



## Christiane Taubira

**Minister of Justice, Garde des Sceaux**

*(Retranscription of the speech)*

President Dean Spielmann,  
President Theodor Meron,  
Presidents of the higher courts,  
Prosecutors General,  
Presidents and Vice-President,  
Members of Parliament,  
Elected representatives,  
Ladies and Gentlemen, Excellencies,

I must say that I am particularly pleased and honoured to be with you for this important and splendid event, on the occasion of the solemn opening of the judicial year of the European Court of Human Rights. I would add that since the Court has its seat here, in Strasbourg, in France, I have the privilege of speaking to you as the host, on behalf of the Government, of this outstanding and great institution.

I wish to take this opportunity to pay tribute to the pioneers of the Council of Europe, those who, just over 60 years ago, rightly understood, for example, the experience of the League of Nations, which through its declaratory nature had shown the limits of its effectiveness; pioneers who were ambitious enough to create an institution, an organisation, that was capable of ensuring the effective protection of human rights. A venture that, today, has resulted in this community of values that we have established for ourselves, one that is underpinned by a sound, normative foundation, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, by the institutional supervision of the Parliamentary Assembly and the Committee of Ministers, and by the institutional supervision of this European Court of Human Rights, which guarantees respect for those rights and fundamental freedoms.

President Spielmann, you were elected a few weeks ago and you are now presiding over this institution. I would like to express my sincerest congratulations on behalf of the French Government, after the warm welcome that you received recently from President François Hollande. Your career as a jurist – an eminent jurist – began as a lawyer and you subsequently lectured in law, including at the University of Nancy. You were appointed judge of this institution in 2004, then you became Section President in 2011 and Vice-President in 2012. You have followed brilliantly in the footsteps of President Costa. President Costa, who admirably presided over this great institution.

President Spielmann, I wish above all to commend you for your faultless commitment, your keenness to move forward, the particular talent that you have applied to the settlement of disputes, that art of reaching a consensus that you have brought to bear without reneging on principles, and the reforms and modernisation that you have introduced so that the Court can move resolutely into the 21<sup>st</sup> century.

President Spielmann, you have risen to those challenges, you have taken your place at the helm to secure an ever-greater efficiency, greater authority, an even greater and better reputation for this

esteemed Court, moving on from the time when the Court addressed, or was asked to address, a number of constraints, as pointed out in the Wise Persons' report of 2006.

Since then the conferences have taken place – you were present at Brighton, and there was one at Izmir, another at Interlaken. Those conferences have brought about progress, and solutions have certainly been forthcoming in relation to the difficulties observed in the functioning of the Court. Those solutions have now been tried and tested and today this Court is in a position to show, first and foremost, how it is unique in the world and how it can reach out, how it reaches out to 47 States and to over 800 million Europeans; how it reaches out through its specific missions, which confer on it a responsibility for settling disputes – disputes that are referred to it by two types of application, those lodged by States, albeit rarely, and individual applications, which, by contrast, are constantly increasing in number.

This Court is, to some extent – as you yourself said, President Spielmann – a victim of its own success. It is a victim of its own success because, not only does it encompass the 47 States of Europe, it also serves as a benchmark and a source of inspiration for many other countries throughout the world. That responsibility is immense. It reflects the idea expressed by Edouard Glissant that the time is now past when only one part of the world was responsible for the world as a whole; and that today it is the whole world which is responsible for the whole world.

As a result, all the judgments that you deliver and which uphold human rights and fundamental freedoms, as the States of Europe and its pioneers, to whom I referred earlier, defined them, all these judgments that you deliver, contribute to the development of democracy in the world. Because we are all responsible for the world. And with all this democracy, underpinned as it is by the application of human rights and fundamental freedoms, we have a fine illustration of how our achievements in one place can contribute to improving the state of the world.

As I was saying, the Court is thus a victim of its own success; it has delivered a considerable number of judgments. Set up in 1959, it has in fact been sitting on a full-time basis since 1998 and it is noteworthy that between 1959 and 1998 it delivered, I believe, 837 judgments. But I have to be careful in speaking about statistics, about the output of your Court, as you are more familiar with the figures than I am. 837 judgments between 1959 and 1998 and more than 16,000 since then. About 390,000 inadmissibility decisions between 1999 and 2012 and for the year 2012 alone, some 80,000 inadmissibility decisions. This goes to show that, since the establishment of the right of individual petition, the Court has come to represent a remedy and a safeguard in the minds of European citizens.

But concerns have been expressed by France, through its President – and I confirm them now in my capacity as Minister of Justice – concerns for the future of the Court, which must not be an appeals tribunal, a super appeals tribunal; we want it to be above the fray, the pinnacle in the architecture of our judicial authorities, safeguarding human rights and fundamental freedoms, and it should not be another stratum, a higher instance in relation to our national courts.

It therefore goes without saying that we should be supporting the new impetus of this Court which, as a result of its success, means going beyond the solutions that have already been found, for its functioning, solutions that require an increase in its staff, the improvement of its budget, the adaptation of its methods, in particular the methods of the Registry, the review of certain procedures. Going beyond such solutions, there is a need to ensure that the Court examines only those applications that really concern human rights and fundamental freedoms.

