



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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AFRICA & MIDDLE EAST

Nigeria: Anti-terrorism Bill with sweeping prevention and investigative powers is law

On 3 June, President Jonathan Goodluck signed into law the *Nigeria Terrorism (Prevention) Act 2011*, after two years of legislative debate. The new legislation introduces, among other measures, proscription of terrorist organisations without judicial challenge, the possibility to issue search warrants without judicial approval in case of emergency, and the issuance of detention orders without a judge's authorization. The law considers moral assistance as constituting the offence of support for terrorism, and provides for an offence of failure to disclose information about acts of terrorism.

[Draft Law](#)

[Press Article 1](#)

[Press Article 2](#)

Ethiopia: Journalists and opposition members arrested under Anti-terrorism law

On 19 and 21 June, Ethiopian authorities arrested nine people, including two journalists and two members of the opposition, and detained them without charge under the *Anti-Terrorism Proclamation 2009*, which allows for periods of 28 days of preventive detention renewable up to four months. The two journalists, Woubshet Taye of the *Awramba Times* and Reeyot Alemu of *Feteh* newspaper, were remanded in detention by an Ethiopian court for other 28 days on 17 July, despite several claims by international NGOs that the arrests are a way to curtail freedom of expression in the country.

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

[Press Article](#)

Eritrea: Security firm employees held *incommunicado* as spies

On 12 June, Eritrean authorities released and flew to Qatar three UK citizens and a dual Australian and UK citizen who had been held *incommunicado* for six months. The Eritrean Government suspected the four of having the intention of "perpetrating acts of terrorism and sabotage". No consular or diplomatic access was granted to them during their time in detention. The four are employees of Protection Vessels International (PVI), a security firm providing protection to cargos from pirate attacks.

[Press Article 1](#)

[Press Article 2](#)

DRC/Angola: Activist arrested pending expired "terrorism" extradition

On 20 June, immigration authorities of the Democratic Republic of Congo arrested Agostinho Chicaia, an environmentalist and former president of the banned Angolan human rights organisation Mpalabanda. The arrest was executed allegedly on the basis of an international warrant by Angola for 25 individuals wanted for terrorism offences in connection with an attack on the Togolese football team last year, where two people died and several were wounded. Amnesty International called for his immediate release as the international arrest warrant issued in 2010 is no longer valid, because the specific crime was revoked by Angola in December 2010. The DRC authorities declared that they had asked Angola for information but had received no reply.

[NGO Statement](#)

Uganda: Disappeared journalist turns out to be detained by anti-terrorism squad

On 26 July, Reporters Without Borders communicated that Augustine "Rouks" Okello, a journalist based in the northern city of Lira who mysteriously disappeared on 13 July, was being held by the anti-terrorism police on suspicion of "subversive activities". Mr Okello has been detained *incommunicado* in an undisclosed location by the Joint Anti-Terrorism Taskforce (JATT), without the possibility to see a judge or a lawyer, according to the NGO.

[NGO Statement 1](#)

[NGO Statement 2](#)

Saudi Arabia: Draft draconian anti-terrorism law leaked

On 22 July, Amnesty International published a draft anti-terrorism law which is under discussion before the Majlis Al-Shura (The Consultative Council) in Saudi Arabia. According to the NGO, the draft legislation contains an overbroad definition of terrorist crimes which may be used to criminalise dissent and public protest. Furthermore, it reported that the draft law allows for *incommunicado* detention for up to 120 days, or longer, if authorised by a specialised court. The Saudi Embassy in the UK declared that Amnesty's concerns are "baseless, mere supposition on their part, and completely without foundation."

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

[NGO Statement](#)

[Embassy Statement](#)

[Press Article](#)

Bahrain: Human rights defenders and opposition members convicted of terrorism

On 22 June, 21 opposition members and human rights defenders were convicted of the charges of being a member of a terrorist group aiming at overthrowing the Monarchy, being in contact with a foreign terrorist group, and being financed by a terrorist group. The persons convicted include the main leaders of the opposition and of the protests which occurred across the country, and Abdelhadi Al-Khawaja, the Director of the Bahrain Centre for Human Rights. Al-Khawaja and four others have been sentenced to life imprisonment, while the other thirteen have been sentenced to imprisonment varying from two to fifteen years. On 1 June, Bahrain lifted the state of emergency which had been in place since mid-April. UN Secretary General Ban Ki-moon expressed, through his spokesperson, his concern on 23 June at these harsh sentences and urged the authorities of Bahrain to "allow all defendants to exercise their right to appeal and to act in strict accordance with their international human rights obligations, including the right to due process and a fair trial".

[UN SG Statement](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

Bahrain: King establishes high-level inquiry commission into protests and repressions

On 29 June, King Hamad bin Isa Al Khalifa announced the appointment of an independent fact-finding Commission into the protests and fierce repression of February and March, chaired by Professor Cherif Bassiouni, and also including Sir Nigel Rodley, Justice Philippe Kirsch, Dr Mahnoush Arsanjani, and Dr Badria al 'Awadhi. The Commission will have the authority to carry out a full investigation. The King also announced that all military court trials connected with the February-March protests will be moved to civilian courts. Those already sentenced will also have their cases reviewed by civilian courts. On 7 June, the Office of the UN High Commissioner for Human Rights announced that Bahrain accepted an international investigation into the repression of the protests.

