



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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UN: General Assembly passes resolution on counter-terrorism and human rights
UN: Al-Qaeda Committee revises procedural guidelines
EU: Court of Justice confirms de-listing of organisation for breach of defence rights
EU: Parliament calls for thorough review of counter-terrorism measures

AFRICA & MIDDLE EAST

Ethiopia: Swedish journalists convicted under draconian Anti-Terrorism Law

On 21 December, a criminal court in Addis Ababa convicted Martin Schibbye and Johan Persson of the charges of “rendering support to terrorism” and entering the country illegally for subversive purposes, and sentenced them to eleven years of imprisonment. The two Swedish journalists were arrested on 1 July 2011 while they were reporting on the Ogaden National Liberation Front (ONLF), an outlawed armed insurgent group. Several international NGOs called the trial unfair and declared that the convictions were not based on credible evidence, and called for the immediate release of the Swedish journalists. Human Rights Watch called on the government to scrap the *Anti-Terrorism Proclamation 2009*, the basis of the prosecution, and Reporters Without Borders wrote to the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, Ben Emmerson, to request that he visit Ethiopia. The two journalists announced they were seeking a pardon.

[Letter](#)[NGO Statement 1](#)[NGO Statement 2](#)[NGO Statement 3](#)[Press Article 1](#)[Press Article 2](#)

Ethiopia: Five people, including journalists, convicted under repressive Anti-Terrorism Law

On 19 January, the Federal High Court convicted *in absentia* journalists Woubshet Taye Abebe, Reeyot Alemu Gobebo, and Elias Kifle; opposition leader Zerihun Gebre-Egziabher Tadesse; and a woman named Hirut Kifle Woldeyesus of the charges of conspiracy to commit terrorist acts and of participating in a terrorist organisation, under the contentious *Anti-Terrorism Proclamation 2009*. The conspiracy charge carries a sentence of 15 years to life imprisonment or death. They were also convicted of money laundering under the Ethiopian criminal code. The trial was reportedly tainted by allegations of torture, violations of the defendants’ presumption of innocence, and lack of access to defence counsel during pre-trial detention. International NGOs called for their immediate release and for the amendment of the anti-terrorism legislation, which is said to contain overly broad definitions of terrorist acts and to allow for violations of freedom of expression and due process rights.

[Law](#)[NGO Statement 1](#)[NGO Statement 2](#)[NGO Report](#)

Burundi: Journalist arrested and charged for terrorism for interview of rebel leader

On 28 November, Hassan Ruvakuki, a journalist collaborating with radio *Bonesha FM* and *Radio France Internationale’s* Swahili service, was arrested by the National Intelligence Service (SNR) and was later charged together with another 22 people with the offence of committing terrorist acts. He is reportedly accused of having given the signal for rebels of the Forces for the Restoration of Democracy (FRD) to launch an attack on 20 November and of helping them by giving them publicity. Reporters Without Borders protested at the arrest and said that his capture may have been prompted by *Bonesha FM’s* broadcasting of an interview with a Burundian citizen who identified himself as the commander of a new rebel group in the east of the country, the FRD-Abanyagihugu.

[NGO Statement](#)[Press Article](#)

Kenya: Wave of arbitrary arrests hits Kenya after terrorist attacks and warnings

Authorities have made a large number of allegedly arbitrary arrests of some 300 persons, after two incidents on 24 November, in which grenades were launched in a crowd in Garissa caused five deaths and 30 injured and a soldier was killed in Mandera. The attacks were believed to be acts of Kenyan sympathisers of al-Shabaab, the Somali terrorist organisation. The authorities recognised that none of the arrested people were suspected of the attacks. On 27 December, after the authorities warned of a Christmas attack and

arrested six people, two of the suspects were released without charge. The authorities had previously circulated their pictures and labelled them “dangerous”, which prompted them to surrender to the police out of fear of being subjected to mob attacks. On 28 November, Human Rights Watch called on the Kenyan authorities to stop the arbitrary arrests and beatings and pursue the cases with appropriate police methods.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Egypt: Military Council ends emergency law but not for “thugs”

