



Resolution 1840 (2011)¹

Final version

Human rights and the fight against terrorism

Parliamentary Assembly

1. Terrorism has a direct impact on human rights, with consequences for the enjoyment of the right to life, liberty and physical integrity of individuals, especially victims of terrorism. It can destabilise and undermine entire societies, jeopardise peace and security and threaten social and economic development. It seeks to impose upon the majority the views of a minority and stops at nothing in the pursuit of its aims. Terrorism attacks the pillars of democracy and the rule of law upon which the respect of human rights is based.

2. States have a duty to protect the lives of their citizens and the integrity of the state and must be in a position to take appropriate measures to fight terrorism. There is no need for a “trade-off” between human rights and effective counter-terrorist action, as safeguards exist in human rights law itself. The European Convention on Human Rights (ETS No. 5, “the Convention”), like other international human rights instruments, can be applied in such a way as to allow states to take reasonable and proportionate action to defend democracy and the rule of law against the threat of terrorism.

3. The concept of “war on terror” is misleading and unhelpful and is a threat to the entire framework of international human rights. Terrorists are criminals, not soldiers, and terrorist crimes do not amount to acts of war, even though they can be frequently characterised as crimes against humanity.

4. There is a danger that temporary measures to combat terrorism, even if considered necessary at the time of their introduction, become permanent even when circumstances have changed. The need for any restrictions placed on individual freedoms must be assessed continuously as long as the restrictions remain in place.

5. States Parties to the European Convention on Human Rights and its protocols are duty-bound to secure within their jurisdiction, including for individuals or regions under their effective control but outside their ordinary territory, the rights and freedoms guaranteed therein:

5.1. In particular, they shall ensure that no exception whatsoever is made to the non-derogable rights to life and to the prohibition of torture and inhuman or degrading treatment. This includes respecting the principle of *non-refoulement*, in particular when the European Court of Human Rights has indicated an interim measure under Rule 39 of its Rules of Court, and treating diplomatic assurances with utmost caution.

5.2. As for rights that are subject to restrictions under the Convention, any limitation must be strictly necessary to protect the public and be proportionate to the legitimate aim pursued, in line with the case law of the Court. In particular, administrative detention should be limited to rare exceptions and subject to appropriate control. Surveillance, interception and related measures must be available to the state, but be clearly circumscribed by law and subject to judicial or appropriate political supervision.

5.3. Measures limiting human rights must be phrased clearly and interpreted narrowly, in particular when criminal liability is involved, and must be accompanied by adequate judicial and political review.

1. Assembly debate on 6 October 2011 (35th Sitting) (see [Doc. 12712](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Lord Tomlinson). Text adopted by the Assembly on 6 October 2011 (35th Sitting).



6. The Parliamentary Assembly considers that terrorism should be dealt with primarily by the criminal justice system, with its inbuilt and well-tested fair trial safeguards to protect the presumption of innocence and the right to liberty of all. Coercive administrative measures for preventive purposes should be of limited duration, be only applied as a last resort and be subject to strict conditions, including minimum requirements regarding evidence and judicial and appropriate political oversight. They must fully comply with the requirements of international human rights law.

7. Member states should review their national legislation and practice on a regular basis to ensure that the impact of any anti-terrorism measure is consistent with Council of Europe standards, in particular the European Convention on Human Rights, as interpreted by the European Court of Human Rights. This should include a parliamentary follow-up to this resolution, in line with [Resolution 1822 \(2011\)](#) on the reform of the Parliamentary Assembly.