



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

No. 49, January 2011

AFRICA & MIDDLE EAST

Tunisia: Former President Ben Ali calls demonstrators “terrorists” before fleeing

Tunisia: UN Special Rapporteur finds secret detention and torture used in counter-terrorism

Egypt: Terrorist suspect dies in detention amid concerns of torture

Bahrain: Lawyers of human rights defenders tried for terrorism withdraw in protest

Yemen: Journalist convicted of terrorism offence in connection with his work

Israel: NGOs petition Supreme Court to request measures to prevent torture

Iran: Authorities announce execution of eleven alleged terrorists

Iran: Execution of activist convicted for terrorism halted; family harassed

AMERICAS

USA: Bill blocking Guantánamo detainees’ transfers and prosecution in federal courts becomes law

USA: Federal Court dismisses lawsuits against targeted killings on procedural grounds

USA: Petition filed to Supreme Court on release of Guantánamo detainees

USA: Petition filed asking Supreme Court to hear appeal of dismissal of lawsuit against company for alleged participation in rendition

USA: CIA pays legal fees of torture psychologists, news reveal

USA: Judge confirms first conviction of Guantánamo detainee in federal court

USA: Guantánamo detainee repatriated despite alleged risk of ill-treatment

USA: Bradley Manning, alleged Wikileaks source, said to be held in inhumane conditions

Canada: Federal Court upholds validity and constitutionality of terrorist suspect’s security certificate

Canada: Protective measures for G-20 unconstitutional, Ombudsman says

Mexico: House of Representatives extends definition of terrorism

Peru: UN Special Rapporteur on counter-terrorism and human rights issues report on visit to Peru

ASIA - PACIFIC

India: Human rights defender convicted for sedition

Pakistan: Killer of Punjab Governor charged with terrorism

Australia: Police formally apologises to Haneef for false accusations and detention for terrorism

Australia: Government orders probe into Australia’s complicity in torture of Guantánamo detainee

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Home Secretary announces general reform of counter-terrorism powers

UK: High Court allows Coroner to access classified evidence in closed hearing

UK: Court allows terrorist suspect’s extradition to USA, despite fears of further transfer to Pakistan and human rights violations

France: National Assembly approves reform of police custody

Germany: Government has discretion in requesting extradition of CIA officers accused of

rendition, Court says

Italy: Court of Appeal confirms convictions and acquittals in Abu Omar rendition trial

Spain: European Court of Human Rights upholds dissolution of Basque party

Spain: Court convicts four policemen for torture of terrorist suspects

Spain: Terrorist suspect extradited to Morocco, despite Human Rights Committee's interim measures

Sweden: Committee against Torture rules transfer of former PKK activists to Turkey would violate *non-refoulement* principle

Poland: Guantánamo detainee gets "victim status" in secret CIA detention investigations

Lithuania: Prosecutor quits investigations in secret detention centre and torture

Finland: Supreme Court blocks extradition of Chechen combatant on political crime grounds

Holy See: First-ever anti-terrorism law approved

Turkey: European Court finds political party dissolution in violation of European Convention

Turkey: Investigations into torture allegations neither effective nor prompt, says European Court

Turkey: European Court finds conviction of demonstrators in breach of Convention rights

Kazakhstan: Shanghai Counter-Terrorism Convention ratified

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Security Council extends mandate of Counter-Terrorism Committee Executive Directorate

UN: UN Special Rapporteur publishes best practices in counter-terrorism

UN: UN Directorate in Counter-terrorism calls for greater incorporation of human rights in its technical assistance program

EU: Counter-terrorism Coordinator asks for appeal of General Court's listing ruling

Council of Europe: Vice-President of Parliamentary Assembly speaks of human rights-based approach to counter-terrorism

African Union: Expert meeting announced new African Model Law on Counter-Terrorism

AFRICA & MIDDLE EAST

Tunisia: Former President Ben Ali calls demonstrators “terrorists” before fleeing

On 10 January, then-President Zine El-Abidine Ben Ali vowed to crack down on the people who had been demonstrating against his regime since mid-December, identifying them as “terrorists” and the protest an “act of terrorism”. The former President fled to Saudi Arabia on 15 January. At least 100 people were reportedly killed during the protests. Most of the attacks are believed to have been carried out by the Presidential guard, other services of the Tunisian police, and militia loyal to former President. The ICJ called for the release of all those arbitrarily detained, for free, transparent and fair elections, and for full investigations of all incidents of alleged extrajudicial killings.

[NGO Statement 1](#)

[NGO Statement 2](#)

Tunisia: UN Special Rapporteur finds secret detention and torture used in counter-terrorism

On 28 December, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, issued a report on his visit to Tunisia in January 2010. In the report, he highlighted that the current definition of terrorism in Tunisian law is vague and broad and allows for a wide use of counter-terrorism measures, with the potential to lead to undue restrictions to other human rights, such as freedom of expression, religion or association. The expert also observed a pattern of unacknowledged detention of terrorist suspects, as a consequence of which they were at high risk of being subject to torture and ill-treatment. The Special Rapporteur also concluded that the judiciary had not served to effectively safeguard against these practices.

