PRESIDENCY OF THE REPUBLIC OF MOLDOVA
COUNCIL OF EUROPE
NOVEMBER 2025 - MAY 2026
PRÉSIDENCE DE LA RÉPUBLIQUE DE MOLDOVA
CONSEIL DE L'EUROPE
NOVEMBRE 2025 - MAI 2026

COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS CM Documents CM(2026)99-final 15 May 2026

135th Session, 15 May 2026

Chişinău, Republic of Moldova

Chişinău Declaration

The Committee of Ministers,

Recalling the extraordinary contribution of the system established by the European Convention on Human Rights (the Convention) to the protection and promotion of human rights and the rule of law in Europe, as well as its central role in the maintenance and promotion of democratic security and peace throughout the Continent;

Reaffirming the deep and abiding commitment of the States Parties to the Convention, and to the fulfilment of their obligation to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention;

Reaffirming also the States Parties' support for the independence of the European Court of Human Rights (the Court) and the integrity of the Convention system;

Recalling that inherent in the whole of the Convention is a search for a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights, declares the following:

Primary responsibility (Article 1)

1. States Parties to the Convention have the primary obligation to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, in accordance with the principle of subsidiarity.

Principle of non-discrimination (Article 14)

2. The enjoyment of the rights and freedoms set forth in the Convention is subject to the principle of non-discrimination.

National implementation

3. The overall human rights situation in Europe depends on States' actions and the respect they show for Convention requirements, which requires the engagement of and interaction between a wide range of actors to ensure that legislation and other measures and their application in practice comply fully with the Convention. It is important that the States Parties take into account the case law of the Court in a way that gives full effect to the Convention.

Subsidiarity / Margin of appreciation

4. The Convention system is subsidiary to the safeguarding of human rights at national level. National authorities, which are, in principle, better placed than an international court to evaluate local needs and conditions, enjoy a margin of appreciation when implementing the Convention at the national level, subject to the supervisory jurisdiction of the Court. The continuing further development of the principle of subsidiarity and the doctrine of the margin of appreciation by the Court in its jurisprudence is to be welcomed.

5. In accordance with the principle of subsidiarity and the concept of the margin of appreciation, there may be a range of different but legitimate solutions when applying certain Convention provisions, each of which could be compatible with the Convention depending on the context. Where a balancing exercise has been undertaken at the national level in conformity with the criteria laid down in the Court's jurisprudence, the Court has generally indicated that it will not substitute its own assessment for that of the domestic courts, unless there are strong reasons for doing so.

Effective remedies (Article 13)

6. A central element of the principle of subsidiarity is the right to an effective remedy under Article 13 of the Convention. It is important that the States Parties provide domestic remedies, where necessary with suspensive effect, which operate effectively and fairly and provide a proper and timely examination of the issue of risk, in accordance with the Convention and in light of the Court's case law.

Shared responsibility

7. The notion of shared responsibility between the States Parties, the Court and the Committee of Ministers, along with the Parliamentary Assembly and the Council of Europe Commissioner for Human Rights, is important to ensure the proper functioning of the Convention system. In this spirit of shared responsibility, it is crucial that the States Parties and the Court fulfil their respective roles, and that each fully respects the role of the other.

8. The roles of the Council of Europe Commissioner for Human Rights and of national human rights institutions and civil society organisations in monitoring compliance with the Convention and the Court's judgments are also to be recognised.

9. The Committee of Ministers underlines the need to secure an effective, focused and balanced Convention system, where the States Parties effectively implement the Convention at national level, and where the Court can focus its efforts on identifying serious or widespread violations, systemic and structural problems, and important questions of interpretation and application of the Convention.

Role of the Court (Article 19)

10. The Committee of Ministers recalls the important achievements of the Court through its judgments and decisions in supervising compliance with the Convention and defending the values underpinning the Council of Europe.

11. The Court acts as a safeguard for individuals whose rights and freedoms are not secured at the national level and may deal with a case only after all domestic remedies have been exhausted. It does not act as a court of fourth instance.

Jurisdiction of the Court / Interpretation (Article 32)

12. The Court authoritatively interprets the Convention in accordance with relevant norms and principles of public international law, and, in particular, in the light of the Vienna Convention on the Law of Treaties. The Convention is interpreted as a living instrument, giving appropriate consideration to present-day conditions, which ensures its applicability in response to novel challenges.

13. It is important that the judgments of the Court are clear and consistent. This promotes legal certainty, helps national courts apply the Convention more precisely, and helps potential applicants assess whether they have a well-founded application. The Committee of Ministers expresses its continued appreciation for the Court's efforts to ensure the clarity and consistency of its case law and that the interpretation of the Convention proceeds in a careful and balanced manner.

