

Provisional version

## Committee on Legal Affairs and Human Rights

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

## Report\*

Rapporteur: Sir Christopher CHOPE, United Kingdom, European Conservatives Group and Democratic Alliance

### A. Draft resolution

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 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, disappearances, physical intimidation, and violent forced renditions;

1.2. co-opting other countries to act against a target through detention, unlawful deportation, and other types of forced renditions, 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. mobility impediments such as passport cancellation and denial of consular services, preventing the target from travelling or causing them to be detained; and

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 has 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, Russia, Egypt and Tajikistan.

3. The Parliamentary 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 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

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\* Draft resolution and draft recommendation adopted unanimously by the committee on 23 May 2023.

(“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 (“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.

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 Russia’s war of aggression against Ukraine and the wave of increasing repression within its borders. These people fleeing Russia 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 per cent 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 Russia, were subject to unlawful deportations or renditions to Belarus, which shows how Russia 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 amongst others anyone allegedly related to the “Gülen movement”, which is referred to as the “Fetullahist Terrorist Organisation (FETÖ)” by the Turkish authorities. The Turkish campaign has been found to rely on renditions, abuse of extradition proceedings, Interpol Red Notices, 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. 1 of the Convention. Similar findings have been made by the United Nations Working Group on Arbitrary Detention regarding transfers from other territories, including outside Europe. Turkish government critics 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 renditions 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 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 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 extra-territorial 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. This also applies to extra-territorial violations perpetrated by a member State outside the Convention legal space. Extra-judicial killings, assaults, enforced disappearances, forced renditions and abductions violate Articles 2 (right to life), 3 (prohibition of torture) and 5 (right to liberty) 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 cooperation 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 case of real and immediate risks, and by not conniving 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 cooperation 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 property guaranteed by Article 1 of Protocol No. 1 to the Convention. This may in turn lead to financial exclusion of targeted individuals and NGOs and effectively preventing 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 Russia, the Assembly recalls that similar obligations arise under the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which they are both 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 coordinated action to prevent and fight it is needed.

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 and the right to liberty such as killings, assassinations, enforced disappearances, assaults, ill-treatment, forced renditions, abductions and extra-legal transfers, and where appropriate, bring to justice those responsible for such acts, including any high-ranking officials;

15.2. in case of extra-legal transfers, including renditions, to obtain information from the requesting State on the situation of the individual concerned and envisage the possible application of the Council of Europe Convention on the Transfer of Sentenced Persons 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 over the actions and powers of intelligence agencies and send a message from the highest political level of zero tolerance towards extra-legal transfers, renditions, abductions, and other serious forms of transnational repression;

15.5. as regards member States and the Russian Federation, execute the judgments of the Court 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 Dr Bülent Kenes, to recognise and respect the decision of the Swedish Supreme Court and curtail its policy of using its veto on NATO membership as a tool of transnational repression.

17. The Assembly further calls on all member and observer States, as well as those 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 be incorporated in 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 counterintelligence and law enforcement information-sharing practices to ensure that vulnerable individuals receive adequate warning and protection;
  - 17.4. apply additional vetting to extradition requests, 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 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 transnational repression of origin States when deciding on asylum applications, respect 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, 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 to countries whose governments are known to engage in transnational repression 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 the CCF's 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 about their status with Interpol (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 Council of Europe Commissioner for Human Rights to pay specific attention to transnational repression when engaging with human rights defenders and civil society, particularly exiles from Russia and Belarus.

20. The Assembly invites its General Rapporteur on human rights defenders and whistleblowers to take into account the current trends and practices of transnational repression potentially targeting human rights defenders, including when these practices 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 protection gap against transnational repression committed within the Convention legal space.

**B. Draft recommendation**

1. Referring to its Resolution (2023) “Transnational repression as a growing threat to the rule of law and human rights”, the Parliamentary Assembly recommends that the Committee of Ministers:

1.1. review and update the Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, adopted by the Committee of Ministers on 30 March 2011 at the 1110<sup>th</sup> meeting of the Minister’s Deputies, with a view to including transnational repression techniques;

1.2. consider drafting a recommendation to member States on the fight against transnational repression, taking due account of international human rights law and in particular the case-law of the European Court of Human Rights. Such a recommendation would include a definition of transnational repression that could be later adopted by member States and other Council of Europe bodies;

1.3. when supervising the execution of the Court’s judgments featuring transnational repression, underline the requirement of individual accountability of perpetrators and call on the States concerned to adopt general measures to prevent these practices in future and provide guarantees of non-repetition.

## C. Explanatory memorandum by the rapporteur, Sir Christopher Chope

### 1. Introduction

1. The present report is based on a motion for a resolution tabled on 18 May 2021,<sup>1</sup> which was referred to the Committee on Legal Affairs and Human Rights for report.<sup>2</sup> On 27 September 2021, the Committee appointed me rapporteur.

2. The motion for a resolution referred to the term “transnational repression” as “actions authorised by governments and their security and intelligence services against their nationals, political challengers, civil society activists and journalists residing abroad”. Even if known to exist before, these extraterritorial acts of repression have recently reached an unprecedented level, with more than 600 reported cases since 2014, including assassinations, violence, disappearances, forced abductions and actions to destabilise exiled communities abroad. New transnational repression is taking place more openly in an international environment where autocrats co-operate with one another and avoid international scrutiny. The motion, therefore, proposed that the Parliamentary Assembly investigate this phenomenon and its consequences for the Council of Europe and its member States.

3. During the preparation of the report (on 14 November 2022), the committee held a hearing with two experts: Mr Bruno Min, legal director at Fair Trials, London, and Mr Vytis Jurkonis, project director at Freedom House, Vilnius.

4. In this report, I will start by looking at transnational repression as an emerging global phenomenon and some of the responses by certain States to face the problem. I will then refer to the practices and some of the most notable cases of transnational repression in Europe in recent years; provide an overview of the relevant Council of Europe standards applicable in this sphere; and finally present some proposals to strengthen the fight against transnational repression by States and the Council of Europe as a whole.

### 2. Transnational repression is an emerging global phenomenon

5. 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. This incident demonstrated how authoritarian regimes were no longer confined to the boundaries of their territories in persecuting and suppressing dissidents and political opponents. Scholars now speak of an “emerging field of international studies research around the novel means that autocracies employ to exercise power over populations abroad”, and of “global authoritarianism”.<sup>3</sup>

6. Though the term is recent, the practice of transnational repression is not new. It can be traced back to the “Cold War”, when secret services used various methods to pursue dissidents who fled authoritarian regimes. The assassination of Bulgarian dissident writer Georgi Markov in London in 1978 with a poisoned umbrella is one notorious example of transnational repression. Yet, in modern times, with globalisation, migration and the spread of digital technologies, extra-territorial repression has become global and systemic. What worries me the most is that transnational repression has become part of state policy in some countries, including current and former member States of the Council of Europe.

7. In a report published in 2021, the human rights non-governmental organisation Freedom House presented the most comprehensive overview of transnational repression as a worldwide phenomenon using the following state-sponsored techniques:

- a. *direct attacks* by which “an origin state carries out a targeted physical attack against an individual abroad”. This category includes assassinations, assaults, disappearances, physical intimidation, and violent forced renditions;

<sup>1</sup> [Doc. 15289](#) of 18 May 2021. Reference no 4610 of 27 September 2021.

<sup>2</sup> Reference No. 4610 of 27 September 2021.

<sup>3</sup> G. Tsourapas, [Global Autocracies: Strategies of Transnational Repression, Legitimation, and Co-Optation in World Politics | International Studies Review | Oxford Academic \(oup.com\)](#), 2021.

- b. *co-opting other countries*, which is a situation where states manipulate other states “to act against a target through detention, unlawful deportation, and other types of forced renditions, which are authorized through pro forma but meaningless legal procedures”;
- c. *mobility controls* are defined as tactics including “passport cancellation and denial of consular services, preventing the target from travelling or causing them to be detained”;
- d. *threats from a distance* include “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”.<sup>4</sup>

8. Freedom House catalogued 608 direct, physical cases of transnational repression that occurred in the period from January 2014 through November 2020, drawing a list of 31 persecuting states conducting physical transnational repression in 79 host countries. In each incident, the persecuting state’s authorities physically reached an individual settled abroad, whether through detention, assault, physical intimidation, unlawful deportation, rendition, or even assassination.<sup>5</sup> According to its most recent update published in April 2023, the number of incidents of physical transnational repression committed since 2014 has gone up to 854. These were committed by 38 governments in 91 countries around the world. In 2022, Freedom House recorded 79 incidents committed by 20 governments. According to Freedom House, the most prolific perpetrators of transnational repression are the governments of China, Türkiye, Russia, Egypt and Tajikistan.<sup>6</sup>

9. Yet, this is only a partial account of the cases of transnational repression. Hundreds of other cases still lack sufficient documentation, especially detentions in the countries of persecution after unlawful deportations, digital harassment, secret surveillance, etc. Even if cases often appear to be isolated incidents — a suspicious assassination here, a kidnapping there — transnational repression is becoming a “normal” phenomenon, which represents a growing threat to human rights, security and the rule of law in host countries.