[Report](#)

Egypt: Terrorist suspect dies in detention amid concerns of torture

On 6 January, Sayyed Bilal, a man arrested reportedly in connection with the 1 January bombing of a Coptic church in Alexandria, was found dead while in the custody of the Egyptian authorities. According to reports by Amnesty International, members of his family were threatened with detention after they filed a complaint with the public prosecutor in Alexandria alleging that Sayyed Bilal had been tortured to death in detention.

[NGO Statement](#)

Bahrain: Lawyers of human rights defenders tried for terrorism withdraw in protest

On 9 December, the lawyers representing 23 people on trial for sedition and terrorism offences, among whom are human rights defenders and members of a Shiite opposition group, withdrew from the defence. The lawyers declared that the impossibility of communicating with their clients had prevented them from providing an effective defence, that the allegations of torture brought by the detainees had not been investigated and that their poor conditions of detention had not been addressed. The court appointed public lawyers who then communicated to the court on 23 December that they could not perform their functions, as the clients would not cooperate with them. Frontline, the Arabic Network for Human Rights Information and IFEX, organizations carrying out an observation of the trial, determined that fair trial guarantees had not been observed and that investigations into the allegations of torture and ill-treatment had not been carried out.

[Report 1](#)

[Report 2](#)

[Press Article 1](#)

[Press Article 2](#)

Yemen: Journalist convicted of terrorism offence in connection with his work

On 18 January, a special court in Sanaa sentenced journalist Ilah Haydar Shae to five years

of imprisonment, to be followed by two years of house arrest, for allegedly participating in an armed gang and working for the benefit of a terrorist organisation, Al-Qaeda in the Arabic Peninsula (AQAP). The charges were reportedly based on contacts made by the journalist in the context of his work. Abdul Ilah Haydar Shae has refused to recognise the legitimacy of the State Security Court to try him, contending that is a special court lacking competence. He was apprehended by State security forces on 16 August and detained arbitrarily. It is also alleged that he was subject to ill-treatment.

NGO Statement 1

NGO Statement 2

Israel: NGOs petition Supreme Court to request measures to prevent torture

On 21 December, the NGOs Adalah, Physicians for Human Rights – Israel (PHR), the Al-Mezan Center for Human Rights (Gaza), and the Public Committee Against Torture in Israel (PCATI) submitted a petition to the Supreme Court of Israel demanding the removal of sweeping legal exemptions granted to the Israeli police and the General Security Services (GSS) from the duty to make audio and video recordings of their interrogations of individuals suspected of security offenses. The petitioners consider that these exemptions are in violation of Israel's obligation to take measures to prevent acts of torture under Article 2 of the UN *Convention against Torture*.

Petition (Hebrew)

NGO Statement

Iran: Authorities announce execution of eleven alleged terrorists

On 20 December, the Ministry of Justice announced that eleven members of the organization of group Jundallah, alleged to be a terrorist group by the authorities of Iran, had been executed in the prison of Zahedan after having been convicted of the charges of "corruption on earth, fighting against God and the Prophet and confronting the sacred regime of the Islamic Republic of Iran". Reportedly, they had been convicted in connection with the suicide bombing outside the Imam Hossein Mosque in the city of Chabahar on 15 December which killed 39 people, an attack claimed by Jundallah.

Press Article 1

Press Article 2

Iran: Execution of activist convicted for terrorism halted; family harassed

On 26 December, the Iranian authorities halted at the last minute the execution of Habibollah Latifi, a Kurdish student, who was convicted in an allegedly unfair trial of involvement in terrorist acts and membership of an armed opposition group, reportedly, based solely on his possession of photos and videos of an acoustic bomb explosion that occurred in the city of Sanandaj prior to his arrest. Later in the day, security forces raided the home of Habibollah Latifi's family and arrested certain of his family members. Some international NGOs called for the immediate release of the family members and for the commutation of Latifi's punishment. No new date has been announced yet for his execution.

NGO Statement 1

NGO Statement 2

AMERICAS

USA: Bill blocking Guantánamo detainees' transfers and prosecution in federal courts becomes law

On 7 January, President Obama signed into law the *National Defense Authorization Act for Fiscal Year 2011* approved by Congress in December 2010. Sections 1032 and 1033 of the Act impede the deployment of financial resources to allow transfers of Guantánamo detainees to the US territory including for the purpose of criminal prosecution in federal courts. Furthermore, the sections prohibit use of resources to transfer the detainees to foreign countries, including their country of origin, unless the Secretary of Defense certifies the country's ability to monitor and control the detainee and its past experience with

terrorism, and the non-existence of any recorded cases of "confirmed recidivism" in that country. According to President Obama and human rights NGOs, the law will effectively impede the criminal prosecution of Guantánamo detainees by federal courts or their transfer to foreign countries.

