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## **“Chişinău Process”: Concerns Remain for the Integrity of the ECHR System** **Statement of the CURE Steering Committee**

The Campaign to Uphold Rights in Europe (CURE), a joint initiative of 20 national and international NGOs, is concerned that the Chişinău Declaration may adversely affect the European system of human rights protection. This “political declaration” is being prepared for adoption at the 135th Session of the Council of Europe Committee of Ministers (14–15 May 2026, Chişinău) to *reaffirm the obligation to ensure the effective enjoyment of the rights and freedoms guaranteed by the European Convention on Human Rights (...) in the context of the contemporary challenges posed both by irregular migration and by the situation of foreigners convicted of serious offences.*<sup>1</sup>

CURE notes with regret that the process of drafting this declaration has been unnecessarily rushed to satisfy political interests of a minority of member states. As a result, it has failed to provide opportunities for genuine consultation on important public interest issues with relevant stakeholders, including national human rights institutions, NGOs and academic experts. This fact runs contrary to the member states’ existing commitments to meaningful engagement with civil society, both domestically and at the Council of Europe (CoE) level. It also negatively affects the quality of the outcome of the process, creating risks that the final document may weaken existing human rights protection standards.

Although some critical comments made both from within the CoE framework<sup>2</sup> and by external stakeholders<sup>3</sup> were taken into account in the drafting process, a number of their concerns remain unaddressed. These potential risks should be addressed in the ongoing diplomatic negotiations on the final text of the Chişinău Declaration and/or in any efforts to provide follow-up to it, both at the intergovernmental and national levels. Concerted efforts by all stakeholders are essential to ensure that the outcome of the “Chişinău process” fully respects the integrity of the ECHR system and does not lead to regression in the protection of human rights in Europe.

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<sup>1</sup> See [Conclusions of the Informal Ministerial Conference](#) held in Strasbourg on 10 December 2025.

<sup>2</sup> See interventions by the Commissioner for Human Rights (read e. g. Mr O’Flaherty’s [latest speech](#) during the presentation of his Annual Activity Report 2025 before the Parliamentary Assembly, PACE) and the [PACE President](#), as well as the [statement by the Committee on Legal Affairs and Human Rights](#) adopted on 20 April 2026.

<sup>3</sup> See e. g. statement by the [European Network of National Human Rights Institutions \(ENNHRI\)](#); [joint letter by Amnesty International, the International Federation of Human Rights \(FIDH\) and the International Commission of Jurists \(ICJ\)](#); [open letter of the AGORA Group](#); blog symposia on the [ECHR Blog](#) and [Strasbourg Observers](#).

The most important concerns are summarised below.

### **1. Framing human rights and migration policy as being inherently in conflict**

The language of some points of the proposed “elements for a political declaration”<sup>4</sup> can be interpreted as suggesting that states face a contradiction between their human rights obligations under the ECHR and their responsibility to manage migration and ensure national security. This framing implies that stronger human rights protection limits the effectiveness of national migration policies. However, as both CoE institutions and civil society actors have repeatedly pointed out, these are not in conflict. The ECHR contributes to a legal framework that enables states to pursue migration and security objectives in a human rights compliant, predictable and effective manner. Implying otherwise is dangerous for the credibility and sustainability of the European human rights protection system.

### **2. Risk of undermining the protections guaranteed by Article 3**

The elements for the political declaration highlight the need for more clarity and constraint in the application of Article 3 of the ECHR, which prohibits torture and inhuman and degrading treatment or punishment, in complex migration contexts. There is a real risk that, under the guise of such clarification, elements of “balancing” or conditionality would be introduced to a right that is absolute and applies without exception and regardless of conduct. Any weakening of Article 3 guarantees in the migration context could have broader consequences across other areas, including detention conditions, extradition and criminal justice cooperation.

### **3. Threat that “new approaches” to managing migration will affect the level of rights protection**

The “elements for a political declaration” refer to the possibility of the states to use so-called ‘innovative solutions to address and potentially deter irregular migration,’ such as third country processing of requests for international protection and third country “return hubs”. These approaches risk shifting responsibility away from member states while weakening core safeguards under the ECHR. In particular, there is a danger of bypassing individualised risk assessments and limiting access to asylum procedures and effective remedies. Migration management objectives should in no way lead to practices that reduce the level of protection afforded to individuals.

### **4. Use of a political concept of “instrumentalisation of migration” lacking legal clarity**

Among others, the document specifically addresses the issue of the so-called “instrumentalisation of migration”. However, this concept lacks a clear and established legal definition within the ECHR framework, and the Court is still to deliver its first judgements providing a legal assessment of issues related to this phenomenon. There is a risk that this so far purely political term may be used to justify exceptional restrictions on rights or even to shift responsibility for violations onto migrants themselves. Migrants and asylum seekers must not bear the consequences of geopolitical strategies pursued by third states or criminal activities by networks organising or facilitating irregular border crossings.

### **5. Choosing politicised avenues for dialogue undermines the independence of the Court**

The proposed elements for the Chişinău Declaration contain calls for intensifying “dialogue” with and requesting more “guidance” from the European Court of Human Rights as a response to allegedly insufficient opportunities for the States Parties to engage with its case-law and interpretative approach. While efforts to improve dialogue can in general be seen as a positive

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<sup>4</sup> See the [CDDH outcome document containing elements for a political declaration](#), 20 March 2026.

move, there is a risk that attempts to steer interpretation of the ECHR through political instruments (such as the Declaration) will undermine the Court's independence and its interpretative authority under the Convention. The ECHR system already provides a number of mechanisms for interaction of States Parties with the Court, including third-party interventions, requests for referral of cases to the Grand Chamber, interpretative questions under Article 46(3), and requests for advisory opinions under Protocol No. 16. These mechanisms are still not used to their full potential – so far, only 26 of the Council of Europe's 46 member states have ratified Protocol No. 16<sup>5</sup> to the ECHR. This instrument could largely address the State Parties' demand for more guidance, and CURE calls for its full ratification.

24 April 2026

CURE Steering Committee:

**Katerina Hadzi-Miceva Evans**, European Centre for Not-for-Profit Law, The Hague

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**Oleksandra Matviichuk**, Center for Civil Liberties, Kyiv

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<sup>5</sup> The countries that have not ratified Protocol No. 16 yet are Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Malta, Norway, Poland, Portugal, Serbia, Switzerland, Turkey and the UK, see: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=214>.