

E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

No. 89, December 2014 – January 2015

AFRICA & MIDDLE EAST

Kenya: New anti-terrorism law provisions' efficacy suspended by High Court
Cameroon: Parliament approves new death penalty-centred anti-terrorism law
Djibouti: Rendition case asked to be reopened based on US Senate report's findings
Algeria: Algeria responsible for five enforced disappearances, finds UN Human Rights Committee
Egypt: Massive resort to military courts following Presidential decree
Bahrain: Human rights organization voices concerns over risk of torture for two arrested persons
Saudi Arabia: Women caught driving unaccompanied referred to anti-terrorism court
Israel: Supreme Court validates destruction of hostile individuals' homes under war on terror paradigm

AMERICAS

USA: Senate Intelligence Committee publishes executive summary of CIA renditions report
USA: Government accelerates transfers of detainees from Guantánamo Bay
USA: ACLU settles post-9/11 discriminatory arrests case
USA: Guantánamo detainee publishes redacted diary of his detention experience
Colombia: Inter-American Court finds Colombia responsible for enforced disappearance in 1985 Palace of Justice attack
Brazil: Supreme Court blocks extradition to Peru of terrorist suspect for lack of information
Argentina: Prosecutor accusing President of terrorism case cover-up found dead

ASIA - PACIFIC

China: Human Rights Watch considers draft anti-terrorism law not in line with human rights law
Pakistan: Death penalty and military courts resume in countering terrorism
Nepal: Human Rights Committee finds Nepal responsible for two enforced disappearances
Malaysia: Bar Council concerned over proposed anti-terrorism law
New Zealand: Parliament approves new anti-terrorism law on "foreign fighters"

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: European Court of Human Rights allows use of statements obtained without lawyer in terrorism trial
UK: High Court allows extradition of terrorist suspects to the USA
UK: Intelligence Tribunal rules for legality of UK mass surveillance programmes
UK: Government refuses to investigate company's complicity in Guantánamo detention system
UK: Gaddafi regime's documents confirm close Libya-UK intelligence cooperation
UK: Parliament's Human Rights Committee calls for more judicial review in draft anti-terrorism law
France: Government announces new anti-terrorism measures after Paris attacks
France: Constitutional Council allows stripping of French nationality for convicted terrorists with double nationality
Belgium: Government enhances anti-terrorism powers after country-wide police operation
Ireland: Government asks European Court of Human Rights to reopen anti-terrorism case against the UK
Lithuania/Romania/Europe: US Senate Intelligence Committees sparks new call for accountability of European countries
Turkey: European Court of Human Rights rules that PKK sympathizer was ill-treated
Turkey: Terrorism conviction for participating in religious ceremony violates freedom of religion, rules Strasbourg Court
Turkey: Violations of right to life for lack of investigation in two enforced disappearances and killings ruled by European Court of Human Rights

Turkey: Prevention of Torture Committee concerned at restrictions to access to lawyer in custody
Russian Federation: European Court blocks transfer to Uzbekistan of terrorism suspect
Russian Federation: Human Rights Watch denounces lack of investigation into torture claims of terrorism suspects

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: General Assembly approves resolution on human rights in the digital sphere
UN: Human Rights Commissioner addresses issue of "foreign fighters"
EU: Interior Ministers push for quick approval of passenger names record directive
EU: General Court takes Hamas off EU Terrorism List
EU: Council calls for reform of Counter-Terrorism Framework Decision
Council of Europe: Prevention of Terrorism Convention to be updated, says Committee of Ministers

AFRICA & MIDDLE EAST

Kenya: New anti-terrorism law provisions' efficacy suspended by High Court

On 22 December, the Security Laws (Amendment) Act 2014 was published in the Kenya Gazette after having been approved by Parliament and signed by President Uhuru Kenyatta. The anti-terrorism legislation was criticized by human rights organizations, in particular for the insertion of new criminal provisions limiting the freedom of the press and increasing investigative powers of intelligence services. On 23 December, the opposition Coalition for Reforms and Democracy filed a constitutional challenge to the law in the High Court, the effect of which was to suspend the application of eight of its provisions until their constitutionality can be assessed. These include the new offence of publishing material causing fear and alarm to the general public or disturbance to public peace, or undermining investigations; limitations on the disclosure of evidence deemed to be sensitive; new rules of evidence and use of "confessions" in courts; a cap on the number of refugees and asylum seekers allowed to stay in Kenya; new powers for intelligence services to conduct "special operations"; and new offences of incitement to and training for terrorism.

Law

Ruling

NGO Statement 1

NGO Statement 2

Cameroon: Parliament approves new death penalty-centred anti-terrorism law

On 4 December, Parliament approved a Law on the Fight against Terrorism proposed by the Ministry of Justice. The law introduces the death penalty for any person that is convicted of doing or threatening any act capable of causing the death or putting in danger the physical integrity of a person, or causing physical, material or environmental damage with the intention of instilling fear and constraining the activities of public bodies or causing insurrection. The death penalty is also introduced for ancillary terrorism offences, including financing of terrorist activities or organizations or money laundering of proceeds of terrorist acts, or recruitment for terrorism purposes. The maximum length of police custody (*garde-à-vue*) is increased to fifteen days and is renewable. The law has been criticized by several human rights organizations for its over-broad definition of the term "terrorist act".