[Draft Law](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

USA: Federal Court dismisses lawsuits against targeted killings on procedural grounds

On 7 December, the US District Court for the District of Columbia dismissed a lawsuit brought by the father of Anwar Al-Aulaqi, a US citizen alleged to be a high member of Al-Qaeda in the Arabic Peninsula (AQAP), seeking an order for US forces to desist from undertaking a targeted killing operation against him, pursuant his alleged inclusion on an official "kill-list". The judge dismissed the claims based on the Fourth and Fifth Amendments to the US Constitution on the grounds that Anwar Al-Aulaqi's father lacked standing before the Court, reasoning that Anwar Al-Aulaqi could himself file a lawsuit if he surrendered and the threat of a targeted killing does not injure an interest of the father nor of his relationship with his adult son. The Court also dismissed the action brought under the *Alien Tort Statute*, because Anwar is a US citizen and not an alien, the threat of extrajudicial execution is not covered as a tort by the statute, and the actions would in any event be covered by state immunity and by the political question doctrine. The decision and reasoning have been sharply criticized by a number of human rights advocates.

[Ruling](#)

[NGO Statement](#)

USA: Petition filed to Supreme Court on release of Guantánamo detainees

On 8 December, lawyers of five of the remaining Guantánamo detainees of Uighur origin filed for the second time a challenge to the Supreme Court against a Court of Appeals' ruling which held that, while the federal courts could determine that there was no lawful basis for a detention, they could not order the detainees to be released into the United States, since that power was an exclusive competence of the political branches of government. The new petition argues that it is an essential function of the judiciary, and not of the political branches, to order an effective remedy in *habeas corpus* cases.

[Petition](#)

[Amicus Brief \(Kiyemba II\)](#)

USA: Petition filed asking Supreme Court to hear appeal of dismissal of lawsuit against company for alleged participation in rendition

On 8 December, the American Civil Liberties Union filed an appeal to the Supreme Court seeking reversal of a lower court's decision, which dismissed the case *Mohammed v. Jeppesen Inc.*, against a company accused of providing flight services to facilitate US rendition program, involving enforced disappearance, arbitrary detention and torture and ill-treatment of transferred detainees. The ICJ together with several NGOs and international experts filed an amicus brief, urging that the Supreme Court affirm the right of the alleged victims to access to an effective remedy.

[Petition](#)

[Amicus Brief](#)

USA: CIA pays legal fees of torture psychologists, news reveal

On 17 December, news reports revealed that the CIA had agreed to cover at least 5 million dollars in legal fees for two psychologists, Jim Mitchell and Bruce Jessen, contracted by the CIA to design the techniques used in the CIA interrogation programme, which subjected detainees in CIA-run secret prisons to waterboarding, a form of near-drowning. These techniques had been originally devised in military school, in a training programme for US soldiers known as SERE - Survival, Evasion, Resistance, Escape. According to the news reports, Mitchell and Jessen participated actively at least in the waterboarding of Abu Zubaydah and Abd al-Nashiri.

[Press Article 1](#)

[Press Article 2](#)

USA: Judge confirms first conviction of Guantánamo detainee in federal court

On 21 January, Judge Lewis A. Kaplan of the US District Court for the Southern District of New York rejected the request by Ahmed Khalfan Ghailani to acquit or retry him after a jury found him guilty of conspiracy to destroy buildings and property of the United States and not guilty of other 284 charges connected to the 1998 terrorist attacks on the US Embassies of Nairobi and Dar es Salaam. The judge rejected his arguments that the evidence was insufficient for conviction, that the conviction was inconsistent with the acquittals for the other charges and that the prosecution had improperly influenced the jury. On 25 January, Judge Kaplan sentenced Ahmed Khalfan Ghailani to life imprisonment.

[Ruling](#)

[Press Article](#)

USA: Guantánamo detainee repatriated despite alleged risk of ill-treatment

On 6 January, the Department of Defense announced the transfer to Algeria of Guantánamo detainee Farhi Saeed bin Mohammed, despite his request not to be transferred there out of fear of ill-treatment. He had been detained by US forces since 2002. A US District Court granted his release in November 2009, which was stayed pending decision on his challenge to his transfer to Algeria. The federal Court of Appeals and the Supreme Court denied review of the case. On 29 December, the Government had notified the Court of Appeals of the imminent transfer in a confidential brief, not to be disclosed to the transferee and his lawyers.

