

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

**No. 70, February 2013**

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## AFRICA & MIDDLE EAST

### **Ethiopia: Journalist detained under Anti-Terrorism Law**

On 1 February, the Committee to Protect Journalists (CPJ) called on the Ethiopian authorities “to release Solomon Kebede immediately and halt their harassment of journalists affiliated with the weekly *Ye Muslimoch Guday*.” Solomon Kebede, the managing editor of *Ye Muslimoch Guday* (“Muslim Affairs”), was reportedly arrested on 17 January and detained without charge for two weeks without access to a lawyer. He is now facing charges of incitement to terrorism. CPJ believes that these charges were prompted by the journalist’s articles critical of the Government’s alleged intrusion in religious affairs.

Press Article

### **Nigeria: Senate approves death penalty for terrorism**

On 20 February, the Senate approved unanimously an amendment to the *Terrorism (prevention) Act 2011* allowing for the death penalty to be imposed on people found guilty of terrorism. The amendment also makes distinction between “an act of terrorism” and “an act of conspiracy”, with the latter carrying a maximum penalty of twenty years of imprisonment. A new amendment would also allow relevant law enforcement or security officials to detain suspected terrorists incommunicado for up to forty-eight hours. The draft legislation is currently undergoing a joint consultation with the National Assembly to reconcile differences on the law’s amendments.

Press Article 1

Press Article 2

### **Bahrain: Deteriorating health conditions of human rights defenders convicted for “terrorism” offences**

On 7 February, the Bahrain Center for Human Rights expressed serious concern for the health situation of Abdulhadi Al-Khawaja, AbdulHadi Al-Mukhoder and AbdulJalil Al-Singace, who have undertaken a hunger strike in protest at the restrictions on communication imposed by the authorities on them and other activists and human rights defenders (“the Bahrain 13”) convicted by the Court of Cassation in January. The Court had confirmed their conviction by civilian courts for “conspiracy to overthrow the government”, “espionage” and “violation of the Constitution”, by upholding the judgments of the lower courts which had imposed sentences of life imprisonment for seven of the accused and of between five and fifteen years imprisonment for the other six. The decision was widely criticized, including by the UN Secretary General Ban Ki Moon and by the Office of the UN High Commissioner for Human Rights as contrary to “the conclusions of the Bahrain Independent Commission of Inquiry and the appeals by the international community concerning the judicial procedure and allegations of torture”.

NGO Statement

### **Iran: UN experts urge halt to activists’ execution**

On 25 January, five UN Special Rapporteurs, including those on the situation of human rights in Iran, peaceful assembly and association, extrajudicial executions, torture, and minorities called on the authorities of Iran to stop the execution to the death penalty of Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Shabain Amouri and Hadi Rashidi, five Ahwazi Arab minority activists. Their conviction for terrorism-related charges and death sentences were upheld by the Supreme Court on 9 January. They had been convicted by a Revolutionary Court in July 2012 of charges which included “gathering and colluding against state security,” “spreading propaganda against the system,” “enmity against God,” or *moharebeh*; and “corruption on earth,” or *ifsad fil-arz*. The UN experts and Human Rights Watch denounced the trial as unfair and pointed to allegations that information, including “confessions”, may have been obtained through torture. On 18 January, their families have been informed that the five had been transferred out of prison and their whereabouts remain unknown.

UN SRs Statement

NGO Statement

### **Iran: “Terrorism” detainees must have access to lawyer and families, says NGO**

On 23 February, Human Rights Watch (HRW) called on the Iranian authorities to allow access to lawyers and their families to an unspecified number of at least twenty detainees, who had been reportedly charged with terrorism in connection with the murder of Iranian nuclear scientists. HRW reported that their families and the public have not been informed about their situations and cases. The only information available appears to have been the announcement by the Intelligence Ministry

that around twenty people had been arrested in connection with the crime and the televised "confession" of twelve of them last August 2012. Reportedly, these detainees are: Behzad Abdoli, Tara Bagheri, Maziar Ebrahimi, Fouad Faramarzi, Maryam Izadi, Arash Kheradkish, Ramtin Mahdavi Mousaei, Ayoub Moslem, Mohsen Sedeghi-Azar, Firouz Yeganeh, Nashmin Zareh, and Maryam Zargar.

