**Joint Statement delivered to the Conference of Ministers of Justice of the Council of Europe, 10 December 2025**

The following States: Denmark, Italy, Albania, Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, Hungary, Iceland, Ireland, Latvia, Lithuania, Malta, Montenegro, Netherlands¸ Norway, Poland, Romania, San Marino, Serbia, Slovakia, Sweden, Ukraine, United Kingdom aligned to this Statement reaffirm their **strong belief in the Council of Europe and in European values, democracy, the rule of law, and human rights**. We are committed to international law and to the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "the Convention") as a cornerstone of this international order, and **we reaffirm our commitment to the Convention and our support for the work and independence of the European Court of Human Rights** (hereinafter "the Court") and its jurisdiction as defined in the Convention. Recalling the Reykjavik Declaration, we reaffirm our commitment to the concept of **"democratic security"**.

**Our governments have a duty to guarantee our populations' human rights and fundamental freedoms, including the right to live in peace, freedom and security, to preserve the values of our societies,** and to effectively protect borders, prevent unlawful border crossings and counter migrant smuggling networks. Yet, the rights and freedoms of our populations are challenged by: people who take advantage of our hospitality by committing serious crime; trafficking in human beings and instrumentalisation of migrants.

**These complex and disruptive challenges** - that our societies face and which test the capacity of our current framework - **were either unforeseen at the time the convention system and the Convention were drafted or have evolved significantly since then**. When addressing these challenges in full compliance with international law, States have a fundamental duty to safeguard national security, protect our democracies, and ensure the security of individuals within our jurisdictions. **Failing to recognise and respond to these challenges, we risk undermining the very fundamental rights and freedoms that the Convention protects**, thereby eroding confidence in the whole Convention system.

Noting the letter signed on 22 May 2025 by a group of Heads of State and Government, which initiated this process that has since evolved through broad and inclusive engagement, **we are therefore promoting an open and constructive discussion within the Council of Europe and with its Secretary-General** to develop an adequate response to protect the Convention system from attempts to distort and weaken it. We appreciate and welcome the Secretary General's openness and contribution in facilitating this important dialogue, while fully respecting the Convention system and the integrity of the Court.

In addressing under the Convention, the challenges in expulsion of foreign criminals, migration management and cooperation with third countries regarding asylum and return procedures, as well as removal procedures and instrumentalisation of migration, a **right balance has to be found between the migrants' individual rights and interests and the weighty public interests of defending freedom and security in our societies**.

In this context, States aligned to this statement consider it imperative to ensure that the Convention framework is fit to address today's challenges, most notably in order to meet the following challenges:

- **Expulsion of foreigners convicted of serious crimes**: The clear starting point is that a State Party can expel foreigners convicted of serious crimes even though they have acquired ties to their host Country, e.g. if they have established a family life there. In line with the principles in this statement, it is vital that the balance between individual rights and legitimate aims as per Article 8 of the Convention is adjusted so that more weight is put on the nature and seriousness of the offence committed and less weight is put on the foreign criminal's social, cultural, and family ties with the host Country and with the Country of destination. The purpose of such a rebalancing is to ensure that we no longer see instances where foreigners convicted of serious crime, including serious violent crime, sexual assault, organised crime and human and drug trafficking, cannot be expelled.
- **Clarity about inhuman and degrading treatment**: The scope of "inhuman and degrading treatment" under Article 3, which is an absolute right, should be constrained to the most serious issues in a manner which does not prevent State Parties from taking proportionate decisions on the expulsion of foreign criminals, or in removal or extradition cases, including in cases raising issues concerning healthcare and prison conditions.
- **Innovative and durable solutions to address migration**: A State Party should not be prevented from entering into cooperation with third countries regarding asylum and return procedures, once the human rights of irregular migrants are preserved.
- **Decision-making in migration cases**: A State Party should not be prevented from applying clear rules and processes to facilitate timely decisions under Article 8 that can then be enforced, and which reflect the appropriate balance between the individual's rights and the public interest.
- **Instrumentalisation of migration**: Recognising the extremely sensitive geopolitical context and the need to properly ensure national security and public safety, including in cases where human rights and fundamental freedoms are subject to abuse and instrumental use by hostile regimes and individual applicants with ulterior motives, with an adverse effect on the Convention system.

In addressing these challenges, the States aligned to this Statement **refer to the importance of the following key principles** in the interpretation and application of the Convention:

- The States' **right, as a matter of well-established international law and subject to their Treaty obligations**, to control the entry, residence, and expulsion of foreigners from their territories, which should guide the interpretation of the Convention;
- The **principle of subsidiarity**, by which the primary responsibility for ensuring the rights and freedoms enshrined in the Convention and its Protocols lies with the States Parties to the Convention, which enjoy a margin of appreciation in doing so;
- The **principle of shared responsibility** by which it is primarily for the State Parties themselves, through their national courts and within the margin of appreciation defined by the Court, to ensure compliance with the guarantees of the Convention and to prevent the Court from becoming a fourth instance;
- The **principle of proportionality**, by balancing the protection of rights with safeguarding national security and protecting public safety and order, ascribing adequate weight to these values;

- The ***de minimis* principle,** which must be given uniform effect;
- The **"living instrument" doctrine** taking appropriate account of the developments, both factual and legal, that have evolved significantly in recent decades and were unforeseen at the time the Convention was drafted;
- The concept of "democracy capable of defending itself" preventing abuse of fundamental rights and freedoms by hostile regimes or individual applicants with ulterior motives.

The States aligned to this Statement welcome the 4-point proposal by the Council of Europe's Secretary-General including to adopt a declaration on migration and the Convention at the Foreign Ministers' meeting on 15th May 2026 in Chișinău (Moldova) and remain ready to work constructively with the Council of Europe, and in the case of EU Member States, whilst paying due consideration to the implications in relation to EU initiatives and applicable EU law.