



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights holds hearing in South America

South America hearing

On 31 October-1 November, the Panel held a sub-regional hearing in Buenos Aires on lessons learned from the Southern Cone during the 70's and 80's when gross human rights violations were committed in the name of "national security". The hearing was co-organized by the ICJ and the *Centro de Estudios Legales y Sociales* (CELS), an affiliated organization of the ICJ. Panel members Justice Raúl Zaffaroni (Argentina), Professor Stefan Trechsel (Switzerland) and Professor Robert K. Goldman (United States) attended the hearing.

Upcoming: South East Asia hearing

On 4-5 December, the Panel will hold a sub-regional hearing in Indonesia to examine the impact of counter-terrorism on human rights in Indonesia, the Philippines, Thailand and Malaysia. The hearing will be co-organized by the ICJ and the Indonesian NGO Imparsial. The Panel will be represented by Professor Vitit Muntarbhorn (Thailand), Professor Robert K Goldman (United States), and Justice Raúl Zaffaroni (Argentina).

[EJP website](#)

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AFRICA & MIDDLE EAST

Zimbabwe: Government reintroduces bill on interception of communications

On 3 November, the Government reintroduced the Interception of Communications Bill, which would give broad discretion to the executive to intercept telephone, internet and other communications. The Parliamentary Legal Committee (PLC) had expressed concerns that some provisions of the original bill, first introduced in May, and justified as necessary to fight terrorism and organized crime, violated citizens' right to privacy. The new version of the bill retains some aspects criticized by the PLC, including the admissibility in some cases of evidence obtained by means of an unlawful interception.

[Original bill](#)

[Press article](#)

Israel: High Court upholds the construction of the wall in the West Bank

On 26 November, a panel of nine Supreme Court judges unanimously upheld the route of the separation wall in the West Bank, in a case in which the Palestinian petitioners claimed that the wall violated their property rights and their economic, social and cultural rights. The Israeli Government has defended the construction of the wall as necessary to prevent terrorist attacks. The Court held that the balance between the degree of security obtained for Israeli citizens and the injury to the rights of the Palestinians was proportional. In 2004, the International Court of Justice (ICJ) found that the construction of the wall violated international law.

[High Court decision](#)

[ICJ decision](#)

[Press article](#)

AMERICAS

USA: Military Commissions Act enters into force

On 17 October, President Bush signed into law the Military Commissions Act (MCA), which authorizes trials of terrorist suspects by military commissions. The MCA also contains provisions that impose severe restrictions on terrorist suspects' rights to challenge any aspect of detention, transfer, treatment, trial or conditions of confinement before US courts. On the basis of these provisions, the Government filed motions to dismiss *habeas corpus* petitions by individuals designated as "enemy combatants," including that of Ali Saleh Kahlah al-Marri, a Qatari student held inside the US. On 16 November, Senator Dodd (Democrat) introduced a bill to amend various provisions of the MCA to restore greater rights for detainees.

[MCA](#)

[President's signing speech](#)

[ICRC statement](#)

[Motion to dismiss](#)

[Dodd's bill](#)

USA: Complaint filed against former Defence Secretary Rumsfeld for war crimes

On 14 November, several human rights organizations filed a criminal complaint in a German Court on behalf of eleven Iraqis held at Abu-Ghraib and one Afghan detainee held at Guantánamo Bay. The organizations request the German Federal Prosecutor to open an investigation into former Secretary Rumsfeld and other high-ranking US officials for authorizing torture and ill-treatment of detainees. A similar complaint, filed in 2004 concerning abuses at Abu-Ghraib, was dismissed in 2005 on the ground that the US was neither unwilling nor incapable of investigating the alleged abuses.

[NGO background brief](#)

[Complaint 1 \(German\)](#)

[Complaint 2 \(German\)](#)

USA: Broad powers to designate terrorist groups or individuals ruled unconstitutional

On 28 November, a district court ruled that parts of the Executive Order authorizing the freezing of assets of suspected terrorists and terrorist organizations, were vague and therefore unconstitutional.

