



**E-BULLETIN ON
COUNTER-TERRORISM & HUMAN RIGHTS**

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Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights holds hearing in North Africa

On 4-5 July, the Panel will hold a sub-regional hearing in Morocco to inquire into anti-terrorism laws and measures in Algeria, Morocco, and Tunisia. Professors George Abi-Saab and Stefan Trechsel will attend the hearing on behalf of the Panel.

[EJP website](#)

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New York University publishes paper on the use of racial profiling in the “war on terror”

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AFRICA & MIDDLE EAST

Kenya: Parliamentary Committee opposes new anti-terrorism bill

On 5 June, the Parliamentary Committee on administration of justice and legal affairs strongly criticized the draft of the anti-terrorism bill. According to media reports, the Committee believes that the bill is a response to foreign pressure, particularly from the United States, and not a Kenyan priority. The Committee also reiterated its view that the bill contravenes rights guaranteed under the Kenyan Constitution.

[Press Article](#)

Bahrain: Anti-terrorism bill reintroduced into Parliament

The Government of Bahrain reintroduced a draft anti-terrorism bill, which had been withdrawn when it met with strong opposition from civil society last year. The current bill is almost identical to the withdrawn text; it contains a broad definition of terrorism and criminalizes various forms of involvement in terrorism. If adopted, it would give special prosecutorial powers, including the power to order up to 90-day pre-trial detention, without judicial authorization.

[Bill \(unofficial English translation\)](#)

[Bahrain NGO Comments](#)

Israel: High Court of Justice upholds ban on family reunification

On 14 May, the High Court of Justice upheld a law, presented as a measure to prevent terrorist attacks, which forbids Israeli citizens and their spouses from the Occupied Territories from living together in Israel. On 25 June, the Cabinet decided to extend the Citizenship and Entry into Israel Law for six months. The decision will be submitted to the Knesset for approval. The law has been widely criticized as violating the rights to family life and non-discrimination.

[Law](#)

[ICJ Press Release](#)

Israel: Parliament approves bill authorizing incommunicado detention

On 27 June, the Knesset passed a law on detention, valid for 18 months, allowing security forces to detain persons suspected of “security” offences for up to 96 hours before being brought before a judge and for up to 21 days without access to a lawyer.

[ICJ Press Release](#)

AMERICAS

USA: Supreme Court rules military commissions illegal

On 29 June, in *Hamdan v. Rumsfeld*, the Supreme Court ruled that military commissions, established by the President to try terrorist suspects detained at Guantánamo Bay, violated US military law and the Geneva Conventions. The Court ruled that President Bush had no power to create such commissions. In response, President Bush has indicated that he will seek Congressional authorization for use of military commissions. Immediately after the court’s decision, Senator Arlen Specter, Chairman of the Judiciary Committee, introduced a bill to be debated by his Committee during the week of 11 July. Other Senators also announced they would introduce new legislation.

[Decision](#)

[ICJ Press Release](#)

[President’s statement](#)

[Frist’s Statement](#)

[Press Article](#)

USA: Disclosure of CIA tracking of international bank transactions

On 23 June, US newspapers reported the existence of a CIA program tracking financial transactions recorded on the database of the Society for Worldwide Interbank Financial Telecommunications (SWIFT). Government officials defended the program as legal and necessary to fight against terrorism.

[Press Article](#)

[SWIFT's Statement](#)

[Treasury Department Statement](#)

USA: UN experts finds secret detentions and renditions to be in violation of Torture Convention

On 9 May, the UN Committee against Torture examined the United States's periodic report under the Convention against Torture and concluded that any secret detentions and renditions of terrorist suspects would violate the Convention against Torture and called for the closure of the Guantánamo Bay detention centre.

[CAT Conclusion](#)

[US Report](#)

[Meeting Report 1](#)

[Meeting Report 2](#)

[US Response](#)

USA: Mounting pressure to close Guantánamo following detainee suicides

On 10 June, three detainees at the Guantánamo detention facility were found dead in their cells. The incident sparked renewed calls for the closure of the detention facility from UN experts, the European Parliament (EP), governments and non-governmental organizations. At the EU-US summit in Vienna on 21 June, President Bush discussed the possibility of closing down the detention facility, and suggested that the detainees could either be sent back to their own country or tried in the US.

