

E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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AFRICA & MIDDLE EAST

Kenya: Report documents torture and extrajudicial killings by anti-terrorism police

Rwanda/Uganda: Uganda forcibly transfers refugee wanted for "terrorism"

Swaziland: Reform repressive anti-terrorism law, urge human rights organizations

Mauritania: UN Committee concerned at torture practices, detention and definition of terrorism

Algeria: UN Committee finds Algeria responsible for enforced disappearance in "anti-terrorism" operation

Egypt: Draft anti-terrorism law close to Mubarak era security laws, warn human rights organizations

Iraq: Thirty persons convicted of "terrorism" executed this month; 162 this year

Jordan: Human Rights Watch calls for reform of "terrorism" criminal code provisions

AMERICAS

USA: NSA declassifies secret court ruling authorizing surveillance programme amid more revelations of privacy violations

USA: Supreme Court declines to hear case on NSA mass surveillance programme

USA: Report documents complicity of medical personnel in "war on terror" human rights violations

USA: Military commission judge orders to release ICRC-US communications

USA: New defence budget law on hold over Guantánamo detainees transfer authorization

USA: Two Guantánamo detainees forcibly transferred to Algeria amid fears of persecution

Canada: Canada allowed US intelligence to spy on 2012 Toronto G-20

Canada: Federal Court criticizes abuse of foreign surveillance authorizations by secret services

ASIA - PACIFIC

Pakistan: Anti-terrorism ordinances tabled before Assembly for ratification

Pakistan: Ordinance introducing special courts for "enemy aliens" tabled before Assembly

Malaysia: Bar association expresses concern at recent security legislative reforms

Japan: Parliament approves new contested secret of state law

Australia/USA: Former Guantánamo detainee to challenge plea agreement in the US

Australia: Embassies used as spy-centre for foreign intelligence, Snowden documents reveal

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: GCHQ infiltrates phone companies computers and allows US surveillance on UK citizens, Snowden documents reveal

UK: Foreign Ministry has no legal obligation to block "terrorism" suspect insertion on UN list

UK: High Court rules police breached right to a lawyer in airport detention

UK: "Terrorism" grounds for airport detention of David Miranda disclosed in court

Spain: Amnesty International urges halt to opposition leader's extradition to Kazakhstan

Spain: Supreme Court orders freeing of ETA convicts

Spain: UN Committee concerned at use of incommunicado detention for terrorism suspects

Poland: UN Committee concerned at delays in rendition investigations, while European Court hears case on rendition complicity

Portugal: UN Committee calls for reopening of investigation into US renditions complicity

Switzerland: Federal prosecutor launches investigation into NSA surveillance in diplomatic Geneva

Europe/USA: Documents reveal European secret services' complicity in mass surveillance

Bosnia and Herzegovina: UN Committee determines that expulsion of Iraqi national would breach international obligations

Turkey: Turkey responsible for bombing of villages in anti-terrorism operation

Russian Federation: European Court holds Russia responsible for abductions

Russian Federation: European Court finds Convention breached in several counter-terrorism operations

Russian Federation: Family members and “dear ones” of terrorist bear civil damage liability under new law

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: General Assembly Committee adopts resolution on right to privacy and surveillance

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

OSCE: Manual on human rights in counter-terrorism investigations published

AFRICA & MIDDLE EAST

Kenya: Report documents torture and extrajudicial killings by anti-terrorism police

On 20 November, the Open Society Justice Initiative and Muslims for Human Rights (MUHURI) published a report, *We're Tired of Taking You to the Court*, documenting, on the basis of forty interviews, "credible allegations of extrajudicial killings, beatings of terrorist suspects, arbitrary detention, renditions, and the disappearance of at least one man" by the Anti-Terrorism Police Unit (ATPU) since 2007. On 4 November, four persons, Hussein Mustafa, Adan Dheq, Liban Abdulah and Mohammed Abdi, were brought to court on the charge of aiding terrorist groups and illegal residence based on their allegedly having offered sanctuary to persons suspected to have carried out the Westgate Shopping Mall attack of 21 September. The attack claimed 67 lives and left over 200 others injured. One of the defendants, Adan Dheq, later alleged in court that he was subjected to torture during his detention to "confess" to having hosted terrorism suspects.

[Report](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

Rwanda/Uganda: Uganda forcibly transfers refugee wanted for "terrorism"

On 31 October, the Ugandan Government confirmed that it had forcibly returned Joel Mutabazi to Rwanda after having apprehended him on 25 October from a UNHCR safe house, after which he was held in secret detention for six days. Joel Mutabazi, who had been granted refugee status in Uganda in October 2011 for fears of persecution in Rwanda, reappeared in a criminal court in Rwanda on 13 November where he was reportedly charged with "terrorism, forming an armed group to threaten state security, using fraudulent documents and spreading rumours inciting people to revolt against the government". According to news reports, the forced expulsion was carried out on the basis of an international arrest warrant issued by the Rwandan authorities through Interpol. Human Rights Watch and the UNHCR denounced the transfer as a violation of international refugee law. According to Human Rights Watch, "the government accused him of being close to General Kayumba Nyamwasa, a prominent Rwandan government opponent exiled in South Africa. Mutabazi was detained incommunicado for several months in a military camp in Rwanda and there is credible evidence he was tortured".

