



Doc. 13278

05 July 2013

Additional protocol to the European Convention on Human Rights on the protection of whistle-blowers who disclose governmental action violating international law and fundamental rights

Motion for a recommendation

tabled by Mr Andrej HUNKO and other members of the Assembly

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

100 years after the First World War the Parliamentary Assembly should commemorate its historic impact on the evolution of the international rule of law and reaffirm the priority it gives to the eradication of impunity for perpetrators, instigators and organisers of serious human rights violations – referring to its recommendations 1876 (2009) on the need to eradicate impunity, 1916 (2010) on the protection of “whistle-blowers” and 1950 (2011) on protection of journalists’ sources, and its Resolution 1729 (2010) on the protection of whistle-blowers that declares that protected disclosures shall include all bona fide warnings against various types of unlawful acts, including all serious human rights violations.

The Assembly opposes the prosecution of Bradley Manning in the USA for the legitimate disclosures of illegitimate secrets as the helicopter attack in Iraq. Such prosecution should be made impossible in member States of the Council of Europe.

Parties to the European Convention on Human Rights (ECHR) are obliged to respect their international obligations. However, in the framework of the Convention there are no provisions to protect State personnel from prosecution for disclosing information on severe violations of human rights or international law. Abstract arguments of military and State secrecy as well as national security should not be allowed to hamper the effective implementation of the rule of law.

The Assembly accordingly considers that the protection from prosecution for whistle-blowers should be incorporated into the ECHR through an additional protocol, and recommends that the Committee of Ministers drafts a corresponding additional protocol to the ECHR. Such a supplement to the Convention would be a logical reflection of the way in which the concepts of the protection of human rights and the rule of law and of State secrecy have evolved since the Convention was drawn up.

Signed (see overleaf)



*Signed*¹:

HUNKO Andrej, Germany, UEL
ANDERSEN Karin, Norway, UEL
FURSIN Ivan, Ukraine, EDG
GIANNAKAKI Maria, Greece, NR
GROSS Andreas, Switzerland, SOC
GUNNARSSON Jonas, Sweden, SOC
HAUPERT Norbert, Luxembourg, EPP/CD
HEER Alfred, Switzerland, ALDE
INGADÓTTIR Álfheiður, Iceland, UEL
JAPARIDZE Tedo, Georgia, SOC
JÓNASSON Ögmundur, Iceland, UEL
KOX Tiny, Netherlands, UEL
MAURY PASQUIER Liliane, Switzerland, SOC
NÍELSSON Brynjar, Iceland, EDG
OEHRI Judith, Liechtenstein, ALDE
PYLYPENKO Volodymyr, Ukraine, SOC
SYDOW Björn, von, Sweden, SOC
WERNER Katrin, Germany, UEL
WOLDSETH Karin S., Norway, EDG
XUCLÀ Jordi, Spain, ALDE

1. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat 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