Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Abuse of state secrecy and national security: obstacles to parliamentary and judicial scrutiny of human rights violations

Motion for a resolution
tabled by Mr Dick MARTY and other members of the Assembly

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

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Judicial and parliamentary scrutiny of the actions of the Government and its agencies, including those operating under the cloak of secrecy, is of vital importance for the rule of law and democracy. Secret services must not be allowed to become a "state within the state", exempted from accountability for their actions. Such lack of accountability leads to a dangerous culture of impunity.

In combating terrorism, Governments are increasingly invoking "state secrecy" or "national security" in order to ward off parliamentary or judicial scrutiny of the actions of the authorities.

In certain countries (e.g. Italy, the United Kingdom, the United States), state secrecy is used to shield agents of the executive from prosecution for serious criminal offences such as abduction and torture, or to stop victims from suing for compensation.

Parliamentary scrutiny of the special services is either inexistent or grossly inadequate in many member states of the Council of Europe.

The role of the media in investigating and publicising abuses committed by collaborators of the special services is crucial. Therefore the protection of journalists and their sources deserves special attention.

In some circumstances, harsh measures are taken against individuals who are not even informed of the – "secret" – grounds for suspicion on which these measures are based.

Courts and parliaments do not a priori deserve to be less trusted than other state bodies. Special procedures can be devised that assure sufficient protection of legitimate state secrets before the courts and in parliament.

When there is information on serious human rights violations such as murder, enforced disappearance, torture or abduction committed, organised or covered by state agents, such information cannot legitimately be shielded from judicial or parliamentary scrutiny under the guise of a "state secret".

Signed (see overleaf)

Signed[1]*:*

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