On 24 January, Field Marshal Hussein Tantawi, chair of the Supreme Council of the Armed Forces, announced the partial lifting of the state of emergency on 25 January, although it will remain in force for cases of “thuggery”. Fears have been expressed that this term might mean that it will be applied to public protests. The 1958 *Emergency Law* was conceived as an instrument to address terrorism and sedition. It allows for restrictions of freedom of movement, association and residence, for prolonged detention without charge or trial, and grants powers of censorship, confiscation and shutting down of media. The *Emergency Law* provided for the institution of the State Security Court which can be convened by the President who appoints its judges, and gives it jurisdiction over civilians accused of ordinary crimes.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Syria: President imposes the death penalty on “terrorist” weapon smugglers

On 20 December, President Bashar al-Assad signed a law into force which will provide for the application of the death penalty to any person “providing weapons or helping to provide weapons intended for the carrying out of terrorist acts”. According to the State news agency SANA, the law also provides for the death penalty for smuggling and distributing weapons with the aim of carrying out terrorist acts. International NGOs voiced their concern that such measures may be directed at protesters, whom the regime identifies with “terrorists” or as being pushed by “terrorists”. The UN High Commissioner for Human Rights, Navanethem Pillay, on 2 December suggested that the death toll since the beginning of the protests was “much more” than 4,000 people, with more than 14,000 reportedly detained and 12,400 who sought refuge in neighbouring countries. She also encouraged the Security Council to refer the situations in Syria to the International Criminal Court.

[HCHR Video](#)

[HCHR Statement](#)

[NGO Statement](#)

[Press Article](#)

Iraq/Turkey: Anti-terrorism airstrike kills 35 smugglers; authorities admit “mistake”

[See, EUROPE & COMMONWEALTH OF INDEPENDENT STATES](#)

AMERICAS

USA: Calls for closure multiply, as Guantánamo detention centre turns 10

11 January marked the 10th anniversary of the commencement of the use of the US Navy Station in Guantánamo Bay, Cuba, to detain persons in connection with counter-terrorism efforts following the 11 September 2001 attacks. The UN High Commissioner for Human Rights, the Inter-American Commission on Human Rights and several NGOs called on the US Government to comply with the pledge expressed by President Obama in 2009 to close down the detention facility. At the moment, there are still 171 persons detained in Guantánamo, more than half of whom the US has cleared for release, but will not allow into the US or the country of their nationality. The newly approved *National Defense Authorization Act* provides for a regime of indefinite detention for many of those held.

[HCHR Statement](#)

[IACHR Statement](#)

[NGO Report](#)

[Press Article](#)

USA: Indefinite detention of terrorists signed into law with “serious reservations” by US President

On 31 December, President Barack Obama signed the *National Defense Authorization Act* (NDAA) into law, despite having expressed “serious reservations with certain provisions that regulate the detention, interrogation, and prosecution of suspected terrorists”. The legislation allows for the indefinite imprisonment of terrorism suspects, detained anywhere in the world, without charge or trial, with the result that suspects could be held for years, possibly for life, without being criminally charged. Human rights lawyers and advocates heavily criticized the passage of this legislation as being incompatible with international human rights standards and the rule of law.

Law

President Statement

NGO Statement 1

NGO Statement 2

NGO Statement 3

USA: US President asked to justify US drones strategy by NGO

On 16 December, Human Rights Watch wrote to the US President Barack Obama challenging the widespread use of drones in US counter-terrorism operations abroad. The NGO asked the US President to clarify the still undisclosed legal rationale for these operations, define when a strike is legal or not, and assure transparency of operations and policies behind it, including investigations on any targeted killings where there is credible evidence of wrongdoing. Human Rights Watch also stressed that “the use of drones in targeted killings should be exclusively within the command responsibility of the US armed forces”, as opposed to unaccountable intelligence agencies. Meanwhile, on 20 December, the New York Times began legal proceedings under the *Freedom of Information Act* (FOIA) to obtain a legal memorandum of the US administration linked to the targeted killing of Anwar al-Awlaqi.

FOIA Complaint

NGO Statement

Press Article 1

Press Article 2

USA: Federal court dismisses Guantánamo torture damage lawsuits

On 22 December, federal Judge Richard J. Leon of the US District Court for the District of Columbia dismissed the civil damage complaint brought by Abdul Rahim Abdul Razak al Janko, a former Guantánamo detainee, against the United States and several present and former US officers, claiming damages for arbitrary detention and torture while he was imprisoned in Guantánamo and Afghanistan. Judge Leon found that all cases related to Guantánamo detention apart from *habeas* cases are barred by section 7 of the *Military Commission Act 2006*. Al-Janko was released in October 2009 after he won a *habeas* case before the same Judge Leon who found that he had not been an “enemy combatant”.

