain critical of any proposal that would impair the effective protection of the Convention rights.

We welcome the strong focus on the implementation of the Convention and of the Court's judgments on the national level. This also concerns improving the work of the Committee of Ministers in supervising the execution of judgments, where we are equally looking forward to a swift and full implementation of the measures set out in the Declaration. Non-execution of judgments is not acceptable. We also welcome the forward-looking approach of the Declaration and are ready to continue to contribute to all efforts aiming at strengthening the Convention system, the Court and the protection of human rights in Europe.

We will do our utmost, also during the Austrian chairmanship in 2013/14, to see to a successful implementation of the Declaration within the given time frame, in order to secure what we continue to require: a strong and well-functioning system to protect the human rights of more than 800 million people.

Azerbaijan/Azerbaïdjan: Mr Fikrat Mammadov

Dear Chairman, Ladies and Gentlemen,

First and foremost, I would like to express my gratitude to the Council of Europe and British authorities for hosting the next conference devoted to an extremely important issue – the future of the European Court. The results of the Interlaken and Izmir Conferences have already proved the absolute necessity and timeliness of this initiative. Attaching great importance to this issue, the Government of Azerbaijan has decided to send a high-level delegation to Brighton.

Dear colleagues,

We are here today to find solutions to the serious challenges faced by the European Court of Human Rights, which over the past 50 years has become the world's largest and most influential human rights force. The dynamic development of the Court's case law over the years has fostered the raising of human rights standards in our countries to a higher level.

Today the future of the Court is in our hands, "and if there is a purpose" – as Winston Churchill said – "one will succeed". From this perspective, it is crucial to accurately and effectively implement the Interlaken and Izmir Declarations, which had their ideas further built on in the given Brighton Declaration.

We, in Azerbaijan, have been well aware of this and therefore, the measures derived from the Declarations had been discussed at special meetings of the law enforcement agencies, where appropriate instructions were given and specific actions were defined.

We have conducted the largest-ever seminar with judges, which covered more than 50% of the judiciary; we have actively consulted with civil society, particularly human rights NGOs with whom we have established an excellent relationship.

In order to make the wider public aware of the essence of Interlaken and Izmir Declarations, these documents were translated into Azerbaijani language and posted on the website of Ministry of Justice and the Judicial-Legal Council. Along with that, "Practical Guide on Admissibility Criteria", which had been specifically highlighted in Izmir Declaration, was also translated and posted on the Court's and Ministry of Justice websites. It has been duly underlined in the proposed Declaration and, indeed, plays an important role in reducing the number of inadmissible complaints, which still account for 90%. By the way, we have already completed the translation of the second edition of the Guide. It is expected to appear on our website soon.

Bearing in mind that the repetitive complaints unfortunately still represent a huge challenge, an essential element in protecting human rights is a widespread knowledge among the population of what their rights are and how they can be defended.

We are actively cooperating with the European Court, attracting the Strasbourg judges to hold trainings in our country. After Izmir we have doubled our efforts. In July, with the participation of two judges of the European Court, we held a Conference for 50 judges, where the implementation of the Declarations and, in particular, the Admissibility Guide that was distributed there to all participants, were discussed. We have also distributed the Guide among the advocates.

Alongside this, in terms of restoration of violated human rights and maintaining the image of the Court the execution of judgments as well as of general measures plays a crucial role as stated in the Brighton Declaration. Attaching great importance to this issue we do not confine ourselves with the execution of specific judgments, but also take general measures to prevent future repetitive applications. While analysing judgments delivered in respect of Azerbaijan, we have proposed amendments to the legislation and envisaged a set of practical measures. Moreover, these changes have affected many different areas, such as enhancement of the detainees' rights, execution of judgments, extradition procedures, the interpretation of defamation, etc.

As a result, the strategic National Programme for Human Rights had been developed in our country and further approved by the President. This Pro-

gramme has absorbed a number of innovations as well as the provisions of Izmir and Interlaken Declarations.

I would also like to note that the document has a whole section dedicated to raising awareness on human rights, where particular attention is paid to the Convention and the Court's case-law.

According to statistics, since its establishment more than 45% of the European Court judgments revealed violations of the right to a fair trial. Therefore, measures to improve the efficiency of the judicial systems should be continued. Therefore, it is not surprising that modernisation of the judiciary remains one of the priorities of Azerbaijan's state policy. Indeed, as George Washington said: "The true administration of justice is the firmest pillar of good government".

After Interlaken, a number of legislative acts have been enacted in the country, which established additional courts of first instance, improved the network of military courts and set up a system of administrative justice. For the first time in the history of Azerbaijan the administrative courts began to function. They operate on a regional basis to avoid any, even hypothetical interferences by local authorities.

In general, for the past 3-4 years about 20 regional courts, including five courts of appeal have been created in order to improve access to justice.

Taking into account the impact of modern technologies on the efficiency of administration of justice, we are taking active steps to use IT in the courts. Thanks to the joint project with the World Bank a special strategy has been developed, and in order to facilitate individual's access to courts and to improve legal services a single web portal of the entire judiciary was created (www.courts.az).

Alongside this, given the interrelation between the efficiency of justice and the procedures of selection of judges, we have made this process absolutely transparent while taking into account the practices of different States. Ultimately, I would say, we have got the most transparent process of selection that one can ever imagine. The experts of the CEPEJ paid a visit to Azerbaijan to observe the selection process, which, by the way, for the first time in history had been broadcast online on the Internet. They had prepared a feedback report which was then discussed at the meeting of the Commission, which evaluated Azerbaijan's experience on selection of judges as an interesting example of best practices. The same conclusion was reached by the European Union experts working with us within the framework of the Eastern Partnership Programme.

By the way, these days the candidates who have successfully passed the first stages of a multistage selection are attending trainings. This has become possible due to the increase by 25% of judicial vacancies after the Interlaken Conference. The courses that will last for another six months will be coached by both local as well as prominent international experts. Seizing this opportunity, I would like to

invite the honourable judges of the Court to seek an opportunity to take part in the training of candidates, as due to the requirements of Interlaken and Izmir Declarations we dedicate a significant portion of the program to the European Convention and the case-law of the Court.

At the same time we are continuing to provide judges, lawyers and other interested parties with special literature on human rights and case-law of the European Court as well as with other interesting information of the activity of the major European judicial body. For example, recently we have translated and distributed the 2011 statistical report of the Court.

Our Justice Academy constantly holds seminars for judges, prosecutors, lawyers and other legal professionals. After adoption of the Declarations the intensity of this process has increased several times.

It seems that along with these measures, the introduction of fees for applicants, compulsory legal representation, the development of a new admissibility criterion concerning cases properly considered by the national courts, shortening the time limit for lodging complaints, and improvement of filtering mechanisms can give the desired results. The conclusion of settlement agreements and unilateral declarations can also be useful and it is not surprising that its number continues to grow, both in general and in a number of States, including Azerbaijan.

Unfortunately, the Republic of Azerbaijan can not guarantee implementation of the Convention and application of the Court's case-law all over the country due to the occupation of 20% of our territories by Armenia, which caused the emergence of a million refugees and internally displaced persons, whose conventional rights have been violated for 20 years now.

Dear Colleagues,

To conclude, I would like to recall one wise saying: "The rights of every man are diminished when the rights of one man are threatened". And today we are talking about the rights of 800 million Europeans. Therefore, States and the European Court shall be persistent and willing to immediately tackle the challenges faced by the Court. We should do so until, as Martin Luther King once said: "Justice runs down like water".

Thank you for your attention

Belgium/Belgique: M. Alain Cools

Monsieur le Président,

Tout d'abord, la Belgique tient à féliciter de tout cœur la présidence du Royaume-Uni pour l'initiative qu'elle a prise d'organiser cette Conférence. Un travail énorme a été accompli et une concertation intense, tant bilatérale que multilatérale, a été organisée. Ces efforts ont abouti au texte qui est présenté aujourd'hui et qui constitue un honorable compromis entre les 47 Etats membres. La Belgique, qui a quelque expérience dans l'élaboration de compromis, a une grande considération pour la manière dont la présidence a rempli sa mission.

Le texte finalisé aujourd'hui démontre qu'au-delà de toutes les différences entre les Etats membres, il est possible de développer une vision cohérente, inspirée par le souci de donner la pleine mesure à la Convention européenne des droits de l'homme et de reconnaître le rôle de la Cour européenne des droits de l'homme ainsi que des différents autres acteurs, dont le Comité des Ministres et les agents du gouvernement, mais également les tribunaux nationaux, dans le cadre du processus de mise en œuvre de la Convention.

Les Etats membres demeurent aujourd'hui encore investis de la responsabilité de collaborer à l'ensemble du processus et de prendre à leur niveau toutes les mesures nécessaires afin de conférer plein effet à la Déclaration.

La Belgique a clairement exprimé ses points de vue sur le contenu à l'occasion des négociations pour la Déclaration de Brighton et nous ne reviendrons par conséquent plus dessus aujourd'hui, d'autant plus que nous pouvons soutenir le texte de compromis

L'objectif de la Belgique a toujours été de viser la promotion de mesures contribuant à l'efficacité de la Cour, tout en préservant le droit de recours individuel.

Depuis les Déclarations d'Interlaken et d'Izmir, et grâce à l'action effective du Protocole n° 14, on constate clairement que la Cour européenne des droits de l'homme et les Etats membres contribuent à mettre en place des mesures qui, d'une part, réduisent l'arriéré de la Cour et, d'autre part, offrent les garanties nécessaires pour que le justiciable obtienne dans un délai raisonnable une décision définitive au sujet de l'affaire qui le concerne.

La Déclaration de Brighton contribue de manière substantielle à ce double objectif.

Nous saluons dès lors cette Déclaration ainsi que les missions qu'elle comporte. La Cour et les différents autres acteurs peuvent à présent exécuter pleine-

ment les missions et les calendriers y afférents qui figurent dans les différentes déclarations.

La Déclaration de Brighton constitue une synthèse qui indique quelle est la voie à suivre. L'inévitable consolidation est à présent plus que nécessaire.

L'ensemble du processus proposé exigera de la part de tous les intéressés un mode de pensée et de travail adapté et les moyens nécessaires à cet effet devront également être prévus. Le renforcement du greffe ainsi que d'autres mesures requièrent par ailleurs que la Cour européenne des droits de l'homme dispose des budgets nécessaires à l'accomplissement de sa mission.

Nous insistons dès lors auprès du Secrétaire général du Conseil de l'Europe pour qu'il libère les moyens adéquats en observant la rigueur nécessaire et en poursuivant la réflexion sur les priorités.

Les Etats membres demeurent aujourd'hui encore investis de la responsabilité de collaborer à l'ensemble du processus et de prendre à leur niveau toutes les mesures nécessaires afin de conférer plein effet à la Déclaration.

Nous espérons mener ces travaux de front avec ceux que nécessite encore l'adhésion de l'Union européenne à la Convention européenne des droits de l'homme.

La Belgique mettra tout en œuvre pour contribuer d'une manière active et constructive à la mise en œuvre de la Déclaration de Brighton.

Bosnia and Herzegovina/Bosnie-Herzégovine: Mr Bariša Čolak

Excellencies, Ladies and Gentlemen,

First, let me express my gratitude to the Government of the United Kingdom for organising this highly ranked Conference and my pleasure in taking part in this Conference which will, no doubt, result in a positive shift in the future work of the European Court of Human Rights and human rights protection system in Europe.

We are all aware of the vital necessity for the reform of the European Court of Human Rights. In the light of the conclusions made in the Interlaken and Izmir Declarations, I share the opinion that besides results already achieved within the framework of Protocol No.14 all member States should join their efforts in order to ensure that the Convention system remains effective. Stronger implementa-

tion of the Convention at the national level and more efficient execution of judgments under the supervision of the Committee of Ministers of the Council of Europe will certainly contribute to this goal.

We strongly believe that the Court should indeed act as a safeguard of individual's rights and freedoms only in case if they are not secured at national level. The principle of subsidiarity as the cornerstone of the Court case-law can be preserved only if all member States take all measures necessary to harmonise its legislation and national courts practice with Convention requirements and Court jurisprudence, enjoying a margin of appreciation in how they apply and implement the Convention.

In this regard, as a positive example I will point out the fact that the Convention is directly applicable in Bosnia and Herzegovina, and that Constitutional Court of Bosnia and Herzegovina fully applies the case-law of the European Court of Human Rights, which undoubtedly contributes to strengthening the principle of subsidiarity.

Also, in the light of the importance of the right of individual application on one side, and the increasing number of cases pending before the Court, we welcome advances made by the Court in its proceeding, which will certainly help the Court to focus on the most serious cases, avoiding repetitive and ill-founded cases, and to improve its efficiency.

Bearing in mind that the authority and credibility of the Court depends in large part on the quality of its judges and the judgment they deliver, we also welcome the adoption of the Committee of Ministers Guidelines on the selection of candidates for the post of the judge at the European Court of Human Rights.

At the end, I shall conclude by saying that Bosnia and Herzegovina gives its full support to the adoption and implementation of measures contained in the Brighton Declaration, hoping that these measures will efficiently contribute to the human rights protection under the Convention system.

Thank you for your attention.

Bulgaria/Bulgarie: Mrs Denitsa Valkova-Petkova

Mr Chairman, Ladies and Gentlemen,

I would first like to thank the British Chairmanship for their initiative to convene this Conference which gives us the opportunity to continue the serious debate on the future of the European Court of Human Rights initiated in Interlaken and Izmir.

On behalf of my Government I would like to confirm again Bulgaria's strong support for an efficient and working Convention system. This presupposes, *inter alia*, a clear definition of the role of both ECtHR and the national authorities within the Convention mechanism.

With the entry into force of Protocol No.14 significant improvements in the Court's work are being observed, thus enabling it to focus on cases concerning serious violations of the Convention.

Bulgaria reaffirms the crucial importance of the principle of subsidiarity. States Parties under the Convention have primary responsibility for ensuring the human rights protection at national level. In this context we share the view of the importance of prevention and of the focusing of efforts to improve the application of the Convention in the national legal systems, including thorough reforms in domestic legislation, training of magistrates and state officials involved in the protection of human rights, etc. Bulgaria has already taken steps in this direction, particularly the area of the excessive length of court proceedings and the establishment of effective domestic remedies.

We appreciate the considerable efforts of the ECtHR to reduce the number of applications particularly the filtering of inadmissible applications in strict compliance with admissibility rules and the publishing of pilot judgments in view of the effective disposition of repetitive violations.

We also share the view that further measures, including at national level are necessary to deal with the problem of the constantly increasing number of applications to the Strasbourg Court. To this end both the States and the Court have their roles to play. For instance, a review of the current practice of awarding of just satisfaction should be conducted. In many cases the recognition of the violation itself should be sufficient.

In relation to the quality of the ECtHR's judgments, we consider it particularly important that only the most competent judges should be selected. In this respect we welcome the Guidelines for the selection of candidates, while recognising the fact that the primary responsibility for their submission remains with the States.

In conclusion, we all understand the seriousness of the problems we are faced with, but unfortunately there is no one "magic" measure to resolve them. Only through consistent common efforts of the States Parties and the Court to implement the measures agreed in Interlaken and Izmir and now in Brighton will we succeed to preserve the long term effectiveness of our unique system of human rights protection.

Thank you.

Croatia/Croatie: Mr Neven Mimica

Mr. Chairman, Excellencies, Ladies and Gentlemen,

I would like to thank the United Kingdom – as the Chairmanship of the Committee of Ministers of the Council of Europe – for its hospitality and excellent organisation of this important Conference, representing an important milestone in the overall reform process of the Convention system. Indeed, it remains crucial to ensure sustainable functioning of the Court in the long term, preserving – at the same time – its pivotal role and unique character among the human rights protection mechanisms worldwide.

Croatia is and shall remain a strong supporter of the Court and the Convention mechanism. The right of individual application represents – in our view – a cornerstone and a key element of the Strasbourg mechanism.

The ongoing reform of the Court is an important challenge requiring full commitment and support from all of us. It remains crucial to agree on the set of measures aimed at further reform of the Court, thus ensuring its efficiency. This is particularly relevant with a view to reducing the growing backlog of applications, which remains our shared responsibility.

Croatia firmly believes that the States Parties should put in place additional measures for better implementation of the Convention standards at the national level in order to avoid further significant increase in the number of applications before the Court.

Strengthening the system of supervision of the execution of the Court's judgments is another important issue which needs to be adequately addressed. Therefore, we strongly support envisaged efforts in that regard and the proposed review of the current supervision mechanism within the Committee of Ministers.

We also believe that a more effective filtering mechanism should be established with regard to inadmissible applications. In this context, all relevant options should be explored, including those requiring amendments to the Convention. Croatia considers that the strengthening of the Registry remains an important element in this process.

It remains crucial to preserve the consistency in application of the Court's interpretation principles and to ensure efficient application of the new admissibility criteria adopted in the framework of Protocol No. 14. We are not *a priori* against the further review of the admissibility criteria, however, we remain convinced that any possible changes should be based on an in-depth assessment of the effectiveness of Protocol No.14.

With regard to the future of the Court, we are strongly convinced that possible limitation of the Court's role exclusively to serious or widespread violations, systemic and structural problems and important questions of interpretation and application of the Convention, would put in jeopardy the integrity and unique character of the Strasbourg system. This would have a negative impact on individuals whose rights have been violated and who would lose the possibility to gain access to the Court.

We support an open and thorough discussion on the possible future role of the Court, which would take into account all possible options. It is our firm view that the important legacy of the Strasbourg system lies in its direct impact on the promotion and protection of each and every individual in Europe. Croatia heartily believes that this legacy should be preserved – this clearly remains our shared responsibility.

Finally, allow me to commend the United Kingdom's Chairmanship's efforts in leading the process of the elaboration of the Brighton Declaration and fostering consensus among the member States. The Brighton Declaration clearly identifies key aspects of possible concrete courses of action and a wide set of targeted steps to be taken within the reform process. Croatia looks forward to providing its substantial contribution in this regard.

Thank you!

Cyprus/Chypre: Mr Loucas Louca

Dear President of the Committee of Ministers,
Dear Secretary General,
Dear President of the Court,
Dear Colleagues,

May I begin by joining previous speakers in thanking the UK chairmanship for the hospitality, the choice of this beautiful venue and the excellent organisation of this extremely important Conference.

The story of the European Court of Human Rights is undoubtedly a success story; the Court is today a symbol. Some claim even more than a symbol; in some instances, it is actually the last hope of our citizens to seek redress for human rights violations.

Nowadays, however, reform is needed in order to enhance the effectiveness, if not the survival, of the Convention system; it is our duty, dear colleagues, to safeguard the protection system of human rights and its cornerstone, the European Court, in order to guarantee their success.

The government of Cyprus remains committed, as stated in previous Conferences, to abide by the Convention and be actively involved in the process for its protection and enhancement, both at national and international level.

In this respect, we support the aim of the reform to ensure that the Court's case-load is of a manageable size; however, this cannot, in any way, be translated exclusively in figures. That's why, it is our conviction, as it is the Court's Opinion, that new admissibility criteria will not have any significant impact on the Court's case-load.

In reaffirming our commitment to this system, we also confirm our strong attachment to the right of individual petition, which lies at the heart of the Convention system. Cyprus took part in the whole reform process having one major issue in mind; that the right to individual petition has to be preserved, and is not in any way hampered; let me remind you, dear colleagues, that as High Contracting Parties we have undertaken the solemn legal obligation "*not to hinder in any way the effective exercise of this right*".

Another major issue is the implementation of the Convention at national level. States must promptly and fully execute judgments, including the adoption of any general measures that may be required. From our point of view, a lot remains to be done in this regard, by all member States; some more, some maybe less.

Applicants turn to Strasbourg because they feel unsatisfied in finding full justice at home. By addressing this challenge at the national level we most definitely contribute towards diminishing the number of applications which reach the Court.

In conclusion, we consider that a fruitful debate has taken place within the organs of the Council of Europe, the Court and the national legal systems, taking also into account the valuable interventions of the civil society. The draft Declaration before us today is a good compromise, striking a balance between national positions of 47 States Parties.

Dear Colleagues,

We should feel proud of all our accomplishments pertaining to the protection of human rights over the last 60 years. But we should also continue to do what still needs to be done in order to safeguard this valuable acquis.

I thank you for your attention.

Czech Republic/Répuplique tchèque: M. Vít A. Schorm

Monsieur le Chancelier, Président, Mesdames et Messieurs les Ministres, Mesdames et Messieurs,

Je voudrais, à l'instar des orateurs précédents, exprimer la reconnaissance à la présidence britannique pour avoir organisé cette Conférence, proposé des idées parfois un peu provocatrices dans le cadre de la préparation du projet de Déclaration et su parvenir à un consensus lors des négociations sur le texte que nous aurons à adopter en tant que compromis.

La délégation de mon pays a regretté à Izmir, et continue à le faire un an plus tard, que le texte de la Déclaration ne montre pas davantage d'ambition dans la recherche de solutions aux problèmes croissants auxquels la Cour fait face depuis 1998. A Izmir, nous avons évoqué le besoin que toute réforme peut conduire à des mesures audacieuses, voire impopulaires, pour préserver ce qui se trouve au centre de notre intérêt : une Cour pleinement efficace pour assurer le respect des droits de l'homme dans l'Europe d'aujourd'hui.

Pour que nos efforts soient couronnés de succès, il faut s'assurer que les mesures préconisées sont à même de résoudre les problèmes actuels ou, au moins, vont effectivement dans la bonne direction. Il y a un an, beaucoup d'entre nous ont parlé du filtrage or il s'est avéré entre temps, grâce à l'application effective du Protocole n°14 et surtout à la réorganisation du travail à la Cour, que la Cour est en mesure de traiter, sans trop de difficultés, les très nombreuses requêtes clairement irrecevables et qu'en conséquence celles-ci ne mettent pas le mécanisme de contrôle en danger. Nous devrions en tirer l'enseignement que sans vérifier le fond des choses nous pouvons facilement nous trouver sur une fausse piste. C'est avec humilité et respect que j'estime devant vous que cette année non plus, nous n'avons pas réussi à éviter totalement cet écueil car la Déclaration contient toujours des mesures qui, faute de preuve du contraire, sont plutôt susceptibles de dévier notre attention du but partagé de nos efforts et de

nous faire perdre notre temps, telle l'inscription dans la Convention du principe de subsidiarité et de la doctrine de la marge d'appréciation, utilisés pourtant de longue date par la Cour.

Il convient également de ne pas laisser tomber dans l'oubli les idées et propositions qui ont été avancées et étudiées par les experts et pour lesquelles il n'a pas été possible de dégager un compromis cette année. En effet, à nos yeux, la Déclaration ne rejette aucun des éléments qui ne s'y trouvent pas et qui peuvent redevenir utiles au fur et à mesure que notre expérience avec le progrès de la réforme s'enrichit. Il faut aussi présumer la bonne foi avec laquelle ces propositions ont été formulées. Je pense plus particulièrement à la proposition de revoir la procédure de modification du règlement de la Cour à laquelle la délégation de mon pays a fait allusion à Izmir et qui à notre avis n'a rien d'hérétique en soi car elle ne vise point à ôter à la Cour son indépendance dans l'exercice du pouvoir judiciaire.

