It’s a great pleasure to be speaking today at a venue as distinguished and venerable as the University of Zagreb. It’s apt because this is the leading university of south east Europe. My subject, reform of the European Court of Human Rights, is one that is relevant not just to this nation but to the whole region, and beyond.

The UK is half way into our six month Chairmanship of the Committee of Ministers of the Council of Europe. Our agenda is wide-ranging, covering stronger local democracy, improved efforts to tackle discrimination and the rule of law.

But its centre-piece is the urgent need for reform of the Court – an ambition designed not to weaken human rights or undermine the sound, shared values embodied in the European Convention on Human Rights, but to strengthen them and by so doing to advance justice, democracy and freedom.

Croatia is a nation whose people understand as well as any the enduring value of human rights. Those who have in relatively recent history experienced conflict know from lived experience what is at stake in the protection of fundamental freedoms.

Progress in that field is a key part of EU accession. As a strong supporter of enlargement, let me say how very pleased the UK is with the results of your recent referendum. Croatia has been taking forward reform for over six years and judicial reform in particular has been at the centre of this.  Tackling corruption, reforming legal systems and improving judicial practice are continuous processes and we fully appreciate how difficult they are, but also how important.  Croatia is an example to the rest of the region that hard work and determination can produce results, and in this case, the prize of EU accession.  You have set a high standard, one that must be sustained. Others will need to follow this. We look forward to working alongside you as a Member State, and friend.

I’d like to use my time today to set out the case for change in the European Court and ask for your support in delivering that change. But before I do, let me say a word about what human rights mean to Britain.

Contrary to the impression that may occasionally be created by listening to the more excitable parts of our media, Britain believes profoundly in the rights set out in the European Convention.

That should be no surprise, as we helped to draft it, were among the first states to sign it when it opened for signature in 1950, and were the first country to ratify it in 1951.

We are great enthusiasts for the Convention precisely because it embodies values central to our history and our law.

In the thirteenth century, Magna Carta described rights for citizens including freedom from unlawful detention.

In 1689, the Bill of Rights put limits on the power of monarchy that helped pave the way for our parliamentary system.

In the eighteenth century we fought for the abolition of slavery.

In the twentieth century we ended capital punishment.

Basic rights and freedoms – fair trial, freedom from torture, freedom of speech – these are fundamental to us.

And the Convention has proved critically important for its signatories.

Forged in the aftermath of total war, the Council of Europe, the Convention and the Court have played a vital role gradually helping spread respect for human rights across the continent.  They have also acted as a progressive force, promoting the recognition of freedom of religion, preventing ill-treatment by police, encouraging the de-criminalisation of homosexuality and leading former states of the Soviet Union to begin adopting the principles of liberal democracy.

Today, rights remain just as relevant and necessary. Those who might doubt their importance need only look at recent events in Libya, and now Syria, to see that brutality and oppression are not in the past – nor that basic human freedoms retain an enduring, compelling appeal.

So there should be no doubt: as Prime Minister David Cameron made clear in his speech to the Council of Europe’s Parliamentary Assembly last month, the UK government believes in the Convention and agrees that we need a Court that is a beacon for human rights, defending freedom, respected globally.

We want the Court to fulfill the purpose for which it was created – to provide a binding interpretation of the Convention; to act as a safeguard against serious violations across Europe that have not been remedied nationally; and to provide leadership more widely.

Europe without the European Convention on Human Rights is unthinkable and the European Court of Human Rights has made an immense contribution towards the protection of rights in Europe.

That is the spirit in which Britain is thinking about its chairmanship and the future of the Court. Because, as friends of this system, we believe its ability to deliver justice is under threat. Just as the last half-century has seen the most profound changes across Europe, the challenges faced by the Court have changed as well. If it is to continue effectively enforcing rights, and to command the continued widespread support it does, it needs to adapt and modernise. If we don’t make progress now, there is a good chance that it won’t happen at all. Anyone who wants strong human rights protections across Europe should share our goal of making the Court more effective, and doing so quickly.

The first problem is the backlog of cases. To be effective, the Court needs to respond to every application efficiently, and within a reasonable time. Yet it is not doing so.
This is not the Court’s fault. We are sending too many cases to Strasbourg, and expecting the Court there to do too much.

This is harming its ability to do what matters. In the first 45 years of operation of the Court, a cumulative total of 45,000 cases were presented. Last year alone, over 60,000 were registered. The backlog of applications pending at the Court has almost doubled in the past five years, and there are now over 150,000 applications awaiting decision.

Each of the backlog 150,000 applications represents an individual person, waiting for their case to be considered, each frustrated at the delay.

True, most of these cases – some 90% – are ultimately inadmissible and 5% or so repetitive.

And the steps taken by the Court under Protocol 14 will undoubtedly begin to make a difference to the large stock of cases, eliminating about half of them by 2015.

But good news though that progress is, it doesn’t go far enough.

That’s because, even without the cases on which it has to catch up, the Court would still not be able to deal with the number of new admissible cases it receives each year.

The arithmetic is compelling. Even if we succeeded in taking out all of the inadmissible or repetitive cases from the 60,000 annual flow, that would leave around 3,000 cases per year. But the Court delivers only 2,000 reasoned judgments annually, and has a backlog of about 20,000 Chamber cases.

The queue keeps piling up then – and this despite the reforms in the pipeline.

On any measure, this is a system that is overloaded and can’t recover without further changes.