Ruling

USA: CIA torture interrogations whistleblower prosecuted by Justice Department

On 23 January, the Justice Department charged John Kiriakou, a former CIA officer, with repeatedly leaking classified information, including the identities of agency operatives involved in the capture and interrogation of alleged terrorists. John Kiriakou was among the first to go public with details about the CIA’s use of water-boarding and other harsh interrogation measures, including in the interrogations of Abu Zubaydah. He is charged with disclosing classified information to reporters and lying to the agency about the origin of other sensitive material he published in a book, offences carrying a penalty of up to 30 years of imprisonment.

Criminal Charges

FBI Statement

Press Article 1

Press Article 2

USA: Remedies for torture in court are matters for Congress, rules Appeals Court

On 23 January, the federal Court of Appeals for the Fourth Circuit dismissed an appeal by convicted prisoner José Padilla seeking damages and an injunction against former Secretary of Defense Donald H. Rumsfeld and other six US officers, to prevent him being labelled again an “enemy combatant”, and for his unlawful detention and torture while at the Naval Consolidated Brig at Charleston, South Carolina, from 2002 to 2005. The Court

of Appeals found that there was no legal cause of action for him to seek damages for constitutional rights violations because the constitutional remedy does not apply to military detention. The Court determined that Congress has not established such a remedy and deference must be given to the Executive and the Legislative powers in national security matters. The Court also dismissed an action under the *Religious Freedom Restoration Act* (RFRA) on violations of his freedom of religion as it found that the statute would not apply to the case and, even if it did, the defendants would enjoy qualified immunity. Finally, it rejected the request of injunction as there was no real or imminent danger for Padilla of being labelled “enemy combatant” and, even if there was, his conviction in a civil court for terrorism offences and links with Al-Qaeda would mean that that label would not carry a real added stigma.

[Ruling](#)

[NGO Statement](#)

USA/Italy: No obligation to give immunity to Abu Omar kidnapper, says federal court

On 5 January, federal Judge Beryl A. Howell of the US District Court for the District of Columbia dismissed a lawsuit brought by Sabrina de Sousa against the State Department and the CIA for failure to invoke her immunity in the Italian judicial proceedings which convicted her, together with other 22 US citizens, for the rendition of Abu Omar on 17 February 2003. Sabrina de Sousa, who was working at the US consulate in Milan, is alleged by Italian prosecutors to be a CIA operative, an allegation which she has denied. The District Court held that the issue of immunity was non-justiciable as it constituted a discretionary power of the Executive in the realm of foreign relations and was barred from courts by the foreign policy doctrine. The court also dismissed the counts against the two defendants over denial of due process of law by foreclosing Sabrian de Sousa’s ability to pursue her chosen profession, because this consequence originated from the Italian proceedings which are beyond these agencies’ control.

[Ruling](#)

[Press Article](#)

USA/Afghanistan: Governmental report accuses US of ill-treatment of prisoners in Bagram

[See, ASIA & PACIFIC](#)

Canada: More than two years after clearing by Federal Court, Abousfan Abdelrazik de-listed by UN

On 30 November, the UN Security Council announced that it had deleted the name of Abousfan Abdelrazik, a Canadian-Sudanese national, from the Al-Qaeda Terrorism List. Inclusion on the list impeded him in travelling abroad and subjected him to assets freezing. The Security Council reached the decision after Abousfan Abdelrazik requested de-listing to the Ombudsperson, Kimberly Prost. On 4 June 2009, the Federal Court ruled that his 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. 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 Abousfan Abdelrazik, regardless of his inclusion on the list.