[Confidential brief](#)

[Brief on transfer](#)

[NGO Statement](#)

USA: Bradley Manning, alleged Wikileaks source, said to be held in inhumane conditions

According to his lawyer and other sources, Bradley Manning, a US army analyst held in solitary confinement since July 2010 after being accused of leaking information to Wikileaks, was being held in inhumane conditions. On 19 January, his lawyers filed a protest against his conditions of detention, including his being placed on “suicide watch”. On 24 January, Amnesty International called on the US authorities to put an end to the his alleged ill treatment. Reports indicate that he has been taken off the “suicide risk” programme.

[Lawyer Statement](#)

[NGO Statement](#)

[Press Article](#)

Canada: Federal Court upholds validity and constitutionality of terrorist suspect’s security certificate

On 9 December, the Federal Court issued three rulings on the validity of the security certificate issued regarding Mohammed Harkat. Security certificates are issued for the purpose of allowing for the deportation of non-Canadian nationals suspected of terrorism connections. In the first judgment, the Court held the certificate to be valid and reasonable by finding that Mr Harkat had engaged in terrorism and he is a danger to the security of Canada. The Court, however, stressed that the ruling dealt only with Harkat’s admissibility in Canada and not with his deportation. In a second ruling, the Court held that the use of special advocates to deal with evidence undisclosed to the defendant in closed hearings and the provision allowing communications by the special advocate only after a designated judge’s authorisation were compatible with the *Canadian Charter of Rights and Freedoms*. Mohammed Harkat had been detained as a person inadmissible for residence in Canada on national security grounds from 2002 to 2006, when he was released under a control order allowing the police to search his home in order to ascertain his compliance with the order.

[Ruling 1](#)

[Ruling 2](#)

[Ruling 3](#)

[Press Article 1](#)

[Press Article 2](#)

Canada: Protective measures for G-20 unconstitutional, Ombudsman says

On 7 December, the Ombudsman of Ontario, André Marin, issued a report on the results of his investigations into the use and abuse of sweeping powers given to law enforcement officers during the G-20 meeting in Toronto in June 2010. Among his findings, the Ombudsman found that the powers given by *Ontario Regulation 233/10* under the *Public Works Protection Act*, now expired, including the power to arbitrarily arrest and detain people and to engage in unreasonable searches and seizures, were unnecessary to pursue the legislation's aim, namely to protect participants in the G-20 from harm either from terrorist enemies or from protesters. The Ombudsman also held that the regulation "was likely unconstitutional" and that its effect was to "infringe on freedom of expression in ways that do not seem justifiable in a free and democratic society".

[Report](#)

[Regulation](#)

[Ombudsman Statement](#)

Mexico: House of Representatives extends definition of terrorism

On 15 December, the House of Representatives approved with 299 votes in favour and 2 against a reform to the offence of terrorism included in the Criminal Code, by adding to the definition of terrorism the intent of "intimidating the society". The Representative who introduced the bill, Arturo Zamora Jiménez, has reportedly justified this extension of the definition by citing the necessity to deal with the recent violent activities of organised crime in Mexico.

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

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

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

Peru: UN Special Rapporteur on counter-terrorism and human rights issues report on visit to Peru

On 15 December, the report was published of the visit to Peru in September 2010 by UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, Martin Scheinin. In the report, the independent expert commends Peru for the way it has addressed the human rights violations committed during the internal armed conflict in the 1980s and 1990s and the regime of Fujimori, through a Truth and Reconciliation Commission, the trial and conviction of former President Fujimori, and the retrial of many people previously convicted for terrorism in unfair trials. The Special Rapporteur, however, finds that a tendency still exists to associate human rights defenders and social protest movements with terrorism, that progress should be made with the reparation schemes, that the definition of terrorism is broad and that the practice of improperly resorting to state of emergency in situations of mass demonstrations should be addressed.

[Report](#)

ASIA - PACIFIC

India: Human rights defender convicted for sedition

On 24 December, a criminal court in Raipur (Chhattisgarh) found Dr Binayak Sen guilty of sedition conspiracy under the *Chhattisgarh Special Public Safety Act 2005* and the *Unlawful Activities Prevention Act 2004* on accusations of having carried letters from and to a Maoist outlawed group. Amnesty International alleges that the trial violated international fair trial standards, and that the offences for which he has been convicted are impermissibly vague and fall well short of international standards for criminal prosecution. Nobel Laureate Amartya Sen also protested at the conviction. The appeal before the Chhattisgrah High Court is currently underway and is being monitored by a EU delegation. Dr Binayak Sen had reportedly been detained without proper charges for seven months, denied bail, and kept in solitary confinement for three weeks prior to the judgment.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Pakistan: Killer of Punjab Governor charged with terrorism

On 5 January, Malik Mumtaz Hussain Qadri, allegedly responsible for the killing of Punjab Governor Salman Taseer, was charged by the police with murder and terrorism for the murder which occurred on 4 January. The suspect, a security guard of Taseer, was said to have admitted to having killed the Governor in protest at his call for changes to the blasphemy law which carries the death penalty. He appeared in a pre-trial hearing before a court on 24 January.

