


A beacon for the international protection of human rights

05.11.2018 - Article 

Federal Foreign Minister Heiko Maas and Federal Minister of Justice Katarina Barley in the Frankfurter Allgemeine Zeitung on the 20th anniversary of the European Court of Human Rights (ECHR) in its current form.

In 1982, the Federal Republic of Germany was defeated 3:1 by Italy in the final of the FIFA World Cup. Around this time, Mr S. had an accident on his way to school. After thinking long and hard, he decided to take legal action against the insurance company of the other party involved in 1989. When the World Cup came to Germany in the summer of 2006, the case launched by Mr S. had still not been concluded.

Instead, the decision was now taken by the European Court of Human Rights which considered the 17 years of court proceedings to constitute "excessive duration". The Court considered this to be a violation of Article 6 of the European Convention on Human Rights. In 2011, Germany introduced a legal remedy against the excessive length of the court proceedings. Now those affected are able to obtain damages. Mr S. also received compensation.

Mr S. has an institution to thank for the positive outcome of these excessively long court proceedings, an institution that has been working to protect the human rights of 820 million people from Lisbon to Vladivostok for twenty years: the European Court of Human Rights. Since 1 November 1998, citizens from all 47 states of the Council of Europe have been able to lodge appeals against human rights violations directly in Strasbourg if legal proceedings in their own country have been exhausted.

Even though we have high human rights standards in Europe compared to other parts of the world, violations of human rights remain a bitter reality also on our continent. For journalists or non governmental organisations suffering harassment, for members of discriminated minorities or for victims of state violence, the European Court of Human Rights is not only the final instance but often also their final hope. In more than 20,000 cases to date, it has established a violation of the Convention on Human Rights and thus helped victims achieve justice. In many cases, those affected have been granted compensation, for example in the case of the high profile Russian member of the opposition Alexei Navalny due to detainment which the Court criticised.

It is not just the fact that citizens can themselves insist upon their rights before an international court which is unique in the world. Also the fact that its judgements are binding for member states makes the Court in Strasbourg into an international trailblazer.

But the Court is more than an appeal body. It is also a yardstick for our European values. The interpretation of the rights and freedoms anchored in the European Convention on Human Rights is not set in stone. It needs to be constantly adapted to developments within society. Over the last 20 years, the Court has done this in impressive fashion. Its jurisprudence today offers a framework for the protection of fundamental rights all across Europe.

The same holds true for Germany where, similarly, not everything is a bed of roses. Also for Germany, the view "from the outside" is thus important – let's remember Mr S. and the judgement on excessively long court proceedings. It did our legal system good.

A functioning system based on the rule of law has no need to fear monitoring by international bodies. It can have the self confidence to welcome such a facility.

Yet, the ECHR is not immune to the erosion of the international order. We are seeing that Court judgements are only being implemented half heartedly by some member states or in fact being completely disregarded. The reason for this is clear: Some countries believe Strasbourg's jurisprudence is going to far. They see it as meddling.

Our position is clear – there can't be any cherry picking. Those wanting to belong to the European community of shared values need to behave in accordance. We are thus working tirelessly to ensure all 47 member states can be involved with full rights in the Council of Europe but for this to happen they need to fulfil their obligations in their entirety. This also holds true for countries where we are particularly concerned about the human rights situation, such as Russia, Azerbaijan or Turkey. We make clear to these governments time and again the benefits of being part of a shared European judicial area. Particularly in these countries, access to the Court must continue to be open to all without restriction.

We will also be working towards this when in 2020 Germany takes on the chair in the Committee of Ministers, the body which monitors the implementation of Court judgements.

Together with all like-minded partners in Europe, we will fight to ensure all 47 countries of the Council of Europe continue to commit to the European Court of Human Rights and respect its judgements. It remains a crucial beacon for the international protection of human rights - benefiting 820 million Europeans.

Heiko Maas is Federal Minister for Foreign Affairs, Katarina Barley, Federal Minister of Justice and Consumer Protection.