This clearly involves the States, which have responsibilities, in cooperation with the Court of course, in relation to its operation and in particular to the inadmissibility mechanism, because with some 95% of inadmissibility decisions certain questions are inevitably raised as to the formal requirements or the place of the merits in the examination of such applications before the Court.

But the States must play their role, for they must ensure that the individual application remains the principle and above all must sustain the practice of subsidiarity, that is to say that not only must the States render effective the decisions of the European Court of Human Rights, they must also anticipate, in other words, they must take preventive action through information – they must ensure the execution of the Court's judgments and, above all, must adopt general measures to avoid repetitive cases; for all cases that are

alike, general measures must be taken in line with the Court's rulings. In that manner, we – the States – will be able to keep alive the case-law of the European Court of Human Rights.

We must also develop a common culture, essentially through the dialogue between judges, through the training of our judicial personnel, with a need to increase exchanges, and by sharing his case-law of the European Court. France is keen to support this new impetus. It has shown its commitment in particular by its active participation in the negotiations for the accession of the European Union to the Convention. As you have just said, President Spielmann, there is no reason for the European Union to remain hesitant. First, the political decision has been taken; it is enshrined in the Treaty of Lisbon, and moreover, the European Union has to accept such external scrutiny. This will be of great benefit for the Union, as it will enhance the credibility of its decisions.

President, Ladies and Gentlemen, the reason why we are, why France is so active in its support of the European Court of Human Rights is because we share the essential principles in matters of justice. A justice system that must be accessible, one that must be diligent and efficient. With the vigilance of the European Court of Human Rights and the mobilisation of Europeans, this vigilance has helped to bring about improvements in our domestic law. In recent years that vigilance, those decisions, those judgments of the European Court of Human Rights, have carried our law forward on the path of individual rights and freedoms.

The fact that you have so many cases before you can be explained by the trust placed in you by judges, by lawyers, by academics, by civil society and, of course, by the citizens who turn to you for help. And that trust is justified. As I was saying, you have brought about progress in our law, and you have done so in particular through Articles 2 and 3 of the Convention – respect for life, the inviolability of the human body, the prohibition of inhuman and degrading treatment, the prohibition of torture. And the Court's decisions and judgments have been of great inspiration for the law.

First of all, they have imposed certain changes on our domestic law. France, on a certain number of subjects, has most willingly complied and has even on occasion gone beyond the content of the rulings, but has welcomed the Court's judgments, and continues to receive them with interest and with careful attention. Over the past twenty years our law has progressed, thanks for example to the *Kruslin and Huvig* judgments on telephone tapping, whether administrative or judicial.

We have progressed – and we continue to progress – thanks, among others, to the *Medvedyev* judgment on the French public prosecutor, and we are working on the reform of the Conseil supérieur de la magistrature (National Legal Service Council), a reform that will take effect, subject to Parliament's approval, in a few months' time.

With the *Brusco* judgment we made progress in matters of police custody; and with the *Ravon* judgment, on challenges – especially concerning procedures and time-limits – challenges to searches decided by the tax authorities; then we have a number of judgments, especially the *Frérot and Paillet* judgments, which led us, among other things, in French prison legislation, to take into account and introduce the notion of human dignity, respect for the dignity of human integrity. We also have the *Funke* judgment, through which we reinforced the presumption of innocence.

The *Baudoin* judgment, through which we can provide better protection to persons receiving psychiatric treatment. The judgments of the European Court of Human Rights have thus really raised standards in our domestic law. We are grateful to it for that. Nevertheless, I cannot hide the fact that over the past few months I have felt particular injustice because, whenever there is a judgment against France, it is for the Minister of Justice to respond, to provide explanations and sometimes to present apologies. This is a very uncomfortable position to be in; but it is not particularly unpleasant, since I adhere fully to the requirements of the Court in terms of rights and freedoms.

This Court will continue to prosper. It will be necessary for each one of us, each State, to ensure that it is not overloaded. In any event, France will once again be fully supportive of your efforts. Allow me to pay a special tribute to René Cassin, an outstanding French figure, *Compagnon de la Libération*, who fought to combat the horror of the Nazi regime, who was awarded the Nobel Peace Prize in 1968, who presided over the European Court of Human Rights from 1965 to 1968 and who, as we all know, was one

of the drafters of the Universal Declaration of Human Rights of 1948. A truly great and outstanding figure, who reminds us of the role played by France in the promotion of these rights and fundamental freedoms.

But all States of Europe contribute to this, and they contribute with much passion, with much enthusiasm. They contribute to bringing together our various laws, our different legislations, and that outstanding capacity of European countries to be able to sustain, by working together, those notions of dignity, integrity, human rights and fundamental freedoms, is an example in the eyes of the world that we have good reason to uphold, to assert and to cherish.

For it is humanism that inspires our decisions, humanism that inspires our action, humanism that inspires the mobilisation of France in its support for the European Court of Human Rights. We assume this fully, unequivocally. A humanism in the sense expressed by René Char, who spoke of a humanism conscious of its duties and discreet about its virtues, wanting to reserve the inaccessible free field for the fantasy of its suns – for the fantasy of the suns of Europe – and determined to pay the price for this.

Thank you.