[Press Article 1](#)

[Press Article 2](#)

Australia: Police formally apologises to Haneef for false accusations and detention for terrorism

On 23 December, the Australian Federal Police (AFP) issued a formal statement of apology recognising that they wrongly accused and detained Dr. Mohamed Haneef on terrorism charges in 2007. The apology follows an undisclosed settlement agreement between the Government and Mohamed Haneef, who dropped all lawsuits connected with his detention and removal from Australia. Mohamed Haneef was arrested in July 2007 while working at the Gold Coast Hospital because intelligence linked him to a failed terrorist attack in UK that year. He was held for 12 days before he was charged with recklessly giving support to a terrorist organisation. When a judge ordered his release, the Minister cancelled Mohamed Haneef's visa and ordered his detention pending deportation. The terrorism charges were later dropped for lack of evidence.

[Press Article 1](#)

[Press Article 2](#)

Australia: Government orders probe into Australia's complicity in torture of Guantánamo detainee

On 17 December, the Australian Government reached a settlement agreement with Mamdouh Habib to drop a civil lawsuit against it for complicity in torture during his rendition by the US authorities from Pakistan to Egypt in 2001 and his subsequent detention at Guantánamo Bay, where he was held until January 2005. The details of the agreement are undisclosed and reportedly include a clause of secrecy on the elements of the case. The deal occurred after Mamdouh Habib gathered testimony from an Egyptian officer and Muhammad Saad Iqbal Madni, who was detained with him in Egypt and Guantánamo, on the fact that Australian officers were present during his interrogations. The Prime Minister directed the Inspector-General of Intelligence and Security to open an investigation into the actions of relevant Australian agencies in relation to his arrest and detention overseas from 2001 to 2005.

[Inspector-General Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Home Secretary announces general reform of counter-terrorism powers

On 26 January, Home Office Secretary Theresa May revealed the findings of an internal comprehensive review of counter-terrorism powers, supervised by Lord Ken McDonald QC. Following the report of the findings, the Home Office proposed to effectively end provisions permitting 28 days of detention without charge, allowing temporary provisions to lapse and returning to the previous maximum time period of 14 days. The power to conduct stop and searches of individuals were made subject to stricter conditions. The Home office also proposed to introduce a requirement for a magistrate's authorisation before any surveillance activity may be undertaken by local authorities for most serious crimes; to repeal control orders in their current form and substitute them with a new, less

restrictive form of control order; and to increase the use of deportation. The changes will be presented before the Parliament in the coming weeks.

[Review Documents](#)

[Home Secr. Statement](#)

[Home Off. Statement](#)

[Press Article](#)

UK: High Court allows Coroner to access classified evidence in closed hearing

On 30 November, the High Court of Justice issued a ruling in a case between the Home Office Department and the Coroner in charge of investigations into the preventability of the bombings, failings and inefficiency by the secret service and law enforcement agencies in the wake of the bomb attacks in London on 7 July 2005. The Court ruled in favour of the Coroner by holding that he has the power to examine classified evidence in closed hearings which would be attended only by members of the Security Service and their legal representatives, together with counsel to the Inquests and those instructing them.

[Ruling](#)

UK: Court allows terrorist suspect's extradition to USA, despite fears of further transfer to Pakistan and human rights violations

On 21 January, District Judge Purdy of the City of Westminster Magistrate Court rejected a challenge brought by Abid Naseer against his extradition to the USA to stand for trial on charges of providing and conspiring to provide material support to a terrorist organization (Al-Qaeda). Abid Naseer opposed the extradition out of fear that the USA might transfer him to his native country, Pakistan, where he would be at risk of the death penalty and torture or other cruel, inhuman or degrading treatment or punishment. While the judge recognised that Mr Naseer might incur such risk in Pakistan, he found that the US system provided sufficient guarantees to avoid him being exposed to such risk. Abid Naseer had been arrested by UK authorities on 9 April 2009 for alleged terrorist activity in respect of the alleged planned Manchester bombing, but later released without charge, until he was rearrested after the US request of extradition on 7 July 2010.

[Ruling](#)

France: National Assembly approves reform of police custody

On 25 January, the National Assembly approved the first reading of a bill reforming the current regime of police custody, after parts of it were declared unconstitutional by the Constitutional Council and contrary to the European Human Rights Convention by the European Court of Human Rights. The present bill, which will require approval the Senate, still allows limits to access to a lawyer for up to 72 hours for people under investigation for crimes of terrorism or organised crime.

