Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 12756
05 October 2011

Human rights and the fight against terrorism

Opinion[1]
Committee on Political Affairs and Democracy
Rapporteur: Mr Titus CORLĂŢEAN, Romania, Socialist Group

A. Conclusions of the Committee

1. The Political Affairs Committee welcomes Lord Tomlinson's report on "Human rights and the fight against terrorism" and concurs with the principal conclusions contained in the draft resolution tabled by the Committee on Legal Affairs and Human Rights.

2. It considers that the draft resolution constitutes a useful and timely reminder of the fundamental human rights principles which must be the foundation of Council of Europe member states' action against terrorism – a scourge which unfortunately continues to plague modern democracies.

3. The committee proposes a number of amendments intended to improve and supplement the text of the draft resolution without affecting its main conclusions.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

In the draft resolution, before paragraph 1, insert the following new paragraph:

> *"The Parliamentary Assembly refers to its earlier texts on terrorism and respect for human rights and reiterates the positions of principle adopted therein."*

Amendment B (to the draft resolution)

In the draft resolution, paragraph 1, replace the third sentence with the following sentence:

> *"It seeks, through violence and psychological pressure on the population, to impose upon society policy choices which are contrary to democratic principles and stops at nothing in the pursuit of its objectives."*

Amendment C (to the draft resolution)

In the draft resolution, paragraph 2, after the word "States", insert the words:

> *"have a duty to protect the lives and rights of their populations and"*

1. Reference to Committee: Doc. 11973, Reference 3598 of 2 October 2009. Reporting committee: Committee on Legal Affairs and Human Rights. See Doc. 12712. Opinion approved by the committee on 5 October 2011.

Amendment D (to the draft resolution)

In the draft resolution, after paragraph 6, insert the following new paragraph:

> *"The Assembly draws attention to the need to pay special heed to rights protection, rehabilitation and compensation for victims of terrorism, while respecting in particular their security, their dignity and their private and family life, in accordance with the principles laid down in Committee of Ministers Recommendation Rec(2006)8 on assistance to crime victims."*

Amendment E (to the draft resolution)

In the draft resolution, after paragraph 6, insert the following new paragraph:

> *"The Assembly urges the member states of the Council of Europe, and those non-member states entitled to do so, to sign and/or ratify, if they have not yet already done so, and effectively to implement the Council of Europe's legal instruments concerning the fight against terrorism, in particular the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)."*

C. Explanatory memorandum by Mr Corlăţean, rapporteur for opinion

1. I wish to congratulate our colleague Lord Tomlinson on his report on "Human rights and the fight against terrorism". I believe that the principal conclusions contained in the draft resolution tabled by the Committee on Legal Affairs and Human Rights should be supported.

2. In my view, the draft resolution drafted by our colleague and adopted by the Committee on Legal Affairs and Human Rights constitutes a concise, useful and timely reminder of the fundamental human rights principles which must steer the Council of Europe member states' fight against terrorism. The events which have occurred in the last few weeks show that terrorism remains a topical problem in a number of our member states.

3. At the same time, I recall that the Assembly has addressed at length, in earlier texts,[2] both the terrorist phenomenon as such and the threat it constitutes to democracy, while underlining the absolutely essential need to respect human rights standards in the fight against terrorism. In my view, making a reference, in the draft resolution, to the texts previously adopted by the Assembly would only strengthen the validity of its conclusions, which are founded on and entirely consistent with the stances previously taken by the Assembly.

4. In this respect, it is necessary to refer in particular to Assembly Resolution 1400 (2004) on the challenge of terrorism in Council of Europe member states. In paragraph 12 of that resolution the Assembly "reaffirms its position of principle that the fight against terrorism must always be compatible with the fundamental freedoms and human rights which it has the task of protecting, taking as its basis the absolute primacy of the fundamental and inalienable right to life, which implies the right to protection from terrorism and all other attacks on human life and health".

5. In this connection, it is important to underline that states have not only a right, but also a duty and an obligation to protect people's lives against terrorism.

6. Attention should also be drawn to the need to pay special heed to rights protection, rehabilitation and compensation for victims of terrorism, while respecting in particular their security, their dignity and their private and family life, in accordance with the principles laid down in Committee of Ministers Recommendation Rec(2006)8 on assistance to crime victims.

7. Regarding Council of Europe standards for the fight against terrorism, it is to be regretted that four member states have not yet signed, and fifteen have not yet ratified, the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196).

8. Lastly, I deem inappropriate the use of the terms "majority" and "minority" in the third sentence of paragraph 1 of the draft resolution, as this gives the impression that terrorists enjoy some degree of representativeness.

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2. See, inter alia, Resolution 1400 (2004) on the challenge of terrorism in Council of Europe member states; Recommendation 1644 (2004) "Terrorism: a threat to democracies"; Resolution 1271 (2002) and Recommendation 1550 (2002) on combating terrorism and respect for human rights; Resolution 1258 (2001) and Recommendation 1534 (2001) on democracies facing terrorism.

9. In the light of the above observations, I have proposed these amendments intended to improve and supplement the text of the draft resolution without affecting its main conclusions.