[King Statement](#)

[OHCHR Statement](#)

[NGO Statement](#)

Syria: Arbitrary arrests and extra-judicial executions of protesters continue in the name of "countering terrorism"

On 14 June, the Office of the UN High Commissioner for Human Rights published a preliminary report on the situation in Syria where it documented that, by that date, around 1,100 persons had been killed and up to 10,000 detained in the violent crackdown by the Syrian authorities against peaceful protesters including lawyers, human rights defenders, opposition members and activists. The Government has justified these measures as a legitimate counter-terrorism campaign. The High Commissioner's report also documents the work of a fact-finding mission headed by Deputy High Commissioner Kyung-wha Kang, which the Syrian authorities have not permitted to enter the country. On 1 June, Human Rights Watch released a report documenting widespread human rights violations occurring in the governorate of Daraa since the beginning of the protests. Several NGOs, including the ICJ, have called on the UN Security Council to refer the

situation in Syria to the International Criminal Court. On 21 July, the UN Special Advisers on the Prevention of Genocide and the Responsibility to Protect declared that the scale and gravity of the violations indicate a serious possibility that crimes against humanity may have been committed and continue to be committed in Syria.

[OHCHR Report](#)

[UN Special Advisers Statement](#)

[HRW Report](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

Israel: Government tables draft law stripping terrorists' families of social rights

On 24 July, the Israeli Government gave the green light to a bill to strip convicted terrorists and their families of allowances paid by the State, such as pensions and welfare. If approved, the legislation will allow the interior minister to revoke the allowances of those who had been convicted of terror acts against the State of Israel and the members of their families. The allowances include state benefits such as pensions and welfare, but do not include any state benefits that could harm children or minors. The persons affected by this measure will retain the right to a hearing to demonstrate that they were not involved in terrorist activities.

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

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

AMERICAS

USA: Supreme Court dismisses lawsuit against former Attorney General for anti-terrorism abuses

On 31 May, the US Supreme Court dismissed a suit against former Attorney General, John D. Ashcroft, for allegedly authorising federal prosecutors to obtain valid material-witness warrants for detention of terrorism suspects whom they would otherwise lack probable cause to arrest. The Court's opinion (four Justices), drafted by Justice Scalia, held that, as the warrants were validly obtained, this practice was not unconstitutional, according to the Fourth Amendment to the US Constitution, and that, therefore, Ashcroft did not violate the law, regardless of the claim for immunity. Another four Justices agreed on the absence of liability but refused to agree that the warrants were validly obtained. Justice Kagan took no part in the decision.

[SC Ruling](#)

[NGO Statement](#)

[Press Article](#)

USA: No remedy for deported Guantánamo detainees, says Court of Appeals

On 22 July, the federal Court of Appeals of the District of Columbia dismissed the appeal of Nazul Gul and Adel Hamad, two former Guantánamo detainees, thereby affirming the dismissal of their *habeas* petition by the District Court judge. The Appeals Court agreed with the lower court judge that any consequences of the detention in Guantánamo Bay and of their having being labelled as "enemy combatants" could not be remedied through a *habeas corpus* action. The Court also reasoned that the restrictive measures imposed on the plaintiffs in Afghanistan and Sudan, were in accordance with the national law of those countries and were not attributable to US action, and were therefore outside the reach of the authority of US courts. It also held that the plaintiffs' insertion in a No-Fly list by the USA could not be remedied through a *habeas* action.

[Ruling](#)

USA: 9/11 suspects charged in military commission; Somali suspect in federal court

On 31 May, the office of military commissions prosecutors swore charges against Khalid Sheikh Mohammed, Muhammad Salih Mubarak Bin 'Attash, Ramzi Binalshibh, Ali Abdul Aziz Ali, and Mustafa Ahmed Adam al Hawsawi, five "high level" Guantánamo detainees, for the planning and execution of the 9/11 attacks, and referred the cases to the

Convening Authority, Bruce MacDonald. The prosecution recommended that the charges be capital. The Convening authority will have to decide whether to refer the cases to trial in a military commission. The decision to try these cases by military commission was announced by Attorney General Eric Holder on 4 April, in a reversal of the position of the Justice Department of November 2009 to try them in federal courts. On 6 July, Ahmed Abdulkadir Warsame was, by contrast, charged with terrorism offences in a federal court. Mr Warsame, a Somali national, had been detained and interrogated for over two months at board of a Navy ship without charge, access to a lawyer or a judge.

