



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights holds hearings in North Africa and the United States

Maghreb hearing, July

In July, the Panel held a sub-regional hearing in Morocco to inquire into anti-terrorism laws and measures in Algeria, Morocco, and Tunisia. The hearing was hosted by the *Organisation Marocaine des Droits Humains* (OMDH), an affiliate of the ICJ. Professors Georges Abi-Saab and Stefan Trechsel attended the hearing on behalf of the Panel.

US hearing, September

On 6-8 September, the Panel held its United States hearing in Washington D.C., hosted by the American University Washington College of Law. The Panel was represented by Justice Arthur Chaskalson, Professor Georges Abi-Saab, Professor Robert K. Goldman, Hina Jilani, Mary Robinson and Professor Vitit Muntarbhorn. The Panel subsequently visited New York to meet with senior representatives of United Nations bodies.

Upcoming: South America hearing

At the end of October, the Panel will hold a sub-regional hearing in Argentina on lessons learnt from the experience under military dictatorships in the Southern Cone. The hearing will be hosted by the *Centro de Estudios Legales y Sociales* (CELS), affiliated with the ICJ. The Panel will be represented by Justice Raúl Zaffaroni, Professor Stefan Trechsel and Professor Robert K. Goldman.

EJP website

AFRICA & MIDDLE EAST

[Bahrain: New anti-terrorism bill signed into law](#)

[Jordan: National Assembly adopts first anti-terrorism law after Amman bombings](#)

AMERICAS

[USA: Congress passes Military Commissions Act](#)

[USA: UN human rights experts concerned at counter-terrorism measures](#)

[USA: Department of Defence releases new Army Field Manual](#)

[USA: Court finds domestic surveillance program illegal](#)

[Canada: Commission of inquiry releases report on Maher Arar case](#)

[El Salvador: National Assembly adopts new anti-terrorism law](#)

[Chile: Government proposes amendments to anti-terrorist legislation](#)

ASIA-PACIFIC

Australia: Control order imposed on terrorist suspect after acquittal on terrorism charge

Australia: Khalid Lodhi sentenced to 20-year imprisonment for preparatory offenses

Indonesia: Court convicts four for 2005 Bali bombings

Maldives: Political opponent pardoned and opposition leader released

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Court of Appeals upholds quashing of control orders

UK: Special Immigration Appeals Commission dismisses challenge against deportation

Belgium: Commission finds financial data transfer to CIA in breach of EU privacy laws

Italy: Police arrest intelligence officials in CIA abduction case

Turkey: President asks Constitutional Court to annul part of new anti-terrorism law

Turkey: Kurdish mayors tried for terrorism

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: Human Rights Council debates counter-terrorism issues

UN: Counter-Terrorism Committee submits first report on incitement to terrorism

European Union: Parliament condemns CIA extraordinary renditions

European Union: Court of First Instance rules on asset freeze

Council of Europe: SG proposes standards to protect against renditions and secret detentions

IN BRIEF

UN General Assembly issues global counter-terrorism strategy

UN Expert proposes draft principles on human rights and terrorism

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AFRICA & MIDDLE EAST

Bahrain: New anti-terrorism bill signed into law

On 10 August, the King of Bahrain signed a counter-terrorism bill adopted by the Parliament on 22 July. A number of organizations and experts, including the UN Special Rapporteur on counter-terrorism and human rights, Martin Scheinin, have expressed concerns about its overly broad definition of terrorism, unclear definition of the offence of incitement to terrorism and granting of increased detention powers without judicial review to the Public Prosecutor.

[Bill \(English\)](#)

[M. Scheinin's statement](#)

[ICJ press release](#)

Jordan: National Assembly adopts first anti-terrorism law after Amman bombings

The National Assembly approved in August a new anti-terrorism law as a response to the Amman bombings last year. Concerns have been expressed about the law's broad definition of terrorism, provisions allowing detention without access to a lawyer and without judicial review for up to 30 days, increased powers of law enforcement officials to detain, search and arrest, and exclusive jurisdiction of military courts over terrorism cases. The Assembly also adopted legislation that would require Muslim preachers to obtain written permission from the government to lead services or teach the Koran, despite concerns about its impact on religious freedom.

