

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

**No. 90, February 2015**

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## AFRICA & MIDDLE EAST

### **Kenya: New anti-terrorism law provisions breach Constitution, rules Court**

On 23 February, the Constitutional Court ruled that sections of the Security Laws Amendment Act 2014 were unconstitutional and therefore void. In particular, the Court ruled that the new criminal offence of 'publishing material likely to cause fear or harm' breached the right to freedom of expression and of the press; that provisions limiting the number of refugees able to stay in Kenya violated the principle of *non-refoulement* under international refugee law and the Constitution; and that new limitations on discovery, admissibility of evidence and notifications were at odds with the rights of the defence, the right to remain silent and constitutional provisions on bail. The Court, however, did not declare unconstitutional provisions of the anti-terrorism law extending administrative detention of terrorism suspects from ninety to 360 days.

[Ruling](#)

[Law](#)

[Press Article](#)

### **Syria: UN High Commissioner for Human Rights calls for release of persons arbitrarily detained**

On 19 February, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, urged the Syrian Government to "release all those who have been held by Government forces and its militias, without due process, in some cases for years on end." The High Commissioner stressed that the number of people "who have been held at some point or other in Government and intelligence detention facilities since the first protests began in Daraa in March 2011 range from tens of thousands to hundreds of thousands." He cited the case of Mazen Darwish, Hani Al-Zaitani and Hussein Ghreer, three members of the Syrian Centre for Media and Freedom of Expression who have been detained for three years under terrorism charges and whose trial has been continuously postponed. The concerns of the High Commissioner were expressed to be "particularly worrying, given reports of widespread and systematic torture and other ill-treatment as well as terrible conditions of detention."

[HCHR Statement](#)

### **Egypt: Mass death sentences confirmed in appeals of "anti-terrorism" trials**

On 2 February, a court confirmed death sentences imposed on 183 persons among 188 convicted on 2 December 2014 for involvement in the killing of eleven policemen in Kerdesa in August 2013. The convicted persons include members of the Muslim Brotherhood and former President Mohammed Morsi. According to press reports, two of the convicts "were acquitted on Monday while one was sentenced to 10 years in prison." Furthermore, "[c]harges against another two defendants were dropped after the court discovered that they were dead." On 11 February, another court ordered the re-trial of 36 persons who had been previously convicted and sentenced to death, together with other 147 persons, in June 2014. According to press reports, no reasons were given for the decision ordering re-trial. The persons to face re-trial are accused of having played a role in widespread violence near Minya in August 2013 following President Morsi's ouster during which a policeman died.

[Press Article 1](#)

[Press Article 2](#)

### **Egypt: President issues decree on terrorism lists**

On 17 February, President Abdel Fattah al-Sisi issued a presidential decree on the listing of terrorists and terrorist entities. Listed entities or persons may face banning, interruption of activities, closure of premises, prohibition of fundraising, asset freezing, prohibition of membership, travel ban, passport confiscation, prohibition from entering Egypt, and/or disqualification from occupying public positions. The decree defines a "terrorist entity" as "associations, organizations groups, gangs, cells or other such gatherings, whatever their

legal or practical form” calling for or engaging “in whatever way inside the country or abroad” in a series of criminal offences, including “harming the environment”, “harming individuals or casting fear among them”, “preventing or obstructing public authorities, agencies or judicial bodies, or government facilities or local units ... from carrying out their work or exercising part or all of their activities or resisting them.” For the purpose of the listing, a terrorist is defined as a person involved in a terrorist entity or a person that commits, threatens, incites, plans or contributes within a common criminal enterprise to a terrorist crime.

**Press Article 1**

**Press Article 2**

### **Bahrain: Human rights defender allegedly tortured by anti-terrorism units**

On the early morning of 17 February, officers of the Criminal Investigations Directorate (CID) arrested, in front of his family, the director of the European-Bahraini Organization for Human Rights (EBOHR), Husan Jawad Parweez, reportedly for alleged “participation in riots and illegal assemblies, as well as possession of Molotov cocktails.” On 22 February, Americans for Democracy and Human Rights in Bahrain (ADHRB), the Bahrain Center for Human Rights (BCHR), and the Bahrain Institute for Rights and Democracy (BIRD) announced to have received confirmed reports that Mr Parweez was tortured while in detention for the purpose of extracting a “confession.” According to the human rights organizations, “interrogators beat Parweez and deprived him of sleep, water, and use of a toilet. Interrogators kept him handcuffed from behind and blindfolded in a small, cold room for the duration of his interrogation. Parweez was subjected to psychological torture as well, with interrogators insulting him, threatening to harm his wife, and forcing him to listen to other detainees being electrocuted. Parweez was also sexually assaulted by a female officer, who took of his clothes and touched his genitals. He was not allowed access to his family or lawyer while at the CID.”

