

'European Convention on Human Rights: past, present and future' from the Human Rights Information Bulletin

Caption: Contribution by Luzius Wildhaber, first President of the European Court of Human Rights after its 1998 reform, published to mark the 50th anniversary of the European Convention on Human Rights. In his article, Mr Wildhaber identifies the challenges facing the system of protection of human rights set up by the Convention as it enters the new century.

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European Convention on Human Rights: past, present and future

Two years after his election as Swiss judge and president of the European Court of Human Rights, Luzius Wildhaber views the future.

Fifty years after the opening for signature of the European Convention on Human Rights, and two years after a major reform, the system of protection of human rights set up by the Convention enters the new century facing great challenges. Some 800 million European citizens in over forty states now have the possibility to bring their complaints of violations of the rights and freedoms set out in the Convention directly to the European Court of Human Rights, once they have exhausted their domestic remedies. As we celebrate the undoubted achievements of the last fifty years, we need to reflect on how those achievements can be preserved and built upon so as to be able to withstand new pressures.

Additional responsibilities

The sheer number of cases is one aspect; the last seven years have seen a 500 % increase in the applications brought to Strasbourg. At the same time, the Convention now applies in many states in which democratic principles have only recently been introduced or restored. The sensitivity and complexity of cases coming from some of these states places an additional responsibility on the Convention machinery. In this context the importance of the Convention's role in the protection of human rights and above all in the consolidation of democracy and the rule of law has never been greater.

There are three main tests by which the success of Convention system will be gauged in the years to come. These are the length of time it takes the European Court to deal with cases, the quality of the Court's judgments and the effectiveness with which those judgments are executed. For the Convention system to satisfy these tests, it will need to enjoy the full support of the Contracting States.

There are five areas in which states are in a position to help the Court succeed in its task. Firstly it remains fundamental to the system that the domestic authorities secure the guarantees laid down in the Convention themselves, that states ensure not only that their legislation is in conformity with the Convention, but also that individual citizens are in a position to assert their Convention rights before the national authorities. Secondly, the member states of the Council of Europe must be prepared to provide the Strasbourg Court with adequate resources for it to be able to cope with its growing caseload. Thirdly, states must continue to allow the Court to operate in full independence and to propose candidates of the highest calibre for election to the Court. Fourthly, Contracting States must take the necessary steps in good faith to execute the judgments delivered by the Court. Fifthly and finally, the states must be prepared, if it becomes necessary, to engage in further, possibly radical, reform of the Convention.

Lasting legacy

Fifty years ago neither the drafters of the Convention nor the original signatories can have imagined the place that the Convention would come to hold not only in Europe, but beyond. It remains by far the most successful manifestation of the aspirations expressed in the Universal Declaration of Human Rights, a lasting legacy from the generation that had experienced the horrors of the thirties and forties and of their determination that future generations would not undergo the same suffering. We owe it to those who went before and those who are to come to preserve that heritage as an effective and credible system of human rights protection.