



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

## **Conference “75th Anniversary of the European Convention on Human Rights and Administrative Court Judges”**

**Opening address by Mattias Guyomar**

*Warsaw, 2 October 2025*

*Dear President Chlebny,*

*Distinguished Presidents, Judges, and colleagues,*

*Ladies and Gentlemen,*

It is a profound honour to deliver this opening address and to greet you, judges of supreme administrative courts from across our continent, at this joint conference commemorating the 75th Anniversary of the European Convention on Human Rights.

Our theme – the 75th anniversary of the Convention and the role of administrative court judges – allows us to reflect both on the origins and achievements of the Convention’s unique human rights system and on the responsibilities we share for its continued vitality.

Allow me first to thank warmly our hosts, the Supreme Administrative Court of Poland, for organising this judicial conference, - and for my part as President of the European Court of Human Rights, I will remain in a purely judicial field - their hospitality and for the rich programme they have prepared.

I also wish also to express my profound gratitude to President Chlebny for his vision and energy in putting together our largest and arguably most important event for the 75<sup>th</sup> anniversary of the European Convention, with the participation of ten Judges from the European Court of Human Rights, and of Marialena Tsirli, Registrar of the Court, under whose authority more than 700 staff members work for the Court with strong commitment.

Let me introduce them to you, because the participation of so many European Judges at one event is quite exceptional in itself.

Vice-President Ivana Jelić (Montenegro) and Judge Jolien Schukking (the Netherlands), who have also been very involved in the organisation from our side and I would like to thank them warmly for that; Anja Seibert-Fohr (Germany); Peeter Roosma (Estonia); Kateřina Šimáčková (the Czech Republic);

Mykola Gnatovskyy (Ukraine); Gediminas Sagatys (Lithuania); Artūrs Kučs (Latvia); Anna Adamska-Gallant (Poland) and Vasilka Sancin (Slovenia).

Finally, we are all pleased to see our friend and former colleague, Krzysztof Wojtyczek, participating in today's discussions and taking the floor at the end of the day.

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We convene at a time when Europe faces escalating geopolitical tensions and war on its soil, as Poland and its neighbours can testify directly.

These pressures are compounded by disinformation, populism, the resurgence of authoritarian tendencies, a troubling erosion of trust in public institutions, and increasing threats to judicial independence.

Against this backdrop, I propose to share with you a brief "return to the sources". This is more than just a historical exercise, it is a "back to the future"; a reminder of why the Convention was conceived as a pillar of democracy and the rule of law and why it remains indispensable.

As Pierre-Henri Teitgen, one of the architects of the post-war human rights order, warned: *"Democracies do not become Nazi states overnight. Evil operates cunningly. One by one, freedoms are suppressed ... until public opinion and the entire national conscience are asphyxiated.... It is necessary to intervene before it is too late. A conscience must exist somewhere which will sound the alarm to the minds of a nation menaced by this progressive corruption, to warn them of the peril. ... An international court, within the Council of Europe, a system of supervision and guarantees, could be that conscience ..."*.

Throughout our continent's long and often painful history, there have been many who sought to resolve diversity not through dialogue or understanding, but through violence. Yet, alongside this darker current, there has always been another voice: the voice of peace.

It is this enduring tradition of irenic thought that underpins the Council of Europe, established by the Treaty of London on 5 May 1949, and the European Convention on Human Rights, signed in Rome on 4 November 1950<sup>1</sup>.

They are both peace projects, rooted in the conviction that democracy, human rights and the rule of law are not noble aspirations but essential pillars of human coexistence.

The preparatory works of the Convention provide a window into the minds of its framers, capturing their foresight, the urgency of their mission and the nobility of their aspirations. They testify that the

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<sup>1</sup> On that date twelve States signed the Convention in Rome: Belgium, Denmark, France, Germany, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Turkey, and the United Kingdom.