**NGO Statement 1**

**NGO Statement 2**

**NGO Statement 3**

### **Bahrain: 72 people stripped of their citizenship by Ministerial decree**

On 31 January, the Ministry of Interior published the names of 72 persons whose citizenship had been revoked for having committed ‘illegal acts.’ According to the Bahrain Center for Human Rights, these acts include “spying, financing terrorism, participation in terrorist actions ...defaming the image of the regime, inciting against the regime and spreading false news to hinder the rules of the constitution,” “defaming brotherly countries” and “inciting and advocating regime change through illegal means”. The 72 persons include human rights defenders and, according to the human rights organization, the decisions were taken without due process and resulted in some of them becoming stateless as a consequence of the revocation of their citizenship.

**NGO Statement**

## **AMERICAS**

### **USA: Federal court dismisses lawsuit against NSA surveillance programme**

On 10 February, Judge Jeffrey S. White of the US District Court for the Northern District of California dismissed a lawsuit by three US citizens, Carolyn Jewel, Erik Knutzen and Joice Walton, challenging “the interception of their Internet communication as a violation of the Fourth Amendment” on the basis of their constitutional protection against unreasonable searches and seizures. Although the Court found that the plaintiffs “are AT&T customers who send Internet communications” and that they had demonstrated that “should the [NSA] program work as alleged, their communications would be captured in a dragnet Internet collection programme,” the District Court ruled that “the evidence at summary judgment is insufficient to establish that the Upstream collection process operates” as alleged in the lawsuit. The Court held that, after having examined materials in a closed hearing without the presence of the plaintiffs, their description of the programme was

"substantially inaccurate." Moreover, the Court ruled that, even if the evidence brought by the plaintiffs were satisfactory, the lawsuit would have been dismissed on national security grounds as disclosure of classified information "would risk informing adversaries of the specific nature and operational details of the Upstream collection process and the scope of the NSA's participation in the program."

**Judgment**

### **USA: Declassified secret court judgements authorized NSA surveillance programmes**

On 26 January, the US Government declassified two judgments of the Foreign Intelligence Surveillance Court (FISC) from 2007 under a Freedom of Information Act (FOIA) action brought by the *New York Times*. In the first judgment of 31 May 2007, Federal Judge Roger Vinson authorized, even before Congress approval under the Protect America Act 2007, "continued surveillance on a long list of accounts that were already under watch, while signing off on a process that allowed the N.S.A. to systematically begin monitoring new phone numbers and email addresses without waiting for judicial approval." According to press reports, Judge Vinson designed an ex-post facto examination, on the basis of which the National Security Agency (NSA) provided weekly reports of its new targets and the reasons for surveillance, in respect of which the FISC would assess "probable cause". According to the *New York Times*, "Judge Vinson accepted a Justice Department proposition that the target could be Al Qaeda in general, so if the N.S.A. learned of a new Qaeda suspect, it could immediately collect his communications and get after-the-fact approval."

**Rulings**

**Press Article**

### **USA: Senate Committee approves draft law blocking Guantánamo detainees' transfer**

On 12 February, the Senate Armed Services Committee approved, with a 14 to 12 majority vote, draft legislation (the Detaining Terrorists to Protect America Act of 2015), presented by Senator Keppy Ayotte and sponsored by Senator John McCain, Lindsey O-Graham and Richard Burr. The draft legislation aims to reintroduce obstacles to the transfer of Guantánamo detainees from the Cuban island's detention centre. The draft law, if approved, would: prohibit the use of funds to construct or modify any facility in the US mainland territory to hold any Guantánamo detainee; ban the transfer of any detainee to Yemen for the next two years; prohibit the release of "high risk" or "medium risk" detainees; and repeal the rules allowing for the current transfer of "low-risk" detainees. The White House Deputy Secretary, Eric Schultz, announced that, if approved, US President Obama would veto this legislation.

**Draft Law**

**Press Article**

### **USA: Government authorizes selling of drones**

On 17 February, the State Department announced that the US Government approved a new policy allowing it for the first time to sell Unmanned Aerial systems (UAS, also known as drones) to other countries. The State Department declared that, "[a]s other nations begin to employ military UAS more regularly and as the nascent commercial UAS market emerges, the United States has a responsibility to ensure that sales, transfers, and subsequent use of all US-origin UAS are responsible and consistent with US national security and foreign policy interests, including economic security, as well as with US values and international standards." Potential 'client' countries were not revealed but the *Washington Post* has cited among them Italy, Turkey and Persian Gulf countries.

