

OSCE 2010 Review Conference
Warsaw, 30 September to 8 October 2010
Working Session 5: Rule of Law II
Protection of Human Rights and Fighting Terrorism
Contribution of the Council of Europe

For more than 60 years the Council of Europe has been promoting and reinforcing Human Rights and the Rule of Law principle at regional level.

In particular, the Council of Europe activities in the framework of the fight against terrorism aim at assisting its 47 member States to meet the Security Imperative while fully complying with the requirements of the Rule of Law principle. They are also based on and inspired by the cornerstone of the European institutions: the European Convention on Human Rights as interpreted by the Strasbourg's Court.

Strengthening legal action against terrorism

Standard-setting activity is a major contribution of the Council of Europe to the fight against terrorism. In this area, developing trustful inter-States relations depends on a common understanding of the issues in question. Through its multilateral instruments, the Council of Europe assists its member States in the adoption of a common approach and in the establishment of specific terrorism related offences as a criminal offence under domestic law.

A number of relevant legal instruments have been adopted in this respect, in particular:

- The Revised European Convention of the Suppression of Terrorism (ETS No 090)
- The CoE Convention on the Prevention of Terrorism (CETS No 196)
- The CoE Convention on Laundering, Search, Seizure and Confiscation of the proceeds from Crime and on the Financing of Terrorism (CETS No 198).

The Committee of Experts on Terrorism (CODEXTER) coordinates the implementation of the Organisation's action against terrorism; it monitors the signatures and ratifications of the terrorism-specific conventions and promotes their effective implementation. Since this year, the CODEXTER is also in charge of the follow-up of the effective use and implementation of the CoE Convention on the Prevention of Terrorism (CETS No. 196).

All above-mentioned conventions contain Human Rights safeguards and in this respect reference should be also made to the two sets of CM Guidelines based on the ECHR

case-law: on human rights and the fight against terrorism, and on the protection of victims of terrorist acts.

The Council of Europe is particularly aware of the important role that media and other mass-communication services play in the context of terrorism. Hence, the Council of Europe adopted a series of documents within the framework of its action against terrorism, directly concerning the support to the functioning of media and co-operation with mass media actors in the fight against terrorism. Declaration on freedom of expression and information in the media in the context of the fight against terrorism (2005) and Guidelines of the Council of Europe on the freedom of expression in times of crisis (2008) adopted by the Committee of Ministers are examples of such documents.

In various reports by the Parliamentary Assembly, the Secretary General (acting under Article 52, ECHR) and the Venice Commission, a strong focus was placed on the need to ensure full respect for the rule of law in interstate co-operation regarding the detention and transfer of persons suspected of involvement in acts of terrorism, and as regards to oversight and accountability of security services. Most recently, the Venice Commission adopted the Report on Counter-Terrorism Measures and Human Rights (June 2010), which outlines the most recurring issues which have arisen at the national level, and the range of their possible incompatibilities under the European Convention on Human Rights and Fundamental Freedoms (ECHR).

Fostering technical co-operation activities

In addition, the Council of Europe has set up a number of specific legal co-operation programmes designed to help the beneficiary countries to proceed with their institutional, legislative and administrative reforms, strengthening at the same time the rule of law in the fight against terrorism.

Co-operation projects include workshops and seminars on specific themes related to the fight against terrorism, such as mutual legal assistance, extradition of terrorist suspects and the financing of terrorism. They are adapted to the country's specific needs and features and pay particular attention to the Human Rights European standards and principles.

Special reference should be made to the new project developed by the CoE Counter-Terrorism Task Force entitled "Bringing terrorists to justice: promoting the implementation of European standards and documenting good practices". This project pays particular attention to the pioneering standards developed by the Organisation (for ex. on special investigation techniques and protection of victims of terrorism and witnesses and collaborators with justice). It also covers the most noteworthy developments in the case law of the European Court of Human Rights and will detail the general principles and judicial techniques espoused and implemented by the Court.

Specific workshops/seminars have also been organised by the Office of the Commissioner for Human Rights on the themes of anti-terrorism measures and data protection and on complaints mechanisms against police misconduct.

Addressing the conditions conducive to the spread of terrorism

Countering terrorism means also addressing the conditions conducive to the spread of terrorism. In this perspective, the Council of Europe – through its standard-setting and technical co-operation activities – is actively involved in education and youth support; it contributes to ensuring the protection of minorities and to fighting intolerance, racism and social exclusion, in an attempt to weaken sources of discontent that may fuel terrorism.

These initiatives reflect the Council of Europe's conviction that dialogue between individuals of different religions, cultures and heritage based on mutual understanding, respect for human rights and tolerance is key to enhancing social cohesion and, as a result, tackling terrorism.