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Committee on Migration, International Protection and Economic Co-operation

Committee on Legal Affairs and Human Rights

Minutes of the joint meeting held in Strasbourg on 25 June 2026 (public hearing)

Council of Europe action to protect the human rights of migrants, asylum-seekers and refugees

[\[Doc. 16387\]](#)

Rapporteur: Ms Sandra Zampa (Italy, SOC)

European Convention on Human Rights: 75 years and beyond

Rapporteur: Mr Titus Corlăţean (Romania, SOC)

Hearing, with the participation of:

- Mr David Milner, Head of the Human Rights Intergovernmental Co-operation Division and Secretary to the Steering Committee for Human Rights, CDDH, Council of Europe
- Mr Matthieu Birker, Office of the Commissioner for Human Rights of the Council of Europe
- Ms Natasa Mavronicola, Professor of Human Rights Law at the University of Birmingham, United Kingdom
- Ms Adriana Tidona, Amnesty International, United Kingdom

The Chair of the Committee on Legal Affairs and Human Rights introduced the hearing.

Ms Zampa, Chair of the Committee on Migration, International Protection and Economic Co-operation stressed the Assembly's responsibility in ensuring the proper functioning of the Convention system. The Chişinău Declaration restates the universality of human rights, respect for the authority and independence of the Court, the absolute inviolability of Article 3, and the obligation to execute the Court's judgments. Nevertheless, she noted several elements of concern, including the reference to the need for an updated interpretation of the Convention, the idea of 'new approaches', and the transfer of migrants via third countries, entailing significant risks of refoulement, arbitrary detentions, and ill-treatment. She emphasised that only the Court has interpretive authority over the Convention and called for migration policy to be guided by the rule of law, not changing political opinions. She also recalled the Commissioner for Human Rights' warnings regarding respect for human rights in this context. The Committee of Ministers is now working on developments pursuant to this Declaration.

Mr Corlăţean stated that the most topical of challenges that will be covered by his report concerns migration and its impact on public trust in that system. The relationship between the Convention and the management of migration has been the subject of intense political discussion, leading to an informal ministerial conference in December 2025, followed by the preparation of elements for a political declaration within the CDDH. He followed the discussions closely. The Committee on Legal Affairs and Human Rights reacted to the

¹ The minutes were approved and declassified by the Committee on Migration, International Protection and Economic Co-operation at its meeting on 11 September 2026 and by the Committee on Legal Affairs and Human Rights during its meeting on 9 September 2026.

development of the text, by adopting a declaration during the April part-session. The process of reflection should be handled with caution and without jeopardising the universality of human rights. The Assembly will continue to play its role as a key stakeholder in the Convention system, including through the Network on the implementation of the Court's judgments. As Rapporteur, he will continue to monitor the impact of the Chişinău Declaration on the Convention system, particularly regarding the interpretation and application of Articles 3 and 8 of the Convention and the authority of the Court.

Mr Milner stated that the CDDH outcome document was adopted with the agreement of all 46 member States, which had not been the case for the letter of the nine or the joint statement of the 27. The CDDH explicitly underlined the importance of respecting the integrity and independence of the Court, avoiding any impression of giving it instructions, and respecting the rights of migrants. It also referred to the Convention and the Court's case-law wherever relevant, as demonstrated in the explanatory text prepared by the CDDH. The CDDH addressed five issues: (i) expulsion and extradition; (ii) mass arrivals of migrants; (iii) instrumentalisation of migration by hostile actors; (iv) decision-making in migration cases; and (v) innovative solutions to address migration (or 'new approaches'). The Committee of Ministers prepared the Chişinău Declaration based on the CDDH's work and changed almost nothing. Mr Milner noted some key features: (i) it is a political declaration, not a legal instrument; (ii) it begins with reaffirmations of the member States' commitment to the Convention system, and of the various obligations to guarantee Convention rights and implement the Court's judgments; (iii) it does not criticise the Court's case-law, nor does it call for any changes in its case-law; (iv) references to a fair balance and to the States' sovereign right to control their borders and adopt immigration policies are taken from the Court's case-law; (v) it reaffirms the absolute prohibition of torture and inhuman or degrading treatment in all circumstances, while recalling the Court's case-law on how to determine and apply what must be a high threshold of what amounts to inhuman or degrading treatment in various circumstances; (vi) it recalls and supports the Court's case-law on how the right to respect for private and family life applies to foreign criminals whom the authorities wish to expel; (vii) it concludes with a section on communication and dialogue, most of which is relevant not only to migration-related issues, but generally. Regarding follow-up, the Declaration mentions a need for further guidance to national authorities and/or courts on several specific legal issues, given that the Court's case-law is detailed, nuanced, and often context-specific. Other provisions relate to communication on the Court's case-law and reinforcement of dialogue between the Convention actors. He finally noted that the Committee of Ministers is currently discussing the question of follow-up.