[UN Statement](#)

[Press Article 1](#)

[Press Article 2](#)

Chile: President accuses indigenous people of “terrorist” arson without evidence

On 6 January, President Sebastian Piñera invoked the use of the Pinochet-era anti-terrorism legislation against the Mapuche indigenous people, who he and the Minister of Interior, Rodrigo Hinzpeter, blamed for the massive burnings of around 50,000 hectares of forests across Chilean Patagonia, including in the national park Torres del Paine, which started on 27 December 2011. President Piñera called these fires an act of terrorism. The President of the Senate, Guido Girardi, announced that he and other members of the

Parliament would bring a case to the Inter-American Commission of Human Rights over the abuse of this legislation and stressed that there was no evidence the Mapuche people were involved in the arson. Different explanations had circulated on the origin of the burnings. A legislator from one of the affected departments, Magallanes, has suggested that a Parliamentary commission of inquiry be established.

Senate Statement (S)

House Statement (S)

Press Article 1 (S)

Press Article 2 (S)

Press Article 3 (E)

Argentina: Generic “terrorism” aggravating circumstance introduced in Criminal Code
On 28 December, *Law no. 26.734* was published in the Official Gazette, which introduces a terrorism as an aggravating factor which would lead to a doubling of the penalties under the Criminal Code applicable to all the offences contained in the Code, unless the acts took place “in occasion of the exercise of human and /or social rights or any other constitutional right”. The Law also introduces an offence of financing of terrorism based on the definition set out in the aggravating circumstance provision. The reform is said to have been forced through by the Financial Action Task Force, an inter-governmental group dedicated to the fight against financing of terrorism and money laundering. Several NGOs criticised the legislation and the overly broad definition of terrorism.

Law (S)

NGOs Statement (S)

Press Article 1 (S)

Press Article 2 (S)

Press Article 3 (E)

ASIA - PACIFIC

China: Seven Uighurs killed and a six-year-old child “disappeared” in “anti-terrorism” raid

On 28 December, law enforcement officers killed seven Uighurs and arrested five children in an operation the authorities said was directed against “terrorists” who were kidnapping two shepherds. Other reports say that the group was trying to flee Xinjiang to escape the repression of the Chinese government, which days before led to several arrests of people allegedly for having “illegal” material. In the operation, one Chinese officer was reportedly killed by repeated stabbing. The detention of the five children was not originally disclosed and the whereabouts of another six-year old child is still unknown, although his presence in the group was confirmed by his family members. Chinese authorities are executing a counter-terrorism campaign in Xinjiang where part of the population opposes rule by the central government.

NGO Statement

Press Article 1

Press Article 2

Press Article 3

India: Lawyers strike to demand repeal of repressive anti-terrorism laws

On 1 December, lawyers in the State of Jammu and Kashmir went on strike to ask for the repeal of the *Armed Forces (Jammu & Kashmir) Special Power Act, 1990* and the *Jammu And Kashmir Disturbed Areas Act, 1992*. The legislation gives to the army sweeping powers to fire on people breaching orders prohibiting assembly of more than five people, and allows arrest and search without warrant, and seizure of property. The protest follows the momentum of the reform of the *Public Safety Act (PSA) 1978* in October 2011. The Army Chief General VK Singh called for the maintenance of the legislation as a necessary tool in countering terrorism in the region.

Law (AFSPA)

Law (DAA)

Bar Ass. Statement

Press Article 1

Press Article 2

Burma/Myanmar: UN Counter-Terrorism Executive Directorate visits country for first time

The UN Counter-Terrorism Executive Directorate (CTED), a body of the UN Security Council's Counter-Terrorism Committee, conducted its first comprehensive visit to Myanmar from 21 to 25 November 2011. The CTED is tasked with monitoring and promoting the implementation of Security Council resolutions 1373 and 1624. According to the CTED, the Government of Myanmar requested their assistance "in reviewing its draft comprehensive counter-terrorism law in order to ensure it is in line with international standards".

