

E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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AFRICA & MIDDLE EAST

South Sudan: National Assembly approves sweeping powers for security forces

On 8 October, the National Assembly adopted into law a bill aimed at increasing the powers of the National Security Service (NSS). The law was opposed by many opposition legislators. Human Rights Watch has alleged that the law will allow for arbitrary detention and unlawful interrogations, asserting that it “gives the National Security Service officers the same powers of arrest and detention as the police, but does not specify where people it detains are to be held. It also does not explicitly guarantee detainees basic due process rights, such as the right to counsel. The bill also grants the security officers wide powers of surveillance and the authority to search and seize property without clear judicial oversight, and shields them from any criminal liability.”

NGO Statement

Press Article

United Arab Emirates: Whereabouts of detained Libyan and UAE nationals unknown

On 5 October, Human Rights Watch (HRW) called on United Arab Emirates authorities to reveal the whereabouts of ten Libyans and six citizens of UAE, who remain unaccounted for after allegedly being detained. HRW alleges that two of the Libyan citizens have been subjected to enforced disappearance. Libyan Prime Minister, Abdullah al-Thani confirmed, on 11 September, the detention in UAE of seven unnamed Libyan nationals. The six UAE nationals, Omar Ibrahim Mahmood, Abdulaziz Mubarak al-Suweidi, Saleh Mubarak al-Suweidi, Suliman Mohamed al-Naqbi, Khalid al-Naqbi, and Rashid al-Naqbi, have not had contact with their families since their arrest. HRW noted that these situations “appear consistent with previous cases in which authorities arbitrarily detained Emirati nationals associated with a local Islamist group and foreign nationals with alleged ties to the Muslim Brotherhood. Both groups were subjected to unfair trials amid credible allegations of torture.”

NGO Statement

Press Article

Iraq: UN officials call for immediate moratorium on the death penalty

On 19 October, Special Representative of the United Nations Secretary-General for Iraq, Nickolay Mladenov, and UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, called on the Iraq Government to impose a moratorium on the death penalty. The call comes following a report issued by the UN Mission in Iraq (UNAMI) and the Office of the High Commissioner for Human Rights documenting the rise in the use of the death penalty, including for “terrorism” convicts, since 2005. According to the report there were 177 persons executed in 2013 and at least 60 executed between 1 January and 30 September 2014. “In over half of the trials involving the death penalty monitored by UNAMI, judges systematically ignored claims by defendants that they were subjected to torture to induce confessions, and in the remainder of cases they took little or no action. In nearly all cases, judges proceeded to convict the defendants and sentence them to death based solely, or substantially, on the weight of disputed confession evidence or the testimony of secret informants. Most defendants appeared in court unrepresented, and where the court appointed an attorney, no time was granted to the defendant to prepare adequately a defence.”

Report

UN Statement

Egypt: State of emergency declared in Sinai Peninsula after seven persons sentenced to death for “terrorism”

On 21 October, a military court sentenced seven men to the death penalty and two others to life imprisonment after having convicted them of charges of “planning terrorist operations, shooting at security forces, attacking military facilities and naval ships and

being members of *Ansar Beit Al-Maqdis*." The Government has designated this group as a "terrorist organization". Reportedly, the nine defendants were found guilty of having carried planned and carried out an attack that killed six soldiers at a checkpoint in Qaliubiya and another at the Cairo's security directorate headquarters. On 25 October, the day after an attack on an army checkpoint in Karm al-Qawadeis in Sinai resulted in the deaths of 28 soldiers, President Abdel Fattah el-Sisi ordered a state of emergency for three months in the Sinai Peninsula. Under the terms of the emergency, a curfew was in place between 17:00 and 5:00 the Rafah crossing into Gaza was to be closed.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

AMERICAS

USA: District Court orders release of Guantánamo force-feeding videotapes

On 3 October, the District Court for the District of Columbia ordered the US Government to release 28 videotapes documenting the force-feeding and "forcible cell extractions" of Guantánamo detainee Wa'el (Jihad) Dhiab. The order of release was sought both by the detainee and a group of media companies. The Court held that disclosure was warranted under the First Amendment and that most of the exceptions claimed by the Government were "unacceptably vague, speculative, lack specificity, or are just plain implausible." The Government claimed that the release of the videotapes could give rise to the development of counter-measures by the detainees, endanger national security by showing the structure of the detention camp, be used as propaganda, increase the need of more guards or the forcible cells extractions, or subject Wa'el Dhiab to "public curiosity" in contravention of the Geneva Conventions on the laws of war.