Draft Law (F)

NGO Statement (E)

Press Article (F)

Djibouti: Rendition case asked to be reopened based on US Senate report's findings

On 2 December, the New York University Global Justice Clinic filed a brief with the African Commission on Human and Peoples' Rights asking the Commission to reopen the case against Djibouti concerning the US-led rendition of Mohammed Abdullah Saleh al-Asad, a Yemeni national. According to the plaintiffs, Mohammed al-Asad was allegedly "wrongfully detained, tortured, and secretly interrogated in Djibouti for several weeks in 2003 and 2004 before being forcibly transferred to a series of CIA "black sites." He endured 16 months of secret detention before he was transferred to Yemen in 2005, where he was eventually released in 2006 without ever being charged with a terrorism-related crime." The African Commission had dismissed the case in October 2014 for lack of sufficient evidence. The application by the Global Justice Clinic presents new evidence taken from leaked parts of the US Senate Intelligence Committee's report on the CIA rendition programme, whose summary has been later released.

Petition

Communication

NGO Statement

Algeria: Algeria responsible for five enforced disappearances, finds UN Human Rights Committee

On 17, 19 and 20 November, the UN Human Rights Committee found, in three separate cases, that Algeria was responsible for the enforced disappearance of Adel, Tarek and Mohamed Kerouane (on 12 April 1994, 20 May 1994 and 22 February 1996 respectively) and of Yahia Kroumi and Sahraoui Ayache (on 12 August 1994). In the case of all 'disappearances', the Committee rejected Algeria's defence that these violations were committed during an anti-terrorism emergency that threatened the life of the nation, and did not consider the transitional process under the Ordinance 06-01 of 2006 to constitute an effective remedy. It found that Algeria had violated the disappeared persons' right to life, freedom from torture and cruel, inhuman or degrading treatment or punishment, freedom from arbitrary detention, right to humane treatment in detention, right to be recognized as persons before the law, and right to an effective remedy. In the case of the family and close friends of the victims, the Committee also found violations of the right not to be subject to cruel, inhuman or degrading treatment for the anguish caused by their disappearance. In the case of Mohamed and

Tarek Kerouane, who were respectively 15 and 16 years old at the time of their disappearance, the Committee ruled that Algeria had also violated its obligation to provide special protection to children under article 24 of the International Covenant on Civil and Political Rights.

[Decision 1](#)

[Decision 2](#)

[Decision 3](#)

Egypt: Massive resort to military courts following Presidential decree

On 18 December, Human Rights Watch revealed that, since the issuance in October 2014 by President Abdel Fattah al-Sisi of Law Decree No. 136 of 2014 on "Securing and Protection of Public and Vital Facilities," at least 820 persons have been referred to military courts. The Decree declares that all "public and vital facilities" will fall under military jurisdiction for a period of two years from its entry into force. The human rights organization reported that "prosecutors have used the October decree retroactively, referring cases of civilians already under investigation or facing trial in civilian courts to military jurisdiction." On 27 November, the Government approved a new anti-terrorism legislation that modifies the definition of "terrorist entity" and allows their listing and dismantling. According to the press, the new definition would include "any organization... which practices or seeks in any way to disrupt public order or exposes society's integrity, interests or security to harm." On 2 December, a criminal court handed down death sentences against 188 persons for involvement in the killing of 11 policemen in Kerdasa in August 2013.

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

Bahrain: Human rights organization voices concerns over risk of torture for two arrested persons

On 5 January, the Bahrain Center for Human Rights expressed concern over the incommunicado detention of Salman Isa and Ali Makki, arrested on 27 December by masked security forces, that places them "at serious risk of torture and ill-treatment." According to the human rights organization the two men had been previously sentenced *in absentia* to respectively 65 and 70 years of imprisonment "in multiple cases with terrorism charges including 'conducting bombing operations, murder and violent attacks on policemen in East Ekar village.'" The organization also reported that the men had been subject to beatings and threats of death and torture by security forces. Their family members and legal counsel have not been granted access to them.

[NGO Statement](#)

Saudi Arabia: Women caught driving unaccompanied referred to anti-terrorism court

On 25 December, the criminal court of Al-Ahsa decided to refer the case against Loujain Hathloul and Maysaa Alamoudi to the anti-terrorism central court in Riyadh. The accused were arrested on 4 December at a border crossing point between Saudi Arabia and the United Arab Emirates trying to enter the Saudi Kingdom by driving a car unaccompanied. Reportedly, the charges against them are linked to the accusation of driving a car without being escorted by a man. Human rights organizations have criticized this arrest as a violation of their human rights.

[NGO Statement](#)

[Press Article](#)

Israel: Supreme Court validates destruction of hostile individuals' homes under war on terror paradigm

On 3 December, the Supreme Court sitting as the High Court of Justice, upheld the constitutionality of the use of regulation 119 of the Defence (Emergency) Regulations 1945 "in a manner which enables to seize, demolish and seal the houses of individuals suspected of involvement in hostile activities against the State of Israel." Justice Rubenstein, delivering the Court's opinion, held that the Court "must consider the issue within the broader picture of war against terror, of Israel and of the entire world." The Court held that, since terrorist organizations do not respect international humanitarian law, regulation 119 "should be interpreted in a manner which reflect their spirit and realize the underlying objectives, but will also enable the State of Israel, at the same time, to secure the safety of its residents in the most basic manner." The Court ruled that any house demolition cannot be considered in breach of the Fourth Geneva Convention and that Regulation 119 "will satisfy the proportionality test, and moreover – if the injury caused as a result of the demolition of the houses does not disproportionately violate the right of the injured individuals to their property, relative to the effectiveness of deterrence."

