

Resolution 2509 (2023)¹

Transnational repression as a growing threat to the rule of law and human rights

Parliamentary Assembly

1. The assassination and dismemberment of a Saudi journalist, Jamal Khashoggi, inside Saudi Arabia's consulate in Istanbul in October 2018, brought transnational repression to light as a global phenomenon. The Parliamentary Assembly notes that there are four main methods of transnational repression:

- 1.1. direct attacks by which an origin State carries out a targeted physical attack against an individual abroad, such as assassinations, assaults, enforced disappearances, physical intimidation or violent forced rendition;
- 1.2. co-opting other countries to act against a target using detention, unlawful deportation and other types of forced rendition, which are authorised through pro forma but meaningless legal procedures. This method includes misuse of INTERPOL Red Notices, extradition proceedings and other forms of interstate legal assistance such as anti-money laundering and anti-terror financing measures;
- 1.3. impediments to mobility such as passport cancellation and denial of consular services, preventing the target from travelling or causing them to be detained;
- 1.4. threats from a distance, including online intimidation or surveillance and coercion by proxy, in which a person's family, loved one or business partner is threatened, imprisoned or otherwise targeted.

2. Reportedly, the number of incidents of physical transnational repression committed since 2014 had reached 854 by the end of 2022. These acts were committed by 38 governments in 91 countries around the world. The most prolific perpetrators of transnational repression are, according to the non-governmental organisation Freedom House, the Governments of China, Türkiye, the Russian Federation, Egypt and Tajikistan.

3. The Assembly is alarmed about the number and gravity of acts of transnational repression committed in Europe, including on the territory of some member States. The most egregious example is the State-sponsored programme to pursue dissidents abroad implemented by the Russian Federation, which includes notorious targeted, or attempted, assassinations, such as the poisoning and killing of former intelligence officer Alexander Litvinenko in 2006 and the poisoning and attempted assassination of former intelligence officer Sergei Skripal and his daughter Yulia in 2018 (also known as the "Salisbury attack"); both occurred in the United Kingdom. With regard to Mr Litvinenko's targeted assassination, the European Court of Human Rights ("the Court") found in 2021 that the Russian Federation was responsible for the violation of his right to life under Article 2 of the European Convention on Human Rights (ETS No. 5, "the Convention"), after having established that the two persons who poisoned him in the United Kingdom were Russian agents. Furthermore, there is strong evidence connecting attacks and killings targeting Chechen dissidents living abroad to the Chechen Republic and its head, Ramzan Kadyrov.

1. *Assembly debate* on 23 June 2023 (19th sitting) (see [Doc. 15787](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Sir Christopher Chope). *Text adopted by the Assembly* on 23 June 2023 (19th sitting). See also [Recommendation 2257 \(2023\)](#).



4. The Assembly is also concerned about the fate of anti-war protesters and those fleeing forced military service in the Russian Federation, in the context of the Russian Federation's war of aggression against Ukraine and the wave of increasing repression within its borders. These people fleeing the Russian Federation may become new targets of Russian transnational repression, particularly if they are unable to resettle safely or face obstacles applying for asylum in other countries.

5. The Assembly is also extremely worried about Belarus. The diversion and forced landing in Minsk of Ryanair flight 4978 on 23 May 2021 to arrest journalist and opposition activist Roman Protasevich and his companion Sofia Sapega, using a false bomb threat, should be condemned as a particularly heinous form of transnational repression akin to air piracy. Belarus was reportedly responsible for 31% of the transnational repression incidents recorded in 2021. Some of the opposition leaders and protesters who fled Belarus following Alexander Lukashenko's fraudulent re-election in 2020, particularly those who fled to the Russian Federation, were subject to unlawful deportation or rendition to Belarus, which shows how the Russian Federation facilitated Belarus' campaign of transnational repression.

6. The Assembly is concerned about the fact that Türkiye has also used some of the tools of transnational repression, particularly following the coup attempt of July 2016 and its consistent policy of pursuing, among others, anyone allegedly related to the "Gülen movement", which is referred to as the "Fethullahist Terrorist Organisation (FETÖ)" by the Turkish authorities. The Turkish campaign of transnational repression has been found to have recourse to rendition, abuse of extradition proceedings, INTERPOL Red Notices and anti-terror financing measures, and co-opting other States to deport or transfer persons unlawfully. In this respect, the European Court of Human Rights found that in 2018 the Republic of Moldova had illegally transferred seven teachers of Turkish nationality to Türkiye, circumventing all guarantees offered by domestic and international law and therefore breaching their right to liberty guaranteed by Article 5, paragraph 1, of the Convention. Similar findings have been issued by the United Nations Working Group on Arbitrary Detention regarding transfers from other territories, including outside Europe. Critics of the Turkish Government and journalists living in other member States have reportedly faced threats and intimidation, sometimes requiring police protection by the authorities of the host State.