Mesdames et Messieurs, permettez-moi de rappeler qu'en décembre dernier, nous avons perdu Václav Havel, un homme imprégné des valeurs que protège notre Convention, celui qui a inauguré, il y a presque dix-sept ans, le Palais des droits de l'homme à Strasbourg, qui est par ailleurs l'œuvre de l'architecte Sir Richard Rogers, du pays hôte de notre conférence. Si le Président tchèque n'a pas alors directement souhaité longue vie à la Cour, il a parlé de la continuation d'une grande œuvre par les institutions siégeant dans le Palais, ce qui en présuppose la longévité. Tâchons d'y contribuer nous-mêmes par nos actes car le message demeure d'actualité.

Je vous remercie de votre attention.

Denmark/Danemark: Mrs Nina Holst-Christensen

Mr. Chairman, Ministers, Excellencies,

I would like to take this opportunity to express Denmark's deep appreciation to the British Chairmanship for arranging this very important event and for its tremendous work in preparing this conference. We warmly welcome this opportunity to discuss the future of the European Court of Human Rights.

Mr. Chairman,

Denmark continues to be a strong supporter of the Court and its unique role as the judicial defender of human rights at the European level. Maintaining and strengthening this role has been the main focus of Denmark in our preparatory work for the Brighton Conference.

A number of important and effective measures have already been introduced to address the Court's workload. We are pleased to see that many of these measures appear to be successful and that the number of pending cases is now for the first time declining.

However, we are also aware of the challenges the Court is still facing. We are therefore grateful that the British Chairmanship has made reform of the Court its top priority and has driven the reform process forward so vigorously during these last months.

Mr. Chairman,

We warmly support the draft Declaration which sends a clear signal that the member States of the Council of Europe are ready to take up the challenges facing the Court. We see the draft Declaration as an ambitious yet well balanced document, which rightly focuses on some of the most important issues, such as strengthening national implementation, enhancing the role of the Committee of Ministers and improving the quality of judges and judgments.

We are greatly heartened by what we see as a continuing strong support for making the Court function more efficiently, without endangering its role as a protector of human rights throughout Europe. And we are very pleased that the right of individual petition is highlighted in the draft Declaration. It is no secret that Denmark attaches great importance to this right, which we see as a cornerstone of the Convention system.

Mr. Chairman,

In conclusion, allow me again to thank the British Chairmanship. The calling of this Conference is a clear expression of the dedication to address the challenges faced by the human rights system of the Council of Europe. We are pleased to be part of the collective endeavour of meeting these challenges, and we look forward to continued co-operation in this respect also in the future.

Thank you very much.

Estonia/Estonie: Mr Lauri Bambus

Mr Chairman, Excellencies, Ladies and Gentlemen,

On behalf of the Estonian Delegation, I would like to thank the United Kingdom for organising the High Level Conference on the Future of the European Court of Human Rights in Brighton.

It is important that the States reaffirm – proceeding from the principle of subsidiarity – that it is their primary responsibility to implement the Convention more effectively at the national level while maintaining the necessary margin of appreciation in doing so.

Although a lot has been done and can be done without amending the Convention, both by the States and the Court; two years after Interlaken and after the coming into force of Protocol No. 14, and a year after Izmir, the time is ripe to introduce new well considered amendments to the Convention in order to guarantee the long-term effectiveness of the Court, without undermining the right to individual application. Therefore Estonia welcomes the British initiative to take substantial decisions in the Declaration upon which the Committee of Ministers is invited to adopt concrete amending instruments by the end of 2013.

Estonia has always expressed its support for proposals that help to achieve a situation where the number of applications introduced and applications disposed of is balanced. But for achieving this it is vital to solve the huge backlog of cases currently existing. The "application in – judgment out" system will work only if there is no excessive backlog of old cases.

Therefore Estonia emphasises the urgent need to implement as effectively and quickly as possible additional filtering measures for the pending applications. Although the Court has expected to solve the current backlog of clearly inadmissible applications by the end of 2015; to enable the Court to adjudicate pending and new important and serious cases within a reasonable time, disposition of current backlog of inadmissible and repetitive cases could at the same time be done by additional temporary judges or with the help of senior Registry lawyers. This would allow the "ordinary" judges to immediately focus on cases of priority.

We also find it very important that the Convention is interpreted clearly and consistently in the Court's case-law, so that the States Parties can implement the subsidiarity principle most effectively. Estonia welcomes the initiative to apply the Convention more strictly in both aprocedural and material sense, including more rigorous application of the admissibility criteria and wider application of the principle *de minimis non curat praetor.*

In conclusion, we are optimistic that amendments introduced by Protocol No.14 as well as measures already taken by the States Parties and the Court and new instruments foreseen in the Brighton Declaration will collectively help to ease the Court's workload and provide for more rapid adjudication of cases in the future. Also we stand ready to engage in a forward-looking analysis and evaluation of the potential longer-term measures to further improve the functioning of the Court.

Thank you very much for your attention.

Finland/Finlande: Ms Päivi Kaukoranta

Distinguished hosts, distinguished delegates

The absolute starting point and the final purpose of the activities of all of us here in Brighton and elsewhere, be it at home or in Strasbourg, must always be that of protecting and developing human rights.

Finland for its part remains firmly committed to safeguarding all the Convention rights and freedoms at the national level. We will have an opportunity to address those aspects later today.

We emphasize the utmost importance of the European Court of Human Rights functioning at the international level. Through its case-law the Court gives us and all other State Parties precious interpretative guidance for improving the human rights standard in Europe. It also gives points of reference to other parts of the world in their endeavours to protect human rights.

The right of individual petition is and continues to be the cornerstone of the Convention system, as rightly reflected in our draft Declaration. The genuine access of applicants to the Court remains the driving force that has ultimately made the Court and the Convention control system as powerful as it is today. Finland continues to emphasise the independence, authority and the supervisory role of the Court in the post Brighton developments.

The Court has recently taken effective measures in implementing Protocol No. 14 and especially vigorously applying the Single Judge formation. As a result, clearly inadmissible cases, according to the Court's estimation, will be practically cleared away within three and a half years.

In order to safeguard smooth functioning of the Convention control system, a similar solution should rapidly be found for repetitive cases where the Court's successive rulings are of no substantive use any more. The ideas sketched and prepared by the Court for further simplification of the procedure of these kinds of cases form indeed a commendable exercise. We support such further efforts of the Court to enhance its effectiveness.

We listened carefully the statements by the Secretary General of the Council of Europe and the President of the Court of Human Rights putting forward ideas we can fully support, including that of establishing a fund to deal with the backlog of cases.

Mr. Chairman,

It is to be hoped that after and also due to Brighton, the Court is allowed to concentrate on the work which it knows best in the world, namely delivering sagacious rulings and ensuring even the dynamic interpretation of the Convention.

Finally, we look forward to the accession of the European Union to the Convention in accordance with the Treaty of Lisbon. When realised, it will signify that also the acts of the European Union will be subject to the external human rights control by our Court.

Thank you.

France: M. Laurent Dominati

« La vérité et la justice, couronnés d'arc-en-ciel, reviennent parmi les hommes » écrit John Milton à la fin du *Paradis Retrouvé*.

Hommage soit rendu à ce poète qui, parmi les premiers, défendit les libertés, particulièrement la liberté d'expression. Et hommage soit rendu à sa patrie.

La Conférence de Brighton se situe dans cette longue tradition de découverte et de défense des libertés publiques nées sur le sol britannique.

La France, elle aussi, s'inscrit dans cette perspective historique des droits de l'homme, devenue un axe constant de sa politique et de sa diplomatie.

Qui ne voit l'intérêt d'associer 47 pays, 800 millions de citoyens, à travers une même idée du droit au service de l'homme ? Soumettre ces 47 Etats à un même

contrôle juridictionnel, celui de la Cour européenne des droits de l'homme, contribue à la stabilité du monde.

La France fait donc naturellement partie des défenseurs et des promoteurs de la Cour. Elle sait, comme la Cour elle-même, que la Cour a besoin d'être réformée pour faire face à la demande de protection des droits et aux exigences de justice des citoyens. Une réforme est absolument nécessaire afin de préserver sa place essentielle dans le système de protection des droits de l'homme. Seuls ceux qui voudraient voir la cour s'asphyxier devraient militer pour ne rien faire.

Nous avions dit à Izmir que nous n'étions opposés à aucune suggestion, qu'il fallait explorer toutes les pistes. La présidence britannique a eu l'audace de le faire. Qu'elle en soit remerciée.

Nous avions fixé deux principes pour la réforme :

- Premièrement, elle devait viser à renforcer l'autorité de la Cour et le système de protection des droits de l'homme. La réforme ne pouvait pas se faire sans la Cour.
- Deuxièmement, la réforme devait viser à renforcer l'engagement et la responsabilité des Etats.

Renforcer la mise en œuvre de la Convention au niveau national, c'est non seulement demander aux Etats de remédier aux violations, mais, au-delà, de les détecter et d'en corriger les causes, qu'elles soient législatives, administratives ou jurisprudentielles.

Cette responsabilité des Etats requiert une jurisprudence claire, cohérente et constante de la Cour. Lorsqu'une évolution dans la jurisprudence est envisagée, c'est à la Grande Chambre qu'il appartient de se prononcer. Plus la jurisprudence sera claire, meilleure sera sa mise en œuvre par les Etats. Comme est nécessaire une meilleure information des citoyens afin de clarifier ce qu'ils sont en droit d'attendre d'un recours.

L'inscription dans la Convention du principe de subsidiarité et de la marge d'appréciation va dans ce sens. L'autorité à la Cour, la responsabilité aux Etats.

Dans cet esprit, on ne peut que se réjouir d'un meilleur dialogue entre les Etats et la Cour. De même que l'on ne peut que se féliciter de l'extraordinaire modernisation et capacité d'adaptation dont a fait preuve la Cour, sous l'autorité des Présidents Costa et Bratza.

Ainsi, le processus de réforme doit se poursuivre. Les Etats doivent assumer leur rôle en dotant la Cour des outils nécessaires pour qu'elle puisse se concentrer sur les affaires qui le méritent et rendre ses arrêts dans des délais raisonnables. La Cour a proposé de rationaliser le traitement des requêtes répétitives. Le Comité des Ministres devra y répondre. De même, bien d'autres idées lancées lors des travaux préparatoires reviendront à l'occasion de nos débats.

La France reste ouverte à toutes les propositions. Avec cette idée que la Cour est au sommet de la défense des droits fondamentaux de nos citoyens. Et qu'elle

sera de plus en plus la Cour européenne des libertés publiques en Europe, défendant les citoyens et les peuples de ce continent, comme le fit en son temps pour la défense de l'Angleterre, John Milton.

Georgia/Géorgie: Mr Levan Meskhoradze

Good morning, Mr. Chairman, dear Ministers, respectful colleagues, ladies and gentlemen, I would like to take this opportunity to thank the UK Chairmanship of the Council of Europe for organising this utterly important Ministerial Conference. I also wish to thank other States that have constantly expressed their determination to support the reform of the Court and the Convention System.

The European Court of Human Rights is at the heart of the system for the protection of human rights and fundamental freedoms. As already mentioned this morning, the system is facing serious obstacles, which threaten the effective functioning of this unique human rights protection mechanism. As one of the member States, Georgia supports the reform of the Court and welcomes all endeavours which aim at increasing the Court's efficiency.

In this spirit, Georgia welcomes determination of the States Parties to ensure the effective implementation of the Convention at national level, *inter alia*, by:

- Implementing practical measures to ensure that policies and legislation comply fully with the Convention;
- Considering the introduction of new domestic legal remedies, if necessary, whether of a specific or general nature, for alleged violations of the rights and freedoms enunciated under the Convention;
- Enabling and encouraging national courts and tribunals to take into account the relevant principles of the Convention, having due regard to the case-law of the Court, all throughout the judicial proceedings up until rendering the judgments;

Georgia fully acknowledges the crucial role of the principles such as subsidiarity and the margin of appreciation into the development of the Court's case-law and encourages the Court to further proceed by giving the deserved prominence to these principles by consistently applying them to its judgments.

Georgia deems it essential to instigate open dialogues between the Court and domestic authorities as the necessary means for developing an enhanced under-

standing of their respective roles in order to carry out their shared responsibility in applying the Convention.

Indeed, in light of the shared responsibility, the Court is also compelled to secure the effective operation of the protection system. In this spirit, Georgia welcomes the stricter application of the admissibility criteria embodied in Article 35(1) of the Convention.

Most importantly, it is a primary responsibility of States to guarantee the protection of human rights and proper implementation of the Convention at domestic level. This can be achieved by rapid execution of the Court's judgments.

We are more than confident that the present Conference will have a genuinely positive impact on upcoming Court's reform.

Germany/Allemagne: Dr. Max Stadler

Minister Clarke, President Mignon of the Parliamentary Assembly, Secretary General Jagland, President Sir Nicolas Bratza, Commissioner Muiznieks, Ministers, Ambassadors, Ladies and Gentlemen,

The importance of the Council of Europe's human rights protection system can not be overrated. It affords the citizens of Europe the right of an individual application to the European Court of Human Rights; and this right has been more and more widely used in recent years as awareness of the Court has grown.

Member States are reacting to the problem posed by these growing numbers. This Conference, the third in two years devoted to the ECHR, shows the commitment of governments to ensure a positive future for the Court. I would like to thank our hosts for their immense efforts in bringing the process of the reform another step forward.

The Declaration focuses rightly on the responsibility of member States to ensure compliance 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, it is the only way to bring about a better future not only for the Court, but for the citizens of Europe.

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

But we also have to look at the most pressing needs of the Court. Many developments are encouraging, and we hope for further improvements with the full effect of Protocol No. 14. However, if that should not prove to be sufficient, some additional resources will be needed. We have suggested possible arrangements for additional judges and we are willing to follow up on this suggestion.

Ladies and Gentleman,

The Declaration of Brighton shows that member States are recognising their responsibility for a functioning human rights regime in Europe. We should now concentrate our efforts on putting this into practice.

Thank you very much for your attention!

Greece/Grèce: Mr Fokion Georgakopoulos

Your Excellences, Ministers, Lords, Ladies and Gentlemen,

Following the Interlaken and Izmir Conferences and the implementation of Protocol No 14, the Brighton Conference reaffirms the strong will of States Parties to guarantee at the national level the protection of human rights as provided for by the Convention, under the control of the European Court.

The cornerstone of this system is undoubtedly the individual application. Nevertheless the backlog of the Court threatens effectiveness. The measures introduced by Protocol No. 14, particularly the single judge and the three judge committees seem to have already produced positive results. Any way we believe that further time is needed for the assessment of its full potential.

Introducing new admissibility criteria and enhancing the subsidiarity principle as well as the doctrine of the margin of appreciation is a serious attempt in order to achieve the reduction of the workload of the Court. Articles 35(3)(b) or 35(3)(a) of the Convention, if amended, will most probably permit a further

decrease in the backlog of the Court. It is key for the Court to offload cases of trivial importance and repetitive cases.

We are also of the opinion that the importance of a judgment of the Court, goes beyond the individual concerned in a specific case. The general measures that the State has to take in order to avoid similar violations are of the utmost importance. The effectiveness of those measures relies on the following parameters: the coherence, the stability and the clarity of the case-law, permitting the fruitful co-operation of the States and the Committee of Ministers on this task.

On this same topic, it is essential to note that a stronger publicity of meetings of the Committee of Ministers at the stage of monitoring the execution of judgments could substantially undermine the required flexibility of the whole process.

Furthermore, I would like to draw your attention on the question of just satisfaction. As we have underlined the most important effect of a judgment is the obligation of the State concerned to take general measures. In that way, domestic legal orders abide with the European common standards for the protection of human rights. Awarding to an individual non-pecuniary damage, might be in most of the cases a fair compensation, while satisfying claims for material damage is not in line with the Court's primary role to create a common environment of protection of human rights

Finally, the Greek Government would like to express its appreciation to the UK Chairmanship and the whole Declaration process and look forward to a successful implementation of the Brighton Declaration, hoping that the next High Level Conference will focus on the assessment of the effects of the previous three Conferences.

Thank you.

Hungary/Hongrie: Mr Tibor Navracsics

Ladies and Gentlemen,

Hungary highly appreciates the efforts taken by the British Chairmanship in order to achieve a breakthrough in the long standing process aimed at reforming the European Court of Human Rights. We are convinced that the Brighton Conference will provide new impetus to these endeavours.

I would like to contribute to this process by raising two points regarding the reform of the Court:

In order to increase the efficiency of the Court it is necessary to eliminate the heavy burden of case backlog accumulated by the Court so far. In my opinion steps should be taken on the one hand to reduce the number of incoming applications and on the other hand, parallel to this, to find feasible ways and means to process the already existing case backlog.

To achieve the first objective the British proposal on the shortening of the time-limit open for the submission of applications seems a reasonable solution. The compromise proposal concerning the reduction of the present six-month time-limit open for the submission of applications to a four-month time-limit is acceptable for Hungary. A four-month time-limit might considerably contribute to the reduction of the Court's caseload, while its observance would not pose a problem for applicants proceeding with due care and diligence. Therefore we fully support the British proposal on this point.

To achieve the second objective, namely the elimination of already existing case backlog, it is of equal importance that the Court be provided with appropriate resources in terms of personnel, infrastructure and funding so as to enable it to process the applications as promptly as possible. To achieve this, the allocation of appropriate budgetary resources to the Court is an indispensable precondition. In my opinion the introduction of a new solution might contribute to improving the situation. Under this solution a certain percentage – let's say one or two per cent – of the damages a member State is obliged to pay to the applicant should be reserved and used by the Court for the specific purpose of eliminating the Court's backlog. It is to be emphasised that this solution should only be applied in respect of the length of proceedings cases, whereby the amount of the damages is assessed by the Court on the basis of objective criteria, therefore the risk that budgetary aspects might become dominant in determining the amount of damages is eliminated. Such a solution to finance the processing of the case backlog from the damages paid by the member States would not put additional financial burden on member States, however it would ensure regular increase in the Court's resources which would enable the Court to engage additional experts and judges to eliminate the case backlog.

Hungary wishes to repeatedly emphasise the importance of guaranteeing the right of individual petition and the observance of the principle of subsidiarity which, together, are the cornerstones of the legal protection system of the Convention. Therefore we declare our commitment to achieve the objectives set forth in the Interlaken and the Izmir Declarations, and we support the adoption of the Brighton Declaration which reinforces those objectives.

Thank you for your attention.

Iceland/Islande: Mr Ögmundur Jónasson

I would like to begin by thanking the UK Chairmanship for planning and hosting this important Conference. The dialogue taking place here on ways to develop the Convention system and further strengthen the protection of human rights is in itself a valuable contribution to the enhancement of our fundamental rights.

My background is in trade union politics, and as such – as a trade unionist – I was for years on the protesting and demanding side, having little patience with our government not endorsing all human rights agreements and conventions, whether it be at the UN or Council of Europe. Now that I am in the pilot seat in government I have become more hesitant, more conservative if you like, only wanting to sign and be part of agreements that we are willing to respect and have the capacity to honour. This of course should apply to all contracting parties on an equal footing, be they large or small.

I have no hesitation in saying that being part of the Council of Europe and a signatory to the European Convention on Human Rights has been beneficial to the enhancement of human rights in Iceland.

We are indeed of the opinion that the fundamental protection of human rights is to take place at national level. But Iceland is an example of how the Court's case-law has had a positive effect on structural changes at national level in a member State for the good of society. We see it as crucial that member States ensure an environment for the Court which enables it to maintain this important role of support for the enhancement of democratic values and human rights, and it is important that the member States take the implementation of the Court's decisions seriously.

Of course we all should remain critical of the Convention system as of any system. There is always the risk that systems take on a life of their own irrespective of original purpose. But as we see it this has been avoided so far in the Convention system, thanks to a living dialogue as we are experiencing here today.

In short: Iceland strongly believes that the individual right to complaint is a core principle of the Convention system.

On the question of "advisory opinions" we have our reservations. We have to be careful not to create new structures that could possibly be an added complication to the Courts functions.

We note the success the Court has shown in implementing Protocol No. 14. This is a result to be commended, and it is important that member States continue to support the Court on these efforts.

Iceland supports measures that aim at strengthening the Court while preserving the core values of the Convention system and in general we are content with the draft Declaration as it stands now.

Ireland/Irlande: Ms Máire Whelan SC

Mr Chairman, Ladies and Gentlemen

Please allow me to begin by thanking the United Kingdom authorities for their leadership in organising this High Level Conference and for the hospitality extended to us all in Brighton. We have before us a draft Declaration of real substance, and I commend the United Kingdom Chairmanship for their skill and hard work in bringing the text to this advanced stage.

The position of my country is clear: Ireland fully endorses and supports the draft Declaration before us today.

Just over two years ago at Interlaken, we, the member States of the Council of Europe, committed ourselves to a work programme aimed at securing the long term future of the European Court of Human Rights. Last year in Izmir, at a Conference generously hosted by the Turkish authorities, we resolved to continue that process and build upon the significant work already undertaken by both the Court and our respective Governments.

There has been good progress since then. However, the Court's Annual Report for 2011, and its Statistical Annex, are clear as to the numerical scale and also the diversity of the problems still to be addressed.

We are here now as part of our commitment to preparing, by June of this year, specific proposals for measures requiring amendment of the Convention. It is important though to remember that securing the future of the European Court of Human Rights is not about simply agreeing to amend the Convention. Our collective – and I should say successful – experience in implementing Protocol No. 14 is instructive in that respect. The amendments in that Protocol have not of themselves produced the positive results that are now becoming evident. Rather, it was the commitment, hard work, and determination of all involved in that particular process that made the difference. It is right too that we pay particular tribute to the Court and the Registry for their commitment to both adapt-

ing to and maximising the benefit from the new working methods introduced by that Protocol.

Ireland is particularly pleased to see the right of individual petition described in the draft Declaration as a cornerstone of the Convention system. At Interlaken and Izmir, we confirmed the importance of this right and it is wholly appropriate that we reaffirm this. As the Court has noted in its preliminary opinion in preparation for the Brighton Conference "It is the individual complaint which triggers the Convention review and enables the Court to identify shortcomings at national level." At the same time we have to equip the Court to concentrate on those cases that warrant its consideration. Today's Declaration manages that combination skilfully.

The draft Declaration, as we know, proposes a number of amendments to the Convention, the purpose of which are to secure the future of the European Court of Human Rights, not to lessen human rights protection in Europe. Since Interlaken we have engaged in in-depth analysis and consideration of options and have had the benefit of numerous inputs. We can move with confidence now to the implementation phase. Ireland looks forward to working with others in elaborating the wording of the proposed amendments in good time, as well as giving effect to non-amendment measures.

I believe that with today's work we are on the right track to securing the future of the European Court of Human Rights. We have struck the right balance between much needed reform and the universal objective of the maintenance and further realisation of human rights and fundamental freedoms.

Thank you.

Italy/Italie: Mr Staffan De Mistura

Mr. Chairperson, Mr. Secretary General, Honourable Colleagues, allow me to convey the Italian heartfelt thanks to the British Government for having so actively promoted the discussion on the protection of human rights.

Italy has supported the European Convention on Human Rights since the beginning. We are indeed aware that changes in the European life-standard call now for new efforts to sustain the ECHR system, which needs to be ready to always effectively perform.

It is up to us to address effectively those lengthy procedures that can jeopardise the results that we want in order to protect human rights.

Italy is now focussed on measures to be taken to avoid impasses in the work of the Court that could be created by national procedures, namely with repetitive cases.