[Judgment](#)

AMERICAS

USA: Senate Intelligence Committee publishes executive summary of CIA renditions report

On 9 December, the US Senate Intelligence Committee published the 499 pages executive summary of the report on its investigation into the CIA rendition, secret detention and interrogation programme, after months of battles with the CIA and the White House regarding the degree of its redaction. Following the release, the UN Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, the UN Special Rapporteur on torture and cruel, inhuman or degrading treatment or punishment, Juan E. Mendéz, the Organization of American States and several human rights organizations across the globe, including the ICJ, have called on US authorities to ensure accountability for these gross violations of human rights and to prosecute those responsible.

[Executive Summary](#)

[UN Statement 1](#)

[UN Statement 2](#)

[OAS Statement](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

USA: Government accelerates transfers of detainees from Guantánamo Bay

On 24 December, the White House announced an acceleration in the release of Guantánamo detainees with the objective of transferring 64 detainees within the next six months. On 7 December, four Syrians, a Tunisian and a Palestinian were transferred to Uruguay. On 20 December, Zahir, Shawali Khan, Abdul Ghani and Khi Ali Gul, Afghan nationals, were sent to their country of origin. On 30 December, Asim Thabit Abdullah Al-Khalaqi, Muhammad Ali Husayn Khanayna, Sabri Muhammad Ibrahim Al Qurashi, Adel Al-Hakeemy, and Abdullah Bin Ali Al-Lufti were transferred to Kazakhstan. The increase of transfers is also linked to the recent approval by Congress, on 12 December, of a revised National Defense Authorization Act 2014 that eases restrictions on transfers of Guantánamo detainees abroad, while maintaining a ban on their resettlement in the US. As at 5 January, 127 persons remain detained at Guantánamo Bay.

[DoD Statement 1](#)

[DoD Statement 2](#)

[OAS Statement](#)

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

USA: ACLU settles post-9/11 discriminatory arrests case

On 16 January, the American Civil Liberties Union announced settlement of a lawsuit against the US Government challenging the "post-9/11 practice of imprisoning Muslim men as material witnesses without any basis for holding them." The case was brought by Abdullah al-Kidd, who was arrested and detained in the wake of 11 September 2001 "so he would testify as a material witness in the trial of a student who was facing visa fraud charges. He was imprisoned for 16 days, moved to three separate federal detention facilities in three different states, and was sometimes held naked and shackled hand and foot. He was never ultimately called to testify." The US Government has offered compensation for the violations and a public letter of regret.

[NGO Statement](#)

USA: Guantánamo detainee publishes redacted diary of his detention experience

On 20 January, Guantánamo detainee Mohamedou Ould Slahi, a Mauritanian citizen, published a book titled "Guantánamo Diary" reporting his experience of his still ongoing detention in the US detention centre in Cuba. Reportedly, the book contains "a first-person account of his rendition, torture, and interrogations, as well as day-to-day life and personal relationships at Guantánamo." The diary was first produced to help his legal team in the court challenges for his release and was classified. It has been published after seven years of legal challenges to allow for its release and after heavy redactions by the Government.

[NGO Statement](#)

Colombia: Inter-American Court finds Colombia responsible for enforced disappearance in 1985 Palace of Justice attack

On 14 November, the Inter-American Court of Human Rights held that Colombia was responsible for the enforced disappearances of Carlos Augusto Rodríguez Vera, Irma Franco Pineda, Cristina del Pilar Guarín Cortés, David Suspes Celis, Bernardo Beltrán Hernández, Héctor Jaime Beltrán Fuentes, Gloria Stella Lizarazo Figueroa, Luz Mary Portela León, Lucy Amparo Oviedo Bonilla and Gloria Anzola de Lanao, and of the enforced disappearance and extrajudicial execution of Carlos Horacio

Urán Rojas. The Court further held that the State had not protected the right to life of Ana Rosa Cariblanco Torres and of Norma Constanza Esguerra Forero and was responsible for the arbitrary detention and torture of Yolanda Santodomingo Albericci, Eduardo Matson Ospino and José Vicente Rubiano. The case refers to the terrorist attack by the armed group M19 against the Supreme Court's Justice Palace (Palacio de Justicia) on 6 and 7 November 1985, and the army's response to it. M19 seized the Justice Palace and took several hostages, after which the army stormed the Palace and killed the assailants but also subjected a number of hostages to enforced disappearance. The Court furthermore ruled that the investigation and prosecution into these events had been insufficient and has caused suffering to the victims' family members in breach of the right to personal integrity and to an effective remedy.

[Judgment \(S\)](#)

[Summary \(S\)](#)

Brazil: Supreme Court blocks extradition to Peru of terrorist suspect for lack of information

On 16 December, the Supreme Court ruled that the Government could not extradite Segundo Pandure Sandoval to Peru to answer of the crime of terrorism there. The Court found that Peru had not defined the facts, time and place of the alleged commission of the crime, despite the Court having requested this information to its Diplomatic Mission. The Supreme Court found that insufficient details were provided to allow the Court to assess whether the alleged offence in Peru could be considered equivalent to a criminal offence in Brazil under the principle of double criminality, since a general criminal offence of terrorism does not exist in Brazil.