10. Physical transnational repression is only the tip of the iceberg. Beyond the physical cases recorded in Freedom House’s database, there are much more widespread tactics of “everyday” transnational repression: digital threats, spyware, coercion by proxy, imprisonment or persecution of the exiles’ families living in the states of origin, etc.<sup>7</sup> Citizen Lab reported an increasing trend of using digital technologies as new tools to control, silence, and punish dissent across borders.<sup>8</sup> This phenomenon is known as “digital transnational repression”, of which the use of the Pegasus spyware is the most prominent example.<sup>9</sup> The misuse on politically motivated grounds of interstate legal assistance mechanisms such as anti-money laundering and anti-terror financing measures is also a form of transnational repression, which may have far-reaching consequences for the individuals targeted including asset freezing, financial exclusion and violation of property rights.<sup>10</sup>

11. The United States was the first to address the phenomenon of transnational repression at the legislative level and through consistent law enforcement practices. The FBI defined it as harassment and intimidation by some countries of their own citizens living in the U.S., targeting naturalized or U.S.-born citizens who have family overseas or other foreign connections, in violation of U.S. law and individual rights and freedoms. Transnational repression might take the forms of stalking, harassment, hacking, assaults, attempted kidnapping, forcing or coercing the victim to return to the home country, threatening or detaining family members in the home country, freezing financial assets, online disinformation campaigns, etc.<sup>11</sup> In 2019, the Commission on Security and Cooperation in Europe, also known as the U.S. Helsinki Commission of the U.S.

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<sup>4</sup> Freedom House, I. Linzer and N. Schenkkan, [Out of Sight, Not Out of Reach](#) (2021); N. Al-Jizawi et al., [Psychological and Emotional War Digital Transnational Repression in Canada](#) (2022).

<sup>5</sup> Freedom House, Linzer and Schenkkan, 2021, *op.cit.*

<sup>6</sup> Freedom House, Y. Gorokhovskaia, N. Schenkkan and G. Vaughan, [Still Not Safe: Transnational Repression in 2022](#), 2023.

<sup>7</sup> N. Schenkkan et al., [Perspectives on “Everyday” Transnational Repression in an Age of Globalization](#) (2020) 30.

<sup>8</sup> Al-Jizawi et al. *supra* footnote 4.

<sup>9</sup> See Mr Pieter Omtzigt (Netherlands, EPP), “Pegasus and similar spyware and secret state surveillance”, Introductory memorandum, 8 April 2022.

<sup>10</sup> See motion for a resolution, Doc. 15697. See also *Shorazova v. Malta*, No. 51853/19, 3 March 2022.

<sup>11</sup> [Transnational Repression — FBI](#)



Federal Government, introduced<sup>12</sup> the Transnational Repression Accountability and Prevention (TRAP) Act (H.R. 4330) to address politically-motivated abuse of Interpol by autocracies, which passed as part of the 2022 National Defense Authorization Act 2021.<sup>13</sup> In July 2022, the Department of State circulated a Diplomatic Note to Chiefs of Missions in Washington DC to warn foreign diplomats against “targeting individuals... for peacefully exercising their human rights and fundamental freedoms, through various forms of harassment, intimidation and, coercion.” At the close of 2022, US lawmakers also introduced a bill to codify and criminalise transnational repression: the Stop Transnational Repression Act would impose a maximum 10-year sentence for those convicted of the crime.<sup>14</sup> According to Freedom House, these are positive steps in combatting transnational repression, although their credibility is undermined by bilateral relationships maintained with states such as Saudi Arabia and Egypt.

12. In the United Kingdom, responding to a report documenting the presence of three “unofficial Chinese police stations”, the government announced in November 2022 the creation of the Defending Democracy Taskforce. The purpose of this ministerial taskforce is to work across the government and with the intelligence community to protect the UK from transnational repression, among other foreign threats.<sup>15</sup> In addition, the government has also taken other steps including amendments to the National Security Bill that would criminalise acts of coercion, harassment, and intimidation that are linked to a foreign government and increase sentences for existing criminal acts if they are undertaken for or on behalf of a foreign power. The government has also proposed the creation of a Foreign Influence Registration Scheme that would require organisations and individuals to register with the secretary of state if they plan to engage in “political influence” activities directed by a foreign power.<sup>16</sup>

13. In response to the growing phenomenon of repression, the European Parliament commissioned a paper on the use of politically-motivated Interpol Red Notices, which concluded that “together with other international institutions, [the European Parliament] have addressed the misuse of Interpol Red Notices and diffusion orders and in particular the politically motivated misuse on a continuous basis”. Yet even following internal reforms of Interpol, including the appointment of a Data Protection Officer, “reports of misuse continue to be detected”.<sup>17</sup> According to Freedom House, “Interpol abuse is the most well-understood form of transnational repression within the international system”. It is a form of co-optation, in which origin countries instrumentalise Interpol’s notification mechanisms in order to manipulate a host country.<sup>18</sup>

14. More recently (March 2023), the governments of Australia, Germany, Estonia, Kosovo\*<sup>19</sup>, Latvia, Lithuania, Slovak Republic and the United States signed a “Declaration of Principles to Combat Transnational Repression”. According to this declaration, “transnational repression is a threat to democracy and human rights worldwide”. The signatories of this declaration committed to: increase awareness of the threat of transnational repression for officials, including border enforcement, immigration, cybersecurity, and law enforcement personnel; increase outreach to potential targets of transnational repression, in coordination with civil society, to alert potential targets to threats, inform of their rights, and explain how to report incidents; establish clear procedures for the public to report to relevant domestic authorities attacks, threats or harassment by foreign states or acts; ensure that domestic laws provide officials with the authority and tools needed to apprehend and prosecute perpetrators of transnational repression; ensure that human rights activists and civil society organisations have access to international forums where they can share their experiences and raise awareness of the threat of transnational repression; increase accountability for perpetrators of transnational

<sup>12</sup> [Helsinki Commission Leaders Introduce Transnational Repression Accountability and Prevention \(TRAP\) Act | CSCE](#) , 12 September 2019.

<sup>13</sup> [Helsinki Commission Welcomes Passage of Trap Provision in 2022 National Defense Authorization Act | CSCE](#) , 15 December 2021.

<sup>14</sup> [Democrats want to prevent attacks on dissidents living in the US - Coda Story](#)

<sup>15</sup> [Ministerial Taskforce meets to tackle state threats to UK democracy - GOV.UK \(www.gov.uk\)](#).

<sup>16</sup> [Overseas Chinese Police Stations in UK: Legal Status - Hansard - UK Parliament. Foreign Influence Registration Scheme factsheet - GOV.UK \(www.gov.uk\)](#)

<sup>17</sup> R. H. Wandall, [Ensuring the rights of EU citizens against politically motivated Red Notices | Think Tank | European Parliament \(europa.eu\)](#), 1 February 2022. See also the following reports of the Committee on Legal Affairs and Human Rights: “Interpol reform and extradition proceedings: building trust by fighting abuse”, [Doc. 14997](#), dated 15 October 2019 (rapporteur: Mr Aleksander Pocijaj, Poland, EPP/CD) and “Abusive use of the Interpol system: the need for more stringent legal safeguards”, [Doc. 14277](#), dated 29 March 2017 (rapporteur: Mr Bernd Fabritius, Germany, Group of the European People’s Party).

<sup>18</sup> Freedom House, Y. Gorokhovskaia and I. Linzer, [Defending Democracy in Exile: Policy Responses to Transnational Repression](#) (2022).

<sup>19</sup> All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

repression through targeted sanctions and diplomatic consequences; press for increased transparency at INTERPOL, as well as reforms to domestic procedures for the use of INTERPOL notices where necessary to ensure such notices are not misused; take into account other countries' practices of transnational repression when considering bilateral security agreements, extradition treaties, foreign aid, and information-sharing practices; and impede, including through export controls and licensing restrictions, the misuse of surveillance technologies for digital transnational repression.<sup>20</sup>

### 3. Practices and cases of transnational repression in Europe

15. The above reports referred to cases of transnational repression as a global phenomenon, with many of them occurring or originating in the territories of current and former member States of the Council of Europe. For the purposes of the present report, I will describe below some notable cases and practices of transnational repression occurred in Europe in recent years.

#### 3. 1. Russia

16. The poisoning of Alexander Litvinenko could be regarded as the best-known example of transnational repression. Mr Litvinenko, a Russian ex-spy who defected to United Kingdom intelligence and a prominent critic of Russian President Vladimir Putin, died in November 2006 in London, three weeks after being poisoned by radioactive polonium-210. Investigations in the United Kingdom found that two Russian citizens acting under the direction of the FSB (Federal Security Service) poisoned him with the "[probable approval] by Mr. [Nikolai] Patrushev, then head of the FSB, and also by President Putin."<sup>21</sup> In September 2021, the European Court of Human Rights (the Court) found the Russian Federation responsible for the targeted killing of Mr Litvinenko and the lack of an effective investigation into his death.<sup>22</sup>

17. The assassination of Mr. Litvinenko was one in the long list of suspicious deaths or physical attacks against Russian dissidents settled in the United Kingdom. In June 2017, BuzzFeed News reported<sup>23</sup> other cases connected to a "wider campaign of Kremlin-sanctioned killing around the world"<sup>24</sup>. This investigation identified at least fourteen suspected assassinations and several failed murder attempts, threats, or other forms of repression directed against Russian dissidents settled abroad, mainly in the United Kingdom, and notably linked to the so-called inner circle of Boris Berezovsky.

18. Igor Ponomarev, former Russian ambassador to the United Nations' International Maritime Organization, collapsed and died after a night at the opera in London in October 2006, two days before the poisoning of Mr Litvinenko. It was reported that Mr Ponomarev, who also, as it happens, met with Litvinenko soon after he had been poisoned, had an upcoming appointment to meet with a security consultant investigating connections between the Russian security service and Italian politicians.

19. Reporter Daniel McGrory died suddenly in February 2007, five days before the airing of an NBC documentary in which he reported on the polonium that poisoned Mr Litvinenko. Another person interviewed for that documentary, US security expert Paul Joyal, was shot and seriously wounded on his driveway by unknown assailants soon after the documentary was broadcasted. NBC reported these two incidents as "mysterious".