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Swaziland: Reform repressive anti-terrorism law, urge human rights organizations

On 19 November, 26 international and national human rights organizations addressed a letter to the Prime Minister, the Minister of Justice and Constitutional Affairs, and the Attorney General calling for a reform of the *Suppression of Terrorism Act* in order to bring it in line with international human rights standards. The organizations referred to a commitment in this sense expressed by the then Minister of Labour and Social Security, Lutfo Dlamini, at the International Labour Organization Conference last June. The organizations called for significant amendments to the definition of "terrorist" and "terrorist act" in the law, currently "overbroad and imprecise". Furthermore, they highlighted concerns "in the provisions granting the Minister and Attorney General discretion in designating organisations as 'specified entities'." The organizations indicated that the law "has been used and, until effective amendments are implemented, will continue to be used to suppress free political activity in Swaziland."

[Letter](#)

[Press Article](#)

Mauritania: UN Committee concerned at torture practices, detention and definition of terrorism

On 30 October, the UN Human Rights Committee adopted its concluding observations on the compliance of Mauritania with its obligations under the *International Covenant on Civil and Political Rights*. The Committee expressed concern at allegations of the systemic practice of torture and ill-treatment and excessive use of force by police and security officers in the arrest and interrogation of terrorism suspects and in detention centres, in particular the centre of DarNaim. The Committee also expressed concern at the lack of an independent authority to receive complaints against police or security forces. They indicated that the legislation governing police custody (*garde-à-vue*), including of terrorism suspects, is not in compliance with article 9 of the Covenant and expressed concern at the wide and imprecise definition of the offence of terrorism in article 3 of *Law no. 2010-035 of 21 July 2010 related to the fight against terrorism*.

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

Algeria: UN Committee finds Algeria responsible for enforced disappearance in “anti-terrorism” operation

On 27 November, the UN Human Rights Committee, considering a communication under the First Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR), expressed the view that Algeria was responsible for the enforced disappearance of Farid Faroun on 11 February 1997, the day of his arrest by the police. The Committee determined that Algeria had violated his right not to be subject to torture or cruel, inhuman or degrading treatment (article 7 of the ICCPR), his right to liberty and security (article 9), and his rights to humane treatment in detention (article 10) and to be recognized as a person before the law (article 16). The Committee also indicated that the subsequent destruction of the family home on 12 February 1997 by State authorities constituted an act of intimidation and reprisal, and a violation of the prohibition of torture or cruel, inhuman or degrading treatment towards the family members of Farid Faroun, which was also violated by their anguish at his enforced disappearance. It also held that the search and seizures that took place in those days constituted a breach of the right to private life, home and family life (article 17) of Farid Faroun and his family members.

Decision (F)

Egypt: Draft anti-terrorism law close to Mubarak era security laws, warn human rights organizations

On 7 November, twenty human rights organizations expressed, in a detailed statement, their concern at draft anti-terrorism legislation, presented by the Ministry of Interior to the Government, replacing Law no. 97 of 1992. According to the organizations, the draft law would fail to reform the already vague definitions of “terrorist acts” and “terrorist crimes” included in Law no.97 and would even extend the definition “so as to allow them to be applied to crimes and even legal activities that do not relate to terrorism.” The statement noted the possibility that terrorism legislation might be used to “repress the political opposition, the exercise of the freedom of opinion and expression, and human rights defenders and civil society organizations”. Furthermore, the organizations pointed out that the current draft extends the offences that can be considered as “terrorist” and identified “the underlying propensity towards implementing the provisions of such legislation to harass peaceful political opposition members, human rights activists, and a broad range of groups working to defend democracy and human rights”. The Government was said to be still examining the legislation.

NGOs Statement

Press Article 1

Press Article 2

Iraq: Thirty persons convicted of “terrorism” executed this month; 162 this year

The Iraqi authorities announced that they had carried out the executions of seven, twelve and eleven persons, respectively on 7, 17 and 24 November. All of the persons executed had been reportedly convicted by criminal court of “terrorism” offences in judicial proceedings, which several international organizations, including Amnesty International, have characterized as “deeply unfair trials, where prisoners do not have access to proper legal representation and ‘confessions’ to crimes are frequently extracted through torture or other ill-treatment”. According to recent reports, up to 162 people have been executed in Iraq in 2013.

NGOs Statement

Press Article 1

Press Article 2

Jordan: Human Rights Watch calls for reform of “terrorism” criminal code provisions

On 29 October, Human Rights Watch called on Jordanian lawmakers to “amend or eliminate vague penal code provisions used to try peaceful protesters on terrorism-related charges”. The call comes after the Government proposed, on 1 September, legislation aimed at restricting the jurisdiction of the State Security Court over civilians in regard to terrorism, espionage, treason, currency counterfeiting and drug offences. While welcoming this progress, Human Rights Watch called for the revision of the “overly broad definition of terrorism” under article 149 of the penal code, which “includes ‘undermining the political regime’ and ‘inciting resistance’ to the government in the ‘terrorism’ section”. The statement by HRW highlights that, since 2011, “prosecutors of the State Security Court have increasingly pursued cases against largely peaceful protesters on these grounds.”