[Judgment \(Portuguese\)](#)

[Court Statement \(Portuguese\)](#)

Argentina: Prosecutor accusing President of terrorism case cover-up found dead

On 14 January, Prosecutor Alberto Nisman publicly accused and requested the interrogation of President Cristina Fernandez, the Foreign Minister and the General Secretary of La Cámpora of having planned a cover-up in the investigations over the 1994 bombing of the AMIA Jewish Centre in Buenos Aires, where 85 died. The investigations have implicated persons allegedly linked with Iran. Reportedly, the Prosecutor alleged that the President had "pushed to drop the criminal investigation and normalize relations as a way of tapping Iranian oil needed to narrow Argentina's \$7 billion per year energy gap." On 18 January, Prosecutor Alberto Nisman was found dead in his bathtub. President Cristina Fernandez, in an open letter rejecting the Prosecutor's allegations, hinted that his death was not a suicide and was an attack against the Government. The ICJ and other human rights organizations have called for a "thorough, prompt and impartial" investigation into the Prosecutor's death.

[President Letter](#)

[ICJ Statement](#)

[Press Article](#)

ASIA - PACIFIC

China: Human Rights Watch considers draft anti-terrorism law not in line with human rights law

On 20 January, Human Rights Watch issued a legal brief outlining the lack of compliance with international human rights law of a recently presented draft anti-terrorism law. Reportedly, the new draft legislation contains an over-broad definition of terrorism including 'thought, speech, or behavior' that attempt to 'influence national policy-making,' 'subvert state power,' or 'split the state', and which conflates the concept of terrorism with that of extremism, gives power to an administrative body to designate organizations as "terrorist", with consequences for the offence of membership of a terrorist organization, and does not allow for a judicial remedy against wrongful designations. It will oblige communications providers to give full access to the Government to clients' data, expand surveillance powers, allow for extraterritorial counter-terrorism operations, and target NGOs. Human Rights Watch concludes that the draft law, as it currently stands, "would legitimate ongoing human rights violations and facilitate future abuses, especially in an environment lacking basic legal protections for criminal suspects and a history of gross human rights abuses committed in the name of counterterrorism."

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

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

Pakistan: Death penalty and military courts resume in countering terrorism

On 17 December, after a Pakistan Tehreek-e-Taliban attack on a school in Peshawar killed 146 people, mostly children, Prime Minister Nawaz Sharif announced the resumption of executions for terrorism-related offences, ending a six year moratorium. The decision was criticized by the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, several UN Special Procedures, and human rights organizations, including the ICJ. On 6 January, the Pakistani Parliament unanimously voted to amend the 1973 Constitution and the Army Act 1952 to allow military tribunals to try civilians accused of belonging to "a terrorist group or organization using the name of religion or a sect" carrying out acts of violence and terrorism, including waging war against the state, attacking military officers or installations, kidnapping for ransom, causing death or injury, possessing firearms designed for terrorist acts, or acting in any way to "over-awe the state" or the general public. The ICJ denounced the law as incompatible with Pakistan's obligations to guarantee a fair trial to all persons under article 14 of the International Covenant on Civil and Political Rights.

[UN Statement 1](#)

[UN Statement 2](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

Nepal: Human Rights Committee finds Nepal responsible for two enforced disappearances

On 25 and 26 November, the UN Human Rights Committee found, in two separate cases, that Nepal was responsible for the enforced disappearances of Jit Man Basnet, a journalist, and Tej Bahadur Bhandari, a retired teacher, on 4 February 2004 and 31 December 2001 respectively. Jit Man Basnet was released in October 2004 while Tej Bahadur Bhandari died in custody. The Committee found that the State had violated the right to life of Mr Bhandari, and, for both, their rights to be free from torture and cruel, inhuman or degrading treatment or punishment, from arbitrary detention, to be treated humanely while in detention, to be recognized as persons before the law and to an effective remedy. The Committee found that their 'disappearance' caused anguish and stress to their family members in violation of their right not to be subject to cruel, inhuman or degrading treatment. The Committee noted that these gross violations took place while the Terrorist and Disruptive Activities Ordinance was in force, which "allowed State agents... to arrest individuals on the basis of mere suspicion of involvement in terrorist activities, and various constitutionally granted human rights and freedoms were suspended."

[Decision 1](#)

[Decision 2](#)

Malaysia: Bar Council concerned over proposed anti-terrorism law

On 15 December, President of the Bar Council, Christopher Leong, expressed concern over recent announcements by the Government of an upcoming anti-terrorism draft law. On 26 November, the House of Representatives approved a white paper entitled "Towards Overcoming the Threat of Islamic State", proposed by Prime Minister Datuk Seri Najib Tun Razak, committing the Government to table a new anti-terrorism law before the House at its next session and to reinforce law enforcement powers under the Security Offences (Special Measures) Act (SOSMA), the Prevention of Crime Act and the Penal Code. The President of the Bar Association stated that "[w]hile the bill for the proposed anti-terrorism law and the amendments to the existing laws have yet to be revealed, it is of concern that the contemplated new law and the amendments may expand the discretionary power of the authorities and permit detention without trial." He compared these rumors to a reintroduction in practice of the Internal Security Act. On 9 January, human rights lawyer and co-founder of Lawyers for Liberty, Eric Paulsen, was arrested under the archaic 1948 Sedition Act for the publishing of a tweet accusing extremist actions by the Malaysian Islamic Development Department.