Right of individual application (Article 34)

14. The Committee of Ministers reaffirms the States Parties' strong attachment to the right of individual application to the Court as a cornerstone of the system for protecting the rights and freedoms set forth in the Convention.

Execution of judgments (Article 46)

15. The full, effective and prompt execution of the Court's judgments and the effective supervision of that process are of fundamental importance to ensuring the long-term sustainability, integrity and credibility of the Convention system. The Committee of Ministers reaffirms the States Parties' unconditional obligation to abide by the final judgments of the Court in any case to which they are parties.

Specific migration-related issues

16. There are significant, complex, migration-related challenges in various member States which were either unforeseen at the time the Convention was drafted or have evolved significantly since then. The failure to address these challenges adequately may weaken public confidence in the Convention system.

17. The majority of migrants residing legally in the States Parties contribute positively to the receiving societies. Migrants' fundamental rights and freedoms must be respected and protected in accordance with the principle of non-discrimination.

18. States Parties have the undeniable sovereign right to decide on and control foreign nationals' entry into and residence in their territory. They have the right to establish their own immigration policies, potentially in the context of bilateral or regional co-operation, and pursue immigration control as a public interest. However, these rights must be exercised in accordance with the provisions of the Convention.

19. It is an obligation and a necessity for States Parties to protect their borders in compliance with Convention guarantees, which may include putting arrangements in place at their borders designed to allow access to their national territory only to persons who fulfil the relevant legal requirements.

Expulsion & extradition

20. The inability to expel or extradite an individual convicted or charged with a serious offence can lead to significant challenges for States, including in relation to their fundamental duty to guarantee the right to everyone within their jurisdiction to live in peace, freedom and security, notably by protecting public safety and national security and preventing disorder and crime.

21. The States Parties are encouraged to develop and clarify domestic frameworks ensuring the effective and context-specific application of the relevant Convention rights, including Articles 3 and 8, in cases involving expulsion and extradition.

Article 3

22. It must be emphasised that the prohibition of torture and inhuman or degrading treatment or punishment under Article 3 of the Convention is absolute. It permits no derogation, contains no exceptions, and allows for no legitimate interference.

23. The absolute prohibition of inhuman or degrading treatment or punishment reflects that it relates to the most serious forms of ill-treatment. The minimum level of severity of ill-treatment that constitutes inhuman or degrading treatment or punishment must therefore remain high and constant, and be clearly and consistently applied at all levels, avoiding unnecessary constraints on decisions to extradite, or to expel foreign nationals. The assessment of the minimum level of severity of ill-treatment that constitutes inhuman or degrading treatment or punishment is relative and depends on all the circumstances of the case.

24. The Committee of Ministers is concerned that, as recognised by the Court, where a person cannot be extradited to face trial or serve a penal sentence for a serious offence, this may give rise to impunity, allowing a person to evade justice in a country in which they have committed an offence, simply by virtue of having left that country. All possible steps must therefore be taken to avoid this, consistent with Convention obligations.

25. Where an individual is being expelled or extradited, the quality of accessible healthcare in the receiving State should only give rise to a real risk of treatment contrary to Article 3 in very exceptional circumstances described in the Court's case law. There is no obligation for the returning State to alleviate the disparities between its own healthcare system and the level of treatment existing in the receiving State.

26. Where an individual is being expelled, the domestic courts and authorities in this context may benefit from further guidance on how to assess a range of individual socio-economic factors under Article 3 that may have a negative impact on that individual's situation, but do not each in isolation amount to inhuman or degrading treatment, and on the role the general socioeconomic situation in the receiving country plays in that assessment.

27. Domestic courts and authorities may benefit from further guidance specifically on how cumulative circumstances in detention may, taken together, amount to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, in violation of Article 3.

28. The Court has rarely found that there would be a violation of Article 3 if an applicant were to be expelled or extradited to a State which had a long history of respect for democracy, human rights and the rule of law. The Convention does not purport to be a means of requiring the States Parties to impose Convention standards on other States.

29. In light of the foregoing, caution should be exercised when applying case law of the Court, including by the domestic courts, concerning the situation in a State Party when assessing whether the expulsion or extradition of an individual to a non-State Party would violate a State's obligations under Article 3 of the Convention. In particular, domestic courts and authorities, when assessing whether conditions in a non-State Party, such as detention conditions or access to socio-economic support, may amount to a violation of Convention rights, may benefit from further guidance on how to apply judgments of the Court concerning conditions in States Parties.

