



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

No. 29, December 2008

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AFRICA & MIDDLE EAST

Lebanon: Special Tribunal for Lebanon to begin work

On 26 November, the UN Secretary General announced that the Special Tribunal for Lebanon will become operative on 1 March 2009 in the Hague in the Netherlands. On 2 December, the International Independent Investigation Commission (IIIC) announced in its 11th report that it had acquired new information on the assassination of former Lebanese Prime Minister Rafiq Hariri and other attacks. The Special Tribunal has jurisdiction to prosecute people responsible for assassination and certain other attacks occurring between 1 October 2004 and 12 December 2005 pursuant to criminal provisions in Lebanese law, including the offence of committing acts of terrorism.

[SG Report](#)

[IIIC Report](#)

[SC Resolution \(with Tribunal's Statute\)](#)

[Press Article](#)

Iraq: UN Mission in Iraq highlights terrorism related human rights violations

In December, the UN Assistance Mission for Iraq (UNAMI) released its Human Rights Report covering the first half of 2008. UNAMI highlighted, among other issues, torture and cruel, inhuman and degrading treatment of terrorism suspects, and harassment of journalists labelled as "terrorists", in the Kurdistan Regional Government area. The Mission also contested the characterisation of the group People's Mojhaideen Organisation of Iran as terrorist and condemned attempts by the Iraqi government to forcibly transfer its members out of Iraq.

[Report](#)

Israel: Universal Periodic Review addresses human rights in countering terrorism

On 9 December, the Working Group on the Universal Periodic Review of the UN Human Rights Council adopted a Draft Report on Israel. The report summarizes the interactive discussion of the Group which addressed, *inter alia*, the issues of administrative detention, the separation wall and interrogation techniques. In particular, the delegations of Sweden and Mexico recommended Israel to intensify efforts to ensure human rights respect in counter-terrorism measures.

[Draft Report](#)

AMERICAS

USA: Five Guantánamo detainees offer and then withdraw guilty plea

On 8 December, Guantánamo detainees Kalid Sheik Mohammed, Ramzi Binalshibh, Mustafa Ahmed al-Hawsawi, Tawfiq bin Attash and Ammar al-Baluchi offered to plead guilty to charges of murder and war crimes according to a letter read in court by their lawyer. Nevertheless, when the judge called for a competency hearing for two of them, the three others withdrew their offer. The five detainees were among those previously held in secret and incommunicado detention by the CIA, where they were allegedly subjected to torture and other ill-treatment.

[HRW Statement](#)

[Press Article](#)

USA: Circuit Court allows aggravating circumstance of terrorism for assault of correctional officer

On 2 December, the federal Court of Appeals (2nd Circuit) directed the lower District Court to apply the aggravation or enhancement of the federal crime of terrorism in the sentencing of Mamdouh Mahmud Salim. Mr Salim, on trial for the terrorist attacks at the US Embassies in Tanzania and Kenya in 1998, was convicted of attacking a correctional officer. The Court deemed the aggravating circumstance applicable, because the purpose of the conduct was to influence a governmental decision, in this case the decision of the

judge to change the accused's lawyer. The Court also held that the limitation to facts occurring outside US territory did not apply.

[Judgment](#)

USA: Senate report finds high-level responsibility in detainee abuses

On 11 December, the Senate Armed Services Committee released an executive summary communicating the results of an Inquiry into detainee abuse in Guantánamo, Iraq and Afghanistan. The Inquiry report sets out a sequence of legal and policy decisions taken by high ranking members of the US administration - often against the advice of top military lawyers - which laid the foundations for abusive practices. The report highlights the authorization of abusive interrogation techniques previously used to train US personnel to resist torture and ill-treatment if captured. The Committee concluded that senior members of the administration, including former Secretary of Defence Donald Rumsfeld, bore responsibility for the abusive policies and practices.

[Report](#)

[Committee's Statement](#)

[Press Article](#)

Colombia: Anti-terrorism prosecutor fired after eavesdropping revelations

On 28 November, the National General Prosecutor dismissed an anti-terrorism prosecutor after it was revealed that the Anti-terrorism Unit had ordered over the previous two years the eavesdropping of 152 email accounts, including those of human rights NGOs, politicians, trade unionists, scholars and an officer of the regional office of the UN High Commissioner for Human Rights. The International Federation of Human Rights (FIDH), directly affected by these practices, condemned them in a letter to the Colombian authorities.