20. Yuri Golubev, the co-founder of Yukos with Mikhail Khodorkovsky, a political opponent of Mr Putin, was found dead in January 2007 at his flat in London. Shortly before his death, he had returned from China via Moscow earlier than planned, saying he was not feeling well. The death was classified as unsuspecting, but Russia's Prosecutor General declared that there were "all grounds to suppose" that Golubev had been killed.<sup>25</sup>

21. In November 2012, Alexander Perepilichnyy, a Russian financier, died suddenly while jogging near his home in Surrey, England. He disclosed and passed evidence on a \$230 million money-laundering operation

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<sup>20</sup> [Declaration of Principles to Combat Transnational Repression | Freedom House.](#)

<sup>21</sup> Sir Robert Owen, the Inquiry Chairman, published his [Report into the death of Alexander Litvinenko on 21 January 2016.](#)

<sup>22</sup> *Carter v. Russia*, No. [20914/07](#), 21 September 2021.

<sup>23</sup> [From Russia With Blood: 14 Suspected Hits On British Soil That The Government Ignored \(buzzfeednews.com\)](#)

<sup>24</sup> H. Blake, *From Russia with Blood: The Kremlin's Ruthless Assassination Program and Vladimir Putin's Secret War on the West* (First edition, 2019).

<sup>25</sup> [Yury Golubev, 64, a Founder of Yukos Oil, Dies - The New York Times \(nytimes.com\)](#)

involving Russian government officials and the Russian mafia.<sup>26</sup> The police regarded the death as non-suspicious, but an expert later found traces of a deadly plant in his stomach, known to trigger cardiac arrest. British authorities lately classified the documents of this investigation on national security grounds. BuzzFeed, relying on U.S. intelligence sources, quoted a secret report to Congress stating with “high confidence” that Mr Perepilichnyy was assassinated on direct orders of the Kremlin.

22. One month later, the high-rolling property dealer Robbie Curtis, involved in Mr Berezovsky’s affairs, died in an apparent suicide when he tumbled in front of a train for no apparent reason. Other business partners of Mr Berezovsky, Paul Castle and Johnny Elichaooff, lost their lives in apparent suicides, which BuzzFeed News deemed suspicious in the context of Russia’s secret assassination programme.

23. Mr Berezovsky himself, known in Russia as the “godfather of the oligarchs”, fled to the United Kingdom after falling afoul of Mr Putin. He used his wealth to wage a broad public opposition campaign against the ruling establishment in the Kremlin. He declared that he had been subjected to a couple of failed assassination attempts. Eventually, he was found hanged in his bathroom in 2013, which police ruled a suicide, but the coroner recorded an open verdict<sup>27</sup>. BuzzFeed reported about US intelligence officials suspecting the death of Mr Berezovsky to be rather an elaborate assassination. In a statement to the Russian Duma, Russia’s Prosecutor General claimed that British intelligence had Mr Berezovsky killed to prevent him from returning to Russia.<sup>28</sup>

24. The chain of suspicious deaths of the so-called Berezovsky’s inner circle continued in the following years. Scot Young, once a multimillionaire and fixer to Mr Berezovsky, died in December 2014 after falling from a fourth-floor flat in London, which the BuzzFeed (relying on US intelligence sources) believed to be the work of Russian hitmen targeting him ever since his fortune had vanished in a mysterious Moscow property deal. In November 2015, Mikhail Lesin, Putin’s former media adviser, who had got virtually all Russian media outlets under the Kremlin’s control, was found bludgeoned to death in the Dupont Circle hotel in Washington, DC, allegedly by men working for an oligarch close to Mr Putin (according to a leaked report by a British former MI6 officer). Dr Matthew Puncher, the scientist who had measured the fatal dose of radioactive polonium to poison Mr Litvinenko and proved the Russian link, was found stabbed to death at his home in Oxford in 2016. Nikolay Glushkov, a Russian exiled businessperson, ex-deputy director of Aeroflot and a finance manager for AvtoVAZ (back then under Mr Berezovsky’s management), died in March 2018 in suspicious circumstances, which was ruled as an “unlawful killing” with injuries consistent with strangulation.<sup>29</sup>

25. The murder of the Chechen dissident Umar Israilov, a former bodyguard of Ramzan Kadyrov, is another case of transnational repression that has revealed the so-called Chechen nexus. Mr Israilov received asylum in Austria as a critic of the Chechen government and was willing to testify about the crimes committed by “Kadyrovites”, including Mr Kadyrov himself and Adam Delimkhanov, currently a member of the Russian Duma. In January 2009, Mr Israilov was shot dead after a failed attempted kidnapping, which the Austrian police believed to be ordered by Mr Kadyrov. Austrian courts found three Chechen individuals guilty of accessory to murder, forming a criminal organisation and attempted kidnapping; the shooter had fled.<sup>30</sup>

26. Yet, after Alexander Litvinenko’s assassination, the poisoning of Sergei and Yulia Skripal, also known as the “Salisbury attack”, was deemed as the most blatant and dangerous case of transnational repression attributed to Russian authorities. On 4 March 2018, Mr Skripal, a former Russian military officer, and his daughter were poisoned in Salisbury, United Kingdom, using a “Novichok” nerve agent. On 30 June 2018, in Amesbury, two British nationals suffered from the same kind of poisoning (one died), as a result of the recklessness in which the nerve agent container was disposed of after the poisoning in Salisbury.

27. The United Kingdom authorities accused two Russian nationals stating that they were active officers in the Russian military intelligence (GRU). According to Bellingcat, they acted under the orders and command of superior officers in Russia<sup>31</sup>. Allegedly, the attempted assassination was organised by a secret unit of the Russian GRU, which is reportedly responsible for a series of assassinations and attempts to destabilise European countries, including major operations such as the annexation of Crimea in 2014, destabilisation

<sup>26</sup> Report of the Committee on Legal Affairs and Human Rights “Refusing impunity for the killers of Sergei Magnitsky”, [Doc. 13356](#), dated 18 November 2013 (rapporteur: Mr Andreas Gross, Switzerland, SOC), paragraphs 105-108.

<sup>27</sup> [Boris Berezovsky inquest: Coroner records open verdict - BBC News](#)

<sup>28</sup> [Boris Berezovsky was killed when he decided to return to Russia | Daily Mail Online](#)

<sup>29</sup> [Nikolai Glushkov: Putin critic 'strangled in London home by third party' - BBC News](#), 09 April 2021.

<sup>30</sup> [Austrian court convicts Chechens over dissident’s death – BBC News](#), 1 June 2011.

<sup>31</sup> [Skripal Suspect Boshirov Identified as GRU Colonel Anatoliy Chepiga - bellingcat](#)

campaigns in the Republic of Moldova in 2014, the failed coup in Montenegro in 2016, World Anti-Doping Agency-linked operations in Switzerland in 2016-2017, and the illegal Catalonia referendum in 2017.<sup>32</sup>

28. The existence of such a military intelligence unit, along with the law permitting the pursuit, by any means, of those whom the Kremlin accuses of "extremism"<sup>33</sup>, proved the systemic character of transnational repression used by the Russian authorities; not only in the United Kingdom but also in other member States of the Council of Europe.

29. Zelimkhan Khangoshvili, an ethnic Chechen Georgian, former platoon commander during the Second Chechen War, and a Georgian military officer during the 2008 Russo-Georgian War, turned into a valuable source of information for Georgian intelligence by identifying Russian spies. He was wanted in Russia as a terrorist by the Russian security service. He was assassinated in Berlin, on 23 August 2019, by Vadim Krasikov, a Russian FSB operative labelled as "Tiergarten murderer". German courts found Mr Krasikov guilty and determined that the Russian government ordered the murder as a "state-contracted killing".<sup>34</sup> This death was also claimed to be part of an official Russian assassination programme.<sup>35</sup>

30. Similar suspicions hovered around the murder of a former member of the Russian Duma, Denis Voronenkov, shot dead in 2017 in Kyiv after he had turned to criticise Mr Putin and Russian foreign policy for the illegal annexation of Crimea. Ukrainian authorities reported about a consistent Russian state-ordered policy in relation to other three suspicious high-profile killings of Kremlin critics: Arkady Babchenko, a prominent Russian war reporter; Amina Okuyeva, wife of Chechen volunteer soldier Adam Osmayev, himself a survivor of two failed assassination attempts<sup>36</sup>; Pavel Sheremet, a critic of Belarusian President Alexander Lukashenko, an ex-journalist for Russian state TV and a tough critic of the annexation of Crimea.

31. In the list of Russian acts of transnational repression, the Chechen trail occupies a special place. Two assassinations in early 2009 of Sulim Yamadayev (former Chechen military commander) in Dubai and Mr Israilov in Austria (see above) marked the beginning of the Chechen pattern. In 2020, Imran Aliyev, a prominent Kadyrov critic, was stabbed to death in France. Tumso Abdurahmonov, another critic, was attacked in his apartment in Sweden by a Chechen national but managed to overwhelm his assailant. In July 2020, Mamikhan Umarov, a Kadyrov critic, was killed in a Vienna suburb. Abdulvakhid Edelgireyev, declared a key Chechen Islamist fighter affiliated with al-Qaida, was shot dead in Türkiye.<sup>37</sup>

32. Suspicious or confirmed assassinations are not the only tools of transnational repression used by Russia. Assassination attempts or failed operations should also be taken into account. For example, the KGB defector Oleg Gordievsky claimed that he was poisoned at the Kremlin's order<sup>38</sup>. In 2007, an investigator<sup>39</sup>, relying on sources from the Russian security service, declared that three secret agents had made a trip to Boston to prepare the assassination of Yuri Felshtinsky, who co-authored with Mr Litvinenko the book "Blowing Up Russia".

