



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

**No. 45, July 2010**

## **AFRICA & MIDDLE EAST**

**Uganda:** Charges laid for 11 July Kampala bombings

**Uganda:** Parliament approves phone tapping bill

**Nigeria:** Senate Committee proposes death penalty for terrorism convicts

**Senegal:** Court allows extradition of terrorism suspects to Morocco

**Mauritania:** Anti-terrorism law passed by Parliament

**Morocco:** Terrorism conviction upheld without addressing procedural flaws

**Tunisia:** Convictions on the basis of “confessions” obtained by torture

**Yemen:** Death penalty in terrorism cases

**Israel:** Supreme Court rejects injunction of four Palestinian MPs to be deported

**Israel:** Inter-Parliamentary Union condemns lifting of immunity for Israeli MP

**Israel:** Human Rights Committee concerned at anti-terrorism legislation and practices

## **AMERICAS**

**USA:** Algerian Guantánamo detainee not part of Al Qaeda

**USA:** Bybee testified that water-boarding authorisation was not sought

**USA:** Yemeni Guantánamo detainee repatriated after court’s order

**USA:** Guantánamo detainees sent to Algeria despite fear of ill-treatment

**USA:** Time in administrative detention irrelevant for right to a speedy trial

**USA:** Designation of organisation as terrorist fails procedural safeguards

**USA:** Washington Post reveals wide anti-terrorism security web

**Canada:** Government must choose remedy with procedural fairness

## **ASIA - PACIFIC**

**Thailand:** Bail granted to opposition leader charged with terrorism; 26 persons charged

**Thailand:** State of Emergency extended for three months

**Pakistan:** Anti-terrorism bill increases detention without judicial review

**India:** Human Rights Watch publishes report on 2008 anti-terrorism law

**Singapore:** Terrorism suspect detained under administrative detention

**Australia:** Haneef sues former Immigration Minister

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

**UK:** Prime Minister announces inquiry into UK complicity in torture

**UK:** Home Secretary announces review of counter-terrorism laws

**UK:** High Court rules on transfer of prisoners to Afghan authorities

**UK:** Supreme Court says control order subject must remain anonymous

**UK:** European Court of Human Rights admits case on terrorism extradition to USA

**UK:** Disclosed documents reveal more UK complicity in torture and UK rendition practices

**UK:** Government published guidelines to avoid complicity in torture

**France:** Constitutional Council finds prolonged police custody for terrorist suspects constitutional

**Netherlands:** Expulsion to Libya violates *non-refoulement*, says European Court

**Slovakia:** Former Guantánamo detainees on hunger-strike over detention conditions

**Turkey:** Parliament ends prosecution of children for engaging in demonstrations under anti-terrorism laws

**Turkey:** Terrorism law violates freedom of expression, holds European Court

**Turkey:** Committee on Prevention of Torture finds improvement in Öcalan's detention conditions

**Turkey:** Deportation to Tunisia of terrorist suspect would violate *non-refoulement*

**Turkey:** Three persons were tortured while held under anti-terrorism investigations, rules European Court

**Azerbaijan:** Journalist cleared by European Court of terrorism conviction, still convicted for alleged drug offences

**Russian Federation:** European Court rules on enforced disappearances during "counter-terrorism" operations in Chechnya

**Russian Federation:** Transfer to Uzbekistan would violate prohibition of torture, says European Court

**Russian Federation:** President signs into law new legislation on intelligence services

## **UNITED NATIONS & REGIONAL ORGANISATIONS**

**UN:** Security Council debates procedural fairness in terrorism lists

**UN:** Sanctions Committee issues new Guidelines for terrorism lists

**UN:** New Ombudswoman says she will provide procedural fairness in delisting

**EU:** Unlawful insertion in EU terrorism lists cannot form basis of criminal conviction

**EU:** Parliament approved bank data sharing agreement with USA

**EU:** Commission presented report on stock-tacking in counter-terrorism

**EU:** Data Protection Authorities find implementation of data retention directive unlawful

**Council of Europe:** Venice Commission publishes report on counter-terrorism and human rights

**African Union:** Assembly calls for enhanced cooperation in counter-terrorism

**OSCE:** Conference declaration opposes association between terrorism and Islam

## AFRICA & MIDDLE EAST

### Uganda: Charges laid for 11 July Kampala bombings

On 30 July, a Nakawa Chief Magistrate, Deo Sejjemba, charged Hussein Hassan Agad, Mohamed Adan Abdow, and Idris Magondu with counts of terrorism, murder and attempted murder, in connection with the bomb blasts that killed at least 76 people in Kampala on 11 July 2010. The Somali group Al-Shabaab had claimed responsibility for the bombing. On 29 July, the Ugandan authorities deported on immigration grounds several Pakistanis who were held under the anti-terrorism investigations but were not charged.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