[ICJ Statement](#)

[Press Article 1](#)

[Press Article 2](#)

New Zealand: Parliament approves new anti-terrorism law on "foreign fighters"

On 9 December, Parliament approved the second reading of the Countering Terrorist Fighters Legislation Bill, aimed at the adoption of new provisional counter-terrorism measures lasting until 1 April 2018. The Prime Minister has announced that a comprehensive review of the country's intelligence and security legislation will be undertaken during the life of the new legislation. The Bill, if enacted, will increase the duration of a passport cancellation from one to three years, allow the intelligence agency NZSIS to "carry out video surveillance on private properties for the purpose of observing activities of security concern" and to conduct emergency surveillance for up to 24 hours prior to the issue of a warrant.

[Law](#)

[Press Article](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: European Court of Human Rights allows use of statements obtained without lawyer in terrorism trial

On 16 December, the European Court of Human Rights held that the trial of Muktar Said Ibrahim, Ramzi Mohammed and Yassin Omar and Ismail Abdurahman for the attempted bombing of the London underground on 21 July 2005 was in compliance with the right to a fair trial under article 6 of the European Convention on Human Rights (ECHR). The Court accepted that reliance at trial on statements made by the first three applicants during their security interviews, without the presence of a lawyer and in the wake of their arrests, did not compromise the fairness of the trial because, among other things, their defence strategy relied on the statements and that the guilt of the accused was established sufficiently through other evidence. With regard to the fourth defendant, whose statement was taken when he had been questioned as witness without the presence of his lawyer, the Court held that its use at trial did not violate his rights under article 6 ECHR because of the "adoption of his statement after having received legal advice, the counterbalancing safeguards contained in the legislative framework and available at trial with a view to ensuring the fairness of the proceedings, including the trial judge's ruling on admissibility, and the strength of the other prosecution evidence" against him.

Judgment

UK: High Court allows extradition of terrorist suspects to the USA

On 12 December, the High Court of Justice ruled that there was no obstacle to the extradition of Minh Quang Pham, a UK resident, to the USA to answer the charges of providing, conspiracy to and attempt to provide material support for a terrorist organization; conspiracy to receive and receipt military-type training from a foreign terrorist organization; and possessing, carrying and using a firearm. The Court rejected the challenge to the extradition that, since the evidence was obtained by Ahmed Abdulkadir Warsame who had been interrogated both on a US navy boat, where he had detained for two months, and in the US, Pham's trial would thereby be based on torture evidence, in breach of his right to a fair trial under article 6 ECHR. The Court said that there was no evidence whatsoever that Warsame's statements had been obtained under duress or torture and that, in any case, US courts would ensure that torture statements would be not admitted at trial. It also found that the possible place of detention in the US would not constitute inhuman and degrading treatment, the length of his possible sentence would not be disproportionate to the offence, and that the seriousness of the offences he was accused of outweighed his right to family life.

Judgment

UK: Intelligence Tribunal rules for legality of UK mass surveillance programmes

On 5 December, the Investigatory Powers Tribunal ruled that the Government Communications Headquarters' (GCHQ) current surveillance regime, both under the Prism and Upstream programmes and in its version of metadata collection, "is lawful and human rights compliant." The Tribunal found that "the 'Snowden revelations' in particular have led to the impression voiced in some quarters that the law in some way permits the Intelligence Services *carte blanche* to do what they will. We are satisfied that this is not the case." On 19 January, documents provided by former NSA contractor and whistleblower Edward Snowden revealed that GCHQ had collected emails "from the BBC, Reuters, the Guardian, the New York Times, Le Monde, the Sun, NBC and the Washington Post" and "saved... and shared [them] on the agency's intranet as part of a test exercise by the signals intelligence agency."

Judgment

Press Article 1

Press Article 2

UK: Government refuses to investigate company's complicity in Guantánamo detention system

On 12 January, it was reported by the press that the Government's Department for Business, Innovation and Skills (BIS), after four months of "initial assessment", had refused to take up a claim submitted on 31 August by the human rights organization Reprieve against the UK company G4S. The complaint argued that cleaning and other logistical services contracted by the US for the detention centre at Guantánamo Bay may put the firm in situations of complicity with human rights violations. Reprieve asked for more clarity on the terms of the contract and urged the Government to demand answers. The human rights organization argued that "by providing 'essential' services at

the prison, G4S will be contravening British government policy that the prison must be closed, as well as the OECD's guidelines for responsible business conduct." The Department for Business recommended that the complaint "be resubmitted to the US government."

[Press Article](#)

[NGO Statement](#)

[OECD Guidelines](#)

UK: Gaddafi regime's documents confirm close Libya-UK intelligence cooperation

On 22 January, the newspaper *The Guardian* revealed a series of documents found by Human Rights Watch in September 2011, after Gaddafi's demise, in a Government office in Tripoli, that demonstrate close links between UK secret services MI5 and MI6 and the Libyan intelligence services. Reportedly, the documents show that UK "intelligence agencies engaged in a series of previously unknown joint operations with Colonel Muammar Gaddafi's government and used the information extracted from rendition victims as evidence during partially secret court proceedings in London, according to an analysis of official documents recovered in Tripoli since the Libyan revolution." Four persons were allegedly subjected to control orders based on information sent to Gaddafi that had been obtained from victims of rendition operations. The newspaper revealed that "Libyan intelligence agents were invited to operate on British soil, where they worked alongside MI5 and allegedly intimidated a number of Gaddafi opponents who had been granted asylum in the UK."