NGO Statement

### **Israel: UN calls for charge or release of "security" administrative detainees**

On 13 and 19 February, UN Secretary General, Ban Ki Moon, UN High Commissioner for Human Rights, Navanethem Pillay, and the UN Special Rapporteur on the situation of human rights on Palestinian territories occupied since 1967, Richard Falk, called on the Israeli authorities to charge or release Tarek Qa'adan, Jafar Azzidine and Samer Al-Issawi, held in security administrative detention without charge for months. The first two were on day 78 of a hunger strike on 13 February, while Samer Al-Issawi's partial hunger strike had lasted for more than 200 days. Their health conditions were rapidly deteriorating.

UN SG Statement

UN HCHR Statement

UN SR Statement

NGO Statement

## **AMERICAS**

### **USA: White paper on US targeted killings policy leaked**

On 4 February, *NBC News* published a leaked "white paper" from the Department of Justice of the Obama administration detailing the policy and legal rationales for its targeted killing program, including of US citizens. While distinct from the legal memoranda that the *New York Times* and the American Civil Liberties Union (ACLU) and others are seeking to have declassified, the white paper details the basic legal "justification" of such killings. The paper argues that these targeted killings would regard US citizens acting as "operating" leaders of the terrorist group and planning imminent strikes on the US. It contends that such killings would be lawful under international humanitarian law and US law, consisting of a lawful act against persons participating in hostilities in an armed conflict and an exception to the offence of murder as a "public authority justification". It contains an extremely expansive exposition of the concept of "imminence" as a basis for pre-emptive targeted strikes. The American Civil Liberties Union, in accord with other human rights advocates, have described the white paper's content as "chilling" and warned that, despite the apparent limits to the executive's discretion, these are "so vague and elastic that they will be easily manipulated". Following these events, the Obama administration were said to have allowed a few members of congressional intelligence committees access to some of the legal memoranda, which still remain classified.

White Paper

NGO Statement

NBC Article

Press Article

### **USA: Secret surveillance law cannot be challenged, rules divided Supreme Court**

On 26 February, the Supreme Court ruled, in a 5-4 opinion, that Amnesty International and other human rights researchers, journalists and lawyers of "terrorist" suspects, including Guantánamo detainees, do not have standing to challenge the constitutionality of section 1881a of the *Foreign Intelligence Surveillance Amendment Act*. That legislation allows for courts-approved surveillance of communications of non US-persons abroad on the basis of a general intelligence need and not on an individual case assessment. The Court held that the applicants had not substantiated that the threat to their constitutional rights was "certainly impending" or that the current costs incurred to avoid potential Government surveillance were not relevant as "any ongoing injuries that respondents are suffering are not fairly traceable" to an imminent and concrete fear. Justices Breyer, Kagan, Sotomayor and Ginsburg dissented from the Court's opinion, finding that the respondents had standing because there was "a very high likelihood that the Government [...] will intercept at least some of the communications".

Ruling

### **USA: Order prohibiting "torture" account testimony challenged**

On 21 February, the American Civil Liberties Union filed a petition with the US Court of Military Commission Review, challenging the compatibility with the First Amendment of the protective order of last December of Military Judge Col. James Pohl that did not allow testimonies by the defendants, in military commission proceedings for the 9/11 attacks, on their experiences of CIA "enhanced

interrogation techniques”, rendition and detention, on the ground that this material was classified. The same order confirmed the proceedings’ practice to use a 40-second delay audio feed, so as to give the judge and the security officer the power to censor parts of the proceedings. On 31 January, Judge Pohl ordered the dismantling of any other censoring mechanisms which would not be controlled by either him or the security officer, after the sound was cut off during part of proceedings on 28 January by an unknown third person without any court order. The military commissions proceedings concerned are against Khalid Shaikh Mohammed, Walid Muhammed Salih Mubarek Bin ‘Attash, Ramzi Binalshibh, Ali Abdul Aziz Ali, and Mustafa Ahmed Adam al Hawsawi.