### Uganda: Parliament approves phone tapping bill

On 14 July, three days after the 11 July bombing in Kampala, the Parliament passed the *Regulation of Interception of Communication Bill*, initially proposed by the Security Minister in 2007. The bill gives the authorities the power of interception of communications, with judicial warrant, whenever it is believed a felony, that is life-threatening, could be committed, or information concerning threats to public safety, national security, or national economic interest would be at issue. This power was initially granted only to the Security Minister, without judicial review, leading to the bill's rejection last year. The bill will also make it compulsory for all mobile phone subscribers in the country to register their SIM cards for security purposes. The bill will enter into force after assent by the President of Uganda.

[Draft Law \(not amended version\)](#)

[Press Article 1](#)

[Press Article 2](#)

### Nigeria: Senate Committee proposes death penalty for terrorism convicts

On 7 July, the Senate Joint Committee on Terrorism proposed to introduce provision for the death penalty in the *Bill for an Act to provide for measures to combat terrorism and for related matters*, to apply to anyone found guilty of engaging in terrorist acts. Reportedly, the bill also seeks to empower all the security agencies to carry out searches of any premises in case of urgency, without search warrants.

[Draft Law](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### Senegal: Court allows extradition of terrorism suspects to Morocco

On 30 July, the Appeals Court of Dakar approved the extradition of Sy Mouhamet Nadane, Mouhamet Nadane and Moulaye El Hatlani, all Moroccan citizens, wanted in Morocco on charges of terrorism training and membership in a terrorist organization. The Court rejected arguments that they would risk ill-treatment upon return to Morocco. The final decision rests with the President of the Republic of Senegal.

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

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

### Mauritania: Anti-terrorism law passed by Parliament

On 8 July, the National Assembly adopted a new anti-terrorism law, after the Constitutional Council had declared ten articles of the previously adopted legislation unconstitutional and void. The new law will reportedly introduce a *garde-à-vue* that might be extended up to 45 days.

[Draft Law \(not amended - F\)](#)

[Modified Provisions \(F\)](#)

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

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

### Morocco: Terrorism conviction upheld without addressing procedural flaws

On 16 July, the Rabat Criminal Chamber responsible for terrorism cases affirmed a lower court ruling convicting 35 people, including six political figures, of the charges of forming a terrorist cell that smuggled arms and committed robberies to finance terrorist acts to

topple the government. Human Rights Watch expressed concern at the fact that the Appeal Court did not address procedural irregularities in the first instance proceedings and so undermined their right to a fair trial.

NGO Statement

### **Tunisia: Convictions on the basis of “confessions” obtained by torture**

On 11 July, eight Tunisians were sentenced to up to 12 years for belonging to a militant group and for inciting terrorism. Two of them, Bilel Beldi and Sami Bouras, were convicted *in absentia* as they are refugees in France and Sweden. The defendants denied the charges and said that the “confessions” upon which the convictions were achieved were obtained under torture.

Press Article

### **Yemen: Death penalty in terrorism cases**

On 11 July, a criminal court sentenced four of sixteen persons convicted of terrorism offences to the death penalty. They were convicted for being members of the Al-Qaeda Tarim terrorist cell in Yemen.

Press Article

### **Israel: Supreme Court rejects injunction of four Palestinian MPs to be deported**

On 20 June, Israeli Supreme Court Chief Justice Dorit Beinisch rejected an injunction on the deportation of members of the Palestinian Legislative Council (PLC) – Muhammad Abu-Teir, Ahmad Attoun and Muhammad Totah – and former Palestinian Minister for Jerusalem Affairs, Khaled Abu Arafah. The three members of parliament had their residency revoked and been ordered to leave Jerusalem because of alleged membership of Hamas.

NGO Statement 1

NGO Statement 2

### **Israel: Inter-Parliamentary Union condemns lifting of immunity for Israeli MP**

On 26 July, the Committee on the Human Rights of Parliamentarians of the Inter-Parliamentary Union (IPU) condemned the lifting of immunity of Haneen Zoabi, a Member of the Israeli Parliament (Knesset), who was one of the activists on board the flotilla destined for Gaza. The Interior Minister Eli Yishai had requested that she be deprived of parliamentary immunity as a step towards revoking her citizenship for “treason”. The Knesset approved the lifting of immunity by 34 votes in favour and 16 against. The IPU held that the Knesset measure constituted punishment for having exercised her freedom of speech through expression of a political position.