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

[Dossier of Draft Law \(F\)](#)

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

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

Germany: Government has discretion in requesting extradition of CIA officers accused of rendition, Court says

On 14 December, the administrative court of Cologne rejected a lawsuit brought on behalf of the European Center for Constitutional and Human Rights seeking an order to the Federal Government to request the extradition from the USA of 13 CIA agents accused of involvement in the rendition of Khaled El-Masri. Khaled El-Masri, a German national, was transferred to and through a number of countries between 31 December 2003 and 29 May 2004 and subjected to multiple human rights violations. His arrest later turned out to have been the result of mistaken identity. Arrest warrants against the agents had already been issued by the District Court of Munich on 31 January 2007, but the Government has always refused to request extradition, on the basis that the USA would have in any case rejected the request. The administrative court held that the Federal Government has broad discretion in decisions concerning foreign policy, including intelligence, and that the decision on whether to request extradition fell within this domain.

[Ruling \(German\)](#)

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

Italy: Court of Appeal confirms convictions and acquittals in Abu Omar rendition trial

On 15 December, the criminal Court of Appeals of Milan confirmed the acquittal for the kidnapping of rendition victim Abu Omar on 17 February 2003 of Nicolo Pollari, former head of the Italian Military Secret Service, and of his deputy, Marco Mancini, because of the evidentiary shield of the secret of state claimed by the Italian Government. It also reduced the sentence of the other two Italians who were convicted for aiding and abetting the kidnapping and did not consider them civilly responsible for the payment of damages. The Court of Appeal, on the other hand, increased the sentences of the 23 CIA agents convicted by the lower criminal court for carrying out the kidnapping, from seven to nine years' imprisonment. Finally, the Court confirmed the award of damages of one million euros to Abu Omar and 500,000 to his wife to be paid by the CIA agents. Abu Omar had been abducted by CIA agents and the Italian intelligence service and flown to Egypt where he was imprisoned for four years. The US citizens were tried *in absentia*, as the Italian government has refused to seek their extradition.

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

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

Spain: European Court of Human Rights upholds dissolution of Basque party

On 7 December, the European Court of Human Rights held that Spain did not breach the European Convention of Human Rights by dissolving the Basque political party *Eusko Abertzale Ekintza* (Acción Nacionalista Vasca (EAE-ANV)) on grounds that it represented a continuation of the activities of the previously dissolved *Batasuna* party. The Court found that the applicants' rights to participate in free elections, to freedom of expression and assembly and to an effective remedy were not violated, as the Spanish Supreme and Constitutional Courts had appropriately adjudicated the merits of the case and had determined that the facts alleged by the Government of a link with *Batasuna* had been proven.

[Judgment \(F\)](#)

Spain: Court convicts four policemen for torture of terrorist suspects

On 30 December, the criminal court of Gipuzkoa (*Audiencia Provincial*) convicted four police officials, Juan Jesús Casas García, José Manuel Escamilla Martín, Sergio García Andrade Macdonal and Sergio Martínez Tome, to sentences of two to four years of imprisonment for the offence of torture. The court found them guilty of having tortured Igor Portu Juanena, and Mattin Sarasola Yarzabal, two members of ETA who were implicated in the terrorist attack on Madrid airport of 30 December 2006.

[Judgment \(S\)](#)

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

Spain: Terrorist suspect extradited to Morocco, despite Human Rights Committee's interim measures

On 14 December, Spanish authorities extradited Ali Aarrass to Morocco, where he is accused of being a member of a terrorist network, despite interim measures prescribed by the UN Human Rights Committee, which is examining the case, not to transfer him before its final decision on whether the extradition would expose him to the risk of torture or cruel, inhuman or degrading treatment in breach of the principle of *non-refoulement*. The Human Rights Committee considers such interim measures to be binding for states such as Spain that have accepted the communication procedure under Protocol I of the *International Covenant on Civil and Political Rights*. Amnesty International condemned the transfer as a violation of human rights law. Ali Arrass had been arrested in the Spanish enclave city of Melilla on 1 April 2008, on the basis of international arrest warrants issued by Morocco, and held by Spanish authorities until the extradition.

[NGO Statement](#)

Sweden: Committee against Torture rules transfer of former PKK activists to Turkey would violate *non-refoulement* principle

On 3 December, the UN Committee against Torture decide that Sweden would breach its human rights obligations if it were to return Munir Aytulun and Mükerrerem Güclü to Turkey, as they would run a real and foreseeable risk of being subject to torture there. The Committee found that they had been active members of the Kurdish Workers' Party (PKK) for fourteen and fifteen years respectively, before deserting, and that there are strong indications that they are wanted in Turkey to be arrested and tried under anti-terrorism laws. The Committee found that it was established that individuals similarly situated to the applicants belonged to a group whose members were particularly at risk of torture by Turkish officers. The Committee dismissed the allegations regarding the same risks arising from the PKK on the grounds that the *Convention against Torture* did not cover *non-refoulement* in cases where the risk originated from non-state actors, without the consent or acquiescence of the Government.