Mr Birker stated that the Commissioner expressed concern regarding the letter of the nine. During the Chişinău process, he asked member States to be assiduously evidence-based; avoid any discourse that calls into question the rule of law; respect the universality of human rights; and safeguard the independence of Court. Many of the member States could have done more to defend the Convention and the Convention system. The report prepared by Mr Corlăţean is an invitation to look forward. The Chişinău Declaration marks a step, but it is not the end of the process. Recently, the Commissioner expressed relief that the 46 Council of Europe member States had reaffirmed their commitment to the ECHR, the independence of the Court, and the integrity of the Convention system. However, the way in which the Chişinău Declaration is framed poses a risk, as it is a barely concealed attempt to persuade the Court to lower its standards and erode its absolute protections. States must demonstrate that they will not create a hierarchy of rights-holders, that they will support judicial independence, and that they will reconsider any legislative proposals that would prevent national judges from applying key human rights protections in asylum and migration cases. Tangible changes to some States' laws and practices will also be required to honour the absolute prohibition of non-refoulement. Public security cannot be used as an excuse to push people back. This applies equally to "new approaches" seeking the externalisation of asylum and return procedures, including through offshore "return hubs".

Ms Mavronicola focused on three aspects of the Chişinău Declaration. First, its approach to the absolute character of the prohibition of torture and inhuman or degrading treatment or punishment under Article 3 of the Convention. Second, its insistence on minimalism towards Article 3. Finally, the declaration's relationship to a "politics of othering". Absolute prohibition means that no derogation is permitted and that the right protection is unconditional. Yet, the Declaration implies that Article 3 should be delineated so as not to get unnecessarily in the way of expulsion or extradition decisions. The Declaration also adopts relativist and balancing rhetoric that appears orientated towards diluting the non-refoulement obligation under Article 3. In addition, the Declaration suggests that because it is absolute, the scope of Article 3 must necessarily be narrow. The Declaration asks for guidance regarding the application of Article 3, so as to minimise the circumstances in which people would be considered subjected to torture or inhuman or degrading treatment or punishment. It incorporates a criticised dictum, raising questions about a presumption that certain countries comply with Article 3. Ms Mavronicola also expressed concern about making concessions or legitimising certain ideological positions that are associated with some of the darkest times in European history and warned against the illusion of watering down rights in the name of protecting them.

Ms Tidona stated that while some positive changes have been introduced in the text, the process has undermined the integrity of the Convention system and some of its foundational values. She expressed concern about the impact that the Declaration may have on the Court's supervisory jurisdiction and interpretative authority, the risk of externalisation of migration control, and the specific focus on new approaches to manage migration, particularly in light of ongoing reforms at the EU level, including the new Return Regulation and the Pact on Migration and Asylum. The Declaration seeks to lay the foundations for a two-tier system where different types of rules apply to migrants and refugees' rights. This is especially troubling with respect to Article 3. The Assembly and national parliaments must remain vigilant to ensure that the role and jurisprudence of the Court are not misrepresented and that the interpretative autonomy of the Court is not undermined. The Declaration is silent on the human rights violations that externalisation has produced so far, including in the context of migration deals with countries outside the Council of Europe region. It is also silent on the fact that schemes resembling return hubs have already faced legal challenges. It is concerning that the definition of instrumentalisation is partially inspired by EU law and that this is addressed while States' actions in responding to this issue are still under the scrutiny of the Court, which represents a form of political pressure. The Declaration has omitted any consideration of the human rights risks of disproportionate responses to instrumentalisation or other cases of migratory pressure, making it imperative for States to monitor and ensure that such concepts are not used as a blanket justification for bypassing the limits established by the Convention for legitimate derogations of rights. She finally recalled that respect for human rights should not be presented as conflicting with national security, as it is in fact a condition for safeguarding the rule of law.