7. The Assembly further notes that Azerbaijan has also been accused of using certain transnational repression techniques, such as rendition and cross-border abductions, mainly against journalists. Some Azerbaijani journalists and opposition activists living abroad have reportedly been subject to threats and assaults. The European Court of Human Rights has recently found Azerbaijan responsible for an extra-legal transfer to Türkiye in circumvention of domestic and international law safeguards.

8. The Assembly condemns all forms and practices of transnational repression, including those directly performed by an origin State outside its borders and those where an origin State co-opts other States to act unlawfully against a targeted person in their own territory. It considers that these practices not only violate numerous non-derogable and fundamental human rights of the individuals targeted, but are also a threat to the rule of law, democracy and the national security of the States where those individuals live and have found refuge. Acts of transnational repression that are performed by member States and those that occur or have effects in their territories undermine the values and principles which the Council of Europe stands for.

9. The Assembly considers that acts of transnational repression constitute breaches of international human rights law, first and foremost of the Convention. It recalls that the Convention applies to extraterritorial violations and that targeted violations of the human rights of an individual by one contracting State in the territory of another contracting State undermine the effectiveness of the Convention, both as a guardian of human rights and as a guarantor of peace, stability and the rule of law in Europe.

10. The Convention also applies to extraterritorial violations perpetrated by a member State outside the Convention legal space. Extrajudicial killings, assaults, enforced disappearances, forced rendition and abductions violate Articles 2 (right to life), 3 (prohibition of torture) and 5 (right to liberty and security) of the Convention. Procedural obligations to investigate and punish the authors of such violations may arise with regard to the perpetrator State, the host State or both. In addition, there is a duty of co-operation between member States in transnational cases involving serious breaches of human rights.

11. The Assembly recalls that host States have a positive obligation to protect individuals within their jurisdiction from acts of transnational repression, by providing specific protection to identified targets in cases where there are real and immediate risks, and by not being complicit in violations committed by foreign agents on their territory. Host States also have the obligation, in accordance with the principles of *non-refoulement* and legality, not to render, transfer, deport or extradite persons vulnerable to transnational repression, including through the use of extra-legal channels, particularly if there is a real risk of a violation of one of the core Convention rights by the requesting State.

12. Finally, other forms of non-physical transnational repression, such as online intimidation and surveillance, may violate rights such as the right to respect for private life guaranteed by Article 8 of the Convention. The misuse, on politically motivated grounds, of interstate legal co-operation mechanisms such as anti-money laundering and anti-terror financing measures may result in violations of the right to a fair trial guaranteed by Article 6 of the Convention and the right to protection of property guaranteed by Article 1 of the Additional Protocol to the Convention (ETS No. 9). This may in turn lead to financial exclusion of targeted individuals and non-governmental organisations and effectively prevent them from conducting their human rights activities and participating in economic and social life.

13. The Assembly therefore considers that the Convention, as interpreted by the Court, provides a robust legal framework under which acts of transnational repression should be condemned, investigated and, if appropriate, punished by member States. For non-member States such as Belarus, or former member States such as the Russian Federation, the Assembly recalls that similar obligations arise under the International Covenant on Civil and Political Rights and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which both of these countries are parties.

14. The Council of Europe and its member and observer States should recognise that transnational repression is a global phenomenon attacking the foundations of democratic societies and the rule of law, and that strengthened and more co-ordinated action is needed to prevent and fight it.

15. The Assembly therefore calls on member States as well as other States in Europe that have reportedly engaged in transnational repression to:

15.1. carry out an effective investigation into all allegations of acts of transnational repression, particularly those concerning violations of the right to life, the prohibition of torture or the right to liberty, such as killings, assassinations, enforced disappearances, assaults, ill-treatment, forced rendition, abductions and extra-legal transfers; and, where appropriate, bring to justice those responsible for such acts, including any high-ranking officials;

15.2. in cases of extra-legal transfers, including rendition, obtain information from the requesting State on the situation of the individual concerned and envisage the possible application of the Council of Europe's Convention on the Transfer of Sentenced Persons (ETS No. 112) or other treaties, which could permit the return of the individual in case of conviction;

15.3. ensure that victims of transnational repression receive adequate reparation for the harm suffered, including rehabilitation and compensation;

15.4. reinforce oversight and accountability mechanisms of the actions and powers of intelligence agencies and send a message, from the highest political level, of zero tolerance towards extra-legal transfers, rendition, abductions and other serious forms of transnational repression;

15.5. as regards member States and the Russian Federation, execute the judgments of the European Court of Human Rights in which acts of transnational repression have been found to breach the Convention, by taking the necessary individual and general measures under the supervision of the Committee of Ministers.