33. Abusing Interpol Red Notices is another tool of transnational repression for authoritarian governments to pursue their exiled nationals abroad.<sup>40</sup> Russia was declared the leader of such abuse ("Russia is responsible for ... 38 percent of all public Red Notices in the world, while the United States ... 4.3 percent and China 0.5 percent"<sup>41</sup>), with the two notorious cases of Alexey Kharis and of Gregory Duralev<sup>42</sup>, asylum seekers in the US who spent over a year in immigration detention based on Russian Interpol Red Notices. Igor Borbot, a business partner of Mr Kharis, Mr Khodorkovsky, the CEO of Yukos, Pavel Ivlev, a Russian lawyer who advised Yukos and Mr Khodorkovsky, Sergey Leontiev and Alexander Zheleznyak, Probusinessbank's co-owners, all fled Russia and were then targeted by Russian issued Interpol Red Notices. Bill Browder, a client of the late Sergei

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<sup>32</sup> [The Dreadful Eight: GRU's Unit 29155 and the 2015 Poisoning of Emilian Gebrev - bellingcat](#)

<sup>33</sup> [BBC NEWS | Europe | Russia law on killing 'extremists' abroad](#)

<sup>34</sup> [„Tiergartenmord“: Lebenslange Haft – Auftrag kam laut Gericht aus Russland - WELT](#)

<sup>35</sup> [Heidi Blake on Suspicious Deaths Connected to the Kremlin | WETA](#)

<sup>36</sup> [Facts about Kremlin critics murdered in Ukraine - France 24](#), 30 May 2018

<sup>37</sup> [Murder in Istanbul: Kremlin's hand suspected in shooting of Chechen | Turkey | The Guardian](#)

<sup>38</sup> [Ex-Russian spy claims he was poisoned - USATODAY.com](#), 09 March 2020

<sup>39</sup> [Беседа с Михаилом Трешкиным \(svoboda.org\)](#), 01 December 2007

<sup>40</sup> [How Strongmen Turned Interpol Into Their Personal Weapon - The New York Times \(nytimes.com\)](#), 19 March 2019

<sup>41</sup> Freedom House, Linzer and Schenkkan, 2021, *op.cit.*

<sup>42</sup> [He fought corruption in Russia. ICE wants to deport him. - POLITICO](#), 09 March 2020

Magnitskiy engaged in a worldwide campaign aimed at holding to account Mr Magnitsky's killers and enacting laws providing for targeted sanctions, was also harassed and persecuted by the Russian authorities, by repeated attempts to abuse Interpol's Red Notice and Diffusion procedures.<sup>43</sup>

34. Vladimir Osechkin, who participated as an expert in a hearing on the issue of systemic torture before our committee in March 2023, was placed on a wanted list by Russia after leaking a large archive of documents, photos and videos documenting rape and torture of inmates in Russian prisons by prison officials. He had sought asylum in France after fleeing Russia and has been living under French police protection. He has received death threats and has indicated that he was the target of a possible assassination attempt at his home in France.<sup>44</sup>

35. The Freedom House 2021 report attributed to Russia 32 documented cases of physical transnational repression (with 20 cases having a Chechen nexus), which include assaults, detentions, unlawful deportations, and renditions, mainly in Europe. It counted 7 of 26 assassinations or assassination attempts since 2014 attributed to Russia, which, according to Freedom House, "[at] a minimum, in Ukraine, Bulgaria, Germany, and the United Kingdom, ... has shown a willingness to kill perceived enemies abroad". Mr Frank Schwabe (Germany, SOC) referred to some examples of transnational repression targeting Chechen exiles in his report "The continuing need to restore human rights and the rule of law in the North Caucasus region"<sup>45</sup>.

36. A clear systemic pattern, even an official Russian policy, to pursue dissidents abroad can be identified. Ukraine lodged an inter-State application against Russia before the European Court of Human Rights alleging an administrative practice consisting of State-authorized targeted assassination operations against perceived opponents in Russia and on the territory of other States, including other member States of the Council of Europe, as well as an administrative practice of failing to investigate these operations and of deliberately mounting cover-up operations.<sup>46</sup> It remains for the Court to determine whether such a practice can be proven and the possible violations of the Convention involved. In my view there are sufficient grounds to consider that Russia has implemented and continues to implement an official "transnational persecution programme".

37. Russia's war of aggression against Ukraine has led to increased repression within its borders. The persecution and criminalisation of anti-war protesters and the "partial mobilisation" of men for military service has pushed many to flee the country and to be potential victims of Russian transnational repression. For instance, law enforcement officers in Kazakhstan repeatedly detained Evgeniya Baltatarova, a journalist from Russia's Buryat region, who was placed on a wanted list by Moscow for disseminating "fake news" about the Russian army. Her detention was explained by authorities as complying with the Minsk Convention. Kazakhstan also deported Mikhail Zhilin, an officer who had fled military conscription, because his name appeared on a wanted list for "desertion". He was deported after his claim to asylum was denied.<sup>47</sup> People fleeing forced military service in the Russian army may face obstacles applying for asylum in Europe and be more vulnerable to transnational repression.

### 3.2. Türkiye

38. Freedom House included Türkiye in its list of States with a long arm of transnational repression. The extent was not comparable to Russia, but still, Türkiye employed some of the tools of transnational repression. The Turkish campaign was found to rely on renditions<sup>48</sup> and abuse of Interpol Red Notices<sup>49</sup>, and to be "remarkable for its intensity, its geographic reach, and the suddenness with which it escalated [since] the coup attempt [...] in July 2016..."<sup>50</sup>. After blaming Fethullah Gülen for the attempted coup, Türkiye implemented a

<sup>43</sup> [Resolution 2252 \(2019\)](#) "Sergei Magnitsky and beyond – fighting impunity by targeted sanctions", paragraphs 5 and 13.5, based on a report of the Committee on Legal Affairs and Human Rights, [Doc. 14661](#) (rapporteur: Lord Donald Anderson, United Kingdom, SOC). See also B. Browder, *Red Notice: A True Story of High Finance, Murder, and One Man's Fight for Justice* (2015).

<sup>44</sup> [Vladimir Osechkin: France investigates 'death threats' against Russian prison rights activist | Euronews](#).

<sup>45</sup> See Mr. Schwabe's report on North Caucasus, [Resolution 2445 \(2022\)](#), para. 14 on Interpol Red Notices, and Report [Doc. 15544](#).

<sup>46</sup> *Ukraine v. Russian Federation (IX)*, [no 10691/21](#), press release of the Court of 23 February 2021.

<sup>47</sup> Freedom House, *Still Not Safe: Transnational Repression in 2022, 2023*.

<sup>48</sup> Stockholm Center for Freedom, [Turkey's Transnational Repression: Abduction, Rendition and Forcible Return of Erdoğan Critics](#) (2021).

<sup>49</sup> Stockholm Center for Freedom, [Turkey's Abuse of INTERPOL: How Erdoğan Weaponized the International Criminal Police Organization for Transnational Repression](#) (2021)

<sup>50</sup> Freedom House, Linzer and Schenkkan, 2021, *op.cit.*, p. 38.

consistent policy of pursuing anyone related to the “Gülen movement”. Freedom House was able to identify 58 people rendered from 17 countries. In September 2022, a businessman named Ugur Demirok was reported to have been abducted in Baku by the Turkish intelligence agency (MIT) and rendered to Türkiye. From the perspective of the Turkish State, these people are legitimate counterterrorism targets. Türkiye’s officials openly claim credit for these operations and praise the role of the MIT.<sup>51</sup> Interpol notifications led to the detentions of German-Turkish journalist Hamza Yalçın in August 2017, and the unlawful deportations of two individuals accused of membership in the PKK from Serbia and Bulgaria.<sup>52</sup>

39. Türkiye was named not only for renditions, abusing extradition proceedings and Interpol Red Notices but also for co-opting other States to deport or transfer persons. On 6 September 2018, the Republic of Moldova transferred seven teachers of Turkish nationality, circumventing domestic and international law.<sup>53</sup> Kosovo<sup>\*54</sup> was co-opted to illegally deport six Turkish teachers to Türkiye on 29 March 2018.<sup>55</sup> In both cases, there were accusations that the Turkish government received high-level political support for the operations, but only the heads and officials of the intelligence agencies were blamed.<sup>56</sup>

40. NGOs have also highlighted the role of the Turkish intelligence agency in threats and intimidation of Turkish opposition members and journalists in exile and called on States to prevent any cooperation with the Turkish secret service.<sup>57</sup> Can Dündar, then editor in chief of the daily *Cumhuriyet*, left the country for Germany in June 2016 after being sentenced to prison for leaking national security information. Since going into exile, he has faced numerous threats. He and other Turkish journalists in Germany have received protection from German authorities.<sup>58</sup>

41. It has also been reported that Türkiye is using anti-terror financing measures as a tool of transnational repression against persons allegedly affiliated with the Gülen movement. In 2021, the Government adopted asset-freezing decrees targeting some of these persons living abroad, who as a result faced problems with their bank accounts or credit cards. Some reported the Turkish embassy in their country of residence visited the banks and informed them about the decrees.<sup>59</sup>

42. Furthermore, Türkiye allowed itself to be co-opted to facilitate transnational repression originating from non-member States of the Council of Europe. According to Freedom House, Türkiye became a more dangerous place to live in 2021 for people targeted by foreign regimes such as China and Turkmenistan. For instance, in January 2021, several Uyghurs were detained by police in raids in Istanbul and threatened with deportation to China after participating in protests outside the Chinese embassy. Another Uyghur activist fled the country after seeing his name on a list of Uyghur residents in Türkiye who were wanted by China. He flew to Morocco but was detained there in response to an Interpol notice. Turkish authorities have also detained Turkmenistani activists living in Türkiye and threatened them with deportation unless they ceased their political activities.<sup>60</sup> As regards the murder of Saudi journalist Jamal Khashoggi on Turkish soil, although the initial

<sup>51</sup><https://www.aa.com.tr/en/europe/turkish-deputy-pm-praises-anti-feto-op-in-kosovo/1106396>.

