

PRESS RELEASE

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ASSEDEL Expresses Concern over Joint Government Letter Addressed to the European Court of Human Rights

Call to uphold judicial independence and the integrity of the European human rights protection system

ASSEDEL (Association Européenne pour la Défense des Droits et des Libertés) expresses its deep concern regarding the joint letter issued on 22 May 2025 by a group of nine Council of Europe Member States, led by the Prime Ministers of Denmark and Italy and joined by Austria, Belgium, Czechia, Estonia, Latvia, Lithuania, and Poland.

The letter calls for a reassessment of how the European Court of Human Rights interprets the European Convention on Human Rights, particularly in relation to migration. It advocates for a "new and open-minded" interpretation that would allow greater flexibility for states to expel individuals convicted of crimes, monitor those who cannot be deported, and respond to alleged instrumentalisation of migration by so-called "hostile states."

While respectful dialogue between governments and judicial institutions is essential, ASSEDEL is concerned that such a public initiative, especially coming from member states, could be perceived as exerting pressure on the independence of the Court - an institution whose impartiality and authority are central to the rule of law in Europe.

The letter is issued at a time when some of the signatory states are engaged in, or have been subject to, judicial proceedings before the European Court of Human Rights concerning migration-related matters. These include earlier judgments involving Italy and Denmark, as well as a number of ongoing cases concerning Latvia, Poland, and Lithuania. Many of these relate to complex challenges at the EU's external borders, including allegations of irregular returns of asylum seekers. ASSEDEL believes that the continued engagement of the Court in such cases is essential to upholding shared human rights standards across the region.

The growing trend toward reducing EU Member States' responsibilities under international asylum law is reflected both in the European Pact on Migration and Asylum and in its implementation - particularly in the European Commission's recent proposal of 20 May 2025. This proposal broadens the use of the "safe third country" concept, notably by removing the requirement for a personal connection between the applicant and the third country. The recent letter questioning the jurisdiction of the European Court of Human Rights in migration-related

matters appears aligned with this broader approach. However, ASSEDEL underscores the essential role of the Court in ensuring that such policies remain consistent with fundamental human rights standards. Its independent oversight is vital to maintaining a fair balance between state sovereignty and the protection of individual rights in the complex field of migration.

ASSEDEL emphasises that the European Convention on Human Rights is a *living instrument*, designed to evolve in response to societal, scientific, and ethical developments. It is this dynamic interpretation that ensures its continued relevance and effectiveness in protecting fundamental rights. The progressive development of rights under the Convention is not an overreach, it is a reaffirmation of its enduring relevance and universality.

Judicial independence is not only a core principle of the Convention but a fundamental element of democratic governance. It guarantees that courts remain free from external influence and are able to hold States accountable when individual rights are jeopardised. Undermining this independence endangers not only the authority of the Court but the credibility of the entire human rights protection framework in Europe.

We also welcome the clear and principled statement made by the Secretary General of the Council of Europe, Mr. Alain Berset, reminding that *“In a society governed by the rule of law, no judiciary should face political pressure. Institutions that protect fundamental rights cannot bend to political cycles. If they do, we risk eroding the very stability they were built to ensure. The Court must not be weaponized - neither against governments, nor by them.”*

In light of these developments, ASSEDEL calls on all democratic actors - including civil society, legal professionals, academic institutions, national authorities, and European bodies - to stand together in defending the independence of the European Court of Human Rights. The Convention is not the exclusive property of States; it is the shared heritage of the peoples of Europe, embodying our collective values of dignity, justice, and freedom.

What is at stake today goes beyond the boundaries of judicial activism vis-à-vis legitimate sovereign decisions; it is the integrity of the European human rights system itself that is at risk.

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