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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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When human rights provide protection to individuals who represent a threat to national security

Motion for a resolution
tabled by Mr Morten WOLD and other members of the Assembly

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

Member States of the Council of Europe are experiencing a growing influx of refugees from conflict areas. In cases where the refugee/asylum seeker is found to be a threat to national security in the host country, residency or asylum is not likely to be granted. Rather, national authorities decide that they are to be expelled and returned to their country of origin.

However, due to the principle of non-refoulement, States are sometimes faced with difficult situations where a refugee considered as being a threat to national security cannot be returned to the country of origin.

In cases like this, it is vital for the host country to be able to exercise a certain degree of control over the activities of refugee(s) – ideally by means of some kind of detention. However, national authorities have found this to be difficult as detention on the basis of being a threat to national security may conflict with European Convention on Human Rights (ETS No. 5) standards, especially Articles 5 and 6, which provide guarantees against arbitrary detention and the right to a fair trial.

This creates difficult and unsustainable situations for host countries. They find that their ability to protect their citizens is limited as a result of their commitments to the European Convention on Human Rights. In some cases, this may lead a State to consider, as a last resort, withdrawing from the Convention. A development like this would be highly regrettable for all of us.

To avoid such a development and to strengthen the position of the Convention in Europe, the Parliamentary Assembly should look into the extent of this problem, and consider how States can guarantee security for their citizens, when human rights provide protection to individuals who represent a threat to national security.

Signed (see overleaf)

Signed[1]*:*

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1. ALDE: Alliance of Liberals and Democrats for Europe
EC: European Conservatives Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group
NR: Representatives not belonging to a Political Group