<https://stockholmcf.org/turkeys-intelligence-agency-confirms-abduction-of-more-than-100-people-with-alleged-links-to-gulen-movement/>.

<sup>52</sup> Freedom House, Linzer and Schenkkan, 2021, *op.cit.*, p. 40.

<sup>53</sup> *Ozdil and Others v. the Republic of Moldova*, No 42305/18, 11 June 2019; *Byraktar and Ayri v. the Republic of Moldova (Dec.)*, Nos. 13289/19 and 13292/19, 25 June 2020.

<sup>54</sup> All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>55</sup> [Kosovar officials involved in illegal deportation of Turkish teachers face 5 years in prison - Stockholm Center for Freedom \(stockholmcf.org\)](https://stockholmcf.org/kosovar-officials-involved-in-illegal-deportation-of-turkish-teachers-face-5-years-in-prison/), 11 February 2022. See also the opinion adopted by the UN Working Group on Arbitrary Detention in August 2020:

[https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A\\_HRC\\_WGAD\\_2020\\_47\\_Ad\\_vance\\_Edited\\_Version.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_47_Ad_vance_Edited_Version.pdf).

<sup>56</sup> <https://stockholmcf.org/kosovar-officials-involved-in-illegal-deportation-of-turkish-teachers-face-5-years-in-prison/>.

<sup>57</sup> [German NGO wants UN’s help in halting cooperation with Turkish intelligence against critics abroad - Nordic Monitor](https://www.nordicmonitor.org/en/german-ngo-wants-un-help-in-halting-cooperation-with-turkish-intelligence-against-critics-abroad), 7 February 2022; [For Turkish journalists in Berlin exile, threats remain, but in different forms - Committee to Protect Journalists \(cpj.org\)](https://www.cpti.org/en/for-turkish-journalists-in-berlin-exile-threats-remain-but-in-different-forms), 18 July 2019; [former-intel-official-says-turkish-intel-agency-abducts-critics-from-africa-central-asia-by-paying-bribes/](https://stockholmcf.org/former-intel-official-says-turkish-intel-agency-abducts-critics-from-africa-central-asia-by-paying-bribes/), 17 May 2022.

<sup>58</sup> Freedom House, Linzer and Schenkkan, 2021, *op.cit.*, p. 41.

<sup>59</sup> [https://internationaljournalists.org/wp-content/uploads/2022/08/IJA\\_handbook\\_Rapor\\_MulkuneElKonulanGazeteciler.pdf](https://internationaljournalists.org/wp-content/uploads/2022/08/IJA_handbook_Rapor_MulkuneElKonulanGazeteciler.pdf).

<sup>60</sup> Freedom House, Gorokhovskaia and Linzer, 2022, pp. 6-7.

response was described as “swift and pointed”, Türkiye ultimately agreed to a request from Saudi authorities to transfer the trial *in absentia* being held in connection with the murder to Saudi Arabia.<sup>61</sup>

43. Following the Russian large-scale attack on Ukraine in 2022, Türkiye refused to support Sweden and Finland’s applications to join NATO, unless Sweden handed over a set of wanted individuals. On 21 December 2022 Reuters reported that Mevlut Cavusoglu, Turkey’s Foreign Minister and a former President of this Assembly, described at a news conference in Ankara the decision of Sweden’s Supreme Court to block the extradition of Turkish journalist Dr Bülent Kenes as a ‘very negative’ development. President Erdogan had earlier singled out Dr Kenes’ extradition as a condition for Turkey to approve Sweden joining NATO. This behaviour is unacceptable to all those who support the rule of law and serves as an example of the type of pressure which some countries seek to exercise over others to pursue what is essentially another aspect of transnational repression. Even prior to the Turkish Government’s statement a pro-Turkish Government newspaper had revealed Dr Kenes’ home address and published secretly taken photos in November 2022. Dr Bülent Kenes is one of the founders of the Stockholm Centre for Freedom.

44. In 2023, a law firm, an NGO and the European judges association *Magistrats européens pour la démocratie et les libertés* (MEDEL) announced that they had sent a communication to the Office of the Prosecutor of the International Criminal Court (ICC), claiming that crimes against humanity had been or were being committed in Türkiye. The communication enumerates the abduction of victims from different countries who were brought to Türkiye in 17 cases of enforced disappearance; the closure of 72 schools linked to the Gülen movement in 13 States party to the ICC Statute; the discriminatory withdrawal of passports and the discriminatory non-issuance of ID cards in 29 States, as crimes that can be prosecuted by the ICC.<sup>62</sup> In 2020, the UN Working Group on Arbitrary Detention had concluded that the arrest, detention and forced transfer to Türkiye of Turkish nationals were arbitrary and in violation of international human rights norms. It noted a pattern of targeting those with alleged links to the Gülen movement on the discriminatory basis of their political or other opinion and recalled that the widespread or systematic imprisonment in violation of international law might constitute crimes against humanity.<sup>63</sup>

45. In a letter addressed to me as rapporteur on 6 January 2023, two members of the Turkish delegation to PACE and members of our committee commented on the allegations of misuse of Red Notices by Türkiye and other issues mentioned in my introductory memorandum. They said that Türkiye issued Red Notices requests in accordance with its international obligations stemming from international law and its domestic legislation, and that it was unfair to blame member States for allegedly misusing them. They suggested that my report should rather focus on Interpol’s internal monitoring system that does not work properly and transparently.

### 3.3. Azerbaijan

46. According to Freedom House, since 2014 Azerbaijan has conducted five renditions, from Ukraine, Georgia, and Türkiye. In four of the cases, the victim was a journalist or a journalist’s spouse.<sup>64</sup> Afgan Mukhtarli, an Azerbaijani investigative journalist, vanished in May 2017 from Tbilisi and resurfaced in custody in Baku, after what appeared to be a harrowing cross-border abduction.<sup>65</sup> Fikret Huseynli, another Azerbaijani journalist, claimed that Ukrainian authorities failed to protect him from the attack and attempted abduction by undercover Azerbaijani state agents tracking him down in Kyiv in March 2018. He had previously been detained in Ukraine on the basis of a Red Notice request by Baku.<sup>66</sup>

47. Well-known blogger and social-media opposition activist, Mahammad Mirzali, has been repeatedly attacked including being shot, stabbed and severely beaten. In 2016 he left Azerbaijan and now lives in France as a refugee. The Azerbaijani authorities have denied any involvement in these attacks. Reporters Without

<sup>61</sup> <https://freedomhouse.org/report/transnational-repression/turkey-host>.

<sup>62</sup> <https://stockholmcf.org/european-judges-association-belgian-law-firm-ngo-take-turkeys-alleged-crimes-against-humanity-to-icc/>

<sup>63</sup> [https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A\\_HRC\\_WGAD\\_2020\\_51\\_A\\_advance\\_Edited\\_Version.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_51_A_advance_Edited_Version.pdf). See also : [https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A\\_HRC\\_WGAD\\_2020\\_47\\_Advance\\_Edited\\_Version.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_47_Advance_Edited_Version.pdf);

<sup>64</sup> Freedom House, Linzer and Schenkkan, 2021, *op.cit.*, p. 49.

<sup>65</sup> [Georgia/Azerbaijan: Exiled Azerbaijani journalist at risk of torture after cross-border ‘abduction’ \(amnesty.org\)](https://www.amnesty.org/en/latest/news/2017/05/georgia-azerbaijan-exiled-azerbaijani-journalist-at-risk-of-torture-after-cross-border-abduction/), 30 May 2017.

<sup>66</sup> [‘Trust No One’: Exiled Azerbaijani Reporter Says He’s Being Hunted In Kyiv \(rferl.org\)](https://www.rferl.org/a/trust-no-one-exiled-azerbaijani-reporter-says-he-s-being-hunted-in-kyiv/20180319/), 19 March 2018.

Borders (RSF) has called for the last attempt to murder Mirzali on French territory (12 June 2022) to be addressed by the French and Azerbaijani governments at the highest level.<sup>67</sup>

48. Incidents of transnational repression by foreign states have also been reported in Azerbaijan. Apart from renditions to Türkiye (see paragraph above), there have been murders or attempted murders of Azerbaijani journalists and politicians with suspected involvement of Iran. In 2011, journalist Rafiq Tagiyev (against whom Iran had issued a fatwa) was murdered. In March 2023, politician Fazil Mustafa, known for his anti-Iranian statements, was shot and wounded in Baku.<sup>68</sup>

### 3.4. Belarus

49. The last example in this context is Belarus, known for notoriously egregious methods of transnational repression, such as using crime gangs. Pavel Latushka, a Belarusian opposition leader living in Warsaw, claimed that Belarusian secret services employed organised crime gangs to terrorise Belarusian exiles settled in EU states. In August 2021, Vitaly Shishov, a Belarusian political activist and dissident who co-founded the Kyiv-based Belarusian House in Ukraine, was found dead in Kyiv, hanging from a tree in a park near the place where he lived. His suspicious and unexpected death raised public concerns about his possible assassination by Belarusian agents.<sup>69</sup> *EUobserver* also reported that President Lukashenko had planned the assassination of three Belarusian dissidents in Germany, according to a leaked recording of the then-leader of the Belarus KGB.<sup>70</sup>

50. The “hijacking” of Ryanair Flight 4978 was another extreme example of transnational repression. On 23 May 2021, the Belarusian government diverted this regularly scheduled international passenger flight (travelling from Athens to Vilnius) to Minsk airport, where Roman Protasevich, an opposition activist and journalist, and his girlfriend Sofia Sapega, were arrested by the authorities. The Belarusian authorities reported an alleged bomb on board, yet Ryanair called it “a case of state-sponsored hijacking”,<sup>71</sup> suspecting three passengers of that flight of being Belarusian agents. An attorney in the United States charged four senior Belarusian officials with conspiracy to commit aircraft piracy, for using a false bomb threat to unlawfully divert the flight in order to arrest the Belarusian dissident.<sup>72</sup>

51. According to Freedom House, Belarus was responsible for 31 percent of the transnational repression incidents recorded in 2021. Following Lukashenko’s fraudulent re-election in August 2020, many opposition leaders and protesters fled the country and sought asylum in Poland, Lithuania and Ukraine. Those who fled to Russia were deported to Belarus. For example, Alyaksey Kudzin, a mixed martial arts fighter who had allegedly been beaten and shot with rubber bullets while in police custody in Belarus, was unlawfully deported from Russia after the ECtHR had indicated an interim measure against the extradition having regard to the risk of torture.<sup>73</sup>

## 4. The relevant Council of Europe standards

52. None of the Council of Europe bodies have addressed transnational repression specifically. The present report is the first to compile legal standards relevant to these practices.