Convention was an expression of legal humanism, at the same time a new beginning and a bulwark against the totalitarianism. It was designed not only to prevent the return of past horrors, but also to shield Europe from new threats at a time when communism was spreading, and to stand as a beacon of hope for those who found themselves behind the “iron curtain”.<sup>2</sup>

The Convention was conceived as a regional embodiment of the Universal Declaration of Human Rights of 1948. It explicitly references the Declaration in its Preamble and adopts its universalist language.

What made the Convention unique is that it was the first international instrument which transformed certain rights from the Universal Declaration, which was essentially aspirational, into binding legal obligations for States.

But the Convention went even further. To ensure that these rights and the corresponding obligations were not merely symbolic but concrete and enforceable, the Convention established an international supervision mechanism based on the right of individual application.

For the first time in history, that mechanism allowed individuals to bring proceedings against States before an international forum [composed of a Court of elected Judges<sup>3</sup>]. It contributed to the recognition of individuals as subjects of international law, marking a significant shift from the traditional principle that placed a State’s treatment of its own citizens beyond international scrutiny or liability<sup>4</sup>. It is a choice coming from the sovereign will of the member States of the Council of Europe.

As Robert Badinter later explained, the Convention “*pierces ... the screen of the State to reach the individual, the immediate subject of international law, the holder of rights and duties.*” He also provided a philosophical justification of the system: “*The universality of human rights legitimises the approach that consists in complementing the guarantee of rights with an intellectual construction that goes beyond the purely national framework.*”

Equally remarkable was the fact that, by accepting the Convention mechanism, the Contracting States implicitly acknowledged the need for a remedy outside their borders. [In doing so, they agreed to derogate – at least to some extent – from the traditional principle of non-interference and accepted to exercise over one another a mutual, collective guarantee entrusted to an international judicial body to ensure that no country would again slide into tyranny unchecked. As Mr Roberts of the United Kingdom declared: “*This Convention means that the European community as a whole guarantees the*

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<sup>2</sup> “*This battle in the human conscience, we can win by giving firm reality to the moral and spiritual values and to the democratic principles of our civilisation. It is through such an ideal that it will be possible to inspire faith in our aims, not only among our peoples, but also among the other peoples of Europe who are not part of the Council of Europe*” said Mr MacBride of Ireland.

<sup>3</sup> As Mr Kiesinger, speaking for Germany, foresaw: “*It would certainly be a milestone in history if human rights were not only safeguarded within national borders, but if, beyond them, any person whose rights had been violated could seek the protection of a European court.*” To this, Teitgen replied with even greater clarity: “*If we truly want collective protection in Europe of fundamental rights and freedoms [...] we must turn to the only force that has definitive authority in these countries: justice — a Court, a tribunal, judges.*” He saw an international mechanism available to victims as the only way to persuade the people of Europe that “*something new is being done.*”

<sup>4</sup> P.H. Teitgen explained what this meant for the peoples of Europe: “*the feeling that these rights and freedoms, which they have won after so many centuries of effort and toil, after so much pain and suffering, wars, uprisings, and revolutions, after so much blood and tears, will now be guaranteed against any domestic arbitrariness by these European authorities in which they place, in advance, such touching trust.*”

*maintenance in all its member States of a living democracy, and that the liberty of each individual ... is the concern of all.*"<sup>5</sup>

What was once a dream became a reality. Over the years the Convention system became not only the most advanced and effective international mechanism for enforcing human rights but also the most far-reaching system of international justice.

Through successive accessions – notably those of Spain and Portugal in the late 1970s, following their democratic transitions, and of numerous Central and Eastern European countries in the 1990s after the fall of communism – the Convention gradually came to embrace almost the entire continent. From its 12 original signatories<sup>6</sup>, it expanded to 47 States, and today binds 46, following Russia's expulsion from the Council of Europe in 2022 after its full-scale invasion of Ukraine. It now stands as a safeguard for the rights of some 700 million people.

The supervisory mechanism established by the Convention is, by design, a subsidiary one. It is activated only after domestic remedies have been exhausted. The primary responsibility for safeguarding the Convention rights rests squarely with the Contracting States themselves. This reflects the system's true nature: not one of hierarchy, but of complementarity of jurisdictions.