[M. Scheinin's statement](#)

[Press article](#)

AMERICAS

USA: Congress passes Military Commissions Act

On 28 September, the US Congress passed the Military Commissions Act of 2006. The Act authorizes trials of terrorist suspects by military commissions and severely restricts detainees' access to US courts to challenge any aspect of detention, transfer, treatment, trial or conditions of confinement. The Act broadly defines "unlawful enemy combatants," narrows the scope of war crimes punishable under the War Crimes Act and grants to the President broad authority to interpret the Geneva Conventions. This follows President Bush's speech on 6 September which acknowledged that the CIA had detained "high-value" terrorist suspects in secret places of detention and which announced the transfer of 14 such detainees to Guantánamo Bay.

[Military Commissions Act](#)

[President's speech](#)

[AI report](#)

[HRF website](#)

USA: UN human rights experts concerned at counter-terrorism measures

In its conclusions concerning US compliance with the International Covenant on Civil and Political Rights (ICCPR), issued on 28 July, the Human Rights Committee (HRC) called on the US to close all secret detention facilities, to punish US personnel who authorized interrogation techniques amounting to torture or ill-treatment, and to allow Guantánamo detainees to challenge their treatment or conditions of detention before a court. The Committee also noted with concern the restrictive interpretation of the ICCPR by the US that it does not apply to individuals outside its territory nor in the context of an armed conflict, despite established positions of the Committee on these issues.

[HRC's website](#)

[US's response](#)

USA: Department of Defence releases new Army Field Manual

On 6 September, the Department of Defense (DoD) released a new Army Field Manual on interrogations. The Manual clarifies that Common Article 3 of the Geneva Conventions applies to all detainees, regardless of their characterization and status. It also specifically prohibits

controversial interrogation techniques such as waterboarding, the use of dogs and exposure to extreme temperatures. Concerns remain that CIA interrogators and private contractors might use such techniques in detention facilities not run by the DoD and not governed by the new Manual.

[New manual](#)

[Accompanying directives](#)

USA: Court finds domestic surveillance program illegal

On 17 August, a federal judge ruled that the domestic surveillance program run by the National Security Agency (NSA) violated constitutional guarantees of free speech and privacy rights. The Court ordered the Agency to immediately cease intercepting communications without warrant where one party to the communication is outside the United States. In September, the Senate Judiciary Committee approved a bill drafted by Senator Arlen Specter in close consultation with the White House. If adopted by Congress, the bill would provide explicit Congressional authorization for a surveillance program without warrant and make compliance with the Foreign Intelligence Surveillance Act (FISA) optional.

[Court's decision](#)

[A. Specter's bill](#)

[FISA](#)

Canada: Commission of inquiry releases report on Maher Arar case

On 18 September, the Arar Commission of Inquiry released its final report on the detention and removal to Syria, by the United States, of Maher Arar, a Syria-born Canadian citizen. The Commission found that the United States detained him based on inaccurate information provided by the Royal Canadian Mounted Police (RCMP) and that Canada had relied on information from Syria which was likely to have been obtained by torture. On 28 September, the RCMP Commissioner publicly apologized to Maher Arar and his family.

[Report](#)

[Commissions' press release](#)

[RCMP statement](#)

El Salvador: National Assembly adopts new anti-terrorism law

On 22 September, the National Assembly passed anti-terrorist legislation criminalizing apologia and public incitement of terrorist acts. The legislation criminalizes other acts such as adulteration of medicine. Concern has been expressed about the wide scope of terrorism offences and the lack of clear definition of what constitutes a terrorist act.

[Legislation](#)

[Press article](#)

Chile: Government proposes amendments to anti-terrorist legislation

On 3 July, President Michelle Bachelet submitted an amendment to Chilean anti-terrorist legislation to the Senate. The amendment would exclude attacks against property from the list of terrorist offences. Acts affecting life, physical integrity, liberty and public health would still remain in the list of such offenses. In recent years, the existing 1984 legislation has been used to try members of the Mapuche indigenous population for attacks against property.