[Ruling](#)

[Press Article 1](#)

[Press Article 2](#)

USA: Russian Bagram detainee to be transferred to the US for trial

On 23 October, the *Washington Post* reported that a Russian national known by his pseudonym "Irek Hamidullan" who was captured in 2009 while fighting against US forces in Afghanistan, was to be transferred to the United States to attend his trial on still classified charges. According to the newspaper, "Irek Hamidullah" may be tried before the District Court for the Eastern District of Virginia. The decision to prosecute him has not been publicly released, but the US Congress was reportedly notified of the transfer. "Irek Hamidullan's" transfer is part of a plan to empty the Parwan detention centre near Bagram, where the US holds still thirteen detainees including "Irek Hamidullan", before the end of the year.

[Press Article](#)

USA: Review Board recommends release of Guantánamo detainee for lack of evidence

On 3 October, the Periodic Review Board recommended for release and transfer to Saudi Arabia Guantánamo detainee Muhammad Murdi Issa Al-Zahrani, who has been detained there since August 2002. The Board wrote in its decision that its recommendation had been prompted by the "uncorroborated nature of the information about the detainee's level of involvement with al-Qaeda, the detainee and his family's lack of ongoing contacts or ties with at-large extremists, the detainee's behavior while in detention, and the detainee's candor with the board about his presence on the battlefield, expressions of regret, and desires for a peaceful life after Guantanamo." The Periodic Review Board recommended that he should follow a rehabilitation programme once back in Saudi Arabia. With this decision 80 Guantánamo detainees, out of the remaining 149, have been approved for transfer.

[Determination](#)

[Press Article](#)

Canada: Government presents anti-terrorism law to Parliament

On 27 October, the Government presented before the House of Commons the *Protection of Canada from Terrorists Act*, after the Parliament building and the National War Memorial were subject to an attack by a lone gunman on 24 October. The draft law, if adopted, would allow the Government to protect human sources of intelligence from being revealed in judicial proceedings unless necessary for the defence of a person subject to criminal trial or the classification is contested. The hearing where any such exceptions are to be adjudicated must be in "in private and in the absence of the applicant and their counsel, unless the judge orders otherwise". The draft law would also extend the competence of the Canadian Security Intelligence Service (CSIS) extraterritorially. However, on 24 October, the Security Intelligence Review Committee (SIRC), an external review body reporting to Parliament on the activities of CSIS, published a report in which it stated that the CSIS operations were not subject to sufficient oversight or control.

[Draft Law](#)

[SIRC Statement](#)

[Prime Minister Statement](#)

Canada: Court upholds exclusion of Palestinian journalist from Canada

On 30 September, the Federal Court of Appeal upheld the decision of the Minister of Public Safety and Emergency Preparedness to exclude Nawal Haj Khalil, a Palestinian woman, from entry to Canada, on ground of national security. The Court held that the Minister had not been unreasonable in assessing, within its discretionary powers, that Nawal Haj Khalil, who formerly worked as a journalist for the the Palestinian Liberation Organization (PLO) magazine *Filastin Al Thawra* from the late 1970s to 1993 and received a salary from the PLO faction *Fatah*, could constitute a danger for Canada. The Court upheld the assessment of the Government that "there are reasonable grounds to believe that Fatah is an organization that has engaged in terrorism" and found it not unreasonable to consider that she failed to "demonstrate that her presence in Canada would not be detrimental to the national interest."

[Judgment](#)

Peru: Case on gross human rights violations in anti-terrorism goes to Inter-American Court

On 17 October, the Inter-American Commission on Human Rights announced that it had referred to the Inter-American Court of Human Rights the case of *Rigoberto Tenorio Roca v. Peru*. The case, transmitted to the higher jurisdiction for lack of execution by the State authorities, concerns the alleged "detention, transfer, torture and subsequent forced disappearance of Rigoberto Tenorio Roca" on 7 July 1984 by Marines in the Department of Ayacucho. According to the Commission's statement, the enforced disappearance occurred "against the backdrop of systematic violations of human rights that occurred amid the internal armed conflict in Peru, in an area and at a time when the use of forced disappearance of persons suspected of being terrorists or terrorist collaborators, was systematic and widespread." The fate and whereabouts Rigoberto Tenorio Roca remains unknown.