The drafters therefore left the Convention as a shared legacy, entrusted both to the national courts and to the European Court, making it their common responsibility to keep it alive.

To serve this purpose, the Convention was deliberately drafted in broad and inclusive terms, echoing the language of the Universal Declaration, precisely to allow judges to adapt the scope of its rights to new circumstances. As the Preamble proclaims, the Convention is dedicated to "*the maintenance and further realisation of human rights.*" The drafters thus entrusted judges not only with safeguarding those rights, but also with developing them. To do so the Convention had to be interpreted in a dynamic and contextualised manner.

The Court has remained faithful to that vision. Through its dynamic and evolutive interpretation of the Convention as a "living instrument"<sup>7</sup>, which guarantees the rights that are not "theoretical or illusory but practical and effective"<sup>8</sup>, the Court has ensured that it speaks to realities that were unforeseeable and unimaginable at the time it was adopted, including issues related to new technologies, bioethics or climate change.

The metaphor of the "living instrument" resonates with another interpretative tradition: the *living tree doctrine* derived from a seminal case of the Supreme Court of Canada<sup>9</sup>.

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<sup>5</sup> Lord Layton remarked along the same lines "... *the maintenance of certain basic democratic rights in any one of our countries is not the concern of that country alone, but is the concern of the whole group.*"

<sup>6</sup> Belgium, Denmark, France, Germany, Iceland, Ireland, Italy, Luxembourg, Norway, the Netherlands, Turkey and the United Kingdom.

<sup>7</sup> *Tyrer v. the United Kingdom*, 25 April 1978, § 31, Series A no. 26.

<sup>8</sup> *Airey v. Ireland*, 9 October 1979, § 24, Series A no. 32.

<sup>9</sup> *Edwards v. Canada of 1929*

Of course, evolutive interpretation is not without limits. Judges cannot become legislators and invent new rights and thereby transform the Convention from a “living tree” into a “moving tree.” They cannot go further in their judicial interpretative power than to harvest the fruit from the tree planted by the drafters.

Only sovereign States, Parties to the Convention, have legitimacy to create new rights. Indeed, the Convention has over the years been supplemented by various additional Protocols, signed and ratified by the member States themselves, which have expanded the catalogue of substantive and procedural rights.

However, the Convention has not evolved solely at the international level. Many contracting States have incorporated it into their national legal systems where it often acquired a *quasi*-constitutional status. A significant role in this process of “embedding” of the Convention has been played by its unique character. Unlike an ordinary international treaty, the Convention goes beyond mere reciprocal engagements between the Contracting States and directly creates rights for private individuals.<sup>10</sup>

It has become, as the Court has called it, “a constitutional instrument of European public order”.<sup>11</sup> This order is to be understood as embracing, not excluding, national constitutional identities. It cannot be otherwise, for – as the Preamble reminds us – the Convention rests on the very rights that form the common heritage of all European countries.

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The principle of subsidiarity, enshrined in the Preamble since Protocol No. 15 and stemming from shared responsibility, is the cornerstone of the Convention system.

The effective functioning of this system requires a continuous, dynamic, and robust judicial dialogue. It is this dialogue that fosters coherence, mutual trust, and the progressive development of human rights. Importantly, it is multi-layered and takes many forms.

There is, first, the vital dialogue between European Court and the national courts through our judgments, the comparative analysis that underpins them, our advisory opinions, our Knowledge Sharing platform, and, increasingly, through networks and platforms for direct exchange.

Foremost among these is the Superior Courts Network, a key pillar of judicial dialogue within the Convention system, which celebrates its 10th anniversary this year. In just a decade, it has grown into the largest judicial network in the world, bringing together 111 national apex courts from 46 Council of Europe Member States, joined by five observer courts.<sup>12</sup>

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<sup>10</sup> See, for example, *Ireland v. the United Kingdom*, 18 January 1978, § 239, Series A no. 25.