[Press Article](#)

UK: Parliament's Human Rights Committee calls for more judicial review in draft anti-terrorism law

On 7 January, the Joint Human Rights Committee of Parliament issued its report on the Counter-Terrorism and Security Bill. In its observations, the Committee accepted that the "the Government has demonstrated the necessity for a power to seize travel documents, including passports, in circumstances not covered by existing powers," but recommended that the whole system of passport withdrawal be subject to judicial review through "warrants of further retention" to be renewed every seven days. It recommended that warrants for further retention of travel documents should be allowed only if the judge is satisfied "that matters are being pursued diligently and expeditiously[,]" that there are reasonable grounds to suspect that the person is intending to leave the country to become involved in terrorist-related activity abroad, and that it is necessary to extend the period of retention to enable steps to be taken towards deciding what should happen next." The Committee expressed its opposition to the Temporary Exclusion Order, which would exclude UK nationals from the territory. It suggested that the "objective of managed return could be achieved by a much simpler system requiring UK nationals who are suspects to provide advance notification of their return to the UK on pain of criminal penalty if they fail to do so."

[Report](#)

France: Government announces new anti-terrorism measures after Paris attacks

On 21 January, the French Government announced a set of measures in reaction to the terrorist attacks of 7 and 8 January in Paris. 10,500 soldiers have been deployed on national territory; the intelligence services will be reinforced with 1,100 additional personnel and the penitentiary administration and minors courts with 950 new personnel. The Government announced that it will introduce in Parliament a new draft intelligence law, and will create a list of persons convicted or under investigation for terrorism-related offences, who will be obliged to periodically communicate their address to the authorities. Finally, it will increase its investigative activities in the Internet to block websites apologizing terrorism, will push for the approval of a EU Passenger Name Record directive, and will increase its efforts in tackling radicalization. On 7 January, Saïd et Chérif Kouachi killed twelve persons in the offices of the magazine *Charlie Hebdo*, and one policeman. On 8 January, Amedy Coulibaly killed a policewoman and four hostages the day after in a Kasher supermarket. The three attackers were killed in hostage-rescue operations on 9 January 2015.

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

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

[NHRI Statement \(F\)](#)

France: Constitutional Council allows stripping of French nationality for convicted terrorists with double nationality

On 23 January, the Constitutional Council ruled that the stripping of French nationality for Ahmed Sahnouni under the Civil Code was not in breach of the French Constitution. According to articles 25 and 25-1 of the Civil Code a person convicted for serious offences, including for terrorist acts, may be stripped of his acquired French nationality, if he or she has another nationality and has committed the acts in questions before having acquired, or within 15 years of acquiring, French nationality, and with a statute of limitation of fifteen years from the commission of the act. The

Council ruled that this provision does not breach the principle of equality before the law and is not disproportionate to the gravity of offence, since it is activated by conviction for terrorist acts. Ahmed Sahouni, a Moroccan-French national, was naturalised in 2003. His French nationality was rescinded on 28 May 2014 by Prime Minister Manuel Valls and the Minister of Interior, Bernard Cazeneuve, after his conviction in March 2013 for the offence of "membership of a terrorist organization."

[Judgment \(F\)](#)

[Council Statement \(F\)](#)

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

Belgium: Government enhances anti-terrorism powers after country-wide police operation

On 16 January, after a police raid that foiled a terrorist attack in Belgium, the Government announced a set of new counter-terrorism measures. These consist of the establishment under the Criminal Code of a new criminal offence of travel abroad for terrorist purposes, of incitement to terrorism, overseas recruitment, training and travel with terrorist purposes, as well as increased grounds to rescind someone's nationality, temporarily seize ID cards, better use of assets freezing legislation, revision of the 2014 "foreign fighters" circular, enhanced exchange of information among administrative and judicial bodies, revision of the plan against radicalization, including in prisons, reform of the intelligence services, use of the army for special surveillance tasks, and strengthening of the surveillance capacity of the State.

[Government Measures \(F – Dutch\)](#)

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

Ireland: Government asks European Court of Human Rights to reopen anti-terrorism case against the UK

On 2 December, the Minister for Foreign Affairs and Trade, Charlie Flanagan TD, announced that Ireland requested the European Court of Human Rights to revise its judgment in the case of *Ireland v. United Kingdom*, known also as the case of the 'Hooded Men'. In this case, the Court held that the "Five techniques" used in interrogation by the UK, i.e hooding, wall-standing, subjection to noise, sleep deprivation, and deprivation of food and drink, amounted to inhuman and degrading treatment but not to torture. The Irish Minister said that the decision to seek a re-opening of the case was taken following a documentary of 4 June 2014 broadcasted by RTÉ which "alleged that the British authorities at the time purposely misled the European Commission on Human Rights and the Court by withholding information in the case. It also alleged that the decision to employ the interrogation techniques had been taken at UK Cabinet level."

[Government Statement](#)

[NGO Statement](#)

Lithuania/Romania/Europe: US Senate Intelligence Committees sparks new call for accountability of European countries

On 20 January, Amnesty International called for a renewed effort in European countries to investigate and prosecute those responsible for complicity in the US-led rendition, interrogation and secret detention programme, after the publication of the US Senate Intelligence Committee's executive summary disclosed further information implicating such complicity. Following release of the report on 14 December, Ioan Talpes, former head of Romania's intelligence services, admitted to the existence of CIA detention centres in his country and reportedly of "a transit camp or compound, where prisoners were kept before being moved to other locations." On 16 January, the human rights organization Reprieve filed new information with the Public Prosecutor showing "how the newly declassified US Senate Report on CIA detention correlates with flight data and contracting documents; and demonstrates that prisoners were moved into Lithuania in February and October 2005, and out of Lithuania to Afghanistan in March 2006."