[IACHR Statement](#)

ASIA - PACIFIC

China: Fourteen people sentenced to death for "terrorist" acts in Xinjiang

On 29 September, two people, Abidili and Gheni Hasan, were sentenced to death and another person, Atawulla Tursun, was given a term of life imprisonment by the Kashgar Intermediate People's Court, after having been convicted of the charges of "forming and leading terrorist groups and murder." They were found guilty of the killing, with knives and axes, of Juma Tayir, a "pro-government" Imam. On 13 October, the same court sentenced to death twelve persons and fifteen others to "death sentences with a two-year reprieve,"

after having found them guilty of a terrorist attack occurred last 28 July, in which 37 persons died. The charges on which they have been convicted include “organizing, leading and participating in terrorist groups, intentional homicide, illegally producing explosives, arson, kidnapping and endangering public security with dangerous methods.”

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Malaysia: Interior Minister announces unspecified pending anti-terrorism law

On 19 October, the Minister of Home Affairs, Datuk Seri Ahmad Zahid Hamidi, announced that the Government was preparing draft legislation “designed specifically to combat terrorism participation and activities.” However, the Minister did not reveal any particular detail of the draft, only that it would be distinct from the existing the Prevention of Crime Act (POCA) 1959 and the Security Offences (Special Measures) Act (SOSMA) 2012 and that it “would not only further facilitate the fight against terrorism but would also enable early measures to be taken to prevent the recruitment of volunteer jihadists.” The Chairman of the human rights committee of Malaysia Bar Association called said that the new anti-terrorism laws were unnecessary.

[Press Article 1](#)

[Press Article 2](#)

Australia: Parliamentary Committee calls to limit executive powers in draft anti-terrorism law

On 17 October, the Parliamentary Joint Committee on Intelligence and Security presented to Parliament its advisory report on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill. The Committee recommended that new anti-terrorism powers be subject to a “sunset clause”, and that the powers of the Government to declare “no-go” zones be limited only to parts of certain countries. The draft law would introduce the criminal offence of entering or remaining in “a “declared area” where the foreign minister is satisfied a terrorist organisation is engaged in hostile activity.” There would be exceptions for “legitimate” purposes, “such as providing humanitarian aid, in an official capacity for Australia or the United Nations, reporting on news events or visiting family.” The draft law would also introduce a criminal offence of “advocating terrorism” applicable to those who “intentionally counsel, promote, encourage or urge the doing of a terrorist act or the commission of a terrorism offence and the person is reckless as to whether another person will engage in or commit a terrorist act.”

[Report](#)

[Draft Law](#)

[Press Article 1](#)

[Press Article 2](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Calls for investigation of UK company Gamma Group for complicity in Bahrain surveillance

On 13 October, the human rights organization Privacy International lodged a formal complaint with the National Crime Agency seeking an investigation into the alleged complicity of Gamma Group, a UK based firm, in unlawful surveillance by the Bahrain Government of the political opposition and human rights defenders. On 6 August, a group of human rights organizations and journalists revealed that an Anglo-German informatics company, Gamma Group International, had assisted the government of Bahrain in placing under surveillance the communications of several human rights defenders and political opponents and at least two members of the Bahrain Independent Commission of Investigation (BICI), which reported on gross human rights violations committed by the authorities during “counter-terrorism” operations that ended up in widely suppressing dissent, and that was appointed by the same government. Reportedly, the company made available to Bahrain spyware that can be “used to access target systems, giving full access to stored information with the ability to take control of the target system’s functions to the point of capturing encrypted data and communications.”

[Press Article](#)

UK: Former Guantánamo detainee Moazzam Begg cleared of terrorism charges and released

On 1 October, the Old Bailey Court ordered the release of Moazzam Begg, a former Guantánamo detainee, after the Crown Prosecution Service (CPS) announced in a court hearing that it was dropping charges of facilitating terrorism and possession of a document likely to be of use to a terrorist. The CPS had accused Moazzam Begg, the founder of the human rights organization CAGE, of having attended a terrorism training camp in Syria. He has been detained in pre-trial custody for seven months. The CPS announced that it had “recently become aware of relevant material and in light of which, after careful and anxious consideration, have reached the conclusion that there is no longer a realistic prospect of conviction in this case.”

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

UK: Court of Appeal allows rendition complicity claim to continue

On 30 October, the Court of Appeal allowed lawsuit for civil damages by Abdul-Hakim Belhaj, a Libyan opposition member during the rule of the regime of Moammar Gaddafi regime, and his wife Fatima Boudchar to proceed, overturning a dismissal decision of the High Court. They seek civil compensation from the UK government for complicity of UK government officials and the UK secret services in their US-led rendition to Libya in 2004. The rendition reportedly included unlawful detention and torture in China, Malaysia, Thailand and Libya. Fatima Boudchar was pregnant at the time of the rendition. Abdul-Hakim Belhaj was released from detention in Libya only in 2010. The Court rejected Government claims of State immunity and the claim that the courts should not assume jurisdiction over certain “acts of state”. The Court held that the “act of state” doctrine was inoperative here, particular because of the alleged “grave” violations of human rights and the fact that no other effective remedy would be available either in another country or at the international level. The Court also rejected the Government’s claim that embarrassment in international relations or pernicious effects of intelligence cooperation could bar access to a court in case of this gravity.