[UN CTED Statement](#)

Bangladesh: Death penalty for financing of terrorism introduced in legislation

On 26 December, the Government of Bangladesh approved the draft legislation *Anti-terrorism (amendment) Act, 2011*. According to press reports, the new legislation includes a provision for the death penalty for involvement in, supporting or financing militancy and terrorist activities in the country. The law also extends the power of the government to investigate "doubtful" transactions not only within banks, as in the previous law, but also concerning financial institutions, including NGOs. The national NGO Odhikar expressed its concerns at the legislation, also because it relies on an overly broad definition of terrorism in Bangladeshi law, and demanded its withdrawal by the government or rejection by the Parliament.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

Afghanistan/USA: Governmental report accuses US of ill-treatment of prisoners in Bagram

On 5 May, President Hamid Karzai ordered the transfer of the 2,700 prisoners held in the US prison facility in Bagram Prison to Afghan authorities and established a commission to prepare the transfer. The decision was reportedly taken after a report from the Constitutional Oversight Commission, which visited the detention centre twice and reported claims of torture and ill-treatment of prisoners and the fact that many of them are held without any evidence that would allow them to be brought to trial in Afghan courts. The report was presented by the Commission on 7 January.

[President Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Detainees torture inquiry opposed by NGOs shut down

On 18 January, the Secretary of State for Justice, Kenneth Clarke, announced the closing of the Detainee Inquiry, which was mandated to look into whether the UK Government and its security and intelligence agencies in the aftermath of 9/11 were involved in or aware of improper treatment, or rendition, of detainees held by other countries in counter-terrorism operations overseas or of rendition. The closing was justified by the Metropolitan Police investigations into the allegations concerning the rendition to Libya of two persons, including Tripoli's military council commander, Abdel-Hakim Belhaj, who had also refused to collaborate with the Detainee Inquiry. The Inquiry had been boycotted by several national and international NGOs, saying that the Terms of Reference and the procedures contained in the Protocol gave rise to serious concerns about the effectiveness, independence and transparency of the inquiry and did not comply with Article 3 of the *European Convention on Human Rights*.

[Justice Sec. Statement \(Video\)](#)

[Justice Sec. Statement \(Transcript\)](#)

[Inquiry Chairman Statement](#)

[NGOs Letter](#)

[Press Article](#)

UK: Libyan army commander sues UK for complicity in rendition and torture

On 19 December, Abdel Hakim Belhadj, also known as Abu Abd Allah Sadiq, commander of the anti-Gaddafi forces in the Libyan civil war, instructed the law firm Leigh Day & Co, collaborating with Reprieve, to sue the UK Government and its secret services. The complainant has alleged UK complicity in his 2004 rendition and that of his wife, Fatima Bouchar, to Libya, through Malaysia and Thailand, and for his torture by US forces during his detention in Thailand and Libya, while under interrogation by “foreign” agents, including UK agents. Abdel Hakim Belhadj was detained for six years in Libya while he was repeatedly subjected to torture, while Fatima Bouchar was imprisoned there for four months and released only three weeks before giving birth, resulting in precarious health conditions for her and her baby. The Metropolitan Police launched an investigation into these allegations and those of Sami al Saadi (see, E-Bulletin no. 58).

[Law Firm Statement](#)

[NGO Statement](#)

[Press Article](#)

UK: Court of Appeals grants *habeas corpus* to Bagram detainee

On 14 December, the Court of Appeals granted the *habeas corpus* action of Yunus Rahmatullah, a detainee in the US-administered Bagram detention centre in Afghanistan, and ordered his charge or release by 21 December 2011 through the activation of their Memorandum of Understanding (MoU) with the US authorities, which were based on UK’s obligations under the Geneva Conventions 1949 and their Protocols. The Court held that the existence of these agreements under the Geneva Conventions were sufficient to assure that the UK authorities had the power to release the detainee. Yunus Rahmatullah was captured in 2004 by UK forces in Iraq and then transferred to the US authorities, which later transferred him to the Bagram detention centre in Afghanistan. He has been held without charge for seven years. The UK Government wrote to the US authorities on 16 December asking for the detainee’s release. The Court granted a delay of the release term up to 18 January.

[Judgment](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

UK: Terrorism Legislation Reviewer suggests changes to assets-freezing regime

In December 2011, the UK Terrorism Legislation Reviewer, David Anderson Q.C., issued his first report on the regime of terrorist asset-freezing covering the period from December 2010 to December 2011. While the Reviewer did not suggest legislative amendment for the moment, he found that the “reasonable belief” test to decide whether to include a person on an asset-freezing list would be better substituted by a stricter “balance of probabilities” test. David Anderson did however suggest administrative and procedural changes, including the publication of the list on the Treasury website, the creation of a committee meeting regularly to consider designation and reviews, with consultation with the police on possible prosecutions. The report also highlighted that there were no new listings in the period under consideration and recommended that old listings should be reviewed on grounds of their real necessity and proportionality.