The Order, issued by the President in the immediate aftermath of the 9/11 attacks, gave the President broad authority to designate organizations and individuals as terrorist without any criteria and authorized the Secretary of Treasury to designate those “otherwise associated” with a designated terrorist group. The case was brought on behalf of the Humanitarian Law Project, an NGO seeking to provide human rights advocacy training to the Kurdistan Workers’ Party (PKK) in Turkey and several other organizations seeking to support humanitarian activities of the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka.

[Decision](#)

[CCR Press Release](#)

USA: US citizen indicted on charges of treason and material support to terrorism

On 11 October, Adam Gadahn, a US citizen, was indicted on charges of treason and providing material support to a foreign terrorist organization for making a series of propaganda videotapes for al-Qaeda. They are the first treason charges to be brought against a US citizen in more than 50 years.

[Indictment](#)

[Department of Justice press release](#)

USA: Lawyer imprisoned for providing material support to terrorist

On 16 October, Lynne Stewart, a civil rights lawyer, was sentenced to 28-months imprisonment for conspiracy and providing material support to terrorists. She was found guilty for enabling Sheik Omar Abdel Rahman, her client convicted for conspiracy to commit a terrorist attack, to remain in contact with his co-conspirators. Prosecutors had sought the maximum sentence of 30-year imprisonment.

[Indictment](#)

[Press article](#)

Canada: Superior Court finds anti-terrorism legislation unconstitutional

On 24 October, the Ontario Superior Court held that the definition of “terrorist activity” in the 2001 Anti-Terrorism Act (ATA) violated freedoms of religion, expression and association guaranteed under the Canadian Charter of Rights and Freedoms. The Court struck down the part of the definition that required a political, religious, or ideological objective or cause. On 19 October, the same court held that some provisions of the Security of Information Act (SIA), amended in the aftermath of the 9/11 attacks, violated freedom of expression and the media by allowing the Government to arbitrarily classify information and to punish those who communicate or confirm such information.

[Decision on ATA](#)

[ATA](#)

[Decision on SIA](#)

[SIA](#)

Peru: Founder of Shining Path convicted to life imprisonment after retrial

On 14 October, Abimael Guzmán and Elena Iparraguirre, leaders of Peru’s *Sendero Luminoso* (Shining Path), were convicted of aggravated terrorism at a retrial and sentenced to life imprisonment. Another 10 members of the Shining Path’s leadership received sentences of between 25 and 35 years imprisonment. The decision has been appealed to the Supreme Court. Following the ruling, President García introduced a bill to expand the death penalty to leaders of terrorist organizations convicted for the commission of terrorist acts.

[Decision \(Spanish\)](#)

[Official press release](#)

[Press article](#)

ASIA-PACIFIC

India: Suspects of Mumbai bombings to be tried by a special court

On 30 November, the police in Mumbai brought charges against 28 suspects alleged to have been involved in train bombings last July, which killed 185 people. The case will be heard by a special court set up under the Maharashtra Control of Organised Crime Act. Some of the accused have claimed that they made confessions under torture by the police.

[Maharashtra Act](#)

[Press article](#)

Philippines: Senate amends the anti-terrorism bill

On 8 and 14 November, the Philippines Senate adopted amendments to the anti-terrorism bill to better comply with international standards of human rights. The amendments removed the death penalty for terrorism, withdrew the granting of law enforcement powers to the military, reduced from 15 days to 5 days the period for detention without judicial authorization of terrorist suspects, and guaranteed the right of terrorist suspects to challenge the legality of surveillance conducted on them. This follows a letter sent by the ICJ to Senators expressing its concerns regarding the original bill.