30. Recourse to diplomatic assurances may obviate a risk of violation of Article 3 following expulsion or extradition.

Article 8

31. Article 8 allows public authorities to expel a foreign national from their territory even though such a measure may interfere with their right to respect for private and family life, so long as such interference is in accordance with the law and necessary in a democratic society in pursuit of a legitimate aim. Legitimate aims that may justify interference are national security, public safety or the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. The right balance must be struck between individual rights and interests and the weighty public interests of defending freedom and security in the societies of the States Parties.

32. The Convention system is subsidiary to the safeguarding of human rights at national level. National authorities are in principle better placed than an international court to evaluate local needs and conditions. It is primarily for the national authorities to carry out the balancing exercise, in light of the criteria stemming from the Court's case law, and assess whether there are relevant and sufficient reasons for expelling a foreign national that may pose a threat to public order and national security from their territory, including the weight they attach to the nature and seriousness of the crime committed by them. In matters relating to national security, the Court has noted that national authorities enjoy a wide margin of appreciation and that significant weight must be attached to the judgment of the domestic authorities, and especially of the national courts, which are better placed to assess relevant evidence.

33. According to the case law of the Court, where the balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case law, the Court would require strong reasons to substitute its view for that of the domestic courts. If the Court finds that there are strong reasons to substitute its assessment for that of national authorities, it is important that the Court makes clear its awareness of the particularities of national legal systems and traditions, including for example the extent to which the length of a sentence of imprisonment reflects the seriousness of an offence, and fully and clearly explains its reasons.

Mass arrivals

34. The arrival of large numbers of migrants represents a complex and evolving challenge for frontline States, including to their sovereign right to protect national borders and decide who legally enters the territory and their fundamental responsibility to ensure national security and public safety. Irregular arrivals by sea represent a major risk of life for irregular migrants and a significant reduction in irregular maritime crossings may result in a reduction in the loss of lives at sea.

35. States Parties must respond to such situations in conformity with their Convention obligations. The Court has acknowledged that frontline States experience considerable difficulties in coping with increasing influxes of migrants and asylum seekers and has expressly recognised the burden and pressure this places on them.

36. There is a need to step up operational co-operation to prevent irregular migration and promote returns and to strengthen national measures and international co-operation against the human trafficking and migrant smuggling networks involved in mass arrivals. Council of Europe standards in this area, including the Convention on Action against Trafficking in Human Beings (CETS No. 197), are to be recalled.

Instrumentalisation

37. Instrumentalisation of migration may be taken to refer to situations where migratory movements, including unlawful border crossings, are deliberately facilitated, encouraged or exploited by a hostile State or other actor, in some cases involving the use of force, with the aim of exerting pressure on, destabilising or undermining another State and European democracies. It can be seen as a new contemporary phenomenon which has emerged in a specific geopolitical and security context, posing particular challenges for territorial integrity and national security, and risks undermining support for and the integrity of the Convention system.

38. The Committee of Ministers notes with concern that instances of instrumentalisation by a hostile State or other actor may result in acute humanitarian crises, leaving migrants stranded at borders where they may be at significant risk of becoming victims of violence, exploitation, trafficking, smuggling, or inhuman or degrading treatment, without adequate protection or assistance. Migrants involved in instrumentalised migratory movements are entitled to respect for and protection of their rights under the Convention and other European and international law, subject to limitations permitted under the Convention and other European and international law. The conduct of the individuals involved in attempts to irregularly cross the State border may be relevant in assessing the State's compliance with certain Convention obligations.

39. Instrumentalisation of migration creates challenges with respect to States Parties’ fundamental duty to protect everyone within their jurisdiction, to protect their borders and to maintain national security and public order. The concept of “democracy capable of defending itself,” as developed in the case law of the Court, may be relevant when States Parties face instrumentalisation of migration. A hostile State or other actor cannot be allowed to undermine European democracies and the values on which the Convention is founded and to abuse the system that it was established to protect.

40. The Convention is a living instrument: it is interpreted in the light of present-day realities and remains applicable in response to novel challenges. It does not operate in a vacuum: when assessing the compliance of State authorities with their obligations, the concrete context in which they act forms part of the overall assessment required under the Convention. The States Parties look forward to receiving guidance from the Court regarding the application of the Convention in this context.

Decision-making

41. Member States are encouraged to ensure that migration-related decision-making processes are fair, clear, predictable and timely, enabling the effective enforcement of lawful decisions while ensuring access to effective remedies and judicial oversight in accordance with the Convention. Situations of mass irregular arrivals create challenges for national asylum systems, including decision-making processes on claims for international protection.

42. In this connection, the 2009 Committee of Ministers' Guidelines on human rights protection in the context of accelerated asylum procedures, as may be applied for example to clearly well-founded or clearly unfounded cases, may be recalled.

