



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

**No. 28, November 2008**

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## AFRICA & MIDDLE EAST

### Swaziland: Opposition member arrested under Terrorism Law

On 15 November, Mario Masuku, a leading member of the opposition People's United Democratic Movement (Pudemo), was arrested pursuant to the Suppression of Terrorism Act 2008, on terrorism-related charges for alleged possession of literature on weapons-making. The arrest followed the ban of four organisations, including Pudemo, for alleged links with terrorist activities. At the confirmation hearing of 17 November, the prosecution added a charge of calling for continuation of bombings.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

### Morocco: Former Guantánamo detainee convicted of terrorism-related offences

On 13 November, an anti-terrorism tribunal in Salé convicted a former Guantánamo detainee, who had been held in the US-led detention camps for nearly seven years, to ten years' imprisonment on a number of charges, including offences committed in connection with the activity of a terrorist organisation. The defence lawyer announced that the decision would be appealed.

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

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

### Saudi Arabia: 991 people indicted on terrorism charges

On 21 October, the Minister of Interior of the Kingdom of Saudi Arabia announced the indictment on terrorism-related charges of 991 people, in relation to a variety of incidents. Human Rights Watch sent a request for a visa to the Government in order to observe the trials.

[Press Article 1](#)

[Press Article 2](#)

### Israel: NGOs petition Supreme Court against Security Services' non-compliance with "torture ruling"

On 2 November, three leading Israeli NGOs filed a contempt of court motion to the High Court of Justice against the government of Israel, the Prime Minister and the General Security Service (GSS). The motion asserts that the GSS is responsible for granting permits to use practices amounting to torture and cruel, inhuman and degrading treatment in interrogations, in defiance of the High Court of Justice's decision of September 1999.

[Petition \(Hebrew\)](#)

[1999 Judgment](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

## AMERICAS

### USA: Senate Judiciary Committee orders Justice Department to release documents

On 21 October, the Chairman of the Senate Committee on the Judiciary sent a legal order (*subpoena*) to the Office of Legal Counsel of the Justice Department to produce documents concerning counter-terrorism policies, including CIA interrogation practices. The Chairman, Senator Patrick Leahy, indicated that the use of a subpoena was necessary because of the lack of collaboration of the Justice Department in producing the documents.

[Subpoena](#)

[Cover Letter](#)

[Press Article](#)

### USA: Order allowing the military to attack terrorists outside war zones revealed

On 9 November, the *New York Times* revealed the existence of a classified order of 2004, signed by the then Defence Secretary Donald Rumsfeld, with the approval of President Bush, authorising the military to attack Al-Qaeda terrorists in foreign countries and bypassing ordinary procedures and allowing for operations outside officially declared war zones.

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

[Press Article 2](#)

### **USA: Military Commission convicts second Guantánamo Bay detainee**

On 3 November, a Military Commission sentenced Guantánamo detainee Ali Hamza Ahmad Suliman al Bahlul to life imprisonment for conspiracy, soliciting and providing material support to terrorism. Mr al Bahlul effectively declined to defend himself and instructed his lawyer to remain silent during the proceedings. The decision will be subject to automatic review by the Convening Authority, which supervises the decisions of the Military Commissions. The proceedings received widespread criticism as not meeting international and domestic fair trial standards, including by American Civil Liberties Union.

[Department of Defence Statement](#)

[Trial Documents](#)

[NGO Statement](#)

[Press Article](#)

### **USA: District Court orders release of five Guantánamo Bay detainees**

On 20 November, a US District Court issued the second major judicial ruling on *habeas corpus* petitions for Guantánamo detainees since the Supreme Court reaffirmed their right to seek *habeas* relief in *Boumediene v. Bush*. The District Court ordered the release of Lakhdar Boumediene, Mohamed Nechla, Hadj Boudella, Mustafa Ait Idir, and Saber Lahmar because the government had predicated its case on undisclosed evidence that was not credible or reliable enough to determine their “unlawful enemy combatant” status. The court denied the release of a sixth applicant, Bensayah Belkacem. The court could not discuss the evidence openly as it was classified.

[Judgment](#)

[Department of Justice Statement](#)

[HRW Statement](#)

[Press Article](#)

### **USA: Released documents reveal transfers in violation of *non refoulement***

On 18 November, the American Civil Liberties Union released a group of documents obtained from the US State Department following requests under the Freedom of Information Act. The documents reveal that the US administration transferred people, including terrorist suspects, to countries knowing their practice of torture and cruel, inhuman and degrading treatment and often relied on formal “diplomatic assurances”.