We are in fact working on an important reform of our jurisdictional system to avoid the undesirable results of lengthy procedures. The reform would include measures to address the request of compensation through administrative procedures, rather than jurisdictional ones, in order not to overload the tribunals. At the same time, Italian judges would be seconded to the Strasbourg Court to facilitate its work.

In doing so, we are fully aware of the primary role the States Parties must play in the implementation of the Convention principles, in accordance with the responsibility they received from the Convention itself and that they cannot waive.

We continue to support and welcome any national efforts in that direction.

We indeed expect the Court to assist our Government as requested by our Parliament to fulfil our duty to implement the Convention.

We therefore share the following objectives:

- to strengthen the pillars of our European system of human rights,
- to allow the Strasbourg Court to accomplish its mandate while facilitating its performance,
- to ensure an improved safeguard of human rights
- and to ensure that the system we established could be efficiently managed.

We reiterate our expectation that the Court continues to assist the States Parties and consistently control the implementation of the principles embedded in the Convention system.

In fulfilling its mandate, the authority of the Court and its credibility are of the utmost importance. Both depend in part on the quality of the members of the Court:

- therefore we welcome the Guidelines adopted by the Committee of Ministers for the selection of candidates for the post of judge at the ECHR.
- We deem that the dialogue between the Court and the States will be a fundamental asset to ensure harmonised action and to promote a better knowledge of national limits and possibilities.

We are preparing the accession of the European Union to the ECHR. We have to be proud of that and be aware of its importance.

Finally, we believe that such an important draft Declaration should continue to take into account in a transparent way the opinions of the civil society/human rights organisation concerned.

Bearing in mind that at the heart of the Convention lies the European citizen and his rights as an individual:

- l. we fully support the subsidiary principles.
- 2. we fully support the concept that the Court does accomplish its mandate while member States should facilitate its performance.
- 3. the authority and credibility of the Court rests on the quality of its judges. We therefore welcome the guidelines on the national selection of candidates.
- 4. we indeed welcome the accession of the European Union to the ECHR.

We look forward to the conclusion of these important negotiations to be read in the spirit of a co-operative approach by all.

Latvia/Lettonie: Mrs Aiga Liepiņa

Mr Chairman, Your Excellencies, Colleagues,

The delegation of Latvia would like to congratulate the British Council of Europe Presidency for the hard effort in organising today's Conference. Certainly, it may not be compared to the Olympic Games, but it does not make it all the less important for the lives of ordinary European citizens.

For 60 years the European Court of Human Rights has remained a cornerstone of the European human rights protection system that has been used as a source of inspiration for national governments and other international organisations. In this regard, the Council of Europe has achieved far more in terms of human rights protection of concrete individuals than any other international organisation did through its system of a complaints mechanism directly accessible to the individual concerned that can overrule the findings of national authorities and award compensation. This remains something to be really proud of.

It's no secret to anyone around this table that in recent years we have been looking for ways to relieve the Court of its constantly increasing workload. Protocol No. 14 to the Convention, the Interlaken and Izmir conferences are evidence of our collective efforts to find solutions to unburden the Court. At that time, our collective mind was focused on creating a mechanism for the Court to be able to quickly dispose of clearly inadmissible cases, which were seen as being the key ingredient of the Court's backlog. Now, according to the Court itself, the

situation has changed and the Court will hopefully clear the backlog by 2015. According to the same Court's information, the main problem today consists of ill-founded applications. We hope that the current reform measures placed on our table contain proposals for immediate steps properly targeting repetitive cases, enhanced supervision of execution of judgments, including measures specifically targeting States that produce the largest amount of applications to the Court.

Like others, we share concerns over the proper application of the principle of subsidiarity, over the clarity and consistency of the Court's case-law, as well as over some of the Court's practices. Nonetheless, we believe that changing the Convention to resolve the dispute should be the measure of last resort. In this regard, we believe that the avenue of active and extensive dialogue between the Court, the governments and the civil society has not yet been exhausted.

The Government of Latvia remains strongly convinced that the reform measures should not be focused on creating practical obstacles on the way of individual petition, but rather concentrate on measures stimulating national governments to properly apply the Convention at the national level, so the individual will be content with the outcome of national proceedings and only in rare circumstances feel the need to seek justice before an international court. We believe that reform measures aimed at enhancing the execution of the Court's judgments at the national level would provide greater added value than any other reform measure. This will remain as a guiding principle and the absolute priority in our future position.

Thank you!

Liechtenstein: Mr Daniel Ospelt

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

On behalf of the Liechtenstein Government, I would like to warmly thank the Government of the United Kingdom for bringing us together here in Brighton to discuss the very important issue of the future of the European Court of Human Rights. The excellent infrastructure and the pleasant surroundings provide a very good basis for these discussions.

Mr Chairman, it is the spirit of Interlaken and Izmir that has brought us to Brighton, i.e. our common concern for the situation of the Court. And because – as an old proverb says – "nodding the head does not row the boat", we are here to discuss and agree on additional reform measures. That these measures are both urgent and indispensable becomes very clear when looking at the latest statistics of the Court. Even though the Court's backlog of clearly inadmissible applications has recently been improving, this welcome development will only partly alleviate the overall situation of the Court. There is therefore no doubt that further efforts are needed. The main question in the preparations of this Conference and the draft Brighton Declaration has of course been in which direction these efforts should go and which concrete measures should be taken.

Liechtenstein's main focus during the reform discussions of the last two years has been on two important issues: national implementation of the Convention and the safeguarding of the right to individual petition.

The starting point for the first of these priorities was the fact that we fully agree with the assessment of the President of the Court, Sir Nicolas Bratza, that the protection of the Convention rights and the establishment of suitable domestic legal systems at national level is of crucial importance for the task of the Court in Strasbourg. We therefore particularly welcome the emphasis put on the issue of national implementation in the draft Declaration and the holding of an exchange of views on this topic during this Conference.

Mr Chairman, as for the draft Declaration more generally, I would like to say that Liechtenstein is ready to accept the package of reform measures contained in the latest version of the text.

Over the last few weeks, we have actively participated in the negotiations of the draft Declaration in Strasbourg and have commented on the main issues of concern to us. By this I mean in particular the discussions we had on questions related to the competences and independence of the Strasbourg Court which, in our view, continue to be of the highest importance. I mainly refer to the principle of subsidiarity, the doctrine of the margin of appreciation and possible new admissibility criteria. We see the draft Brighton Declaration as a compromise solution also on these issues that we can support.

The draft Declaration includes some elements which we particularly welcome. I would like to specifically mention one of them here, namely the reference to an open dialogue between domestic courts and the Court in Strasbourg. Our national experience shows that such dialogue indeed contributes to a better mutual understanding of the courts and can enhance implementation of the Convention at the national level.

Finally, we note with satisfaction that a proposal which Liechtenstein made in Interlaken, Izmir and afterwards, namely to conduct an audit of the Court, is now

being implemented. We will be very interested in the results which we believe should also be useful for the work on the follow up to the Brighton Conference.

Mr Chairman, let me conclude by thanking the UK Chairmanship for keeping Court reform high on the agenda of the Council of Europe and for your hospitality here in Brighton.

I thank you for your attention.

Lithuania/Lituanie: Mr Tomas Vaitkevičius

Dear colleagues, ambassadors, ladies and gentlemen,

At the outset I would like to thank the United Kingdom, as Chair of the Committee of Ministers of the Council of Europe, for taking an energetic approach to the reform of the European Court of Human Rights. My Government is convinced that careful consideration of all the options proposed as possible paths towards an even more efficient system of the Convention on Human Rights will lead to the desired outcome. In this respect, continuity of the reform process is essential.

It is equally important to preserve those features of the Convention system which have earned respect for the idea of a European catalogue of rights and its European supervision mechanism. The ability of the Convention system to offer solutions to new questions and provide guidance to domestic authorities is one such feature. Providing certainty to everyone that their human rights are supervised by professional, impartial and independent judges is another one. Ensuring equal respect for all States Parties to the Convention in these contexts is vital.

Proper implementation of the Convention as well as the necessary development of its supervising mechanism requires our joint efforts. We should assess our unique experiences in bringing the Convention standards home, and build upon positive similarities. In this connection I should note that the reports by all our States on the implementation of the Interlaken Action Plan provide a valuable source of information for further consideration at the Committee of Ministers of the Council of Europe. The continuing reform of the Convention system should be informed by the analysis of what already works on the domestic level, and what still needs to be improved by taking measures at the European level. Learning from each other should be encouraged.

Ladies and gentlemen, I thank you for your kind attention.

Luxembourg: M. Robert Biever

Monsieur le Président, Mesdames et Messieurs,

Mes remerciements chaleureux vont d'abord au Gouvernement britannique pour l'excellente préparation et organisation de cette conférence.

De par mon activité comme Procureur je suis amené à prendre tous les jours dans les plus brefs délais des décisions face à des faits précis qui viennent d'avoir lieu où il y a lieu d'appliquer non seulement les lois du pays mais encore évidemment la Convention de sauvegarde des droits de l'homme ainsi que la jurisprudence de la Cour de Strasbourg.

Un de nos problèmes bien concrets a d'ailleurs trait à l'évacuation des affaires dans des délais raisonnables.

Permettez-moi toutefois de constater qu'il ne s'agit pas seulement d'un problème rencontré au plan national des différents pays adhérents mais que la Cour rencontre le même problème. Ainsi en 2011, 108 000 requêtes ont été déposées à la Cour de Strasbourg qui a rendu en contrepartie, toujours en 2011, 1453 arrêts.

Pour une juridiction qui condamne régulièrement les pays adhérents du chef de procédures qui n'ont pas été clôturées dans un délai raisonnable ceci n'est pas satisfaisant et nuit même à la crédibilité de la Cour.

Mon pays n'a aucun problème pour marquer son accord au projet de Déclaration de Brighton qui contient indubitablement des avancées intéressantes pour une meilleure évacuation des affaires.

On voudrait cependant saisir l'occasion pour soulever quelques questions qui nous semblent fondamentales en ce qui concerne le futur de la Cour.

D'un côté, devant l'avalanche d'affaires tout système de filtrage des affaires quant à leur admissibilité conduit inéluctablement à rendre celui-ci de plus en plus fin de sorte que l'effectivité d'un recours devant la Cour ne peut plus être considérée comme garantie, alors qu'il s'agit d'un des grands principes consacrés par la Convention.

De même il ne faut pas perdre de vue que dans des sociétés aussi complexes que les nôtres de nouveaux et délicats défis en matière de droits de l'homme se posent de façon inéluctable.

D'un autre côté, le nombre très élevé de recours résulte du moins partiellement de ce que les normes en matière de droits de l'homme sont infiniment plus élevées dans les Etats membres du Conseil de l'Europe que dans la plupart des autres pays de par le monde et ceci entre autres grâce à la Convention et surtout de son application par la Cour.

Toutefois toute médaille a son revers : par son interprétation dynamique la Cour est bien souvent devenue un quatrième degré de juridiction voire, indirectement, s'est érigée en législateur voire en constituant.

Les gains en effectivité des garanties de la Convention à travers le prisme des arrêts de la Cour sont indéniables, pour les grands pays comme pour les moins grands. N'oublions pas que les Etats sont des justiciables comme les autres.

S'ils ne sont pas condamnés ils considèrent ceci comme normal, s'ils succombent il peut arriver, d'après la presse, qu'ils maudissent leurs juges. Je conçois cependant qu'il est plus difficile pour les grand pays d'accepter certaines décisions que pour les moins grands pays.

Combiner des systèmes, des cultures différents en respectant certaines valeurs jugées fondamentales de la Convention n'est pas toujours évident, parfois même presque impossible.

La Déclaration de Brighton s'impose dans l'immédiat pour parer au plus pressé !

Mais ne pourrait-on pas introduire également la procédure prima facié laquelle comporterait une motivation très succincte par un juge unique mais contre laquelle un recours bien motivé pourrait être introduit.

Des décisions de condamnation d'Etats prises par un juge unique dans des affaires récurrentes ne seraient-elles pas à la longue bien plus incisives à l'encontre des Etats plutôt que des simples décisions d'inadmissibilité de recours, même si cette dernière manière de faire a dans l'immédiat l'avantage d'alléger le rôle de la Cour et disons-le d'arranger nos gouvernements qui évitent ainsi des condamnations par la Cour.

D'autres solutions plus profondes, plus radicales peut-être même déchirantes en exécution de décisions politiques courageuses s'imposeront sans aucun doute.

Il serait dommage de voir le système mis en place imploser en raison de ces avancées et de son succès.

Je vous remercie de votre attention.

Malta/Malte: Dr. Chris Said

Mr. President, Dear colleagues,

In the first place I wish to thank the United Kingdom Government for its hospitality and to congratulate them for the excellent organisation of the Conference.

It's the third Ministerial Conference in three years on the reform of the Court. This shows the commitment of all member States to protect and preserve the Convention mechanisms and the right to individual petition, which is the Convention's hallmark.

The Convention is intended to be implemented in all our legal systems. It couldn't be viable if it were implemented by the Court in isolation. We, therefore, support all the efforts by the Council of Europe to strengthen domestic mechanisms for the implementation of the Convention and of the Court's judgments. This sometimes entails difficult changes to domestic legislation and policy.

Implementing the Court's judgments when given with specific reference to one's own legal system or to others often gives rise to a number of mixed feelings and difficulties which are common to all.

These difficulties are inherent in having the Convention system applicable to 47 countries. Eliminating them completely would also imply dismantling the system.

It is essential that the principle of subsidiarity should continue to serve as an important tool for finding the proper balance between the implementation of the Convention by the Court and the domestic courts.

This principle necessarily implies the recognition of a margin of appreciation to domestic courts. This should allow reasonable and adequate room for the national courts to implement the Convention properly within their domestic systems whilst maintaining an important role for the Court in the preservation and development of a common European human rights heritage.

In this regard the Council of Europe's support for the implementation of subsidiarity, is essential.

A proper way of implementing such support is through an open dialogue between the Court and the national judicial and government authorities, including government Agents.

We agree that the question as to what constitutes exhaustion of domestic remedies needs to be developed. This to ensure that an applicant, where a domestic remedy was available, has really argued before the national courts the alleged violation of Convention rights. This would ensure that the national

courts are allowed to properly apply the Convention domestically and that the prospect of having new questions at ECHR level is avoided.

We welcome the idea that it may be necessary in future to appoint additional judges to the Court and also accept the proposal that the period for filing an application with the Court be shortened.

So, to conclude, it gives me great satisfaction to confirm my Government's support for the Brighton Declaration.

Thank you.

Republic of Moldova/République de Moldova: Mr Oleg Efrim

Distinguished Members of the Delegations,
Ladies and Gentlemen,

Let me greet you here today at this Conference, which, I am convinced, will contribute to the strengthening of the European Court reform process towards the long-term effectiveness of the European Convention on Human Rights system.

The profile of human rights has grown in Europe, particularly and increasingly, within the Convention system. Meanwhile, the national constitutional and legal processes have also converged around a single model – the model that is characterised by the Convention ideals of constitutional democracy, human rights, and the rule of law. This Convention model has grown since its adoption and it is extending now at the pan-European level.

We are all aware of the role of the European Court in instituting and developing that Convention model. I also think that nobody would disregard the role of other Convention bodies and Council of Europe institutions in establishing the *Convention machinery* as it stands now and we can observe it. It has actually developed into the new *Convention mentality* that the entire European community share and join.

Nevertheless, it cannot be argued that, while increasing its effectiveness, the *Convention machinery* faces many challenges, which the governments are primarily called to address. Furthermore, I would consider our discussions at the present Conference as a reasonable reply to the commitments on avoiding risks that may lead to the so-called Convention crisis and which would raise funda-

mental questions about its future and purposes. Everybody in here may as well acknowledge that a fear of such a crisis is hovering over us.

Now we are facing up, to say this after *Interlaken* and *Izmir,* the third initiative on reform of the European Court and it is the most aspiring reform. From now on it will be called the *Brighton reform* and it shall occupy its deserved place within the events that have already developed the Convention system. Those events contributed to, I would call it, *the European human rights constitutionalisation* and to the institution of the Convention mentality.

In any case, the *Brighton reform* must be recorded in time as a crucial moment when States agreed that the existence and sustainability of the Convention is no longer a matter of exclusive concern of the Governments and the European Court. Not only the Council of Europe should take care of developing the Convention system. All States' bodies, administrative and prosecution authorities, national parliaments and the judiciary must play their own role in safeguarding the Convention system and acquiring new standards. The entire Strasbourg Institutions' capacity should be involved in this process and the ability of all involved key-actors must be enhanced continuously and constantly. And, of course, the principle of "share and joint", which I mentioned above, should stand at the core of these processes.

I may repeat the findings of most of the delegations present here, that each country within the Convention system has encountered its own issues in the implementation of the Convention ideals into their own domestic legal order. The Republic of Moldova, which I have the honour to represent here, has made significant steps in the implementation of the European human rights mentality and this *European constitutionalisation*. However, by recalling our own issues I would like to emphasise the importance of differences and the significance of consistencies. Countries may have different issues but they have to be consistent in their approach while dealing with them. The present Declaration shows us that all Parties to the Convention are able to find a consensus in addressing the diversity of problems and it is highly commendable that the High Contracting Parties have found the way to preserve and to secure the *Convention legacy*.

Thank you for your attention.

Monaco: M. Philippe Narmino

La Principauté de Monaco remercie et félicite à son tour la présidence britannique du Comité des Ministres du Conseil de l'Europe et les organisateurs de la Conférence de Brighton pour l'occasion donnée de poursuivre les réflexions sur l'avenir de la Cour de Strasbourg entamées à Interlaken et enrichies à Izmir et les efforts entrepris en vue d'établir un projet de Déclaration consensuel.

Le projet de Déclaration soumis à notre examen appelle quelques rapides commentaires de la délégation de Monaco. Ceux-ci sont développés en tenant compte de la présentation et de la structure du texte de la déclaration.

A. Mise en œuvre de la Convention au niveau national

Monaco a pleinement conscience de l'impérieuse nécessité pour les Etats Parties de mettre en œuvre la Convention dans leur législation et leurs pratiques.

La Principauté ne cesse d'ailleurs depuis son adhésion, de modifier son droit pour le rendre conforme aux prescriptions de la Convention et est inscrite désormais dans un processus permanent d'adaptation de sa législation.

L'ensemble de ses juridictions a intégré ces exigences et, si nécessaire, pallie l'absence de textes ou de pratiques conformes à la Convention, voire ignore délibérément des textes qui y sont contraires, en adaptant sa jurisprudence aux obligations européennes et à leurs évolutions.

Les violations alléguées de la Convention sont donc prises en considération par les tribunaux et de ce fait, pour ce qui la concerne, la Principauté de Monaco ne partage pas l'idée (exprimée au point 9 . c) iii) d'instaurer d'autres voies de recours internes puisque l'expérience montre que celles existantes jouent parfaitement leur rôle.

B. Interaction entre la Cour et les autorités nationales

Mais dans l'hypothèse (non encore réalisée à ce jour) où la Principauté ferait l'objet d'un constat de violation de la Convention et que la réparation envisagée ne pourrait être atteinte que par la reprise du procès, une disposition législative spécifique, actuellement en phase d'élaboration, permettra de faire rejuger l'affaire.

De manière générale, Monaco, dont les particularités ont été reconnues lors de son adhésion au Conseil de l'Europe, ne peut qu'approuver la Déclaration en ce qu'elle préconise d'inclure dans la Convention européenne des droits de l'homme les principes directeurs autour desquels doit évoluer la jurisprudence de la Cour, en particulier celui relatif à la marge d'appréciation dont les Etats doivent disposer pour la mise en œuvre de la Convention.

L'extension de la compétence consultative de la Cour afin de permettre aux Etats Parties de solliciter son avis aura pour effet de renforcer le principe de subsidiarité sur le long terme mais n'est pas sans présenter des inconvénients immédiats dont le fait d'alourdir encore le travail de la Cour avec un risque d'allongement du délai des procédures.

C. Requêtes introduites devant la Cour

D. Traitement des requêtes

La Principauté de Monaco partage, dans l'ensemble, l'avis préliminaire de la Cour établi en vue de la présente conférence.

E. Les juges et la jurisprudence de la Cour

Elle réaffirme son attachement à ce qu'un juge au moins puisse superviser chacune des décisions d'irrecevabilité, afin que le contrôle de la décision finale conserve dans tous les cas un caractère judiciaire. Toutefois, elle n'est pas favorable, si des juges supplémentaires devaient être désignés à la Cour, à l'idée de ne pas leur conférer le même statut ou les mêmes attributions que ceux dont disposent les juges en fonction. La crédibilité de la Cour, que la Déclaration entend défendre et promouvoir, s'en trouverait affaiblie s'il devait y avoir un jour deux catégories de juges.

F. Exécution des arrêts de la Cour

La question de l'exécution des arrêts de la Cour rejoint celle de son autorité. Il ne servirait à rien d'améliorer le fonctionnement de la Cour si ses décisions sont ignorées par les Etats Parties et demeurent inexécutées. Monaco estime donc primordial d'améliorer et de renforcer les mesures à prendre lorsqu'un Etat ne se conforme pas aux arrêts définitifs de la Cour.

G. Avenir à plus long terme du système de la Convention et de la Cour

H. Dispositions générales et finales

La Principauté de Monaco marque son entier accord pour une modification simplifiée de la Convention lorsque seules des questions d'organisation sont en cause.

L'urgence qui s'attache à la réforme du fonctionnement de la Cour ne s'accommode pas en effet des processus traditionnels de modification des traités internationaux.

Montenegro/Monténégro: Mr Ljubiša Stankovic

Mr Chair, Your Excellencies, Ladies and gentlemen,

It is my great pleasure to have this opportunity to speak to you on behalf of Montenegro which, as a matter of principle, supports all the activities aimed at safeguarding and strengthening the Convention system of protection of human rights and freedoms as the foundation of the rule of law, true democracy and our common European identity.

The challenge of revisiting the future of the European Court of Human Rights raises a number of questions and dilemmas in the international law, the response to which should result from a comprehensive, responsible and expert analysis. Strong political support of the High Contracting Parties will be required in the implementation of the Brighton Conference conclusions, which will be a pledge for the future European legal order that the European Court of Human Rights has been building through its lively and creative interpretation of the European Convention for more than 50 years.

Montenegro strongly believes in the affirmation of the principle of subsidiarity in the protection of the Convention rights, according to which the fundamental importance is attached to the prior protection of human freedoms and rights on the national level through the system of effective legal remedies.

In that sense, a broadly implemented system of prevention is of vital importance, as well as the full implementation of individual and general measures under the supervision of the Committee of Ministers of the Council of Europe, particularly in the repetitive cases which indicate to the existence of systemic problems in the member States. It will be a strong incentive to preserve the sustainability of the Convention system.

Montenegro strongly supports the balanced approach in the development of the principles of subsidiarity, margin of appreciation and the right to individual application. The development of these principles is a reliable way to strengthen legal certainty and long term sustainability of the Convention system for the protection of human rights and freedoms in modern Europe. It is therefore necessary to make the legal nature and scope of application of each of these principles more precise.

The option of advisory opinion assumes respect for independence and autonomy of national courts, as well as the principle of subsidiarity in international relations, having in mind that the European Court of Human Rights is not a court of fourth instance. The nature of the advisory opinion which the highest national courts could request from the European Court would have to be such as to func-

tion in principle and should not refer to specific court proceedings pending before national courts.