[Defense Dep. Statement](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

[Press Article 1](#)

[Press Article 2](#)

USA: Judge finds Guantánamo detainee tortured in Jordan and Kabul and invalidates statements

On 23 May, Chief Judge Royce D. Lamberth of the District Court for the District of Columbia upheld the request by Guantánamo detainee Sharqawi Abdu Ali Al-Hajj to suppress statements made in Bagram (Afghanistan) and Guantánamo Bay, because these were given after he had been subject to physical and psychological coercion in Jordan and Kabul for over two years. Sharqawi Abdu Ali Al-Hajj was captured in Karachi (Pakistan) in February 2002 and transferred, after three weeks of solitary confinement, to Jordan and then to Kabul in Afghanistan. In May 2004 he was detained in Bagram to be moved in August of the same year, to Guantánamo Bay, where he is currently held. The Court found, however, that the conditions of his detention and treatment at Bagram did not amount to torture, and that the statements he made in Pakistan after capture were valid, as it considered that solitary confinement did not in itself amount to abuse, torture or coercion.

[Ruling](#)

USA: No jurisdiction for victims of US torture to sue former Secretary of Defence

On 21 June, the federal Court of Appeals of the District of Columbia dismissed a lawsuit against former Secretary of Defence, Donald H. Rumsfeld, and three high-ranking army officers brought by four Afghan and five Iraqi citizens captured and detained in Afghanistan and Iraq by US military forces. The suits sought compensation for torture and cruel, inhuman and degrading treatment allegedly endured while in detention. The Court rejected the claims for violation of the Fifth and Eight Amendments to the US Constitution on the basis of qualified immunity, as well as another claim based on the Alien Tort Statute (ATS), and a request for declaratory relief.

[Ruling](#)

USA: Justice will prosecute only two cases out of 101 claims in CIA detention abuses

On 30 June, Attorney General Eric Holder announced that the Justice Department will investigate and prosecute those responsible for the death of two individuals who died while in CIA custody in the “enhanced interrogation programme”. The decision followed the recommendation of Assistant US Attorney John Durham who had been appointed to review the possible criminal responsibility of US officers in CIA detention and has dismissed another 99 cases as not requiring investigation or prosecution. NGOs protested that the mandate of Mr Durham was too narrow as it excluded, in the words of the Attorney General, “anyone who acted in good faith and within the scope of the legal guidance given by the Office of Legal Counsel regarding the interrogation of detainees”, including the torture memoranda.

[Justice Dep. Statement](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

USA: Lack of unmonitored access to detainees undermines UN mandate, says UN Special Rapporteur

On 12 July, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, issued a statement raising concerns about the restrictions placed by the United States on his interactions with detainees. In particular, the USA did not allow the Special Rapporteur to have an unmonitored meeting with Private first class Bradley Manning, a US soldier detained for allegedly leaking classified communications to the Wikileaks website. The lack of assurance regarding monitoring caused Mr Manning to turn down the meeting. The Special Rapporteur said that this approach does not only affect his possibility to meet with Manning but also with any other detainees in US custody, in defiance of long-standing rules that the UN applies for prison visits and for interviews with prisoners worldwide.

[UN SR Statement](#)

USA/Afghanistan: Detainee Review Boards system not in line with rule of law

[See, ASIA & PACIFIC](#)

Canada: Quebec Government cuts UN Terrorism enlisted person's child benefits

On 31 May, the Government of Quebec cut the child benefits for Abousfian Abdelrazik's minor child giving the reason that, as Mr Abdelrazik is on the UN Al-Qaeda List, issued after UN Security Council resolution 1267/1999, transfer of money to him is illegal. Confusion was added by the Federal Department of Foreign Affairs and International Trade on 15 July stating that Mr Abdelrazik can receive funding but is limited to withdrawing 2,000 dollars a month as the account is frozen. On 4 June 2009, the Federal Court ruled that Abousfian Abdelrazik's right to leave and return to his country under the *Canadian Charter of Rights and Freedoms* was violated after he was refused an emergency passport to return to Canada from Sudan. He had been living in the Canadian Embassy for 14 months, following alleged torture in a Sudanese prison. The Federal Court had ruled that the UN listing procedure lacked due process guarantees. A request to be de-listed had been filed with the UN Ombudsperson, Judge Kimberly Prost.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Brazil: President has discretion in extradition of terrorism suspect, says Supreme Court

On 8 June, the Supreme Court of Brazil ruled that Cesare Battisti, an Italian national wanted by Italy following his conviction *in absentia* for terrorist acts, was to be released from detention pending extradition, after former President Lula granted him refugee status and denied the extradition to Italy on 31 December 2010, his last day in office. The Court ruled that the President's decision constituted an act of foreign affairs which is outside the Court's jurisdiction, which applies only in case of breach of the expellee's rights. It also stressed that, whatever action against the decision Italy might bring based on the Brazil-Italy Extradition Agreement, the appropriate forum would be the International Court of Justice. The decision was reached with a 6 to 3 majority.

[Opinion \(J. Fux - Port.\)](#)

[Opinion \(J. Méndes - Port.\)](#)

[Opinion \(J. Lewandowski - Port.\)](#)

[Court Statement \(Port.\)](#)

[Press Article \(Port.\)](#)

Chile: Parliament passes exclusion of children from Pinochet-era anti-terrorism law

On 8 June, the House of Representatives approved in final reading a bill reforming the *Anti-Terrorism Law no. 18.314* which will exclude absolutely the application of the anti-terrorism legislation to all persons below eighteen years of age. The vote was 86 to 1, with four abstentions. According to the proponents, the legislative amendment was needed as the previous legislative reform approved with Law no. 20.467 led to inconsistent jurisprudence as to its applicability to children.