NGO Statement

AMERICAS

USA: NSA declassifies secret court ruling authorizing surveillance programme amid more revelations of privacy violations

On 18 November, the National Security Agency (NSA), in response to a lawsuit under the *Freedom of Information Act* launched by the American Civil Liberties Union (ACLU) and the Electronic Frontier Foundation (EFF), released 1,000 classified documents in redacted form. Among them was a 2004 ruling of the Foreign Intelligence Surveillance Court (FISC), which is deemed to be the first judicial decision authorizing the NSA mass surveillance programme. In the ruling, the Court allowed, out of deference to the Executive in matters of national security, the extension of the surveillance operations of phone metadata communication previously allowed in legislation to include Internet communication, thereby permitting the collection of provenience and destination (both "to", "cc" and "bcc") of emails. Reportedly, the decision was the result of an internal dissent within the Justice Department, whereby several officers threatened to resign because the programme, already conducted without judicial authorization by the George W. Bush administration, had no legal basis. Subsequent FISC rulings, however, report that almost every record generated by the programme "included some data that had not been authorized for collection". Meanwhile, newspapers published documents provided by former NSA contractor and whistleblower Edward Snowden documenting that the NSA had attempted to and may be collecting geo-location data from mobile communications, and that it was gathering online records of the public in order to discredit "radical" Islamists by exposing their porn research on the web. On 1 November, Secretary of State John Kerry conceded "in some cases, I acknowledge to you, as has the President, that some of these actions have reached too far, and we are going to make sure that does not happen in the future."

[FISC Ruling](#)

[Released Documents](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

[Press Article 4](#)

[Press Article 5](#)

USA: Supreme Court declines to hear case on NSA mass surveillance programme

On 18 November, the US Supreme Court declined to hear a case brought by the Electronic Privacy Information Center (EPIC) requesting that the Foreign Intelligence Surveillance Court (FISC) be instructed to rescind its order allowing the indiscriminate collection by the National Security Agency of record and data communications from the telephone company Verizon. The Court did not provide a reason for its decision, which unusually had been brought directly to it without previous consideration by lower courts. EPIC had justified its decision to address the Supreme Court directly on the ground that the Justice Department position in the lower courts was that no court, not even the Supreme Court, had appellate competence on the FISC and could therefore vacate one of its orders.

[SC Order](#)

[Case Documents](#)

USA: Report documents complicity of medical personnel in "war on terror" human rights violations

On 4 November, an independent Task Force on Preserving Medical Professionalism in National Security Detention Centers, composed of nineteen medical, military, ethics, public health, and legal experts, released a report, *Ethics Abandoned: Medical Professionalism and Detainee Abuse in the 'War on Terror'*, documenting "how medical personnel were used to establish and participate in torture practices". The report also highlights "how the DoD committed a number of ethical breaches, including improperly using health professionals during interrogations; implementing rules that permitted medical and psychological information obtained by health professionals to be used during interrogations; requiring medical staff to forgo independent medical judgment and force-feed competent detainees in violation of medical standards; and failing to adopt international standards for medical reporting of abuse against detainees". On 1 November, more than 35 eminent doctors and public health professionals wrote a letter to President Obama calling for an end to force-feeding of the remaining Guantánamo detainees continuing their hunger strike. They stressed that the practice of force-feeding "severely breaches medical ethical principles and undermines medical care at the detention center". They also declared their support for the statement by the president of

the American Medical Association, James Lazarus, who wrote in the British Medical Journal that “in the AMA’s view, the use of restraints to force-feed detainees is an inhumane and degrading intervention that falls within the prohibition of torture.”

[Report](#)

[Letter](#)

[NGO Statement](#)

[Press Article](#)

USA: Military commission judge orders to release ICRC-US communications

On 6 November, Col. James L. Pohl, the military judge presiding over the military commission proceedings against five Guantánamo detainees suspected of complicity in the attacks of 11 September 2001, ordered the government to hand over to him all its correspondence of the last ten years with the International Committee of the Red Cross (ICRC), that related to the defendants. The military judge dismissed representations by the Government and the ICRC stating that a confidentiality privilege exists for such information under international customary law. Judge Pohl dismissed this position by ruling that no such privilege existed in US statutes or common law. He also added that “the decisions by international tribunals on the issue of the existence of an absolute privilege for ICRC records are inconsistent as to whether such a privilege exists. Combining this with a lack of any precedent established in a court of the United States, or of any other nation-state, the Commission finds there is a lack of meaningful or longstanding international common law to serve as precedent for the determination currently before it.” The material, requested by the defence as proof of the conditions of detention, will be reviewed by the judge only *in camera*. The judge will decide which, if any, of the communications is to be made available to the prosecution and defence.

[Ruling](#)

[Press Article](#)

USA: New defence budget law on hold over Guantánamo detainees transfer authorization

On 21 November, Senate members subjected the *National Defense Authorization Act 2013 (NDAA)* to a filibuster, thereby pushing its approval into the month of December with significant risk that the legislation will not be passed before the end of the year. The Senate version of the draft legislation contains provisions that would allow, subject to certain conditions, the transfer of some Guantánamo detainees cleared for release abroad. An amendment to strike down these provisions was defeated in Senate. A similar amendment was, however, included from the NDAA bill approved by the House of Representatives last June, which means that it may become a source of conflict between the two houses of Congress, forestalling the approval of the budget of the Department of Defense.