IPU Decision

NGO Statement

### **Israel: Human Rights Committee concerned at anti-terrorism legislation and practices**

On 30 July, the UN Human Rights Committee issued its concluding observations on Israel, pursuant to its review of the country’s implementation of its obligations under the *International Covenant on Civil and Political Rights*. The Committee expressed concern that, during “counter-terrorism” operations undertaken since 2003, Israel’s armed forces had targeted and extra-judicially executed 184 individuals in the Gaza Strip, resulting in the unintended death of 155 additional individuals. The Committee was also concerned that proposed anti-terrorism legislation would include provisions based on the *Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law* which allow for significant delays in gaining access to a lawyer and for decisions on the extension of detention to be taken, in exceptional circumstances, in the absence of a suspect. Moreover,

in certain circumstances, a judge can decide not to disclose evidence to the detainee owing to security concerns. The Committee also criticized the practice of demolishing homes of families whose members were or are suspected of involvement in terrorist activities.

[Concluding Observations](#)

[NGO Report on Anti-Terrorism Bill](#)

## AMERICAS

### USA: Algerian Guantánamo detainee not part of Al Qaeda

On 28 June, the US Court of Appeals for the Circuit of the District of Columbia ruled that Belkacem Bensayah should not be detained in indefinite detention in Guantánamo Bay, as there was insufficient evidence that he is a member of Al Qaeda. Belkacem Bensayah, an Algerian citizen, was arrested in Bosnia and Herzegovina in 2001 and sent to Guantánamo through an extraordinary rendition with other five Algerian men, in defiance of a judicial ruling by the Human Rights Chamber of Bosnia that they should not be transferred from Bosnia and Herzegovina. The Court of Appeals held that the decision on whether someone is “part of” Al Qaeda must be made on a case-by-case basis and with a functional rather than formal approach. The Court sent the case back to the District Judge to rule on the legality of the detention.

[Ruling](#)

[Press Article](#)

### USA: Bybee testified that water-boarding authorisation was not sought

On 15 July, the House Judiciary Committee revealed that former Office of Legal Counsel official, Jay. S. Bybee, now a federal appellate Judge, declared in a closed-door testimony to the Committee on 26 May, that the CIA never sought approval for a number of practices detainees later said had been used on them, including dousing with cold water to keep them awake and forcing them to wear diapers or to soil themselves. Bybee is one of the drafters of the so-called “torture memos” which aimed to provide a legal basis for practices used by the CIA that constituted torture or other ill-treatment (“enhanced interrogation techniques”).

[House Statement](#)

[Press Article](#)

### USA: Yemeni Guantánamo detainee repatriated after court’s order

At the end of June, a ruling of the US District Court for the District of Columbia was partially unclassified. It held that Mohamed Mohamed Hassan Odaini had no connection with Al Qaeda and that his detention in Guantánamo since 2002 was without legal basis. On 13 July, the Department of Defence announced that, despite the ban of deportations to Yemen ordered by President Obama, Mohamed Mohamed Hassan Odaini had been transferred to Yemen. On 26 July, another ruling was partially disclosed in which the same Court held that another Yemeni, Hussain Salem Mohammad Almerfedi, was unlawfully held in Guantánamo since 2003 and should be released.

[Ruling \(Odaini\)](#)

[Ruling \(Almerfedi\)](#)

[Dep. Defence Statement](#)

### USA: Guantánamo detainees sent to Algeria despite fear of ill-treatment

The Supreme Court denied the requests for stay of deportation of Farhi Saeed Bin Mohammed and Aziz Abdul Naji, two Algerian nationals who have been detained in Guantánamo. Together with other four Algerians they were challenging the deportation to Algeria as they would risk torture or other ill-treatment in Algeria upon return. The request by Mr Mohammed was denied by a 5 to 3 majority, while that of Mr Aziz Abdul Naji, who has already been transferred to Algeria, was denied unanimously.

[Order \(Naji\)](#)

[Order \(Mohammed\)](#)

[Dep. Defence Statement](#)

[UN SRs Statement](#)

[IACHR Statement](#)

[Press Article](#)



### **USA: Time in administrative detention irrelevant for right to a speedy trial**

On 12 July, Judge Lewis A. Kaplan of the US District Court of the Southern District of New York rejected a motion by Ahmed Khalfan Ghailani seeking the dismissal of the 1998 indictment against him as a violation of his right to a speedy trial under the US Constitution. Ahmed Khalfan Ghailani is charged with the bombings of the US embassies in Nairobi (Kenya) and Dar es Salaam (Tanzania). He was detained in July 2004 and held in secret CIA detention until September 2006 before being transferred to Guantánamo. The charges against him before US Military Commissions were dropped and his case was brought to trial in a federal court on 9 June 2009. The judge considered that the period of CIA detention could not be counted in determining the delay of the trial as there was no intention by the authorities to delay his trial, but rather to obtain intelligence information. The time spent in Guantánamo was judged not affect his right to a speedy trial, as he would have been held there as an enemy combatant regardless of the criminal charges against him.

