



International
Commission
of Jurists



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Statement following the Danish Chairmanship's High-Level Expert Conference in Kokkedal, Denmark

As participants at the High-Level Expert Conference '2019 and Beyond: Taking Stock and Moving Forward from the Interlaken Process', held in Kokkedal, Denmark from 22-24 November 2017, the undersigned organizations commend the Danish Chairmanship of the Council of Europe for its stated commitment to involving civil society throughout the process leading up to the adoption of a political Declaration on the European Convention on Human Rights' system ('the Convention system') in April 2018.

Respect for the rule of law and human rights requires a strong and independent judiciary shielded from political interference. Better implementation of the Convention at the national level and the full and prompt execution of the European Court of Human Rights ('the Court') judgments are at the core of securing the effectiveness and preserving the overall credibility of the Convention system. Furthermore, there can be no doubt that, together with the implementation of the Convention obligations at domestic level, the full, consistent and effective execution of judgments remains the most effective way to alleviate the workload of the Court and thus to preserve its longer-term future. To that end, in 2015 Council of Europe member states unanimously adopted the Brussels Declaration on the "Implementation of the European Convention on Human Rights, our shared responsibility," which set out measures to be taken by various stakeholders to improve the execution of the Court's judgments. In this regard, we regret that the renewed discussions taking place, including at Kokkedal, appear to once again focus on the functioning and methods of the Court rather than on meeting existing legal and political commitments on national implementation, including those in the Brussels Declaration. With this in mind, the undersigned organizations believe that the upcoming proposed Copenhagen Declaration should emphasize:

- The concrete actions required at the national level to prevent and address violations of Convention rights – in particular measures to remedy systemic and institutional problems – and to implement the Court's judgments. It is the responsibility of all branches of the state –

legislative, executive, and judicial- to take measures within their competence to prevent and address Convention violations, including through the execution of judgments of the Court.

- **The need for the Committee of Ministers** to take more **effective action** to support and ensure **thorough and prompt execution of judgments**, through individual and general measures. This must include, where appropriate, opening of infringement proceedings under article 46.4 ECHR. There is also a need for the secretariat of the Council of Europe to have increased resources in order for it to prioritize the implementation.
- **The importance of nominating the most- qualified candidates as judges of the Court.** One of the cornerstones upon which the Court's authority is based are the standards and procedures for the selection and appointment of judges. We strongly encourage the Danish Chairmanship to build on previous Declarations and on the work of the Steering Committee on Human Rights (CDDH) with a view to strengthening both national and Council of Europe level selection procedures to allow for the best candidates to be appointed to the Court.
- **That it is a fundamental principle of the rule of law that the Court should be free from political interference.** “Enhanced dialogue” between governments and the Court, referred to by the Danish Chairmanship in its stated priorities published on 8 November, should not be pursued at the expense of the Court’s independence or authority. In particular, we strongly oppose any proposals aimed at, or which could have the effect of, weakening the Court’s authority and/or undermining its independence such as through creating new channels of communication between the Committee of Ministers and the Court in which discontent from member states with the case-law could be directly expressed. We urge the Chairmanship, indeed all Member States, to refrain from any reforms that would place undue pressure on the Court in its interpretation and application of the Convention. Any undermining of established jurisprudential principles, such as the dynamic interpretation of the Convention, must be rejected.

We look forward to engaging with the Danish Chairmanship, and indeed all member states, with a view to ensuring that the reform process effectively focuses on the actual challenges faced by the European Convention system, namely member states’ often repetitive non-compliance with the Convention obligations and the lack of implementation of the Court’s binding judgments.

Open Society Justice Initiative

Amnesty International

European Human Rights Advocacy Centre

European Implementation Network

International Commission of Jurists

World Organisation Against Torture