



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

**No. 50, February 2011**

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## AFRICA & MIDDLE EAST

### **Nigeria: Parliament passes anti-terrorism law introducing death penalty**

On 18 and 23 February, the Senate and the House of Representative, respectively, approved the *Bill for an Act to Provide For Measures To Combat Terrorism And For Other Related Matters, 2010*, which introduced the death penalty for anyone found guilty of any act of terror leading to the loss of human life. Reportedly, the legislation also would empower all security agencies to carry out searches of any premises in case of urgency, without search warrants. The draft legislation must be signed by President Jonathan Goodluck in order to become law.

Draft Law

Press Article 1

Press Article 2

### **Algeria: Prime Minister announces end of state of emergency**

On 22 February, the Prime Minister Abdelaziz Bouteflika announced that the Council of Ministers had approved a draft Ordinance abrogating the state of emergency which has been in force in Algeria since 1992. The Ordinance has been published in the Official Journal and entered into force on 24 February. The Council of Ministers also approved other Ordinances which maintain the competence of the army to participate in the “fight against terrorism”, and a modification to the Code of Criminal Procedure to provide for special “protection”, under house arrests ordered by the Investigative Judge, for people suspected of terrorism, based on the information they hold and to aid justice to deepen investigations and prevent terrorist acts.

Ordinance (Emergency - F)

Ordinance (Army - F)

Prime Minister Statement (F)

### **Lebanon: UN Tribunal defines terrorism and applicable law**

On 16 February, the Appeals Chamber of the UN Special Tribunal for Lebanon issued an *Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging* in which it clarifies the applicable law for the Tribunal as between Lebanese law and international law. The Chamber concluded that the Tribunal must give primacy to Lebanese law, interpreted in consonance with international treaty and customary law binding on Lebanon. In its judgment, the Chamber held that there is convincing evidence that a customary rule of international law has evolved on terrorism *in time of peace*, which must meet the following elements: intent of the underlying crime, special intent to spread fear or coerce authority; the commission of a criminal act; and the transnational character of the terrorist act. The Special Tribunal has jurisdiction to prosecute people responsible for the assassination of former Prime Minister Rafiq Hariri and other attacks occurring between 1 October 2004 and 12 December 2005.

Judgment

Court President Statement

Press Article

### **Bahrain: Human rights defenders and opposition members released**

On 23 February, the Government released, following massive protests, 23 human rights defenders and opposition supporters who were arrested in August and September 2010. They had been on trial on charges of plotting to overthrow the government and planning terrorist acts, under Bahrain’s 2006 anti-terrorism law. Among those released is Ali Abdulemam, blogger and founder of Bahrainonline.org. During the past months, the persons now released had complained of lack of access to their families and lawyers while in detention, and of the use of torture and ill-treatment, including deprivation of sleep and abusive solitary confinement.

NGO Statement

Press Article 1

Press Article 2

### **Iraq: Man charged with terrorism after ten years of detention without charge**

On 4 February, Amnesty International called on the authorities of the semi-autonomous Kurdistan Region of Iraq to ensure a fair trial for Walid Yunis Ahmad, a man charged with terrorism-related offences. Ahmad was arrested on 6 February 2000 and charged only

recently with involvement in "terrorist" activities allegedly committed in 2009 when he had already been in prison for more than nine years. Amnesty International alleged that the charges might be fabricated and that Walid Yuins Ahmad had been tortured, kept in solitary confinement and moved from prison to prison without explanation.

NGO Statement

### **Iraq: Secret detention facility and use of torture revealed**

On 1 February, Human Rights Watch revealed the existence of a secret detention facility in Camp Justice, a military base at the north of Baghdad, run by the Army's 56<sup>th</sup> Brigade and by the Counter-terrorism Service, both under the control of Prime Minister Nuri al-Maliki. Around 300 detainees, almost all accused of terrorism, previously held in Camp Honour, another detention site run by these forces, were transferred to the new centre in the last weeks of 2010. Human Rights Watch has gathered declarations of torture and ill-treatment taking place in both centres and of routine denial of contact by detainees with family members and lawyers.