**State Department Statement**

**Press Article**

### **USA/UK: Intelligence agencies cracked SIM cards around the world**

On 19 February, the organisation Intercept revealed, on the basis of documents provided by former US National Security Agency (NSA) employee and whistleblower Edward Snowden, that a joint team formed by NSA agents and officers of the UK Government Communications Headquarters (GCHQ) had “hacked into the internal computer network of the largest manufacturer of SIM cards in the world, stealing encryption keys used to protect the privacy of cellphone communications across the globe.” Agents of the two intelligence agencies had reportedly stolen data from the world’s largest producer of SIM cards, Gemalto, giving them the power to “secretly monitor a large portion of the world’s cellular communications, including both voice and data” without public or the phone companies’ knowledge. Customers of Gemalto include AT&T, T-Mobile and Verizon.

[Documents](#)

[Press Article 1](#)

[Press Article 2](#)

### **USA: NSA accessed computers worldwide, reveals research team**

On 16 February, a Moscow-based security software producer, Kaspersky Lab., announced to have discovered that the US National Security Agency (NSA) has been able to introduce surveillance software in the hard drives of several global computer manufacturers, including Toshiba, Western Digital and Seagate. Through this software, the NSA is said to have been able to access an enormous amount of computers worldwide, including, according to the research, in thirty countries, including the Russian Federation, Pakistan, Afghanistan, China, Mali, Syria, Yemen and Algeria. According to the press, persons surveilled under this software would include “government and military institutions, telecommunication companies, banks, energy companies, nuclear researchers, media, and Islamic activists.” The existence of the surveillance programme was reportedly confirmed by two former NSA or intelligence employees.

[Press Article 1](#)

[Press Article 2](#)

### **USA/Australia: Former Guantánamo detainees cleared by military appeals court**

On 18 February, the US Court of Military Commission Review vacated the conviction of former Guantánamo detainee David Hicks for ‘material support for terrorism’ because the offence was not in force at the time of the contested facts. The Court followed the earlier decision of the Federal Court of Appeals for the District of Columbia that had overturned the conviction by a military commission of Ali Hamza Ahmad Suliman al Bahlul for ‘material support for terrorism,’ on the basis that the conviction in that case applied to acts that had occurred prior to 2006 (when the offence of ‘material support for terrorism’ was enacted into law), and thus constituted retroactive application of criminal law (see story [here](#)). David Hicks pled guilty to the same offence in 2007 under a plea agreement that allowed for 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. Australian Prime Minister Tony Abbott declared that the Australian Government will not issue an apology to David Hicks.

[Ruling](#)

[Press Article 1](#)

[Press Article 2](#)

### **Canada: Government introduces in Parliament new anti-terrorism draft law**

On 30 January, the Government introduced in Parliament the Anti-terrorism Bill 2015. According to reports on the draft legislation, if approved, the legislation would authorize the Canadian Security Intelligence Service (CSIS) to conduct active operations, including being able “to cancel travel arrangements, shut down bank accounts, provide fake versions of dangerous materials to plotters and compel access to buildings in order to plant surveillance devices.” At present, the CSIS only has authority to gather information. The length of pre-trial detention without charge would be extended from three days to one week and could be ordered not only when a person “will commit” an act of terrorism but



also if he or she “may commit” such an act. The draft legislation also looks to introduce a criminal offence of “knowingly advocating or promoting the commission of terrorism offences in general” and would give judges the power to order seizure of terrorist propaganda or order its deletion from the Internet.

[Draft Law](#)

[Press Article](#)

### **Canada: Secret service mass surveillance programme revealed**

On 27 January, CBC News and The Intercept revealed, on the basis of documents provided by former US National Security Agency (NSA) employee and whistleblower Edward Snowden, that Canada’s equivalent intelligence agency, the Communications Security Establishment (CSE), is conducting a surveillance programme of its own, codenamed LEVITATION. Under the LEVITATION programme, the CSE is said to be intercepting Internet cables and “analyzes records of up to 15 million downloads daily from popular websites commonly used to share videos, photographs, music, and other files.” In particular, the CSE programme “can monitor downloads in several countries across Europe, the Middle East, North Africa, and North America.”

[Press Article 1](#)

[Press Article 2](#)

### **Argentina: Terrorism cover-up case against President Kirchner dismissed by judge**

On 26 February, Judge Daniel Rafecas dismissed a case against President Cristina Fernandez de Kirchner for lack of evidence. The case had been brought by Prosecutor Alberto Nisman against President Cristina Fernandez, the Foreign Minister and the General Secretary of La Cámpora for allegedly having planned a cover-up in the investigations over the 1994 bombing of the AMIA Jewish Centre in Buenos Aires, in which 85 persons died. The investigations had implicated persons allegedly linked with Iran. On 18 January, Prosecutor Alberto Nisman was found dead in his bathtub. The case was continued by Prosecutor Gerardo Pollicita. President Cristina Fernandez had previously accused judges that participated in a solidarity manifestation after the death of Prosecutor Nisman of attempting to overthrow the Government. The Association of Judges and Officers of the National Judiciary protested against this intervention from the President against the State’s Third Power.