[General Prosecutor's Declaration \(Spanish\)](#)

[FIDH Letter](#)

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

Colombia: Universal Periodic Review debate addresses stigmatising of human rights defenders as terrorists

On 15 December, the Working Group on the Universal Periodic Review of the UN Human Rights Council adopted a Draft Report on Colombia. The report addresses a range of concerns, including extrajudicial executions, impunity, torture and ill-treatment. In particular, many delegations called for a stronger protection of human rights defenders. The delegation of Uruguay called on the State to give strict orders to security forces not to qualify human rights defenders and NGOs as "terrorists".

[Draft Report](#)

ASIA - PACIFIC

China: UN Committee Against Torture urges human rights protection in countering terrorism

On 21 November, the UN Committee against Torture expressed its concern at the practice of discrimination and ill-treatment against certain minorities in the country, including Uighurs and Tibetans. The Committee urged China to ensure that any counter-terrorism measures comply with UN Security Council Resolutions and, in particular to respect international human rights law.

[Concluding Observations](#)

India: Parliament passes two anti-terrorism laws

On 19 December, the Rajya Sabha, the upper house of the Indian Parliament, passed into law two bills aimed at enhancing counter-terrorism measures after the Mumbai attacks of 26 November. The *National Investigation Agency Bill 2008* sets up a centralised investigative agency and special courts to investigate or try terrorism-related and certain other offences. The *Unlawful Activities (Prevention) Amendment Bill 2008* contains provisions aimed at, *inter*

alia, terrorism-related offences, wider definition of terrorist organisations, and powers to freeze assets of suspected terrorists.

[National Investigations Agency Bill](#)

[Unlawful Activities \(Amndt.\) Bill](#)

[Press Article](#)

Nepal: UN Human Rights Committee finds enforced disappearance of terrorist suspect violates ICCPR

On 6 November, the UN Human Rights Committee found Nepal to have violated the prohibition of torture and cruel, inhuman and degrading treatment, the right not to be subject to arbitrary detention, the right to humane treatment while in detention and the right to an effective remedy. The case concerned the enforced disappearance, since 12 January 2002, of Surya Prasad Sharma, first detained by the Royal Nepalese Army in connection with operations against the Maoist Communist Party of Nepal, deemed by the then-authorities to be a terrorist organisation.

[Decision](#)

Philippines: Three suspects charged under the Human Security Act 2007

On 27 November, three people suspected of committing a bombing in Midsayap the previous May were charged under the 2007 Human Security Act. This case is the first time the new anti-terror law will be used. The bombing resulted in the injury of seven people. The persons charged are deemed to be members of the criminal organisation Al Khobar, which is not said to have known links with terrorist or separatist movements.

[Human Security Act](#)

[Press Article](#)

Malaysia: Terrorism suspects released after years of indefinite detention

On 10 December, a former army captain accused of having helped the 9/11 hijackers, was released, along with six other terrorism suspects, from detention under the Internal Security Act, as they were no longer considered to constitute a threat to internal security. Some of those released had been in detention since 2002 under the provisions of the Internal Security Act that allowed for indefinite detention without trial of people suspected to be a threat to national security.

[Internal Security Act](#)

[Press Article](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Open verdict at the inquest into the death of Jean Charles de Menezes

On 12 December, the jury returned an open verdict at the inquest into the death of Brazilian national Jean Charles de Menezes, whom police mistook for a suicide bomber at Stockwell Tube Station in 2005. It rejected, with a vote 8 to 2, the police account according to which Mr. de Menezes was killed lawfully by two police officers. On 2 December, the coroner at the inquest, Sir Michael Wright, ruled that the jury hearing the inquest would not be allowed to consider a verdict of unlawful killing by the Metropolitan Police.

[Jury's Verdict](#)

[Inquiry Website](#)

[Press Article 1](#)

[Press Article 2](#)

France: Anti-Terrorism Law adopted by the National Assembly

On 1 December, the National Assembly adopted legislation aimed at prolonging to 31 December 2012 the applicability of provisions of the 2006 Anti-Terrorism Law on the administrative acquisition of personal data, controls in trains and law enforcement access to databases. The Minister of the Interior explained this extension to be necessary due to lack of time to examine the new draft law on the orientation and programming for the performance of the interior security (LOPSI), which will enable the French authorities to reinforce counter- terrorism measures.