[Petition](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### **USA: Water-boarding whistleblower convicted for breach of secrecy**

On 25 January, the US District Court for the Eastern District of Virginia sentenced former CIA agent John Kiriakou to thirty months of imprisonment after he pled guilty to the offence of “intentionally disclosing information identifying a covert agent” under the *Intelligence Identities Protection Act*. John Kiriakou was the first to have been convicted for this offence in 27 years and was among the first to reveal the use of water-boarding, which involves forcing of water into a detainees mouth to produce a sensation of drowning, and other methods of torture and ill-treatment by the CIA. In particular, he revealed the identity of agents involved in the capture and interrogation of Zayn al-Abidin Muhammad Hussein, also known as Abu Zubaydah, who had been allegedly subject to water-boarding 83 times in August 2005.

[Sentencing Ruling](#)

[Press Article](#)

### **USA: Obama administration closes down Guantánamo detainees resettlement office**

On 25 January, the State Department announced that Daniel Fried, the special envoy in charge of the resettlement of Guantánamo detainees since the 2009 Executive Order of President Obama, which aimed at closing that detention centre, was to be reassigned, and would not be replaced in his post. Reportedly, his responsibilities in respect of resettlement will be assumed the State Department legal adviser. According to the NGO Reprieve, this move effectively demonstrates that the resettlement of Guantánamo detainees is not a priority of the second Obama administration. The administration, commenting on the closure, renewed its commitment to close Guantánamo and criticised the *National Defense Authorization Act* of 2013 that impedes it from doing so. At present, 166 persons are detained in Guantánamo, 83 of whom have been cleared for release but remain in detention.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### **USA: Guantánamo detainee’s conviction overturned**

On 25 January, the US Court of Appeals for the District of Columbia reversed the conviction of Ali Hamza Ahmad Suliman al Bahlul, following the precedent set in *Hamdan v US*. The Court of Appeals had found that the offence of “material support for terrorism” could not apply to conduct occurring before 2006, when the present Military Commissions act of 2006 was adopted, without violating the prohibition of retroactive criminal responsibility under the US Constitution, since this offence was not part of US criminal law at that time. Furthermore, the Court held that the international law of war did not include this offence as a war crime. The US Government has 90 days to appeal the ruling. Ali Hamza Ahmad Suliman al Bahlul, currently detained in Guantánamo, was captured in Afghanistan in late 2001 and is accused of crimes occurring before 2001, notably for having allegedly worked as Osama Bin Laden’s media secretary and sometimes as his bodyguard.

[Court Order](#)

[Press Article](#)

## **ASIA - PACIFIC**

### **India: Terrorism convict is second person executed after death penalty moratorium’s end**

On 9 February, the Indian authorities secretly executed Mohammed Afzal Guru, who had been convicted for providing logistical support to the attackers of the Indian Parliament on 13 December 2001, in which nine people were killed. Of the four people charged with the attack, two were acquitted and a third had his sentence commuted to ten years of imprisonment. Afzal Guru was the sole defendant sentenced to the death penalty. Several Indian human rights defenders and lawyers have reported that he had not received proper legal representation and Afzal Guru claims that his

"confession" was obtained under torture. His family learned of the execution through television news, as the mail sent by the Government arrived two days after his death.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### **Pakistan: Government sends contentious terrorism law to Parliament**

On 26 February, the Pakistani Government introduced into the National Assembly the *Anti-Terrorism (Second Amendment) Bill* in a purported effort to increase executive powers in countering terrorism. The legislation, if approved, would extend the definition of "terrorist action" to, *inter alia*, "dissemination, preaching ideas, teachings and beliefs as per own interpretation on FM stations without explicit approval of government or its concerned departments" and forms of "private" justice. The law would also provide the investigative authorities with the power to detain "any person who has been concerned in any offence under this Act or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned" for up to 90 days with no access to a court. Finally, the draft legislation provides for situations of presumption of guilt in terrorism offences under the legislation.

[Draft Law](#)

[Law \(ATA\)](#)

[Press Article](#)

### **Afghanistan: President Karzai confirms UN report torture findings in detention centres**

On 11 February, President Hamid Karzai announced that an Afghan commission of inquiry had confirmed the findings contained in a report of the UN Assistance Mission in Afghanistan (UNAMA) issued on 22 January, in collaboration with the Office of the High Commissioner for Human Rights. The report highlighted that more than half of the 635 detainees interviewed between October 2011 and October 2012 have experienced torture or ill-treatment "in numerous facilities of the Afghan National Police (ANP), National Directorate of Security (NDS), Afghan National Army (ANA) and Afghan Local Police (ALP)." The UNAMA had visited 89 detention facilities in 30 provinces in the relevant period.

