

ENNHRI Statement in Support of the European Court of Human Rights

ENNHRI, the European Network of National Human Rights Institutions, calls on Council of Europe Member States to respect and protect the independence of the European Court of Human Rights. In a context of increasing polarisation and conflict across Europe and the world, the Court is a pillar for peace, democracy, the rule of law, and for protecting human rights for all individuals in Europe - within the system of checks and balances states parties chose to build together.

On 22 May 2025, at the initiative of Denmark and Italy, nine governments of Council of Europe Member States — including Austria, Belgium, Czechia, Estonia, Latvia, Lithuania, and Poland — issued an [open letter](#) calling for a “new and open-minded conversation about the interpretation of the European Convention on Human Rights”. The concerns of the governments centre around rulings of the European Court of Human Rights (the Court) in the area of migration. In particular, the letter argues that the Court’s case-law on the expulsion of migrants who are convicted of crimes interferes with government’s decision-making power.

ENNHRI expresses its concern about the open letter. While governments have the responsibility to ensure security for society (as indicated in the letter), and open debate is welcome, they are bound to do so with respect for national and international law, including the European Convention on Human Rights (ECHR).

The Court plays a vital role in ensuring the uniform interpretation and application of the ECHR across all Member States. Its judgments contribute to legal certainty for individuals and the coherent protection of human rights throughout the Council of Europe.

The Court was set up by sovereign choice of Member States of the Council of Europe to supervise the application of the ECHR. The ECHR reflects minimum inalienable rights for everyone, inherent to all human beings, and not dependent on nationality. It includes non-derogable rights such as the prohibition of torture, inhumane or degrading treatment which cannot be suspended or limited in any circumstances; they are considered fundamental to human dignity.

ENNHRI underlines that the Court does not prevent governments from taking decisions to advance the safety and stability of societies, including to expel migrants convicted of crimes. In line with the rule of law, the Court does supervise independently and impartially whether such decisions contravene the ECHR.

The Court requires that each expulsion decision be assessed individually, taking into account the specific circumstances of the person concerned, including the nature of the offence, the individual's ties to the host country, and forbidding the risk of torture or ill-treatment upon return. This individualised approach reflects a balanced application of the ECHR and respects both state interests and human rights.

The Court leaves a margin of appreciation to Member States in how they apply and interpret rights under the ECHR, especially when balancing individual rights with broader public interests, including security concerns for society. In the area of expulsion of migrants, the Court leaves a [wide margin of appreciation to Member States](#), with many cases being decided in favor of the State party. In some cases, after a careful balancing of rights, the Court has ruled that decisions to expel migrants do violate the ECHR. In line with the rule of law, such judgments - like any other Court judgments - must be executed by governments that are party to the ECHR.

While debate is healthy, it should not undermine the independence of the Court. Criticism by governments of the legitimacy of the Court's judgments risks undermining the standing of the Court. This is especially so in a wider global context where governments increasingly question the legitimacy and independence of courts at national and international level, including under the guise of securitisation of migration.

Seventy-five years ago, the determination and leadership of European governments in the aftermath of war, resulted in the adoption of the ECHR and the emergence of the Court. They did so, convinced that human rights are the foundation of justice and peace in the world. In the unstable geopolitical context today, including war on the European continent, European governments must show the same leadership as seventy-five years ago. This implies demonstrating steadfast commitment to rule of law, democracy and human rights, and respect for independent courts which put these principles into practice.