Ruling

Press Article

### **USA: Designation of organisation as terrorist fails procedural safeguards**

On 16 July, the Court of Appeals for the Circuit of the District of Columbia ruled that the designation by the US Treasury Department of the People's Mojahedin Organisation of Iran (PMOI) violated procedural safeguards. The Court held that the organisation must be notified of the unclassified material on which the decision is based and it must be given an opportunity to respond to that material before the designation is made. Under the *Anti-Terrorism and Effective Death Penalty Act* (AEDPA), the US Treasury may designate any foreign entity which engages in terrorism or terrorist activity that threatens the security of the USA or its nationals. The designation may result in the freezing of the organisation's assets, a ban on entering the USA for its members, and criminal prosecution of those who provide material support or resources to the organisation.

Ruling

Press Article

### **USA: Washington Post reveals wide anti-terrorism security web**

On 19 July, the *Washington Post* published an extensive investigation by journalists Dana Priest and William M. Arkin on the widespread world of US counter-terrorism intelligence. Among the findings, the report discovered that some 1,271 government organizations and 1,931 private companies work on programmes related to counterterrorism, homeland security and intelligence in some 10,000 locations across the United States. According to the investigation, an estimated 854,000 people hold top-secret security clearances.

Investigation

### **Canada: Government must choose remedy with procedural fairness**

On 5 July, the Federal Court ruled that a decision by the government not to request the repatriation of Guantánamo detainee Omar Khadr, but instead to limit their intervention to asking the US authorities not to use evidence obtained through Canadian intelligence officers in proceedings against him, had not been taken with procedural fairness. These measures followed a decision of the Canadian Supreme Court which held that Canadian officials had been complicit in Khadr's torture and detention in Guantánamo. The Court had, however, held that it was within the discretion of the government to determine the nature the remedy to be provided. The Federal Court has now held that the executive had a duty to inform Omar Khadr of the decision taken and to give him the opportunity to make written submissions before the decision was finally taken. On 22 July, the Chief Justice of the Federal Court of Appeals granted a stay of the lower court's ruling pending

appeal of the decision and expressed concern that if the lower court's ruling were upheld the executive's ability to carry out Canada's diplomatic duties would be usurped by judicial monitoring.

[FC Ruling](#)

[CJ FCA Order](#)

## ASIA - PACIFIC

### **Thailand: Bail granted to opposition leader charged with terrorism; 26 persons charged**

On 30 July, the Appeals Court granted bail to Veera Musikhapong, a United Front for Democracy against Dictatorship (UDD) leader charged with terrorism offences together with other 26 persons. The criminal court had previously denied bail to him and another 10 co-defendants. The Department of Special Investigations announced on 27 July that it will indict 25 suspects including UDD leaders Veera Musikhapong, Jatuporn Prompan and Weng Tojirakarn; Kampo Kamkong, a key suspect in the Bhumjaithai Party headquarters bombing; and Surachai Thewarat and Rachata Wongyod on terrorism charges. Two of the accused were deported on 7 July by Cambodian authorities to Thailand without following applicable extradition procedures.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

[Press Article 4](#)

### **Thailand: State of Emergency extended for three months**

On 6 July, Prime Minister Abhisit Vejjajiva announced that the state of emergency declared previously on 7 April would remain in force for three additional months. He justified the decision as necessary for law-enforcement officials to maintain order. During the protests and the Government's crackdown in May, the Government made allegations that several "terrorists" were hiding among the protesters. It was announced that the Emergency Decree would extend to in 19 provinces.

[ICJ Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

### **Pakistan: Anti-terrorism bill increases detention without judicial review**

On 28 July, the Government introduced an *Anti-Terrorism (Amendment) Bill 2010*, which seeks to insert into the anti-terrorism legislation of 1997 the measures contained in the now elapsed *Anti-Terrorism (Amendment) Ordinance 2009*. The Bill would empower the government to detain suspects for up to 90 days without judicial review, to seize media said to "glorify" terrorists or terrorist activities, and ban groups formed with new names linked to proscribed organisations.

[AT Ordinance 2009](#)

[NGO Statement](#)

[Press Article](#)

### **India: Human Rights Watch publishes report on 2008 anti-terrorism law**

On 27 July, Human Rights Watch published a report analysing the amendments to the *Unlawful Activities Prevention Act (UAPA)*, enacted after the November 26, 2008 attacks on Mumbai that killed 166 people and injured over 300. HRW alleges that the amendments mirror previous counterterrorism laws that had been allowed to lapse or were repealed because of the abuses committed under them.

