

Committee of Ministers: Declaration on the ECHR and Migration

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News

On 15 May 2026, at the 135th session of the Committee of Ministers in Chişinău, Moldova, the foreign ministers of the 46 Council of Europe member states adopted, by consensus, a political declaration on the European Convention on Human Rights (ECHR) and migration.

The Declaration follows the informal Conference of Ministers of Justice held in Strasbourg on 10 December 2025, where ministers called for a common European approach to addressing contemporary migration-related challenges within the framework of the Convention. The Declaration was initiated by CoE's Secretary General *Alain Berset*.

The Declaration reaffirms the CoE member states' commitment to the Convention and their support for the independence of the European Court of Human Rights, underscoring that migration-related challenges require a coordinated response firmly rooted in human rights, democracy, and the rule of law. To this end, the ministers agreed to pursue these discussions within the Council of Europe's Network of Focal Points on Migration. The Declaration addresses the following key issues:

- **Immigration control and border protection:** The Declaration reaffirms states' sovereign right to determine their immigration policies, regulate the entry and residence of foreign nationals, and protect their borders, while emphasising that all such measures must be implemented in full compliance with the Convention.
- **Expulsion and extradition:** The Declaration acknowledges that the inability to expel or extradite individuals charged with or convicted of serious offences can lead to significant challenges for member states. While reaffirming the absolute nature of the prohibition of torture and inhuman or degrading treatment under Art. 3 ECHR, it stresses that the minimum level of severity required to engage that provision should remain "high and constant" and be applied clearly and consistently, so as to avoid unnecessary constraints on expulsion and extradition decisions. It further states that differences in the quality of accessible healthcare in the receiving state should preclude removal only in very exceptional circumstances. With regard to the expulsion of foreign nationals convicted of serious offences, the Declaration emphasises that, when assessing such measures under Art. 8 ECHR, national authorities enjoy a margin of appreciation in balancing the individual's right to respect for private and family life against the interests of national security and public safety.
- **Mass arrivals:** The Declaration acknowledges the particular pressure that large-scale arrivals place on frontline states and calls for enhanced operational cooperation to prevent irregular migration, facilitate returns, and combat the human trafficking and migrant smuggling networks involved, while ensuring full compliance with the Convention.

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- **Instrumentalisation of migration:** The Declaration further addresses situations in which hostile states or other actors deliberately facilitate or exploit migratory movements to exert pressure on, destabilise, or undermine European states and their democracies. While reaffirming that the migrants concerned remain entitled to the protection of the Convention, it notes that both their conduct when attempting to cross a state border irregularly and the broader context of an orchestrated migratory movement may be relevant when assessing the state's compliance with its Convention obligations. In this context, the Declaration also refers to the ECtHR's concept of a "democracy capable of defending itself."
- **Decision-making and new approaches:** The Declaration calls for migration-related decisions to be taken through fair, clear, predictable, and timely procedures, with access to effective remedies and judicial oversight. Even when accelerated procedures are used to process large numbers of applications, the principle of individualised decision-making must be preserved. At the same time, it recognises that states may pursue "new approaches" to address and potentially deter irregular migration. Such approaches may include processing applications for international protection in third countries, establishing third-country "return hubs", and cooperating with transit countries, provided that states continue to fulfil their obligations under the Convention.

The ministers concluded by inviting the Secretary General to support activities aimed at strengthening national implementation, capacity-building, and co-operation among member States and other stakeholders in line with this Declaration. The sharing of best practices should be promoted.

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