

Directorate of Communications
Spokespersons Service
Direction de la Communication
Service des porte-parole

F – 67075 STRASBOURG

Tel : +33/(0)3 88 41 25 60 – Fax : +33/(0)3 88 41 39 11

Email : pressunit@coe.int

Internet : www.coe.int

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Statement by

Harlem DESIR

Minister of State for European Affairs, France

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(Extract of the verbatim record)

President of the Parliamentary Assembly of the Council of Europe,
Secretary General of the Council of Europe,
rapporteurs, ladies and gentlemen, members of the Parliamentary Assembly,

I congratulate the President on his election to the head of an institution that flies the flag high for the values of democracy, human rights and the rule of law. I express my thanks to his predecessor, Ms Brasseur, for the valuable work undertaken during her term of office.

As the host country of the Organisation and home to the Universal Declaration of Human Rights, France is deeply attached to the Council of Europe. It is with great pleasure that I have therefore agreed to participate in this debate on the fight against international terrorism. Thank you for the invitation. I also thank the two rapporteurs, Mr Kox and Mr Van der Maelen, for the quality of their work.

Just over two months ago, only a few days after the terrorist attacks of 13 November in Paris and Saint-Denis, I was here in Strasbourg at the opening of the World Forum for Democracy alongside you, Secretary General, to underscore the indispensable balance that needs to be struck between security and the protection of fundamental freedoms. The terrorist attacks were at a concert hall and café terraces and in the vicinity of a football stadium – attacks against our youth and citizens from far-flung corners of the world. Those attacks in Paris, a city in a democratic country, led to 130 deaths with hundreds wounded, some of whom are still in hospital. The attacks had been planned from Syria by Daesh, Islamic State, an organisation that has at its disposal territory and vast resources, but were committed by fanatical individuals determined to kill and die in the process, in the name of jihad. They had come from war zones where they had been trained to kill using war-like arms and methods. That same terrorism struck Europe on a number of occasions last year, including in Paris in January against *Charlie Hebdo* and a kosher supermarket, targeting policemen in Brussels, against the Jewish museum in Copenhagen, and against a synagogue. It also struck in Tunis, Egypt and Bamako and, this year, Istanbul, Jakarta and Ouagadougou.

The rapporteurs are right, unfortunately: the terrorist threat is still present in all our countries. Prime Minister Manuel Valls said as much after the attacks in Istanbul. The threat is constant and can strike at any time. The President of the Republic has therefore taken a certain number of robust and exceptional measures with a view to responding to the challenge, abiding by three imperatives. The first is effectiveness; the State has a duty to protect citizens. Secondly, we must respect the rule of law and fundamental freedoms. Thirdly, we need to abide by international commitments.

As of 14 November 2015, a state of emergency was decreed for 12 days throughout the national territory as a result of the serious nature of the terrorist attacks and the permanent nature of the threat. Then, in accordance with the rule of 3 April 1955, a Bill to prolong the state of emergency for three years was put to parliament and approved with a significant majority across party lines on 20 November 2015. By extending the power of the administrative authority for a limited period and in clearly exceptional circumstances, and authorising searches and seizures, day and night, or house arrest, the state of emergency is effective. Between 14 November 2015 and 16 January 2016, the police carried out 3 234 administrative searches or seizures, 515 offences were reported, 388 people were taken for questioning, 338 people were placed in custody, and 406 were placed under house arrest. Seventeen house arrests were lifted after reassessment, and a dozen were modified to enable those placed under house arrest to reconcile that status with private family life or a professional activity. Also, 559 weapons were found, including 42 weapons of war, half the normal volume of weapons found in a full year.

Those measures are one of the elements in the fight against terrorism, alongside the work of the intelligence services, themselves governed by the law relating to intelligence that was passed on 24 July 2015. The exchange of information and international co-operation, particularly at a European level, is another element in the fight against Daesh in Syria and Iraq, and the fight against radicalisation in France and elsewhere in Europe. Those measures are in full compliance with the requirements of a state based on the rule of law. In an opinion made known by the government, the Conseil d'État felt that they were fully compliant with the requirements of the constitution. Provisions relating to control over the press were removed from legislation on the state of emergency. It is clear to us in France that freedom of expression, which is attacked by terrorism, has to be protected, including by ensuring the physical protection of journalists and editorial committees. Various sites of worship – mosques, churches, synagogues – and other places where people gather are protected. Those are exceptional measures in response to an exceptional situation and fully comply with the requirements of the constitution, as was referred to in the preliminary ruling by the Conseil

d'État. The constitutional court declared in the decision of 22 December that the house arrest measures were fully compliant with the requirements of the constitution.