[UN Report](#)

[Press Article](#)

### **Viet Nam: Activists released and deported for lack of evidence of "terrorism" charges**

On 30 January, Nguyen Quoc Quan, a Vietnamese-American political activist with US citizenship, was freed and immediately deported to the USA by Vietnamese authorities, after having been arrested on 17 April last year and detained for nine months without trial. He was initially charged with terrorism for allegedly trying to disrupt the anniversary of the fall of Saigon, which ended the Vietnam war of the 1960s and 70s. The charges were later amended to subversion against the state for allegedly being a member of the outlawed opposition party Viet Tan. His Vietnamese lawyer has reported that his release and deportation were due to the lack of evidence of the authorities to prove any of the charges.

[Press Article 1](#)

[Press Article 2](#)

### **Viet Nam: Religious non-violent activists convicted of sedition offences in unfair trial**

On 4 February, a criminal court convicted 22 dissidents and political activists of the charges of "aiming to overthrow the Government", handing down sentences from life imprisonment for the group leader, Phan Van Thu, to 10 and 17 year prison terms for the other members. The convicted persons were members of a group called the Council for the Laws and Public Affairs of Bia Son, which is said to use non-violent methods and holds a particular religious belief. It is considered as a "terrorist group" by Vietnamese authorities. The Vietnam Committee on Human Rights reacted strongly to the conviction and sentencing, stressing that the defendants' right to a fair trial had not been guaranteed and that their court-appointed lawyer had "accepted the sentences proposed by the People's Procuracy without discussion".

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

### **Australia: Authoritative report calls for repeal of counter-terrorism powers**

A report published on 1 February by the Gilbert and Tobin Centre of Public Law of the University of New South Wales has called to repeal or not to renew in 2016 the extraordinary questioning and detention powers given in 2003 to the Australian secret services (ASIO), unless significant amendments are made to the legislation. The research demonstrates that no detention warrant has



been issued and that only 14 questioning warrants were awarded to the secret services in the first two years of the powers' operation, while only two were issued in following years. In the meantime, terrorism prosecutions have not decreased, thereby calling into question utility of such powers and the lack of justification of the restriction they impose on the right to liberty.

[Report](#)

[Press Article 1](#)

[Press Article 2](#)

## EUROPE & COMMONWEALTH OF INDEPENDENT STATES

### **UK: No jurisdiction to seek secret information in UK for Ugandan "terrorism" case**

On 27 February, the Court of Appeal (Civil Division) dismissed a request by Omar Awadh Omar, Habib Sulieman Njoroje, and Yahya Suleiman Mbuthia to seek evidence from the Foreign Affairs Secretary to be used in proceedings before the Ugandan Constitutional Court, where the defendants are challenging the lawfulness of their trial for the terrorist attacks of 9 July 2010 in Kampala. The challenge includes the complaint that the three persons had been subject to rendition and ill-treatment from Kenya to Uganda, in which other States, including the UK, were involved. By affirming the 26 June judgment of the High Court, the Court of Appeal confirmed that this action for evidence could not be granted because the proper statutory regime allowed discretion to the government in national security cases, and that an alternative remedy was not applicable based on the principle of comity, as the applicants should have requested access to evidence to the same Ugandan Constitutional Court.

[Ruling](#)

### **UK: Foreign Secretary defends necessity of counter-terrorism work with countries that violate rights**

On 14 February, in a speech delivered at the Royal United Services Institute, the Secretary of State for the Foreign and Commonwealth Office, William Hague, confirmed a UK policy of sharing information for the purpose of countering terrorism including with countries that may ill-treat detainees. William Hague, while stressing the fundamental importance of rule of law and human rights technical assistance, declared that, where it is not possible to obtain credible assurances on the detainees' treatment and legal processes: "we face a stark choice. We could disengage, or we can choose to cooperate with them in a carefully controlled way while developing a more comprehensive approach to human rights adherence. This approach brings risk, but I am clear that the risks of the first option, of stepping back are greater still, placing our citizens at greater risk of terrorist attack."

