



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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Commonwealth watchdog issues report on counter terrorism legislation

AFRICA & MIDDLE EAST

Algeria: UN experts urge respect for international law while countering terrorism

On 1st November, the UN Human Rights Committee published its concluding observations on the third periodic report by Algeria. The experts reaffirmed that both the definition of terrorist acts and measures taken to counter terrorism should respect the International Covenant on Civil and Political Rights. They also requested Algeria to abrogate article 46 of the 2006 Charter for Peace and Reconciliation, which undermines the right to an effective remedy as well as freedom of expression for victims of terrorism.

[Report Algeria](#)

[Concluding Observations \(French\)](#)

[UN Press Release](#)

Tunisia: NGO denounces torture of former Guantánamo Bay detainees

In September, Human Rights Watch denounced the use of diplomatic assurances by the United States in a report on the cases of two Tunisians returned from Guantánamo Bay detention center to their home country and believed to have been tortured. Since they returned to Tunisia, both detainees have been convicted of belonging to a terrorist organisation. Following this report, the DC Circuit Court blocked the transfer of another detainee to Tunisia on the ground that he would face irreparable harm if transferred.

[HRW Report](#)

[DC Circuit Court Order](#)

[Press Article](#)

Libya: UN experts concerned about the drafting of measures applicable to terrorism

In its concluding observations published on 30 October, the UN Human Rights Committee expressed concern about the lack of clear definition of terrorism in the draft penal code. The Committee also requested Libya to give information about the rendition of Libyan nationals accused of terrorism, and to investigate alleged cases of torture, enforced disappearances and extrajudicial executions.

[Report Libya](#)

[Concluding Observations](#)

[Press Article](#)

South Africa: UN human rights expert satisfied with anti-terror legislation

In a report released on 5 November, Martin Scheinin, UN Special Rapporteur on counter-terrorism and human rights, commended the narrow definition of terrorism and the consultative process that led to the adoption of the Terrorist Activities Act, as well as the use of the normal criminal procedure in terrorism cases. Mr. Scheinin expressed concern about the lack of legal safeguards for immigrants detained without trial and the absence of a criminalization of torture.

[Report](#)

AMERICAS

USA: Trial of Guantánamo Bay detainee Omar Kadhr resumes before a Military Commission

On 24 September, the Court of Military Commission Review ruled that the Military Commissions held the power to decide who is an “unlawful enemy combatant” and should not rely only on decisions made by the Combatant Status Review Tribunals. This appeal ruling reinstated terrorism charges against Guantánamo Bay detainee Omar Kadhr, who appealed this decision on 10 October before the DC Circuit Court. The appeal was rejected on 6 November. On 8 November, a Military Commission decided to go ahead with his trial in December, without calling an eyewitness who could help clarify his status as “unlawful enemy combatant”. The UN Special Representative on Children in Armed Conflict expressed concern on 20 November about the prosecution of Omar Kadhr for crimes committed when he was a minor.

[Ruling CMCR](#)

[Press Article 1](#)

[Press Article 2](#)

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USA: Supreme Court applies state secrets doctrine to rendition victim Khaled El-Masri

On 9 October, the US Supreme Court refused to hear an appeal brought by German citizen Khaled El-Masri, on claims of abduction and torture by US agents. The Supreme Court confirmed lower courts' decisions that state secrets would be revealed if the case was heard before a court. Mr El-Masri's lawyers had argued that the state secret doctrine was not sufficient to reject a case without assessing the evidence.

[Supreme Court Order](#)

[ACLU Press Release](#)

[Press Article](#)

USA: Human rights expert publishes report on the US counter-terrorism laws and practices

In a report issued on 25 October, Martin Scheinin, UN Special Rapporteur on counter-terrorism and human rights, raised concerns about breaches of the right to a fair trial for detainees held in Guantánamo Bay detention center, the retrospective application of criminal law to suspects tried by military commissions, and the possible breach of the prohibition of torture and ill-treatment by interrogation techniques authorized by the CIA and "extraordinary renditions".

[Report](#)

USA: House of Representatives approves temporary bill on interception of communications

On 15 November, the US House of Representatives adopted the Responsible Surveillance That is Overseen, Reviewed and Effective (RESTORE) Act, which is to replace the Protect America Act. The Act would allow the collection of intelligence by intercepting communication between foreigners outside the US without a warrant, but if the communication involves Americans, the government must apply for an "umbrella" court order from the Foreign Intelligence Surveillance Court. In an emergency, the government could begin surveillance before obtaining the order. The bill requires the cooperation of telecommunications companies without granting them retroactive immunity, but this provision may still be modified by the Senate.