[Decision \(Aytulun\)](#)

[Decision \(Güclü\)](#)

Poland: Guantánamo detainee gets “victim status” in secret CIA detention investigations

On 20 January, public prosecutor Robert Majewski announced that Zayn al-Abidin Muhammad Husayn, also known as Abu Zubaydah, a Palestinian who does not have any status recognized by national authority and is therefore legally stateless, currently detained at Guantánamo Bay, had been given “victim status” in the investigations concerning torture allegedly used against him at the converted Stare Kiejkuty military base near Szymany in the Masuria region of Poland. The facility was an alleged secret CIA detention facility used in its rendition programme. This measure will give his lawyers the right to participate in the proceedings. On 27 October, another Guantánamo detainee, Abd al-Rahim al-Nashiri, was granted the same status in these investigations. Abu Zubaydah was held in secret detention by the CIA from 28 March 2002 until approximately 6 September 2006, when he was transferred to Guantánamo Bay. U.S. government documents show that he was allegedly subjected to “waterboarding” at least 83 times in one month.

[Case Summary](#)

[Press Article 1](#)

[Press Article 2](#)

Lithuania: Prosecutor quits investigations in secret detention centre and torture

On 14 January, the Lithuanian Prosecutor General announced the closing of the investigations into alleged collusion of State Security Department (SSD) officials with the CIA to create and operate secret sites in Lithuania, used to arbitrarily detain and interrogate, through the use of torture and ill-treatment, individuals apprehended pursuant to the CIA renditions programme. The Prosecutor reportedly justified his position by saying that the offence for which the officers were investigated, “abuse of position”, could not be prosecuted because of the statute of limitations. Amnesty International and Reprieve protested at the closure of the investigations.

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

Finland: Supreme Court blocks extradition of Chechen combatant on political crime grounds

On 22 December, the Supreme Court of Finland issued an opinion blocking the extradition of a former Chechen combatant, K., to the Russian Federation to answer for offences of terrorism allegedly committed during the Chechen conflict. The Court ruled that the acts allegedly committed by K. occurred in the context of an armed conflict and could constitute a political crime according to the *Finnish Extradition Act*.

[Ruling \(Finnish\)](#)

Holy See: First-ever anti-terrorism law approved

On 30 December, the Pontifical Commission approved a *Law on the prevention and countering of money-laundering and financing of terrorism*. The law introduces in Vatican legislation the offences of terrorist association, recruitment for terrorism purposes, terrorism training, terrorist attack to the life or integrity of people and to movable and immovable goods. The legislation also upholds the freezing of assets of people, legal entities or groups designated by the European Union. The law will enter into force on 1 April 2011.

[Law \(Italian\)](#)

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

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

Turkey: European Court finds political party dissolution in violation of European Convention

On 14 December, the European Court of Human Rights found that Turkey had violated the right to hold and participate in free elections of 28 Turkish citizens who were executive members of *Halkın Demokrasi Partisi* (People's Democracy Party) before its dissolution by the Constitutional Court in March 2003. The Constitutional Court had also banned them from political activities for a period of five years on the grounds of alleged activities in support of the Kurdistan Workers' Party (PKK), an organisation designated as terrorist by Turkey. The European Court found that the constitutional provision providing for this ban allowed for too wide an interpretation to be regarded as proportionate to any legitimate aim relied on by the Government.

[Judgment](#)

Turkey: Investigations into torture allegations neither effective nor prompt, says European Court

On 14 December, the European Court of Human Rights found that Turkey had not met its obligations under Article 3 of the European Convention, as it did not provide Sultan Öner with a prompt and effective investigation into her allegations of torture while in police custody. Sultan Öner had been held in 1997 on suspicion of having assisted the Kurdistan Workers' Party (PKK). She claimed before the public prosecutor to have been insulted, and subjected to rape and other treatment amounting to torture by the police while in detention. She attempted suicide while in detention following the ill-treatment. The Court found that the public prosecutor should have opened an investigation as soon as the allegations had reached him, without waiting for the presentation of a formal complaint, and that the investigations performed had been excessively long and inconclusive.

[Judgment \(F\)](#)

Turkey: European Court finds conviction of demonstrators in breach of Convention rights

On 30 November, the European Court of Human Rights held that Turkey had violated Turan Biçer's right to freedom of assembly and association, for having sentenced him to three years and nine months of imprisonment for participating in unauthorised demonstrations in support of the PKK. The Court found the provision of such a criminal penalty for participation in a peaceful public demonstration in favour of Abdullah Öcalan to be manifestly disproportionate, in its nature and weight, to the pursued legitimate aim of preserving public order.