[Speech](#)

[Press Article 1](#)

[Press Article 2](#)

### **Germany: Government establishes commission to re-assess counter-terrorism legislation**

On 28 January, in the presence of the Minister of Justice and of the Minister of Interior, the governmental Commission on the Review of Security Legislation of Germany (*Sicherheitsgesetzgebung*) was inaugurated. The Commission will be charged with examining the effectiveness and the impact for the rule of law of all the anti-terrorism legislation introduced in Germany following the 9/11 attacks in the US. At the request of Chancellor Angela Merkel, the theme of rightwing terrorism was also included among the Commission's tasks. The Commission, which has six months to conclude its work, is composed of the Ministers of Justice and Interior, the Attorney General Professor Monika Harms, Bundestag's President Dr. Burkhard Hirsch, Professor Dr. Heinrich Amadeus Wolff, and Professor Dr. Matthias Bäcker.

[Government Statement \(German\)](#)

[Press Article \(E\)](#)

### **Italy: Former Italian secret service heads convicted for complicity in rendition**

On 12 February, the Court of Appeal of Milan sentenced the former head of the Italian military secret service (SISMI), Nicolò Pollari, to ten years of imprisonment, his deputy, Marco Mancini, to nine years, and three agents, Raffaele Di Troia, Luciano Gregorio and Giuseppe Ciorra, to six years for their complicity in the kidnapping by 23 CIA agents of Nasr Hasan Mustafa Ismail, also known as Abu Omar, in the streets of Milan on 17 February 2003. The convictions come after the Court of Cassation, in 2012, overturned their acquittal, which was based on the doctrine of the use of secret of state by the Italian Government. The Government has challenged this judgment before the Constitutional Court, whose ruling is pending. The Court of Appeal also awarded damages of one million Euros to Abu Omar and 500,000 Euros to his wife. On 1 February, the Court of Appeal had

convicted the former head of the CIA in Italy, Jeff Castelli, to seven years of imprisonment for the abduction. He was previously acquitted for reasons of diplomatic immunity, of which he was later stripped by the Court of Cassation.

[NGO Statement \(E\)](#)

[Press Article 1 \(Italian\)](#)

[Press Article 2 \(Italian\)](#)

[Press Article 3 \(E\)](#)

### **Greece: Torture allegations on "terrorism" suspects to be investigated**

On 4 February, the Athens first instance prosecutor's office launched an investigation into the allegations of torture by the police of four persons, arrested in an attempted bank robbery and suspected to be linked to a "local terrorist groups" named "Conspiracy of the Cells of Fire". The allegations, voiced by their family members, were reinforced by the publishing in the press by the police of their photo-shopped pictures, which still showed some bruises. The Minister of Interior, who promised to pursue heavy penalties in case of torture, reportedly defended the doctoring of the picture by saying that the suspects needed to be "recognisable" in order to obtain information on possible accomplices. The Minister of Justice described the pictures as "chilling". The police maintain that the injuries occurred during arrest because the suspects held a hostage and refused to surrender.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

[Press Article 4](#)

### **Bulgaria: European Court holds expulsion for national security in breach of Convention rights**

On 12 February, the European Court of Human Rights ruled that Bulgaria had violated the right to liberty, the right to *habeas corpus*, and would violate the right to family life in case of expulsion of Mahmud Abas Amie, a Lebanese citizen. Mahmud Abas Amie was granted refugee status by Bulgaria in 2001, but since 2006 had been subject to an expulsion order for reasons of national security. The Bulgarian Government had announced that, among the activities which made him a threat to national security, there were "laundering of money of terrorist organisations" and the danger of the "establishment in Bulgaria of sleeper terrorist cells". The Court found that the length of his detention pending expulsion had been excessive "due to the lack of a realistic prospect of his expulsion and the domestic authorities' failure to conduct the proceedings with due diligence." It also found that Mahmud Abas Amie did not have a realistic procedure to challenge the lawfulness of his detention, in breach of Article 5(4) of the European Convention. In addition, the Court held that his expulsion would breach his right to family life under Article 8 ECHR because the expulsion order was not "in accordance with the law", due to the vague reasons given for expulsion and the impossibility for him to effectively challenge the allegations in national courts.