[Draft NDAA](#)

[White House Statement](#)

[Press Article 1](#)

[Press Article 2](#)

USA: Two Guantánamo detainees forcibly transferred to Algeria amid fears of persecution

On 5 December, the United States forcibly repatriated Guantánamo detainees Belkacem Bensayah and Djamel Ameziane to Algeria. They had been both detained in the detention facility since 2002 and had been cleared for transfer in 2010. Their lawyers had publicly stated in the previous days that Belkacem Bensayah and Djamel Ameziane feared persecution if returned to their country of origin. In particular, they feared that Islamist extremists in Algeria would expect them to sympathize with their views and would attack them or kill them once they learned that they do not support their views. Djamel Ameziane had asked to be transferred to Canada, where he had previously been resident, and Belkacem Bensayah asked to be sent to Bosnia and Herzegovina where he had been apprehended in 2002 and where his family lives.

[DoD Statement](#)

[Press Article 1](#)

[Press Article 2](#)

Canada: Canada allowed US intelligence to spy on 2012 Toronto G-20

On 27 November, CBC News revealed, on the basis of documents provided by whistleblower and former National Security Agency (NSA) contractor Edward Snowden, that the Canadian Government had allowed the US intelligence agency to spy on the 2012 G-20 in Toronto from the US Embassy. Previous documents provided by Snowden and published by the German newspaper *Der Spiegel* had also revealed that Canadian secret services conducted surveillance activities abroad, in collaboration with the “Five Eyes” countries (USA, Australia, Canada, UK and New Zealand), from their embassy, activities unknown to most employees working in the diplomatic missions. The Canadian Government has declined to comment on the recent revelations.

[Press Article 1](#)

[Press Article 2](#)

Canada: Federal Court criticizes abuse of foreign surveillance authorizations by secret services

On 22 November, the Federal Court issued a public summary of a redacted ruling to be issued in the case *XXX*, regarding warrants first issued in 2009 in favour of the Canadian internal intelligence service (CSIS) authorizing surveillance abroad of two Canadian citizens suspected of "terrorism" activities. According to the Court's statement, the warrants were issued by Justice Mosley to allow exceptionally the collaboration of the CSIS with the Canadian external intelligence service (CSEC) in the case of the two suspects. The Court stated that the CSIS had "breached its duty of candour to the Court by not disclosing information that was relevant to the exercise of jurisdiction by the Court and to the determination by the Court that the criteria of investigative necessity and the impracticality of other procedures" under the law on secret services. In particular, the Court had "determined that the execution of the type of warrants at issue in Canada has been accompanied by requests made by CSEC, on behalf of CSIS, to foreign agencies (members of the "Five Eyes" alliance), for the interception of the telecommunications of Canadian persons abroad". The Federal Court ruled that "the use of "the assets of the Five Eyes community" is not authorized under any warrant issued to CSIS".

[Public Summary](#)

[Press Article](#)

ASIA - PACIFIC

Pakistan: Anti-terrorism ordinances tabled before Assembly for ratification

On 7 November, the Government tabled before the National Assembly two ordinances approved in October 2013, *Ordinance no. VII of 2013* and *Ordinance no. VIII of 2013*, which modify the Anti-Terrorism Act 1997. The ordinances, approved by the President of Pakistan while the Assembly was not in session, introduce offences of, and other measures to tackle, financing of terrorism, but also extend the length of preventative detention without charge from thirty to ninety days in connection with any offence under the Anti-Terrorism Act relating to security or defence of Pakistan, public order, kidnapping for ransom and extortion. The amendments allow the use in trials of screens to conceal witnesses, judges and prosecutors from the public, as well as for the possibility of trials via video-links or in jail, and for a trial to be held in a province different from that ordinarily seized with jurisdiction. The Government has tabled the ordinances, which have at present temporary character, for ratification by the National Assembly.

[Ordinance VII](#)

[Ordinance VIII](#)

[Anti-Terrorism Act](#)

[Press Article](#)

Pakistan: Ordinance introducing special courts for "enemy aliens" tabled before Assembly

On 7 November, the Government tabled before the National Assembly *Ordinance no. IX of 2013 to provide for protection against waging of war against Pakistan and the prevention of acts threatening the security of Pakistan*. The legislation creates special courts with jurisdiction in parts of the country to be determined by the Government, with competence on a wide range of security offences, including cyber crimes and "acts that are calculated to influence or affect the conduct of Government by intimidation or coercion, or to retaliate against government conduct". The ordinance creates a presumption that a person is engaged in waging war against Pakistan on the basis of the "existence of reasonable evidence against him" and introduces the notion of "enemy alien", i.e. "a person who fails to establish his citizenship of Pakistan and is suspected to be involved in the waging of war or insurrection against Pakistan or depredation on its territory by virtue of involvement in offences" contained in the ordinance. The law also gives the government power to order preventative detention of up to ninety days. The ordinance, published in the Official Gazette on 31 October 2013, has been tabled before the Assembly for ratification.