[Released Documents](#)

[ACLU Statement](#)

### **Canada: Ontario Supreme Court issues conviction of a terrorism suspect**

On 29 October, the Ontario Supreme Court of Justice issued a conviction for terrorism-related offences, including facilitating activities of a terrorist group, against Momin Khawaja. He was the second person convicted under Canada’s Anti-Terrorism Act. The defendant was found to have been connected with a UK-based terrorist group, helped to have financed the group, built up triggering devices for remote detonations and offered to instruct the group on electronics. The judgment analysed the limits of the defence of armed conflict, which in some instances may exclude the application of the terrorism offence, and the definition of terrorism.

[Judgment](#)

[Press Article](#)

### **Colombia: Anti-terrorism prosecutor search personal data in Colombian universities**

On 10 November, a prosecutor of the anti-terrorism unit of the Office of the Prosecutor instructed the judicial police to investigate and obtain university databases containing personal data of students and scholars since 1992 under suspicion of infiltration of “illegal armed groups” in the academic world. The Colombian Commission of Jurists expressed concern about this disproportionate infringement of privacy rights, in particular because data of 1,450,000 people is likely to be gathered under these instructions. The General Procurator (*Procurador General*), the Ombudsman and the deans of the universities also condemned the action.

[CCJ Statement \(Spanish\)](#)

[Ombudsman Statement \(Spanish\)](#)

[Video News \(Spanish\)](#)

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

### **Chile: Three students arrested under anti-terrorism law for launch of molotov**

On 30 October, the Public Prosecutor of Araucania detained under the Anti-terrorism Law two university students and one minor, a secondary school student, accused of having launched a molotov “cocktail” against a *Carabineros* patrol. National NGOs and members of the academic community protested at what they called an indiscriminate and disproportionate application of the Anti-Terrorism Law. Amnesty International also denounced the misuse of this legislation.

[Anti-Terrorism Law \(Spanish\)](#)

[Academics Letter \(Spanish\)](#)

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

[AI Memorandum \(Spanish\)](#)

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

## **ASIA - PACIFIC**

### **Pakistan: New law punishes acts of cyber-terrorism with death penalty**

On 6 November, Pakistani President Asif Ali Zardari promulgated the Prevention of Electronic Crimes Ordinance 2008. The Ordinance provides that committing or aiding and abetting the commission of a “cyber-terrorism” offence is to be punishable by death, when the offence results in the death of any person. Some Pakistani NGOs protested at the measure as disproportionate.

[Ordinance](#)

[Press Article 1](#)

[Press Article 2](#)

### **Sri Lanka: Lawyers defending terrorist suspects receive death threats**

On 6 November, the International Bar Association called on the Sri Lankan Government to investigate death threats contained in a letter by the group “Mahason Balakaya” addressed to lawyers engaged in the legal defence of terror suspects. In denouncing these threats, the Asian Human Rights Commission also recalled a grenade attack on 27 September against Sri Lankan human rights lawyer, J.C Weliamuna, in response to which the ICJ called for independent, transparent, impartial and effective investigations.

[Threats Letter \(Sinhalese\)](#)

[IBA Letter](#)

[AHRC Statement](#)

[ICJ Statement](#)

### **Indonesia: Authorities execute three persons convicted of the 2002 Bali terrorist attack**

On 8 November, Amrozi bin H. Nurhasyim, Ali Ghufron and Imam Samudrat, who were convicted in relation to the 2002 terrorist attack in Bali, were executed by the Indonesian authorities following the dismissal by the Supreme Court of their final appeal on 4 November. The defence lawyers announced that they had filed a lawsuit against the Attorney-General for violations of the rights of the family members who allegedly were not allowed a last visit to the three men. International NGOs called for an end to the use of death penalty.

[HRW Letter](#)

[AI Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### **Japan: UN human rights experts demand equal rights guarantees for asylum-seekers suspected of terrorism**

On 30 October, the UN Human Rights Committee recommended that the Government of Japan establish independent appeal mechanisms for asylum-seekers and, in particular, for those considered to be “possible terrorists” by the Ministry of Justice. It also requested the Government to guarantee that asylum-seekers would not be deported before the appeal against the refusal of their asylum status is decided.

[HRC Concluding Observations](#)

[Immigration and Refugee Law](#)

### **Australia: Police announce end of control order for former Guantánamo detainee**

On 20 November, the Australian Federal Police announced that it would not seek renewal of the control order on David Hicks which have imposed a number limitations on his activities, including on his freedom of movement. Mr Hicks, a former Guantánamo

detainee, pleaded guilty before the US Military Commission and was subject to a control order as soon as he was repatriated to Australia. The decision follows an interview where Mr Hicks asked for the control order not to be renewed so that he could “rebuild” his life.