The European Court of Human Rights, as the crown of legal civilisation, perceiving the law as the "skill of good and fair", is the most important mechanism of supervision and therefore it has to enjoy the unequivocal support in further strengthening its efficiency and institutional independence. The strict and consistent application of the admissibility criteria is certainly a step forward in that sense.

Ladies and gentlemen,

I would like to express my admiration for the efforts invested in the organisation of this Conference by the United Kingdom, as the host country, and to thank you and congratulate you for the successful presidency.

Montenegro strongly believes that we can rely with confidence on co-operation and partnership in our wish to affirm our common European values. The Brighton Conference is a proof of that.

Thank you for your attention.

The Netherlands/Pays-Bas: Mr Ivo Opstelten

Ladies and gentlemen,

The Dutch Government remains strongly committed to the Convention mechanism. The proper functioning of the European Court of Human Rights is essential for the "constitutional well-being" of Europe. We therefore welcome the fact that the British Presidency of the Council of Europe focuses on the reform of the Court. Last week, my Government sponsored an international conference on this very topic in The Hague, during which seemingly contradictory opinions on the functioning of the Court merged into a common desire to secure its future. The effectiveness of the Convention system is threatened by the backlog of cases, so firm decisions are called for. At the same time this is an excellent opportunity to further strengthen the quality and legitimacy of the system.

We welcome the emphasis in the draft Declaration on the subsidiarity principle, the doctrine of the margin of appreciation, the need for better implementation of the Convention at the national level, the execution of judgments, tech-

nical assistance programmes and effective measures in respect of States that fail to implement Court judgments.

We are particularly pleased to see a reference to an optional protocol on advisory opinions. We believe this will strengthen the dialogue between the Court and domestic legal orders and reinforce the principle of subsidiarity. By introducing advisory opinions, we aim to alleviate the Court's work load in the long term.

Speaking of the work load, I should stress that positive recent developments are no guarantee for a solution of the overall problem. The time the Court spends processing unmeritorious cases is time not spent on serious cases. If we want to secure the right of individual petition, it is essential that we discuss the unlimited access to the Court, but it is equally essential that we increase the Court's general capacity to process applications. The Court itself has indicated that the bottleneck lies within the Registry, so we need to increase the size of the Registry, for example by seconding more lawyers.

Finally, my government calls for a more active role for the Committee of Ministers. This would strengthen the dialogue between the Court and political institutions and ensure the Court's democratic legitimacy.

Thank you.

Norway/Norvège: Mrs Astri Aas-Hansen

Excellencies, Mr. Secretary General, Ladies and Gentlemen,

First of all, I want to sincerely thank the UK Chairmanship. You have made a great effort to deliver a substantive reform package.

The Brighton Declaration contains a lot of important elements.

In particular, we are pleased that member States affirm their commitment to ensure effective national implementation. This will strengthen human rights protection in Europe. Effective implementation will also relieve the Court of clearly well-founded cases. We are looking forward to seeing the results of this commitment.

Norway is also pleased that there is agreement to draft an optional protocol on advisory opinions. This will contribute to strengthening the principle of subsidiarity.

Even though the Declaration contains important measures, Norway regrets that it has not been possible to agree on a more ambitious reform package:

For several years now, the majority of member States have not been willing to provide the Court with additional resources. Consequently, the Court has not been able to handle the ever increasing case load within a reasonable time.

For that reason Norway supported the proposal to introduce a so-called "pick and choose" system. We believe this would have enabled the Court to manage its case load.

We also proposed to give experienced Registry staff the authority to dispose of clearly inadmissible cases.

In addition, Norway welcomed proposals to consider further reactions against States that fail to implement judgments in a timely manner. In our view, this could reverse the increasing numbers of judgments pending under the Committee of Ministers' supervision for more than five years.

The Brighton process has, however, demonstrated that many member States are hesitant to support such measures. Against this background, we therefore expect member States to:

- substantially improve national implementation, in particular by implementing the Court's judgments in an effective manner
- provide the Court with the tools necessary to deal with applications in a timely manner, and
- allow for the appointment of additional (short-term) judges.

Finally, we encourage State Parties to contribute to the Human Rights Trust Fund, if possible. The Trust Fund contributes to capacity-building and expert support, aiming for a better realization of the Convention at a national level.

We also note with interest the idea of establishing a special fund with the aim of helping the Court to get rid of the current backlog, and look forward to receiving further information about this.

Thank you.

Poland/Pologne: Mr Maciej Szpunar

Poland greatly values the system created by the European Convention on Human Rights. The Strasbourg Court, which safeguards the Convention, is held in high regard by Polish society.

The public's faith in justice from Strasbourg stems, to a large degree, from the right of individual application as currently set down in the Convention. Poland has consistently presented its opposition to any reforms which limit this right.

We are convinced that the Strasbourg Court's problems result not so much from the broad right to make an individual application, but rather from the fact that there is inadequate regard for the Convention at the domestic level. Without effective solutions in the member States, it is hardly surprising that the Strasbourg Court is struggling under an enormous wave of applications. Rather than limiting the right of individual application, we believe that more emphasis should be placed on developing mechanisms ensuring that the Convention is applied at the domestic level.

Poland has always held that the Convention should serve to develop procedural guarantees for litigants. It is also necessary to give them the right to invoke effectively the provisions of the Convention before domestic courts. The Strasbourg Court could stimulate this process by further developing its case-law requiring the applicants to argue before domestic courts the alleged violations of the Convention and assessing the application of the Convention by domestic courts. Such case-law would not only encourage domestic courts to apply the Convention, but also relieve the Strasbourg Court of part of its burden.

We therefore welcome the fact that the Brighton Declaration proposes many innovative and inspiring ideas for better application of the Convention at the domestic level. We urge the Council of Europe, in line with the Brighton Declaration, to deepen its reflection on the procedural guarantees of the implementation of the Convention at domestic level and in line with Poland's suggestion – to prepare a guide to good practice in respect of such domestic remedies.

Finally, Poland is greatly attached to the principles of subsidiarity and margin of appreciation and shares the opinion that the Strasbourg Court should listen carefully to the interpretation of the Convention by domestic courts. Poland has some misgivings about the inclusion of the principles of subsidiarity and margin of appreciation in the Convention itself. The explicit reference to these two principles in the Convention could be abused in situations where there is no true commitment to human rights at the domestic level. We have much confidence that the Court itself is best placed and capable of applying these principles. These

two principles must go hand in hand with the strong commitment of the State to fully respect the Convention as it is interpreted by the Court.

In conclusion we consider that the Strasbourg Court should not be left alone in its task of ensuring the protection of human rights for Europe's citizens. The place where reforms are needed is not primarily in the Strasbourg Court, but rather at the domestic level. The domestic courts should finally assume their part in responsibility for the application of the Convention and for remedying its violations. Poland believes that it is possible to preserve the Convention system and the right of individual application in its current form. The effective functioning of the Court can be ensured by extending the human rights protection system, not by limiting its basic foundations.

Portugal: Mr Luís Filipe Castro Mendes

Mr Chairman, Excellencies, Ladies and Gentlemen,

May I begin by thanking the British Chairmanship for bringing us together here and for the warm welcome and hospitality offered to us in this pleasant city of Brighton. This is an occasion to renovate our commitment to the Court and to express, once again, our confidence in its role as conscience of Europe.

We reaffirm our profound commitment to the Convention and recognise the crucial importance of finding pragmatic, constructive and forward-looking solutions that enable the prompt and efficient functioning of the European Court of Human Rights. In fact, despite all our efforts, situations occur where the Court reveals to be the last resource to those having experienced violations of human rights we have not been able to prevent.

Portugal attaches fundamental importance to the preservation of the right of individual application before the Court and to the requirement that all of its decisions be made by a judge, as they are cornerstones of the human rights protection system enshrined in the Convention. These features make this international mechanism unique in the world, allowing all individuals in Europe the possibility to submit their grievances and to have them considered by a legal jurisdiction, even if in an abridged manner.

Portugal recognises the importance for the effective implementation of the Convention, the principle of subsidiarity and the doctrine of the margin of

appreciation, as reflected in the Court's case-law. State Parties have the primary responsibility to ensure the effective respect for the rights and freedoms guaranteed by the Convention and to remedy violations at national level. This shared responsibility contributes to the constructive dialogue between the Court and national jurisdictions.

Nevertheless, it must always be ensured that the Court is able to duly review, in a strict and consistent approach, whether a domestic judgment itself falls within the often broad, acceptable bounds of legitimate interpretation and application of the Convention.

Portugal considers essential, as well, that the Court is able to focus on pertinent cases that fulfil the admissibility criteria. And we also welcome the strengthening of requirements concerning the exhaustion of all domestic remedies, as well as, in general, the stricter application of the admissibility criteria.

In this context and bearing in mind that the full potential of Protocol No.14 should still be further explored, Portugal welcomes the reflections carried out here, in Brighton and supports fully the draft Declaration.

The priority attached by the British Chairmanship of the Committee of Ministers to this matter is fully shared by Portugal and we are deeply grateful for its sustained efforts aiming at finding a consensus among the 47 States Parties to the Convention.

Mr. Chairman, on the occasion of the abolition of the death penalty in Portugal in 1867, Victor Hugo praised my country saying "Proclamer des principes, c'est plus beau encore que de découvrir des mondes!" About one hundred and fifty years later, human rights and fundamental principles still need to be proclaimed and made effective in everyday lives in many parts of the world, including at home, here in Europe, and no State Party can consider itself immune to error. Both the Convention and the Court have conquered the status of beacon in this route; but the continuous co-operation and good will of all Contracting Parties are essential to get to safe harbour.

I thank you, Mr. Chairman.

Romania/Roumanie: Mr Bogdan Aurescu

On behalf of Romania, I have the pleasure to express my deep gratitude to the British Chairmanship for organising this timely Conference and for the excellent management of the entire process.

Since its beginnings in 1949, the European Convention on Human Rights has contributed a lot to the democratic stability in Europe. This Conference represents an excellent opportunity for Romania to reaffirm its strong support for the principles and values consecrated in the Convention system.

The basis for the future reflection process is today's reconfirmation of our political commitment to the Convention and identifying ways to strengthen the protection mechanism enshrined in this instrument.

Having regard to the challenges that the Court is confronted with, a consolidated common vision as to the way the reform process should continue is more needed than ever.

It is Romania's belief that this vision represents the most important element; it will allow us to deepen and give substance to the reform initiated eight years ago, when Protocol No. 14 to the Convention was adopted.

The Interlaken and Izmir Declarations represented essential steps forward for making the system more effective; the measures that we envisaged therein proved to be successful until now.

As regards to what has been achieved, important progress has taken place in developing the concepts of friendly settlements and, where needed, unilateral declarations, as well as in implementing the pilot judgment procedure. Moreover, making the most out of the provisions of Protocol No. 14, in particular the successful exploitation of the Single Judge procedure have proved to be important tools in dealing with the current backlog of the Court.

Romania considers that it is essential, when analysing future commitments to reinforce the Convention system, to keep in mind the principles deriving from the Interlaken and Izmir Declarations. In this respect, let me underline Romania's attachment to the right of individual application, as a cornerstone of the Convention mechanism, as provided for in the draft Declaration.

The right of each and every individual to obtain justice and remedies for the violation of the rights guaranteed by the Convention, committed by the state and not compensated at national level, is a unique feature of the Convention mechanism and one that has made a positive difference in the lives of many European citizens.

Let me also express our political determination to guarantee the future effectiveness of the Court, including by a proper implementation of the Convention and of the case-law at national level.

We believe that States are the first called to create a legal environment providing for the observance and effectiveness of the rights enshrined in the Convention. The experience is proof of the efficient supporting role of the Committee of Ministers in achieving this important commitment.

Romania supports that the Declaration be adopted in the framework of the Conference and stresses the importance of an effective implementation of the Convention at national level. Romania is engaged in creating and developing adequate domestic remedies which would allow the Convention rights or their violations to be addressed within the national system.

We also support the Brighton Declaration looking at measures which could be undertaken in the longer term, in order to secure the future effectiveness of the Convention system. It is our belief that a process of reflection in this regard is necessary and we are glad to see that a balanced approach is envisaged to this issue. We are ready to actively contribute to the process of further reinforcing our Court and to implement measures which will be decided, after a thorough assessment of their potential efficiency.

The Brighton Declaration represents the incarnation of a necessary compromise on many difficult subjects. In our view, the text could be, overall, regarded as a solid basis for the complex work ahead of us. I hope that the conclusions of the present Conference will contribute to a fortified protection of human rights in Europe.

Russian Federation/Fédération de Russie: Mr Georgy Matyushkin

Ladies and gentlemen!

I am honoured to be able to participate in the Ministerial Conference on the Future of the European Court of Human Rights here in Brighton and, on behalf of the Russian Federation authorities, would like to thank the British Chairmanship for the organisation of this conference, which gives us the opportunity to

continue our search for solutions to ensure the effectiveness of the Convention system.

In this connection, I would also like to stress the importance of the High Level Conferences at Interlaken and Izmir at which momentous impetuses to new initiatives for strengthening this system and regarding the future of the European Court of Human Rights were given. Implementation of the Interlaken action plan and the Izmir follow-up plan is of great importance for achieving the desired objectives.

The Russian Federation authorities emphasise that they highly appreciate the Court's contribution to the protection of human rights; they are interested in the effective functioning of the Court and welcome the Court's achievements in dealing with the outstanding clearly inadmissible applications.

Like all other States Parties to the Convention, the Russian Federation shares the strong commitment to promoting human rights and fundamental freedoms enshrined in the Convention. The principles, on which the Convention system is based, must be fully respected by all governments in order to ensure enforcement of human rights obligations. The first responsibility for guaranteeing these rights lies with the States. This means that the States' commitments to comply with the Convention standards and requirements need to be met.

The Russian Federation authorities are trying their best to fully implement the Convention at national level, including by means of providing remedies for violations of the Convention and encouraging national courts, law enforcement agencies and other competent bodies to take into account principles enshrined in the Convention and the case-law of the Court in their activities.

The Russian Federation authority's vision for reforming the European Court of Human Rights is constant, consistent and in line with the Brighton Declaration on all principal points, including with respect to the right of individual application; shared responsibility of the States Parties and the Court for realising the effective implementation of the Convention, underpinned by the fundamental principle of subsidiarity; affording each State Party a significant margin of appreciation in how it applies and implement the Convention; providing the Court with practical tools to ensure that it adjudicates only those cases in which the principle of significance of violation warrants consideration by the Court; inviting the Court to make specific provision in the Rules of Court for a separate decision to be made on admissibility at the request of the respondent Government, when the relevant requirements are met, and to develop its case-law on exhaustion of domestic remedies in the specified direction; ensuring the effective and impartial supervision of the execution of judgments carried out by the Committee of Ministers.

The Russian authorities maintain their stance that the Court's case-law should be fully in keeping with the criteria of clarity, predictability and consist-

ency and reasonableness of the time of proceedings, that, in the process of examination of cases, judicial functions must be discharged exclusively by judges, not by employees of the Registry and the role of the Grand Chamber in ensuring consistency in the Court's jurisprudence should be strengthened. The Court should intervene only in extreme cases where the domestic institutions are incapable of ensuring effective protection of the rights guaranteed by the Convention and concentrate its activities on systemic problems and to ensure the comprehensive and consistent interpretation of legal provisions of the Convention, which would serve as a legal guidance to the State Parties to the Convention. The principle of subsidiarity should be fully respected when dealing with requests for interim measures under Rule 39 of the Rules of Court.

With regard to extending the Court's competence to issue, upon requests of national highest courts, advisory opinions concerning the interpretation and application of the Convention's provisions, the Russian Federation authorities reiterate their position that it can be agreed upon provided that it is consistent with constitutional provisions and legislation of the member State concerned. Advisory opinions shall be delivered only at the request of a State Party and shall be non-binding on the other States Parties.

The Russian Federation authorities do not share the opinion that the Convention should be amended to allow for the appointment of additional judges to the Court.

The Russian Federation authorities also consider that the accession of the European Union to the Convention will enhance the coherent application of human rights in Europe and believe that it should be based on the principles of equality of all Contracting Parties.

In concluding, let me once again express our thanks to the British Chairmanship for the successful organisation of the Brighton Conference and for the warm hospitality extended to us.

Thank you for your attention

San Marino/Saint-Marin: Mrs Antonella Mularoni

Mr. Chairman, Distinguished Colleagues, Excellencies,

Let me start by thanking the United Kingdom for hosting us in this pleasant city.

It is a pleasure for me to participate in this Conference, which is extremely important in order to determine the future of the European Court for Human Rights.

The measures introduced with Protocol No. 14 have significantly improved the capacity of the Court to process applications, which lead us to the conclusion that they were the right choice. We thank the Court for the action successfully conducted to reduce significantly the backlog using all the possibilities offered by Protocol No. 14.

However, we are here to decide what more can be done to empower the European Court of Human Rights to fulfil its role of granting protection of human rights and fundamental freedoms throughout Europe.

The European Convention system is unique and an example all over the world. As is often stated, the Court is the victim of its success, because of the precious work it did over the decades. When the European Convention on Human Rights and Fundamental Freedoms was drafted, no one would have imagined the incredible number of applications that some decades later would have arrived at the Court for examination. No doubt one of the reasons is that no fee is required and that applicants who've previously lost in their own country always look for an additional remedy. But this also means that people living in Europe are confident that the European Court for Human Rights will grant them justice. And we have to adopt measures able to guarantee that this confidence won't be lost, as we cannot forget that the justice accorded by the Court is so often for the most vulnerable subjects of our societies, i.e. those most in need of the Court's protection.

This Conference represents a crucial moment for our future work. The draft Declaration is comprehensive and has tried to address all the topical issues. I congratulate all who worked on it for the content and for the consensus reached. A special thanks to the UK Chairmanship and to the Court, that has provided opinions and useful arguments to reach the best possible solutions.

The right of individual petition to the Court has always been a crucial element of the protection awarded by the Convention and we are deeply satisfied to see that it remains untouched.

We consequently welcome the relevant place given to it in the text of the Declaration, in order to reaffirm it as a cornerstone of the system.

At the same time, without strong co-operation and interaction between the Court and the national authorities, the European Court of Human Rights will never be able to deal with the many cases pending before it within a reasonable time. We firmly believe that it is in the spirit of the Convention to see national authorities implement rapidly the decisions of the Court, be it for Parliaments to

modify the legislation or – when this might be the case – for national judges to change the case-law or for the administrative authorities to change some rules or procedures. One of the most serious problems experienced by the Court in the last few years has been the huge number of repetitive applications, especially from certain countries, which are apparently unable or unwilling to change the situation that amounts to a violation of the Convention or of its Protocols.

It is important to reduce the backlog of manifestly ill-founded cases. However, we are much more worried by the many well-founded cases whose applicants have to wait too long before having them examined. The consequence of such a delay is detrimental not only to the applicants but even more to the effectiveness of the system of the protection of human rights and fundamental freedoms envisaged by the Convention, in which Article 6 provides that judgments be delivered within a reasonable time.

We consequently fully agree with the weight given in the draft Declaration to the implementation of the Convention at national level. The required interaction places undoubtedly a lot of responsibility on State Parties. However, it is a responsibility that we all have to discharge to fulfil the duties accepted at the moment of the ratification of the Convention.

My country has always considered as fundamental the compliance of our legislation with the principles and standards of the Convention and the full and quick execution of the Court's judgments and is ready to do its part also with respect to the Brighton Declaration.

To conclude, I would like to reiterate the full commitment of my country to the reform process and our wish that the objectives set forth in the Brighton Declaration will be accomplished in due course with the support of all States Parties and in close co-operation with the Court.

Serbia/Serbie: Mrs Gordana Pualić

Madam/Mister Chairperson, Your Excellencies, Ladies and Gentlemen,

Let me express firstly, our appreciation and gratitude to the Presidency of the United Kingdom for all its efforts in the run up to the Brighton Conference. The tremendous importance of this Conference lays in the fact that it has been organised to reaffirm the States Parties deep commitment to the Convention for the

Protection of Human Rights and Fundamental Freedoms and to evaluate the results achieved in the implementation of Protocol No. 14 and reform process launched by the Interlaken and Izmir Conferences, but also to highlight the guidelines for the future.

Since the accession of the Republic of Serbia to the Council of Europe we have continuously supported the right of individual petition and system of protection of human rights before the European Court of Human Rights.

The Republic of Serbia recognises and remains focused on all result-oriented activities envisaged to promote and improve the viability of the Convention mechanism based on democracy, rule of law, common European values, principle of subsidiarity and shared responsibility between the States Parties to the Convention and the Court but also on the respect for legitimate differences regarding the way of implementing the Convention in different States Parties.

Let me briefly expose several issues of great importance for the Republic of Serbia.

Firstly, the effectiveness and credibility of the Convention and the quality and the consistency of the case-law and the authority of the Court depend on solving the problem of the Court's backlog. In this regard, the Republic of Serbia welcomes the advances made by the Court's priority policy and new working methods and believes that the Court should further develop the new admissibility criterion and apply other admissibility criterions fully and consistently and secure the coherent application and interpretation of the substantive provisions of the Convention.

Furthermore, the Republic of Serbia welcomes the Court's suggestion that the time limit for lodging the application could be shortened and pleads its stricter application by the Court. Also, we are in favour of the idea of making specific provision in the Rules of the Court for a separate decision on admissibility when there is a particular interest for this.

Also, I would like to underline that we welcome the proposals with regard to the long-term future of the Convention system in particular concerning the Court's discretion to select the application it considers, allowing the Court to consider only those cases that are not covered by the existing well established case-law and limiting the Court's power to grant just satisfaction to applicants under Article 41 of the Convention.

Ladies and Gentlemen,

The Republic of Serbia advocates that the Committee of Ministers initiate a comprehensive review of the procedure for the supervision of the execution of judgments of the Court, and its own role in this process.

Finally, Serbia would like to underline its strong compliance with the measures envisaged to ensure the effectiveness of the Court and the control mechanisms defined by the Convention.

Thank you for your attention.

Slovak Republic/République slovaque: Mrs Marica Pirošíková

Dear Mr. Chairman, your Excellences, Ladies and Gentlemen,

Slovakia is grateful to the British Government for organising this important conference. We appreciate British tireless efforts to deal with complex and difficult European Court of Human Rights' reform agenda.

Slovakia concurs with the British Chairmanship that the European Court of Human Rights should and must remain in focus of our interests. In our view it is not only the Court itself but the system created by the European Convention on Human Rights as such. In this juncture we cannot but reiterate our full support for the basic principles of subsidiarity and shared responsibility.

We see that the situation of the Court is far from being perfect. However, statistics which show results of the implementation of Protocol No. 14 are promising and indicate significant improvements. Slovakia looks up on them with optimism and hope. In addition, we believe that the proper implementation of Interlaken and Izmir Declarations might bring another ease to the Strasbourg machinery. We are looking forward to the further analysis of this process.

Bearing all this in mind, we retain our position expressed on numerous occasions including at the Izmir conference. What we would like to reiterate at this stage, the special character of the control mechanism established by the European Convention on Human Rights should be preserved. So should its cornerstone – the right to individual application. We understand, and our consequent approach to the reform agenda is determined by the fact that we should admit only those changes to the Convention system that would not do any harm to this unique right.