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<sup>67</sup> Freedom House, Gorokhovskaia and Linzer, 2022, *op. cit.*, p. 12; see also the introductory memorandum “Threats to life and safety of journalists and human rights defenders in Azerbaijan” prepared by Ms Hannah Bardell at <https://rm.coe.int/threats-to-life-and-safety-of-journalists-and-hr-defenders-in-azerbaij/1680aaafa3>.

<sup>68</sup> [Assassination Attempt Made on Member of Azerbaijani Parliament - Caspian News](https://www.bbc.com/news/world-europe-58065313).

<sup>69</sup> <https://www.bbc.com/news/world-europe-58065313>, 3 August 2021; <https://www.dw.com/en/ukraine-investigating-belarusian-activists-death-as-possible-murder/a-58771083>.

<sup>70</sup> <https://euobserver.com/world/150486>, 4 January 2021. [Belarus exiles in EU fear regime-linked murderers \(euobserver.com\)](https://euobserver.com) 26 October 2021.

<sup>71</sup> [Ryanair CEO Calls Belarus Flight Diversion a ‘Premeditated Hijacking’ - WSJ](https://www.wsj.com/news/world/europe/belarus-ryanair-hijacking), 27 May 2021.

<sup>72</sup> [Belarusian Government Officials Charged With Aircraft Piracy For Diverting Ryanair Flight 4978 To Arrest Dissident Journalist In May 2021 | USAO-SDNY | Department of Justice](https://www.icao.int/Newsroom/Pages/ICAO-Council-discusses-Fact-Finding-Report-into-Ryanair-FR4978.aspx), 20 January 2022. See also: <https://www.icao.int/Newsroom/Pages/ICAO-Council-discusses-Fact-Finding-Report-into-Ryanair-FR4978.aspx>, 31 January 2022.

<sup>73</sup> Freedom House, Gorokhovskaia and Linzer, 2022, *op. cit.*, p. 4. [Russian Court Allows Kickboxer's Extradition To Belarus Despite Torture Concerns \(rferl.org\)](https://www.rferl.org).



#### 4.1. *The European Court of Human Rights*

53. The Court examined a number of cases, which could fall into the category of transnational repression, but has never used this terminology. It remains to be seen whether the Court would introduce such a legal concept into its case-law following the inter-state case of Ukraine brought against Russia (referred to above) or other cases. At present, its case-law contains the following principles relevant to the issue at hand. Transnational repression contains an extra-territorial element. This means that before determining the responsibility for an act of transnational repression, the Court should first establish whether the alleged act is attributable to the persecuting State or to the host State. In *Carter v. Russia*, it found that when they poisoned Mr Litvinenko, Mr Lugovoy and Mr Kovtun were acting as Russian agents and that they exercised physical power and control over Mr Litvinenko's life in a manner sufficient to establish a "jurisdictional link" with Russia. Therefore, Russia bore responsibility for the targeted assassination committed in the United Kingdom, which undoubtedly constituted a violation of the substantive aspect of Article 2 of the Convention (right to life). The Court applied its "personal concept of jurisdiction", according to which "a State may also be held accountable for violation of the Convention rights and freedoms of persons who are in the territory of another State but who are found to be under the former State's authority and control through its agents operating – whether lawfully or unlawfully – in the latter State"<sup>74</sup>. In a series of cases, control over individuals on account of incursions and targeting of specific persons by the armed forces or police of the respondent State was sufficient to bring the affected persons "under the authority and/or effective control of the respondent State through its agents"<sup>75</sup>. In the *Carter* judgment, the Court clarified that this concept of jurisdiction should apply with equal force in cases of extrajudicial targeted killings by State agents acting extra-territorially outside of the context of a military operation. It also added 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" and recalled that "accountability in such situations stems from the fact that Article 1 of the Convention cannot be interpreted so as to allow a State party to perpetrate violations of the Convention on the territory of another State, which it could not perpetrate on its own territory".<sup>76</sup> By analogy, any act of physical transnational repression committed by an agent of the persecuting member State abroad would automatically engage the international responsibility of that State under the Convention.

54. As regards the lack of an effective investigation into the targeted assassination of Mr Litvinenko (procedural aspect of Article 2), the Court established a "jurisdictional link" with Russia with reference to the criminal proceedings instituted in Russia and to the fact that Russia retained exclusive jurisdiction over the two suspects. Since their return to Russia, both enjoyed the constitutional protection of nationals from extradition. The Court also observed that the United Kingdom, the host State, was prevented from pursuing the criminal prosecution of the suspects on its territory as a result of the protection given to them by Russia. Therefore, Russia was also under a procedural obligation under Article 2 of the Convention to carry out an effective investigation, even if the death of the victim had occurred in the United Kingdom.<sup>77</sup> Applying these principles, any act of physical transnational repression may give rise to a procedural obligation under the Convention to investigate such act either where the perpetrator State opens an investigation on its own or where it retains exclusive jurisdiction over the suspected individuals.

55. To establish the responsibility of persecuting States for acts of transnational repression commenced on their territories but having effects abroad, the Court should also first establish a jurisdictional link. The cases of *Razvozhayev v. Russia and Ukraine and Udaltsov v. Russia*<sup>78</sup> and *Rantsev v. Russia and Cyprus*<sup>79</sup> are illustrative of the extraterritorial effects of a violation of the Convention which commenced in one State but ended in another. In the first case, the victim (first applicant) alleged that he had been abducted in Kyiv and ill-treated by unidentified Russian State agents acting with the tacit agreement of the Ukrainian authorities, and then transferred to Russia where he was detained and prosecuted. In the second case, a woman was trafficked from Russia to Cyprus, where she eventually died in unexplained circumstances.

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<sup>74</sup> *Öcalan v. Turkey* [GC], No. 46221/99, § 91, ECHR 2005-IV, and *Issa and Others v. Turkey*, No. [31821/96](#), § 71, 16 November 2004.

<sup>75</sup> *Isaak v. Turkey* (dec.), No. [44587/98](#), 28 September 2006, *Pad and Others v. Turkey* (dec.), No. [60167/00](#), 28 June 2007, *Andreou v. Turkey* (dec.), No. [45653/99](#), 3 June 2008, and *Solomou and Others v. Turkey*, No. [36832/97](#), §§ 48-51, 24 June 2008

<sup>76</sup> *Carter v. Russia*, No. [20914/07](#), 21 September 2021, §§ 125-130 and 158-172.

<sup>77</sup> *Ibid.*, §§ 133-135.

<sup>78</sup> *Razvozhayev v. Russia and Ukraine and Udaltsov v. Russia*, Nos. [75734/12](#), [2695/15](#) and [55325/15](#), 19 November 2019.

<sup>79</sup> *Rantsev v. Cyprus and Russia*, No. [25965/04](#), 07 January 2010.

56. In the *Razvozhayev* case both States had jurisdiction over the facts which had occurred on their territories, with a special jurisdictional link with Russia established on the basis of its authority and control allegedly exercised through its agents operating abroad. Although the Court found no evidence that the abductors had acted on behalf of Russia or that the Ukrainian authorities had been complicit, both States were held responsible under Articles 3 (prohibition of torture) and 5 (right to liberty) of the Convention for the failure to conduct an effective investigation into the applicant's allegations of abduction and ill-treatment committed on their territories or by their agents. In *Rantsev* the jurisdiction of Russia was determined by the fact that the alleged trafficking had commenced on its territory, and therefore triggered its positive and procedural obligations to protect the victim from trafficking and to investigate the trafficking, in particular the recruitment of the victim (under Article 4 of the Convention, which prohibits slavery and forced labour). Russia was also under a procedural obligation (under Article 2) to cooperate with the investigation into the victim's death conducted by Cypriot authorities, for instance by securing the evidence located on its territory following a legal assistance request. By analogy, the Court could examine the responsibility for various forms of transnational repression originated in persecutor States with effects in other States, such as issuing politically motivated Interpol Red Notices or passport cancellation, denial of consular services, intimidation, surveillance, coercion by proxy, etc.

