

Ref: CommHR/MOF/sf 100-2026

Mr Alexander DOBRINDT
Federal Minister of the Interior of Germany

Strasbourg, 8 July 2026

Dear Minister,

My mandate is to foster the effective observance of human rights in the member states of the Council of Europe. An important part of my work is to engage in dialogue with the governments and parliaments of member states, and to assist them in addressing possible shortcomings in their laws and practices.

Increasing the effectiveness of the return of irregularly present foreign nationals, while ensuring that their human rights remain upheld, is a distinct policy challenge for member states, and important developments have taken place in this area.

In this regard, I am following with attention emerging proposals to establish so-called 'return hubs' and other agreements or arrangements involving the transfer of foreign nationals to other countries. According to information publicly shared by your government, Germany has been engaged in discussions with potential partner countries on the establishment of return hubs for several months, and a first agreement on this subject is expected by the end of 2026. I further understand that, in the pursuit of return hubs, your government is working together with Austria, Denmark, Greece and the Netherlands. For this reason, I am simultaneously contacting your counterparts in those countries.

In my report '[Externalised asylum and migration policies and human rights law](#)', published in September 2025, I examined recent and proposed policies concerning the externalisation of asylum and migration functions by Council of Europe member states. I found that such activities present considerable human rights risks, including with respect to the principle of non-refoulement, the prohibition of ill-treatment, collective expulsions, arbitrary detention, and a range of other human rights. I therefore recall that states bear responsibility to ensure that such initiatives are aligned with international human rights law.

In this context, I note that potential models for relocating asylum procedures to third countries outside the European Union have been reviewed under the leadership of the Federal Ministry of the Interior with input provided by legal experts. The final report, 'Asylverfahren in Drittstaaten', published in 2025, concluded that such forms of external co-operation involve significant legal hurdles and practical difficulties. In this regard, I write to submit to your attention some actions that would help guarantee the effective protection of human rights. To assist you, allow me to propose four core 'guardrails' to embed in your relevant policy and legal frameworks.

First, I recommend that any relevant initiative be preceded by a comprehensive ex ante assessment of potential direct or indirect human rights risks associated with the proposed co-operation. Rigorous factual and legal analysis, rooted in applicable human rights standards, would help ensure state obligations are fulfilled and general principles of good administration are met. Such assessment should be accompanied by a mitigation plan outlining the measures to be adopted in order to prevent, mitigate, or remedy identified risks.

Second, should your government decide to proceed with relevant co-operation activities, I recommend ensuring the adequate, independent and continuous monitoring of their actual human rights impact. Establishing robust mechanisms for the review and, if necessary, suspension of cooperation, should evidence of human rights violations arise, would provide a crucial contribution to accountability and compliance.

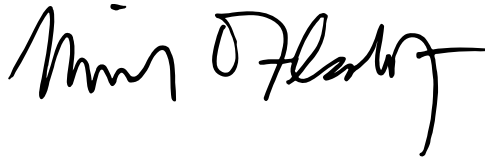
Third, recognising that informal arrangements can heighten risks, I recommend that any co-operation on return hubs or other forms of externalisation be founded upon legally binding agreements that explicitly incorporate enforceable human rights clauses and strong accountability mechanisms.

Fourth, to facilitate adequate parliamentary, public and judicial scrutiny, I encourage making relevant risk assessments, mitigation plans, outcomes from monitoring mechanisms and co-operation agreements publicly available.

On one final matter, I take this opportunity to follow up on another issue we discussed during my visit to Germany in October 2025. I note that recently, the Berlin administrative court's 28th chamber decided that the refusal of entry to a person who requested asylum at the German-Polish border was unlawful (similar to the decision of the 6th chamber of the same court from 2 June 2025). I also note that on 2 June 2026 the European Commission recommended discontinuing the extended border controls. I encourage you to ensure that, whatever arrangements are put in place at the border, denial of entry is not used to prevent persons from applying for asylum and having access to an individualised asylum procedure.

I remain at your disposal for any further exchange of views that you might consider useful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael O'Flaherty', with a stylized, flowing script.

Michael O'Flaherty