In reforming the Court we should not forget principal beneficiaries of the system – the applicants. We should not punish them for the Convention system not being that effective as we would wish. In this context, we should keep in mind that they were in many cases forced to address the European Court due to the malfunction of the national human rights protection. Moreover, despite creation of effective means of remedy at national level, in many cases it was only the Court providing appropriate protection of human rights to applicants not obtaining

sufficient redress at national level and creating thus a manual for the proper implementation of the Convention for the further practise of national courts. In my country, the Constitutional Court refrained from its formalistic approach concerning the individual application following the relevant judgments of the European Court delivered against Slovakia.

We cannot agree that with the aim to have more effective European Court, we exclude the actual scope of its supervision in individual cases by limiting its jurisdiction only to the most serious violations of the Convention. As President Bratza already mentioned we should avoid the situations of impunity.

Due to these reasons we join the reservations of the European Court expressed in preparation for the Brighton Conference especially concerning the sunset clause, fees and compulsory legal representation, "pick and choose" model and advisory opinion.

Having regard to the above mentioned, we identify ourselves with the final proposal of the Brighton Declaration and underline that the responsibility for the effective operation of the Convention remains not only at the European Court itself but first and foremost on the member States.

I thank you for your attention.

Slovenia/Slovénie: Mrs Katja Rejec Longar

Esteemed Ladies and Gentlemen,

It is a great pleasure to be here as we meet together for the third time at the high-level Conference to discuss the future of the European Court of Human Rights. First, I would like to thank the British authorities for having convened this important event and for the hospitality you have provided us.

We feel that a lot has already been done following the entry into force of Protocol No. 14, Interlaken and Izmir. We must also agree that here in Brighton it is time for taking concrete decisions on the specific reform measures for the nearest future. In addition, the Declaration we are to adopt here will together with the Interlaken and Izmir Declarations provide us with a good and solid basis for further reflection on future steps.

Proper functioning of the Court has always been of the utmost importance for Slovenia. We wish the Court to keep a prominent role in the decades to come as

we place great trust and respect in its judgments and feel that its role of protector of human rights is of inestimable value for all 800 million Europeans and a great source of inspiration even beyond European borders. Bearing this in mind, we are happy that the compromise package of proposed measures envisaged in the Declaration we are to adopt here is neither expected to curtail the Court's jurisdiction nor place restrictions to the right of individual application, which is a cornerstone of the current Convention system.

The basic challenge we are facing all along is that of achieving a long-term balance between the input and output of cases before the Court. We believe that the only right way in achieving this goal is not by limiting the right of individual application or access to the Court, but by bringing State Parties to implement the Convention more efficiently and to take full account of the jurisprudence of the Court and full responsibility in effective execution of its judgements. Keeping this in mind we are very happy to see measures that will serve this aim included in the Declaration, especially the possibility of extending the Court's jurisdiction to give advisory opinions which would have a positive impact on national courts' jurisprudence and lead to the strengthening of the subsidiarity principle and thus expected to decrease the Court's workload in the longer-term.

At the end let me just stress that we believe in the bright future of the Court and if we all stand united we can not fail.

Thank you for your attention.

Spain/Espagne: M. Fernando Roman

Monsieur le Président, Messieurs les Ministres, Messieurs les Secrétaires d'Etat, Messieurs les Représentants permanents auprès du Conseil de l'Europe

Tout d'abord, je souhaite vous remercier pour votre accueil et hospitalité dans cette belle ville de Brighton.

J'aimerais aussi faire part à la présidence du Royaume-Uni du Comité des Ministres du Conseil de l'Europe de notre gratitude pour l'effort fait dans l'élaboration de la Déclaration que nous allons approuver demain.

Tenant compte de la situation de la Cour européenne des droits de l'homme de Strasbourg, largement connue et qui peut être résumée par l'expression déjà connue que « la Cour est en danger d'être victime de son propre succès », après

Interlaken et Izmir il fallait faire un pas en avant. Le Royaume-Uni a relevé ce défi avec une totale détermination.

Il ne fallait pas prolonger davantage le débat. Le diagnostique était déjà fait, et les possibles mesures à adopter parfaitement identifiées. Il s'agissait de choisir et de prendre des décisions. La tâche n'était pas du tout facile, devant compter avec le consensus des 47 Etats membres, chacun avec leurs propres caractéristiques dans le domaine de la protection des droits de l'homme.

Or, après une intense négociation, toutes les parties ayant cédé à plusieurs reprises, nous sommes arrivés à un texte de consensus. Il est évident que personne n'a comblé toutes ses aspirations, mais aussi nous nous sentons tous reflétés, d'une façon ou d'une autre, dans ce consensus d'une valeur inestimable.

L'Espagne réitère son engagement avec la Cour. Nous sommes convaincus qu'elle continuera à jouer un rôle essentiel dans la protection des droits de l'homme en Europe.

Justement à cause de cela, nous ne pouvons pas rester passifs devant la situation créée par le nombre croissant d'affaires qu'elle doit résoudre. Nous devons garantir son futur. Le pire ennemi de la Cour serait la passivité des Etats membres de la Convention.

Pour l'Espagne, la signification de la Déclaration de Brighton se résume en une série d'éléments essentiels que nous partageons.

Tout d'abord, la Déclaration met en exergue que la vraie réforme de la Cour peut seulement être obtenue si les systèmes nationaux de protection des droits de l'homme sont mis à jour.

En effet, la Cour de Strasbourg ne peut pas être conçue simplement comme une troisième ou quatrième instance après les recours nationaux, mais qu'elle doit agir subsidiairement et respecter la marge d'appréciation nationale. Il faut renforcer les systèmes nationaux, mais en même temps, éviter que la Cour ait à se prononcer d'une façon redondante.

Par ailleurs, et comme le signale la Déclaration, il est indispensable que les Etats membres de la Convention respectent les obligations émanant des jugements condamnatoires. Il en découle l'importance d'adopter les mesures appropriées, aussi bien individuelles qu'à caractère général, qui empêchent que la réclamation se reproduise et devienne répétitive, avec les complications et accumulations d'affaires à la Cour qui en résultent.

L'Espagne apprécie positivement le contenu de la Déclaration, aussi bien en ce qui concerne le besoin de ménager la qualité professionnelle des juges proposés par les Etats membres, que quant au besoin d'unité et clarté dans la jurisprudence de la Cour, tout en continuant à examiner de possibles mesures pour son renforcement en moyens et ressources suffisantes.

En fin de compte, l'Espagne considère que la Déclaration contient les lignes essentielles requises pour que le système de la Convention puisse continuer à

avancer, sans renoncer à ses fondements essentiels. Cependant, il ne faudra pas oublier à aucun moment, que le succès de la réforme dépendra en grande partie de la mise à jour des systèmes nationaux.

Je crois, donc, que nous pouvons être satisfaits du résultat obtenu et féliciter de manière spéciale la Présidence britannique pour l'élaboration et approbation demain de cette Déclaration que nous estimons prometteuse pour faire face et surmonter les difficultés actuelles du système de la Convention.

Merci beaucoup.

Sweden/Suède: Mr Magnus Graner

Excellencies, Ladies and Gentlemen,

I would like to begin by thanking our British hosts for their hospitality and for taking the initiative to organise this important conference here in Brighton. Sweden supports the adoption of the draft Brighton Declaration.

There is no doubt that the European Convention on Human Rights is an extremely important instrument for the protection and development of human rights in Europe. The anticipated accession of the European Union to the Convention will affirm the commitment of the EU to the protection of human rights. Sweden is a strong supporter of a swift accession.

The right of individual application is – and should remain – a cornerstone of the Convention system. The Court and the member States have a shared responsibility for guaranteeing the protection of the rights and freedoms set forth in the Convention. However, the primary responsibility lies with the member States. The role of the Court is subsidiary. On this, we all agree.

Like others, Sweden is deeply concerned about the number of applications pending before the Court. There is a serious risk that the quality and consistency of the Court's case-law will suffer in the long term. Following the entry into force of Protocol No. 14 and through its own internal reforms, the Court has succeeded in rendering its processing of applications more effective. This is to be applauded. However, despite this progress, processing times are still unacceptably long.

Sweden is convinced that for the effective functioning of the Convention system, it is absolutely vital that member States fully implement the Convention

at the national level. This includes the rapid and effective execution of the Court's judgments. States should also give consideration to the implications of judgments against other States, in so far as this is relevant to their own legal systems.

Sweden appreciates that national implementation and execution of judgments are given a prominent place in the draft Declaration.

In implementing the Convention, member States should, if necessary and upon request, be given practical and legal assistance from the Council of Europe. Sweden believes that the possibility of receiving such assistance should be enhanced.

Particular attention must be given to "repetitive cases". These cases, regrettably, still make up a large part of the Court's case-load. It is the responsibility of member States to remedy the systemic and structural problems which generate repetitive applications.

This leads me to the role of the Committee of Ministers in supervising the execution of the Court's judgments. There is room here for considerable improvement. Sweden believes that more effective measures are needed to exert pressure on States that fail to execute judgments of the Court in a timely manner. This applies, in particular, to pilot judgments and other judgments that may have implications for a large number of individuals. Sweden supports the idea of a comprehensive examination of the supervision procedure and the role of the Committee of Ministers in this process, as referred to in the draft Declaration.

Sweden believes that enabling the appointment of additional judges to the Court could be an effective measure to assist the Court in dealing with applications within a reasonable time. We hope that the Committee of Ministers, in the follow-up to the Brighton Conference, will decide that this topic should be an item on the reform agenda. We think that the Parliamentary Assembly should also be involved in the selection procedure of additional judges.

To conclude, Sweden fully supports the current reform process aimed at the long-term effectiveness of the Convention system. We, in our role as Contracting States, must succeed in safeguarding the future of this unique system for the protection of human rights in Europe. The present Conference adds valuable impetus to our collective task.

Thank you.

Switzerland/Suisse: M. Michael Leupold

Monsieur le Président, Mesdames et Messieurs les Ministres,

J'aimerais d'abord remercier le Gouvernement britannique pour son engagement soutenu et sincère pour la réforme de la Cour et du mécanisme de la Convention.

Le Gouvernement britannique a présenté, dès le début, un projet de Déclaration ambitieux qui avait notre plein soutien. En même temps, nous sommes conscients et convaincus que toute réforme importante du système doit être portée par l'ensemble des Etats parties.

A l'instar des Déclarations d'Interlaken et d'Izmir, le projet de Déclaration de Brighton témoigne d'un esprit de compromis et – peut-être de manière plus claire encore que les Déclaration précédentes – de ce qui est faisable dans la situation actuelle.

Voilà un premier mérite important de cette Conférence de Brighton.

Nous approuvons également la densité normative du texte qui est, à certains égards, plus descriptif que ses prédécesseurs. Il fait le point de la situation et pourrait marquer, en quelque sorte, la fin d'une étape importante de réforme. Nous pensons en effet que le moment est venu de consolider les efforts déployés depuis la Conférence de Rome en 2000, et en particulier à Interlaken et Izmir.

C'est dans cette optique que nous saluons en particulier l'approche consistant à fixer un délai jusqu'à fin 2013 pour préparer différents amendements de la Convention – dont notamment l'ancrage du principe de la subsidiarité et de la doctrine de la marge d'appréciation – et pour prendre une décision sur la nécessité de nommer des juges supplémentaires à la Cour. Ce délai de fin 2013 donne en même temps la feuille de route pour les travaux de suivi de Brighton à mener en priorité et à court terme.

A côté des mesures nécessitant un amendement de la Convention, n'oublions pas les réformes possibles « à droit constant ». La Cour a déployé de grands efforts à cet égard et a pu réaliser des améliorations considérables dans le traitement des affaires. Le projet de Déclaration y fait référence à plusieurs reprises et en envisage d'autres. Les idées qui ont été avancées, notamment dans le contexte des affaires répétitives, méritent d'être suivies de près.

Il en va de même des réflexions qui visent l'avenir du système à long terme. Quelle vision pour la Cour et la Convention ? C'est à juste titre, que le projet de Déclaration consacre des développements circonstanciés à cette question, prévoyant, là aussi, des délais concrets. A notre avis, ces réflexions ne devraient pas forcément être liées au succès des mesures dites « à court terme ».

Qu'il s'agisse des mesures à court ou à long terme – soyez assurés que la Suisse continuera à suivre de façon active et constructive les travaux de réforme.

Je vous remercie de votre attention.

Turkey/Turquie: Mr Sadullah Ergin

Esteemed Colleagues, Distinguished Participants,

The European Court of Human Rights (ECtHR), as a supra-national court that has significantly contributed to the protection and development of human rights in Europe for more than 50 years, is an important international judicial organ that more than 800 million people can apply to directly today.

Having regard to the workload that the Court faces today, the Turkish Government shares the view that this problem should be resolved urgently.

To that end, I consider that the process initiated at the Interlaken and Izmir Conferences should be continued. I believe that the next generations, when they look back, will refer to the Interlaken-Izmir-Brighton triplet as the cornerstone of the reform that will more powerfully and effectively bring the ECtHR forward into the future.

The subsidiarity principle that constitutes the basis of the Convention system requires States Parties, which bear the primary responsibility in the Convention system, to effectively implement the Convention and the judgments of the Court at the national level. However, the effective implementation of the judgments of the Court requires these judgments to be clear, consistent and predictable. Our main expectation is that the ECtHR will have characteristics of a Court that forms case-law in the direction of the protection of human rights for the States Parties can ensure legal security through its judgments both for individuals and the States Parties. Accordingly, the admissibility criteria should be implemented for each State in a consistent manner.

The Convention mandates the Committee of Ministers, the third main actor, to supervise the execution of judgments of the ECtHR. I would like to particularly emphasise that the conduct of this important duty effectively and objectively depends on the supervision process to be purified from political polarisation and dispute and its mere legal characteristic to be protected.

Having regard to the responsibilities taken on with the process started at the Interlaken Conference, Turkey has taken important steps that will significantly contribute to the reform process.

A comprehensive Constitution reform was carried out in 2010 for the purpose of improving the protection of human rights. Within the scope of this reform, citizens were granted right to individual application before the Constitutional Court. As of 23 September 2012, individuals who consider that any rights and freedoms secured by the European Convention on Human Rights are violated will be able to lodge complaints directly before the Turkish Constitutional Court. This will reduce the number of the applications brought before the European Court of Human Rights against Turkey and significantly relieve the workload of the Court.

Furthermore, studies for establishing a new domestic remedy that will allow the applications before the ECtHR regarding the complaints of excessive length of judicial proceedings to be concluded by the national authorities are being continued rapidly. Relying on the letter of intention sent to Secretary General Mr. Jagland by the Turkish Government on 14 November 2011, the ECtHR with its pilot judgment dated 20 March 2012, proposed that this domestic remedy should be established within one year following the date on which the judgment becomes final.

After the domestic remedy is established, in accordance with this judgment, approximately 3000 pending applications relating to complaints before the ECtHR on the excessive length of proceedings will be able to be considered before the national authorities without the examination of the Court.

Distinguished Participants.

Having regard to the observations stated in the Interlaken, Izmir and Brighton Conferences: the Turkish Government is aware of its responsibilities arising from the European Convention on Human Rights and will continue to fulfil these commitments resolutely.

Finally, I would like to underline that the Turkish Government supports the Brighton Declaration and its implementation process, and to thank the UK Government for hosting this Conference and for their hospitality.

Ukraine: Ms Valeriya Lutkovska

Dear Delegates and participants of the conference,

In November 2010 the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly appointed me Rapporteur on "*Ensuring the Viability of the Strasbourg Court: Structural Deficiencies in States Parties*". A draft Resolution will be based on the Report materials, which will be discussed at the Committee meeting in November, and then during the part session of the PACE.

According to the Rapporteur's mandate, the important part of the Report is the reasonable and systematic monitoring mechanism of execution of final judgments of the Strasbourg Court by national parliaments. Let me stress the importance of systematic monitoring with possibly some elements of oversight.

On the other hand, it is a regular, preliminary review of draft laws and other acts of the Parliament to ensure the compliance with the European Convention on Human Rights according to the interpretation of the Strasbourg Court jurisprudence.

Thus, the Report on "*Ensuring the Viability of the Strasbourg Court: Structural Deficiencies in States Parties*" and the appropriate resolution of PACE will contribute to the implementation of the Brighton Declaration.

Let me take this opportunity to stress the importance of transmitting timely information on the execution of judgments and implementation of the ECHR practice by the national parliaments to the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe.

I wish to draw your attention to the mechanisms of execution of ECHR judgments, which identify systemic and structural deficiencies in the national legal systems and PACE recommended measures for their elimination.

Thank you for your attention.

* * *

"The former Yugoslav Republic of Macedonia", Japan and the Holy See were all present but did not take the floor to speak.
« L'ex-République yougoslave de Macédoine », le japon et le Saint-siège étaient présents à la Conférence mais n'ont pas pris la parole.

European Union/Union européenne: Ms Luisella Pavan-Woolfe

Ambassador, Head of the European Union Delegation to the Council of Europe

The European Union congratulates the United Kingdom on the successful continuation of the process initiated by the Wise Persons' Report and pursued by the Swiss and Turkish chairmanships. This has resulted in the balanced set of measures and proposals contained in the draft Brighton Declaration.

We pay tribute to the unique role that the European Court of Human Rights plays in supporting fundamental rights and freedoms in the whole European continent.

The European Union does not participate yet as a full member in the system of the European Convention on Human Rights, but the principles of the Convention are an integral part of its legal order and fully shape the action of its institutions, together with the Charter of Fundamental Rights of the European Union.

We are committed to making every effort to contribute to the reinforcement of the system for the protection of human rights in Europe. The accession of the European Union to the Convention will be an important outcome of this engagement.

United States of America/Etats Unis d'Amérique: Ms Susan Biniaz

Head of Delegation

Thank you for inviting us to this Conference. The United States is pleased to have the opportunity to observe the considerable progress that has been achieved and the innovations that continue to emerge as you strengthen the efficiency and effectiveness of the Court, facilitate the implementation of its decisions, and confront fundamental questions about how the Court should be reformed over the longer-term.

We commend the United Kingdom for hosting this Conference.

As Legal Adviser Harold Koh observed when he joined you at Izmir, "[l]ike all living institutions, your Court must adapt, evolve, and grow to preserve in the future the values it has protected in the past."

The United States has followed your efforts closely, particularly since Interlaken and Izmir, to address a skyrocketing caseload and tackle pressing reforms, while affirming the right of individual application as a cornerstone of the European Convention system.

The United States supports the past achievements and continued vitality of the European Court of Human Rights and seeks to continue to partner with the Court in your pursuit of judicial dialogue with sister courts in other regional and national systems. Only last month, the State Department was involved in an effort to promote greater dialogue between your Court and our own United States Supreme Court, by sponsoring the first official meeting between these two institutions. The meeting contained both public and private sessions and was hosted by the George Washington University Law School, in co-operation with the State Department's Office of the Legal Adviser.

Secretary of State Hillary Rodham Clinton opened the conference with a video message: "The United States and Europe share deeply rooted, common convictions about the importance of advancing democracy, the rule of law and fundamental rights. Courts around the world increasingly look to the decisions of these two courts, making your engagement all the more crucial." We hope that the Conference will be the first of many such dialogues between these two important judicial institutions so that we can keep learning from each other.

Thank you.

European Group of National Human Rights Institutions/ Groupe européen des institutions nationales des droits de l'homme: Mr Des Hogan

Irish Human Rights Commission

I address this Ministerial Conference on behalf of the European Group of National Human Rights Institutions (the European Group) for the promotion and protection of human rights. The European Group represents 36 national institutions from across the Council of Europe member States, all of which are accredited under the 1993 UN "Paris Principles" (NHRIs), which guarantees their independence, pluralism and broad mandate to protect human rights.

The European Group recalls the fundamental role the Convention system has played in protecting the rights of individuals across Europe in the last 60 years and the role the Court has played in this. The European Group commends the United Kingdom Chair for convening this Ministerial Conference as a means of evaluating and building on the commitments in the Interlaken and Izmir Declarations, to ensure continued and improved protection of individual rights in Europe.

Key to the better protection of individual rights is implementation of the Convention at domestic level. The European Group warmly welcomes the emphasis in the Declaration on the importance of national implementation, requiring national authorities to take responsibility through effective measures to prevent violations and ensure effective remedies. Following the commitments in the Interlaken, Izmir and now the Brighton Declarations, we would urge States to urgently pursue the actions necessary to ensure effective domestic implementation.

We also welcome the attention to practical Council of Europe initiatives on execution and promotion. There now exists the possibility of deepening member States' commitments to prevention of abuses through strengthening domestic systems on remedies, coupled with Council of Europe oversight.

NHRIs welcome the increased attention in the Declaration to their role at the national level. We have acted upon the Interlaken Declaration by taking a number of initiatives, including by providing applicants better information on the admissibility criteria. We can have a role in assisting with domestic implementation of Convention rights, including through legislative and policy scrutiny, assisting litigants, education and training on human rights standards, as well as direct interaction with the Court through case interventions and with the Committee of Ministers through monitoring execution of judgements.

There will always remain situations where the oversight of the Court is necessary to the application of Convention standards. The right of individual petition and the independence of the Court must thus remain the cornerstones of the Convention system. In light of this, the European Group cautions against introducing further admissibility criteria, particularly in circumstances where the full effects of Protocol No. 14 have not yet been realised. We also caution against over emphasis on the terms "margin of appreciation" and "subsidiarity" in the draft Declaration. These are concepts underpinned by the jurisprudence of the Court in the context of individual cases. It is in the nature of the judicial function to apply principles consistently and the Court should not be instructed in regard to how to apply legal principles. States which faithfully ensure domestic compliance and remedies can have no concerns about undue Court oversight. In this regard, we caution against proposals to limit the power of the Court to grant just satisfaction.

The work carried out at this Ministerial Conference, following on from Interlaken and Izmir, affords a real opportunity for enhanced protection of rights across Europe by better domestic implementation of the Convention, coupled with a strong, effective and independent Court. We urge State delegations to now return home and focus on effective implementation of Convention rights in the national systems to ensure the protection of individuals' rights.

Thank you for your attention.

Conference of INGOs of the Council of Europe/Conférence des ONG internationales du Conseil de l'Europe: M. Jean-Marie Heydt

Président

Monsieur le Président du Comité des Ministres, Mesdames et Messieurs les Ministres, Monsieur le Secrétaire Général, Monsieur le Président de la Cour, Monsieur le Président de l'Assemblée parlementaire, Monsieur le Commissaire aux droits de l'homme, Mesdames et Messieurs,

Permettez-moi de vous dire l'importance toute particulière que la société civile, largement représentée au sein de la Conférence des organisations interna-

tionales non gouvernementales du Conseil de l'Europe, attache à l'invitation qui lui a été faite par la Présidence britannique du Comité des Ministres.

Dès la fin de l'année 2009, la voix de la société civile organisée avait été sollicitée par la Représentation permanente de la Confédération helvétique pour réfléchir, confronter et apporter sa contribution au débat crucial sur l'avenir de la Cour européenne des droits de l'homme et donc de la démocratie en Europe, ce débat qui nous réunit aujourd'hui à Brighton.

Toutes les OING ne sont pas, bien sûr, des spécialistes du droit et moins encore de la procédure, mais toutes les OING dotées du statut participatif auprès du Conseil de l'Europe ont un souci commun, profondément ancré en leur sein : celui de la défense des libertés fondamentales et des droits de l'homme, sans lesquels, nous le savons tous, la dignité humaine serait un vain mot !

Des femmes et des hommes se battent tous les jours, meurent à l'heure où je vous parle, pour acquérir des droits humains et vivre dans un Etat de droit.