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

[House Statement \(S\)](#)

Chile: Draft Law on judicial control of anti-terrorism law tabled before the House

On 30 May, House representatives Sergio Aguilo, Aldo Cornejo, Marcelo Diaz, Hugo Gutierrez, Gustavo Hasbun, Sergio Ojeda, and Marcela Sabat tabled draft legislation before the House of Representatives, which aims at establishing judicial control over the application of the Pinochet-era *Anti-Terrorism Law no. 18.314*. If it becomes law, the Act will oblige the prosecutors to seek judicial approval of the charges of terrorism before using the sweeping investigative powers granted by the Anti-Terrorism legislation. At present, it is their total discretion to determine which conduct deserves to be charged as terrorism.

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

[House Statement \(S\)](#)

ASIA - PACIFIC

India: Supreme Court finds anti-terrorism paramilitary squads unconstitutional

On 5 July, the Supreme Court of India ruled that the State of Chattisgarh acted against the Constitution by arming tribal youth, for a temporary period and without a proper training, to fight groups of Maoist or Naxal rebels. The Court held that by establishing these paramilitary forces, the State of Chattisgarh violated their right to equal treatment (Article 14, Constitution), as they were not afforded the same conditions of training and equipment as regular forces, and also violated their right to life (Article 21), as the State placed them in a situation in which they would improperly endanger their lives and the lives of the communities. The Court also held that the Union of India did not act according to its constitutional duties by limiting itself to financing the programme, without assuring proper constitutional supervision.

[Judgment](#)

[Press Article](#)

Pakistan: Lahore High Court releases lawyers arrested on terrorism charges

On 25 July, acting Chief Justice Sheikh Azmat Saeed and Justice Nasir Saeed Sheikh of the Lahore High Court ordered the police to release the lawyers arrested during a protest in Jhang on 21 July and charged with terrorism offences under the *Anti-Terrorism Act*. The Court also ordered the police to produce two missing persons and restrained the police from arresting more people in a case lodged against the lawyers during the protest. The acting Chief Judge also contested the terrorism charges, asking the reasons for their filing. The petitioner, Advocate Muharram Ali, claimed that some of the arrested lawyers had been tortured.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Pakistan: Criminal charges sought against Former CIA General Counsel for drones

On 18 July, Sadaullah, Kareem Khan and Maezol Khan filed a criminal notice with the Islamabad police asking them to charge former CIA General Counsel John A. Rizzo with war crimes, crimes against humanity, waging war against Pakistan, murder, destruction of bodily organs, dismemberment, and evidence cover-up. The criminal complaint alleges that John Rizzo is complicit in the killing of the complainant's family members through the attacks carried out by Unmanned Aerial Vehicles, better known as "drones", which have become a central measure of the US counter-terrorism strategy in Pakistan's tribal areas in Waziristan. The complainants request the issuance of an international warrant against him.

[Criminal Notice](#)

[Rizzo's Interview](#)

[Press Article 1](#)

[Press Article 2](#)

Pakistan: NGO concerned at use of anti-terrorism law to suppress dissent

On 13 July, the Human Rights Commission of Pakistan called on the Government to drop a case against four journalists who have been detained on charges under the *Anti-Terrorism Act* for their participation in a protest against electricity load shedding in the district of Mianwali. The Commission protested at the use of anti-terrorism legislation to suppress

dissent and reported that one of the journalists appeared to have been tortured and mistreated while in custody.

NGO Statement

Afghanistan/USA: Detainee Review Boards system not in line with rule of law

In May 2011, Human Rights First (HRF) published a report on a recent mission to Bagram (Afghanistan). In the report, the NGO related that around 1700 detainees were held in the US prison in March 2011, three times more than in 2008. While HRF found some improvements in the Detainee Review Boards system, it overall evaluated that the system does not respond to due process requirements. The detainees are not provided with a full-fledged lawyer but with a “personal representative”, a soldier with no legal background who has taken a short-term course, and there are only fifteen of them for all the detainees. Furthermore, the evidence given by informants is considered classified with no possibility for the detainee to challenge it. HRF has also registered cases of detainees cleared for release by the Board who continue to be in US detention. Finally, regarding the planned policy of transferring detainees for trial to Afghan authorities, the NGO has noted that the Afghan justice system does not provide a minimum level of due process in national security cases.

Report

Sri Lanka: Extrajudicial executions video is authentic, says UN Special Rapporteur

On 31 May, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, announced in a statement the authenticity of a video reporting the extrajudicial execution of several men by Government soldiers during the conflict with the Liberation Tigers of Tamil Eelam (LTTE). The Rapporteur called for a broader process to determine whether these constituted crimes against humanity or war crimes and called for further investigations to be carried out.