[Experts' statement](#)

[EP resolution](#)

[President's statement](#)

USA: National Security Agency (NSA) possesses database on Americans' domestic phone calls

A US newspaper disclosed that the NSA has created a database of telephone records of American citizens from information provided by telephone companies. These revelations prompted lawsuits against telephone companies, aimed at preventing the transfer of such records. The House Judiciary Committee (HJC) adopted a resolution seeking further information from the President and the Department of Defense about domestic surveillance without judicial warrant. The Department of Justice closed its inquiry into the NSA warrantless eavesdropping programme due to a refusal by the Agency to give security clearance to lawyers from the Department.

[HJC resolution](#)

[ACLU press release](#)

[Press Article 1](#)

[Press Article 2](#)

USA: Court dismisses *El-Masri* case on grounds of state secrets

On 18 May, a District Judge dismissed a case filed against the former CIA Director and several CIA agents by Khaled El-Masri, a German citizen who was allegedly abducted from Macedonia and tortured by the CIA. The judge accepted the Government's argument that the case could not be continued as it related to state secrets. On 1 June, German intelligence services acknowledged that one of its employees knew, but failed to report, that a German citizen had been arrested abroad and handed over to the United States as a terrorist suspect. A German Parliamentary Committee is investigating allegations that the German intelligence services were complicit in Khaled El Masri's abduction.

[Court's Order](#)

[ACLU Press Release](#)

[Press Article](#)

Canada: Supreme Court hears constitutional challenge against national security certificates

On 13-15 June, the Canadian Supreme Court heard Adil Charkaoui's constitutional challenge against "security certificates", under the Immigration and Refugee Protection Act. Security certificates have been criticized as violating the right to a fair trial by allowing detention and deportation without charge and trial of foreign nationals deemed to be national security threats, on the basis of secret evidence. The Court simultaneously heard challenges to conditions of detention and secret hearings, also brought by people subject to security certificates.

[Charkaoui's brief \(in French\)](#)

[Act](#)

[Background on Security Certificates](#)

ASIA-PACIFIC

Nepal: New Government decides to withdraw all cases under Terrorism Ordinance

On 12 June, the new Government decided to withdraw all cases under the Terrorist and Disruptive Activities (Prevention) Ordinance (TADO), enacted by the previous royal government, not to file new cases and to release all individuals detained under the Ordinance. The Ordinance had allowed security forces to preventively detain terrorist suspects for up to a year.

[TADO](#)

[Press Article](#)

Maldives: Trial of opposition leader on charges of terrorism and sedition resumes

The trial of opposition party leader, Mohamed Nasheed, arrested during a pro-democracy rally and charged with terrorism and sedition, resumed on 28 May. His lawyer argued that Mohamed Nasheed would not get a fair trial due to a lack of judicial independence. An ICJ trial observer has been monitoring the trial since it began in August 2005.

[ICJ Press Release](#)

Philippines: Supreme Court upholds Presidential declaration of state of emergency

On 7 May, the Supreme Court found that the Presidential proclamation of a state of national emergency and its implementing Order of 24 February were in accordance with the Constitution. The declaration was made after the failure of an alleged plot to overthrow the Government. The state of emergency was lifted on 3 March. The Court declared unconstitutional the Order's provisions which mandated the armed forces and the police to prevent and suppress "acts of terrorism" because the law did not define such acts. The Court also found certain acts committed under the state of emergency to be illegal, such as arrests and searches without warrant.