Those exceptional measures are also the subject of political and judicial oversight, which in turn is exceptional. I shall deal first with political oversight, as exercised by parliamentary assemblies. The legislative committees of the two houses enjoy investigative powers; therefore, they have broad capacities to oversee the measures taken by the government in the context of the state of emergency. All the means that parliamentary committees have are available to them – checks on the spot, questionnaires, hearings and requests that documentation be submitted to them. Then there is judicial scrutiny, as exercised by administrative judges who heard 140 appeals following house arrest decisions under expedited procedure, mostly within 48 hours. The immense majority of the cases confirmed the measures taken by the administration. Of those 140 appeals, the judge pronounced six suspensions, one partial suspension and one annulment. That is what is meant by a state based on the rule of law. It implies courts that are able to react quickly, so that those who feel that their rights have been breached can defend themselves.

There is therefore no suspension of judicial scrutiny of decisions taken by the administration during the state of emergency. The courts will always have a final say. I stress that with these measures France has honoured its international commitments and continues to do so. Confronted with a threat of exceptional gravity, France informed the Secretary General of the Council of Europe and the Secretary-General of the United Nations that it intended to avail itself of exemptions or derogations made available under Article 15 of the European Convention on Human Rights or Article 4 of the International Covenant on Civil and Political Rights. France is profoundly attached to the Convention. France respects and will abide by its international human rights obligations. It would be a serious mistake to pit the fight against terrorism against defence of human rights, implying, in other words, that one had to choose one over the other – that we wish to fight against terrorism so have to renounce human rights and fundamental freedoms, or, conversely, that to defend and preserve human rights we should renounce the fight against terrorism. That would be a complete aberration. It is those same human rights that terrorists wish to cancel out, because they are at the heart of our democracy; the rapporteurs have reminded us of that. It is our duty to do both: to fight terrorism with the greatest determination and the arsenal available to us in the light of our legislation, and to respect human rights and fundamental freedoms. That is the choice entered into by France, and is why the measures taken in the context of the state of emergency adapt the law to guarantee in the longer term the security and freedom of citizens and those residing in France, with a view to defending our values, our model of society and democracy.

We wish to write the state of emergency into the constitution, to specify the means that can be used in that context and the reasons that could trigger the decreeing of a state of emergency. In an opinion made public, the Conseil d'État felt that those changes would be useful, which is why the government has added to the legislation on the reform of criminal procedure, to strengthen the fight against organised crime. That legislation will be put to parliament in the next few days. The prosecution will have greater means to act in investigations, and those investigations will be adversarial in nature. Intercepts will be better regulated and the specialisation of liberty and custody judges will be recognised. The text will also enable municipal authorities to oversee individuals returning from Syria and Iraq who are not the subject of judicial proceedings. It will contribute to protect certain sensitive sites and crackdown on arms trafficking and money laundering, which fuel terrorism.

The President of the Republic has said that the state of emergency will not last, and I think the Prime Minister has said as much this morning. It will be limited in time, but the threat level remains high and if our legislation is not brought into line we will not be in a position to counter that threat and ensure security and liberty. That is why, on 3 February, the government introduced a Bill to prolong the state of emergency for a further three months.

The rapporteurs are right to say that, in the longer term, the fight against terrorism will be won on the basis of our values. That is why France is committed to attacking the root causes of terrorism, first at a national level, with an action plan to fight racism and discrimination and the phenomenon of radicalisation and its development on the Internet. Then, on the European level, we will work with our partners on more controls at common external borders, exchanging information, introducing European passenger name records, and fighting arms trafficking and the funding of terrorism. On an international level, we are participating in an international coalition against Daesh under United Nations Security Council [Resolution 2249](#). At the same time, we are seeking a lasting political solution to the crisis that has raged for too long in Iraq, Syria and Libya, which has enabled Daesh to shore up its position.

Terrorists seek to kill not only men, women and children; they wish to kill freedom in our open and tolerant democratic societies. They wish to intimidate and divide us and to force us to live in fear and discord, so we need to do the very opposite. We need to stand up united, as the French and all those who joined them did in the major demonstration on 11 January 2015. We need to defend our values of fraternity and freedom with the utmost determination. We need to shore up the state based on the rule of law and democracy.

The Council of Europe has an essential role to play in that mission. That is why France has actively participated in the additional protocol to the Council of Europe Convention on the Prevention of Terrorism, which France signed on 22 October 2015. Human rights, the rule of law, education, inclusion and social cohesion are at the very heart of the work of the Council of Europe, and they are key factors in the success of any prevention strategy and any attempt to fight violent extremism and terrorism. That is our conviction.

The terrorists who attacked France will not change the face of France. It will remain the country of freedom and the Universal Declaration of Human Rights, with the support of its friends and partners in the Council of Europe. Together we will beat terrorism.