[NGO Report](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

Turkey: European Court of Human Rights rules that PKK sympathizer was ill-treated

On 16 December, the European Court of Human Rights ruled that Turkish authorities had subjected to ill-treatment Mehmet Fidan, a sympathizer of the Kurdistan's Workers Party (PKK), during his arrest on 14 February 2009 in the context of a demonstration. The Court held that the State had not given a plausible explanation of the wounds Fidan had claimed resulted from having been beaten by the authorities. He received blows to the right ear during his arrest, impairing his hearing. The Court also ruled that no document showed that he behaved in a way that justified such

use of force. Finally, the Court found that no proper investigations had been carried out in response to his claim of having been ill-treated and therefore concluded that Turkey had violated his rights under article 3 of the European Convention on Human Rights under its substantive and procedural limbs.

Judgment (F)

Turkey: Terrorism conviction for participating in religious ceremony violates freedom of religion, rules Strasbourg Court

On 2 December, the European Court of Human Rights ruled that Turkey had violated the freedom of religion of İhsan Güler and Sinan Uğur under article 9 of the European Convention on Human Rights. The two leaders of the *Demokratik Toplum Partisi* (DTP) had been convicted for propaganda promoting a terrorist organization because of their participation in a religious service in the premises of a political party in memory of three members of an illegal organization (the PKK) who had been killed by security forces. The European Court ruled that this amounted to an interference with their right to freedom of religion that was not “provided by law” because it was not sufficiently foreseeable and precise, as it was not possible to link the participation to a religious ceremony to the concept of propaganda promoting terrorism.

Judgment (F)

Turkey: Violations of right to life for lack of investigation in two enforced disappearances and killings ruled by European Court of Human Rights

On 9 December, the European Court of Human Rights held that Turkish authorities had not sufficiently investigated allegations of the ‘disappearance’ and killing of Metin Budak and Bahri Budak. The two, respectively grandson and grandfather, were taken away from their residence on 30 May 1994 by military personnel and were disappeared until their remains were found in May 2005. The European Court ruled that investigations into these events had been uncoordinated and insufficient. In particular, the Court stressed that the prosecutor should have immediately verified if there had been military operations in the zone that day, considering the amount of anti-terrorism military raids conducted in that period in the South-East of Turkey. The Court found that the State had breached its procedural obligations under article 2 of the European Convention on Human Rights, the right to life.

Judgment (F)

Turkey: Prevention of Torture Committee concerned at restrictions to access to lawyer in custody

On 15 January, the European Committee for the Prevention of Torture (CPT) published the report of its visit to Turkey from 9 to 21 June 2013. Among its observations, the CPT expressed concern over the provision in section 10(b) of the Prevention of Terrorism (Law No. 3713) according to which “persons who are suspected of having committed a terrorism-related offence may be denied access to a lawyer during the initial 24 hours of custody (by order of a public prosecutor).” While the CPT recognized that it may be exceptionally justified to limit access to a lawyer chosen by the suspect, “there can be no reasonable justification for the right to contact and meet a lawyer in private - and to benefit from his/her presence during questioning -being totally denied during the period in question.” The CPT further recommended that “the Turkish authorities take steps to ensure that all interviews of detained persons in Anti-Terror Departments are electronically recorded.”

Report

Russian Federation: European Court blocks transfer to Uzbekistan of terrorism suspect

On 11 December, the European Court of Human Rights ruled that Russian authorities could not extradite or otherwise transfer Fozil Akbarovich Nazarov, an Uzbek national, to his country of origin, as he was at risk of being ill-treated there. The Court found that the transfer would therefore be in breach of Russia’s obligations under article 3 of the European Convention on Human Rights. Fozil Nazarov is wanted by Uzbek authorities on charges of “membership of a religious extremist organisation, attempted overthrow of the constitutional order of Uzbekistan, and terrorism.” The European Court found that “the general situation with regard to human rights in Uzbekistan is alarming, that... there is a persistent and serious issue as regards the ill-treatment of detainees -

with the practice of torture against those in police custody being described as “systematic” and “indiscriminate” – and that there is no concrete evidence demonstrating any fundamental improvement in that area.” This risk was found to be particularly high for persons charged with terrorism or religious-related offences.

Judgment

Russian Federation: Human Rights Watch denounces lack of investigation into torture claims of terrorism suspects

On 24 December, Human Rights Watch denounced the failure by Russian authorities to investigate the torture claims of twelve persons convicted on “mass terrorism charges” on 23 December. Human Rights Watch has declared that “[s]olid forensic evidence has shown these 12 men were tortured.” The twelve defendants were among 57 persons tried in Nalchik “for leading an armed uprising on October 13, 2005, in Kabardino-Balkaria, in Russia’s unstable Northern Caucasus region,” resulting “in more than 140 deaths.” The human rights organization reported that their coerced confessions were used as evidence in their trial. The twelve were sentenced to “lengthy prison terms, including Rasul Kudaev, a former Guantanamo detainee, to life in prison, and Batyr Pshybiev to 18 years.”