[Federal Police Statement](#)

[Control Order](#)

[Video News](#)

[Press Article](#)

## EUROPE & COMMONWEALTH OF INDEPENDENT STATES

### **UK: Court of Appeal finds disclosure of evidence not essential to fair trial in control order cases**

On 17 October, the Court of Appeal considered the application of the right to a fair trial under the European Convention on Human Rights to the imposition of control orders on terrorism suspects by the Special Immigration Appeals Commission (SIAC), where a system of closed evidence and special advocates is in place. Applying an earlier ruling of the House of Lords (see, E-bulletin no. 20, November 2007) the Court held that, in making a control order, SIAC must provide the person subject to such an order with as much information as possible. However, the absence of disclosure of information was only one factor in assessing the fairness of the trial and would not in all cases result in significant injustice. The Court granted leave to appeal to the House of Lords.

[Judgment](#)

[Summary of Judgment](#)

### **UK: Freezing of assets on the basis of UN sanctions must respect procedural guarantees**

On 30 October, the Court of Appeal decided on the validity of the Terrorism (United Nations measures) Order 2006 and of the Al-Qaeda and Taliban (United Nations measures) Order 2006, through which the UK government implements UN listing sanctions in the domestic system. The Court held these measures valid on condition that procedural guarantees for the merit-based review of the grounds of enlistment were provided for, with a procedure similar to the review of control orders. It also struck down clauses of the Terrorism Order 2006, which broadened the grounds set up by the Security Council Resolution concerned.

[Judgment](#)

[Summary of Judgment](#)

[Press Article](#)

### **UK: Court of Appeal declares anti-terrorism detainee to have been falsely imprisoned**

On 12 November, the Court of Appeal held that a person arrested and detained in 2001 under the Terrorism Act 2000 had been subject to false imprisonment. The Court found that the arresting police officer’s reliance on his superiors’ instructions and on information that the arrested person was brother of a terrorist suspect did not meet the standard of “reasonable suspect” necessary for an arrest.

[Judgment](#)

[Press Article](#)

### **France: Draft Anti-Terrorism Law approved by Senate**

On 4 November, the Senate approved a Draft Law aimed at prolonging to 31 December 2012 the validity of provisions of the 2006 Anti-Terrorism Law on the administrative acquisition of personal data, controls in trains and on the authorisation for law enforcement personnel to access databases. The Draft Law is now being examined by the National Assembly for a second reading.

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

[Anti-Terrorism Law \(French\)](#)

### **Spain: UN human rights experts call for end to *incommunicado* detention of terrorism suspects**

On 30 October, the UN Human Rights Committee released its Concluding Observations expressing concern about the wide definition of terrorism and the insufficient protection of personal data in counter-terrorism practices. In particular, it called on the Spanish Government to end definitively the system of *incommunicado* detention of terrorism

suspects, and urged the State to secure the enjoyment of the freedom of expression and freedom of association, in particular in the context of counter-terrorism measures.

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

[HRC Concluding Observations \(Spanish\)](#)

### **Denmark: Government proposes to increase obligations for non-deportable aliens**

On 13 November, the Danish Government proposed a Draft Law amending the Aliens Act. The amendments would introduce increased reporting obligations and stricter enforcement of compulsory residence for non-nationals against whom there are deportation orders, including those who have been convicted of terrorism offences or suspected of involvement in terrorism, but who cannot be deported according to the principle of *non-refoulement* to face a real risk of torture, ill-treatment, or other serious violation of human rights. The law would also introduce harsher sanctions for non-compliance with these duties.

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

[ICJ Statement](#)

### **Denmark: Supreme Court finds intelligence services' evidence for detention to be insufficient**

On 19 November, the Supreme Court ordered the release of one of two Tunisian men suspected of having planned to kill a man who drew satirical cartoons seen by some to have constituted an attack on Islamic religion. The men had been detained since 12 February 2008 following an administrative expulsion order. The Court ruled that the evidence put forward by the Danish Security and Intelligence Service, which refused to reveal their sources of information and working methods, was insufficient to prove conspiracy to murder. The Court upheld the lawfulness of the detention of the other man, who had already voluntarily left the country.

[Court's Statement \(Danish\)](#)

[Press Article](#)

### **Denmark: UN human rights experts express concern about possible complicity in renditions**

On 29 October, the UN Human Rights Committee expressed concern in its Concluding Observations at the allegations of the use of Danish airspace and airport facilities for CIA renditions operations.