[Ordinance](#)

Malaysia: Bar association expresses concern at recent security legislative reforms

On 31 October, the Malaysian Bar published its observations on the *Prevention of Crime (Amendment and Extension) Act 2013*, passed by Parliament on 11 October 2013, the purported aim of which is to combat serious and organized crime. The Bar Association reports that the new legislation "contains provisions that revive some of the most offensive elements of the Internal Security Act 1960 ("ISA") and Emergency (Public Order and Prevention of Crime) Ordinance 1969 ("EO"), viz, preventive detention without trial, repeated renewals of such detention without trial, the

denial of the right of suspected persons to due process of law, such as the right to legal representation and the right to be heard before any adverse direction or decision is made." The Malaysian Bar expressed serious concern at the legislation and concluded that it is "abhorrent and a gross violation of the rule of law and the constitutional safeguards enshrined in the Constitution".

Observations

Bar Statement

Japan: Parliament approves new contested secret of state law

On 7 December, the Parliament approved a new law on secret of state under which, according to media and human rights organizations sources, "information regarded as confidential could be classified as a state secret for a five-year period that could be extended indefinitely. Whistleblowers, including government employees and journalists, who leak classified information would face up to ten years in prison without being able to invoke 'public interest' as grounds for publishing". The law "would allow the government to reclassify as 'special secrets' information whose 'leak can cause a serious obstacle to national security' in the categories of defense, diplomacy, and so-called 'harmful activities' and 'terrorism'." On 22 November, the UN Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, and on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, had expressed concern at draft legislation on state secrecy currently under consideration by Parliament. The Special Rapporteur Frank La Rue stated that "the draft bill not only appears to establish very broad and vague grounds for secrecy but also include serious threats to whistleblowers and even journalists reporting on secrets."

UN SRs Statement

NGO Statement

Press Article 1

Press Article 2

Australia/USA: Former Guantánamo detainee to challenge plea agreement in the US

On 6 November, former Guantánamo detainee David Hicks filed a lawsuit in the US courts challenging his plea agreement of 2007, after the federal Court of Appeals for the District of Columbia overturned the conviction by a military commission of Salim Hamdan for "material support for terrorism", as the application of this offence to acts prior to 2006 constituted retroactive application of criminal law (see, story [here](#)). David Hicks pled guilty to the same offence in 2007 as a condition of his return to Australia, and was given a seven-year sentence. The majority of the sentence was suspended, but David Hicks was required to serve nine months in Adelaide's Yatala Labour Prison.

Press Article

Australia: Embassies used as spy-centre for foreign intelligence, Snowden documents reveal

On 31 October, documents provided by whistleblower and former NSA contractor, Edward Snowden, and published on *Der Spiegel*, revealed the complicity of the Australian Government in an NSA surveillance programme identified as "STATEROOM". The documents show that, under this programme, Australian embassies are secretly used as interception spots for communications and data, in particular across Asia, by the Australian Defence Signals Directorate. According to the press, this surveillance often takes place without the knowledge of most Australian diplomats. According to Fairfax Media, a former Australian Defence Intelligence Officer communicated that this programme operates in embassies in "Jakarta, Bangkok, Hanoi, Beijing and Dili, and High Commissions in Kuala Lumpur and Port Moresby, as well as other diplomatic posts". The operation is allegedly conducted with other members of the so-called "Five Eyes", United Kingdom, Canada and New Zealand. The Australian Government did not comment on the revelations.

Press Article 1

Press Article 2

Press Article 3

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: GCHQ infiltrates phone companies computers and allows US surveillance on UK citizens, Snowden documents reveal

On 11 November, the newspaper *Der Spiegel* revealed, on the basis of documents provided by whistleblower and former NSA contractor Edward Snowden, that the UK intelligence agency Government Communications Headquarters (GCHQ) had developed a practice called "Quantum Insert", by which it installs malware spying software on computers of employees in telecommunication companies, including the Belgian phone company "Belgacom", through fake pages on LinkedIn, the popular career social network that has around 260 million users in more

than 200 countries. The operation was said to increase the capacity of the GCHQ surveillance programmes. LinkedIn declared that it was not aware of these activities. On 20 November, *The Guardian* and *Channel 4 News* revealed, also based on documents provided by Edward Snowden, that in 2007 UK intelligence agencies concluded a secret deal with the US National Security Agency (NSA) which allowed the NSA to examine and retain data collected on UK citizens. It was previously believed that citizens of the "Five Eyes" intelligence partners (USA, UK, Australia, Canada and New Zealand) had not been targeted under the NSA surveillance programmes.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

[Press Article 4](#)

UK: Foreign Ministry has no legal obligation to block "terrorism" suspect insertion on UN list

On 29 October, the Court of Appeal dismissed the case brought an Egyptian national, identified as Youssef, against the Secretary of State for Foreign and Commonwealth Affairs (FCO) challenging the positions taken by this Ministry in the context of his insertion on the UN Al-Qaeda Sanctions List. The FCO had initially blocked his listing when it was requested by another unnamed State in the Al-Qaeda Sanctions Committee, but later in 2005, after internal checks, had lifted its objection. In 2009, after further internal discussions, the FCO had requested that the Committee delete Youssef from the list, but to no avail, as such decisions require unanimity. The Court confirmed that, since the list is a prevention mechanism, the test of reasonable suspicion of association with any of the relevant terrorist groups was a valid standard of proof to assess whether someone should be inserted on the list. Furthermore, the Court held that the decision of the FCO on the insertion on the UN list was not discretionary and was not subject to a proportionality test. On the allegations that the evidence for Youssef's insertion on the UN list was tainted by torture, the Court held that this evidence did not come from the UK, as the UK did not make the request for insertion, and that the FCO was under no legal obligation to block an insertion on the list based on the possibility that evidence coming from another requesting country may have been tainted by torture.