NGO Statement

## **AMERICAS**

### **USA: Short extension of PATRIOT Act powers passed by Congress**

On 17 February, the House of Representatives passed an extension of some provisions of the PATRIOT Act until 27 May 2011. The approval comes after an extension until 8 December 2011 had failed to be adopted by the House and the Senate. The extended provisions, which would have otherwise expired on 28 February, confer on the Government authority for roving surveillance, including wire-taps and cell phone monitoring; oblige the production of business records and "other tangible things" during investigations; and allow the targeting of non-US citizens even when they are not necessarily associated with an identified terrorist group. The original PATRIOT Act was adopted in 2001 in response to the 11 September attacks.

PATRIOT Act

NGO Statement 1

NGO Statement 2

Press Article

### **USA: Report reveals massive abuse of surveillance powers by FBI**

On 30 January, the Electronic Frontier Foundation released a report documenting widespread violations of law committed by the Federal Bureau of Investigations (FBI) between 2001 and 2008. The report says that one-third of the violations consisted in the abuse of National Investigations Letter, an instrument normally used in terrorism investigations to obtain, without judicial warrant, records from phone companies and electronic communications services, financial records from banks and financial institutions and consumer identifying information and the identity of financial institutions from credit bureaus. The report is based on the analysis of over 2,500 documents obtained through the *Freedom of Information Act*.

Report

NGO Statement

### **USA: Federal court dismisses lawsuit for illegal surveillance**

On 31 January, Judge Vaughn R. Walker of the US District Court for the Northern District of California dismissed a lawsuit brought by the Center for Constitutional Rights (CCR) for violation of rights under the First Amendment of the US Constitution, guaranteeing freedom of speech. The lawsuit claimed that the risk of having being subject to the illegal Terrorist Surveillance Programme carried out by the Bush administration had a "chilling effect" on their ability to work with their clients, who are detainees in Guantánamo Bay and victims of the CIA rendition programme. The judge held that the fear that an alleged, yet unsubstantiated, surveillance might lead to an unfair disadvantage in the defence of their clients did not constitute a sufficient injury under the First Amendment. The judge

also held that the fact that the actual surveillance of CCR employees could not be demonstrated defeated their claims under the First Amendment, under the Fourth Amendment, the prohibition of unreasonable search and seizure, and under the separation of powers doctrine.

Ruling

### **USA: Civil claim for torture and arbitrary detention cannot be brought against officials, says federal court**

On 17 February, Judge Mark Gergel of the US District Court for the District of South Carolina dismissed a lawsuit by Jose Padilla, claiming civil damages against US authorities for the violation of his right to counsel, access to court, freedom of religion, of association and due process, and for the torture inflicted on him while in secret detention. Jose Padilla, a US citizen, was designated an “enemy combatant” by President Bush on 9 June 2002 and detained *incommunicado* at the detention centre of Naval Brig in Charleston until January 2006. The judge ruled that a claim for violation of constitutional rights by US authorities (*Bivens* claim) could not be admitted, as the potential impact on military and foreign affairs, intelligence and national security barred the possibility of a cause of action for this situation. He also held that all the defendants were covered by qualified immunity as it was not clear at the time the relevant events took place that the issues of the legality of Padilla’s detention, of the torture interrogation techniques and of his designation as “enemy combatant” were a violation of law and the US authorities could not have been expected to have a clear-cut idea of their illegality.

Ruling

NGO Statement

Press Article

### **USA: Court of appeals annuls *habeas corpus* for Guantánamo detainee**

On 15 February, the US Court of Appeals for the District of Columbia overturned with a brief opinion the grant of *habeas corpus* for Saeed Mohammed Saleh Hatim, a Yemeni national detained in Guantánamo Bay. The Court of Appeals held that the first instance decision, granting the release, was based on an overly restrictive definition of who could be held in Guantánamo, as it limited it to people who were part of the “command structure” of Al-Qaeda or the Taliban. The Court of Appeals reiterated its case-law that people who “purposefully and materially support” Al-Qaeda or the Taliban could also be detained. The grant of *habeas corpus* was vacated and returned to the District Court.

Ruling

### **Canada: Supreme Court provides constitutional reading of powers to withdraw evidence in criminal trial**

On 10 February, the Supreme Court of Canada ruled that the power of the prosecution service and the Attorney General not to disclose in a criminal trial potentially injurious or sensitive information in respect of which national security is claimed, and the supervisory power of the Federal Court on the non-disclosure decision were constitutional. The Supreme Court reached this decision by considering that the trial judge maintained the power to remedy abuses of process. The Court held that if the non-disclosure of the information under section 38 of the *Criminal Evidence Act* would put in danger the accused’s fair trial rights, the trial judge would have the power to provide a remedy and even to order a stay of the proceedings. The issue was raised in the criminal trial of ten of the eighteen people arrested in June 2006 on suspicion of plotting terrorist attacks.

