

Ref: CommHR/MOF/sf 102-2026

Mr Bart VAN DEN BRINK

Minister of Asylum and Migration and Deputy Prime Minister of the Netherlands

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. In your letter to the Dutch House of Representatives of 22 May 2026, you set out your government's intention to move ahead with such externalised policies at speed. I further understand that, in the pursuit of return hubs, your government is working together with Austria, Denmark, Germany and Greece. 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.

I welcome that your letter of 22 May 2026 acknowledges the potential implications for human rights of your government's externalisation activities, and that this thus requires acting with great care. 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, please 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.

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, cursive script.

Michael O'Flaherty