UN SR Statement

Australia: Documents on Australia’s knowledge of US counter-terrorism abuses published

On 5 July, the Public Interest Advocacy Centre published a set of classified documents relating to Australia’s involvement in the conflicts in Afghanistan and Iraq obtained by the Department of Defence through a *Freedom of Information Act* action. According to the NGO and news reports, the documents reveal that Australian authorities have been aware of uninvestigated deaths in custody in Afghanistan; of the illegal detention practices in Iraq, including in Abu Grahیب; and of the practice of hiding prisoners from the International Committee of the Red Cross (ICRC) and obstructing the ICRC’s access to prisoners. Finally, the documents show that an Australian military lawyer advised on US interrogation techniques and concluded they were open to abuse.

Documents

NGO Statement

Press Article

Australia: Government wants royalties of former Guantánamo detainee

On 20 July, the Department of Public Prosecution applied for a restraining order and a literary proceeds order to seize the royalties of David Hicks for his book “Guantánamo: My Journey”, alleging that they constituted proceeds of a crime. David Hicks is an Australian citizen who was detained in Afghanistan in 2001 and then transferred to Guantánamo Bay where he was held for five years. In March 2007 he pleaded guilty to providing material support for terrorism and was able to serve the rest of the seven years sentence in Australia until his release at the end of 2007.

Press Article 1

Press Article 2

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Supreme Court bars “closed material procedure” from civil damage lawsuits

On 13 July, the UK Supreme Court ruled that a “closed material procedure”, through which only the Government and Special Advocates could see classified evidence, was inadmissible in a civil damage trial. The ruling was in the case *Al-Rawi and others v. Home Office*, where former Guantánamo detainees have sued the British Government for damages in light of its alleged complicity in their detention and ill-treatment. The majority deemed that such restrictions to the common law fundamental right to a fair trial could only be introduced by Parliament, and that there was no clear statutory basis existed for them in civil damages claims. In another decision issued on the same day, *Home Office v. Tariq*, the Court allowed the use of “closed material procedure” before the Employment Tribunals, as it was prescribed by a specific statute. Furthermore, the Court annulled the Court of Appeal’s requirement to provide the defendant with a summary of the classified evidence. The case was brought by Mr Tariq for racial and religious discrimination by the Home Office, after he was suspended from duties and his security clearances had been withdrawn, because his brother had been arrested, and later released without charge, on suspicion of mounting a terrorist attack.

[Judgment \(Al-Rawi\)](#)

[Judgment \(Tariq\)](#)

[Press Article](#)

UK: Torture Inquiry panel will investigate renditions; procedural rules published

On 6 July, the Government and the Detainee Inquiry, chaired by Sir Peter Gibson, published the Terms of Reference of the Inquiry and a Protocol on its working methods and rules. According to the Terms of Reference, the Inquiry would focus on “whether, and if so to what extent, the UK Government and its security and intelligence agencies in the aftermath of 9/11 were involved in improper treatment, or rendition, of detainees held by other countries in counter terrorism operations overseas; and/or were aware of improper treatment, or rendition, of detainees held by other countries in counter terrorism operations in which the UK was involved”. The procedural rules contained in the Protocol provide for many situations where the inquiry will be held in closed sessions, and allow for excluding testimony in public by current or former members of the security and intelligence services (other than the Heads of each service).

[Terms of Reference](#)

[Protocol \(Procedure\)](#)

[Inquiry Statement](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

UK: New control orders bill not enough, says UK Human Rights Committee

On 19 July, the Parliament’s Joint Committee on Human Rights issued a report on the *Terrorism Prevention and Investigation Measures Bill* laid before Parliament. The Committee welcomed the raising of the threshold for imposing control orders from reasonable suspicion to reasonable belief; the maximum time limit of two years; and the less severe restrictions to be imposed. However, the Committee made recommendations that the new control orders should not have the result of hampering investigations; that courts at the permission stage should be able to determine whether the conditions for imposing them appear to have been met; that the Secretary of State should give the individual sufficient information on the reasons for the order to enable him to give effective instructions in relation to those allegations; and, finally, that the control order regime should be subject to annual review and not be permanent.

[Report](#)

UK: New Counter-terrorism Reviewer sets new recommendations on anti-terrorism measures

On 18 July, the new Independent Reviewer of Counter-Terrorism Legislation, David Anderson QC, published his first report on the *Terrorism Act 2000* and *Terrorism Act 2006*. Among his recommendations, he proposes a full review of the powers to examine and detain travellers at ports and airports; that the proscription of organisations should be time-limited, as the current delisting procedure does not properly work; that the reintroduction of the 28 days preventive detention be done through an express power given to the Home Secretary and not through primary legislation; and a more coherent use of the stop and search powers.

Report

UK: New stop and searches power regime not yet in line with European Convention

On 15 June, the Parliament's Joint Committee on Human Rights published a report assessing the compliance of the *Terrorism Act 2000 (Remedial) Order 2011* with international human rights law. The Order had been issued as a temporary furtherance of the stop and search powers while waiting for their reform through Parliament. The Committee found that the Order risks giving rise to breaches of the European Convention on Human Rights. To be compatible, the Committee recommended that the officer authorising the stop and search must have a reasonable basis for his or her belief as to the necessity of the authorisation and provide an explanation of those reasons; and that authorisations should not be renewed, unless on the basis of new or additional information or a fresh assessment of the original intelligence that the threat remains immediate and credible. The Committee found that the system should require prior judicial authorisation and that the orders be publicly notified once expired.

