



**Conference of Presidents of Supreme Courts**

**Remarks by Thorbjørn Jagland  
Secretary General of the Council of Europe**

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*Check against delivery*

Minister,

Supreme court presidents,

President of the European Court of Human  
Rights,

Ladies and gentlemen,

This is my last external event as Secretary  
General of the Council of Europe – and I

am glad that it is with this particular audience.

Over the past ten years I have worked with a range of supreme court presidents from across our member states, and sometimes in the context of difficult political situations.

Time and again I have been impressed by the ability of these people – and other judges – to play their unique role in preserving the democratic security of our continent.

Among other things, you protect individuals against the arbitrary action of the state;

You provide a check on the separation of powers and prevent boundaries being crossed;

And in doing so you maintain the vital and independent role played by the judiciary in any healthy democracy.

You will all be aware that in some parts of Europe today there are attempts to undermine these principles and values.

In my annual report, published earlier this year, I pointed out some worrying trends in this respect.

More often than before, Council of Europe standards are called into question, along with the institutions that underpin them – from national judiciaries to the European Court of Human Rights itself.

For some, international courts and multilateralism are now the subject of suspicion and the international rule of law regarded as an obstacle to action, rather than the guarantor of individuals' rights.

And we also see attempts to bring courts under political control.

At the national level, some politicians publicly target the judiciary, arguing that it is corrupt or politicised – elite or remote.

Legislative acts have granted broad powers to the executive at the expense of the judicial branch.

And there have been instances of judges being fired, replaced, or superseded by new structures.

Some have even been imprisoned.

These things weaken judicial independence.

We can see this, for example, in cases of ordinary courts refusing to execute the judgments of the national constitutional court.

Council of Europe bodies have reacted to such cases, in line with their respective mandates.

But the European Convention system too is facing political and legal challenges.

The precedence of both the European Convention on Human Rights and the European Court of Human Rights have been challenged.

This trend has taken several forms, including constitutional change, judicial reform and referendums – all of which can be sparked by the controversy generated by a small number of the Court's judgments.

This is wrong.

The European Convention is the constitutional instrument of European public order and has become a fundamental feature of the European judicial community:

A common legal language in which Europe's judicial community can communicate despite the differences between their domestic legal traditions.

The Convention's word is law and it is the role of national and supreme courts to be its "natural judge":



The Strasbourg Court is of course there as a last resort.

But the primary responsibility for applying the European Convention rests at national level.

To be the first port of call for remedy where the terms of the Convention have been breached, and to implement judgements of the Strasbourg Court too.

And every time a constitutional court or a court of cassation decision achieves this, it

gives further concrete effect to our shared legal space:

A shared legal space in which common fundamental rights and liberties prevail.

So, in this endeavour I pay tribute both to the judges of the Strasbourg Court and to the distinguished presidents of national courts – including many of you here today.

Your work not only helps to resolve tension between national and European case law;

It also plays a vital role in ensuring the quality, coherence and consistency of judicial decisions, providing the legal certainty that is essential for winning public trust.

In view of this shared purpose, it makes perfect sense to foster dialogue and co-operation between courts, as exemplified by this conference.

The Council of Europe has done a great deal to encourage this.

Our Consultative Council of European Judges has brought senior European judges together regularly for the past twenty years in order to discuss areas of current and important interest.

And the entry into force of Protocol 16 of the European Convention has opened a new avenue for deeper dialogue with national superior courts, the first advisory opinion having been delivered in April at the request of the French Court of Cassation;  
And a second one having been requested just a couple of weeks ago by the Armenian Constitutional Court.

Similarly, the Superior Courts' Network established by the Strasbourg Court is an important initiative for enhancing judicial communication on Convention issues;

And our HELP Programme fosters the exchange of best practice between the national judicial training institutions of all member states.

There is more to be done at the national level of course:

A fact that is underlined by the fact that 60,000 cases are still pending before the Strasbourg Court;

By your presence here today;

And by the impressive range of thoughts and ideas captured a few moments ago in the summary of the workshops that you have undertaken.

For our part, the Council of Europe stands ready to help.

Judicial training is essential in order to give judges the skills, competencies and confidence to act independently – but this remains a challenge in many of our member states.

So, we want to build on our co-operation programmes with superior courts in order to better facilitate the reception of the European Convention.

We want to develop further the HELP Programme, which I call on your courts to exploit to the fullest;

And we want to support the Court's knowledge-sharing capacity by translating its resources into national languages that are accessible by national judges, and developing co-operation with national courts' case-law departments;

More broadly, the Council of Europe will continue to place the highest priority on safeguarding the authority of the judiciary.

That means providing further support for member states' efforts to achieve the genuine **separation of powers**.



We will do this through co-operation activities and by producing guidelines, recommendations and opinions wherever necessary, issued by the Consultative Council of European Judges, the Consultative Council of European Prosecutors, the Venice Commission and GRECO.

We will also continue to provide advice in real time to ensure that member states have all the relevant information at their disposal when introducing reforms which may affect judicial independence.

And we will work with partners including the EU and the OSCE-ODIHR.

All of which will require ongoing and positive engagement from our member states.

We will also continue to support the work done at national level to ensure **public trust in the justice system.**

Of course, this trust relies on the professionalism of you and your colleagues – independent judges issuing properly

reasoned decisions following fair consideration of the law.

But trust also requires that judicial decisions are delivered within a reasonable time.

Because – justice needs to be efficient.

That's why the European Commission for the Efficiency of Justice – CEPEJ – works closely with member states to ensure that they have access to detailed comparative data about the performance of their judicial systems and can introduce tools and

remedies to accelerate justice when needed.

And of course, member state judges must meet the highest standards of judicial integrity and ethical conduct.

Our anti-corruption body, GRECO, will continue to help governments put in place the frameworks that help judges to do that.

Lastly, judicial legitimacy requires that **judges' decisions be respected.**

After all, judgments mean nothing unless they are enforced:

And over the years, failure to achieve this has resulted in thousands of applications being lodged at the Strasbourg Court.

To this end we have adopted enforcement recommendations and guidelines that help member states address this.

Ladies and gentlemen, we are rightly concerned by the difficulties facing Europe today and by certain steps taken by a small

number of member states in respect of their national judiciaries.

But that should not distract us from the very real progress that is also being made.

Judicial co-operation between Europe's national courts and supreme courts, and with the European Court of Human Rights, has never been closer.

The unity of our common legal space has never been greater, and I am heartened to have seen this progress over the course of the past decade.

Events like this give us cause for optimism even in the political environment we confront today.

With that in mind I want to thank each one of you for your engagement and your dedication.

In particular I want to thank the President of the French Constitutional Council, the Vice-President of the French Council of State, and the First President and the Attorney General of the French Court of

Cassation for taking the initiative to convene this conference.

It takes place as part of the French Presidency of our Committee of Ministers, which has made the consolidation of Europe's system of human rights protection the first priority of their outstanding work – which will also include next month's Strasbourg meeting of Justice Ministers, for which I would like to thank you personally, Minister.

This Conference is a powerful demonstration of capacity for the further



advancement of human rights and multilateralism in the context of judicial and political will.

This is vital for our common future, and a lesson to take to heart.