Ruling

Press Article

### **Canada: Deletion from UN Terrorism List requested after domestic courts found process flawed**

On 28 January, Abousfian Abdelrazik filed a petition to the UN Ombudswoman, Kimberly Prost, asking for the deletion of his name from the UN Al-Qaeda and Taliban list, instituted pursuant to Security Council resolution 1267(1999). On 4 June 2009, the Federal



Court ruled that Abousfan Abdelrazik's right to leave and return to his country under the *Canadian Charter of Rights and Freedoms* was violated after he was refused an emergency passport to return to Canada from Sudan. He had been living in the Canadian Embassy for 14 months, following alleged torture in a Sudanese prison. Abousfan Abdelrazik remains subject to a travel ban due to his inclusion in the UN terrorism list. The Federal Court had ruled that the UN listing procedure lacked due process guarantees and ordered the Canadian Government to allow the return to Canada of Mr. Abdelrazik, regardless of his inclusion in the list.

Judgment (Federal Court)

Press Article 1

Press Article 2

### **Ecuador: Terrorism prosecution used to curb indigenous protests, say NGOs**

On 4 February, the International Federation for Human Rights (FIDH), the Ecumenical Commission for Human Rights (CEDHU), the Regional Human Rights Advisory Foundation (INREDH), and the Centre for Economic and Social Rights (CDES) expressed their concern at the arrest and charge for terrorism of members of indigenous communities following the demonstrations that occurred on 30 September 2009 in the province of Morona Santiago. The demonstration was undertaken in protest against a proposed *Water Law*, which the indigenous communities considered insufficient to protect their sources of water from the damages that industrial activities cause. The NGOs denounced the use of terrorism offences to criminalise the legitimate right to protest.

NGOs Statement (S)

## **ASIA - PACIFIC**

### **Thailand: Opposition leaders charged with terrorism granted bail; security law enacted**

On 22 February, a criminal court granted bail to seven leaders of the United Front for Democracy against Dictatorship (UDD), who have been charged with terrorism offences following a series of major protests which took place in 2010. On 24 February, the Government announced the extension of the application of the *Internal Security Act* (ISA) to the area of Bangkok until 25 March 2011. Concern has been raised at the ISA's vague and overbroad definition of "threat to internal security", the sweeping powers it grants to security forces, and the risk that it unduly restricts and leads to violations of the rights to liberty, fair trial and freedom of movement, freedom of association and freedom of expression.

Government Statement

NGO Report

Press Article 1

Press Article 2

### **China: Supreme Court confirms death penalty for Uighurs convicted of terrorism**

On 23 February, the Supreme Court of China confirmed the sentencing to the death penalty of four persons of Uighur origin, Tuerhong Tuerdi, Abudula Tueryacun, Akeneyacun Nuer and Abudukaiyoumu Abudureheman. The four were convicted of a series of murders in Xinjiang which occurred in August and November 2010 and which have reportedly been identified by the authorities as "acts of terrorism". Tensions and protests erupted in the Xinjiang's capital city of Urumqi in July 2009 and led to hundreds of arrests and around two-dozen Uighurs being tried and sentenced to the death penalty.

Press Article 1

Press Article 2

### **India: Bombay High Court confirms death penalty for Mumbai bombing defendant**

On 21 February, the Bombay High Court upheld the death sentence of Mohammad Ajmal Amir Kasab, pronounced on 6 May 2010, on multiple counts of murder, waging war against India, conspiracy and terrorism. Mohammed Ajmal Kasab is the lone accused in connection with the attacks in Mumbai of 26 November 2008. The Court also upheld the

acquittal of co-accused Fahim Ansari and Sabahuddin Ahmed for want of corroborative evidence. Mr Kasab may still appeal the decision to the Supreme Court of India.

[Judgment](#)

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

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

### **India: UN Special Rapporteur concerned at security laws and terrorism labelling used against human rights defenders**

On 21 January, the UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, called, at the end of her visit to India, for the repeal of the *Armed Forces Special Powers Act* as well as the *Public Safety Act* and for a review of the application of other security laws which negatively impact on the situation of human rights defenders. The UN Independent Expert voiced her concern at the branding and stigmatization of human rights defenders as “terrorists”, “militants”, “insurgents”, and urged the authorities to instruct security forces to respect the work of human rights defenders and conduct prompt and impartial investigations into violations committed against them.