[RESTORE Act](#)

[ACLU Statement](#)

[Press Article](#)

Canada: Federal Court maintains conditions on Adil Charkaoui's liberty

On 10 October, the Federal Court of Canada rejected Mr Adil Charkaoui's request to lift all the conditions applying to his release. Mr Charkaoui was detained in 2003 on the basis of a security certificate alleging that he constituted a threat to the security of Canada. He was released in 2005 under very strict conditions. In February, the Supreme Court ruled that secret evidence could not be used for certificates. Before the Federal Court, Mr Charkaoui argued that the public evidence on which the certificate is based is unreliable. The judge considered that the conditions applying to Mr Charkaoui's release were proportionate to the threat he represented, but recommended that the conditions be reviewed and adjusted regularly.

[Federal Court Decision \(French\)](#)

[Press Article](#)

Canada: Government presents two counter-terrorism bills to the Parliament

Bill C-3, presented on 22 October to the House of Commons, modifies the previous system of security certificates, to allow the government to detain and deport foreign terrorist suspects, and creates a system of special advocates, who can intervene when evidence is heard without the presence of the suspects or their lawyers. On 23 October, the government presented Bill S-3 to the Senate; it plans to reinstate investigative hearings and arrest of terrorist suspects without judicial warrants.

[Bill C-3](#)

[Bill S-3](#)

[IRPP Report](#)

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ASIA - PACIFIC

Singapore: New bill creates new terrorism-related offences

On 23 October, the Parliament passed the Suppression of Bombings Act 2007, to ease international cooperation in countering terrorism. While most measures in this law stem from the UN Convention on terrorist bombings, some do not, including the death penalty for suspects who have intended to cause death, the criminalization of incitement to commit an attack, and the criminalization of non-disclosure of information about a possible bombing.

[Act](#)[Press Article 1](#)[Press Article 2](#)

Pakistan: Lawyers protesting at emergency rule charged with terrorism

On 3 November, General Pervez Musharraf declared State of emergency in Pakistan, on the basis that some members of the judiciary were creating obstacles to government activity in the fight against terrorism. On the same day, he issued a Provisional Constitutional Order, under which senior judges were required to take a new oath. In the following days, protests erupted in several cities. Many lawyers and human rights activists were arrested during these protests and charged for acts of terrorism under article 6 of the Anti-Terrorism Act or with violation of article 16 of the Maintenance Public Order Act. Most of them were released on 21 November.

[Declaration of State of Emergency](#)[Provisional Constitutional Order](#)[Article 6 ATA](#)

Pakistan: New law gives military tribunals jurisdiction for terrorism offences

On 10 November, General Pervez Musharraf promulgated the Pakistani Army (Amendment) Ordinance amending the Army Act 1952, which sets up the jurisdiction of military courts. Through this amendment, the jurisdiction of military courts was extended to offences included *inter alia* in the Anti-terrorism Act, the Explosive Substances Act and the Security of Pakistan Act, and committed since January 2003. As a result of this measure, terrorism suspects and demonstrators can be prosecuted in martial courts.

[Ordinance](#)[Press Article](#)

Sri Lanka: UN expert concerned about torture in counter-terrorism operations

From 1st to 8 October, Manfred Nowak, UN Special Rapporteur on Torture, visited prisons and police detention facilities in Sri Lanka. In his preliminary report, Professor Nowak considers that torture is widely practised in Sri Lanka. He recommends that the government investigate allegations of torture by the Terrorist Investigation Department.

[Preliminary Report](#)

New Zealand: Parliament adopts amendment to strengthen the Terrorism Suppression Act 2002

On 13 November, the parliament adopted the Terrorism Suppression Amendment Bill, which includes the adoption of the UN lists of terrorist organisations and suppresses existing judicial review of the management of these lists by the Prime Minister. Concerns were raised over the possible use of the Anti-Terrorism Bill against protesters because of the overbroad definition of terrorist acts.

[Parliament Background Info](#)[GP&JA Statement](#)[Press Article](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: House of Lords refines rules governing control orders

On 31 October, the House of Lords handed down three judgements relating to control orders imposed on terrorism suspects on the basis of the Prevention of Terrorism Act 2005. They held that restrictions imposed by one of the control orders, including an 18 hour curfew, amounted to a deprivation of liberty but restrictions under other orders, including up to 14 hour curfews, did not. It was held that, although the use in control order proceedings of secret evidence

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disclosed only to a “special advocate” was not inherently contrary to the right to a fair hearing, that right was breached where a control order was entirely based on evidence not disclosed to the suspect.