<sup>11</sup> See, for example, *Loizidou v. Turkey* (preliminary objections) [GC], no. 15318/89, § 75, Series A no. 310, and *Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], no. 5809/08, § 145, 21 June 2016.

<sup>12</sup> The Court of Justice of the European Union, the Inter-American and African human rights courts, the Supreme Court of Justice of Mexico, and the Supreme Court of Canada.

Equally essential, however, is the horizontal dialogue among national courts. I would like to salute the presence here of President Pikramenos from the Greek Council of State, who I had the honour of hosting in Strasbourg recently with a delegation of judges. President Pikramenos is here today in his capacity President of ACA-Europe, the International Association of Supreme Administrative Jurisdictions. Through these regular meetings of supreme administrative courts, judges learn from one another, align their standards, and strengthen mutual trust. When a national court draws upon the reasoning of a fellow court from another Convention State, it helps to prevent fragmentation, consolidate the common legal space, and reinforce the shared understanding of human rights. Even when a court decides to depart from a solution adopted elsewhere, the spirit of dialogue prompts it to provide explanations or justifications for that divergence.

Naturally, our Court is also in constant dialogue with the Court of Justice of the European Union. This contributes to ensuring coherence between the two European legal orders. I therefore welcome among us today Mr Maciej Szpunar, the First Advocate General of the CJEU.

This regional conference is a vivid example of judicial dialogue in action. It is emblematic of our “shared responsibility” Courts from twelve countries – with different history, language, and legal tradition – are represented here today. Many of these countries also share a common past, having lived for decades under communist rule. Together, you embody Europe’s richness and diversity but also its unity. For beyond all differences, you share common values: democracy, human rights, and the rule of law.

On a personal note, this conference holds special significance for me. Having served for 25 years as an administrative judge at the French *Conseil d’État*, I feel a particular affinity with your work. That experience has given me a unique perspective on the striking parallels between administrative courts and the European Court.

Both confront disputes between individuals and the State, requiring a careful balancing between individual rights and collective (public) interests. As you perfectly know, dear colleagues coming from superior administrative Courts of the region, each case ledged before your jurisdiction is not only about remedying an individual wrong but also about ensuring that public authority is exercised in accordance with the law and with respect for human rights.

We both must carefully navigate our relationship with the political branches, making clear that what we do is not judicial activism but judicial pragmatism, attentive to context and consequences, anchoring justice in present realities while remaining faithful to the law’s purpose and respectful of the limits of our role.

Administrative justice and European justice are therefore branches of the same tree.

Judicial dialogue reminds us that law is not static, but a living work, written together, like Dworkin’s “chain novel”, across generations and across jurisdictions.

Let me give you some recent, concrete examples of this on-going “chain novel”. These are cases before the European Court where we have benefited from the reasoning and decision-making of a national supreme administrative or constitutional court.

My first example is the Grand Chamber case from 2021: *Vavříčka and Others v. the Czech Republic* which dealt with compulsory childhood vaccination. The Grand Chamber in reaching its conclusion that the Czech measures had not exceeded the wide margin of appreciation in this area, found no violation of Article 8. The Court also noted the procedural safeguards provided for in national law. The applicants had had at their disposal both administrative appeals as well as judicial remedies before the administrative courts and, ultimately, the Constitutional Court. They had failed to make out claims calling into question the institutional arrangements in place in the Czech Republic in the area of formulating the compulsory vaccination policy and the effectiveness and safety of the vaccines concerned.

In *Savickis and Others v. Latvia*<sup>13</sup> from 2022, the issue at stake concerned a difference in treatment regarding pension entitlements dating from the Soviet period. The Latvian Constitutional Court which had been seized of the claims deemed that the applicants had not been deprived of their pensions and that the difference in treatment was justified and proportionate, and dismissed the case. Our Court, finding no violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1, relied on the reasoning of the Constitutional Court finding that the Latvian domestic authorities had acted within their discretion concerning the assessment of the applicants’ pension entitlements.