[Judgment](#)

[Proclamation](#)

[Order](#)

[Constitution](#)

Australia: Review bodies recommend revision of anti-terrorism laws

On 29 May, the Australian Law Reform Commission (ALRC), reviewing the new sedition laws at the request by the Attorney-General (AG), recommended that the offence of "sedition" be replaced with "offences against political liberty and public order" and that the offence should require an intention to urge the use of force or violence. On 15 June, the Security Legislation Review Committee (SLRC), appointed to review six anti-terrorism laws, concluded that some sections of the laws violated human rights. The Committee recommendations included; a fairer and more transparent procedure for proscribing an organization as a "terrorist organization" and repeal of the offence of "association with a terrorist organization".

[ALRC Website](#)

[SLRC Website](#)

[AG's Press Release](#)

Australia: Renewal of intelligence agency's power to question and detain non-suspects

On 13 June, the Australian Senate approved a bill extending for ten years the power of the Australia Security Intelligence Organisation (ASIO) to detain and question persons who are not criminal suspects but who might have information related to terrorism offences.

[ASIO Bill](#)

[Attorney General's Press Release](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: High Court rules control orders illegal

On 28 June, a UK High Court judge quashed control orders against six individuals, holding that the restrictions amounted to a deprivation of liberty in violation of the European Convention on Human Rights. The control orders regime, introduced by the Prevention of Terrorism Act 2005, allows the executive to place far-reaching restrictions on the movement, communication and employment of terrorist suspects. This follows a High Court decision in April, which found that the low level of judicial scrutiny over decisions to make control orders was a violation of the right to a fair trial.

[Terrorism Act](#)

[Press Article](#)

[JUSTICE Press Release](#)

UK: Judge rules against deportation of Afghan hijackers

On 10 May, a UK High Court judge ruled that the Human Rights Act prohibited the Government from deporting nine Afghan asylum seekers because they faced a risk of torture if returned to Afghanistan. The Afghans had hijacked an aircraft to travel to the UK. The Prime Minister responded to the decision by announcing plans to consider either rewriting the Human Rights Act or withdrawing from specific clauses of the European Convention on Human Rights. On 26 May, the Joint Parliamentary Committee on Human Rights (JCHR) released a report expressing concerns over the UK policy of challenging the principle of *non-refoulement*.

[Judgment](#)

[JCHR Report](#)

[Press Article 1](#)

[Press Article 2](#)

UK: Independent Reviewer releases a new report on anti-terrorism legislation

On 19 June, Lord Carlile, appointed to independently review the Terrorism Act 2001, released a new report warning that misuse by the police of "stop and search powers" for purposes unrelated to terrorism would risk damaging their credibility.

[Report](#)

UK: Use of diplomatic assurances challenged before Immigration Commission

On 19 May, Abu Qatada, accused of encouraging terrorism attended a Special Immigration Appeals Commission (SIAC) hearing against his deportation. He argued that he was at risk of torture if returned to Jordan. In July 2005, the UK signed an agreement with Jordan that nobody sent back to Jordan would be tortured or killed. The hearing is the first time the validity of diplomatic assurances has been challenged before SIAC.

[Agreement](#)

[Press Article](#)

Netherlands: Parliament passes new anti-terrorism bill

On 23 May, the House of Representatives adopted a bill on the Expansion of Competencies in Criminal Investigation and Prosecution. The bill, introduced with other anti-terrorism legislation, permits the use by investigating authorities of special surveillance powers where there is merely an "indication" as opposed to "reasonable suspicion" that a person has committed a criminal act. It also increases the maximum period of detention without charge from three to fourteen days and

allow multiple extensions of pre-trial detention for up to 2 years. The Senate is expected to begin discussing the bill on 12 September.

[Bill \(in Dutch\)](#)

[Explanatory Memo \(in Dutch\)](#)

[Dpt. of Justice Press Release](#)

[NGO analysis](#)

Denmark: Two new anti-terrorism laws enter into force

On 2 June, the Parliament adopted two new anti-terrorism bills, which entered into force on 9 June. The new laws criminalize various forms of supporting terrorism, oblige carriers to store passenger data for one year and give the Danish Intelligence Police (PET) increased surveillance powers and access to personal data from public authorities, regardless of the existence of a specific suspect and without possibility of judicial review. At a public hearing to discuss the bill held on 10 May, a number of concerns were raised that the proposed measures constituted disproportionate intrusions into privacy.