[SR Statement](#)

### **India: Supreme Court confirms convictions of terrorist court, but not terrorism charges**

On 30 January, the Supreme Court of India confirmed the conviction and sentencing to life imprisonment of K.K. Saini, Manjit Singh and Om Prakash Shrivastava for murder. They were acquitted on charges of terrorism offences, as the murder was deemed to have had a racketeering motive and not a terrorist motive. The charge of terrorism however had triggered the jurisdiction of the special courts designated under the *Terrorism and Disruptive Activities (Prevention) Act 1987* (TADA), with their special power regarding admission of evidence. The Supreme Court upheld that use of these rules under TADA, and, in particular, the admission of Saini’s and Singh’s statements implicating Shrivastava, despite the fact that the latter was not charged with terrorism, due to an extradition agreement with Singapore which had transferred him to Indian authorities for trial. The extradition agreement with Singapore explicitly excluded terrorism charges under the double criminality doctrine.

[Judgment](#)

[Press Article](#)

### **India: Report documents wide and consistent human rights violations in counter-terrorism**

On 2 February, Human Rights Watch issued a report documenting consistent human rights violations, including arbitrary arrest and detention, torture and ill-treatment and discrimination based on religion, committed by the police, prison and other State authorities against people suspected of being implicated in terrorism attacks. In particular, the report details the human rights violations incurred by the alleged members of the Indian Mujahideen, a militant Islamist group that since 2008 has claimed responsibility for six bombings and other deadly attacks, as well as that of Hindu nationalist suspects charged in a separate bombing in 2008.

[Report](#)

[Press Article](#)

## **EUROPE & COMMONWEALTH OF INDEPENDENT STATES**

### **UK: Independent Reviewer confirms most recommendations of Counter-terrorism Review**

On 3 February, the Independent Reviewer of Terrorism Legislation, Lord Carlile, issued his annual report on the review of control orders as provided for under the *Prevention of Terrorism Act 2005*. In the report, Lord Carlile supports most of the recommendations for reform made by the Counter-Terrorism Review, an internal comprehensive review of counter-terrorism powers ordered by the Government and supervised by Lord Ken

McDonald, including the establishment of an overnight obligation instead of the present curfews, raising the standard of proof to “reasonable grounds for belief”, the application of electronic monitoring technology, and the establishment of a maximum duration. Lord Carlile also stated that the control order system, however re-named, remains a valuable tool and suggested the introduction of a system of Certificates Restricting Travel for less serious cases.

[Report](#)

[Press Article](#)

### **UK: Home Office proposes legislation reforming counter-terrorism powers**

On 11 February, the Home Office introduced to the House of Commons the *Protection of Freedoms Bill* which aims to reform UK counter-terrorism powers. The draft legislation would, if approved, limit the use of surveillance techniques by local authorities under the *Regulation of Investigatory Powers Act 2000* only for serious crimes and following the approval of a magistrate. It would also reform the stop and searches system, including by eliminating the requirement that searches be conducted by officers of the same sex than the searched person. The draft law would reduce the time of pre-charge detention for terrorist suspects from 28 to 14 days. However, two draft laws, the *Draft Detention of Terrorist Suspects (Temporary Extension) Bills* will remain tabled before Parliament to allow a re-extension up to 28 days for a period of three months in case of emergency.

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

[Explanatory Note \(PF\)](#)

[Draft Laws \(Detention\)](#)

[NGO Statement](#)

### **UK: Trial for incitement to hatred and terrorism was fair, says European Court**

On 18 January, the European Court of Human Rights dismissed an application brought by Mustafa Kamal Mustafa, also known as Abu Hamza, alleging that his trial and conviction for the charges of soliciting to murder, incitement to racial hatred and possession of potentially terrorist material was carried out in violation of his right to a fair trial. The Court held the case inadmissible and rejected the allegations that Abu Hamza was given assurances of non-prosecution; that the delay of the trial and adverse publicity influenced the jury; and that his right to presumption of innocence had been breached by the decision of the Secretary for the Home Department to deprive him of his UK citizenship on similar, but not identical, grounds than those upon which the charges were based.