[Report](#)

UK: No transfer of “terrorist” for flagrant denial of a fair trial in Jordan, says European Court of Human Rights

On 17 January, the European Court of Human Rights ruled that Omar Othman, also known as Abu Qatada, could not be transferred to Jordan to face detention after a terrorism conviction *in absentia* and a possible re-trial, because he would be at real risk of a flagrant denial of a fair trial, due to the practice there to admit statements and evidence obtained by torture, upon which his conviction would be likely to rely. The Court rejected the application of the principle of *non-refoulement*, however, to face a real risk to face

torture or inhuman and degrading treatment, on the basis of the extensive diplomatic assurances provided by the UK and Jordanian authorities. It also rejected a challenge on grounds of *non-refoulement* to face a risk of arbitrary detention.

Judgment

Press Article 1

Press Article 2

France: Judge asks to visit Guantánamo to investigate former detainees' claims of torture

On 2 January, the Examining Judge Sophie Clément, through an international rogatory letter, asked the US authorities to allow her access to the Guantánamo detention centre to conduct investigations into the allegations of torture of three former Guantánamo detainees of French nationality, Mourad Benchellali, Nizar Sassi et Khaled Ben Mustapha, arrested in 2001 at the Afghanistan-Pakistan border and detained in Guantánamo until 2004 and 2005, when they had been returned to France. The judge also requested that she have the possibility to copy documents relevant to the case and to interrogate concerned persons.

Press Article 1 (F)

Press Article 2 (F)

Press Article 3 (E)

Italy/USA: No obligation to give immunity to Abu Omar kidnapper, says federal court

See, AMERICAS

Spain: Guantánamo torture investigations go on, says Examining Judge

On 13 January, Examining Judge Pablo Rafael Ruz Gutiérrez ordered the continuance of the investigations and the gathering of evidence against former President George W. Bush and other US officials regarding possible offences of torture, war crimes and crimes against humanity for the treatment in and rendition to Guantánamo of Abdul Latif Al Banna, Omar Deghayes, Hamed Abderrahman Ahmed and Lahcen Ikassrien. The Judge found that Spain had jurisdiction to investigate these alleged crimes under international law, as at least two of the victims had a connection with Spain and no other country had effective investigations ongoing. The case was originated in 2009 by the association "Pro Dignidad de los Presos y Presas de España".

Judge's Order (S)

Press Article (S)

Press Article (E)

Spain: Terrorism trial was not impartial, says European Court of Human Rights

On 17 January, the European Court of Human Rights found that the trial of Taysir Alony Kate, in which he was convicted of the offences of terrorism membership and association, did not ensure objective impartiality because one of the judges who convicted him had previously been the Judge Rapporteur in the Chamber of the *Audiencia Nacional* where the court ordered his pre-trial detention. The Court held that the fact that the Chamber freshly ordered the detention of the applicant based on analysis of facts should have disqualified the judge from sitting in the merits trial and constituted a violation of Article 6 of the European Convention on Human Rights.

Judgment (F)

Spain: Man convicted of "glorification of terrorism" for social network comments

On 18 January, the *Audiencia Nacional* convicted Alberto Ortega Rivas of the offence of "glorification of terrorism" (*entalecimiento de terrorismo*) and sentenced him to one year of imprisonment. The court found that the posting of comments with images in a social network (Tuenti) which expressed the opinion that it would be welcome if members of the law enforcement bodies were to be killed or die, with reference to a terrorist attack in which two law enforcement officers died, amounted to glorification of terrorism.

Judgment (S)

Romania: Location of CIA secret detention centre discovered by media

On 8 December, a joint investigation by Associated Press and German public television, ARD Panorama, revealed the whereabouts of a CIA secret detention centre in the capital Bucharest in the basement of a building also used as the National Registry Office for Classified Information, which is also known as ORNISS. According to press reports, former intelligence officials have identified the building in the picture, where “high-level” detainees including Khalid Sheikh Mohammed allegedly subjected to rendition and torture were secretly held. Former Swiss Senator Dick Marty, who led the Council of Europe’s Parliamentary Assembly investigations into CIA renditions and first identified secret detention centres, welcomed the confirmation of the findings, but regretted that Romanian authorities had not begun any investigations.

