

OSCE Permanent Council Meeting
Thursday, 2 October 2025

Address by Emmanuel DECAUX
President of the Court of Conciliation and Arbitration within the OSCE

Mr. Chairman, Excellencies, Ladies and Gentlemen,

Thank you for your welcome. It is always an honour to appear before you to present the annual report of the Conciliation and Arbitration Court within the OSCE, pursuant to Article 14 of the Stockholm Convention adopted in 1992. As you know, the Convention, which entered into force on 5 December 1994, now binds 34 States Parties. However, it should be emphasized that the Court's mechanisms remain open on an *ad hoc* basis, on a voluntary basis, to all OSCE participating States. As such, the Court, established "within the OSCE," is part of the structures and institutions of our organization, and I welcome the efforts made by other institutions to give it its place in the "toolbox" available to all OSCE stakeholders.

At the same time, the States Parties also have a role to play in fully assuming their rights and obligations, and I would like to pay special tribute to the support provided by the Depositary State - Sweden - which contributed to a collective reflection on the challenges facing the Court at a seminar organized on the occasion of the 30th anniversary of the entry into force of the Stockholm Convention. The seminar report is available on the Court's website, along with all reference texts, including a "documentary kit" and a specialized bibliography.

Some of the Convention's "friends" may be tempted to be sceptical about the current situation, marked by challenges to the foundations of the OSCE and the basis of the "security architecture in Europe." However, the Court is unique in that it is based on a multilateral treaty that has a life of its own and is designed to last, just like the 1957 European Convention for the Peaceful Settlement of Disputes. But while the 1957 Convention is merely a guide, directing States towards traditional channels such as justice, conciliation and arbitration, the 1992 Convention goes further by creating a Court capable of setting up a conciliation commission or an arbitral tribunal. In other words, the Court is permanent, not only through the lists of conciliators and arbitrators that comprise it, but also through a Bureau that ensures the continuity and effectiveness of the Court. In this regard, I must commend the dedication and availability of our Bureau, as well as the logistical support of Switzerland, our host country. However, what is effectiveness without efficiency? For the Convention to prove its usefulness, it must be used by the States and institutions of the OSCE. It must not be merely a legal ideal, but a diplomatic reality.

Mr. Chairman,

I – In these uncertain times, I believe it is first necessary to recall some simple principles and specific procedures.

The principle of peaceful dispute settlement has been at the heart of international relations for more than two centuries. The idea of a neutral, independent, and impartial third-party arbitrator prevailed at the Hague Conferences of 1899 and 1907. In the eloquent words of Léon Bourgeois, the aim was to ensure equality of rights between weak and powerful states, thus rejecting the law of the jungle. The idea of "peace through law" is the basis of the 1945 United Nations Charter, which enshrines the renunciation of the use of force against the territorial integrity or political independence of any State (Art. 2 §4), as well as the commitment to settle *"international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered"* (Art. 2 §3). This is the meaning of Article 33 of the Charter, which lists the various means of peaceful settlement, from negotiation to international justice, including arbitration and conciliation.

Principle V of the Decalogue of the Helsinki Final Act, signed fifty years ago, is fully in line with the legal commitments of the Charter. It remained to be seen how these commitments could be put into practice. In this regard, the Decalogue specified that in the event of deadlock, *"the parties to a dispute shall continue to seek a mutually agreed means of peaceful resolution of the dispute"* (V. §.3). After much dithering, particularly in Geneva and Valletta, the Stockholm meeting in the early 1990s provided a concrete framework for these commitments. The 1992 Convention offers a very precise "user's manual" with two complementary approaches.

The establishment of a conciliation commission is a mandatory procedure for the States Parties, upon unilateral referral, but the outcome is not binding. It is a rapid, economical, and confidential procedure, allowing the Parties to reconcile their points of view without the commission's report being binding on them. The legal basis for conciliation is not only international law but also, uniquely, *"the commitments made within the framework of the CSCE"* (Art. 24). Where appropriate, the conciliation procedure may be combined with an arbitration procedure.

The arbitration procedure must be accepted in principle by the parties to the dispute, either by a unilateral declaration made for a limited period or by an *ad hoc* agreement between the two parties. Once established, an arbitral tribunal operates in the traditional manner, on the basis of international law, resulting in an award that has the force of *res judicata*. It must be acknowledged that inter-state arbitration is now overshadowed by the success of transnational arbitration, but it remains an important practical tool for avoiding lengthy proceedings before the International Court of Justice, the European Court of Human Rights, or even the Permanent Court of Arbitration.

II – In any case, the Court is available at any time, even at the pre-litigation stage, to act as a facilitator. Without seeking to expand its functions, failing to exercise those that are incumbent upon it, and without competing with other internal OSCE procedures – such as the Moscow Mechanism, to which I personally remain very attached – the Court retains many strengths and great potential.

The Stockholm Convention is a living instrument. This is reflected in its very composition. It combines continuity and change, like the "ship of Theseus." The term of office of its members is six years, renewable. The same applies to the members of the Bureau, who are elected by their peers according to specific procedures for a term of six years. Ms. Christa Allot, on behalf of the Court, in close liaison with the Depositary State, reminded the States Parties of the upcoming deadlines, as I did in the spring during an informal meeting of the States Parties on the sidelines of a meeting of the Court's Bureau in Vienna.

The first step for States is to appoint (or renew) the conciliators and arbitrators on their national lists when their terms of office expire. This has recently been the case for a number of States Parties, and I am delighted to see highly experienced diplomats, lawyers, and legal advisers joining the Court, in the hope that their skills will be put to good use. This can only enhance the quality of the Court and, in so doing, the representativeness and quality of the Court's Bureau.

The second stage, specific to the internal functioning of the Court, independently and collegially, without any external interference, consists of electing a new Bureau for the next six years. This will be a profound renewal.

On this occasion, I would like to express my gratitude to the members of the Bureau whose terms of office have come to an end, in particular Professor Christian Tomuschat, who succeeded President Robert Badinter in 2013, and the Vice-President of the Court, Judge Erkki Kourula, as well as our colleague Vasilka Sancin, who has become a Slovenian judge in Strasbourg. I am all the more delighted that several pillars of the outgoing Bureau remain members of the Court: Verica Trstenjak, Anne Ramberg, Mats Melin, and Silja Vöneky. Their wisdom, support, and friendship have been invaluable.

I wish every success to the person who will succeed me as President of the Court, taking up the torch passed on to us by the founding fathers of the Court, notably Robert Badinter and Lucius Caflisch, whose encouragement has never failed us. Our loyalty to their example can only strengthen our determination to ensure that the force of law prevails over the law of force.