57. The concept of jurisdiction and responsibility is also applicable the other way around, in respect of the host States bearing positive obligations to protect individuals from transnational repression. The Court settled this principle in its leading case of *Soering*, with reference to the decision to extradite an individual that engaged the State's responsibility under the Convention where a risk existed that the person would be tortured or otherwise ill-treated<sup>80</sup> or faced the risks of a flagrant denial of justice in a third State<sup>81</sup>. The series of cases concerning extra-legal renditions to the CIA within the territories of Poland<sup>82</sup>, Romania<sup>83</sup>, Lithuania<sup>84</sup> and North Macedonia<sup>85</sup> have just reconfirmed this principle, acknowledging the complicity of these States for serious violations of human rights committed on their territories by foreign agents. Accordingly, any host State adopting a decision to arrest, detain and render a person following a request from a persecuting State might bear responsibility for the removal or transfer, where there is a real risk of being subjected to a violation of the Convention (of Articles 2 or 3, or a flagrant breach of Articles 5 or 6) in or by the persecuting State. Similarly, host States should be regarded as responsible under the Convention for internationally wrongful acts performed by foreign officials on its territory with the acquiescence or connivance of its authorities. More generally, a positive obligation might arise (under Articles 2 and 3) for host States to protect within their territory potential targets of transnational repression by agents of third States, if the authorities know or should know of the existence of a real and immediate risk to the life or physical integrity of such persons.<sup>86</sup>

58. States can also bear responsibility for being co-opted or complicit in acts of transnational repression. In the case of *Ozdil and others* (referred to above), the Court held the Republic of Moldova responsible for depriving the applicants of their liberty in a manner amounting to an extra-legal transfer from its territory to Türkiye, which circumvented all guarantees offered to persecuted individuals by domestic and international law. In this and other similar cases, such as *Shenturk and Others v. Azerbaijan*<sup>87</sup> (extra-legal transfers to Türkiye), *Shorazova v. Malta*<sup>88</sup> (freezing assets at the request of Kazakh authorities, likely tainted by political persecution), *Garabayev v. Russia*<sup>89</sup> (arrest in breach of domestic law and extradition to Turkmenistan with awareness of a real risk of ill-treatment) or *Abdulkhakov v. Russia*<sup>90</sup> (secret transfer to Tajikistan with a risk of removal to Uzbekistan) the Court no longer questioned whether the authorities of the host State retained jurisdiction.

<sup>80</sup> *Soering v. the United Kingdom*, No. [14038/88](#), 07 July 1989.

<sup>81</sup> *Othman (Abu Qatada) v. the United Kingdom*, No. [8139/09](#), 17 January 2012.

<sup>82</sup> *Al Nashiri v. Poland*, No. [28761/11](#), 24 July 2014.

<sup>83</sup> *Al Nashiri v. Romania*, No. [33234/12](#), 31 May 2018.

<sup>84</sup> *Abu Zubaydah v. Lithuania*, No. [46454/11](#), 31 May 2018.

<sup>85</sup> *El-Masri v. "the former Yugoslav Republic of Macedonia"* [GC], No. [39630/09](#), 13 December 2012.

<sup>86</sup> Applying the *Osman* test, *Osman v. the United Kingdom*, 28 October 1998. For Article 3, see *X and Others v. Bulgaria* [GC], No. 22457/16, 2 February 2021. The Court has not yet applied these principles in a purely transnational repression case.

<sup>87</sup> *Shenturk and Others v. Azerbaijan*, nos. [41326/17](#) and other applications, 10 March 2022.

<sup>88</sup> *Shorazova v. Malta*, no. [51853/19](#), 03 March 2022.

<sup>89</sup> *Garabayev v. Russia*, no. 38411/02, 07 June 2007.

<sup>90</sup> *Abdulkhakov v. Russia*, No. [14743/11](#), 02 October 2012.

59. Last but not least, the Convention imposes in some circumstances a duty on States to cooperate effectively with each other, particularly in transnational cases involving serious breaches of human rights, such as unlawful killings,<sup>91</sup> human trafficking<sup>92</sup> or sexual abuse of children.<sup>93</sup> This duty implies at the same time an obligation to seek assistance and an obligation to afford assistance and is part of the procedural obligation arising under Articles 2, 3 and 4 of the Convention. Therefore, in cases of transnational repression the duty to cooperate in the investigation of the alleged breach is all the more important (see the *Carter* case, mentioned above<sup>94</sup>).

60. In conclusion, the Court's case-law provides sufficient examples to delineate the principles of State responsibility for transnational repression, even if the Court has never used this term in its judgments. Applying the Court's case-law, a jurisdictional link should be established between an act of transnational repression and the persecuting State to determine the responsibility under the Convention. Only then a violation of the Convention could be found, which could take various forms from serious human rights violations (killings, kidnappings, enforced disappearances, renditions, arbitrary detentions, etc.) to associated violations of privacy, freedom of expression, freedom of movement, etc. In this context, the Court may also examine the responsibility of host States on whose territories the acts of transnational repression occurred. These States may therefore have positive obligations under the Convention to protect potential victims from acts of transnational repression and prevent them from occurring. In the end, all Contracting States have a collective duty to cooperate in the investigation of serious human rights violations and, therefore, fight against impunity for acts of transnational repression committed on European soil.

#### 4.2. *The Parliamentary Assembly*

61. The most relevant resolutions and reports of the Assembly, which could be relevant for codifying and developing principles in the fight against transnational repression, are the following:

- [Resolution 2315\(2019\)](#) "Interpol reform and extradition proceedings: building trust by fighting abuse", which recalls the need for transparent international cooperation in criminal law;
- [Resolution 2252 \(2019\)](#) "Sergei Magnitsky and beyond – fighting impunity by targeted sanctions", which called upon member States to consider enacting legal instruments enabling their government to impose targeted sanctions on individuals reasonably believed to be personally responsible for serious human rights violations for which they enjoy impunity on political grounds or owing to corrupt practices;
- [Resolution 2161 \(2017\)](#) "Abusive use of the Interpol system: the need for more stringent legal safeguards", in which the Assembly expressed concerns over the abuse by certain governments of the 'Red Notice' system in order to persecute members of the political opposition beyond their borders;
- [Resolution 2187 \(2017\)](#) "the Venice Commission's Rule of Law Checklist", which encourages wider and more systematic use of the Venice Commission Checklist to ensure conformity with basic principles of the rule of law;

62. A report on "Pegasus and similar spyware and secret state surveillance" is also underway. Some valuable ideas to fight and prevent transnational repression can be found in all these reports and resolutions. In Resolution 2315 (2019), the Assembly welcomed the fact that Interpol had implemented many recommendations made by the Assembly in its 2017 report aimed at strengthening the Interpol system and fighting the abuse of Red Notices and Diffusions. However, it stated that further work still needed to be done to improve the transparency of Interpol and to strengthen the accountability of States who frequently abuse Interpol's instruments. For instance, Interpol should further improve preventive and subsequent scrutiny of Red Notices and wanted person diffusions; further strengthen the appeals procedure before the Commission for the Control of Interpol's Files (CCF); consider setting up an independent appeals body against the decisions of the CCF such as an ombudsperson; and set up a compensation fund for victims of unjustified Red Notices and wanted person diffusions. The Assembly also called on member States to take a set of measures to

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<sup>91</sup> *Güzelyurtlu and others v. Cyprus and Turkey* [GC], No. 36925/07, 29 January 2019, pars. 229-236; *Romeo Castaño v Belgium*, No 8351/17, 9 July 2019.

<sup>92</sup> *Rantsev v. Cyprus and Russia*, *op.cit.*

<sup>93</sup> *X and Others v. Bulgaria* [GC], No. 22457/16, 2 February 2021, pars. 191 and 217-220.

<sup>94</sup> While the Court could not examine whether the UK authorities had complied with their obligation to cooperate with their Russian counterparts (the application was only directed against Russia), it observed that the Russian authorities had attempted to thwart the efforts of the British investigators to establish the facts of the case (paragraphs 144 and 146).

support further improvements concerning Interpol, so that it fully respects human rights and the rule of law whilst remaining an effective tool for international police co-operation.

#### 4.3. *The Committee of Ministers*

63. The most relevant document adopted by the Committee of Ministers, which could be relied upon in combating transnational repression, is the “Guidelines on eradicating impunity for serious human rights violations”.<sup>95</sup> As far as it is relevant to the scope of the present report, the Guidelines refer to international co-operation in combating impunity, calling on “states [to] fulfil their obligations, notably with regard to mutual legal assistance, prosecutions and extraditions, in a manner consistent with respect for human rights, including the principle of “non-refoulement”, and in good faith.”

### 5. **Proposals to strengthen the fight against transnational repression**

64. During our hearing of 22 November 2022, Mr Bruno Min from Fair Trials welcomed the fact that the PACE reports on Interpol had played an influential role in promoting key reforms and improvements. However, despite recent efforts by Interpol to improve its rules and procedures to better protect its systems from misuse, they had continued to come across Red Notices and diffusions that violated human rights in individual cases. Mr Min pointed to three main reasons for this. First, there were inadequate systems for performing *ex ante* checks on requests for Red Notices and diffusions before they were circulated: the Notices and Diffusions Task Force in Interpol was made of around 30-40 staff while the number of Red Notices circulated was over 10, 000 per year. Second, there were concerns about the effectiveness of Interpol’s complaints mechanism, the CCF.<sup>96</sup> Challenges regarding its speediness, transparency and the quality of its decisions remained. Third, there was a lack of clarity on 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. According to Mr Min, there was still ample room for further improvements, notably concerning the prior review of Diffusions (which can contain exactly the same request as Red Notices but are not subject to prior review); and the effectiveness of the *ex ante* and *ex post* reviews, including the Notices and Diffusions Task Force and the CCF. As regards member States, they should support Interpol by working with the CCF and complying with its decisions as much as possible (e.g. deleting data in national databases where the CCF has decided to delete a Red Notice or Diffusion), by sharing information about refugee status and by supporting the internal review mechanisms of Interpol with additional funding and resources.