[Judgment](#)

UK: High Court rules police breached right to a lawyer in airport detention

On 6 November, the High Court of Justice ruled that UK police and immigration officers violated the right to counsel of Abdelrazag Elost, a Saudi citizen, when they held him at Heathrow airport under Schedule 7 of the *Terrorism Act 2000* and they refused to wait 45 minutes for the arrival of his lawyer to begin questioning him. Schedule 7 of the *Terrorism Act 2000* allows law enforcement officers to detain anyone for up to nine hours at border points, including airports, without suspicion of terrorism activity, to determine whether they may be "concerned in the commission, preparation or instigation of acts of terrorism". On 20 November, the UK Independent Reviewer of Terrorism Legislation, David Anderson QC, published a new position on these measures before Parliament in which he stated that such border detention should be ordered only when "a senior officer is satisfied that there are grounds for suspecting that the person appears to be a person involved in terrorism and that detention is necessary in order to assist in determining whether he is such a person".

[Judgment](#)

[Reviewer Position](#)

[Press Article 1](#)

[Press Article 2](#)

UK: "Terrorism" grounds for airport detention of David Miranda disclosed in court

In a hearing at the High Court on 30 October, where David Miranda, the partner of former Guardian journalist Glenn Greenwald, is challenging his detention of 18 August at Heathrow airport under Schedule 7 of the *Terrorism Act 2000*, a communication issued by border officers regarding the grounds for Miranda's detention was read out: "We assess that Miranda is knowingly carrying material, the release of which would endanger people's lives. Additionally the disclosure or threat of disclosure is designed to influence a government, and is made for the purpose of promoting a political or ideological cause. This therefore falls within the definition of terrorism and as such we request that the subject is examined under schedule". Schedule 7 of the *Terrorism Act 2000* allows law enforcement officers to detain anyone for up to nine hours at border points, including airports, without suspicion of terrorism activity, to determine whether they may be "concerned in the commission, preparation or instigation of acts of terrorism". David Miranda was detained for nine hours while he was carrying a computer containing information from the former NSA contractor and whistleblower Edward Snowden from Berlin to Brazil.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Spain: Amnesty International urges halt to opposition leader's extradition to Kazakhstan

On 8 November, Amnesty International called on the Spanish Government not to extradite to Kazakhstan Aleksandr Pavlov, former head of security for the Kazakhstani opposition member Mukhtar Ablyazov, where he is wanted to answer charges of expropriation or embezzlement of trusted property" and "plotting a terrorist attack", charges which his lawyer claimed are fabricated. The call of the human rights organization comes after the Central Criminal Court (*Audiencia Nacional*) approved the extradition. Amnesty International alleged that Aleksandr Pavlov would be at risk of torture or cruel, inhuman or degrading treatment if sent to Kazakhstan. Mukhtar Ablyazov, who was granted refugee status in the UK, is currently detained in France under an Interpol warrant by Ukraine and the Russian Federation; Tatiana Paraskevich, one of his associates, is detained in the Czech Republic pending extradition. This summer Mukhtar Ablyazov's wife and daughter were forcibly expelled by Italy to Kazakhstan in breach of Italian and international law.

NGO Statement

Spain: Supreme Court orders freeing of ETA convicts

On 12 November, the Supreme Court ordered all Spanish courts to implement the judgment of the European Court of Human Rights in the case *Del Rio Prada v. Spain* and to free all prisoners who had not benefitted from remission of punishment. On 21 October, the Grand Chamber of the European Court of Human Rights ruled that the recalculation of the sentence of Inés Del Rio Prada in 2008, which postponed her release for several years, had violated the prohibition on retroactive penalties guaranteed in Article 7 of the European Convention on Human Rights and her right to liberty under Article 5(1) of ECHR. The ICJ submitted a third party intervention in the case. The European Court held that the jurisprudential doctrine created in 2006 by the Supreme Court (*Parot* doctrine), which altered the system of calculation of maximum terms of sentences, leading to reduced remission of sentences for work done in prison, constituted a retroactive redefinition of the sentence previously imposed, which could not have been foreseen. To date, 41 prisoners convicted of terrorism offences committed as ETA members, and who have purged their sentence, have been released.

SC Order (S)

ECtHR Judgment (E)

Amicus Brief (E)

Press Article (S)

Spain: UN Committee concerned at use of *incommunicado* detention for terrorism suspects

On 13 November, the UN Committee against Enforced Disappearance adopted its concluding observations on the compliance by Spain with its obligations under the *Convention for the Protection of All Persons from Enforced Disappearance*. In its observations, the Committee expressed concern at the regime of *incommunicado* detention for terrorism suspects which allows for deprivation of liberty up to thirteen days without the possibility to appoint a lawyer of his or her choice, to communicate confidentially with his or her lawyer or to communicate to others the fact of having been detained or the place of detention. The Committee observed that the *incommunicado* detention regime does not comply with article 17 of the Convention.