Or, vous le savez, des Etats, fussent-ils démocratiques, sans une haute juridiction adaptée, seraient bien vite exposés aux risques humains de dérives, comme le serait une voiture moderne, avec un bon chauffeur, mais hélas avec un système de freinage mal entretenu !

Toutes nos organisations, sans exception, nous rappellent que la Cour européenne des droits de l'homme est avant tout, pour les citoyens européens, un formidable outil porteur d'espoir, et bien souvent pour bon nombre de requérants, l'ultime espoir. Et parce que cette Cour est tellement porteuse d'espoir, elle en arrive à générer parfois, malgré elle, bien des désillusions, des déceptions et des angoisses quand elle ne peut plus répondre à toutes les attentes.

Le citoyen européen croit dans les vertus de cette Cour, il y croit peut-être plus que dans toute autre institution européenne. Car la Cour n'a cessé de faire avancer les droits de l'homme, concrètement et au quotidien, dans chacun des 47 Etats membres du Conseil de l'Europe.

Cet espoir et cette reconnaissance portés sur la Cour nous obligent à lui assurer tous les moyens pour un fonctionnement optimal – mais sans lui enlever, en même temps, les possibilités de nous protéger le plus efficacement possible ! Sinon la réforme de la Cour serait un cadeau bien étrange que nous offririons aux citoyens – qui se sentiraient une fois de plus trompés, et ceci dans un domaine où jamais ils ne l'auraient cru possible en Europe.

La Conférence des OING reconnaît cependant que cet espoir placé dans la Cour et qui lui en procure le succès que nous connaissons, ne saurait l'empêcher de garder une dimension humaine pour rester à la portée de chaque individu.

La Conférence des OING accueille bien sûr avec satisfaction la décision d'abandonner les propositions auxquelles nous nous sommes opposés, notamment d'imposer aux requérants la charge des frais de procédure, l'exigence de la

représentation obligatoire des requérants par un avocat, de sanctionner les requêtes dénouées de tout fondement…

Cependant, nous restons encore profondément préoccupés par des intentions qui porteraient atteinte à l'indépendance et l'autorité de la Cour. En effet, nous observons qu'à plusieurs reprises le projet de Déclaration semble vouloir diminuer le rôle de supervision ou restreindre le droit de recours individuel, lequel droit est au cœur même du système européen de protection des droits de l'homme; il doit impérativement rester sa pierre angulaire.

C'est la raison pour laquelle, nous demandons instamment aux Etats parties de s'abstenir des mesures qui auraient pour conséquences :

- d'introduire de nouveaux critères de recevabilité ;
- de diminuer le délai actuel de 6 mois pour déposer une requête, car cela porterait préjudice aux plaignants socialement vulnérables, isolés ou économiquement faibles ;
- d'introduire, dans la Convention même, le double principe de subsidiarité et de marge d'appréciation ; une telle décision signifierait une restriction des droits de la Convention et serait également en contradiction flagrante avec l'esprit et le Préambule de la Convention.

Voilà, parmi d'autres éléments ceux qui nous préoccupent le plus, Monsieur le président, Mesdames et Messieurs les Ministres !

Ne faites pas perdre confiance aux Européens ni aux défenseurs des droits de l'homme des autres pays du monde qui nous observent, dites avec force que dorénavant tous nos Etats s'engagent pour que soient mis réellement en œuvre les garanties effectives des droits de l'homme avec le soutien d'une Cour qui réponde efficacement à leurs attentes et à leurs espoirs, fussent-ils les derniers !

Voilà pourquoi, je vous assure, au nom de la Conférence des OING du Conseil de l'Europe, que nous ne faillirons pas à nos engagements. La Conférence des OING apportera toute sa contribution à la recherche des moyens nécessaires à la mise en œuvre de la Convention ; vous pouvez compter sur nous !

Non-governmental organisations/Organisations non gouvernementales: Ms Nuala Mole

AIRE Centre

On behalf of the AIRE Centre, I have the honour to have been invited to address you by my colleagues from civil society. We have all now worked together for many years on the reform of the Court.

We warmly appreciate the hard work that has gone into this Declaration and – even more – the many expressions of commitment to strengthening the role of the Court – and to access to it – which the Declaration contains.

The sole purpose for which the court as set up was to ensure that you – the Contracting Parties represented here today – comply with the obligations which you – the governments of the Contracting Parties – owe to all of us who are within your jurisdiction. Unfortunately, our rights are unacceptably often violated – and sometimes repeatedly violated – by you the States who have solemnly undertaken to uphold them. You have also agreed to be bound by the judgments of the Court and do not always do so as promptly or effectively as you should.

The operation of the Court is paid for – from the taxes of Europe – to ensure that everyone enjoys in practice the rights we have in theory under the ECHR and to ensure that you – the governments – are held to account in this respect.

The Court was set up to provide independent collegiate judicial oversight of States' compliance. Sometimes the governments are found in violation (in 987 judgments in 2011) but the Court also finds that even admissible applicants' claims fail (122 judgments in 2011). The statistics speak for themselves.

Whoever the losers are they feel aggrieved – but everyone is subject to the judgments of the Court.

That is what is meant by the rule of law.

And that is why we must continue to demonstrate our commitment to – and respect for – a strong independent Court deciding claims that the Contracting States are not meeting their obligations.

An independent national judiciary free from outside pressure – particularly from government and accorded appropriate respect – has long been recognised in the case-law of the Court as a crucial hallmark of a State that operates under the rule of law; a European Court of Human Rights which is fully independent – and also accorded appropriate respect – is similarly a crucial hallmark of our collective general commitment to the rule of law and to securing the rights and freedoms to all the people who fall within the Convention's jurisdiction.

The Court is reducing its backlog at an impressive rate thanks to the dedicated efforts of the judges and the Registry lawyers and we applaud this work.

But this effort needs to be mirrored by the efforts you States put into national implementation. This is the crucial key to relieving the burden on the Court, particularly where repetitive cases are concerned and it is a key which is in your hands as has been recognised by some speakers here today.

That is what is meant by subsidiarity .

Those of us in civil society who litigate before the Court know that the eye of the needle through which applicants have to pass to achieve the justice they have been denied at home – is already very small.

By emphasising the importance of the doctrine of the margin of appreciation, without emphasising the other key doctrines like "practical and effective not theoretical and illusory", or even the principle of proportionality, the Declaration appears to be trying to tell the Court how it should fulfil its purpose of protecting individuals from States' infringements of their human rights. The Court must remain free to apply the admissibility criteria as it sees fit so as to ensure effective access to justice for applicants.

Any reforms of the Court being discussed must have as their only object and purpose strengthening the Court's ability to ensure the observance of the engagements undertaken by the High Contracting Parties and not reducing the accountability of States.

A proposal to reduce the time limit for submitting applications risks, in our view, excluding the most marginalised victims from access to the Court.

Finally we invite you all to recall that civil society represents those whose rights and freedoms are at stake, those for whose benefit the Convention was adopted – and the Court established. It is our Convention and our Court.

We therefore have a central – not a peripheral role – in these discussions and are pleased that it has been acknowledged by several speakers today.

We are thus also very pleased to have been able to address you today.

Thank you.

SUMMARY OF THE EXCHANGE OF VIEWS ON NATIONAL IMPLEMENTATION OF THE CONVENTION
RÉSUMÉ DE L'ÉCHANGE DE VUES SUR LA MISE EN OEUVRE NATIONALE DE LA CONVENTION

Following the general remarks from heads of delegations on the draft Declaration as a whole, there was an exchange of views on one particular aspect: the implementation of the Convention at national level. Participants were invited to share their views on national implementation: what had been their experience, and what did they consider was important? And also, what could the Council of Europe do to support national implementation?

The Rt Hon Dominic Grieve QC MP

Attorney General for England and Wales

Its now my task to attempt to sum up what has been an extraordinarily varied debate with a large number of contributions. There are clearly a number of common themes which seem to me to come out of it in terms of ensuring good national implementation.

We have, and I think it's almost universal, the creation of domestic remedies.

The dissemination of information on the Convention and on the case law of the Court – databases, translations, websites, newsletters – we've heard a great deal about that this morning and how that is helping to promote knowledge.

Implementation of judgments, which requires, of course, both coordination in government, annual reports to parliament and a dialogue between executive and parliament to ensure that this is happening properly.

Screening of draft legislation, something which I mentioned in my opening in terms of my own role.

And, of course, the training and awareness raising of judges, prosecutors and policy-makers, as well as the police.

Reform to deal with the excessive length of judicial proceedings is, I suspect, one of the key issues that we are all having to look at and with that, ensuring that our court systems are fit for purpose through audit.

I was interested to hear about the national human rights action plans and, of course, the creation of National Human Rights Institutions which, in my experience in the United Kingdom, have been immensely valuable in promoting Convention rights.

Obviously incorporation of the Convention into national law and implementation of pilot judgments.

Might I then just mention a couple of other things which I thought came out of this which I feel are of some importance? I think the Luxembourg contribution highlighted that there is often going to be a gulf between the abstract rights that we subscribe to and the practical reality of their application on the ground.

In this context, my experience is certainly that with public officials at any level, an importance of constant training to remind of the obligations in terms of protecting human rights but also perhaps reminding of how one can operate successfully within that framework, has often seemed to me to be critical.

My own experience as Attorney General in England and Wales is that often violations of human rights when they occur are not deliberate. They're often, in fact, accidental. Although it is probably noteworthy that when one has bureaucracies that succeed in violating rights, even accidentally, it can be rather difficult sometimes to persuade people afterwards to accept that they've done it.

And in that context, I also think that the educational role more widely, and particularly that of parliaments, and engaging the public, something that the Prime Minister of the United Kingdom has recognised, is absolutely key. If the public do not see the relevance of human rights themselves and see them only as relevant to people whom they might otherwise consider to be unworthy of them, then in fact we will not succeed in getting the right message across. There is always a slight tendency, in my experience, for officialdom to sometimes moan that in fact the only way in which the rights are being applied appears to be to the profit of those whom the public might regard as generally slightly undeserving.

All this I think requires an educational campaign to point out that the Convention rights in fact uniformly and universally applied, lead to an immense improvement in quality of life for everybody.

Looking ahead, it seems to me that the follow-up we might wish to consider is looking at the compilation of best practice, which I think the United Kingdom, in its last moments of Chairmanship, will see whether we can bring together to distil some of the things that have been done here today and to explore how we share that best practice in future.

And with those remarks, I would like to thank all of you who have participated in this wide-ranging and, I will have to say, from my point of view, extremely educational and interesting debate. Thank you very much.

CONCLUSIONS

Concluding remarks

presented by the United Kingdom Chairmanship of the Committee of Ministers of the Council of Europe

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

This Conference has been an opportunity for us all to reaffirm our commitment to the European Convention on Human Rights. We have expressed our shared commitment to the right of individual petition, as well as to the primary responsibility of the States Parties for the implementation of the Convention.

We have also reaffirmed the importance of achieving meaningful and successful reform of the European Court of Human Rights. The Court is an extraordinary institution that has long been the cornerstone of the Convention system. We must ensure its independence and authority.

I am very grateful to all delegations who participated in the exchange of views on the national implementation of the Convention. National implementation is a key part of the principle of subsidiarity. The primary objective must always be to ensure the full enjoyment of the rights and freedoms set out in the Convention. It is important to prevent violations from occurring or, if they do occur, to secure the provision of effective remedies at national level. It is also important to secure the effective implementation of judgments of the Court.

The process that began with the Interlaken Conference, and continued with the Izmir Conference, set out to secure the future of the Court. It is vital that the Court is able to address the applications that it receives quickly and effectively, and to focus on applications that relate to serious violations or important points of interpretation of the Convention. The Court is already making great steps forward in addressing its backlog of inadmissible applications. The challenge now relates particularly to the backlog of admissible cases, and particularly those that disclose potentially well-founded allegations of new violations of the Convention.

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 quickly and effectively. I call on all those involved in this process to continue to work together in a spirit of co-operation to ensure in particular that the necessary amendments to the Convention are adopted by the end of 2013; and that the further consideration of important subjects called for in the Declaration is carried out effectively.

I am again grateful to you all for your support as we adopt the Brighton Declaration, and I promise our full support to the future Chairmanships of the Council of Europe as they continue our 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 our proceedings, including the Secretariat of the Council of Europe who supported our negotiations, all the staff who have looked after us here in Brighton and the staff of the Foreign and Commonwealth Office and the Ministry of Justice who have supported the Chairmanship of the United Kingdom;
- and particularly our interpreters here in Brighton.

It has been a pleasure to welcome you to Brighton, and I wish you all a safe journey home.

Brighton Declaration

20 April 2012

The High Level Conference meeting at Brighton on 19 and 20 April 2012 at the initiative of the United Kingdom 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.
2. The States Parties also reaffirm their 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. The Court has made an extraordinary contribution to the protection of human rights in Europe for over 50 years.
3. The States Parties and the Court share responsibility for realising the effective implementation of the Convention, underpinned by the fundamental principle of subsidiarity. The Convention was concluded on the basis, *inter alia*, of the sovereign equality of States. States Parties must respect the rights and freedoms guaranteed by the Convention, and must effectively resolve violations at the national level. The Court acts as a safeguard for violations that have not been remedied at the national level. Where the Court finds a violation, States Parties must abide by the final judgment of the Court.
4. The States Parties and the Court also share responsibility for ensuring the viability of the Convention mechanism. The States Parties are determined to work in partnership with the Court to achieve this, drawing also on the important work of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe as well as the Commissioner for Human Rights and the other institutions and bodies of the Council of Europe, and working in a spirit of co-operation with civil society and National Human Rights Institutions.
5. The High Level Conference at Interlaken ("the Interlaken Conference") in its Declaration of 19 February 2010 noted with deep concern that the deficit between applications introduced and applications disposed of continued to grow; it considered that this situation caused damage to the effectiveness and credibility of the Convention and its supervisory mechanism and represented a threat to the quality and the consistency of the case law and the authority of

the Court. The High Level Conference at Izmir ("the Izmir Conference") in its Declaration of 27 April 2011 welcomed the concrete progress achieved following the Interlaken Conference. The States Parties are very grateful to the Swiss and Turkish Chairmanships of the Committee of Ministers for having convened these conferences, and to all those who have helped fulfil the action and follow-up plans.

6. The results so far achieved within the framework of Protocol No. 14 are encouraging, particularly as a result of the measures taken by the Court to increase efficiency and address the number of clearly inadmissible applications pending before it. However, the growing number of potentially well-founded applications pending before the Court is a serious problem that causes concern. In light of the current situation of the Convention and the Court, the relevant steps foreseen by the Interlaken and Izmir Conferences must continue to be fully implemented, and the full potential of Protocol No. 14 exploited. However, as noted by the Izmir Conference, Protocol No. 14 alone will not provide a lasting and comprehensive solution to the problems facing the Convention system. Further measures are therefore also needed to ensure that the Convention system remains effective and can continue to protect the rights and freedoms of over 800 million people in Europe.

A. Implementation of the Convention at national level

7. The full implementation of the Convention at national level requires States Parties to take effective measures to prevent violations. All laws and policies should be formulated, and all State officials should discharge their responsibilities, in a way that gives full effect to the Convention. States Parties must also provide means by which remedies may be sought for alleged violations of the Convention. National courts and tribunals should take into account the Convention and the case law of the Court. Collectively, these measures should reduce the number of violations of the Convention. They would also reduce the number of well-founded applications presented to the Court, thereby helping to ease its workload.

8. The Council of Europe plays a crucial role in assisting and encouraging national implementation of the Convention, as part of its wider work in the field of human rights, democracy and the rule of law. The provision of technical assistance upon request to States Parties, whether provided by the Council of Europe or bilaterally by other States Parties, disseminates good practice and raises the standards of human rights observance in Europe. The support given by the Council of Europe should be provided in an efficient manner with reference to defined outcomes, in co-ordination with the wider work of the organisation.

9. The Conference therefore:

a. Affirms the strong commitment of the States Parties to fulfil their primary responsibility to implement the Convention at national level;

b. Strongly encourages the States Parties to continue to take full account of the recommendations of the Committee of Ministers on the implementation of the Convention at national level in their development of legislation, policies and practices to give effect to the Convention;

c. In particular, expresses the determination of the States Parties to ensure effective implementation of the Convention at national level by taking the following specific measures, so far as relevant:

i. Considering the establishment, if they have not already done so, of an independent National Human Rights Institution;

ii. Implementing practical measures to ensure that policies and legislation comply fully with the Convention, including by offering to national parliaments information on the compatibility with the Convention of draft primary legislation proposed by the Government;

iii. Considering the introduction if necessary of new domestic legal remedies, whether of a specific or general nature, for alleged violations of the rights and freedoms under the Convention;

iv. Enabling and encouraging national courts and tribunals to take into account the relevant principles of the Convention, having regard to the case law of the Court, in conducting proceedings and formulating judgments; and in particular enabling litigants, within the appropriate parameters of national judicial procedure but without unnecessary impediments, to draw to the attention of national courts and tribunals any relevant provisions of the Convention and jurisprudence of the Court;

v. Providing public officials with relevant information about the obligations under the Convention; and in particular training officials working in the justice system, responsible for law enforcement, or responsible for the deprivation of a person's liberty in how to fulfil obligations under the Convention;

vi. Providing appropriate information and training about the Convention in the study, training and professional development of judges, lawyers and prosecutors; and

vii. Providing information on the Convention to potential applicants, particularly about the scope and limits of its protection, the jurisdiction of the Court and the admissibility criteria;

d. Encourages the States Parties, if they have not already done so, to:

i. Ensure that significant judgments of the Court are translated or summarised into national languages where this is necessary for them to be properly taken into account;

ii. Translate the Court's Practical Guide on Admissibility Criteria into national languages; and
iii. Consider making additional voluntary contributions to the human rights programmes of the Council of Europe or to the Human Rights Trust Fund;
e. Encourages all States Parties to make full use of technical assistance, and to give and receive upon request bilateral technical assistance in a spirit of open co-operation for the full protection of human rights in Europe;
f. Invites the Committee of Ministers:
i. To consider how best to ensure that requested technical assistance is provided to States Parties that most require it;
ii. Further to sub-paragraphs c(iii) and (iv) above, to prepare a guide to good practice in respect of domestic remedies; and
iii. Further to sub-paragraph c(v) above, to prepare a toolkit that States Parties could use to inform their public officials about the State's obligations under the Convention;
g. Invites the Secretary General to propose to States Parties, through the Committee of Ministers, practical ways to improve:
i. The delivery of the Council of Europe's technical assistance and co-operation programmes;
ii. The co-ordination between the various Council of Europe actors in the provision of assistance; and
iii. The targeting of relevant technical assistance available to each State Party on a bilateral basis, taking into account particular judgments of the Court;
h. Invites the Court to indicate those of its judgments that it would particularly recommend for possible translation into national languages; and
i. Reiterates the importance of co-operation between the Council of Europe and the European Union, in particular to ensure the effective implementation of joint programmes and coherence between their respective priorities in this field.

B. Interaction between the Court and national authorities

10. The States Parties to the Convention are obliged to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, and to provide an effective remedy before a national authority for everyone whose rights and freedoms are violated. The Court authoritatively interprets the Convention. It also acts as a safeguard for individuals whose rights and freedoms are not secured at the national level.
11. The jurisprudence of the Court makes clear that the 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 en-

gaged. 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. The margin of appreciation goes hand in hand with supervision under the Convention system. In this respect, the role of the Court is to review whether decisions taken by national authorities are compatible with the Convention, having due regard to the State's margin of appreciation.

12. The Conference therefore:

a. Welcomes the development by the Court in its case law of principles such as subsidiarity and the margin of appreciation, and encourages the Court to give great prominence to and apply consistently these principles in its judgments;

b. Concludes that, for reasons of transparency and accessibility, a reference to the principle of subsidiarity and the doctrine of the margin of appreciation as developed in the Court's case law should be included in the Preamble to the Convention and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013, while recalling the States Parties' commitment to give full effect to their obligation to secure the rights and freedoms defined in the Convention;

c. Welcomes and encourages open dialogues between the Court and States Parties as a means of developing an enhanced understanding of their respective roles in carrying out their shared responsibility for applying the Convention, including particularly dialogues between the Court and:

i. The highest courts of the States Parties;

ii. The Committee of Ministers, including on the principle of subsidiarity and on the clarity and consistency of the Court's case law; and

iii. Government Agents and legal experts of the States Parties, particularly on procedural issues and through consultation on proposals to amend the Rules of Court;

d. Notes that the interaction between the Court and national authorities could be strengthened by the introduction into the Convention of a further power of the Court, which States Parties could optionally accept, to deliver advisory opinions upon request on the interpretation of the Convention in the context of a specific case at domestic level, without prejudice to the non-binding character of the opinions for the other States Parties; invites the Committee of Ministers to draft the text of an optional protocol to the Convention with this effect by the end of 2013; and further invites the Committee of Ministers thereafter to decide whether to adopt it; and

e. Recalls that the Izmir Conference invited the Committee of Ministers to consider further the question of interim measures under Rule 39 of the Rules of the Court; and invites the Committee of Ministers to assess both whether there has been a significant reduction in their numbers and whether applica-

tions in which interim measures are applied are now dealt with speedily, and to propose any necessary action.

C. Applications to the Court

13. The right of individual application is a cornerstone of the Convention system. The right to present an application to the Court should be practically realisable, and States Parties must ensure that they do not hinder in any way the effective exercise of this right.
14. The admissibility criteria in Article 35 of the Convention define which applications the Court should consider further on their merits. They should provide the Court with practical tools to ensure that it can concentrate on those cases in which the principle or the significance of the violation warrants its consideration. It is for the Court to decide on the admissibility of applications. It is important in doing so that the Court continues to apply strictly and consistently the admissibility criteria, in order to reinforce confidence in the rigour of the Convention system and to ensure that unnecessary pressure is not placed on its workload.
15. The Conference therefore:

a. Welcomes the Court's suggestion that the time limit under Article 35(1) of the Convention within which an application must be made to the Court could be shortened; concludes that a time limit of four months is appropriate; and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013;
b. Welcomes the stricter application of the time limit in Article 35(1) of the Convention envisaged by the Court; and reiterates the importance of the Court applying fully, consistently and foreseeably all the admissibility criteria including the rules regarding the scope of its jurisdiction, both to ensure the efficient application of justice and to safeguard the respective roles of the Court and national authorities;
c. Concludes that Article 35(3)(b) of the Convention should be amended to remove the words "and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal"; and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013;
d. Affirms that an application should be regarded as manifestly ill-founded within the meaning of Article 35(3)(a), *inter alia*, to the extent that the Court considers that the application raises a complaint that has been duly considered by a domestic court applying the rights guaranteed by the Convention in light of well-established case law of the Court including on the margin of appreciation as appropriate, unless the Court finds that the application raises a

serious question affecting the interpretation or application of the Convention; and encourages the Court to have regard to the need to take a strict and consistent approach in declaring such applications inadmissible, clarifying its case law to this effect as necessary;

e. Welcomes the increased provision by the Court of information to applicants on its procedures, and particularly on the admissibility criteria;

f. Invites the Court to make specific provision in the Rules of Court for a separate decision to be made on admissibility at the request of the respondent Government when there is a particular interest in having the Court rule on the effectiveness of a domestic remedy which is at issue in the case; and

g. Invites the Court to develop its case law on the exhaustion of domestic remedies so as to require an applicant, where a domestic remedy was available to them, to have argued before the national courts or tribunals the alleged violation of the Convention rights or an equivalent provision of domestic law, thereby allowing the national courts an opportunity to apply the Convention in light of the case law of the Court.