[HRC Concluding Observations](#)

### **Monaco: UN human rights experts criticise imprecision of definition of terrorist acts**

On 28 October, the UN Human Rights Committee published its Concluding Observations on the Principality of Monaco, expressing concern at the imprecision of the definition of terrorist acts in the Criminal Code, with a particular reference to the lack of clarity in the definition of "environmental" terrorism.

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

### **Russian Federation: Supreme Court blacklists North Africa group of terrorist organisations**

On 13 November, the Supreme Court of the Russian Federation affirmed a ban against the organisation "al-Qaeda in the Islamic Maghreb", which targets its main activities in Algeria, and its inclusion on the federal list of terrorist organisations, upholding the request by the General Prosecutor's Office. The organisation had already been included in the terrorist lists of the United States and the European Union.

[General Prosecutor's Statement \(Russian\)](#)

[Press Article](#)

## UNITED NATIONS & REGIONAL ORGANISATIONS

### UN: Security Council Member States call for respect of procedural guarantees in listing

On 12 November, the Counter-Terrorism Committee, the Al-Qaida and Taliban Sanctions Committee, and the Committee dealing with the proliferation of weapons of mass destruction briefed the Security Council on their 2008 activities. During the discussion, a number of state's representatives stressed the need to respect human rights in counter-terrorism activities and some emphasised in particular the need to ensure procedural guarantees in the terrorist listing procedure, with reference to the recent European Court of Justice's judgment *Kadi* (see, E-bulletin no. 26, September 2008).

[Meeting Summary](#)

[Committees' Joint Briefing](#)

[Press Article](#)

### EU: Court of First Instance annuls listing for lack of consideration of domestic decision

On 23 October, the Court of First Instance of the European Union annulled the listing of the People's Mojahedin Organisation of Iran as a terrorist organisation because the European Council had not taken into account a decision of the UK Proscribed Organisations Appeal Commission considering as "unreasonable" the listing of the organisation. According to the EU Court, the Council's listings must take into account national judicial or quasi-judicial determinations on the reasonableness of the listing.

[ECJ Judgment](#)

[POAC Judgment](#)

[Press Article](#)

### EU: Fundamental Rights Agency criticises proposed regulations for Passenger Name Records (PNR)

On 28 October, the Fundamental Rights Agency of the European Union issued an opinion on the EU Commission's Proposal for PNR Regulations. The Agency determined that the proposal if implemented would be incompatible with human rights obligations, including because they would contravene the principles of legality and proportionality for the restriction of privacy rights. The Agency also said that because the proposed Regulation would not require third countries to respect the same level of data protection as EU Member States, it risks breaching the prohibition of non-discrimination by not providing stringent safeguards on profiling. The Proposal is presently being examined by the European Council on Justice and Home Affairs.

[Draft Regulation](#)

[FRA Opinion](#)

[Press Article](#)

### Council of Europe: Report on media and freedom of expression while countering terrorism released

On 10 November, the Media and Information Society Division of the Council of Europe published an independent expert report analysing the international, European and domestic law on freedom of expression while countering terrorism. The report highlights the challenges journalists and media face in the post-September 11 context, including in relation to access to information, freedom of expression, protection of sources and materials and surveillance.

[Report](#)

### Barcelona Process: Union for the Mediterranean: High-level conference calls for respect of human rights while countering terrorism

On 4 November, the Ministerial Conference of the Barcelona Process: Union for the Mediterranean expressed in its final declaration the intention of the participants to set up a Union for the Mediterranean region. The participants reaffirmed their commitment to apply the Euro-Mediterranean Code of Conduct on Countering Terrorism, which calls for the respect of human rights while countering terrorism.

[Final Declaration](#)

[Code of Conduct](#)



## IN BRIEF

### **NGOs ask European Governments for humanitarian protection to Guantánamo detainees**

On 10 November, five human rights organisations gathered in Berlin called on European Governments to work together with the US administration for the closure of the detention facilities in Guantánamo and to ensure humanitarian protection to those detainees that cannot be returned to their countries because they face torture or other serious human rights violations on return.

[NGOs Statement](#)

### **University and NGO publish report on Guantánamo and its aftermath**

On 12 November, the Human Rights Center and the International Human Rights Law Clinic of Berkley University, in collaboration with the Center for Constitutional Rights, published a report examining the effect of the policies of apprehension, detention and deportation of Guantánamo detainees. The report, based on interviews with released detainees, government officials and camp personnel, calls for the establishment of an independent investigative commission.

[Report](#)

[Berkley University Statement](#)

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