[Judgment \(F\)](#)

Kazakhstan: Shanghai Counter-Terrorism Convention ratified

On 10 January, President Nazarbayev signed into law the ratification of ratified the *Shanghai Convention on Combating Terrorism, Separatism and Extremism* of the Shanghai Organisation of Cooperation (SOC). The Convention provides for a wide definition of terrorism, which is described as "an ideology of violence and practice of influencing the decision making by organs of power or international organisations by means of

commission or a threat of commission of violent and (or) other criminal acts related to threatening of population and aimed at inflicting damage upon a person, society and state". The Convention also provides for a list of conduct which must be criminalised, which include a terrorist act, call to terrorism or public justification of terrorism.

[Convention \(R\)](#)

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

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

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Security Council extends mandate of Counter-Terrorism Committee Executive Directorate

On 20 December, the UN Security Council renewed the mandate of the UN Counter-Terrorism Committee Executive Directorate (CTED) until 31 December 2013. In its resolution, the Council encouraged the CTED to "ensure that all human rights issues relevant to the implementation of resolutions 1373 (2001) and 1624 (2005) are addressed consistently and even-handedly". On 16 December, the CTED had presented an international directory of good practices, codes and standards aimed at assisting Member States in the implementation of UN Security Council resolution 1624 (2005), which requests States to prohibit and prevent incitement to commit terrorist acts.

[SC Resolution](#)

[CTED Report](#)

[CTED Directory](#)

[UN Statement](#)

UN: UN Special Rapporteur publishes best practices in counter-terrorism

On 22 December, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, Martin Scheinin, released his annual report to the Human Rights Council, which contains a compilation of ten legal and institutional frameworks that serve to promote and protect human rights, fundamental freedoms and the rule of law in all aspects of counter-terrorism ("best practices"). The compilation is the outcome of an analysis of the six years work of the Special Rapporteur and pursuant to consultations. Among the best practices, the Special Rapporteur proposes a model definition of terrorism.

[Report](#)

UN: UN Directorate in Counter-terrorism calls for greater incorporation of human rights in its technical assistance program

On 7 October, the UN Counter-Terrorism Committee Executive Directorate (CTED) issued a background paper for a *Thematic discussion of the Counter-Terrorism Committee on the human rights aspects of counter-terrorism in the context of resolution 1373 (2001)*. In the paper, the CTED stressed that the "Committee and CTED should incorporate human rights and rule-of-law aspects more proactively into their technical assistance recommendations to States, to strengthen national systems for bringing terrorists to justice and improve international cooperation".

[Paper](#)

EU: Counter-terrorism Coordinator asks for appeal of General Court's listing ruling

On 17 January, the European Union Counter-terrorism Coordinator transmitted to the European Council his Action Plan on combating terrorism, which reports on existing procedures and suggests the introduction of new measures. In the report, the Coordinator warns the Council that "there is an immediate need for the Commission, Council and Member States to lodge appeals against the General Court Judgement in the latest case of *Kadi vs. Commission*. This judgement poses a potentially major problem for Member States in their ability to fulfil their obligations under Chapter VII of the UN Charter, and thus for the EU's stated aim to reinforce the UN as the lynch-pin of an international order based on the rule of law."

[Report](#)

Council of Europe: Vice-President of Parliamentary Assembly speaks of human rights-based approach to counter-terrorism

On 16 December, the Vice-President of the Parliamentary Assembly of the Council of Europe (PACE), Andres Herkel, delivered a speech to the Istanbul Conference on "Prevention of terrorism: prevention tools, legal instruments and their implementation". In his speech he underlined that human rights law requires states to investigate and prosecute not only terrorist acts, but also human rights abuses committed by law enforcement agencies and officials involved in counter-terrorism measures. The Vice-President stressed that "[i]t is our right and duty to use fully our democratic oversight powers to scrutinise the activities of the law enforcement agencies and security services, in order to make sure that, in their counter-terrorist activities, they use only means which are compatible with the standards of the European Convention of Human Rights."

[Speech](#)

African Union: Expert meeting announced new African Model Law on Counter-Terrorism

On 16 December, a meeting of experts of Member States of the African Union approved a proposal to draft an African Model Law on Counter-Terrorism. According to news reports, the draft law would criminalise terrorism, ban ransom payments to terrorists and include a new "African arrest warrant". The draft Model Law will be presented on 30 January in Addis Ababa to the Conference of AU Heads of State and Government.

[AU Statement](#)

[Press Article 1](#)

[Press Article 2](#)

To subscribe free of charge to this E-Bulletin, please send an email to icjcounterterrorism@icj.org with your details (name, organization) and "subscribe ICJ E-Bulletin" in the subject line. To unsubscribe from this list send an email to icjcounterterrorism@icj.org "unsubscribe ICJ E-Bulletin" in the subject line.

Find this E-Bulletin and more information about the ICJ, the rule of law and human rights on our website: www.icj.org.

Please send feedback about the E-Bulletin to icjcounterterrorism@icj.org.