In 2023, in the case of *Humpert and others v. Germany*<sup>14</sup> the applicants were teachers with civil-servant status who complained of disciplinary sanctions imposed on them for having participated, during their working hours, in strikes organised by their trade union. They were protesting against worsening working conditions for teachers. In finding no violation of Article 11 the Court took into consideration the solid and convincing justifications for the restrictions as presented by the respondent Government and reflected in the extensive assessment of the German Federal Constitutional Court.

In *Bielau v. Austria*<sup>15</sup> from 2024, the applicant was a doctor who complained under Article 10 about a suspended disciplinary fine imposed on him because of scientifically untenable statements he had about the ineffectiveness of vaccines. The Supreme Administrative Court concluded that the restriction of the applicant’s right to freedom of expression resulting from the disciplinary sanction could not be regarded as disproportionate, in view of the aim set out in Article 10 § 2 of the Convention. In our Court judgment we found no violation of Article 10. Why? Because as the domestic courts had given relevant and sufficient reasons in striking a fair balance between the competing interests of the general public and of the applicant’s freedom of expression at issue in the present case. The Court found nothing arbitrary or manifestly unreasonable in that interpretation of the relevant provisions and reiterated that it was first and foremost for the national authorities, and notably the courts, to interpret domestic law.

In each of those cases national superior courts thoughtfully crafted a chapter faithful to the foundational principles of the Convention while appropriately reflecting the specific historical, social, and legal context of their respective countries. These examples illustrate the harmony between the

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<sup>13</sup> *Savickis and Others v. Latvia* [GC], no. 49270/11, 9 June 2022.

<sup>14</sup> *Humpert and Others v. Germany* [GC], nos. 59433/18 and 3 others, 14 December 2023.

<sup>15</sup> *Bielau v. Austria*, no. 20007/22, 27 August 2024

case-law of national courts and the European Court of Human Rights and the well-functioning of the “shared-responsibility”.

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To conclude, I can do no better than to return once again to the preparatory works. The following triptych of citations reminds us that the Convention system was born from a powerful combination of insights:

**Awareness:** *“We must therefore create in advance, within Europe, a conscience that sounds the alarm. This conscience can only be a court proper to Europe. ... In truth, what we want to prevent is the re-establishment or establishment, in some countries, of totalitarian dictatorships like those we knew in Italy and Germany before the war. It is against this horror that we want to protect ourselves.”*<sup>16</sup>

P.-H. Teitgen from France

**Vigilance:** *“What we must fear today is not the seizure of power by totalitarianism through violence, but rather that totalitarianism may seek to seize power by the way of pseudo-legality.”*<sup>17</sup>

M. Benvenuti from Italy

**The duty of intervention:** *“What we want is, if I understand correctly, to have a higher, sublime control of the European spirit. I fully accept the idea that if one day – as we have seen in a neighbouring country – so-called people’s tribunals begin to condemn deputies to death and carry out executions, that is a travesty of justice, and with all my heart I declare that a Europe conscious of its greatness and its attachment to human rights must then intervene.”*<sup>18</sup>

Düsürsal from Türkiye

Indeed, through our respectful dialogue, the Convention is still alive, not only in our hearts and our minds, but also thanks to our shared judicial mission.

It was precisely for troubled times such as these that the Convention was drafted and the Court was created. The threats that the drafters sought to guard against are re-emerging in new forms. This brief “return to the sources” reminds us that it must also be a “back to the future.”

Teitgen’s warning speaks with undiminished force today: *“In the times we live in, human rights are threatened everywhere in the world, but also in this Europe that is said to be a land of asylum and freedom. ... More today than yesterday, the respect for the European Convention is imperative.”*

May these words inspire us. Their enduring power reminds us of the responsibility we bear and strengthens the optimism of our will. It is by remaining attentive to this legacy that all together we ensure the Convention rights remain practical and effective for the generations to come.

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<sup>16</sup> P.-H. Teitgen

<sup>17</sup> Mr Benvenuti, Italy – Plenary session, 8 September 1949

<sup>18</sup> Mr Düsürsal, Turkey – Plenary session, 8 September 1949