43. The use of country information and guidance, such as that relating to the situation of particular groups of people in a country, may facilitate the more efficient consideration of large volumes of asylum applications, whether in normal or accelerated procedures, without prejudice to the general principle of individualised decision-making.

44. Further intergovernmental co-operation and guidance may be needed on how large volumes of decisions in migration cases, whether in normal or exceptional circumstances, can be taken efficiently, fairly and consistently with Convention obligations.

New approaches

45. States Parties may establish their own immigration policies, which may include co-operation with third countries, provided that they continue to fulfil their Convention obligations.

46. It is important that States, including those that are exposed to mass arrivals, can pursue new approaches to address and potentially deter irregular migration. Amongst the forms of new approaches that have been envisaged by several member States are processing requests for international protection in a third country, third country "return hubs", and co-operation with countries of transit.

47. It is important to ensure fair and efficient procedures for the return of persons found not to be in need of international protection.

Communication & dialogue

48. It is important to maintain open, informed and constructive dialogue and communication on the functioning of the Convention system in a manner that strengthens public confidence in the protection of human rights, upholds the rule of law, and enhances trust in the Convention framework as a whole. The ongoing open dialogues between the Court and States Parties as a means of developing an enhanced understanding of their respective roles in carrying out their shared responsibility for applying the Convention are to be welcomed and encouraged.

49. An important way for the States Parties to engage in a dialogue with the Court is through third-party interventions. The States Parties, as well as other stakeholders, are encouraged to participate in relevant proceedings before the Court, stating their views and positions, which can provide a means for strengthening the authority and effectiveness of the Convention system. It is to be welcomed that the Court has taken steps to increase third-party interventions, in particular in cases before the Grand Chamber, by giving notice in a timely manner of upcoming cases that could raise questions of principle, and ensuring that the questions to the parties are published at an early stage. The States Parties are encouraged further to increase co-ordination and co-operation on third-party interventions, including by building the necessary capacity to do so, and the systematic communication amongst Government Agents on cases of potential interest for other States Parties is to be welcomed.

50. By determining serious questions affecting the interpretation of the Convention and serious issues of general importance, the Grand Chamber plays a central role in ensuring transparency and facilitating dialogue on the development of the case law. The Committee of Ministers reiterates the invitation to the Court to adapt its procedures to make it possible for other States Parties to indicate their support for the referral of a case to the Grand Chamber when relevant, which may be useful for drawing the attention of the Court to the existence of a serious issue of general importance within the meaning of Article 43(2) of the Convention.

51. Those highest courts and tribunals of the States Parties that have not yet done so are encouraged to consider joining the Superior Courts Network.

52. States Parties are encouraged to consider ratifying Protocol No. 16 to the Convention to provide a possible avenue for the national courts to seek guidance of the Court on questions of principle concerning the interpretation and application of the Convention, which may further enhance the interaction between the Court and national authorities and thereby reinforce implementation of the Convention, in accordance with the principle of subsidiarity.

53. Member States are invited to invest in targeted capacity-building for judges, prosecutors and relevant administrative authorities, including through systematic use of the Court’s case law guides and other publicly available materials.

54. Domestic authorities may benefit from further guidance on how to evaluate the significance of the context of the specific case underlying a judgment of the Court when applying principles taken from specific judgments of the Court.

55. The Court's process-based review, as a manifestation of the principle of subsidiarity, depends upon domestic courts articulating clearly in their judgments the application of relevant Convention standards to the facts of a case, including, where relevant, an adequate balancing between the rights of the applicant and the interests of society. In this regard, it is therefore important that governments are clearly presenting to the Court relevant considerations, including specific features of their national legal systems and legal traditions, so that the Court can appropriately address the circumstances of each case.

56. A valuable dialogue takes place through their judgments between national courts and the Court as to the interpretation and application of the Convention. The Court is encouraged to take note of the manner in which its case law has been applied at national level, and the openness shown by the Court to consider, in light of that dialogue, its interpretation of the Convention, is to be welcomed.

57. The Council of Europe provides a forum for dialogue among member States to address the challenges relating to migration. The Committee of Ministers therefore invites the Secretary General, within available resources, to support activities aimed at strengthening national implementation, capacity-building, and co-operation among member States and other stakeholders in line with this Declaration. It also expresses the wish to facilitate exchanges of good practice among member States on Convention-compliant migration and expulsion procedures and reflect, as appropriate, on procedural and institutional lessons arising from cases related to migration.

58. The appropriate intergovernmental body should be mandated to conduct further work on sharing best practices and exploring new ways to enhance communication about the Convention system, to promote a better understanding of the Court's jurisprudence, to prevent and counter misinformation about the Court's case law, and to make effective use of third-party interventions and co-operation among Government Agents.