D. Processing of applications

16. The number of applications made each year to the Court has doubled since 2004. Very large numbers of applications are now pending before all of the Court's primary judicial formations. Many applicants, including those with a potentially well-founded application, have to wait for years for a response.

17. In light of the importance of the right of individual application, the Court must be able to dispose of inadmissible applications as efficiently as possible, with the least impact on its resources. The Court has already taken significant steps to achieve this within the framework of Protocol No. 14, which are to be applauded.

18. Repetitive applications mostly arise from systemic or structural issues at the national level. It is the responsibility of a State Party, under the supervision of the Committee of Ministers, to ensure that such issues and resulting violations are resolved as part of the effective execution of judgments of the Court.

19. The increasing number of cases pending before the Chambers of the Court is also a matter of serious concern. The Court should be able to focus its attention on potentially well-founded new violations.

20. The Conference therefore:

a. Welcomes the advances already made by the Court in its processing of applications, particularly the adoption of:

i. Its priority policy, which has helped it focus on the most important and serious cases; and

ii. Working methods that streamline procedures particularly for the handling of inadmissible and repetitive cases, while maintaining appropriate judicial responsibility;

b. Notes with appreciation the Court's assessment that it could dispose of the outstanding clearly inadmissible applications pending before it by 2015; acknowledges the Court's request for the further secondment of national judges and high-level independent lawyers to its Registry to allow it to achieve this; and encourages the States Parties to arrange further such secondments;

c. Expresses continued concern about the large number of repetitive applications pending before the Court; welcomes the continued use by the Court of proactive measures, particularly pilot judgments, to dispose of repetitive violations in an efficient manner; and encourages the States Parties, the Committee of Ministers and the Court to work together to find ways to resolve the large numbers of applications arising from systemic issues identified by the Court, considering the various ideas that have been put forward, including their legal, practical and financial implications, and taking into account the principle of equal treatment of all States Parties;

d. Building on the pilot judgment procedure, invites the Committee of Ministers to consider the advisability and modalities of a procedure by which the Court could register and determine a small number of representative applications from a group of applications that allege the same violation against the same respondent State Party, such determination being applicable to the whole group;

e. Notes that, to enable the Court to decide in a reasonable time the applications pending before its Chambers, it may be necessary in the future to appoint additional judges to the Court; further notes that these judges may need to have a different term of office and/or a different range of functions from the existing judges of the Court; and invites the Committee of Ministers to decide by the end of 2013 whether or not to proceed to amend the Convention to enable the appointment of such judges following a unanimous decision of the Committee of Ministers acting on information received from the Court;

f. Invites the Court to consult the States Parties as it considers applying a broader interpretation of the concept of well-established case law within the meaning of Article 28(1) of the Convention, so as to adjudicate more cases under a Committee procedure, without prejudice to the appropriate examination of the individual circumstances of the case and the non-binding character of judgments against another State Party;

g. Invites the Court to consider, in consultation with the States Parties, civil society and National Human Rights Institutions, whether:

i. In light of the experience of the pilot project, further measures should be put in place to facilitate applications to be made online, and the procedure for the

communication of cases consequently simplified, whilst ensuring applications continue to be accepted from applicants unable to apply online;

ii. The form for applications to the Court could be improved to facilitate the better presentation and handling of applications;

iii. Decisions and judgments of the Court could be made available to the parties to the case a short period of time before their delivery in public; and

iv. The claim for and comments on just satisfaction, including costs, could be submitted earlier in proceedings before the Chamber and Grand Chamber;

h. Envisages that the full implementation of these measures with appropriate resources should in principle enable the Court to decide whether to communicate a case within one year, and thereafter to make all communicated cases the subject of a decision or judgment within two years of communication;

i. Further expresses the commitment of the States Parties to work in partnership with the Court to achieve these outcomes; and

j. Invites the Committee of Ministers, in consultation with the Court, to set out how it will determine whether, by 2015, these measures have proven sufficient to enable the Court successfully to address its workload, or if further measures are thereafter needed.

E. Judges and jurisprudence of the Court

21. The authority and credibility of the Court depend in large part on the quality of its judges and the judgments they deliver.

22. The high calibre of judges elected to the Court depends on the quality of the candidates that are proposed to the Parliamentary Assembly for election. The States Parties' role in proposing candidates of the highest possible quality is therefore of fundamental importance to the continued success of the Court, as is a high-quality Registry, with lawyers chosen for their legal capability and their knowledge of the law and practice of States Parties, which provides invaluable support to the judges of the Court.

23. Judgments of the Court need to be clear and consistent. This promotes legal certainty. It helps national courts apply the Convention more precisely, and helps potential applicants assess whether they have a well-founded application. Clarity and consistency are particularly important when the Court addresses issues of general principle. Consistency in the application of the Convention does not require that States Parties implement the Convention uniformly. The Court has indicated that it is considering an amendment to the Rules of Court making it obligatory for a Chamber to relinquish jurisdiction where it envisages departing from settled case law.

24. A stable judiciary promotes the consistency of the Court. It is therefore in principle undesirable for any judge to serve less than the full term of office provided for in the Convention.

25. The Conference therefore:

a. Welcomes the adoption by the Committee of Ministers of the Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights, and encourages the States Parties to implement them;

b. Welcomes the establishment of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights; notes that the Committee of Ministers has decided to review the functioning of the Advisory Panel after an initial three-year period; and invites the Parliamentary Assembly and the Committee of Ministers to discuss how the procedures for electing judges can be further improved;

c. Welcomes the steps that the Court is taking to maintain and enhance the high quality of its judgments and in particular to ensure that the clarity and consistency of judgments are increased even further; welcomes the Court's long-standing recognition that it is in the interests of legal certainty, foreseeability and equality before the law that it should not depart without cogent reason from precedents laid down in previous cases; and in particular, invites the Court to have regard to the importance of consistency where judgments relate to aspects of the same issue, so as to ensure their cumulative effect continues to afford States Parties an appropriate margin of appreciation;

d. In light of the central role played by the Grand Chamber in achieving consistency in the Court's jurisprudence, concludes that Article 30 of the Convention should be amended to remove the words "unless one of the parties to the case objects"; invites the Committee of Ministers to adopt the necessary amending instrument, and to consider whether any consequential changes are required, by the end of 2013; and encourages the States Parties to refrain from objecting to any proposal for relinquishment by a Chamber pending the entry into force of the amending instrument;

e. Invites the Court to consider whether the composition of the Grand Chamber would be enhanced by the *ex officio* inclusion of the Vice Presidents of each Section; and

f. Concludes that Article 23(2) of the Convention should be amended to replace the age limit for judges by a requirement that judges must be no older than 65 years of age at the date on which their term of office commences; and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013.

F. Execution of judgments of the Court

26. Each State Party has 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.
27. The Committee of Ministers must therefore effectively and fairly consider whether the measures taken by a State Party have resolved a violation. The Committee of Ministers should be able to take effective measures in respect of a State Party that fails to comply with its obligations under Article 46 of the Convention. The Committee of Ministers should pay particular attention to violations disclosing a systemic issue at national level, and should ensure that States Parties quickly and effectively implement pilot judgments.
28. The Committee of Ministers is supervising the execution of an ever-increasing number of judgments. As the Court works through the potentially well-founded applications pending before it, the volume of work for the Committee of Ministers can be expected to increase further.
29. The Conference therefore:

a. Encourages the States Parties:

i. to develop domestic capacities and mechanisms to ensure the rapid execution of the Court's judgments, including through implementation of Recommendation 2008(2) of the Committee of Ministers, and to share good practices in this respect;

ii. to make action plans for the execution of judgments as widely accessible as possible, including where possible through their publication in national languages; and

iii. to facilitate the important role of national parliaments in scrutinising the effectiveness of implementation measures taken;

b. Reiterates the invitation made by the Interlaken and Izmir Conferences to the Committee of Ministers to apply fully the principle of subsidiarity by which the States Parties may choose how to fulfil their obligations under the Convention;

c. Invites the Committee of Ministers to continue to consider how to refine its procedures so as to ensure effective supervision of the execution of judgments, in particular through:

i. more structured consideration of strategic and systemic issues at its meetings; and

ii. stronger publicity about its meetings;

d. Invites the Committee of Ministers to consider whether more effective measures are needed in respect of States that fail to implement judgments of the Court in a timely manner; and

e. Welcomes the Parliamentary Assembly's regular reports and debates on the execution of judgments.

G. Longer-term future of the Convention system and the Court

30. This Declaration addresses the immediate issues faced by the Court. It is however also vital to secure the future effectiveness of the Convention system. To achieve this, a process is needed to anticipate the challenges ahead and develop a vision for the future of the Convention, so that future decisions are taken in a timely and coherent manner.

31. As part of this process, it may be necessary to evaluate the fundamental role and nature of the Court. The longer-term vision must secure the viability of the Court's key role in the system for protecting and promoting human rights in Europe. The right of individual application remains a cornerstone of the Convention system. Future reforms must enhance the ability of the Convention system to address serious violations promptly and effectively.

32. Effective implementation of the Convention at national level will permit the Court in the longer term to take on a more focussed and targeted role. The Convention system must support States in fulfilling their primary responsibility to implement the Convention at national level.

33. In response to more effective implementation at the national level, the Court should be in a position to focus its efforts on serious or widespread violations, systemic and structural problems, and important questions of interpretation and application of the Convention, and hence would need to remedy fewer violations itself and consequently deliver fewer judgments.

34. The Interlaken Conference invited the Committee of Ministers to evaluate, during the years 2012 to 2015, to what extent the implementation of Protocol No. 14 and of the Interlaken Action Plan had improved the situation of the Court. It provided that, on the basis of this evaluation, the Committee of Ministers should decide before the end of 2015 whether there is a need for further action. It further provided that, before the end of 2019, the Committee of Ministers should decide on whether the measures adopted have proven to be sufficient to assure sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary.

35. The Conference therefore:

a. Welcomes the process of reflection on the longer-term future of the Court begun at the Interlaken Conference and continued at the Izmir Conference; and welcomes the contribution of the informal Wilton Park conference to this reflection;

b. Invites the Committee of Ministers to determine by the end of 2012 the process by which it will fulfil its further mandates under this Declaration and the Declarations adopted by the Interlaken and Izmir Conferences;

c. Invites the Committee of Ministers, in the context of the fulfilment of its mandate under the Declarations adopted by the Interlaken and Izmir Conferences, to consider the future of the Convention system, this consideration encompassing future challenges to the enjoyment of the rights and freedoms guaranteed by the Convention and the way in which the Court can best fulfil its twin role of acting as a safeguard for individuals whose rights and freedoms are not secured at the national level and authoritatively interpreting the Convention;

d. Proposes that the Committee of Ministers carry out this task within existing structures, while securing the participation and advice of external experts as appropriate in order to provide a wide range of expertise and to facilitate the fullest possible analysis of the issues and possible solutions;

e. Envisages that the Committee of Ministers will, as part of this task, carry out a comprehensive analysis of potential options for the future role and function of the Court, including analysis of how the Convention system in essentially its current form could be preserved, and consideration of more profound changes to how applications are resolved by the Convention system with the aim of reducing the number of cases that have to be addressed by the Court.

f. Further invites the States Parties, including through the Committee of Ministers, to initiate comprehensive examination of:

i. the procedure for the supervision of the execution of judgments of the Court, and the role of the Committee of Ministers in this process; and

ii. the affording of just satisfaction to applicants under Article 41 of the Convention; and

g. As a first step, invites the Committee of Ministers to reach an interim view on these issues by the end of 2015.

H. General and final provisions

36. The accession of the European Union to the Convention will enhance the coherent application of human rights in Europe. The Conference therefore notes with satisfaction progress on the preparation of the draft accession agreement, and calls for a swift and successful conclusion to this work.

37. The Conference also notes with appreciation the continued consideration, as mandated by the Interlaken and Izmir Conferences, as to whether a simplified procedure for amending provisions of the Convention relating to organisational matters could be introduced, whether by means of a Statute for the Court or a new provision in the Convention, and calls for a swift and success-

ful conclusion to this work that takes full account of the constitutional arrangements of the States Parties.

38. Where decisions to give effect to this Declaration have financial implications for the Council of Europe, the Conference invites the Court and the Committee of Ministers to quantify these costs as soon as possible, taking into account the budgetary principles of the Council of Europe and the need for budgetary caution.

39. The Conference:

a. Invites the United Kingdom Chairmanship to transmit the present Declaration and the Proceedings of the Conference to the Committee of Ministers;

b. Invites the States Parties, the Committee of Ministers, the Court and the Secretary General of the Council of Europe to give full effect to this Declaration; and

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

Déclaration de Brighton

20 avril 2012

La Conférence à haut niveau réunie à Brighton les 19 et 20 avril 2012 à l'initiative de la présidence britannique du Comité des Ministres du Conseil de l'Europe (« la Conférence ») déclare ce qui suit :

1. Les Etats 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 la Convention, de reconnaître à toute personne relevant de leur juridiction les droits et libertés définis dans la Convention.
2. Les Etats parties réaffirment également leur attachement au 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. La Cour a apporté une immense contribution à la protection des droits de l'homme en Europe depuis plus de 50 ans.
3. Les Etats parties et la Cour partagent la responsabilité de la mise en œuvre effective de la Convention, sur la base du principe fondamental de subsidiarité. La Convention a été conclue sur la base, entre autres, de l'égalité souveraine des Etats. Les Etats parties doivent respecter les droits et libertés garantis par la Convention, et remédier de manière effective aux violations au niveau national. La Cour agit en tant que sauvegarde si des violations n'ont pas obtenu de remède au niveau national. Lorsque la Cour constate une violation, les Etats parties doivent se conformer à son arrêt définitif.
4. Les Etats parties et la Cour partagent aussi la responsabilité d'assurer la viabilité du mécanisme de la Convention. Les Etats parties sont déterminés à travailler en partenariat avec la Cour pour y parvenir, en s'appuyant également sur les travaux importants du Comité des Ministres et de l'Assemblée parlementaire du Conseil de l'Europe, ainsi que du Commissaire aux droits de l'homme et des autres institutions et organes du Conseil de l'Europe, et en travaillant dans un esprit de coopération avec la société civile et les institutions nationales chargées des droits de l'homme.
5. Dans sa déclaration du 19 février 2010, la Conférence à haut niveau réunie à Interlaken (« la Conférence d'Interlaken ») a noté avec une profonde préoccupation que l'écart entre les requêtes introduites et les requêtes traitées ne cessaient d'augmenter. Elle a considéré que cette situation nuisait gravement à l'efficacité et à la crédibilité de la Convention et de son mécanisme de contrôle et menaçait la qualité et la cohérence de la jurisprudence ainsi que

l'autorité de la Cour. Dans sa déclaration du 27 avril 2011, la Conférence à haut niveau réunie à İzmir (« la Conférence d'İzmir ») s'est félicitée des avancées concrètes obtenues à la suite de la Conférence d'Interlaken. Les Etats parties sont très reconnaissants aux Présidence suisse et turque du Comité des Ministres d'avoir convoqué ces conférences, et à tous ceux qui ont contribué à mettre en œuvre le Plan d'action et le Plan de suivi.

6. Les résultats obtenus à ce jour dans le cadre du Protocole n° 14 sont encourageants, en particulier du fait des mesures prises par la Cour pour améliorer leur efficacité et faire face à l'afflux de requêtes clairement irrecevables. Toutefois, l'augmentation du nombre de requêtes potentiellement bien fondées en instance devant la Cour est un problème sérieux et préoccupant. Vu la situation actuelle de la Convention et de la Cour, les dispositions pertinentes prévues par les Conférences d'Interlaken et d'İzmir doivent continuer à être pleinement mises en œuvre et le potentiel du Protocole n° 14 doit être exploité pleinement. Toutefois, comme cela a été noté par la Conférence d'Izmir, le Protocole n° 14 à lui seul n'apportera pas une solution durable et globale aux problèmes auxquels le système de la Convention est confronté. Des mesures complémentaires sont donc également nécessaires pour que le système de la Convention reste efficace et puisse continuer à protéger les droits et libertés de plus de 800 millions de personnes en Europe.

A. Mise en œuvre de la Convention au niveau national

7. La pleine mise en œuvre de la Convention au niveau national suppose que les Etats parties prennent des mesures effectives pour prévenir les violations. Toutes les lois et politiques devraient être conçues et tous les agents publics devraient exercer leurs responsabilités d'une manière qui donne plein effet à la Convention. Les Etats parties doivent aussi prévoir des voies de recours pour les violations alléguées de la Convention. Les juridictions et instances nationales devraient prendre en compte la Convention et la jurisprudence de la Cour. La combinaison de toutes ces mesures devrait permettre de réduire le nombre de violations de la Convention. Elle devrait aussi permettre de réduire le nombre de requêtes bien fondées présentées à la Cour, ce qui contribuerait à alléger sa charge de travail.

8. Le Conseil de l'Europe joue un rôle crucial pour favoriser et encourager la mise en œuvre de la Convention au niveau national, dans le cadre de l'action plus vaste qu'il mène dans le domaine des droits de l'homme, de la démocratie et de l'état de droit. L'assistance technique fournie sur demande aux Etats parties, soit par le Conseil de l'Europe, soit bilatéralement par d'autres Etats parties, permet de diffuser les bonnes pratiques et d'améliorer le respect des droits de l'homme en Europe. Le soutien offert par le Conseil de l'Europe

devrait être apporté de manière efficace, en fonction des objectifs fixés, en coordination avec l'ensemble plus large des activités de l'organisation.

9. En conséquence, la Conférence :

a. affirme la ferme volonté des Etats parties de s'acquitter de l'obligation, qui leur incombe au premier chef, de mettre en œuvre la Convention au niveau national ;

b. encourage vivement les Etats parties à continuer à tenir pleinement compte des recommandations du Comité des Ministres sur la mise en œuvre de la Convention au niveau national lors de l'élaboration de législations, de politiques et de pratiques destinées à donner effet à la Convention ;

c. exprime en particulier la détermination des Etats parties à veiller à la mise en œuvre effective de la Convention au niveau national, en prenant les mesures spécifiques suivantes, s'il y a lieu :

i. envisager d'établir, si elles ne l'ont pas encore fait, une institution nationale indépendante chargée des droits de l'homme ;

ii. mettre en œuvre des mesures concrètes pour faire en sorte que les politiques et législations respectent pleinement la Convention, y compris en fournissant aux parlements nationaux des informations sur la compatibilité avec la Convention des projets de loi de base proposés par le gouvernement ;

iii. envisager d'instaurer, si nécessaire, de nouvelles voies de recours internes, de nature spécifique ou générale, pour les violations alléguées des droits et libertés protégés par la Convention ;

iv. encourager les juridictions et instances nationales à tenir compte des principes pertinents de la Convention, eu égard à la jurisprudence de la Cour, lorsqu'elles conduisent leurs procédures et élaborent leurs décisions, et leur en donner les moyens ; et en particulier, permettre aux parties au litige – dans les limites appropriées de la procédure judiciaire nationale, mais sans obstacles inutiles – d'attirer l'attention des juridictions et instances nationales sur toutes dispositions pertinentes de la Convention et la jurisprudence de la Cour ;

v. donner aux agents publics les informations nécessaires sur les obligations imposées par la Convention ; et en particulier dispenser aux agents travaillant dans le système judiciaire, responsables de l'application des lois ou des mesures privatives de liberté, une formation sur la manière de remplir les obligations imposées par la Convention ;

vi. veiller à ce que des informations et une formation appropriées sur la Convention soient intégrées dans la formation théorique et pratique et dans le développement professionnel des juges, des avocats et des procureurs ; et

vii. donner aux requérants potentiels des informations sur la Convention, notamment sur le champ et les limites de la protection qu'elle offre, sur la compétence de la Cour et sur les critères de recevabilité ;

d. encourage les Etats parties s'ils ne l'ont pas encore fait :
i. à veiller à ce que les arrêts importants de la Cour soient traduits ou résumés dans les langues nationales, lorsque cela est nécessaire pour qu'ils soient dûment pris en compte ;
ii. à traduire le Guide pratique de la Cour sur la recevabilité dans les langues nationales ; et
iii. à envisager d'apporter des contributions volontaires additionnelles aux programmes du Conseil de l'Europe dans le domaine des droits de l'homme ouau Fonds fiduciaire pour les droits de l'homme ;
e. encourage tous les Etats parties à tirer pleinement parti de l'assistance technique et à donner et recevoir, sur demande, une assistance technique bilatérale dans un esprit de coopération ouverte, en vue d'une protection pleine et entière des droits de l'homme en Europe ;
f. invite le Comité des Ministres :
i. à examiner comment veiller au mieux à ce que l'assistance technique demandée soit fournie aux Etats parties qui en ont le plus besoin ;
ii. dans le prolongement des sous-paragraphes c.iii et iv ci-dessus, à élaborer un guide de bonnes pratiques en matière de voies de recours internes ;
iii. dans le prolongement du sous-paragraphe c.v ci-dessus, à préparer une boîte à outils que les Etats parties pourraient utiliser pour informer leurs agents publics sur les obligations de l'Etat en application de la Convention ;
g. invite le Secrétaire Général à proposer aux Etats parties, à travers le Comité des Ministres, des moyens pratiques d'améliorer :
i. la mise en œuvre des programmes d'assistance technique et de coopération du Conseil de l'Europe ;
ii. la coordination entre les différents acteurs du Conseil de l'Europe qui participent aux mesures d'assistance ; et
iii. le ciblage de l'assistance technique à la disposition de chaque Etat partie sur une base bilatérale, en tenant compte d'arrêts particuliers de la Cour ;
h. invite la Cour à indiquer, parmi ses arrêts, ceux qu'elle recommanderait tout particulièrement de traduire éventuellement dans les langues nationales ; et
i. réitère l'importance de la coopération entre le Conseil de l'Europe et l'Union européenne, en particulier pour assurer la mise en œuvre effective des programmes conjoints et une cohérence entre leurs priorités respectives dans ce domaine ;

B. Interaction entre la Cour et les autorités nationales

10. Les Etats parties à la Convention sont tenus de reconnaître à toute personne relevant de leur juridiction les droits et libertés définis dans la Convention et d'octroyer un recours effectif devant une instance nationale à toute personne

dont les droits et libertés ont été violés. La Cour interprète de manière authentique la Convention. Elle offre également une protection aux personnes dont les droits et les libertés ne sont pas garantis au niveau national.

11. La jurisprudence de la Cour indique clairement que les Etats 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. La marge d'appréciation va de pair avec la supervision découlant du système de la Convention. A cet égard, le rôle de la Cour est d'examiner si les décisions prises par les autorités nationales sont compatibles avec la Convention, eu égard à la marge d'appréciation dont dispose les Etats.