[Anti-Terrorism Law \(French\)](#)

[Discussion's Transcript \(French\)](#)

France: Use of French terrorism offence on railroad saboteurs draws criticism

On 11 November, French police arrested several persons reported to be anarchists in Paris, Rouen and Tarnac under suspicion of having sabotaged several train lines. Five people are still being held and a total of nine people are being charged with criminal association with the aim of terrorism. Opponents of the law contend that there is during a time of crisis, any illegal manifestation of political expression becomes prone to be designated terrorist in nature. A July Human Rights Watch report found that France uses a vaguely defined “terrorism association offence” to arrest large numbers of people based on minimal evidence.

[HRW Report](#)

[Press Article](#)

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

Italy: Rendition trial suspended due to constitutional questions on secret of state

On 3 December, Judge Magi suspended until 18 March 2009 the trial against 26 CIA agents and five members of the Italian Military Secret Services, pending the decision of the Constitutional Court on the application of the state secrets doctrine to certain evidence in the case (see, E-bulletin no. 22, March 2008). The suspension arose following the testimony of two witnesses who claimed secret of state privilege and from the confirmation of this privilege by the President of the Council of Ministers, Silvio Berlusconi. Judge Magi invoked a conflict of competence regarding states secret against the President of the Council before the Constitutional Court, which declared it admissible on 17 December.

[Constitutional Court’s Decision \(Italian\)](#)

[Summary of events](#)

[Press Article](#)

Spain: *El Pais* reveals document demonstrating Spanish complicity in extraordinary renditions

On 30 November, the Spanish newspaper *El Pais* published a classified government document dated 10 January 2002 noting a request by US officers for the use of Spanish airports and airspace for transfer flights of Al-Qaeda and Taliban prisoners to Guantánamo. The document demonstrates that the Aznar government knew of and authorised rendition flights through Spanish territory. Judge Ismael Moreno, who is also investigating the rendition flights of Abu Omar and Khaled El-Masri, opened an investigation on the new disclosures.

[Summary of events and documents](#)

[Press Article 1](#)

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

Portugal: Minister urges resettlement of Guantánamo detainees in Europe; says Portugal will accept some detainees

On 10 December, on the 60th anniversary of the Universal Declaration of Human Rights, the Portuguese Minister of Foreign Affairs published an open letter calling on European states to collaborate in the closure of Guantánamo Bay detention centre by allowing resettlement of detainees on their territories. The Minister indicated the willingness of the Portuguese government to accept some detainees for resettlement.

[Minister’s Letter \(English\)](#)

[Minister’s Letter \(Portuguese\)](#)

[Press Article](#)

Belgium: UN Human Rights Committee finds implementation of UN terrorism blacklists violates ICCPR

On 9 December, the UN Human Rights Committee found Belgium to have violated the rights to freedom of movement and to privacy of two persons under its jurisdiction who were subjected to restrictive measures following their insertion in the UN Al-Qaeda and Taliban Terrorism Lists. A determining factor was that in 2002 Belgium had proposed the inclusion of the two persons on the list to the UN Sanction Committee, before domestic criminal proceedings against them were completed. Belgian criminal proceedings against the listed persons concluded in 2005 with the charges being dropped.

[Decision \(French\)](#)

Turkey: Kurdish activist sentenced to 10 years in prison for “terrorist organisation” membership

On 4 December, the Diyarbakır 5th Higher Criminal Court sentenced politician and member of the European Union Turkey Civic Commission (EUTCC) Leyla Zana to ten years in prison in connection with charges of “spreading propaganda” for the Kurdistan Workers’ Party (PKK) in nine separate speeches and for “membership in a terrorist organisation”. The Court also revoked her rights to vote and run for a political office. Zana is expected to appeal the conviction to Supreme Court. The EUTCC called on the EU and the international community to take political action and to condemn the conviction.

[Anti-Terrorism Law \(see, Art. 7 § 2, in Turkish\)](#)

[Criminal Code \(see, Art. 314, in Turkish\)](#)

[NGO Statement](#)

[Press Article](#)

Kazakhstan: UN Committee Against Torture concerned at Kazak anti-terrorism practices

On 21 November, the UN Committee against Torture expressed concern in its Concluding Observations at the use of counter-terrorism operations to target vulnerable groups and at the failure to respect the prohibition of *non-refoulement* to face a risk of torture or other serious human rights violations, in particular regarding the transfers of persons to Uzbekistan and China.