[AP Video \(E\)](#)

[Marty Statement \(F\)](#)

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

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

Turkey: Journalists arrested under anti-terrorism law curbing freedom of expression

On 20 December, an Istanbul court ordered the arrest of 40 journalists, who were later accused of membership of the Union of Kurdistan Communities (KCK), a group allegedly linked to the Kurdistan Workers Party (PKK). On 16 January, the Turkish Publishers Association called on the Parliament to quickly pass a proposal by Deputy Oktay Ekşi to scrap Articles 6 and 7 of the anti-terrorism law. The provisions include the offence of “announcing that the crimes of a terrorist organization are aimed at certain persons”, “disclosing or publishing the identity of officials on anti-terrorist duties, or identifying such persons as targets”, “printing or publishing leaflets and declarations of terrorist organisations”, and “making propaganda for a terrorist organisation”. Several journalists have been arrested, tried and convicted in recent years under these offences, which have resulted in judgements against Turkey by the European Court of Human Rights.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Turkey/Iraq: Anti-terrorism airstrike kills 35 smugglers; authorities admit “mistake”

On 29 December, the ruling Justice and Development (AK) Party spokesperson Huseyin Celik publicly admitted that an airstrike in Northern Iraq against alleged members of the Kurdistan Workers’ Party (PKK), an organisation considered as “terrorist” by the Turkish government, the EU and the USA, had in fact killed 35 apparent smugglers who had been mistaken for “terrorists”, in what was called a “unfortunate operational accident”. BDP Deputy Chairwoman Gultan Kisanak called the action a massacre, a war crime and a crime against humanity. The Turkish authorities announced an investigation into the responsibilities for the attack. The Firat news agency said that 17 people were still believed to be missing. It said those killed were aged around 17-20.

[Press Article 1](#)

[Press Article 2](#)

Turkey: Terrorism conviction tainted by breach of fair trial rights, says European Court of Human Rights

On 17 January, the European Court of Human Rights held that the right to defence and to a fair trial of Mehmet Fidancı had been violated by Turkish authorities, by a systematic denial of access to a lawyer while in police custody before his trial. Mehmet Fidancı was arrested in April 2001 on suspicion of being a member of Hizbullah and convicted in 2009 of being part of a group which carried out a terrorist attack, killing seven people and injuring two. The Court, however, dismissed his claim of torture and unacknowledged detention because the claim was not timely and it rejected for lack of evidence the allegations that information used as evidence had been obtained by torture in breach of Article 6 of the European Convention on Human Rights.

[Judgment](#)

Russian Federation: European Court finds violations in terrorism hostage rescue operation

On 20 December, the European Court of Human Rights ruled that the Russian Federation had violated the right to life of the victims of the hostage-taking in the “Dubrovka” theatre (Moscow) in 23-26 October 2002 by Chechen terrorists by failing to abide by their positive obligations under Article 2 of the European Convention on Human Rights, because the rescue plan was flawed. The Court found that the rescue plan “was not sufficiently prepared, in particular because of the inadequate information exchange between various services, belated beginning of the evacuation, limited on-the-field coordination of various services, lack of appropriate medical treatment and equipment on the spot, and inadequate logistics.” The Court also held that the investigations into the authorities’ negligence was “neither thorough nor independent, and, therefore, not “effective””, in breach of Article 2 of the Convention.

[Judgment](#)

[Press Article](#)

Belarus: Death penalty imposed on two “terrorist” suspects after unfair trial

On 30 November, a court in Minsk sentenced Dzmitry Kanavalau and Uladzslau Kavalyou to death for the explosion in the Minsk metro on 11 April 2011, which killed 15 people. The court convicted the first of the charges of producing explosives and committing terrorist attacks, and the second for assisting him and failing to inform the authorities. Amnesty International denounced the trial as falling short of international fair trial standards amid uninvestigated claims that the two men’s “confessions” were obtained under ill-treatment; that the right to defence and a fair trial were not guaranteed to them; and that President Lukashenko had compromised their presumption of innocence by declaring that they confessed when they had not yet even been subjected to interrogation.