[1984 legislation](#)

[Proposed amendments](#)

ASIA-PACIFIC

Australia: Control order imposed on terrorist suspect after acquittal on terrorism charge

In the first use of an "interim control order" authorized under the 2005 anti-terrorist legislation, the Federal Magistrates Court ordered a terrorist suspect, Joseph Terrence Thomas, to stay within the city of Melbourne and imposed an evening curfew on him. This follows a decision by the Victoria

Court of Appeal to overturn his earlier convictions for receiving money from a senior Al-Qaeda member and for carrying a fake passport, on the grounds that he confessed under duress and had no access to a lawyer while detained in Pakistan in 2003. Thomas has appealed to the High Court challenging the imposition of the interim control order.

[Control order](#)

[Court of Appeal decision](#)

[2005 legislation](#)

[Press article](#)

Australia: Khalid Lodhi sentenced to 20-year imprisonment for preparatory offenses

On 23 August, Khalid Lodhi was sentenced to the maximum of 20 years' imprisonment after he was convicted by a jury in June for his actions in preparation for a terrorist act. Lodhi sought information about chemicals capable of making explosives, collected maps of the electricity supply system and possessed a manual containing the ingredients for manufacturing poisons, explosives and incendiary devices. He is the first person to be convicted under Australia's new anti-terrorism laws enacted in December 2005.

[Sentencing judgment](#)

[Press article](#)

Indonesia: Court convicts four for 2005 Bali bombings

In September, an Indonesian court reportedly convicted four men for their involvement in the triple suicide bombings in Bali in October 2005, which killed 20 people and injured nearly 200. The Government has blamed the group Jemaah Islamiyah for the 2005 and 2002 bombings on the island.

[Press article](#)

Maldives: Political opponent pardoned and opposition leader released

On 16 August, the President pardoned Jennifer Latheef, an opposition political activist sentenced to ten years' imprisonment in 2005 for "encouraging to commit terrorist acts". On 21 September, the Government also released Mohamed Nasheed, the leader of the opposition Maldivian Democratic Party (MDP), who was under house arrest for charges of terrorism and treason. The ICJ sent trial monitors to both trials.

[ICJ press releases](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Court of Appeals upholds quashing of control orders

On 1 August, the Court of Appeal upheld a High Court ruling that control orders imposed on six terrorist suspects amounted to deprivation of liberty in violation of Article 5 of the European Convention on Human Rights (ECHR). The Court of Appeal simultaneously overturned a decision by a lower court judge which held that limited judicial review of control orders violated the right to a fair trial guaranteed under Article 6 of the European Convention.

[Judgment 1](#)

[Judgment 2](#)

[Summary of judgments](#)

UK: Special Immigration Appeals Commission dismisses challenge against deportation

On 24 August, the Special Immigration Appeals Commission dismissed the appeal of an Algerian terrorist suspect against his deportation to Algeria. The Commission held that he did not face a real risk of torture since Algeria had given assurances that he would not be ill-treated upon return. The UK Government's attempts to conclude a memorandum of understanding with Algeria, containing assurances that individuals sent back to Algeria would not be ill-treated, have so far been unsuccessful.

[AI press release](#)

[Press article](#)

Belgium: Commission finds financial data transfer to CIA in breach of EU privacy laws

On 28 September, the Belgian Data Privacy Commission presented its report on the transfer of SWIFT (Society for Worldwide Interbank Financial Telecommunications) financial transaction records to the CIA for counter-terrorism investigations. The Commission concluded that the transfers by SWIFT violated Belgian and EU law on privacy and data protection. An EU body, known as the Article 29 Data Protection Working Party, which consists of data protection officers from 25 countries, is expected to conclude its own inquiry in November 2006.

