

Oral Statement of the European Group of National Human Rights Institutions at the Brighton High-Level Ministerial Conference on the Future of the European Court of Human Rights

19-20 April 2012

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 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.

Des Hogan

European Group of
National Human Rights
Institutions

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