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The state of emergency and its limitations

Motion for a resolution

tabled by Mr Jonas GUNNARSSON and other members of the Assembly

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

Last year's terrorist attacks in Europe and around the world have resulted in governments in for example France, Turkey, and Tunisia declaring a state of emergency.

Article 15.1 of the European Convention on Human Rights (ECHR) states that "In time of war or other public emergency threatening the life of the nation, any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law".

In addition, article 17 underlines that "Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention" and article 18 stipulates that "The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

Restrictions to the ECHR are therefore allowed. However, some measures taken by governments during the state of emergency have been questioned as well as rules and policies being implemented that go counter to the obligations under international law. This highlights the importance of not exceeding what is stated in the ECHR and the importance of a political debate, in places such as the Parliamentary Assembly, on the implications of declaring a state of emergency in the present political context.

The Assembly should deepen the understanding of when it is acceptable to declare a state of emergency and which responsibilities still lie with the government, as stated in the ECHR, when imposing these measures.

Signed (see overleaf)



Signed¹:

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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
UEL: Group of the Unified European Left
NR: Representatives not belonging to a Political Group