[Report](#)

[Commission's press release](#)

[Working Party's press release](#)

Italy: Police arrest intelligence officials in CIA abduction case

On 5 July, Italian police arrested Italian intelligence officials for alleged involvement in the abduction of Abu Omar by the CIA in 2003. Arrest warrants for four Americans were also issued, adding to the 22 earlier warrants. The US authorities have refused to co-operate with the Italian Justice Ministry, and Italy's Justice Minister has refused to request extradition of the CIA officers from the US.

[Press article](#)

Turkey: President asks Constitutional Court to annul part of new anti-terrorism law

On 3 August, the President requested the Constitutional Court to annul Articles 5 and 6 of the new anti-terrorism law. The articles impose heavy fines on owners and editors of publications allegedly containing "propaganda" on behalf of terrorist organizations and allow judges and prosecutors to suspend publications for 15 days to one month. The law was passed by the Parliament last June despite concerns about the broad definition of terrorism offences and other provisions affecting freedom of the media.

[Law](#)

[Press article](#)

Turkey: Kurdish mayors tried for terrorism

On 26 September, 56 Kurdish mayors went on trial on charges of supporting the Kurdistan Workers Party (PKK) after they sent a joint letter to the Danish Prime Minister asking him to refuse the Turkish Government's call to close down a Denmark-based Kurdish television station. The station is considered by the Government to represent the views of the PKK, which is listed as a terrorist organization by Turkey, the EU, and the US.

[Press article](#)

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: Human Rights Council debates counter-terrorism issues

On 21 September, five experts presented their report on the situation of detainees at Guantánamo Bay to the UN Human Rights Council and recommended the closure of the detention facility. The US submitted a written response to refute the findings and recommendations in the report. The Council also discussed, on 25 September, the report submitted by Martin Scheinin, UN expert on counter-terrorism and human rights.

[Guantánamo Report](#)

[US Reply](#)

[M. Scheinin's Report](#)

[Press Release 1](#)

[Press Release 2](#)

UN: Counter-Terrorism Committee submits first report on incitement to terrorism

On 15 September, the Counter-Terrorism Committee submitted to the Security Council a report on the implementation of resolution 1624 (2005) requiring UN member states to take measures to prohibit and prevent incitement to commit terrorist acts.

Report

European Union: Parliament condemns CIA extraordinary renditions

On 6 July, the European Parliament endorsed in a resolution the interim report of the “Temporary Committee inquiring into alleged secret detention and rendition by the Central Intelligence Agency (CIA) in Europe”. The report found the CIA directly responsible for the “illegal seizure, removal, abduction and detention of terrorist suspects” in Europe. The Parliament also found it likely that certain EU member states were aware of the activities linked to extraordinary renditions on their territory.

Resolution

Press release

Interim report

European Union: Court of First Instance rules on asset freeze

On 12 July, the European Court of First Instance ruled in two cases that the European Community legal order guaranteed the right of individuals subjected to financial sanctions by the Security Council Sanctions Committee to request review of their case through the government of their country of origin or of residence. In the event of “wrongful refusal” by the government to submit the case to the Sanctions Committee for review, the individuals affected can seek judicial remedy through domestic law.

Judgment 1

Judgment 2

Court’s press release

Council of Europe: SG proposes standards to protect against renditions and secret detentions

On 7 September, Secretary General (SG) of the Council of Europe (CoE) Terry Davis, made public his proposals based on his inquiry into the alleged secret detention and renditions of terrorist suspects by the CIA. The proposals include the drafting of minimum standards to prevent human rights abuses by security services, in particular allied foreign security services active on the territory of a CoE member state, the setting up of mechanisms to enforce existing human rights obligations with respect to transiting aircraft, and the drafting of a legal instrument permitting states to waive diplomatic immunity in cases of serious human rights violations.

SG Report

SG press release

IN BRIEF

UN General Assembly issues global counter-terrorism strategy

On 8 September, the UN General Assembly adopted a comprehensive global strategy to counter terrorism.

Strategy

UN press release

UN Expert proposes draft principles on human rights and terrorism

In September, Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on human rights and terrorism, Kalliopi K. Koufa, submitted to the Sub-Commission draft principles and guidelines concerning human rights and terrorism.

Report