A discussion ensued, involving **Ms Stephenson** (who was alarmed that Ireland signed the joint statement of the 27, especially since it has filed two inter-state applications against the United Kingdom under Article 3, particularly referring to the "hooded men" case; asked about participation and inclusiveness in the context of the CDDH's discussions); **Mr Aydogan, Secretary General of ASSEDEL** (who asked about cooperation between the Assembly and the European Parliament regarding migration), **Lord German** (who referred to a letter sent to the LIBE Committee of the European Parliament to work together on externalisation; stated that the Declaration will be more impactful for domestic courts; asked for precisions regarding follow-up), **Mr Milner** (who stated that nothing was decided yet regarding follow-up; indicated that there was no limit on freedom of expression during the CDDH's meetings and that the participation of civil society was highly valued, though explaining that proposals were discussed only when supported by a member State, given the intergovernmental nature of the CDDH's work), **Ms Mavronicola** (who warned against the risk of dehumanisation of the "politics of othering"; stated that the Declaration's impact will be diffused and multilayered; indicated that the Assembly can exercise scrutiny and monitoring, though multiple actors need to be involved), **Ms Tidona** (who emphasised the need to monitor the direction of the guidance that might be provided to domestic courts, reiterating the importance of respecting their independence and authority), **Mr Birker** (who stated that the Commissioner will continue to engage with all stakeholders, including the Court, and use the tools at his disposal to follow-up on the Declaration; referred to the recommendations included in his recent paper on externalised asylum and migration policies in human rights law), **Ms Andersen** (who referred to paragraphs 12 and 13 of the Declaration, asking if they were a criticism of the living instrument doctrine), **Mr Corlăţean** (who stated that at the beginning of the process, there were discussions about a potential protocol to the Convention, but that there was no chance of adopting such an instrument; recalled that the Declaration is not legally binding; emphasised the importance of dialogue to ensure that everyone remains engaged in the system; indicated that we should not accept any pressure on judges; did not exclude the use of Protocol No. 16, which would be a positive development; and referred to the dialogue with the Court through the Committee on the Election of Judges), **Lord Griffiths** (who asked what one might expect from a government lawyer tasked with defending the Chişinău Declaration during a parliamentary debate, emphasising the importance of being able to anticipate issues and having a clear line of argument), **Mr Birker** (regarding the living instrument doctrine, stated that the Declaration might reflect different interpretations; and stressed the added value of bringing objective elements back into the discussions), **Ms Mavronicola** (who highlighted the importance of contextualising the Court's case-law), **Ms Tidona** (who emphasised the need to return to the facts and a correct interpretation of the case-law) and **Mr Milner** (who indicated that the Declaration is nonetheless the result of negotiations among 46 member States, including some that insisted on not giving any instruction to the Court; and mentioned the CDDH's outcome document including footnotes, most of which refer to the Court's case-law).

Appendix / Annexe – Attendance list / Liste de présence
**Committee on Migration, International Protection and Economic
Co-operation**

(The names of members who took part in the meeting are printed in bold /
Les noms des membres ayant pris part à la réunion sont imprimés en caractères gras)

Chairperson / Présidente

Ms Sandra ZAMPA (Italy, SOC)

Vice-Chairpersons / Vice-Président-es

- 1st / 1^{er} **Ms Zdravka BUŠIĆ** (Croatia, EPP/CD)
- 2nd / 2^{ème} **Mr Marco SCURRIA** (Italy, ECPA)
- 3rd / 3^{ème} **Mr Georgios PSYCHOGIOS** (Greece, UEL)