65. Mr Vytis Jurkonis from Freedom House Lithuania put forward several proposals to better fight against transnational repression: a definition of transnational repression at European level; tracking cases (including politically motivated extradition requests) domestically; filtering requests from authoritarian countries, which should be vetted more thoroughly; a mechanism of intervention through advocacy work; and suspending certain countries from participating in international cooperation mechanisms in the criminal field. He also mentioned as an example for best practices the inter-ministerial mechanism set up in Lithuania for vetting politically-motivated extradition requests and its well-established cooperation with human rights defenders. This example could be replicated in other countries.

66. Freedom House has made several policy recommendations to better fight against transnational repression.<sup>97</sup> Governments that host exiles and targeted diasporas should, inter alia:

- establish an official definition of transnational repression to be used by all government agencies;
- develop a plan to spread awareness among law enforcement agencies, intelligence services, and officials working with refugees and asylum seekers;
- issue travel advisories about states that engage in transnational repression;
- develop specific outreach strategies to connect law enforcement agencies with targeted diaspora communities;

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<sup>95</sup> Committee of Ministers, [Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations](#) (2011).

<sup>96</sup> He admitted that complainants are now receiving reasoned decisions within a year of the complaint and that its decisions have become binding, so that when the CCF finds a Red Notice to be in violation of Interpol’s rules, Interpol is obliged to delete it.

<sup>97</sup> <https://freedomhouse.org/policy-recommendations/transnational-repression>.

- establish a specific mechanism to track domestic incidents of transnational repression and identify the perpetrator governments;
- review counterintelligence and law enforcement information-sharing practices and ensure that they effectively disseminate data about threats stemming from transnational repression;
- apply additional vetting to extradition requests and Interpol notices;
- review extradition, legal cooperation, readmission and return, and intelligence-sharing agreements with governments that engage in transnational repression;
- screen applications for diplomatic visas to avoid granting accreditation to diplomatic personnel who have harassed, intimidated or otherwise harmed exiles or diaspora members;
- restrict the export of surveillance technology;
- strictly regulate the purchase and use of surveillance tools and protect end-to-end encryption;
- impose targeted sanctions on perpetrators and enablers of transnational repression;
- use persona non grata designations to ensure accountability for transnational repression, including by expelling diplomats who are directly involved in transnational repression;
- restrict security assistance and arms sales to governments that perpetrate acts of transnational repression;
- review the processes for issuing warnings and assigning police protection to individuals;
- commit to respecting the right to seek asylum;
- limit the use of temporary and subsidiary forms of protection for asylum seekers and instead grant full refugee status, allowing for family reunification, which reduces the threat of coercion by proxy;
- include details on the use of transnational repression in the information about countries of origin that is consulted during reviews of asylum applications;
- build resilience against the use of spurious terrorism charges to distort host countries' asylum and extradition processes;
- fund civil society organisations that monitor incidents of transnational repression or that provide resources to targeted individuals or groups.

67. Freedom House's recommendations for UN member States include: recognising transnational repression as a specific threat to human rights; reviewing and revising the protections that are offered to human rights defenders and other activists who engage with the UN to better address the risk of transnational repression; and establishing a special rapporteur on transnational repression, with the required mandate to have a comprehensive picture of the problem. Other recommendations are specifically addressed to civil society and technology companies.

68. It is also worth taking into consideration the proposals contained in the recent "Declaration of Principles to Combat Transnational Repression" signed by a number of States in March 2023 (see paragraph 14 above).

## 6. Conclusions

69. The head of the Chechen Republic Ramzan Kadyrov stated: "This modern age and technology allow us to know everything and we can find any of you, so don't make it worse for yourselves." This statement illustrates how authoritarian regimes think and how they implement their plans of transnational repression abroad. Transnational repression has become a common and institutionalised practice used by dozens of regimes to persecute dissenters outside their borders. Not only does it affect human rights of individuals fleeing persecution, but it also undermines democracy, the rule of law, and security in the countries where these people have found refuge. This phenomenon should be acknowledged and fought against, including by using the existing legal instruments and setting new standards for the member States of the Council of Europe.

70. There is neither a legal definition of transnational repression nor settled legal principles to fight this phenomenon. None of the democratic countries, including European States, has ever addressed the problem of transnational repression in a systematic fashion. There have been political statements, condemnations, expulsions of diplomats, and even economic sanctions following some notorious cases of transnational repression. However, the States concerned have acted in a reactive rather than proactive and systematic way.

71. It is undisputed that acts of transnational repression involve serious breaches of human rights, such as extra-judicial killings, targeted assassinations, enforced disappearances, kidnappings, and loss of lives following the use of dangerous substances and tools (radioactive materials, chemical weapons), etc. Acts of transnational repression run contrary to the principles of non-refoulement and the legality of deprivation of liberty. They are often associated with violations of privacy, freedom of expression, freedom of movement, etc.

The current standards and legal instruments seem insufficient to stop transnational repression from occurring, especially in some countries accused of systemic acts of transnational repression.

72. Russia is the most extreme example from the list of these countries. With its state-sponsored “assassination programme” and now no longer a member of the Council of Europe, nothing prevents Russia from continuing its systematic repression of Russian exiles seeking refuge in Europe. The effects of its transnational repression policies will be felt for a long time in Europe. Therefore, member States and Council of Europe bodies should react promptly and decisively to alleviate these effects and prevent these practices from spreading. This is especially true in the context of newly emerging trends to use digital tools for transnational repression, the effects of which remain unpredictable for the host states.

73. The Parliamentary Assembly should first of all condemn the cases of transnational repression committed on European soil, some of which originated in current or former member States. It should also recall that the European Convention on Human Rights applies to extra-territorial violations of the right to life and other fundamental rights committed by formal or secret agents of member States in the territory of other member States, as well as in the territory of third States (as long as there is control and authority through these agents). The Court has recently held 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”. Procedural obligations to investigate these violations may also arise with regard to the host State, the perpetrator State, or both, depending on the circumstances. In this context, the Court has also recognised a duty to cooperate with each other in transnational cases involving serious breaches of human rights. This should clearly apply to transnational repression cases. From the perspective of host States, they have the positive obligation to protect individuals within their jurisdiction from acts of transnational repression, either by providing specific protection to identified targets in case of real and immediate risks, or at least by not giving their acquiescence or connivance to violations committed by foreign agents in their territory. Furthermore, they have the obligation not to render, transfer, deport or extradite persons exposed or vulnerable to transnational repression, particularly if there is a real risk of a violation of one of the core Convention rights by the requesting/persecuting State, or using extra-legal channels.

74. The European Convention provides a robust legal framework according to which acts of transnational repression should be condemned, investigated and punished by member States. Perpetrators should be held to account. The Court will hold member States to account if they do not properly deal with them domestically, including where the repression has its origins in non-member States.

75. The Assembly should address relevant recommendations such as those recommended by our experts and Freedom House to member and observer States, as well as to those with partnership status with the Assembly. For instance, States should establish an official definition of transnational repression to be used by all government agencies (law enforcement, intelligence services, migration and asylum), which would incorporate it in all their actions and procedures. They should also establish a specific mechanism to track domestic incidents of transnational repression and identify the perpetrator governments. Counterintelligence and law enforcement information-sharing practices should be reviewed to ensure that vulnerable individuals receive adequate warning and protection.

76. States should apply additional vetting to extradition requests and Red Notices from the governments that are known to engage in transnational repression. In this respect, the Assembly should reiterate the recommendations made to States and to Interpol in its [Resolution 2315 \(2019\)](#) “Interpol reform and extradition proceedings: building trust by fighting abuse”, along the lines of the proposals made by the experts on Interpol procedures.

77. States should also consider further screening applications for diplomatic visas to avoid granting accreditation to diplomatic personnel who have harassed or intimidated exiles and diaspora in the past, often abusing diplomatic immunities. They should envisage expelling diplomats who have been directly involved in transnational repression incidents. In terms of accountability, States should impose targeted sanctions on perpetrators and enablers of transnational repression, using their Magnitsky-style laws. This should be extended to the EU sanctions regime.

78. Victims of transnational repression should be protected. In accordance with the positive obligations imposed by the Convention (notably under Articles 2 and 3, but also Article 8), they should improve the

procedures to issue warnings and assign police protection to vulnerable or targeted individuals. They should also take into account the record of transnational repression of origin States when deciding on asylum applications.

79. Within the Council of Europe, the Assembly should invite the competent bodies, first of all the European Court of Human Rights, but also the Commissioner for Human Rights, to pay specific attention to the current trends and practices of transnational repression occurring in member States, including when they originate from non-member States. The Court should fully apply and 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 cannot be any impunity gap for transnational repression committed within the Convention legal space and attacking the foundations of democratic societies and the rule of law. The Commissioner should take into account the transnational repression angle when engaging with human rights defenders and civil society, including exiles from Russia and Belarus.<sup>98</sup> The Assembly's General Rapporteur on human rights defenders should follow the same approach and address the specific threats faced by Russian and Belarusian human rights defenders relocated or seeking asylum in member States.

80. Finally, the Assembly should invite the Committee of Ministers to include this important topic on its agenda, with a view to reviewing and adapting the existing recommendations and guidelines (e.g. [Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations](#) (2011)) and drafting a new recommendation to member States focussed on the fight against transnational repression. The Committee of Ministers, when supervising the execution of the Court's judgments featuring transnational repression, should underline the requirement of individual accountability of the perpetrators, and call on the States concerned to adopt general measures to prevent these practices in future.

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<sup>98</sup> See for example: <https://www.coe.int/en/web/commissioner/-/support-russian-and-belarusian-civil-societies-and-human-rights-defenders?redirect=%2Fen%2Fweb%2Fcommissioner%2Fhuman-rights-defenders>.