Judgment Secretary of State v. JJ and others

Judgment Secretary of State v. MB

Judgment Secretary of State v. E and another

JUSTICE Briefing

Press Article

Spain: Trial of persons involved in the attacks of 11 March 2004 in Madrid concludes

On 31 October, twenty-one people were convicted of membership in a terrorist organisation, terrorist murder, attempt of terrorist murder, terrorist bloodshed and several offences of falsification of official documents in relation with the 2004 attacks. Among the eight suspects acquitted of all the charges was Rabei Osman El Sayed Ahmed, sentenced one month before by an appeal's court in Milan (Italy) to eight years of imprisonment for membership in a terrorist organisation and preparation of a terrorist act. Mr Rabei's lawyer is to appeal the Milan court's decision on the grounds of the Madrid court's acquittal.

Decision

Press Article (English)

Press Article (Spanish)

Armenia: Parliament adopts new law on surveillance of phone and mail

On 22 October, the National Assembly adopted a new surveillance law, with the aim to counter terrorism and protect the security of the state. This law allows the police, intelligence, customs, tax and justice services to wiretap phone conversations and read private mail without any court order. It also regulates the work and status of informants. The minority opposition in the Assembly expressed concerns that the new law violates the right to private life.

Press Article 1

Press Article 2

UNITED NATIONS & REGIONAL ORGANIZATIONS

United Nations: UN and regional organisations advocate for respect of human rights

Between 29 and 31 October, international and regional organisations met in Nairobi for the fifth time with the UN Counter-Terrorism Committee, on the issue of "Prevention of Terrorist Movement and Effective Border Security". The final statement reaffirms that measures taken to combat terrorism must comply with human rights, and recommends that states sign and ratify all the major human rights conventions. Particular attention was requested for the rights of asylum-seekers.

Joint Statement

Background Info

European Union: Secretary-General of the Council appoints new Counter-Terrorism Coordinator

On 19 September, Mr Javier Solana appointed Mr Gilles de Kerchove, from Belgium, as the new Counter-Terrorism Coordinator. His main tasks will be to coordinate the work of the Council of Ministers in the field of counter-terrorism, maintain an overview of the resources at the EU's disposal and monitor the implementation of the EU counter-terrorism strategy. The post had been empty since Mr Gijs de Vries resigned in March.

Press Release

European Union: European Commission proposes new terrorism offences

On 6 November, the European Commission issued a proposal to amend the 2002 Council Framework Decision on combating terrorism, for decision by the Council. The new Framework Decision, applicable to all Member States, would create the offences of "public provocation to commit a terrorist offence", "recruitment for terrorism" and "training for terrorism". The definitions of these offences are taken from the 2005 Council of Europe

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Convention on the Prevention of Terrorism, but do not include the clause protecting freedoms of expression, association and religion.

[Amendment](#)

[Statewatch Analysis](#)

[Press Article](#)

European Union: European Commission proposes to record airline passengers' data

On 6 November, the European Commission put forward proposals for a system of collection and storage of data on all airline passengers flying to and from the EU. This data would be provided to designated law enforcement authorities of Member States for purposes of preventing or countering terrorism and organised crime, and could also be provided to law enforcement authorities of third countries for the same purposes. Data is to be retained for a period of 5 years, and then for an additional period of 8 years in a "dormant" database, available to Member State authorities in exceptional circumstances only.

[Decision on PNR](#)

[Impact Assessment](#)

Council of Europe: new report criticizes UN and EU terrorism blacklists

On 12 November, Dick Marty, Rapporteur of the Committee on Legal Affairs and Human Rights of the Council of Europe, released his preliminary report on UN Security Council and European Union terrorism blacklists. According to the report, the creation and maintenance of these lists lacks procedural safeguards and violates the right to fair trial, to property and to freedom from defamation. The report found that procedures governing the blacklisting do not provide appropriate and effective remedies.

[Report](#)

[Press Article](#)

Council of Europe: Committee adopts recommendation on renditions and secret detentions

On 8 November, the Steering Committee on Human Rights of the Council of Europe adopted comments on the resolution adopted by the Parliamentary Assembly following the second report of Senator Marty on renditions and secret detentions in June 2007. The Committee, noting the positive obligations of states to protect against such violations of human rights, proposed that the Committee of Ministers convene an expert meeting to identify issues raised by renditions and secret detentions, which could be the subject of follow-up action by the Council of Europe.

[Abstract of Report](#)

IN BRIEF

Commonwealth watchdog issues report on counter terrorism legislation

The Commonwealth Human Rights Initiative released a report asking the lawmakers of all Commonwealth countries to seek accountability and transparency when passing anti-terrorism laws in their countries.

[Report](#)

[Background Info](#)

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