Members / Membres	Country / Pays	Alternates / Remplaçant-es
1. Ms Albana VOKSHI	Albania / Albanie	Mr Sali BERISHA
2. Mme Bernadeta COMA	Andorra / Andorre	Mme Meritxell ALCOBÉ
3. Ms Arusyak JULHAKYAN	Armenia / Arménie	Mr Hayk MAMIJANYAN
4. Ms Sandra JÄCKEL	Austria / Autriche	Ms Susanne FÜRST
5. Mr Dominik OBERHOFER	Austria / Autriche	Mr Johannes SCHMUCKENSCHLAGER
6. Mr Manu DIERICX	Belgium / Belgique	Mme Anne LAMBELIN
7. Ms Britt HUYBRECHTS	Belgium / Belgique	M. Julien RIBAUDO
8. Mr Branislav BORENOVIĆ	Bosnia and Herzegovina / Bosnie-Herzégovine	Mr Mladen BOSIĆ
9. Mr Slavi VASSILEV	Bulgaria / Bulgarie	Ms Tihomir KRASTEV
10. Mr Bogdan BOGDANOV	Bulgaria / Bulgarie	ZZ...
11. Ms Zdravka BUŠIĆ	Croatia / Croatie	Mr Milorad PUPOVAC
12. Mr Nicos TORNARITIS	Cyprus / Chypre	Ms Christiana EROTKRITOU
13. Ms Irena FERČIKOVÁ KONEČNÁ	Czechia / Tchéquie	Mr Jiří STRÝČEK
14. Ms Renata VESECKÁ	Czechia / Tchéquie	Mr Denis DOKSANSKÝ
15. Ms Malte LARSEN	Denmark / Danemark	Ms Marie BJERRE
16. Mr Martin HELME	Estonia / Estonie	Ms Hanah LAHE
17. Mr Aleksí JÄNTTI	Finland / Finlande	Mr Pekka AITAKUMPU
18. M. Emmanuel FERNANDES	France / France	Mme Sylvie GOY-CHAVENT
19. Mme Michelle GRÉAUME	France / France	Mme Nicole DURANTON
20. M. Matthieu MARCHIO	France / France	M. Bruno CLAVET
21. M. Pierre MEURIN	France / France	Mme Manon BOUQUIN
22. Mr Adam BALTEN	Germany / Allemagne	Ms Filiz POLAT
23. Ms Ellen DEMUTH	Germany / Allemagne	Mr Frank SCHWABE
24. Mr Pierre LAMELY	Germany / Allemagne	Mr Johann MARTEL
25. Mr Johannes VOLKMANN	Germany / Allemagne	Ms Hülya DÜBER
26. Mr Dimitrios MANTZOS	Greece / Grèce	Mr Georgios PSYCHOGIOS
27. Mr Vasileios-Nikolaos YPSILANTIS	Greece / Grèce	Mr Evripidis STYLIANIDIS
28. Ms András NÉHER	Hungary / Hongrie	Ms Balázs TRENTIN
29. Mr László TOROCZKAI	Hungary / Hongrie	Mr Márton HAJDU
30. Ms Sigríður Á. ANDERSEN	Iceland / Islande	Mr Bergþór ÓLASON
31. Mr Garret AHEARN	Ireland / Irlande	Mr Rónán MULLEN
32. Mr Dimitri COIN	Italy / Italie	Mr Graziano PIZZIMENTI
33. Mr Arnaldo LOMUTI	Italy / Italie	Mr Ettore Antonio LICHERI