Report

Press Article

UK: UK is responsible for arbitrary detention in Iraq, European Court says

On 7 July, the Grand Chamber of the European Court of Human Rights found that the detention of Hilal Abdul-Razzaq Ali Al-Jedda by UK forces in Basra (Iraq) from 10 October 2004 to 30 December 2007 was arbitrary and constituted a violation of his right to personal liberty under Article 5 of the European Convention on Human Rights (ECHR). The Court dismissed the claim of the Government that Al-Jedda's detention was under UN jurisdiction, as it found that it was British forces who had authority and control over him while the UN had neither effective control nor ultimate authority and control over the acts or omissions of the Multinational Force. The Court also rejected the argument that such internment was mandatory under the UN Security Council resolutions related to the occupation of Iraq or under international humanitarian law.

Judgment

UK: Officers cleared of assault on terrorism suspect

On 4 June, a jury at Southwark Crown Court found Constables Mark Jones, Roderick James-Bowen, Nigel Cowley, and Detective Constable John Donohue not guilty of the charge of assault against terrorism suspect Babar Ahmad during his arrest in December 2003. The prosecution alleged that the police officials pushed Mr Ahmad towards the window, smashing it, and knocking him to the ground, after which he was punched and kicked repeatedly, amid continuous denigrating insults. He was reportedly also forced to assume praying positions while the agents insulted him and his religion and grabbed his genitals. Babar Ahmad was released without charge six days after his arrest, but has been in custody since 2004, awaiting extradition to the United States on terrorism charges. He has been held longer without trial than any other UK citizen detained on terrorism

charges. On 8 June, Scotland Yard also cleared the officers of misconduct. Reportedly, in March 2009 Scotland Yard paid 60,000 in damages to Mr Ahmad for having been subjected to “a serious, gratuitous and prolonged” attack, after he brought a personal injury case at the High Court.

Press Article 1

Press Article 2

Germany: Terrorism law extended; inquiry commission to be set up

After one month of discussion, on 28 June, the Minister of Interior, Hans-Peter Friedrich, and the Minister of Justice, Sabine Leutheusser-Schnarrenberger, reached an agreement to extend the validity of anti-terrorism legislation for a further four years. The announcement included some modifications to be introduced in the legislation, such as the possibility to retrieve centralised data from bank and airplane companies, and a shortening of the maximum data storage period from 15 to 10 years. Finally, the Ministers agreed to establish an independent commission to monitor the implementation of the anti-terrorism laws.

Agreement (German)

Government Statement (German)

Press Article (E)

Italy: Court of Cassation narrows down definition of “terrorist training” offence

On 20 July, the Sixth Criminal Chamber of the Court of Cassation annulled an order of pre-trial detention for M' Hamed Gaouran, who is under investigation on the charge of terrorist training. Mr Gaouran reportedly had in his possession several materials of Jihad propaganda and bomb-making and guerrilla manuals and strategy. The Supreme Court held that the offence of terrorist training requires a double specific intent, the intention that the training be apt to make the trainee fit to carry out violent activities and the intent of terrorism. The Court annulled the order on the ground that the lower court did not analyse the case correctly according to this interpretation of the offence, and stressed that the training should be intended to be capable of instructing someone to carry out a terrorist activity.

Judgment (Italian)

Reference (Italian)

Spain: Basque Parliament calls for more human rights guarantees in *incommunicado* detention

On 23 June, the Basque Parliament approved a resolution calling for a reinforcement of the system of human rights guarantees in the framework of the *incommunicado* detention system while it remains in existence. Furthermore, it asked the Basque Interior Ministry to implement measures of prevention, strengthening and amelioration as suggested by the international human rights defence mechanisms.

Resolution (S)

Press Article (S)

Spain: Supreme Court says exhibiting pictures is “glorification of terrorism”

On 8 June, there was published online the judgment of the Supreme Court which acquitted Maria Milagros, Covadonga, Luis Manuel Y Manuel, from the charge of glorification of terrorism (*entalecimiento*), for allegedly having exhibited pictures of ETA detainees on a public board during local celebrations. Judge Ferrer, who wrote the majority opinion, ruled that these facts constituted glorification of terrorism, through the praise of people convicted of terrorism, but that none of the defendants could be identified as having exhibited the pictures. Judge Martin Pallin, while concurring in the acquittal, dissented by ruling that, as these acts were aimed at calling on the authorities to move the prisoners near their home and at securing an amnesty for them, they could not be defined as criminal acts. This in particular when it is considered that a request for amnesty implies recognition of previous criminal liability.

Judgment (S)

Press Article (S)

Monaco: Terrorism offences too widely drafted, says UN Committee

On 3 June, the Committee against Torture issued its concluding observations on the compliance by the Principate of Monaco with its obligations under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. In its observations, the Committee stressed that the definition of terrorist acts in the criminal code was wide and imprecise, and that the definition of “environmental” terrorism was unclear.