NGO Statement

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: General Assembly approves resolution on human rights in the digital sphere

On 25 November, the Third Committee of the UN General Assembly adopted a resolution on the right to privacy in the digital age. The resolution reaffirms for a second time that “the same rights that people have offline must also be protected online, including the right to privacy.” In its resolution, the Third Committee expressed deep 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.” It reaffirmed that, when tackling terrorism, States must respect international human rights, refugee and humanitarian law.

Resolution

Report

UN: Human Rights Commissioner addresses issue of “foreign fighters”

On 19 December, the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, published his annual report to the UN Human Rights Council on the protection of human rights and fundamental freedoms while countering terrorism. In his report, this year dedicated to the issue of foreign fighters, the High Commissioner urged States, “as part of their efforts to stem the flow of foreign fighters, to... address the conditions conducive to terrorism and to counter violent extremism...; combat impunity and ensure accountability for all gross violations of international human rights law and of international humanitarian law...; [and] ensure that any measures taken in an effort to stem the flow of foreign fighters and to prevent the commission of criminal acts comply with their obligations under international human rights law.”

Report

EU: Interior Ministers push for quick approval of passenger names record directive

On 11 January, the Ministers of Interior of the EU met in the aftermath of the Charlie Hebdo attack, before a massive demonstration in France in support of the satiric magazine, and decided to push for the quick passage of the EU Passenger Name Record (PNR) Directive. Negotiation of the directive has been blocked by a stalemate between the Council of the EU, composed of the same Ministers and the European Parliament, which seeks insertion of more procedural guarantees to safeguard the right to privacy and data protection as enshrined in the EU Charter of Fundamental Rights. The Directive aims to enhance the gathering, storing and sharing at the EU level and among all Member States of the data of all persons flying within and outside the EU. The EU Commissioner for Home Affairs, Dimitris Avramopoulos, announced that the Commission will redraft the proposed text of directive. On 25 November, the European Parliament had called on the Court of Justice of the EU to decide on the compatibility with the EU founding treaties of a PNR Agreement with Canada.

On 19 January, after a meeting of the Foreign Affairs Council, the High Representative for Foreign Affairs, Federica Mogherini, announced that the EU was going to intensify its intelligence sharing "starting from the Mediterranean and the Arab world, Turkey, Egypt, Gulf countries, North Africa but also looking to Africa and Asia."

[EU Statement 1](#)

[EU Statement 2](#)

[EP Resolution](#)

[Press Article](#)

EU: General Court takes Hamas off EU Terrorism List

On 17 December, the General Court of the EU annulled the insertion of Hamas in the EU Terrorism List because its insertion had not respected the procedure and standard of proof required by Common Position 2001/931, under which the list had been established. In particular, the General Court found that renewal of the organization's listing did not rely on the decision of a competent national authority. The Court held that "the Council relied in reality not on assessments contained in decisions of competent authorities but on information which it obtained from the press and the internet. In that regard, it seems paradoxical that the Council should take issue with the applicant for not having contested at national level factual imputations which the Council itself does not seek to link to any decision of a specific competent authority." The Council of the EU has announced that it will appeal the ruling to the Court of Justice of the EU.

[Judgment](#)

[EC Statement](#)

[Press Article](#)

EU: Council calls for reform of Counter-Terrorism Framework Decision

On 4 December, the Council of the EU on Justice and Home Affairs decided to "to assess the need to update the Framework Decision 2002/475/JHA on combating terrorism, especially in the light of the recent adoption of the United Nations Security Council Resolution 2178(2014)," in what it termed a "judicial response" to the phenomenon of foreign fighters. The Council of the EU stressed the necessity for all Member States to provide information to Europol and to participate in coordination structures. It further approved the guidelines for the EU Strategy for Combating Radicalisation and Recruitment to Terrorism.

[Council Statement](#)

Council of Europe: Prevention of Terrorism Convention to be updated, says Committee of Ministers

On 21 January, the Committee of Ministers of the Council of Europe mandated a Committee on Foreign Terrorist Fighters and Related Issues to prepare a draft Additional Protocol supplementing the Council of Europe Convention on the Prevention of Terrorism. The Committee has been directed to consider the criminalization of the offences of "being recruited, or attempting to be recruited, for terrorism;- receiving training, or attempting to receive training, for terrorism;- travelling, or attempting to travel, to a State other than the State of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training;- providing or collecting funds for such travels;- organising and facilitating (other than "recruitment for terrorism") such travels." The Committee will also assess whether any other act should be included to implement UN Security Council 2178 (2014). The Assembly of the Council of Europe, in its Resolution 2016 (2014), welcomed "wholeheartedly the United Nations Security Council's unanimous adoption, on 24 September 2014, of Resolution 2178 (2014) on threats to international peace and security caused by terrorist acts."

[CM Decision](#)

[Terms of Reference](#)

[PACE Resolution](#)

To subscribe free of charge to this E-Bulletin, please send an email to icjcounter-terrorism@icj.org with your details (name, organization) and "subscribe ICJ E-Bulletin" in the subject line. To unsubscribe from this list send an email to icjcounter-terrorism@icj.org "unsubscribe ICJ E-Bulletin" in the subject line.

Find this E-Bulletin and more information about the ICJ, the rule of law and human rights on our website: www.icj.org. Please send feedback about the E-Bulletin to icjcounter-terrorism@icj.org.