[NGO Report](#)

[NGO Statement](#)

### **Singapore: Terrorism suspect detained under administrative detention**

On 7 July, media reported that Singaporean authorities had detained Muhammad Fadil bin Abdul Hamid, a member of the Singaporean military, under the *Internal Security Act*, an anti-terrorism law allowing for administrative detention without judicial review for up to two years. The Home Office has reportedly stated that Hamid has been detained for

having allegedly contacted a radical US-born cleric living in Yemen, and expressed desire to fight the jihad.

Law (ISA)

Press Article

### **Australia: Haneef sues former Immigration Minister**

On 1 July, media reports reported that Mohamed Haneef had sued former Immigration Minister Kevin Andrews, for defamation and loss of earnings. Dr 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 Haneef's visa and ordered his detention pending deportation. The terrorism charges were later dropped for lack of evidence. Dr Haneef is asking the former Minister to pay the difference between what he is earning as a doctor in the Middle East and what he might have made in Australia.

Press Article 1

Press Article 2

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

### **UK: Prime Minister announces inquiry into UK complicity in torture**

On 6 July, Prime Minister David Cameron announced the establishment of a Governmental inquiry led by Justice Sir Peter Gibson, presently the Commissioner for Intelligence Services, to examine whether, and to what extent, the UK Government and its intelligence agencies were involved in improper treatment of detainees held by other countries in counter-terrorism operations overseas, or were aware of improper treatment of detainees in operations in which the UK was involved. The inquiry will have to produce a report within one year.

PM Statement

PM Letter

NGO Statement

Press Article

### **UK: Home Secretary announces review of counter-terrorism laws**

On 8 July, Home Secretary Teresa May announced that all counter-terrorism legislation would be subject to review. She appointed Lord Macdonald of River Glaven as independent reviewer. The review will in particular examine the use of control orders for terror suspects; the use of stop and search powers; the use of counter-terror laws against photographers; the use of the surveillance powers by local authorities and access to communications data; the extension of the use of deportations with assurances; measures against organisations that promote hatred or violence, and detention of terror suspects before charge.

Home Secretary Statement

NGO Report

Press Article 1

Press Article 2

### **UK: High Court rules on transfer of prisoners to Afghan authorities**

On 25 June, the Queen's Bench Division of the High Court of Justice ruled that, in order to respect the international legal obligation and the UK Government policy not to transfer prisoners where there is risk of ill-treatment, UK armed forces in Afghanistan should not transfer detainees to Afghan authorities for detention in Kabul prison. The Court allowed transfers to the prisons of Kandahar and Lashkar Gah, provided that the British army was allowed to visit the prisoners. The case concerned the UK policy and practice in relation to the transfer to Afghan authorities of suspected insurgents and those suspected of terrorism offences.

Ruling

### **UK: Supreme Court says control order subject must remain anonymous**

On 23 June, the Supreme Court ruled that AP, a terrorist suspect subject to a control order, was to be granted anonymity in the judgments and in the press. The Court held that if his



identity were discovered he would be at risk of racist, extremist abuse and physical violence. AP's control order was revoked on 20 July 2009 and AP has instead been moved to immigration detention pending deportation for security reasons.

Ruling

### **UK: European Court of Human Rights admits case on terrorism extradition to USA**

On 6 July, the European Court of Human Rights ruled admissible the cases of Babar Ahmad, Haroon Rashid Aswat, Syed Tahla Ahsan and Mustafa Kamal Mustafa (Abu Hamza), who are challenging their extradition to the USA to answer terrorism charges. The Court will examine whether their possible detention in ADX Florence and the possibility of being sentenced for life might amount to ill-treatment. The Court accepted the UK reliance on US diplomatic assurances that the applicants will not be tried in military commissions as "enemy combatants". It also ruled out the possibility that they could be subject to extraordinary renditions and it accepted the reliability of US assurances not to apply the death penalty. Finally, the Court reiterated its confidence that the US legal system is fair and better suited to assess the issue of evidence obtained by torture or other proscribed ill-treatment.

Ruling

Press Article

### **UK: Disclosed documents reveal more UK complicity in torture and UK rendition practices**

Documents released in the civil case against the Government brought by former Guantánamo detainees Bisher al-Rawi, Jamil el Banna, Richard Belmar, Omar Deghayes, Binyam Mohamed and Martin Mubanga show some of the extent of UK complicity in torture in counter-terrorism. The documents, reportedly, demonstrate that the Foreign Office regarded transfers to Guantánamo as its "preferred option", and that, under direction of Prime Minister Blair, they refused to grant consular services to UK citizens detained there. Meanwhile, an investigation of the newspaper *The Independent* showed that UK officers were not only complicit in the CIA rendition programme, but that the intelligence service MI5 was directly involved in the rendition of a Moroccan national, illegally taken from a Belgian prison to London.

