



**DEFENSIE
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Legal considerations

General Directorate Legal
Support and Mediation



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Legal considerations
pertaining the use of armed
forces in domestic situations
in support of
counter-terrorism efforts

STRUCTURE

- INTRODUCTION
- OPS VIGILANT GUARDIAN
- STATE EMERGENCY
- UNSCR 2178 (2014)
- SPECIAL INT METHODS

INTRODUCTION

- National security and human rights are intertwined
- Positive obligation to take preventive operational measures to protect the right to life
- TAGAYEVA and others vs. RUSSIA (ECtHR)
- BELGIUM
- Scope of the presentation

Operation Vigilant Guardian

- Conceptual shift in October 2014
- Activation in 2015 – 2016
- Human Rights Watch
- Temporary measure

Discussions on the state of emergency

- Art. 15 ECHR and Art. 4 ICCPR
- Belgian Constitution
- Parliamentary working group in 2006
- Several counter-terrorism laws enacted, but no possibility of a state of emergency introduced in the Belgian legal system

UNSCR 2178 (2014)

- Art. 140sexies Penal Code
- Material elements & criminal intent
- Directive of the European Parliament and of the Council of March 7th 2017 on combatting terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA

Special intelligence methods

- Before and after the law of 2010
- 3 categories:
 - Ordinary methods
 - Specific methods
 - Exceptional methods
- Law of March 30th 2017 (Official Gazette of April 28th 2017)

Art. 2 ECHR :

procedural obligations : effective
official investigation



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New legislation project

Outlines

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Summary of the applicable legislation

Law of 4 Feb. 2010 (3 methods)

Law of 20 July 2015 against terrorism (art 140 sexies PC)

Law of 27 April 2016

Law of 25 Dec 2016 (Internet)

Law of 30 March 2017 (modifying Law 4 Feb 2010)

Royal Decree 1 May 2016 (Emergency plan)

Royal Decree 21 July 2016 (Data banks)



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Q & A session

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