[Original bill](#)

[ICJ press release](#)

[Press article](#)

Pakistan: UN Counter-terrorism experts visit Pakistan

In November, a delegation of UN counter-terrorism officials, led by the head of the Counter-Terrorism Executive Directorate (CTED) visited Pakistan to examine the country's counter-terrorism measures and to evaluate the nature and level of assistance necessary to implement Security Council resolution 1373 (2001). The delegation encouraged Pakistani officials, among other matters, to promote passage of an anti-money laundering bill. The mission to Pakistan is the eighth mission conducted this year, after visits to Tanzania, the former Yugoslav Republic of Macedonia, Jordan, Malaysia, the Philippines, Mali and India.

[UN Press release](#)

South Korea: UN rights experts question three draft counter-terrorism laws

In its concluding observations on South Korea released on 31 October, the Human Rights Committee (HRC) called on South Korea to ensure that three draft counter-terrorism laws concerning searches, telephone tapping, interception of communications and deportation are in strict conformity with the relevant provisions of the International Covenant on Civil and Political Rights, and to introduce a definition of "terrorist acts" in its domestic legislation.

[Concluding observations](#)

[HRC website](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

United Kingdom: Court dismisses appeal from British resident held in Guantánamo

On 11 October, a Court of Appeal held that the UK Government was not obliged to request the return of British residents held at the Guantánamo Bay detention centre. The Court ruled that the UK Government did not discriminate against the detainees and did not violate the right to family life of their families.

[Decision](#)

[Amnesty press release](#)

Sweden: UN experts find violation of torture ban for involvement in CIA rendition

On 10 November, the UN Human Rights Committee concluded that Sweden violated the prohibition against torture under the International Covenant of Civil and Political Rights by being involved in the transfer from Sweden to Egypt by CIA operatives of Mohammed Alzery, an Egyptian asylum seeker suspected of involvement in terrorist activities. The Committee found that diplomatic assurances provided by Egyptian authorities had been insufficient to eliminate the risk of torture. In May 2005, the UN Committee Against Torture concluded in a similar case that Sweden violated the Convention against Torture by transferring another Egyptian, Mustafa Kamil Agiza, to Egypt despite the risk of torture.

[HRC conclusion](#)

[CAT conclusion](#)

Italy: Removal of head of intelligence services allegedly involved in CIA abduction

On 20 November, the Italian Cabinet removed the Director of the Italian Intelligence and Security Services, General Nicolò Pollari, alleged to have assisted the CIA in the abduction of an Egyptian, Abu Omar in Milan in 2003. In October, prosecutors announced the completion of their investigation into the abduction. They continued pressing for the extradition of 26 Americans believed to be CIA agents allegedly involved in the rendition of Abu Omar to Egypt.

[Press article](#)

[Amnesty PR](#)

The Netherlands: Senate approves new anti-terrorism laws

On 14 November, the Dutch Senate adopted two bills on counter-terrorism. The first law will give law enforcement agencies greater investigative powers such as surveillance, infiltration and wiretapping. The second law will prohibit organizations on the UN or EU terrorist lists to perform any legal acts in the Netherlands and make it a criminal offense punishable by one-year imprisonment to continue their activities.

[Official press release](#)

Turkey: UN experts on arbitrary detention visit Turkey

At the conclusion of its visit to Turkey from 9-20 October, the UN Working Group on Arbitrary Detention welcomed the strengthened safeguards against arbitrary detention in the criminal justice system. The experts nevertheless expressed concerns at the lower procedural standards applicable to terrorism cases, including the power of the police to detain suspects in custody for up to four days and to deny lawyers access to evidence for up to six months. The experts also criticized the large number of cases where individuals suspected of terrorism were detained on remand for several years.

[UN press release](#)

Russian Federation: Committee Against Torture criticizes secret detention, torture and disappearances in Chechnya

In its concluding observations on the Russian Federation released on 29 November, the Committee against Torture (CAT) expressed concern about allegations of unofficial places of detention in the North Caucasus and of torture or cruel, inhuman or degrading treatment practiced in those facilities. It also called on the Russian Federation to take all necessary measures to prohibit and prevent abductions and enforced disappearances in Chechnya and to investigate allegations of such crimes.