Documents (Complicity)

The Independent Article

Press Article 1

Press Article 2

### **UK: Government published guidelines to avoid complicity in torture**

The UK Government issued the *Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees*. The Guidelines aim at regulating the conduct of officers of the UK's intelligence and security agencies, members of the UK's Armed Forces and employees, of the Ministry of Defence in order to avoid commission of or complicity in torture or cruel, inhuman or degrading treatment.

Guidelines

Note on Additional Information

### **France: Constitutional Council finds prolonged police custody for terrorist suspects constitutional**

On 30 July, the Constitutional Council ruled constitutional the special *garde-à-vue* for terrorist suspects with its restrictions on the contact with lawyers and its renewal by prosecutors. On the other hand, it found that similar restrictions, particularly regarding the contact of detainees with their lawyers, applied to suspects of other criminal offences, were in breach of the constitutional right to liberty and the principle of the rule of law. The Council gave the authorities until 1 July 2011 to modify the present regime of ordinary *garde-à-vue*.

Judgment (F)

Press Article (F)

### **Netherlands: Expulsion to Libya violates *non-refoulement*, says European Court**

On 20 July, the European Court of Human Rights held that the expulsion of “A” to Libya would expose him to the real risk of ill-treatment due to his identification as a sympathiser of the National Front for the Salvation of Libya – an opposition group in exile. On the same day the Court struck the case of Mohammed Ramzy off its list, as he had made himself unavailable since 15 July 2005. He had petitioned the Court opposing his expulsion to Algeria for fear of torture and other ill-treatment. His case had led to a fierce debate about the absolute nature of the principle of *non-refoulement*, addressed by the court subsequently in *Saadi v. Italy*.

Judgment (A)

Ruling (Ramzy)

Judgment (Saadi)

### **Slovakia: Former Guantánamo detainees on hunger-strike over detention conditions**

On 24 June, Branislav Tichý, the director of Amnesty International Slovensko, reported that three former detainees from Guantánamo Bay who were transferred to Slovakia on 25 January had gone on a hunger strike. They protest against detention conditions in Medveďov in the Trnava Region. They are held there pending a decision on their legal status in Slovakia. Reportedly, they have not been allowed contact with anyone except for personnel in the facility and their lawyer, and they are allowed to leave their rooms for only one hour per day.

Press Article

### **Turkey: Parliament ends prosecution of children for engaging in demonstrations under anti-terrorism laws**

On 23 July, the Parliament adopted legislation ending the prosecution of children under anti-terrorism laws solely for taking part in demonstrations. The consequence of the amendments to the antiterrorism legislation mean that children previously convicted under anti-terrorism legislation will have their convictions quashed. The power to prosecute children above 15 years in adult Special Heavy Penal Courts has also been abolished.

Law (Turkish)

European HR Comm. Statement

NGO Statement

Press Article

### **Turkey: Terrorism law violates freedom of expression, holds European Court**

On 6 July, the European Court of Human Rights held that Turkey had violated the right to freedom of expression of Aylin Gözel, owner and director of the magazine *Maya*, and Aziz Özer, editor and director of the magazine *Yeni Dünya İçin Çağrı*. The Court found that the decision by courts to fine and to suspend the newspapers’ publication for periods of one and two weeks, on the assumption that they constitute propaganda in favour of a group of leftist organisations, was not necessary in a democratic society. Meanwhile, on 29 July, media reported that İsmail Beşikçi, the author of a “controversial” article, and the editor-in-chief of the journal *Law and Society in Our Time*, Zeytan Balcı, could face between 2.5 and 7 years in prison under the same legislation.

Judgment (F)

Press Article (E)

### **Turkey: Committee on Prevention of Torture finds improvement in Öcalan’s detention conditions**

On 9 July, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report of its visit to Turkey from 26 to 27 January 2010. The visit aimed at assessing the new conditions of detention of Abdullah Öcalan in the Imrali Prison. Until 17 November 2009, he was the sole detainee in the facility. Since then five prisoners serving aggravated life sentences have also been held at the prison. The Committee evaluated the overall situation as an improvement of Öcalan’s detention conditions.

Report

### **Turkey: Deportation to Tunisia of terrorist suspect would violate *non-refoulement***

On 13 July, the European Court of Human Rights ruled that Turkish authorities may not deport Saafi Ben Fraj Dbouba to Tunisia where he would be at risk of torture or other ill-treatment for being a member of *Ennhada* Party, a political party banned in Tunisia. Saafi Ben Fraj Dbouba's asylum claims in Turkey were rejected based upon suspicion that he was part of Al-Qaeda. The Court also found that his detention pending deportation was not in accordance with the law, as clear procedures were lacking, and as the authorities failed to communicate to him the reasons for his detention.

