



Doc. 14044
26 April 2016

Restricting rights to protect national security – how far can States go?

Motion for a resolution

tabled by Mr Boriss CILEVIČS and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

Restrictions on certain fundamental rights and freedoms, such as freedom of expression or freedom of assembly, are envisaged by the European Convention on Human Rights (ECHR). Under certain conditions, such restrictions can be legitimate.

To fight against terrorism, several Council of Europe member States resort to exceptional measures. By enacting the state of emergency, or amending existing legislation - in the interest of national security and public safety - they narrow the scope of a number of fundamental freedoms. These restrictions can be problematic and have been considered in reports by the Parliamentary Assembly (on *Secret detentions and illegal transfers of detainees involving Council of Europe member States*, on *Human rights and the fight against terrorism*, etc.). The Assembly has repeatedly stated that terrorism can and must be combated effectively by means that fully respect human rights and the rule of law.

Now attempts to limit fundamental freedoms are made under the pretext of the "hybrid war" - a concept that is not legally defined. In this context, some member States are in the process of criminalising not only actions but also the expression of certain opinions as crimes against the State.

Defending the constitutional order and national security are clearly legitimate aims, but they must be pursued with means that remain within the limits set by the ECHR, as interpreted by the European Court of Human Rights. The Assembly shall examine these issues in light of the Council of Europe's *acquis* to analyse if these restrictions can be justified and if yes, under what conditions; including by making use of the expertise of the Venice Commission.

Signed (see overleaf)



*Signed*¹:

CILEVIČS Boriss, Latvia, SOC
AMORUSO Francesco Maria, Italy, ALDE
ANDERSON Donald, United Kingdom, SOC
ANTIČEVIĆ MARINOVIĆ Ingrid, Croatia, SOC
BESELIA Eka, Georgia, SOC
BİLGEHAN Gülsün, Turkey, SOC
BONET Sílvia Eloísa, Andorra, SOC
BUTLER Dawn, United Kingdom, SOC
CEPEDA José, Spain, SOC
CHRISTOFFERSEN Lise, Norway, SOC
CORSINI Paolo, Italy, SOC
DOKLE Namik, Albania, SOC
FOULKES George, United Kingdom, SOC
FRIDEZ Pierre-Alain, Switzerland, SOC
GAMBARO Adele, Italy, ALDE
GUTIÉRREZ Antonio, Spain, SOC
JANSSON Eva-Lena, Sweden, SOC
JAPARIDZE Tedo, Georgia, SOC
JENSEN Mogens, Denmark, SOC
KOBAKHIDZE Manana, Georgia, SOC
LE BORGN' Pierre-Yves, France, SOC
LESKAJ Valentina, Albania, SOC
MAELEN Dirk, Van der, Belgium, SOC
MAGAZINOVIĆ Saša, Bosnia and Herzegovina, SOC
MASSEY Doreen, United Kingdom, SOC
MAURY PASQUIER Liliane, Switzerland, SOC
MEALE Alan, United Kingdom, SOC
MIKKO Marianne, Estonia, SOC
NEGUTA Andrei, Republic of Moldova, SOC
NICOLAIDES Nicos, Cyprus, SOC
PRESCOTT John, United Kingdom, SOC
RODRÍGUEZ RAMOS Soraya, Spain, SOC
RUSTAMYAN Armen, Armenia, SOC
SCHENNACH Stefan, Austria, SOC
SHERRIFF Paula, United Kingdom, SOC
ŠKOBERNE Jan, Slovenia, SOC
SUTTER Petra, De, Belgium, SOC
TORNARE Manuel, Switzerland, SOC
VASILI Petrit, Albania, SOC
VĚSAITĚ Birutė, Lithuania, SOC
WURM Gisela, Austria, SOC

1 ALDE: Alliance of Liberals and Democrats for Europe
SOC: Socialist Group