[Concluding observations](#)

[CAT website](#)

[Amnesty report](#)

Russian Federation: State found responsible for disappearances in Chechnya

On 9 November, the European Court of Human Rights ruled that Russia had violated the European Convention on Human Rights in two cases involving the enforced disappearance of three individuals in Chechnya. The Court found Russia violated the disappeared individuals' rights to life, liberty and security as well as their relatives' rights to be free from torture, cruel, inhuman or degrading treatment and to private and family life. The Court also found that Russia had violated the Convention by failing adequately to investigate the disappearances.

[ECHR decision 1](#)

[ECHR PR 1](#)

[ECHR decision 2](#)

[ECHR PR 2](#)

[HRW report](#)

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: Experts raise concerns at the General Assembly about counter-terrorism measures

In their reports submitted to the General Assembly in October, several human rights experts of the Human Rights Council raised concerns about the impact of counter-terrorism measures on human rights. Martin Scheinin, Special Rapporteur on counter-terrorism and human rights, expressed

particular concern at the adverse impact of counter-terrorism on freedoms of assembly and association.

Counter-terrorism

Torture

Independence of judges & lawyers

Freedom of religion

EU: Parliament releases interim report on secret detentions and renditions in Europe

On 28 November, the European Parliament's "Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners" released its interim report. The Committee concluded that most European countries were aware of the existence of CIA secret prisons or the use of European territories for the transfer of terrorist suspects. In June, the Council of Europe Special Rapporteur Dick Marty had already found several European states to be complicit in secret detentions and renditions by the CIA.

Interim report

D. Marty's report

ICJ submission

EU: New agreement reached with the United States on air passenger data exchange

On 16 October, the Council of the European Union (EU) adopted a decision on an interim agreement with the US to continue transferring airline passenger data to the US administration. This follows a ruling by the Court of Justice of the European Communities in May, which annulled the EU Council decision approving the 2004 Agreement challenged by the European Parliament as violating European rules on data protection. The interim agreement is valid until 31 July 2007.

New agreement

EU Press release

EU: SWIFT in violation of EU data protection laws

The "Article 29 Data Protection Working Party", an EU agency made up of data protection supervisors from the 25 member states, found that the Society for Worldwide Interbank Financial Telecommunication (SWIFT) violated EU data protection laws by giving US authorities access to millions of private financial transactions contained in its database. This follows the domestic inquiry in Belgium, that concluded in September that SWIFT had violated European privacy rules by allowing the CIA to track financial transactions on its database. In October, the Swiss Federal Data Protection and Information Commissioner (FDPIC) found that Swiss banks violated national secrecy laws by failing to inform SWIFT customers of the potential disclosure of their personal data to third parties.

Working Party report

Working Party press release

Belgium inquiry

Swiss inquiry

Council of Europe: Judges adopt recommendations on counter-terrorism and human rights

During its seventh plenary session held in Strasbourg from 8 to 10 November, the Consultative Council of European Judges (CCJE), an advisory body of the Council of Europe, adopted an opinion on the role of judges in the protection of the rule of law and human rights in the context of terrorism. The CCJE recommended states not to establish special tribunals or adopt legislation incompatible with universally recognized human rights and to adhere to the fundamental principles of criminal law in terrorism cases.

CCJE opinion

IN BRIEF

Release of Ottawa Principles on Anti-terrorism and Human Rights

In October, a colloquium on anti-terrorism and human rights released general principles on anti-terrorism and human rights, following a meeting convened in June at the Faculty of Law of the University of Ottawa.

Report

Colloquium website

Human rights Watch releases report on UK “policy on torture”

On 2 November, Human Rights Watch released a new report on how the UK is seeking to undermine the absolute prohibition of torture.

[Report](#)

New report on counter-terrorism and the prohibition of torture and ill-treatment

On 14 November, the International Helsinki Federation released a report on counter-terrorism measures and the prohibition of torture and ill-treatment, with a focus on developments in Europe, Central Asia and North America.

[Report](#)

[Press release](#)