[Judgment](#)

[Amicus Brief](#)

[NGOs Statement](#)

Germany: German secret service’s complicity with NSA revealed

On 4 October, the newspaper *Süddeutsche Zeitung* revealed that German intelligence services had conducted surveillance operations on behalf of the US National Security Agency (NSA) and had given the NSA access since 2004 to one of the main communications centres in Europe, in Frankfurt, where millions of internet communications in Europe cross. The newspaper revealed that a contract was in effect from 2004 to 2008 between the NSA and the German secret service Bundesnachrichtendienst (BND), in an operation called “Eikonol,” according to which the BND collected the information and passed it to the NSA for analysis. The revelations come amid official protests of the German Government for the surveillance by the NSA of German citizens, including Chancellor Angela Merkel.

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

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

Italy: Supreme Court publishes judgment in rendition case

On 25 September, the Court of Cassation published its judgement of 11 March upholding the convictions of United States CIA agents Betnie Medero, Jeffrey Castelli, and Henry Ralph Russomando for the offence of kidnapping arising from the rendition of Osama Mustafa Hassan Nasr, also known as Abu Omar, in 2003. The Court of Cassation rejected several objections raised by the defendants against their conviction by the Court of Appeal, including one claiming discrimination in treatment, since the Italian secret service agents had been acquitted following a Constitutional Court judgement that covered with secret of state evidence on their implication. The Court of Cassation dismissed the claim of discrimination, asserting that the Italian agents had not been acquitted on the basis of

immunity but because of exclusion of evidence following the Constitutional Court judgment. It also dismissed the claim by the United States agents that they were covered by diplomatic immunity, as when they participated in the rendition they had acted as intelligence agents and not US diplomats.

Judgment (Italian)

Spain: No effective investigation into ill-treatment in detention of terrorism suspects, rules European Court

On 7 October, the European Court of Human Rights ruled that Spain was responsible for a violation of the right not to be subject to inhuman and degrading treatment in respect of victims Öihan Unai Ataun Rojo and Beatriz Etxebarria Caballero. The Court ruled that the Spanish authorities had failed to carry out effective investigations in their claims to have been ill-treated while in police custody. Both persons had been arrested on suspicion of having links with Euskadi Ta Askatasuna (ETA) and Beatriz Etxebarria Caballero had been convicted of the charges of membership of a terrorist organizations and participation in terrorist acts.

Judgment 1 (F)

Judgment 2 (F)

Ireland: Justice Minister presents legislation to add three new terrorism offences before Seanad

On 6 October, the Minister for Justice, Frances Fitzgerald, presented to the Seanad draft legislation introducing three new terrorism offences, in order to implement Framework Decision 2008/919/JHA of the EU and allow Ireland to ratify the Council of Europe Convention on the Prevention of Terrorism. The draft legislation, if adopted, would introduce in the Criminal Justice (Terrorist Offences) (Amendment) Act 2005 the offences of "public provocation to commit a terrorist offence", "recruitment for terrorism", and "training for terrorism." The offence of public provocation would be engaged when "a person distributes or otherwise makes available by whatever means of communication, a message to the public, with the intention of encouraging, directly or indirectly, the commission of a terrorist activity."

Draft Law

Minister Speech

Press Article

Switzerland: Government issues ordinance banning Islamic State and allies

On 8 October, the Federal Council, Switzerland's Executive body, approved an ordinance banning the group "Islamic State" and any linked organization from Switzerland. The ordinance prohibits any activity of the organization in the Confederation and abroad but also all actions aimed at giving it material support, such as campaigns or fundraising activities. The persons violating this ordinance may incur in a punishment of up to three years of imprisonment. The ordinance has a validity of six months.