Concluding Observations

Turkey: Journalist convicted of “terrorism propaganda”

On 30 May, journalist Saadet Irmak was convicted of “making propaganda for the PKK” (Kurdistan Workers Party) and of “praising a criminal” by the Istanbul 10th High Criminal Court and sentenced to a total of 20 months and monetary fines adding up to TL 18,140. He is the owner and editorial manager of the weekly *Yeni Yorum* (‘New Comment’) magazine and the *Ülkede Yorum* (‘Comment on the Country’) newspaper. He had been convicted for publishing one article quoting the Executive Board of the Union of Kurdistan Communities (KCK) criticising the Government, for having called Abdullah Ocalan in another article “Leader of the Kurdish People”, and for another article criticising State institutions.

Press Article

Russian Federation: Chechen President tells judiciary how to fight terrorism

On 22 June, Chechen President Ramzan Kadyrov publicly criticised judges of Chechnya for “being soft” on terrorists. President Kadyrov referred to a recent case where the Magomadov brothers who were accused of killing four policemen were acquitted by a jury and lamented that they had not been charged with terrorism. The President called the judges to “change their attitude to work.” He also said that the Magomadov brothers should be recaptured and retried for the same facts.

Press Article

Kazakhstan: Collective extradition of Uzbeks violates *non-refoulement*, says NGO

On 9 June, the Kazakh Government deported at least 28 Uzbek refugees after extradition requests from Uzbekistan in 2010 for prosecution on the charges of “illegal religious or extremist organizations,” and “attempts to overthrow the constitutional order”. The 28 persons fled Uzbekistan for fear of religious persecution. Human Rights Watch stated that Kazakhstan violated the prohibition of *non-refoulement* by sending them back to Uzbekistan where people prosecuted and detained for such charges are routinely subjected to torture and cruel, inhuman or degrading treatment or punishment. On 2 July, news reports indicated that the men had been kept in solitary confinement since their arrival in Uzbekistan, that attempts to hire independent lawyers had been hampered and access to their relatives denied.

NGO Statement

Press Article

Kazakhstan: Uighur schoolteacher extradited to China, at risk of torture, for terrorism

On 30 May, Ershidin Israil, a Uighur schoolteacher, was extradited by Kazakh authorities back to China after he had escaped to the Central Asian Republic in 2009 to flee persecution. The Chinese Foreign Ministry states that Ershidin Israil is being held on terrorism charges as a “major terror suspect”, but, according to Amnesty International, he is being held for having reported in an interview about the death in custody of a young Uighur, Shohret Tursun, in the wake of the July 2009 unrest in Urumqi. Amnesty International adopted him as a prisoner of conscience. The extradition was reportedly

executed without giving any written information to Israel or his family. He was supposed to be resettled as a refugee to Sweden in 2010, when Kazakh authorities arrested him in April 2010 on the basis of the extradition request, although that was not formalised until June 2010.

[NGO Statement](#)

[Press Article](#)

Uzbekistan: Andijan detainee dies just before release

On 24 June, the family of Abdumannon Ortiqov was given by Uzbek authorities the body of their son who died in detention the day before. Abdumannon Ortiqov was convicted of terrorism for his role in the 2005 Andijan protests, when the Government repressive crackdown killed hundreds of people. Reportedly, the family said that, until a month before, Ortiqov was in good health and that there was evidence of beatings on his body and cuts on his head and chest. Abdumannon Ortiqov was ending his sentence and was about to be released. He had been put in an isolation ward 25 days before the release and, reportedly, tried again on unknown charges and given an additional prison term.

[Press Article](#)

Tajikistan: BBC correspondent arrested on terrorism charges

On 13 June, Urunboy Usmonov, a BBC correspondent for Central Asia, was arrested and detained by Tajik authorities for alleged connections with Hizb ut-Tahrir, a pan-Islamic organisation, which is considered to be a terrorist organisation by many Central Asian Republics. The BBC protested and expressed great concern, also stating that the family had reported that he appeared to have been beaten up after the arrest. Mr Usmonov was released on 14 July on bail but he is still under prosecution for the terrorism offence of links with the Islamic organisation.

[BBC Statement](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Taliban and Al-Qaeda Lists separated by Security Council

On 17 June, the Security Council issued resolutions 1988/2011 and 1989/2011 which split the UN Al-Qaeda and Taliban Lists into a Taliban List and an Al-Qaeda List. The Taliban List remains strictly linked with the conflict in Afghanistan and introduces a new delisting system based only on the dissociations of Taliban from their allies and their commitment to peace. The Ombudsperson will have no role in this list. The new Al-Qaeda List inherits the system of the 1267/1999 resolution, with the Ombudsperson addition, and provides for deletion from the list upon her recommendation unless the Al-Qaeda Sanctions Committee decides by consensus to the contrary or refers the decision to the Security Council. The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, welcomed the, albeit insufficient, improvement in the Al-Qaeda list, which, however, in his opinion, does not guarantee sufficiently the listed persons' fair trial rights and is based on an *ultra vires* decision of the Security Council. He criticised the Taliban List because the delisting is based on mere political grounds. The UN Ombudswoman, Judge Kimberly Prost, welcomed the reform of the Al-Qaeda Sanction List.

