



Resolution 2038 (2015)¹

Final version

Witness protection as an indispensable tool in the fight against organised crime and terrorism in Europe

Parliamentary Assembly

1. The Parliamentary Assembly, referring to its [Resolution 1784 \(2011\)](#) on the protection of witnesses as a cornerstone for justice and reconciliation in the Balkans, reaffirms that witnesses who stand up for truth and justice must be guaranteed reliable and durable protection, in particular legal and psychological support and robust physical protection before, during and after the trial.
2. The Assembly recalls that witnesses can be particularly vulnerable to perceived or actual threats and intimidation from perpetrators of crimes against themselves and/or people close to them, especially in cases of organised crime and terrorism.
3. Witness testimony is crucial to the proper functioning of the criminal justice system in any State upholding the rule of law. It is essential for the effective investigation and prosecution of organised crime and terrorism, as it contributes to the dismantling of powerful criminal structures, including transnational ones.
4. Organised criminality with a strong transnational reach has increased in Europe due to globalisation, the abolition of border controls within the Schengen area and the development of new communication technologies. Witnesses requiring protection include not only victims of crime or bystanders, but also criminals themselves. Without the co-operation of “collaborators of justice” and their insider knowledge, effective investigation of serious crimes and the dismantling of criminal structures would be difficult, or even impossible. That is why sophisticated witness protection measures, including “witness protection programmes” implying relocation and even the change of identity of the witness or collaborator of justice, have been developed over the last two decades.
5. Several international legal instruments call on States to take appropriate measures to effectively protect witnesses from potential retaliation or intimidation and to enhance international co-operation in this area. The United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption regulate this matter in cases of transnational organised crime and corruption. Within the Council of Europe, rules concerning witness protection are included in the Criminal Law Convention on Corruption (ETS No. 173), the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182) and Committee of Ministers Recommendations No. R (97) 13 concerning intimidation of witnesses and the rights of the defence, Rec(2001)11 concerning guiding principles on the fight against organised crime and Rec(2005)9 on the protection of witnesses and collaborators of justice.
6. The Assembly notes that, in the context of combating organised crime and terrorism, although the Council of Europe has already been active in promoting witness protection measures and programmes, many discrepancies exist in their implementation. While certain member States have acquired extensive experience in this field, others appear less active.

1. *Assembly debate* on 30 January 2015 (9th Sitting) (see [Doc. 13647](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Arcadio Díaz Tejera). *Text adopted by the Assembly* on 30 January 2015 (9th Sitting).
See also [Recommendation 2063 \(2015\)](#).



7. The Assembly deplores the existence of numerous discrepancies in these witness protection schemes and stresses the need for States to co-operate in this area, especially in cases of relocation of witnesses and collaborators of justice from small countries.
8. The Assembly considers that, in order to effectively combat organised crime and terrorism, further steps need to be taken in the area of witness protection. It therefore calls on member States to:
 - 8.1. set up or, if need be, revisit their witness protection mechanisms; witness protection units should co-operate with law-enforcement bodies and should be independent from the investigation and prosecution of the relevant case;
 - 8.2. allocate appropriate financial and human resources to bodies dealing with the protection of witnesses;
 - 8.3. reconsider their rules on mitigating sentences and granting immunity from prosecution in cases of organised crime and terrorism, in order to provide greater incentives to collaborators of justice to co-operate with the authorities;
 - 8.4. produce statistics on the results of co-operation of witnesses, including collaborators of justice, with the investigative and judicial authorities in cases of organised crime and terrorism, in particular on the number of convictions based on their testimonies;
 - 8.5. strengthen international co-operation in the field of witness protection, in particular by:
 - 8.5.1. regularly exchanging information and sharing best practices;
 - 8.5.2. concluding, when appropriate, agreements/arrangements on relocation of witnesses and other protective measures;
 - 8.6. step up or, if need be, reinforce co-operation with relevant international bodies, including Europol, Interpol and the United Nations Office on Drugs and Crime.
9. The Assembly also recalls that, when setting up and implementing witness protection measures and programmes, member States must respect the right to a fair trial and the right of the defence. Any decision to terminate a witness protection measure or programme should be taken only after a comprehensive examination of the existing threats to the life of the protected persons.