Government Statement (F)

Russian Federation: Russian responsible for violation in the enforced disappearance of a Uzbek national, rules European Court

On 23 October, the European Court of Human Rights unanimously ruled that Russian authorities had violated the right of Ikromzhon Makhkamovich Mamazhonov, an Uzbek national, not to be exposed to inhuman or degrading treatment upon expulsion or extradition, when they authorized his transfer to Uzbekistan. Following the issuance of the interim measures by the Strasbourg Court, he was released but immediately apprehended by unknown man and disappeared since then. He was wanted in Uzbekistan on charges of terrorism, inciting religious hatred, encroaching upon constitutional order, illegally crossing the State border, organizing a criminal group, producing and disseminating material threatening public security and order, participating in religious extremist, separatist and fundamentalist movements, and smuggling. He was suspected to be a member of the "Islamic Movement in Uzbekistan", considered to be linked to Al-Qaeda by the Uzbek Government. The Court held that the Russian authorities had violated the prohibition of

inhuman or degrading treatment or punishment and their obligations to respect the right of individual petition. The court underlined that the Russian Federation had failed to undertake with protective measures when they released Ikromzhon Makhkamovich Mamazhonov from detention following the issuance of the interim measures by the Strasbourg Court.

Judgment

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: Special Rapporteur concerned at extent of mass surveillance

On 23 October, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, Ben Emmerson, presented his annual report to the UN General Assembly, dedicated to the issue of mass surveillance. In his presentation, Ben Emmerson declared that “States need to squarely confront the fact that mass surveillance programmes effectively do away with the right to online privacy altogether.” He also stressed that “bulk access technology is indiscriminately corrosive of online privacy and impinges on the very essence of the right to privacy.” The Special Rapporteur called on all States to “be transparent about the nature and extent of their internet penetration, its methodology and its justification” and said that States “should provide a detailed public account of the tangible benefits that accrue from its use.”

Report

UN Statement

Press Article

UN: Human Rights Committee adopts General Comment on the right to liberty

On 23 October, the UN Human Rights Committee adopted General Comment no. 35 on the right to liberty under article 9 of the International Covenant on Civil and Political Rights. The Committee stated in the Comment that article 9 applies to everyone, including “persons who have engaged in terrorist activity.” It stressed that the right to liberty applied to all detention “by official action or pursuant to official authorization, including detention in connection with criminal proceedings, military detention, security detention, counter-terrorism detention, involuntary hospitalization, immigration detention, detention for extradition, and wholly groundless arrests.” The Committee highlighted the positive obligations of States under article 9 ICCPR, including that “States parties must protect individuals against abduction or detention by individual criminals or irregular groups, including armed or terrorist groups, operating within their territory.”

General Comment

UN Statement

UN: Special Rapporteur concerned at depersonalization of conflicts by use of drones

On 23 October, the UN Special Rapporteur on extrajudicial, summary and arbitrary executions, Christof Heyns, presented his annual report to the UN General Assembly, focusing on target killing through on the use of drones. The UN expert expressed concern at the use of remotely controlled aircrafts both in armed conflict and in law enforcement. The UN Special Rapporteur stated that “an armed drone, controlled by a human from a distance, can hardly do what police officers are supposed to do – use the minimum force required by the circumstances, assist those who need help, etc., ... [t]he situation becomes even more problematic when the police use increasingly autonomous weapons – that is, weapons that have on board computers which decide on the use of force.”

Report

UN Statement

EU: Council of the EU proposes new measures to tackle “foreign fighters”

On 9 October, the Council of the European Union, in its Justice and Home Affairs configuration, approved a set of measures aimed at tackling the phenomenon of “foreign fighters.” The Council pushed for the establishment of a EU Passenger Name Record by the end of 2014 and expressed the “urgency of making progress on this file and called on the

European Parliament to adopt as soon as possible its position to start negotiations with the Council.” Among other measures, the Council invited the European Commission to present “a set of recommendations on how the EU should engage with Internet companies on countering the use of the Internet for terrorist purpose.” It also invited the Commission, the Counter-Terrorism Coordinator and the High Representative for Foreign Affairs to finalize “a package of CT capacity building projects in the MENA-region, in particular to deal with the problem of foreign fighters and prevent the spill over from the Iraq/Syria crisis.”

Council Conclusions

Internal Report 1

Internal Report 2

EU: General Court annuls LTTE insertion in EU Terrorism List

On 16 October, the General Court of the EU annulled the inclusion of the Liberation Tigers of Tamil Eelam (LTTE) on the EU Terrorism List established under the UN Security Council resolution 1373(2001). The Court ruled that the terrorism listing legislation applied to situations of armed conflict, since also armed group could commit terrorist acts. However, it found that the Council could not rely on the inclusion of the LTTE in the terrorism list of India, as India did not provide for equivalent fair trial and due process guarantees as required by EU law. Furthermore, despite the insertion by the UK in their list, the Court held that the Council based the decision on the LTTE maintenance in the EU list “not on assessments contained in the decisions of competent authorities, but on information which it derived from the press and the internet.”

Judgment

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