[Judgment](#)

### **Turkey: European Court finds repeated suspension of publication on grounds of counter-terrorism to breach freedom of expression**

On 29 January, the European Court of Human Rights held that Turkey had breached the right to freedom of expression of several owners, executive directors, editors-in-chief and editors of six weekly and three daily newspapers: *Bağımsızlık Demokrasi Sosyalizm için Yürüyüş*, *Ezilenlerin Sosyalist Alternatifi Atılım*, *Özgür Mezopotamya*, *Günlük*, *Siyasi Alternatif*, *Özgür Görüş*, *Süreç*, *Rojev* and *Demokratik Açılım*. On various dates between 30 March 2008 and 3 December 2009, the Istanbul Assize Court had suspended the publication and distribution of the above-mentioned nine newspapers for periods ranging from fifteen days to one month under section 6 (5) of the *Prevention of Terrorism Act (Law no. 3713)*, on the ground that the newspapers had published propaganda material in favour of various illegal organisations. The Court also stressed that it had several times already ruled that this legislation amounted to unlawful censorship.

[Judgment](#)

### **Turkey: Minister of Justice unveils reform of counter-terrorism legislation**

At a 5 February seminar, the Minister of Justice unveiled the "Fourth Judicial Reform Package", which aims to bring the Turkish legal system in line with the European Convention on Human Rights and avoid recurring findings of violations by the European Court of Strasbourg. Reportedly, the draft legislation, presently tabled before Parliament, would reform the definition of terrorism centring on acts of violence, and leaving out acts of propagating ideas or touching upon freedom of expression.

According to Reporters Without Borders, other amendments should have the effect that “those who allegedly assist an illegal organization, “commit crimes on its behalf” or disseminate its propaganda would no longer be automatically treated as “members of a terrorist organization”. In addition, Article 215 of the Criminal Code on “justifying a crime or a criminal”, currently used to prosecute people praising Abdullah Öcalan, would be “relaxed”, and the offence of torture would not be subject to a statute of limitation.

[CoE SG Speech](#)

[OSCE Rep. Statement](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### **Kyrgyzstan: Stop extradition to Uzbekistan to respect *non-refoulement*, says Human Rights Watch**

On 4 February, Human Rights Watch urged an appeal court in Bishkek to halt the extradition of Khabibullo Sulaimanov, an Uzbek national and imam, to his home country of Uzbekistan, where he is wanted to answer to the “terrorism” charges of “leading, organising or participating in a religious extremist organisation”, “attempting to overthrow the constitutional order” and illegal border crossing. The first instance court had upheld the extradition order of the Public Prosecutor. On 1 February, Human Rights Watch also wrote a letter to the prosecutor asking to withdraw the order, arguing that extraditing Khabibullo Sulaimanov to Uzbekistan would expose him to the risk of torture and ill-treatment in breach of the International Covenant on Civil and Political Rights and of the UN Convention against Torture. The proceedings before the appeal court are ongoing. Hearings were adjourned in light of the application of Khabibullo Sulaimanov to UNHCR for refugee status, which was reportedly previously impeded by the authorities.

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

### **Tajikistan: UN Special Rapporteur finds risk of torture for “terrorism” suspects**

On 28 January, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E- Méndez, published the report of his visit to Tajikistan from 10 to 18 May 2012. In the report, he highlighted that “members of Islamic movements and Islamist groups or parties, and persons accused of being linked to Islamist extremists may be at particular risk of torture and ill-treatment by the Sixth Department of the State Committee for National Security under the pretext of the fight against terrorism and threats to national security.” He also reported having heard testimony “pointing to a pattern of kidnapping, reappearance, remand and forcible return to Tajikistan, incommunicado detention and solitary confinement in the buildings of the State Committee for National Security or the Sixth Department [...]”