[Judgment](#)

### **Italy: Guantánamo detention counts as time served for terrorism conviction, rules Milan judge**

On 7 February, a Judge for the preliminary hearing, Maria Vicidomini, convicted Abdel Ben Mabrouk of terrorist association, sentenced him to two years' imprisonment and ordered his release, at the request of the public prosecutor Armando Spataro, having considered the eight years of detention in Guantánamo and the year and a half in Italy in pre-trial detention as time served. Prosecutor Spataro had also successfully requested that the judge take into account generic mitigating circumstances in consideration of Abdel Ben Mabrouk's detention in Guantánamo, a form of detention prohibited under Italian law, and because the crime for which he was accused occurred more than a decade ago.

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

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

### **Netherlands: Supreme Court allows extradition for terrorism charges to the US**

On 15 April, the Supreme Court (*Hoge Raad*) dismissed an appeal by a Somali citizen challenging a first-instance decision to extradite him to the United States to answer charges of conspiracy to provide material support to terrorists and a terrorist organisation, and material support to terrorists and a terrorist organisation, for his alleged links with the group Al-Shabaab, active in Somalia. The Attorney General had argued in a submission that there was no obstacle of double criminality to oppose the extradition.

[Judgment \(Dutch\)](#)

[Court Statement \(Dutch\)](#)

[Press Article 1](#)

[Press Article 2](#)



## **Spain: Notification of pre-trial detention without reasons insufficient, rules Constitutional Court**

On 19 January, the Constitutional Court published its decision on the constitutional action of *amparo* by Jon Anda Vélez de Mendizábal, in which it annulled a decision of the *Audiencia Nacional* confirming his pre-trial detention on charges of participating in a terrorist organisation. The Court found that the detention order by the Investigative Judge had been notified without including any reasons for detention apart from the mere mention of the charges. This omission violated de Mendizábal's constitutional rights to an effective judicial remedy in connection with his right to liberty. The Court instructed the Investigative Judge to re-notify the detention order by including the reasons for the deprivation of liberty.

Judgment (S)

## **Spain: Investigative Judge issues final query to USA on investigating torture memo lawyers**

On 28 January, Investigative Judge Eloy Velasco sent a final request to the US authorities with the deadline of 1 March 2011 to provide information on whether the US is investigating former senior legal advisers of the Bush administration who formulated legal policy allowing for practices of torture and other ill-treatment. The case originated from an application of the NGO *Asociación pro Dignidad de los Presos y Presas de España* asking the Spanish judiciary to investigate and prosecute for crimes of torture under Spanish universal jurisdiction Alberto Gonzales, a former White House Counsel and Attorney General; David Addington, chief of staff to former vice-president Dick Cheney; Douglas Feith, former Under-Secretary of Defense; William Haynes, former General Counsel to the Department of Defense; and John Yoo and Jay Bybee, who were both senior legal advisers in the Office of Legal Counsel of the Justice Department. Eloy Velasco announced in his order that if he did not receive the requested information by 1 March, he would assume that no investigation is ongoing in the USA and that the conditions for universal jurisdiction would be fulfilled if the complainants can demonstrate Spanish nationality.

Order (S)

Petition (S)

Press Article 1 (S)

Press Article 2 (S)

## **Switzerland: Former President Bush annuls visit after threats of criminal prosecution**

On 6 February, former US President George W. Bush cancelled a visit to Geneva (Switzerland) after a group of NGOs threatened to file a complaint with Swiss authorities requesting his prosecution for torture, allegedly committed in the CIA rendition and secret detention programme and in the Guantánamo Bay detention facility. The complaint was prepared by the US-based Center for Constitutional Rights and the European Centre for Constitutional and Human Rights and was supported by more than 70 organizations and leading human rights figures. Amnesty International and the World Organisation against Torture also sent communications on the same lines to the Swiss authorities. The spokesperson for former President Bush declared that the annulment of the trip was not due to the threat of criminal action but to the fear that anti-Bush protests organised for his visit would have turned violent.

Preliminary Indictment

CCR Statement

ECCHR Statement

OMCT Letter (F)

AI Memorandum

Press Article

## **Turkey: Journalists and writers targeted by terrorism prosecutions**

On 1 February, journalist Ismail Saymaz was charged before the Special Authority 2nd High Criminal Court of Erzurum with offences concerning "targeting people on anti-terror duties" for the publication of a book "The Postmodern Jihad". The offence carries a prison term of up to three years. Saymaz is already facing up to 97 years in jail in connection with

twelve other trials. On 18 February, Soner Yalçın, the owner of the *Oda TV* news website, Baris Pehlivan, the site's editor, and Baris Terkoglu, were charged in an Istanbul court of "inciting hatred and hostility through the media," membership of a "terrorist organization" and obtaining and publishing confidential state documents. The charges carry possible sentences of more than 20 years' imprisonment.