I believe that addressing this problem is a matter of urgency. If we fail to act, we run the risk of denying justice to many people who have been subject to serious breaches of their human rights. The 20,000 Chamber cases waiting for the Court to get to them must surely include many serious violations of human rights, whether that’s cases concerning torture, unlawful imprisonment, or forced labour. Allowing things to continue as they are threatens the effectiveness and reputation of the Court. And I know that we are not alone in thinking so.

The backlog matters in and of itself – but it is arguably a symptom of a second problem. The Court is an institution that has done much excellent work. But it is important to remember that it is individual States and their courts which have primary responsibility for implementing the Convention and granting effective remedies. That’s because it is in this way that they can ensure that citizens can take ownership of their rights.
At times, the Court has been too ready to substitute its own judgment for that of national courts and Parliaments.

It was never meant to be a court of appeal for routine domestic judgments. No court could ever hope to offer redress to 800 million people, and anyway national courts are the right place to resolve the vast majority of national problems.

Of course it is properly a fundamental tenet of the Court that it must intervene where there are real abuses without remedy. In some countries there are rather more breaches than in others. But if it is too quick to intervene there will be no space for national institutions to develop. And internalising rights so that they are understood, respected and enforced locally has to be the long-term aim of the whole system.

This is why UK has made Court reform the centrepiece of our Chairmanship, matched by a strengthening of obligations on member states to protect and promote human rights at the national level. The Court should be free to deal with the most serious violations of human rights, not swamped with an endless backlog of cases. It should ensure that the right of individual petition counts, not act as a court of fourth instance.

Alongside this, national governments should consistently demonstrate high levels of compliance. Some countries are already achieving this – losing relatively few cases. We should aspire for this degree of respect for rights everywhere.

Together, a strengthened system involving both the Court and nations would have the effect of:

• preventing violations in the first place;
• providing proper national remedies;
• discouraging hopeless cases, or filter them out properly if they get to the Court;
• and dealing with repetitive cases.

Central to our thinking is the critical importance of national implementation. The way in which member states chose to implement the Convention domestically varies from state to state and it is for each member to do so in the way that best fits with their national system.

We need a system that is flexible enough for common rights to be respected without uniformity being imposed. But allowing for local difference is not the same as laissez-faire.

The UK Chairmanship is prioritising measures which more strongly bind member states in their efforts to implement the Convention at national level and ensure that national courts and authorities are able to assume their rightful primary role in protecting human rights. The kinds of undertakings that might contribute to better implementation will be in our Declaration.  But they include establishing an A-status national human rights institution or ensuring that domestic courts are permitted freely to take into account the jurisprudence of Strasbourg.

Alongside stronger support for national implementation comes a sensible re-thinking of the way the Court works.

I’ve already said that the Court faces a shortfall in capacity of 1,000 admissible cases each year. Resolving that situation demands that we make clearer choices about what ends up in Strasbourg, and what doesn’t.

The status quo is long queues and long delays. The consequence is, in some instances, the most significant, urgent, appalling cases waiting behind those that are less grave or legally important.

The alternative is looking again at which cases are best dealt with where, by carefully reconsidering the question of admissibility.

Finally, alongside stronger national implementation and a focused role for the Court, we have to make sure it can command the highest respect. We need to make sure, for example, that there are transparent and effective procedures in place for nominating candidates to be judges on the Court.

The Court already accepts it should not act as an appeal court of fourth instance. The challenge is to ensure it has a clear and principled framework for giving this position full effect. We are bringing forward proposals to enable the highest protection of human rights, doing this by ensuring that the court has the tools and the powers better able to focus on the really serious pressing cases.

This is going to be a substantial task but we are committed to making progress for the sake of justice and a more effective system of human rights. We are now at the start of a period of negotiations with Croatia and other Council of Europe partners. We are issuing the first draft of our Ministerial Declaration on Wednesday, which will culminate in a package of reforms, which we hope to agree at a conference in the UK in April.

I hope that you will support the UK’s efforts during our Chairmanship to deliver improvements in all the areas I have set out. Effort to spread human rights is both profoundly in the national interest and the interest of nations. Our objectives must make a real difference to the lives of people across Europe and beyond, by ensuring that institutions which we have established to guard against over-bearing governments and abuse of human rights are modern, effective and focused relentlessly on the most serious cases.

Court reform will help ensure justice is done, and renew the faith of the people around the world that human rights remain inalienable and enforceable.

Presentation of Court records
Finally, I have a formal duty to perform today. Last year, the newly promoted British High Court Judge, Sir Peter Roth, contacted the Embassy here offering his own personal assistance to train up Croatia’s future legal professionals, by way of a set of European Court Reports dating to 2009. These are now in place here in the Faculty, for all of you to refer to.

Sir Peter hoped to be here today, but I’m afraid he’s in court (trying a case, not standing trial). He has asked me to formally present the collection to the Rector and Dean and to read a message on his behalf.

Mr Justice Roth’s note says:

“I am sorry that my judicial duties in London prevent me from being with you in Zagreb on this special occasion.  But I am very pleased that the University of Zagreb in its law library will now house this set of European Court Reports, especially as through my step-children I have a particular connection with Croatia.

As Croatia stands on the threshold of accession to the EU, recourse to the judgments of the European Court of Justice become increasingly important.  EU law is not some specialised corner of the law but affects and infuses many areas of domestic law in each Member State.  The EU is founded upon law, and when the UK joined what was then the European Community, British judges and lawyers had to come to grips with the jurisprudence of the European Courts.  In the years since then, that jurisprudence has expanded enormously, so today the challenge is even greater.  Those studying law in Zagreb - who will be the next generation of Croatian judges and lawyers - need to become familiar with the important decisions of the European Courts in each field.  For that task, I hope this complete set of law reports will be of assistance.”