[NGO Statement](#)

Tajikistan: Extensive terrorism convictions hide stories of abuse

On 10 January, the deputy prosecutor general, Abdukodir Muhamadiyev, announced that Tajikistan had detained some 200 members of extremist and terrorist organisations in 2011 and secured convictions against some 170 of them. Among the persons convicted there are reported to be 53 persons convicted in late December 2011 in a closed trial and without the presence of their lawyers for a terrorist attack in September 2010 resulting in the death of two police officers. Another reported case was that of seventy-six-year-old Muzaffar Davlatov, allegedly convicted for being the father of an alleged terrorist, Ali Bedaki.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

European countries/USA/Canada: European countries hide information on complicity in renditions, report says

On 19 December, the NGOs Reprieve and Access Info Europe issued a report entitled “Rendition on the Record”, documenting the failure of most European countries to respond to questions and disclose information about their complicity in the CIA rendition and interrogation programme. Only Denmark, Finland, Germany, Ireland, Lithuania, Norway, and USA have released information on air traffic, which may be of help in the investigation of complicity in the CIA programme. Another 28 countries had either not responded or denied access to such information.

[Report](#)

[NGO Statement](#)

[Press Article](#)

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: General Assembly gives new push to international anti-terrorism treaty

On 9 December, the General Assembly adopted by consensus the resolution “Measures to eliminate international terrorism”. The resolution stresses that States must ensure that

counter-terrorism measures respect international law, in particular international human rights, refugee and humanitarian law. The General Assembly also decided that in the next session (67th) its Sixth committee would establish a working group to finalize the draft comprehensive convention on international terrorism.

[Resolution \(A/RES/66/105\)](#)

[UN Statement](#)

UN: General Assembly passes resolution on counter-terrorism and human rights

On 19 December, the General Assembly adopted by consensus the resolution “Protection of human rights and fundamental freedoms while countering terrorism”. In this resolution, the General Assembly stressed the State’s international law obligations while countering terrorism, in particular regarding detention, fair trial, respect of the principle of *non-refoulement*, the right to privacy, to equality, the protection of economic, social and cultural rights, and discrimination. The Assembly also stressed the “need to continue ensuring that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened” and to ensure in national procedures of listing that inclusion of “adequate human rights guarantees”.

[Draft Resolution](#)

[UN Statement](#)

UN: Al-Qaeda Committee revises procedural guidelines

On 30 November, the UN Security Council’s Al-Qaeda Committee issued a revised version of its Guidelines to list and de-list persons and entities from the UN Terrorism List, whose insertion leads to assets-freezing and travel bans, after the approval last June by the Security Council of resolution 1989(2011). The amendments affect principally the sections on listing, de-listing and reviewing of the list. A major change will have the consequence that once the Ombudsperson recommends a person or an entity for de-listing, this decision can be opposed only by unanimity of the Committee’s members or by a decision of the Security Council itself.

[Guidelines](#)

[UN Statement](#)

EU: Court of Justice confirms de-listing of organisation for breach of defence rights

On 21 December, the Court of Justice of the European Union confirmed the ruling of the General Court that the inclusion in 2008 of the Peoples’ Mujahidin Organisation of Iran’s insertion on the EU list, on the basis of a request by France, without providing them prior information and possibility of rebuttal, had violated their rights of defence, thereby making the decision void. The Court of Justice also stressed that, while in the case of a first enlisting a person might be given notice and provided with information at the moment of or immediately after the decision is taken, for subsequent listings that information must be provided beforehand.

[Judgment](#)

[Court Statement](#)

EU: Parliament calls for thorough review of counter-terrorism measures

On 14 December, the European Parliament approved with 307 votes in favour, 259 against and 54 abstentions a resolution calling on the European Commission to conduct a full and detailed evaluation of the degree to which EU counter-terrorism policies have achieved the stated objectives, “including on whether these policies have been based on evidence (and not on assumptions), their effectiveness and impact on civil liberties and fundamental rights”. According to the resolution, the assessment should also focus on the account of all the resources spent by the Union, its Member States and private companies on counter-terrorism measures, whether directly or indirectly. Finally the resolution stresses that the European Union must help the United States to find appropriate ways to close the Guantánamo detention facility, and that the EU should work towards the enhancement of the rights of victims of terrorism.

[Resolution](#)

[EP Statement](#)

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