NGO Statement

Press Article

### **Turkey: Gynaecological exam of minor without consent is ill-treatment, says European Court**

On 1 February, the European Court of Human Rights held that Turkey violated the right to be free from inhuman or degrading treatment of Yazgül Yılmaz while in police custody (*garde-à-vue*). The detainee was subjected to a gynaecological exam while in detention accused of assisting a terrorist organisation, the Kurdistan's Workers' Party (PKK). The examination took place when she was aged sixteen and was performed without her consent or any appropriate procedure. The Court found this situation to constitute degrading treatment in breach of Article 3 of the European Convention on Human Rights. The Court also ruled that the lack of any criminal or administrative investigation into these allegations constituted a violation of Turkey's positive obligations under the same Article.

Judgment (F)

### **Turkey: Terrorism conviction unfair and torture claims not investigated, holds European Court**

On 1 February, the European Court of Human Right ruled that the conviction of Mehmet Desde, a German national, on charges of being a member of an organisation deemed terrorist by Turkey, *Bolşevik Parti-Kuzey Kürdistan/Turkiye (Bolshevik Party-North Kurdistan/Turkey)*, and his sentencing to two years and six months' imprisonment were in violation of his right to a fair trial. The Court held that the conviction was based on statements obtained while in detention, without the presence of a lawyer and amid claims of torture or ill-treatment, which the authorities did not properly investigate. The Court held that Turkey had violated Mehmet Desde's defence rights as protected by Article 6(1) and (3) of the European Convention and its obligations to effectively and promptly investigate allegations of torture and ill-treatment under Article 3 ECHR.

Judgment

### **Turkey: Prosecution and confiscations under terrorism law violate freedom of expression, says European Court**

On 15 February, the European Court of Human Rights ruled that Turkey violated the right to freedom of expression of Elif Çamyar and Nevin Berktas, respectively the publisher and the author of a book, *Hücreler* ("cells"), which is generally critical of the penitentiary system in Turkey, by convicting them of the offence of aiding and abetting and disseminating propaganda in favour of an illegal armed organisation. The Court also found that they were not granted a fair trial. On 8 February, the European Court found that the right of freedom of expression of Ünsal Östürk, owner of a publishing company, was violated by the continued confiscation of sixteen books, as the national courts, in confirming the confiscation, did not refer to any specific domestic law provision, but simply held that the books "might" be in contravention of the *Prevention of Terrorism Act*.

Judgment (Camyar & Berktas)

Judgment (Östürk)

### **Turkey: Terrorism conviction for expression of political ideas breaches freedom of expression, European Court rules**

On 1 February, the European Court of Human Rights ruled that the conviction of Faruk Temel, president of the provincial youth section of HADEP (People's Democracy Party, a legal political party) for propaganda in favour of a terrorist organization and incitement to

violence and terror was in violation of his freedom of expression, as the decision was unfounded, since his statements did not incite to violence or hatred. The Court also found a violation of his right to fair trial as a result of the absence of a lawyer during his police custody.

Judgment (F)

#### **Russian Federation: State condemned for enforced disappearances in counter-terrorism**

On 17 February, the European Court of Human Rights ruled that the enforced disappearance of Lema Khakiyev and Musa Temergeriyev in Chechnya during a counter-terrorism operation by State servicemen violated their right to life, Russia's obligation to conduct an effective, independent and prompt investigation into the enforced disappearance, and constituted a grave violation of their right to liberty. The Court also found that the enforced disappearance constituted a violation of the right to be free from torture and inhuman or degrading treatment of the members of their family. Khakiyev and Temergeriyev were apprehended by State servicemen on 21 August 2002 and on 27 December 2002 respectively and have not been heard of since those dates. The Court determined that they must be presumed dead.

