

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

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SPEECH

by

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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, representing 35 national institutions from across Council of Europe Member States accredited under the 1993 UN "Paris Principles" (NHRIs). The European Group commends the Turkish Government for convening this Ministerial Conference at what is a crucial time for the future of the European Court of Human Rights. Indeed, it marks a useful opportunity to evaluate the progress made since the Interlaken Ministerial Conference and to weigh future developments.

1) NHRIs

NHRIs play a pivotal role at the national level not least in terms of the implementation of the Interlaken Action Plan. European NHRIs have acted upon the Interlaken Declaration, including by striving to ensure that applicants are better informed of the admissibility criteria, seeking to establish enhanced cooperation in the execution of judgments process, holding roundtable debates on the reform of the Court and disseminating information on the Court and recent case law of prominence.

2) Draft Izmir Declaration

The European Group broadly welcomes the draft Izmir Declaration as a platform for reflection on the Interlaken measures under way and indeed on the pressures which continue to hinder the Court's work. The European Group is fully supportive of the initiative to reform the Court, ensuring the right of individual application, and considers that the Interlaken roadmap – with its specific timeframes and objectives – should remain the template for reform. However we find that the draft Izmir Declaration raises some concerns.

3) Subsidiarity

While recognising the importance of the principle of subsidiarity, we are concerned as to the tenor of the discussions on this issue. We would wish to remind delegations of the fundamental role the Court plays as a supervisory mechanism of the Convention, complementing national jurisdictions using an internationalist approach, thereby rendering an extraordinary contribution to the protection of human rights in the Council of Europe.

We would remind delegations of the helpful analysis provided by the jurisconsult - that in essence, the principle of subsidiary must start with the national authorities - to ensure that legislation and practice does not violate human rights and when this occurs, to provide proper redress. In this

respect, the number of continuing cases being brought before the Court, ongoing findings of violations and in particular repetitive applications, are matters of concern. It is only by addressing these matters that ultimately the caseload of the Court will be reduced, and protection of fundamental rights in Europe be enhanced.

4) Independence of the Court

The European Group is also concerned by some of the language in the latest draft Declaration which could have the inadvertent effect of impinging on the independence of the Court and to potentially place inappropriate political pressure on it. Proposals for reform of the Court must ensure they maintain the independence of the Court as a judicial body free from State interference.

5) Fees

The European Group considers that the proposal to introduce fees has not been conclusively proven to generate significant benefits, which could outweigh the possible dissuasive effect that such a fee system may have on applicants who need to access the Court. In addition, administering such a system will be burdensome for the Court.

6) Interim measures

As regards interim measures we recall that in the Court's recent Opinion it unequivocally states that interim measures are essential to ensuring the practical and effective nature of the right to individual petition and to the protection of fundamental rights. We are of the opinion that introducing effective remedies with suspensive effect at domestic level and prioritising consideration of Rule 39 cases at the Court level will meet the States' and the Court's legitimate concerns.

7) New admissibility criteria

The European Group finds discussion on the potential introduction of new admissibility criteria premature at this stage. The European Group emphasises that there should be no curtailment of the right to individual petition. The full effects of Protocol 14 are yet to be established. The ECHR system is overloaded by meritorious repetitive cases, inadmissible applications and the backlog that they are creating.

The European Group is convinced that the increased emphasis on national implementation such as effective execution of judgments, timely implementation of the jurisprudence of the Court and addressing repetitive applications at source should in due course significantly address the backlog of meritorious cases.

Regarding the number of inadmissible applications, all the relevant parties must make a concerted effort to find solutions in order to increase the awareness in all Member States about what the Court can and cannot do for possible applicants. We believe that NHRIs can play an instrumental role in this process in terms of cooperation with the Council of Europe organs and Governments, through diffusion of information about the ECHR system and training of legal professionals.

8) Conclusion

To conclude, this Ministerial Conference is testament to the gravity of the situation facing the Court and of the efforts by all actors to ensure its sustainability. In our search for solutions we must remember however that the system builds on the right to individual petition which has made the European Court of human rights a key actor in Europe to redress human rights violations that would otherwise remain unaddressed.

Thank you for your attention.

