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CCBE Statement on the letter published on 22 May 2025 concerning the interpretation of the European Convention on Human Rights

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The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 46 countries, and through them more than 1 million European lawyers. The CCBE responds regularly on behalf of its members on policy issues which affect European citizens and lawyers.

With this statement, the CCBE reaffirms its steadfast commitment to the protection and promotion of human rights, the rule of law, and the independence of the judiciary – principles at the core of the European legal order. In this spirit, the CCBE takes note of the letter published on 22 May 2025 signed by nine Council of Europe Member States - Austria, Belgium, Czechia, Denmark, Estonia, Italy, Latvia, Lithuania, and Poland, calling for *"a new and open-minded conversation about the interpretation of the European Convention on Human Rights"* (ECHR).

While it is the prerogative of governments to draft, amend, and agree upon international legal instruments such as the Convention, it is the exclusive role of independent courts – national and international – to interpret and apply these rules in individual cases without interference. This separation of powers is essential to the rule of law. The European Court of Human Rights, in accordance with Articles 19 and 32 of the Convention, has the mandate to ensure a uniform and authoritative interpretation of the Convention across all High Contracting Parties.

The Convention system provides flexibility to States and does not seek to hinder their ability to address serious challenges, including crime, migration, and terrorism. The rights it protects are compatible with effective State responses to these threats. In fact, the ECtHR's jurisprudence has consistently acknowledged the legitimacy of such objectives, while ensuring that any measures taken comply with the fundamental rights of individuals, including the prohibition of torture and inhuman or degrading treatment, which is an absolute right under the ECHR, from which no derogation is permitted under any circumstances.[1] This balance is a hallmark of democratic societies governed by the rule of law.

The letter's emphasis on current migration pressures must also be placed in historical context. The Convention was conceived in the aftermath of World War II, during a period marked by unprecedented displacement and insecurity. Its framers deliberately enshrined protections for "everyone," recognising that human dignity must not be subject to shifting political or demographic circumstances.

The CCBE, while recognising the concerns expressed by the States on the need to safeguard security as a collective value, observes that the relationship between fundamental rights and security is governed

[1] The Court's case law in relation to cases of expulsion if the treatment awaited in the country of expulsion involves inhuman treatment was settled in 1989 with Soering v United Kingdom and has been applied consistently for more than thirty-five years.

by Article 5 of the ECHR itself. According to this provision - which is also reflected in various constitutional norms and laws of the Council of Europe Member States - any restriction of individual freedoms or fundamental rights must be established by law. Such laws must clearly define the specific circumstances justifying the restriction and ensure a proportional balance between the measures taken and the protection of collective security.

It is important to recall that two years ago, on 17 May 2023, all 46 Members States of the Council of Europe (the parent organisation of the Convention and the Court) – including all the signatories to the 22 May 2025 letter - joined in the Reykjavik Declaration in which they expressly:

> *"Recommit to resolving the systemic and structural human rights problems identified by the Court and to ensure the full, effective and prompt execution of the final judgments of the Court, taking into account their binding nature and the obligations of the High Contracting Parties under the Convention while also recalling the importance of involving national parliaments in the execution of judgments"*.

According to that commitment, Member States must strive and continue their efforts to safeguard the rights protected by the Convention and as interpreted by the Court, rather than demanding differential application of Convention rights for certain persons which can ultimately lead to weakening the rights of everyone.

National judges also play a central role in this system, applying Convention rights domestically under the principle of subsidiarity. Criticism of the Court's judgments also means indirect criticism of those judges who apply the Convention within their own legal orders according to the mission entrusted to them by the States. Undermining this judicial role risks eroding public trust in legal institutions and threatens the broader rule of law.

The CCBE has consistently contributed to efforts aimed at improving the effectiveness and accessibility of the Convention system. This includes proposals to streamline judicial procedures, enhance the role of national courts, and ensure proper implementation of judgments. Continued dialogue on such matters is welcome and necessary. However, efforts must by no means result in a limitation or politicisation of the independence of judicial interpretation. Respect for judicial independence is not an obstacle to democratic debate – it is its safeguard. The protection of human rights, the fair administration of justice, and the credibility of European legal systems all depend on it.

The CCBE remains fully committed to contributing to constructive dialogue on the future of the Convention system and the protection of fundamental rights in Europe – grounded in law, respect for the rule of law, and the independence of the judiciary. Rather than revising the Convention's meaning to fit political trends, Member States should focus on upholding and strengthening it to meet the challenges of our time.