Judgment

#### **Russian Federation: UN High Commissioner for Human Rights concerned at counter-terrorism abuses in North Caucasus**

On 17 February, the UN High Commissioner for Human Rights, Navanathem Pillay, issued a statement during her visit to the Russian Federation. The High Commissioner underlined the many challenges that the Federation needs to face in order to comply with international human rights law. Among them, the High Commissioner expressed concern at the continued reports of arbitrary detention, extrajudicial executions and enforced disappearance in the North Caucasus and stressed that brutal and unlawful methods used by federal and local security forces alienated the local population, and that impunity for serious crimes committed by military and security forces had accentuated the cycle of violence and undermined the rule of law. Ms Pillay has urged that counter-terrorism measures be carried out in line with human rights principles.

High Commissioner Statement

## **UNITED NATIONS & REGIONAL ORGANISATIONS**

#### **UN: Special Rapporteur on torture outlines his concerns on counter-terrorism**

On 3 February, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, issued his annual report to the Human Rights Council. In the report, the Special Rapporteur highlights that in the past decade State practices regarding torture, including in countering terrorism, have tended to weaken or reinterpret the absolute prohibition of torture, and have attempted to dilute cardinal principles necessary to preventing and suppressing torture and ill-treatment. The Special Rapporteur also stressed that "diplomatic assurances" do not release States from their obligations not to transfer individuals to countries where they are at risk of torture or ill-treatment and that such assurances have been proven to be unreliable and not to constitute an effective safeguard against torture and ill-treatment. The Special Rapporteur called "for a concerted effort to further improve forensic and other scientific tools and mechanisms used in law enforcement, counter-terrorism and effective criminal prosecution in order to ensure that torture is not practiced".

Report

## UN: UN Counter-terrorism task force holds expert meeting on fair trial

On 17-18 February, the UN Counter-Terrorism Implementation Task Force (CTITF) Working Group on Protecting Human Rights while Countering Terrorism organised in Bangkok the first expert symposium on *Securing the Fundamental Principles of a Fair Trial for Persons Accused of Terrorist Offences*. In his keynote address, Ivan Simonovic, Chairman of the Working Group, stressed the centrality of human rights in countering terrorism. He indicated that human rights constituted not only the rationale for any counter-terrorism activity but also the best strategy to counter terrorism. The chairman identified challenges to the right to a fair trial in the use of administrative measures to by-pass the criminal justice system, in the use of intelligence information in criminal trial and in the recourse to military and special courts.

[Chairman Statement](#)

[Concept Note](#)

## EU: European Commission presents proposal for EU Passenger Name Record system

On 2 February, the European Commission presented a proposal for an EU Passenger Name Record (PNR) Directive for the purpose of countering serious crime and terrorism. The proposal, if approved, would oblige air carriers to transfer data on passengers on international flights to a dedicated unit in the Member States of arrival and departure, which will retain the data. The Directive provides that such data may be used exclusively for fighting serious crime and terrorism. The data must be made anonymous one month after the flight and must not be retained for more than five years. Carriers would not be able to transfer sensitive data that could reveal racial or ethnic origin, political opinions, or religious beliefs. Member States' units would be supervised by an independent supervisory authority.

[Draft Directive](#)

[Impact Assessment](#)

[Commission Statement](#)

## EU: Council maintains organisation in terrorism list waiting for appeal to Court of Justice

On 31 January, the Council of the European Union renewed the EU Terrorism List for the purpose of freezing assets destined to finance a terrorist organisation. However, the Council did not include in the new list the organisation Stichting Al-Aqsa, but maintained the validity of the old list of July 2010 only for that organisation, thereby continuing to keep Stichting Al-Aqsa under the EU Terrorism List. This adjustment was made as a result of a decision of the General Court of the European Union, which ruled the organisation to be taken off the list. The decision is under appeal to the Court of Justice of the European Union. The General Court had ascertained that the administrative decision by the national authorities of the Netherlands, which was the basis of the Council's decision to include the organisation, had been repealed by the Netherlands Government, making the EU insertion on the list illegitimate.

[EU List \(New\)](#)

[EU List \(Old\)](#)

[General Court Judgment](#)

## EU: European Parliament's Human Rights Committee discusses renditions

On 25 January, the Sub-Committee on Human Rights of the European Parliament held a *Workshop on Torture and Secret Detentions: the UN perspective and the role of the E.U.*, with the participation of Manfred Nowak, former UN Special Rapporteur on torture, and Amnesty International. In the discussion, several Members of the European Parliament underlined the need for more and deeper inquiries at the national level on the CIA-led rendition programme and to stop similar events occurring in the future.

[Parliament Statement](#)

[AI Report](#)

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