[SC Resolution 1988/2011](#)

[SC Resolution 1989/2011](#)

[UN SR Statement](#)

[UN Ombudswoman Statement](#)

[Press Article](#)

UN: Anti-terrorism laws should not hamper freedom of expression, says UN Committee

On 21 July, the UN Human Rights Committee approved its General Comment no. 34 on freedom of expression. Among its observations, the Committee states that counter-terrorism measures should be compatible with the restriction clause, requiring

prescription by law, legitimate aim, necessity and proportionality. Furthermore, it says that “offences as “encouragement of terrorism” and “extremist activity” as well as offences of “praising”, “glorifying”, or “justifying” terrorism, should be clearly defined to ensure that they do not lead to an unnecessary or disproportionate interference with freedom of expression”.

General Comment

UN: Counter-terrorism measures should not breach freedom of expression in the Internet, says UN Special Rapporteur

On 3 June, the UN Special Rapporteur on freedom of expression, Frank La Rue, presented his annual report to the Human Rights Council which focussed on the right of all individuals to seek, receive and impart information and ideas of all kinds through the Internet. In his report, the Special Rapporteur expresses concern at laws which restrict and criminalise legitimate online expression, sometimes on the basis of national security or counter-terrorism, but that, in practice, are used to censor content that the Government and other powerful entities do not like or agree with. He clearly stated that “protection of national security or countering terrorism cannot be used to justify restricting the right to expression unless the Government can demonstrate that: (a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.”

Report

EU: Advocate General asks Court to annul PMOI’s terrorism listing

On 14 July, EU Advocate General Sharpston issued an opinion before the Court of Justice of the European Union which is considering the appeal by the French Government against the General Court’s decision to annul the Council regulation freezing the assets of the People’s Mojahedin Organisation of Iran (PMOI) under the EU Terrorism List. In the opinion, the Advocate General recommends that the Court uphold the General Court’s judgment on the grounds that, as the Council did not offer PMOI the possibility to submit views against the listing, the Organisation’s right to due process had been breached. The Advocate also upheld the opinion that the national decision used as ground for the listing was not based on sufficiently stringent strength of the suspicion of terrorist activity under EU law, and that, absent a procedure before the Court to consider classified evidence, there was the possibility that the decision had been taken based on documentation whose content had not been communicated to the interested party. Finally, the Advocate General did not agree with the General Court on the fact that the Council procedure of listing had been too slow.

Opinion

EU: Commission presents alternatives for an EU Terrorist Finance Tracking System

On 15 July, the European Commission published a communication to the Council of the European Union and the European Parliament outlining available options to establish a European Terrorist Finance Tracking System (TFTS). The proposals are aimed at fostering the fight against terrorism and also to counter-balance the currently operating USA-EU TFTS Agreement. Under this Agreement, the EU and its Member States share with the USA the bulk of their financial data without the possibility to screen it first. The EU system would aim at doing this before transmission of the data, in accordance with the European Charter of Fundamental Rights, and to use the data for EU purposes.

Communication

Commission Statement

EU: European Data Protection Supervisor finds security data retention law in breach of right to privacy

On 31 May, the European Data Protection Supervisor, Peter Hustinx, issued on his own initiative an Opinion on the Evaluation report of the European Commission on the EU Data Retention Directive. In his conclusions, the Supervisor holds that the Directive has failed to bring harmonisation among Member States practices and legislation and that it does not meet the requirements for the respect of the right to privacy. The opinion states that the Directive does not demonstrate sufficiently the necessity of data retention, is not proportional and lacks foreseeability.

Opinion

EDPS Statement

EU: Parliament adopts resolution on military commissions, Guantánamo and impunity

On 9 June, the European Parliament passed a resolution calling on the US authorities not to impose the death penalty on Guantánamo detainee Abd al-Rahim al-Nashiri who is under trial before a military commission. The Parliament also asked the US to review the military commissions system to ensure fair trials, to close Guantánamo, to prohibit in any circumstances the use of torture, ill-treatment, incommunicado detention, indefinite detention without trial and enforced disappearances. It reminded the EU and the Member States not to collaborate with such acts, and to ensure that full, fair, effective, independent and impartial inquiries and investigations are carried out into human rights violations and crimes under international, European and national law, and to bring to justice those responsible, including in the framework of the CIA extraordinary renditions and secret prisons programme.

Resolution

Parliament Statement

NGO Statement

Council of Europe: NGOs ask Secretary General to call on States to act on counter-terrorism and freedom of expression

On 10 June, a group of NGOs sent a letter to the Secretary General of the Council of Europe, Thorbjørn Jagland, lamenting the lack of action by Member States to review their anti-terrorism legislation impact on the right to freedom of expression as they committed to do at the Reykjavik Ministerial Conference on 29 May 2009. The NGOs asked the Secretary General to call on the Member States of the Council of Europe to fulfil their commitment.

Letter

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