12. En conséquence, la Conférence :

a. salue le développement par la Cour, dans sa jurisprudence, de principes tels que ceux de subsidiarité et de marge d'appréciation et l'encourage à prêter la plus grande attention à ces principes et à les appliquer systématiquement dans ses arrêts ;

b. conclut que pour des raisons de transparence et d'accessibilité, une référence au principe de subsidiarité et à la doctrine de la marge d'appréciation, telle que développée dans la jurisprudence de la Cour, devrait être incluse dans le préambule de la Convention et invite le Comité des Ministres à adopter un instrument d'amendement en ce sens d'ici fin 2013, tout en rappelant l'engagement des Etats parties à donner plein effet à leur obligation de garantir les droits et libertés définis dans la Convention ;

c. salue et encourage le dialogue ouvert entre la Cour et les Etats parties afin d'améliorer la compréhension de leurs rôles respectifs dans la mise en œuvre de leur responsabilité partagée en matière d'application de la Convention y compris, en particulier, le dialogue entre la Cour et :

i. les plus hautes juridictions des Etats parties ;

ii. le Comité des Ministres, y compris en ce qui concerne le principe de subsidiarité ainsi que la clarté et la cohérence de la jurisprudence de la Cour ; et

iii. les agents des gouvernements et les experts juridiques des Etats parties, concernant en particulier les questions de procédure et à travers leur consultation sur les propositions de modification du Règlement de la Cour ;

d. note que l'interaction entre la Cour et les autorités nationales pourrait être renforcée par l'introduction dans la Convention d'un pouvoir supplémentaire de la Cour, que les Etats parties pourraient accepter à titre optionnel, de rendre sur demande des avis consultatifs sur l'interprétation de la Convention

dans le contexte d'une affaire particulière au niveau national, sans préjudice du caractère non contraignant de ces avis pour les autres Etats parties ; invite le Comité des Ministres à rédiger le texte d'un protocole facultatif à la Convention à cet effet d'ici fin 2013 ; et invite en outre le Comité des Ministres à décider ensuite s'il y a lieu de l'adopter ; et

e. rappelle que la Conférence d'Izmir a invité le Comité des Ministres à poursuivre l'examen de la question des mesures provisoires prévues par l'article 39 du Règlement de la Cour ; et invite le Comité des Ministres à évaluer si une réduction significative du nombre de ces mesures a été constatée et si les requêtes faisant l'objet de mesures provisoires sont aujourd'hui traitées avec célérité, et à proposer toute action qui apparaîtrait nécessaire.

C. Requêtes introduites devant la Cour

13. Le droit de recours individuel est l'une des pierres angulaires du système de la Convention. Le droit d'introduire une requête devant la Cour devrait pouvoir être exercé concrètement et les Etats parties doivent veiller à n'entraver en aucune mesure l'exercice effectif de ce droit.

14. Les critères de recevabilité énoncés à l'article 35 de la Convention indiquent quelles affaires la Cour devrait examiner plus avant sur le fond. Ils devraient fournir à la Cour des outils pratiques pour s'assurer qu'elle puisse se concentrer sur les affaires dans lesquelles le principe ou l'importance de la violation requiert son attention. Il appartient à la Cour de statuer sur la recevabilité des requêtes. Il importe, ce faisant, qu'elle continue d'appliquer strictement et uniformément les critères de recevabilité afin d'accroître la confiance dans la rigueur du système de la Convention et d'éviter un alourdissement injustifié de sa charge de travail.

15. En conséquence, la Conférence :

a. salue la suggestion de la Cour que le délai dans lequel une requête doit être introduite devant la Cour, prévu par l'article 35, paragraphe 1 de la Convention, pourrait être réduit ; conclut que le délai de quatre mois est approprié, et invite le Comité des Ministres à adopter un instrument d'amendement en ce sens d'ici fin 2013 ;

b. se félicite que la Cour envisage d'appliquer plus strictement le délai prévu par l'article 35, paragraphe 1 de la Convention et souligne une nouvelle fois qu'il importe que la Cour applique pleinement, de manière cohérente et prévisible, tous les critères de recevabilité,y compris les règles concernant le champ de sa juridiction pour garantir l'administration efficiente de la justice et préserver les rôles respectifs de la Cour et des autorités nationales ;

c. conclut qu'à l'article 35, paragraphe 3.b de la Convention, les mots « et à condition de ne rejeter pour ce motif aucune affaire qui n'a pas été dûment

examinée par un tribunal interne » devraient être supprimés, et invite le Comité des Ministres à adopter un instrument d'amendement en ce sens d'ici fin 2013 ;

d. affirme qu'une requête devrait être considérée comme manifestement irrecevable au sens de l'article 35(3)(a), entre autres, dans la mesure où la Cour estime que la requête soulève un grief qui a été dûment examiné par un tribunal interne appliquant les droits garantis par la Convention à la lumière de la jurisprudence bien établie de la Cour, y compris, le cas échéant, sur la marge d'appréciation, à moins que la Cour estime que la requête soulève une question sérieuse relative à l'interprétation ou à l'application de la Convention ; et encourage la Cour à veiller à la nécessité de suivre une approche stricte et cohérente lorsqu'elle déclare de telles requêtes irrecevables, en clarifiant sa jurisprudence à cet effet si nécessaire ;

e. constate avec satisfaction que la Cour a renforcé l'information des requérants sur ses procédures, et notamment sur les critères de recevabilité ;

f. invite la Cour à prévoir expressément dans son Règlement la possibilité de prendre une décision séparée sur la recevabilité à la demande du gouvernement défendeur lorsqu'il existe un intérêt particulier à ce que la Cour statue sur l'effectivité d'un recours interne mis en cause dans l'affaire considérée ;

g. invite la Cour à développer sa jurisprudence sur l'épuisement des voies de recours internes afin d'imposer que, lorsque celles-ci existent, le grief allégué de la violation de la convention ou d'une disposition équivalente du droit national ait été argumenté devant les tribunaux ou instances nationales, de façon à donner à celles-ci la possibilité d'appliquer la Convention à la lumière de la jurisprudence de la Cour.

D. Traitement des requêtes

16. Le volume des requêtes portées chaque année devant la Cour a doublé depuis 2004. Un nombre considérable de requêtes sont aujourd'hui pendantes devant toutes les formations judiciaires primaires de la Cour. De nombreux requérants, y compris des personnes dont la requête peut être bien fondée, doivent attendre une réponse pendant des années.

17. Vu l'importance du droit de recours individuel, la Cour doit être en mesure de traiter les requêtes irrecevables aussi efficacement que possible, avec une incidence minimale sur ses ressources. La Cour a déjà pris des mesures importantes à cette fin dans le cadre du Protocole n° 14, ce dont il faut se féliciter.

18. Les requêtes répétitives ont le plus souvent pour origine des problèmes systémiques ou structurels au niveau national. Il incombe aux Etats parties concernés, sous la surveillance du Comité des Ministres, de faire en sorte que

ces problèmes et les violations qui en découlent soient réglés dans le cadre de l'exécution effective des arrêts de la Cour.

19. Le nombre croissant d'affaires pendantes devant les chambres de la Cour est également très préoccupant. La Cour devrait pouvoir axer son attention sur les nouvelles violations susceptibles d'être bien fondées.

20. En conséquence, la Conférence :

a. se félicite des progrès déjà réalisés par la Cour dans le traitement des requêtes, et en particulier de l'adoption :

i. de sa politique de hiérarchisation, qui l'a aidée à concentrer ses efforts sur les affaires les plus importantes et les plus graves ;

ii. de méthodes de travail tendant à rationaliser les procédures, notamment pour le traitement des affaires irrecevables ou répétitives, tout en maintenant une responsabilité judiciaire appropriée ;

b. note avec satisfaction que la Cour pourrait traiter d'ici à 2015 les requêtes manifestement irrecevables en suspens, prend note de la demande de la Cour d'obtenir le détachement supplémentaire de juges nationaux et de juristes indépendants de haut niveau auprès de son Greffe pour lui permettre d'y parvenir et encourage les Etats parties à organiser de nouveaux détachements dans ce sens ;

c. reste préoccupée par le grand nombre de requêtes répétitives en instance devant la Cour ; se félicite que celle-ci continue d'appliquer des mesures proactives, en particulier la procédure de l'arrêt pilote, pour traiter les violations répétitives avec efficacité ; et encourage les Etats parties, le Comité des Ministres et la Cour à travailler de concert pour trouver les moyens de régler le grand nombre de requêtes résultant de problèmes systémiques identifiés par la Cour, en examinant les différentes idées qui ont été avancées, y compris leurs implications juridiques, pratiques et financières, et en tenant compte du principe d'égalité de traitement de tous les Etats parties ;

d. en s'appuyant sur la procédure des arrêts pilotes, invite le Comité des Ministres à envisager l'opportunité et les modalités d'une procédure selon laquelle la Cour pourrait enregistrer et statuer sur un petit nombre de requêtes représentatives sélectionnées dans un groupe de requêtes alléguant la même violation contre le même Etat partie défendeur, la décision de la Cour en l'espèce étant applicable à l'ensemble du groupe.

e. note que, pour permettre à la Cour de se prononcer dans un délai raisonnable sur les requêtes pendantes devant ses chambres, il pourrait être nécessaire à l'avenir de désigner des juges supplémentaires à la Cour ; note en outre qu'il pourrait être nécessaire que ces juges aient un mandat d'une durée différente, et/ou un éventail de fonctions différent des juges existants de la Cour ; et invite le Comité des Ministres à décider d'ici fin 2013 s'il devrait ou non entreprendre d'amender la Convention en vue de permettre la nomination de

tels juges suite à une décision unanime du Comité des Ministres agissant sur la base d'informations reçues de la Cour ;

f. invite la Cour à consulter les Etats parties à propos de son intention d'adopter une interprétation plus large de la notion de jurisprudence bien établie au sens de l'article 28, paragraphe 1 de la Convention, afin de statuer sur un plus grand nombre d'affaires selon une procédure de comité, sans préjudice de l'examen approprié des circonstances d'espèce de chaque affaire et du caractère non contraignant des arrêts rendus à l'encontre d'un autre Etat partie ;

g. invite la Cour à examiner, en consultation avec les Etats parties, la société civile et les institutions nationales chargées des droits de l'homme, si :

i. à la lumière de l'expérience du projet pilote, d'autres mesures devraient être mises en place pour faciliter l'introduction des requêtes en ligne et simplifier ainsi la procédure de communication des affaires, tout en veillant à ce que les requêtes émanant de requérants qui n'ont pas la possibilité de les introduire en ligne continuent d'être acceptées ;

ii. les formulaires de requêtes auprès de la Cour pourraient être améliorés afin de faciliter une meilleure présentation et un meilleur traitement de ces requêtes ;

iii. les décisions et les arrêts de la Cour pourraient être mis à la disposition des parties à l'affaire un peu avant leur publication ;

iv. la demande de satisfaction équitable, y compris pour frais et dépens, et les observations y afférentes pourraient être soumises à un stade antérieur de la procédure devant la chambre et la Grande Chambre ;

h. estime que l'application intégrale de ces mesures, assortie des ressources appropriées, devrait en principe permettre à la Cour de prendre la décision de communiquer ou non une affaire, dans un délai d'un an, puis de rendre une décision ou un arrêt sur toute affaire communiquée dans un délai de deux ans après sa communication ;

i. exprime en outre l'engagement des Etats parties à travailler en partenariat avec la Cour afin d'obtenir ces résultats ; et

j. invite le Comité des Ministres, à déterminer, en concertation avec la Cour, comment il établirait, d'ici 2015, si ces mesures se sont avérées suffisantes pour permettre à la Cour de faire face à sa charge de travail ou s'il y a lieu de prendre des mesures complémentaires.

E. Les juges et la jurisprudence de la Cour

21. L'autorité et la crédibilité de la Cour dépendent en grande partie de la qualité de ses juges et des arrêts qu'ils rendent.

22. Le haut niveau des juges élus à la Cour est fonction de la qualité des candidats présentés à l'Assemblée parlementaire. Le choix de candidats ayant la plus

haute envergure possible, opéré par les Etats parties, est de ce fait primordial pour préserver le succès de la Cour, tout comme l'est un Greffe de grande qualité, composé de juristes choisis en raison de leurs compétences juridiques et de leurs connaissances du droit et de la pratique des Etats parties, qui apporte un soutien inestimable aux juges de la Cour.

23. Les arrêts de la Cour doivent être clairs et cohérents, ce qui est un facteur de sécurité juridique. Cela aide les tribunaux nationaux à appliquer la Convention de manière plus précise et les requérants potentiels à évaluer si leur requête est bien fondée. La clarté et la cohérence sont particulièrement importantes lorsque la Cour traite de questions de portée générale. La cohérence dans l'application de la Convention ne requiert pas que les Etats parties mettent en œuvre celle-ci de manière uniforme. La Cour a indiqué qu'elle envisageait de modifier son Règlement afin d'imposer à une chambre de prendre une décision de dessaisissement si elle considère qu'il y a lieu de s'écarter d'une jurisprudence établie.
24. Un collège de juges stable favorise la cohérence de la Cour. Aussi n'est-il pas souhaitable, en principe, qu'un juge n'assure pas intégralement le mandat prévu par la Convention.
25. En conséquence, la Conférence :

a. se félicite de l'adoption par le Comité des Ministres des Lignes directrices concernant la sélection des candidats pour le poste de juge à la Cour européenne des droits de l'homme, et encourage les Etats parties à les mettre en œuvre ;
b. se félicite de la création du Panel consultatif d'experts sur les candidats à l'élection de juges à la Cour européenne des droits de l'homme, note que le Comité des Ministres a décidé de réexaminer le fonctionnement du Panel consultatif à l'issue d'une période initiale de trois ans et invite l'Assemblée parlementaire et le Comité des Ministres à réfléchir à de nouvelles améliorations des procédures d'élection des juges ;
c. salue les mesures prises par la Cour pour préserver et renforcer la haute qualité de ses arrêts, en vue notamment de renforcer leurs clarté et leur cohérence ; note avec satisfaction que la Cour a reconnu de longue date que, par souci de sécurité juridique, de prévisibilité et d'égalité devant la loi, elle ne devrait pas s'écarter sans raison valable de ses propres précédents ; invite en particulier la Cour à garder à l'esprit l'importance de la cohérence lorsque les arrêts ont trait à différents aspects d'une même question, afin que leur effet cumulé continue d'offrir aux Etats parties une marge d'appréciation appropriée ;
d. vu le rôle central joué par la Grande Chambre pour la cohérence de la jurisprudence de la Cour, conclut qu'il faudrait supprimer les mots « à moins que l'une des parties ne s'y oppose » à l'article 30 de la Convention, invite le Comité

des Ministres à adopter un instrument d'amendement en ce sens, et à examiner si des changements seraient requis en conséquence, d'ici fin 2013 et encourage les Etats parties à s'abstenir de faire objection à toute proposition de dessaisissement par une chambre en attendant l'entrée en vigueur de l'instrument d'amendement ;

e. invite la Cour à examiner si l'inclusion *ex officio* des vice-présidents de chaque section serait de nature à améliorer la composition de la Grande Chambre ; et

f. conclut à la nécessité d'amender l'article 23, paragraphe 2 de la Convention pour remplacer la limite d'âge des juges par l'exigence que ceux-ci n'aient pas plus de 65 ans au moment de l'entrée en fonction, et invite le Comité des Ministres à adopter un instrument d'amendement en ce sens d'ici fin 2013.

F. Exécution des arrêts de la Cour

26. Chaque Etat partie s'est engagé à se conformer aux arrêts définitifs de la Cour dans toute affaire dans laquelle il est partie. 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.

27. Le Comité des Ministres doit par conséquent vérifier de manière effective et équitable si les mesures prises par un Etat partie ont mis un terme à une violation. Le Comité des Ministres devrait pouvoir prendre des mesures effectives à l'égard d'un Etat partie qui manque à ses obligations au titre de l'article 46 de la Convention. Le Comité des Ministres devrait accorder une attention particulière aux violations révélatrices d'un problème systémique au plan national, et veiller à ce que les Etats parties exécutent rapidement et effectivement les arrêts pilotes.

28. Le Comité des Ministres surveille l'exécution d'un nombre d'arrêts toujours croissant. Etant donné que la Cour travaille à travers les requêtes potentiellement bien fondées qui sont pendantes devant elle, on peut s'attendre à ce que le volume de travail du Comité des Ministres augmente encore.

29. En conséquence, la Conférence :

a. encourage les Etats parties :

i. à développer des moyens et des mécanismes au plan interne pour assurer l'exécution rapide des arrêts de la Cour, y compris à travers la mise en œuvre de la Recommandation Rec(2008)2 du Comité des Ministres et à partager leurs bonnes pratiques en la matière ;

ii. à élaborer des plans d'action pour l'exécution des arrêts, rendus accessibles au plus grand nombre, y compris si possible par leur publication dans les langues nationales ;

iii. à faciliter le rôle important joué par les parlements nationaux dans l'examen de l'efficacité de la mise en œuvre des mesures prises ;

b. réitère l'invitation adressée au Comité des Ministres par les Conférences d'Interlaken et d'Izmir à appliquer pleinement le principe de subsidiarité, selon lequel les Etats parties peuvent choisir de quelle manière ils entendent satisfaire à leurs obligations en vertu de la Convention ;

c. invite le Comité des Ministres à poursuivre sa réflexion sur les moyens de perfectionner ses procédures afin de garantir une surveillance effective de l'exécution des arrêts, notamment par :

i. un examen plus structuré des questions stratégiques et systémiques lors de ses réunions ; et

ii. une plus grande publicité à propos de ses réunions ;

d. invite le Comité des Ministres à examiner si des mesures plus efficaces sont nécessaires à l'égard des Etats qui ne donnent pas suite aux arrêts de la Cour dans un délai approprié ;

e. salue les rapports réguliers et les débats de l'Assemblée parlementaire relatifs à l'exécution des arrêts.

G. Avenir à plus long terme du système de la Convention et de la Cour

30. La présente Déclaration traite de questions immédiates auxquelles la Cour est confrontée. Il est toutefois également vital de préserver l'efficacité future du système de la Convention. Pour ce faire, un processus est nécessaire pour anticiper les défis qui se profilent et développer une vision de l'avenir de la Convention, afin que les décisions futures puissent être prises en temps utile et de manière cohérente.

31. Dans le cadre de ce processus, il pourrait s'avérer nécessaire d'évaluer le rôle fondamental et la nature de la Cour. La vision à plus long terme doit garantir la pérennité du rôle clé joué par cette dernière dans le système de protection et de promotion des droits de l'homme en Europe. Le droit de recours individuel reste une pierre angulaire du système de la Convention. Les futures réformes devront renforcer la capacité de ce système à garantir un traitement rapide et efficace des violations graves.

32. La mise en œuvre effective de la Convention au niveau national permettra à la Cour de jouer à plus long terme un rôle plus ciblé et plus concentré. Le système de la Convention doit aider les Etats à assumer la responsabilité qui leur incombe au premier chef de mettre en œuvre la Convention au plan national.

33. Grâce à une meilleure mise en œuvre au niveau national, la Cour devrait être en mesure de concentrer ses efforts sur les violations graves ou répandues, les problèmes systémiques et structurels, et les questions importantes relatives à l'interprétation et à l'application de la Convention et de ce fait aurait à

redresser par elle-même un moins grand nombre de violations et en conséquence à rendre un moins grand nombre d'arrêts.

34. La Conférence d'Interlaken a invité le Comité des Ministres à évaluer, durant les années 2012 à 2015, dans quelle mesure la mise en œuvre du Protocole n° 14 et du Plan d'action d'Interlaken aura amélioré la situation de la Cour. Sur la base de cette évaluation, le Comité des Ministres a été appelé à se prononcer, avant fin 2015, sur la nécessité d'entreprendre d'autres actions. Il a également été invité à décider, avant fin 2019, si les mesures adoptées se sont révélées suffisantes pour assurer un fonctionnement durable du mécanisme de contrôle de la Convention ou si des changements plus fondamentaux sont nécessaires.

35. En conséquence, la Conférence :

a. se félicite du processus de réflexion sur l'avenir à plus long terme de la Cour engagé par la Conférence d'Interlaken et poursuivi par la Conférence d'Izmir et salue la contribution de la Conférence informelle de Wilton Park à cette réflexion ;

b. invite le Comité des Ministres à définir d'ici fin 2012 le processus qui lui permettra de remplir les missions que lui confie la présente Déclaration et les Déclarations adoptées par les Conférences d'Interlaken et d'Izmir ;

c. invite le Comité des Ministres, dans le cadre de la mise en œuvre du mandat qu'il a reçu en application des Déclarations adoptées par les Conférences d'Interlaken et d'Izmir, à examiner l'avenir du système de la Convention, cet examen couvrant les défis futurs à la jouissance des droits et libertés garantis par la Convention et la façon dont la Cour peut remplir au mieux le double rôle qui est le sien d'agir en tant que sauvegarde pour les individus dont les droits et libertés ne sont pas assurés au niveau national et d'interpréter de manière authentique la Convention ;

d. propose que le Comité des Ministres remplisse cette tâche dans le cadre des structures existantes, tout en s'assurant de la participation et des conseils d'experts extérieurs le cas échéant afin de lui fournir un large éventail d'expertise et de faciliter l'analyse la plus approfondie possible des questions et solutions possibles ;

e. envisage que le Comité des Ministres, dans le cadre de ces travaux, effectue une analyse exhaustive des options potentielles quant à la fonction et au rôle futurs de la Cour, y compris la façon dont le système de la Convention pourrait être préservé pour l'essentiel dans sa forme actuelle, ainsi qu'un examen de changements plus substantiels quant à la façon dont les requêtes sont résolues par le système de la Convention en vue de réduire le nombre d'affaires qui doivent être traitées par la Cour ;

f. invite en outre les Etats parties, y compris à travers le Comité des Ministres, à initier un examen exhaustif :

i. de la procédure de surveillance de l'exécution des arrêts de la Cour et du rôle du Comité des Ministres dans ce processus ; et

ii. de l'octroi d'une satisfaction équitable aux requérants en application de l'article 41 de la Convention ; et

g. dans un premier temps, invite le Comité des Ministres à parvenir à un point de vue intermédiaire sur ces questions d'ici fin 2015.

H. Dispositions générales et finales

36. L'adhésion de l'Union européenne à la Convention permettra une application plus cohérente des droits de l'homme en Europe. La Conférence note par conséquent avec satisfaction l'avancée des préparatifs du projet d'accord d'adhésion et lance un appel pour que ces travaux soient rapidement menés à bonne fin.

37. La Conférence note également avec satisfaction que, conformément au mandat donné par les Conférences d'Interlaken et d'Izmir, se poursuit l'examen de la question de savoir si une procédure simplifiée d'amendement des dispositions de la Convention relatives aux questions d'organisation pourrait être introduite au moyen d'un Statut de la Cour ou d'une nouvelle disposition dans la Convention, et appelle à une conclusion rapide et réussie de ces travaux qui tienne pleinement compte des dispositions constitutionnelles des Etats parties.

38. Lorsque les décisions relatives aux suites à donner à la présente Déclaration ont des implications financières pour le Conseil de l'Europe, la Conférence invite la Cour et le Comité des Ministres à quantifier ces coûts au plus tôt, en tenant compte des principes budgétaires du Conseil de l'Europe et de la nécessité de faire attention aux frais.

39. La Conférence :

a. invite la présidence britannique à transmettre la présente Déclaration et les actes de la Conférence au Comité des Ministres ;

b. invite les Etats parties, le Comité des Ministres, la Cour et le Secrétaire Général du Conseil de l'Europe à donner pleinement effet à la présente Déclaration ; et

c. invite les présidences futures du Comité des Ministres à maintenir la dynamique de la réforme de la Cour et de la mise en œuvre de la Convention.

APPENDIX/ANNEXE

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