16. The Assembly specifically calls upon Türkiye to end its intimidation of Bülent Keneş, to recognise and respect the decision of the Swedish Supreme Court and curtail its policy of using its veto on Sweden's membership to the North Atlantic Treaty Organization (NATO) as a tool of transnational repression.

17. The Assembly further calls on all member and observer States, and States whose parliaments enjoy partner for democracy with observer or partnership status with the Assembly, to:

17.1. establish an official definition of transnational repression to be used by all government agencies (law enforcement, intelligence services, migration and asylum) and incorporate it into their actions and procedures;

17.2. establish a specific mechanism to report or track domestic incidents of transnational repression occurring within their borders and identify the perpetrator governments;

17.3. review counter-intelligence and law-enforcement information-sharing practices to ensure that vulnerable individuals receive adequate warning and protection;

17.4. apply additional vetting to extradition requests, INTERPOL Red Notices and other forms of interstate legal assistance, including anti-money laundering and anti-terror financing measures, from the governments that are known to engage in transnational repression or have a track record of frequently misusing INTERPOL and other co-operation mechanisms;

- 17.5. consider further screening of applications for diplomatic visas to avoid granting accreditation to diplomatic personnel who have harassed or intimidated exiles and diaspora members in the past, and expelling diplomats who have been directly involved in transnational repression incidents;
 - 17.6. impose targeted sanctions on perpetrators and enablers of transnational repression, using their Magnitsky-type laws or similar instruments, in accordance with Resolution 2252 (2019) “Sergei Magnitsky and beyond – fighting impunity by targeted sanctions”;
 - 17.7. take into account the record of origin States in respect of transnational repression when deciding on asylum applications and respect both the right to seek asylum under the 1951 United Nations Convention Relating to the Status of Refugees and the principle of *non-refoulement*;
 - 17.8. ensure that domestic laws provide the tools needed to apprehend, prosecute and punish perpetrators of transnational repression, including by increasing the penalties applicable and by exercising their criminal jurisdiction in cases where the acts of transnational repression have originated, occurred or produced effects in their territory, on the basis of the principles of territoriality, and active and passive personality;
 - 17.9. make use of Council of Europe and other international instruments on mutual legal assistance to the widest extent possible, in connection with investigations and criminal proceedings concerning acts of transnational repression perpetrated in Europe or elsewhere;
 - 17.10. restrict the export of surveillance technology into countries whose governments are known to engage in transnational repression, reiterate their commitment to privacy of communications and preservation of end-to-end encryption, and effectively investigate all cases of alleged digital transnational repression targeting persons living in their territory;
 - 17.11. ensure that human rights defenders and activists who engage with international organisations, including the Council of Europe, are better protected from the risk of transnational repression.
18. Regarding the abuse of INTERPOL, the Assembly refers to its Resolution 2315 (2019) “Interpol reform and extradition proceedings: building trust by fighting abuse” and calls on:
- 18.1. INTERPOL to:
 - 18.1.1. further improve transparency by disclosing data that would help to assess how effective its review mechanisms are and by clarifying how INTERPOL’s rules are interpreted, especially with regard to Article 2 of its constitution, which requires INTERPOL’s systems to be used in ways that are compatible with international human rights standards;
 - 18.1.2. further improve preventive and subsequent review of Red Notices and wanted persons’ diffusions;
 - 18.1.3. ensure the effectiveness of the reforms of the Commission for the Control of INTERPOL’s Files (CCF) to ensure better compliance with its decisions and directions, especially regarding the deletion of data;
 - 18.2. all member States to:
 - 18.2.1. work with the CCF and comply with its decisions, for instance by deleting data in national databases where the CCF has decided to delete a Red Notice or diffusion;
 - 18.2.2. help INTERPOL remove abusive Red Notices used against refugees and others in need of international protection, for instance by sharing information with INTERPOL about their status (with their consent);
 - 18.2.3. put in place effective safeguards to ensure that decisions on immigration and asylum applications are not influenced by abusive Red Notices or diffusions;
 - 18.2.4. support the internal review mechanisms of INTERPOL (Notices and Diffusions Task Force and the CCF) with additional funding and resources.
19. The Assembly invites the Commissioner for Human Rights of the Council of Europe to pay specific attention to transnational repression when engaging with human rights defenders and civil society, particularly exiles from the Russian Federation and Belarus.
20. The Assembly invites its General Rapporteur on the situation of human rights defenders to take into account the current trends and practices of transnational repression potentially targeting human rights defenders, including when they originate from non-member States.

21. The Assembly also invites the Court to fully apply and, if need be, develop its case law on extraterritorial jurisdiction to cover all possible acts of transnational repression having their origin or producing their effects in member States. There should be no gap in protection against transnational repression committed within the Convention legal space.