Judgment

### **Turkey: Three persons were tortured while held under anti-terrorism investigations, rules European Court**

On 13 July, the European Court found that Gönül Karagöz, Haydar Ballikaya and Bekir Çadirci had been tortured by Turkish authorities during interrogation over alleged terrorism activities. The Court found that Karagöz had been subject to beatings and hanging. Gönül Karagöz, Haydar Ballikaya, Bekir Çadirci were taken into police custody by the Anti-Terrorism Branch of the police in Istanbul on 21 and 22 February 1997 and held there until 6 March 1997. The Court also ruled that investigation into the allegation of torture had been insufficient, and that their right to a remedy had been violated.

Judgment

### **Azerbaijan: Journalist cleared by European Court of terrorism conviction, still convicted for alleged drug offences**

On 6 July, Eynulla Emin oglu Fatullayev, an Azeri journalist, was convicted to two-and-one-half years of imprisonment for drug offences, charges alleged by Amnesty International to be fabricated and politically motivated. Previously, on 22 April, the European Court of Human Rights found that the conviction of Fatullayev for defamation violated his right to freedom of expression guaranteed under article 10 of the European Convention on Human Rights. Fatullayev was convicted of defamation, "threat of terrorism" and "incitement to ethnic hostility" for having published an article criticising the purported pro-United States policy of the Azeri Government in relation to Iran. The Court also found that the court adjudicating his case was not impartial, and that statements by the Prosecutor General qualifying his actions before the trial as constituting a "threat of terrorism" violated his right to presumption of innocence.

Eur. HR Comm. Statement

NGO Statement 1

NGO Statement 2

ECtHR Judgment

### **Russian Federation: European Court rules on enforced disappearances during "counter-terrorism" operations in Chechnya**

On 15 and 22 July, the European Court of Human Rights ruled on several cases of enforced disappearances occurring in Chechnya during "counter-terrorism operations". The Court found that Murad Gelayev, Abu Zhanalayev, Sayd-Selim Benuyev and Artur Akhmatkhanov had been abducted by State servicemen during unacknowledged security operations and their whereabouts were subsequently unknown, and that they must be presumed dead. The Court found that the Russian Federation had violated their right to life and their right to liberty. It also ruled that the investigations into their enforced disappearance were insufficient, also subjecting their relatives to mental, and sometimes physical, inhuman or degrading treatment. The Court also found that Gelayev had been subject to torture.

Judgment (Gelayev)

Judgment (Benuyev & Others)

Judgment (Akhmatkhanov)

### **Russian Federation: Transfer to Uzbekistan would violate prohibition of torture, says European Court**

On 8 and 29 July, the European Court of Human Rights held that Abdumutallib Karimov, Murod Yuldashev, and Abdulazhon Isakov could not be returned to Uzbekistan because

they would be at risk of torture or other ill-treatment once detained there. Karimov, Isakov and Yuldashev were requested by Uzbek authorities on charges of commission of terrorist acts, membership of illegal organisation (Hizb-ut-Tahrir), overthrowing the constitutional order and organisation of mass disorder, for having been present at the Andijan demonstrations of 2005. The Court also ruled that their detention pending extradition without a court order was in violation of their right to liberty.

[Judgment \(Isakov\)](#)

[Judgment \(Karimov\)](#)

[Judgment \(Yuldashev\)](#)

### **Russian Federation: President signs into law new legislation on intelligence services**

On 29 July, President Dmitry Medvedev signed into law amendments to the *Administrative Code* and the *Law on the Federal Security Service* (FSB) conferring on the FSB powers of to issue warnings against any activity considered “unlawful”, regardless of whether such activity constitutes an offence under criminal law. After issuance of the warning, if the activity is nonetheless carried out, the result may be arbitrary restrictions on several rights of the persons addressed by the warning. The warrants cannot be challenged in court. The Russian Ombudsman, Vladimir Lukin, considered the law “most dangerous” and leading to situations where any person could be detained and subjected to arbitrary orders.

[Law \(R\)](#)

[President Statement \(R\)](#)

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

## **UNITED NATIONS & REGIONAL ORGANISATIONS**

### **UN: Security Council debates procedural fairness in terrorism lists**

On 29 June, the UN Security Council held a debate on its role and the respect of the rule of law, including in the context of the UN Terrorism Sanctions Regime. Many member states welcomed the introduction and appointment of the Ombudswoman under resolution 1904(2009). The President of the Security Council issued a Statement announcing that the Council “remained committed to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions.”

