

**ADDRESS BY MR. EMMANUEL DECAUX,
PRESIDENT OF THE OSCE COURT OF CONCILIATION AND
ARBITRATION, AT THE 1260th MEETING OF THE OSCE
PERMANENT COUNCIL**

27 February 2020

Mr. Chairperson,
Secretary General,
Excellencies, ladies and gentlemen,

It is a great honour for me to represent the OSCE Court of Conciliation and Arbitration before you today and I am very grateful to the Chairmanship's team and to the Secretary General for having organized this meeting with the OSCE Permanent Council so rapidly. This meeting is all the more useful in our eyes in view of the election of a new Bureau of the Court last October for a six-year mandate with broad participation by members of the Court, conciliators and arbitrators. I am pleased to have at my side my eminent colleague, the judge Erkki Kourula, who is the new Vice-President of the Court. I should also like to pay tribute to my two predecessors, President Robert Badinter and President Christian Tomuschat, and express my particular appreciation for their encouragement and advice.

As you know, the Court was established by the Convention on Conciliation and Arbitration within the CSCE, which was adopted by the CSCE Council in Stockholm on 15 December 1992. The Stockholm Convention entered into force on 5 December 1994 and today brings together 34 States Parties, the most recent ratification being that of Montenegro in June 2016. I should like to urge signatory and third-party States to join these States Parties and in this way to add to the lists of conciliators and arbitrators making up the Court. But, without going into the technicalities here, it should also be stressed that while a request for the constitution of a Conciliation Commission can be made to the Court unilaterally by one State Party, the Court's procedures remain at the disposal of all participating States "by agreement" (Article 20.2).

The members of the Bureau met for the first time in Vienna in November 2019. On that occasion, each of us made a statement undertaking to carry out our duties independently, impartially and conscientiously. The Court is thus completely independent, as a court with international jurisdiction should be, but it is also an integral component of the OSCE community, and we are concerned to be more present in Vienna and to develop constructive links, while respecting our individual roles, with all of the other OSCE institutions and structures and with all participating States.

The principle of peaceful settlement of disputes is at the heart of the Decalogue of the Helsinki Final Act signed in 1975, Principle V of which paraphrases Article 33 of the Charter of the United Nations, with its reference, among other things, to negotiation, conciliation and arbitration. From Montreux in 1978 to Valletta in 1991, participating States consistently sought to strengthen this key element of co-operative security, along with confidence-building measures and good neighbourliness. To some extent, the 1992 Stockholm conference was the culmination of all these efforts. Twenty-five years after the Convention entered into force, we can take a clear and dispassionate look at what it has been possible to achieve and what not.

The Stockholm Convention represents a great step forward in the institutionalization of alternative approaches to the peaceful settlement of disputes. Following on from the bilateral treaties negotiated for over a century and the multilateral treaties in the immediate post-war period, it has made significant progress on several fronts. It established a genuine permanent court governed firmly by a collegial Bureau, which guarantees the effectiveness of the Court's procedures. Neutrality is the watchword in all commissions and arbitration tribunals, with the Bureau designating three of the five members. It links conciliation and arbitration in an original manner, with flexible crossovers that harmoniously combine diplomacy and law. Conciliation can be rapid and confidential, with reference to the OSCE's principles and commitments, while inter-State arbitration takes place within the framework of international public law based on "hard law". The Court's tasks are part of a wider framework in relation to the OSCE bodies, constituting part of the "toolbox" available to the various protagonists.

There is an evident contrast between promises and results, even though time in politics is very different from time in law. The context in the 1990s, when the Court was established, is not the same as the one in which we live today, but paradoxically the "spirit of Helsinki" still seems to us to be more necessary than ever in order at least to reduce latent conflicts, the "irritants" that inflame inter-State relations, even if it is not possible to settle the major problems that alarm the planet. The Court offers a discreet and effective means of getting out of sterile impasses, avoiding escalation or verbal aggravation, without insisting on anything, but in the mutual interest of the parties concerned and respect for the OSCE's principles.

At this stage, it seems to me that we should look more into the how than the why. The new Bureau, which has already met twice, intends to use all available means to make the Court more well known. During his presidency, Professor Tomuschat successfully organized a series of symposiums on conciliation. The next volume will be coming out in the autumn, as indicated in the most recent activity report submitted to you. We are planning to present the work on the margins of meetings of legal advisers so as to make the potential of international conciliation more widely known. But we also intend to develop more accessible communication and awareness-raising tools through our website or information brochures on the Stockholm Convention. I hope to have the opportunity to return here during Sweden's Chairmanship next year to present the results of these first initiatives in accordance with Article 14 of the Convention, which calls for a "periodic report" on the Court's activities over the year.

I should like to conclude by stressing that the Court must be available, not only by making its procedures for the amicable settlement of disputes more visible and readable, but above all by being proactive, reactive and operational so as to be ready at all times to fully

perform the duties incumbent on it in the service of peace, co-operation and good neighbourliness throughout the OSCE area.

Thank you for your attention.