34. Mr Marco SCURRIA	Italy / Italie	Ms Licia RONZULLI
35. Ms Sandra ZAMPA	Italy / Italie	Ms Susanna Lina Giulia CAMUSSO
36. Ms Ināra MŪRNIECE	Latvia / Lettonie	M. Andris BĒRZINŠ
37. Mr Joachim VOGT	Liechtenstein / Liechtenstein	Mr Marc RISCH
38. Ms Jurgita ŠUKEVIČIENĖ	Lithuania / Lituanie	Mr Arminas LYDEKA
39. M. Paul GALLES	Luxembourg / Luxembourg	Mme Octavie MODERT
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41. Mr Igor DODON	Republic of Moldova / République de Moldova	Ms Doina GHERMAN
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43. Mr Nikolla CAMAJ	Montenegro / Monténégro	Ms Nađa LAKOVIĆ
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45. Ms Daan ROOVERS	Netherlands / Pays-Bas	Ms Saskia KLUIT
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49. Mr Jan KANTHAK	Poland / Pologne	Mr Szymon HOŁOWNIA
50. Mr Kacper Maciej PŁAŻYŃSKI	Poland / Pologne	Mr Paweł JABŁOŃSKI
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54. Mr Sebastian RĂDUCANU	Romania / Roumanie	Mr Virgil Alin CHIRILĂ
55. Mr Ionuț-Marian STROE	Romania / Roumanie	Ms Elena-Simona SPĂTARU
56. Ms Alice MINA	San Marino / Saint-Marin	M. Nicola RENZI
57. Mr Vladimir ĐORĐEVIĆ	Serbia / Serbie	Mr Predrag MARSENIĆ
58. Mr Đorđe STANKOVIĆ	Serbia / Serbie	Ms Ana JAKOVLJEVIĆ
59. Mr Miroslav ČELLÁR	Slovak Republic / République slovaque	Ms Lucia PLAVÁKOVÁ
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61. Ms Nerea AHEDO	Spain / Espagne	Ms Eva ORTIZ
62. Ms María FERNÁNDEZ	Spain / Espagne	Mr Antonio GUTIÉRREZ LIMONES
63. Mr Gonzalo ROBLES	Spain / Espagne	Ms Marta GONZÁLEZ VÁZQUEZ
64. Mr Denis BEGIC	Sweden / Suède	Ms Sofia AMLOH
65. Ms Ludvig ASPLING	Sweden / Suède	Mr Jessica STEGRUD
66. M. Erich HESS	Switzerland / Suisse	Mr Matthias MICHEL
67. Mr Fabian MOLINA	Switzerland / Suisse	Ms Marianne BINDER-KELLER
68. Mr Murat Cahid CINGI	Türkiye / Türkiye	Ms Zeynep YILDIZ
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70. Ms Meryem GÖKA	Türkiye / Türkiye	Mme Seda GÖREN
71. Ms Pelin YILIK	Türkiye / Türkiye	Mr İsmail ÖZDEMİR
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73. Mr Oleksii GONCHARENKO	Ukraine / Ukraine	Mr Pavlo BAKUNETS
74. Ms Mariia MEZENTSEVA-FEDORENKO	Ukraine / Ukraine	Ms Tamila TASHEVA
75. Lord Michael GERMAN	United Kingdom / Royaume- Uni	Ms Manuela PERTEGHELLA
76. Lord Leslie GRIFFITHS	United Kingdom / Royaume- Uni	Brendan O'HARA
77. Ms Kate OSAMOR	United Kingdom / Royaume- Uni	Dame Karen BRADLEY

78. Baroness Theresa GRIFFIN

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Mr Sam RUSHWORTH

Ex officio members:

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Mr Pablo HISPÁN (Spain, EPP/CD)

Mr Zsolt NÉMETH (Hungary, ECPA)

Mr Iulian BULAI (Romania, ALDE)

Ms Laura CASTEL (Spain, UEL)

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41. Mr Andrian CHEPTONAR	Republic of Moldova / République de Moldova	Ms Veronica ROȘCA
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55. Mr Sebastian RĂDUCANU	Romania / Roumanie	Mr Cristian-Augustin NICULESCU-ȚĂGĂRLAȘ
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61. Mr Antonio GUTIÉRREZ LIMONES	Spain / Espagne	Mr Marc LAMUÀ
62. Mr Sergio GUTIÉRREZ PRIETO	Spain / Espagne	Ms Concepción ANDREU RODRÍGUEZ
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70. Mme Seda GÖREN	Türkiye / Türkiye	Mr Sevan SIVACIOĞLU
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72. Mr Serhii KALCHENKO	Ukraine / Ukraine	Mr Oleksii GONCHARENKO
73. Ms Olena KHOMENKO	Ukraine / Ukraine	Mr Oleksandr MEREZHKO
74. Mr Sergiy VLASENKO	Ukraine / Ukraine	Ms Lesia VASYLENKO
75. Baroness Sal BRINTON	United Kingdom / Royaume-Uni	Sir Edward LEIGH
76. Baroness Shami CHAKRABARTI	United Kingdom / Royaume-Uni	Ms Kate OSBORNE
77. Lord Richard KEEN	United Kingdom / Royaume-Uni	Sir Christopher CHOPE
78. Mr Tony VAUGHAN	United Kingdom / Royaume-Uni	Ms Linsey FARNSWORTH

Ex officio members (Rules 19.6 of the Rules of Procedure)

Membres de droit (Article 19.6 du Règlement)

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Ms Natasa Mavronicola, Professor of Human Rights Law at the University of Birmingham, United Kingdom / *professeure de droit relatif aux droits humains à l'Université de Birmingham, Royaume-Uni*

Mr David Milner, Head of the Human Rights Intergovernmental Co-operation Division and Secretary to the Steering Committee for Human Rights (CDDH), Council of Europe / *chef de la Division de la coopération intergouvernementale en matière de droits humains et secrétaire du Comité directeur pour les droits humains (CDDH), Conseil de l'Europe*

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