[Bill \(in Danish\)](#)

[NGO Comments \(in Danish\)](#)

[Press Article](#)

Germany: Constitutional Court rules against trawling of databases

On 22 May, the German Constitutional Court declared that the trawling of several private and public databases by the police to identify potential terrorists following the September 2001 terrorist attacks in the US was unconstitutional. The Court held such action was only permissible where there was a concrete threat to the lives or liberties of persons, or to the existence of the Federal Republic or of a federal state.

[Court's Press Release \(in German\)](#)

[Judgment \(in German\)](#)

Turkey: Parliament adopts new anti-terrorism bill despite criticisms

On 29 June, the Grand National Assembly approved an amendment to the 1991 Anti-Terror Law. The amended legislation widens the scope of terrorism offenses and introduces a new offense of creating propaganda for the purposes of a terrorist organization. A variety of organizations and individuals, including the European Union Rapporteur examining Turkey's progress towards accession, have raised concerns that the bill will impose disproportionate restrictions on fundamental freedoms, and on freedom of expression in particular. The bill will come into force when ratified by the President.

[Bill \(in Turkish\)](#)

[Bill \(in English\)](#)

[1991 Law \(in English\)](#)

[EU report](#)

[NGO Brief](#)

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: Secretary General releases recommendations for a global counter-terrorism strategy

On 2 May, Secretary General Kofi Annan released his recommendations for a global counter-terrorism strategy, building on the "five Ds" outlined at the Madrid Summit in March 2005 –(1) dissuading people from resorting to terrorism or supporting it, (2) denying terrorists the means to carry out an attack, (3) deterring States from supporting terrorism, (4) developing State capacity to defeat terrorism, and (5) defending human rights. The report condemns terrorism in all its forms and manifestations and stresses the need to ensure human rights when countering terrorism.

[Recommendations](#)

[UN Press Release](#)

EU: European Court of Justice annuls EU-US deal on passenger data

On 30 May, the European Court of Justice (ECJ) annulled the European Union Council decision approving a 2004 US-EU agreement on the transfer of airline passenger data, requested by the US to prevent terrorist attacks. The Court held that there was no adequate legal basis for the Council to

approve the deal, but did not decide whether it unduly interfered with privacy. On 19 June, the European Commission (EC) responded by recommending that the Council terminate the US-EU agreement and requested an authorization to open negotiations for a new agreement to be concluded on a different legal basis.

[Judgment](#)

[Court's Press Release](#)

[EU-US agreement](#)

[EC Press Release](#)

Council of Europe: Special Rapporteur says Europe aided CIA renditions

On 27 June, Council of Europe (CoE) Special Rapporteur Dick Marty presented his final report to the CoE Parliamentary Assembly. He concluded that several cases of rendition operated by the CIA took place with the complicity of CoE member states. The Assembly subsequently adopted a resolution backing the report. On 14 June, CoE Secretary General Terry Davis released a new report criticizing the lack of safeguards against illegal activities by agents of foreign states in Europe.

[Marty's Report](#)

[Resolution](#)

[Davis's Report](#)

[Joint Statement](#)

[ICJ Press Release](#)

IN BRIEF

EU experts on fundamental rights release opinion on extraordinary renditions

On 25 May, the European Union Network of Independent Experts on Fundamental Rights released an opinion on the human rights responsibility of EU member states in the context of extraordinary renditions.

[Opinion](#)

Amnesty International releases annual report and new report on renditions

In its annual report, Amnesty International criticized the increase in human rights violations committed in the US-led war against terrorism. In another report, the organization analyzed Europe's role in secret renditions of terrorist suspects by the United States.

[Annual Report](#)

[Report on Renditions](#)

New York University publishes paper on the use of racial profiling in the "war on terror"

The Center for Human Rights and Global Justice at the New York University School of Law published a briefing paper on the use of racial profiling and lethal force in the "war on terror".

[Briefing Paper](#)

[Press Release](#)