[Concluding Observations](#)

Russian Federation: Duma approves bill to end jury trial for terrorism suspects

On 12 December, the Russian lower house of the Parliament, the Duma, adopted a bill that would eliminate jury trials for cases involving terrorism, espionage and attempts to overthrow the government. Opponents fear that the new law could be used to punish opposition leaders. The bill must now be sent to the upper house of the Parliament, and finally to President Dmitry Medvedev.

[Draft Law \(Russian\)](#)

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

[Press Article](#)

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Third Committee approves resolution on human rights and counter-terrorism

On 25 November, the Third Committee of the General Assembly approved a resolution calling on states to respect human rights while countering terrorism, and urging them to give effect to their obligations in a number of key areas, including in respect of the principle of *non-refoulement* and the assurance of proper procedural guarantees in international and domestic listing proceedings.

[Draft Resolution](#)

UN: Joint Declaration on freedom of expression and counter-terrorism issued by four regional and international independent experts

On 10 December, the Special Rapporteurs on Freedom of Expression of the UN, Organisation for the Security and Cooperation in Europe, Organisation of American States and African Commission on Human Rights issued a joint declaration on defamation of religions and anti-terrorism and anti-extremism legislation. The international experts called for a narrow definition of terrorism and of incitement to terrorism, and called for anti-terrorism legislation to respect the role of the media.

[Joint Declaration](#)

EU: The Court annuls, for the third time, a Council decision freezing the funds of PMOI

On 4 December, the European Court of First Instance annulled a July decision of the Council of the European Union to place the People’s Mojahedin Organization of Iran

(PMOI) on the list of terrorist organisations and freeze its assets, for the third time since the court's similar decision in December 2006. The Court found that the Council had violated the PMOI's right to defend itself by failing to provide the PMOI with the specific reason for its decision to list the organisation.

[Judgment](#)

[Summary of the Judgment](#)

EU: Justice and Home Affairs Council urges terrorism early warning mechanism

On 27 and 28 November, the Justice and Home Affairs Council of the European Union adopted conclusions on further action to combat terrorism. These conclusions invite Member States to consider implementing an early warning mechanism for threats linked to terrorism, to facilitate the early detection of terror suspects in the visa application process by consulting the Schengen Information System (SIS) via national authorities. The EU Counter-Terrorism coordinator also presented the annual report on the implementation of the Strategy and Action Plan to Combat Terrorism (June-November 2008) and priorities for the period to come.

[European Council Conclusions](#)

[EU Counter-Terrorism Coordinator's Report](#)

[EU Counter-Terrorism Discussion Paper](#)

[European Council Press Release](#)

EU: European Data Protection Supervisor issues opinion on transatlantic information sharing

On 11 November, the European Data Protection Supervisor (EDPS) adopted an opinion on the Draft Final Report by the EU-US High Level Contact Group on information sharing and privacy and personal data protection in order to fight terrorism and serious transnational crimes. According to the EDPS, greater sharing of personal data between the EU and the US should be accompanied by guarantees that the individuals whose data are exchanged may examine the exchange process and correct possible mistakes.

[EDPS Opinion](#)

[Draft Final Report by EU-US High Level Group](#)

Council of Europe: European Commissioner for Human Rights publishes report on right to privacy and counter-terrorism

On 4 December, the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, published a paper on "Protecting the right to privacy in the fight against terrorism". He stressed that in the "war on terror", the right to privacy had been undermined and many innocent people were subjected to surveillance, harassment, discrimination or arrest.

[Issue Paper](#)

[European Commissioner's Statement](#)

IN BRIEF

Article 19 denounces violation of freedom of expression by anti-terrorism laws in Swaziland

On 24 November, Article 19 released a public statement expressing its concern at the limitations on freedom of expression resulting from anti-terrorism legislation in Swaziland.

[Statement](#)

HRW publishes report on police violence in Turkey

On 5 December, Human Rights Watch published a report on the rise of police violence in Turkey. The report addresses, among other issues, the new amendments to the Anti-terrorism law, allowing for a 24 hours delay of the right to access to a lawyer and for rules permitting the use of lethal force incompatible with the right to life.

[Report](#)

Corrigendum November e-bulletin:

UK: The decisions on imposition of control orders reviewed by the Court of Appeal in its judgment of 17 October were decisions of the Administrative Court, not of the Special Immigration Appeals Commission (SIAC).

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