

CommHR(2025)68

Informal Conference of Ministers of Justice

Strasbourg, 10 December 2025

Statement by Michael O'Flaherty
Council of Europe Commissioner for Human Rights

President, Ministers, Excellencies.

You are embarked on an extremely consequential pathway in terms of the well-being of Europe's human rights protection system.

In so doing, I would urge you, first, to be assiduously evidence-based.

The facts that support your decisions must be impeccable. In that regard, I am concerned about inaccuracies and assumptions currently in circulation. For instance, the claim that the entry into our countries of instrumentalised migrants undermines national security is unconvincing. Instrumentalization is a deplorable fact, but our states are well able to receive and consider the asylum claims of the victims of the practice. I would add that the careless association of migration with criminality is wrong and dangerous.

Furthermore, the assumption that adjusting the law or practice of the Convention and the Court that will somehow axiomatically change practice on the ground – for instance, that it would impact irregular migratory flows – is not grounded in fact.

Second, I urge you to avoid any discourse that throws the law into question.

Above all, in the current context, I have in mind the prohibition of refoulement. This absolute entitlement has the status of customary international law. Attempts to interfere with it are unacceptable.

No less essential is the need to respect the universality of human rights. Any discourse that suggests a hierarchy of rights holders on the basis of their being more or less deserving is deeply problematic.

One further legal consideration is to ensure that all discourse and proposals do nothing to diminish the independence of the European Court of Human Rights or indeed of any other court. The principle of independence of the judiciary is essential to the rule of law state.

Ministers, Excellencies,

I urge you not to frame the current and future discussions in terms of a balancing of Convention rights. We are not engaged in a zero-sum game. Respect for the human rights of everyone will best guarantee safe and secure States.

What is more, I am convinced that our peoples are not against strong human rights protections for everyone, and surveys and research repeatedly affirm this. Their concerns have to do with very important but other considerations, such as senses of alienation and disadvantage. These senses are amplified through manipulative political messaging as well as disinformation. Such phenomena must be addressed if we care about the well-being of our communities, but the way is not to weaken or damage the human rights system.

Thank you.