Concluding Observations (S)

Poland: UN Committee concerned at delays in rendition investigations, while European Court hears case on rendition complicity

On 19 November, the UN Committee against Torture adopted its concluding observations on the compliance of Poland with its obligations under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The Committee expressed concern "about the lengthy delays in the investigation process on the alleged complicity of the State party in the Central Intelligence Agency rendition and secret detention programmes between 2001 and 2008, which allegedly involved torture and ill treatment of persons suspected of involvement in terrorism related crimes" and "about the secrecy surrounding the investigation and failure to ensure accountability in these cases." The Committee called on Poland to complete the investigations within a reasonable time and to ensure accountability, and recommended that the authorities "inform the public and ensure transparency into the progress of its investigation process as well as cooperate in full with the European Court of Human Rights on the Central Intelligence Agency rendition and secret detention cases against Poland". On 3 December, the European Court of Human Rights held a

public hearing in the cases of *Al Nashiri and Abu Zubaydah v. Poland*. On 30 October, Poland granted "injured status" to Walid Mohammed bin Attash, a Guantánamo detainee, in the context of the ongoing investigations into alleged secret detention and torture at the behest of US authorities on Polish territory under the US rendition and secret detention programme.

[Concluding Observations](#)

[NGO Statement](#)

[Press Article](#)

Portugal: UN Committee calls for reopening of investigation into US renditions complicity

On 20 November, the UN Committee against Torture adopted its concluding observations on the compliance of Portugal with its obligations under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The Committee noted that investigations in Portugal on the State's involvement in the US-led rendition and secret detention programme had been closed "on the grounds of insufficient evidence, despite reports on the State party's alleged cooperation in a rendition and secret detention programme". The Committee therefore encouraged Portugal "to continue its investigations, if further information is found, into allegations of the State party's involvement in a rendition programme and the use of the State party's airports and airspace by flights involved in 'extraordinary rendition', and bring to light the facts surrounding these allegations".

[Concluding Observations](#)

Switzerland: Federal prosecutor launches investigation into NSA surveillance in diplomatic Geneva

On 1 December, the newspaper *Sonntags Zeitung* revealed that the Swiss federal prosecutor launched an investigation on 28 November into illegal surveillance practices by the US National Security Agency (NSA) through the US Permanent Mission in Geneva. According to the press reporting the statements of two agents of a security agency in Carouge (Geneva Canton) and documents provided by whistleblower and former NSA contractor Edward Snowden, the US Mission has been conducting surveillance of missions and UN premises from its mission in Geneva at least from 2006 to 2011. Reportedly, the investigation by the Swiss federal prosecutor needs the approval of the Federal Council, Swiss executive body, to continue.

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

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

Europe/USA: Documents reveal European secret services' complicity in mass surveillance

On 30 October and 2 November, revelations published by the newspapers *El Mundo* and *the Guardian*, based on documents provided by whistleblower and former NSA contractor Edward Snowden, revealed that several European States likely collaborated with the US National Security Agency in the collection of metadata for its global surveillance programme. The documents published by *El Mundo* report that there exists a second group of countries (in addition to the "Five Eyes" States) which are considered as countries for "enhanced cooperation" and that the group includes seventeen European countries, as well as Japan and South Korea. Furthermore, *The Guardian* reported that the UK Government Communications Headquarters (GCHQ) has assumed a leadership role among European intelligence services and assisted some of them, in particular those of Germany and Sweden, to weaken their internal regulations ensuring control over surveillance activities.

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

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

[Press Article 3 \(E\)](#)

[Press Article 4 \(E\)](#)

Bosnia and Herzegovina: UN Committee determines that expulsion of Iraqi national would breach international obligations

On 6 November, the Human Rights Committee determined that if carried out, the contemplated expulsion of Zeyad Khalaf Hamadie Al-Gertani to Iraq would breach Bosnia and Herzegovina's obligations under the International Covenant on Civil and Political Rights (ICCPR). The petitioner is an Iraqi national who fled to Bosnia and Herzegovina after deserting the army in the 1990s. The Committee said the expulsion would constitute a breach of his right to family life, as his wife and children are Bosnian nationals with no ties to Iraq, and because he was not able to challenge the grounds of national security on which his expulsion was ordered. Bosnia and Herzegovina stated only that the expulsion was ordered on grounds of national security "as established by a document classified as 'confidential' by the Intelligence and Security Agency". The Human Rights Committee found that, because the reasons for detention based on national security were not communicated to

him, the State violated his right to liberty. The Committee ruled that the detention was arbitrary, affirming that his right to have the grounds for his detention communicated to him and his right to challenge the legality of the detention, under article 9 of the ICCPR, had been violated.

Decision

Turkey: Turkey responsible for bombing of villages in anti-terrorism operation

On 12 November, the European Court of Human Rights ruled that Turkey was responsible for the bombing of two villages, Kuşkonar and Koçağılı in South-East Turkey, on 26 March 1994, in a military operation against the Kurdistan Workers' Party (PKK), and for the unlawful killing of 33 people caused by the bombing. The Court held that "an indiscriminate aerial bombardment of civilians and their villages cannot be acceptable in a democratic society ... and cannot be reconcilable with any of the grounds regulating the use of force" in the Convention and ruled that Turkey breached the right to life of the 33 persons killed and was responsible for the serious injuries suffered by other three villagers. The Court further held that the investigations into the bombing had not been effective in breach of Article 2 of the European Convention on Human Rights (ECHR). The Court ruled that the anguish and distress caused to the victims' close relatives as a result of witnessing their killing, the destruction of their homes and for attempts of cover-up by the authorities amounted to inhuman treatment in breach of Article 3 ECHR. The Court also held that the Turkish authorities had breached their duty of collaboration with the Court under Article 38 ECHR by trying to conceal a flight log which could have been relevant evidence to establish the responsibility of Turkey in the events.