[SC President Statement](#)

[Meeting Summary](#)

### **UN: Sanctions Committee issues new Guidelines for terrorism lists**

On 22 July, the Al Qaeda and Talibans Sanctions Committee, established by Security Council resolution 1267(1999), amended its Working Guidelines in order to insert procedures reflecting the appointment of an Ombudsperson for delisting proceedings. The Guidelines contain an annex describing in detail the procedure to be followed by individuals before the Ombudsperson.

[Guidelines](#)

[Committee Statement](#)

### **UN: New Ombudswoman says she will provide procedural fairness in delisting**

On 15 July, Kimberly Prost, the Ombudsperson for the UN Terrorism Sanctions Committee, said in a press conference that she would provide individuals, organisations and entities affected by the sanctions regime of the UN Al Qaeda and Talibans Sanctions List with an avenue for recourse to fundamental fairness in the delisting process and for the overall efficiency, effectiveness and enforceability of the sanctions regime, under Security Council resolution 1904 (2009).

[UN Article](#)

### **EU: Unlawful insertion in EU terrorism lists cannot form basis of criminal conviction**

On 29 June, the European Court of Justice ruled that the inclusion of the organisation Devrimci Halk Kurtulus Partisi-Cephesi (DHKP-C) on the EU terrorism list was illegal and that it cannot therefore form the basis for a criminal conviction linked to an alleged infringement of the EU terrorism regulation. The action was brought by two persons



accused in Germany of financing an alleged terrorist organisation, namely DHKP-C.

Judgment

ECJ Statement

### **EU: Parliament approved bank data sharing agreement with USA**

On 8 July, the European Parliament ratified the second draft of the *Society for Worldwide Interbank Financial Telecommunication (SWIFT II) Agreement* with the USA, after having rejected a previous version of the treaty for lack of procedural guarantees. SWIFT maintains a database recording millions of bank transactions each day. According to the EU Commission, the new proposal will provide greater guarantees for the protection of the right to privacy, such as effective rights of administrative and judicial redress, right to access, rectification and erasure of data, and approval by a judicial authority for the transfer of data. The EU will reportedly have the right to terminate the Agreement in the event of breach of any of the data protection safeguards.

Agreement

Parliament Resolution

Parliament Statement

### **EU: Commission presented report on stock-tacking in counter-terrorism**

On 20 July, the European Commission presented a communication tacking stock of all the EU counter-terrorism legislation and measures undertaken since 2001. The document also outlines the Commission's projects for new counter-terrorism measures. On 3 June, the EU Counter-terrorism Coordinator had presented its report to the EU Council on the different measures linked with tackling terrorism financing and their evolution.

EC Communication

EU CTC Report

### **EU: Data Protection Authorities find implementation of data retention directive unlawful**

On 14 July, the Article 29 Working Party, a EU organ composed of all European Data Protection Authorities issued a report, finding that the current implementation of the EU data retention directive is unlawful. The Directive creates a harmonized framework to store data in order to combat organised crime and terrorism. The report found that several States provide excessively long time limits for storage and allow for retention of more data than the directive permits.

Report

Directive

WP Statement

### **Council of Europe: Venice Commission publishes report on counter-terrorism and human rights**

On 5 July, the European Commission for Democracy through Law (Venice Commission), an organ of the Council of Europe, published a report on Counter-terrorism and Human Rights. In its conclusions, the Commission pointed out that "an effective criminal justice system based on respect for human rights and the rule of law is, in the long term, the best possible protection for society against terrorism".

Report

### **African Union: Assembly calls for enhanced cooperation in counter-terrorism**

On 27 July, the African Union Assembly adopted decisions at the 15<sup>th</sup> AU summit held in Kampala on the prevention and combating of terrorism. The decision requests all African States to work closely together, directly and through the relevant organs of the AU, to implement enhanced measures for cooperation, mutual legal assistance and coordination between the security services, in order to boost Africa's collective action against terrorism. It also requests the African Commission to carry out all necessary consultations and initiate appropriate measures to mobilise wide support and effective contribution of the international community towards combating terrorism in Africa, including cutting off its financing and ending the payment of ransoms.

AU Statement

Press Article



### **OSCE: Conference declaration opposes association between terrorism and Islam**

On 30 June, the OSCE High-Level Conference on Tolerance and Non-Discrimination, held in Astana (Kazakhstan), issued the *Astana Declaration*. The Declaration firmly rejects the attempts to associate terrorism and extremism with Islam and Muslims and declares that international developments and political issues cannot justify any forms of intolerance and discrimination against Muslims in general. It furthermore calls on full respect of international human rights standards while undertaking counterterrorism measures.

**Declaration**

---

To subscribe free of charge to this E-Bulletin, please send an email to [icjcounterterrorism@icj.org](mailto: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](mailto: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](http://www.icj.org).

Please send feedback about the E-Bulletin to [icjcounterterrorism@icj.org](mailto:icjcounterterrorism@icj.org).