[Report](#)

## **UNITED NATIONS & REGIONAL ORGANISATIONS**

### **UN: UN High Commissioner for Human Rights calls for rule of law respect in counter-terrorism**

On 14 December, the Office of the UN High Commissioner for Human Rights issued a report to the UN Human Rights Council detailing several developments which took place in the UN on the protection of human rights and fundamental freedoms while countering terrorism and with a special focus on due process and fair trial in counter-terrorism. At the end of the report, the High Commissioner urged “Member States to continue to invest in a rule of law-based, criminal justice response to terrorism.” She also specified that “[t]his requires clear laws with a minimum of exceptional or emergency provisions, respect for the independence of the judiciary and the bar, and a willingness of the executive to be the subject of oversight, complaint mechanisms and checks and balances.”

[Report](#)

### **UN: UN High Commissioner stresses human rights cannot be overrun by national security**

On 17 December, the UN High Commissioner for Human Rights published a study on “common challenges facing States in their efforts to secure democracy and the rule of law from a human rights perspective”. In the report, the High Commissioner highlighted that the “September 11 era witnessed several examples of infringements of human rights and erosions of the rule of law in the



context of countering terrorism". She concluded that "[n]ational security and counter-terrorism strategies must not serve as pretexts to undermine democracy, human rights and the rule of law."

Study

### **UN: UN experts criticise use of secret evidence in counter-terrorism detention**

On 24 December, the UN Working Group on Arbitrary Detention released its Annual Report to the UN Human Rights Council. In the report, the UN experts noted that "[c]ounter-terrorism legislation that permits administrative detention often allows secret evidence as the basis for indefinite detention", and stressed that "no person should be deprived of liberty or kept in detention on the sole basis of evidence to which the detainee does not have the ability to respond, including in cases of immigration, terrorism-related and other subcategories of administrative detention." More specifically, the Working Group held that, "even if lawyers of the detainee have access to such evidence but are not allowed to share or discuss it with their client, this does not sufficiently protect the detainee's right to liberty."

Report

### **UN: Sanctions Committee delists Osama Bin Laden long after his death**

On 21 February, the UN Security Council's Al Qaeda Sanctions Committee deleted from the list the entry of Osama Bin Laden, more than one year and nine months after his death. However, the Committee specified that, following UN Security Council Resolution's 2083(2012), "prior to the unfreezing of any assets that have been frozen as a result of the listing of Usama bin Laden, Member States shall submit to the Committee a request to unfreeze such assets and shall provide assurances to the Committee that the assets will not be transferred, directly or indirectly, to a listed individual, group, undertaking or entity, or otherwise used for terrorist purposes in line with Security Council resolution 1373 (2001), and [...] that such assets may only be unfrozen in the absence of an objection by a Committee member within thirty days of receiving the request [...]".

UN Statement

### **EU: Advocate General asks Court to reinstate challenge to EU Terrorism List**

On 22 January, Advocate General Yves Bot issued his opinion to the Court of Justice of the European Union in the case of *Abdulbasit Abdulrahim v Council of the European Union and European Commission*. In its opinion, the Advocate General recommends that the Court dismiss the order of the EU General Court, which dismissed the applicant's complaint concerning his insertion on the EU Terrorism List because, during the proceedings, he had been taken off the list. The Advocate General argued that the applicant maintained an interest in the case, as he was seeking a declaration of invalidity of his listing *ex tunc* and of parts of the Listing EU Regulation. The applicant had, in his opinion, an interest in having parts of the Regulation deemed contrary to the EU Charter of Fundamental Rights so as to avoid being relisted in the future and also because the "recognition of the alleged illegality would be capable of rehabilitating him by restoring his reputation." He also argued that such findings, if they were made, would still be meaningful for any eventual claim of damages.

Opinion

### **OSJI: Major report on CIA rendition and secret detention programme published**

On 5 February, the Open Society Justice Initiative published the report *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition*, providing details of the CIA programme of enforced disappearance, secret detention, interrogation and rendition of "terrorist" suspects during the so-called "war on terror". The report exposes that the programmes have involved 136 known victims and 54 States. The report "catalogs how a wide range of governments—ranging from Iceland and Australia to Morocco and Thailand—reportedly enabled secret detention and extraordinary rendition operations in various ways, including by hosting CIA prisons, by assisting in the capture and transport of detainees, and by permitting the use of domestic airspace for secret flights."

Report

OSJI Statement

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