Judgment

Russian Federation: European Court holds Russia responsible for abductions

On 7 and 14 November, the European Court of Human Rights ruled, in two separate judgments, that the Russian Federation was responsible for the abduction after release from detention of Azamatzhon Erkaboyevich Ermakov and Yusup Salimakhunovich Kasymakhunov, both Uzbek nationals, and for their subsequent appearance in Uzbekistan where they were detained pending criminal proceedings to answer charges of terrorism and extremism. Both detainees had been released after extradition proceedings to Uzbekistan had been temporary halted pursuant to interim measures by the European Court of Human Rights, abducted immediately after their release and transferred to Uzbekistan via Domodedovo Airport. The Court held that they were at risk of being subject to torture or inhuman or degrading treatment in Uzbekistan and that Russian authorities had therefore actively breached the principle of *non-refoulement*, as the transfer would have been impossible without "the authorisation of the Russian authorities or at least their acquiescence". The Court defined these cases as "an egregious situation that so far tends to reveal a practice of deliberate circumvention of the domestic extradition procedure and of interim measures issued by the Court The Court reiterates that the continuation of such incidents in the respondent State amounts to a disregard for the rule of law." The Court therefore also found violations of the State's duty to respect the Court's interim measures under Article 34 of the European Convention on Human Rights.

Judgment 1

Judgment 2

Russian Federation: European Court finds Convention breached in several counter-terrorism operations

On 31 October and 7 November, the European Court of Human Rights found, in two separate cases, that the State had violated the right to life under Article 2 ECHR of several persons apprehended in the framework of security operations in Chechnya and Ingushetia between 2000 and 2006. All of the persons concerned were to be presumed dead in light of the prolonged enforced disappearance to which they had allegedly been subject. The Court also held that the enforced disappearances amounted to a grave violation of the right to liberty and security under Article 5 ECHR of the persons concerned, and caused inhuman and degrading treatment to their family members in breach of Article 3 ECHR. The Court also ruled that the investigations into the enforced disappearance had been ineffective, in breach of the procedural requirements of Article 2 ECHR and of the right to an effective remedy under Article 13 ECHR.

Judgment 1

Judgment 2

Russian Federation: Family members and “dear ones” of terrorist bear civil damage liability under new law

On 3 November, President Vladimir Putin signed legislation introducing amendments to laws related to countering terrorism including the Criminal Code. Under these amendments, relatives of convicted terrorists or “other persons whose life and wellbeing are dear to him/[her] as a result of established personal relationships” would have to themselves provide compensation for the damages caused by a terrorist attack with their own resources, when there are sufficient grounds to believe that such resources were obtained as a result of terrorist activity. In addition, criminal responsibility was introduced for undergoing training in terrorist camps. Such responsibility could be avoided provided that the accused persons provides information on the training and discloses the identity of other trainees. The amendments introduced in the Criminal Code new offences of “organization of an operation of a terrorist organization”, “participation in a terrorist organization”, “organization of a terrorist community” and “participation in a terrorist community”.

[Law \(R\)](#)

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

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: General Assembly Committee adopts resolution on right to privacy and surveillance

On 26 November, the Third Committee of the UN General Assembly approved without a vote a resolution on “The right to privacy in the digital age”. The resolution was introduced by Brazil and Germany following revelation of mass surveillance by the US National Security Agency (NSA), including information that these countries were among those whose leaders had been subjected to surveillance. The Resolution expresses concern “at the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, as well as the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights”. The language of the resolution was reportedly weakened at the insistence of States belonging to the “Five Eyes” intelligence community: USA, UK, Australia, Canada and New Zealand. The UN Special Rapporteur on the right to freedom of opinion and expression, Frank La Rue, called the resolution “a first step” but warned that “Much more can and must be done to ensure trust in the safety of communications around the world.”

[Resolution](#)

[UN SR Statement](#)

[NGOs Letter](#)

[Press Article](#)

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

On 26 November, the Third Committee of the UN General Assembly adopted without a vote a resolution on the “protection and promotion of human rights and fundamental freedoms while countering terrorism”. The resolution calls on States to “ensure that any measures taken or means employed to counter terrorism, including the use of remotely piloted aircraft, comply with their obligations under international law, including the Charter of the United Nations, human rights law and international humanitarian law, in particular the principles of distinction and proportionality”. It further recognizes the “need to continue ensuring that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency.”

[Resolution](#)

OSCE: Manual on human rights in counter-terrorism investigations published

On 29 November, the Organization for Security and Co-operation in Europe (OSCE) launched a new manual, entitled *Human Rights in Counter-Terrorism Investigations*, that “explores the main human rights issues that may arise during the different phases of counter-terrorism investigations.” The Manual addresses issues related to the “the gathering of information and intelligence; the protection of witnesses and examination of crime scenes; the arrest, detention and interviewing of terrorist suspects; and the integrity and accountability of investigations.”

[Manual](#)

[ICJ Speech](#)

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