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

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

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

## **ASIA - PACIFIC**

### **China: New anti-terrorism law debated before legislative body**

On 25 February, the National People’s Congress began examining a new anti-terrorism draft law that had been criticized by Human Rights Watch as being at odds with international human rights law. Presentation of the draft law before the legislative body revealed that the definition of terrorism has been modified. While previously it had referred to “thought, speech, or behavior” that attempts to “influence national policy-making,” the new definition considers as “terrorism” “any speech or activity that, by means of violence, sabotage or threat, generates social panic, undermines public security, and menaces government organs and international organizations.” According to press reports, the new law will also introduce “strict approval procedures [for security agencies] to gain access to personal information via telecom and internet technology for use in counterterrorism operations.”

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

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

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

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

### **Pakistan: Army Chief reports of massive arrests in state of emergency areas**

On 7 February, the Chief of the Army Staff, General Raheel Sharif, reported to the Prime Minister Mawaz Sharif the results of the first months of “implementation of National Action Plan to combat terrorism and extremism,” under the emergency laws enacted recently in

certain parts of Pakistan for alleged anti-terrorism reasons. General Sharif reported that in more than 10,000 operations across the country, security agencies arrested “1,934 from the Punjab, 1,533 from Sindh, 6,038 from KP, 460 from Balochistan, 505 from Islamabad Capital Territory (ICT), seven from Azad Jammu and Kashmir (AJK), 10 from GB and 129 from Fata.” In 540 cases the persons were arrested for “spreading hate speech and material.” The report states that “data, around 3,416 Afghan refugees –844 from KP, 195 from Balochistan, one from Islamabad and 376 from Fata – were deported.”

Press Article

### **Thailand: Human Rights Watch urges legislators not to subject detention to military court’s oversight**

On 13 February, Human Rights Watch called on the National Legislative Assembly, a legislative body appointed by the military junta, not to approve a draft amendment to the 1955 Statute of the Military Court Act that would remove civilian courts’ authority to oversee the use of detention without charge. The proposed legislation would allow local military commanders to “detain civilians for up to 84 days without charge or judicial oversight.” According to the human rights organization, “[i]ntervention by judges under the procedural code has been the sole safeguard against prolonged arbitrary detention since the military coup on May 22, 2014.”

NGO Statement

### **Maldives: Former President arrested under anti-terrorism law**

On 22 February, law enforcement officers arrested former President and current opposition leader Mohamed Nasheed and charged him of unspecified criminal offences under the country’s anti-terrorism law. Former President Nasheed is accused of having ordered the arrest of Criminal Court Chief Judge Abdulla Mohamed when he was President. This had caused him to step down as President and is said to have lost him re-election. Reportedly, Maldives Government Minister Mohamed Shareef stated that “anti-terrorism laws cover not only acts or planned acts of violence, but a wide range of “acts against the state” and that former President Nasheed was arrested “because the court felt he may not honor a summons to stand trial.” On 23 February, Judge Abdulla Didi refused to grant bail and gave former President Nasheed three days to appoint a lawyer.

Press Article 1

Press Article 2

Press Article 3

## **EUROPE & COMMONWEALTH OF INDEPENDENT STATES**

### **UK: Anti-terrorism law receives royal assent**

On 12 February, the Counter-Terrorism and Security Act received royal assent. The new legislation grants new powers to the police and border control officers to seize passports for up to thirty days, with a requirement that a magistrate affirm such action within two weeks. It introduces renewable Temporary Exclusion Orders, according to which persons in respect of whom there is ‘reasonable suspicion of involvement in terrorist-related activity abroad’, including UK citizens, can be banned from entering the UK for two years and be able to return only “under controlled circumstances,” including rehabilitation programmes, control orders or prosecution. Terrorism Prevention and Investigations Orders include the power to relocate a suspect, but the threshold for their activation is now reduced from “reasonable suspicion” to “reasonable belief” of terrorist activity.

Law



### **UK: Surveillance tribunal rules that surveillance programme was in breach of privacy rights**

On 6 February, the Investigatory Powers Tribunal ruled that, “prior to the disclosures made and referred to in the Tribunal’s Judgment of 5 December 2014, the regime governing the soliciting, receiving, storing and transmitting by UK authorities of private communications of individuals located in the UK, which have been obtained by US authorities pursuant to Prism and/or (on the Claimants’ case) Upstream, contravened Articles 8 or 10 ECHR”. The Tribunal nevertheless ruled that currently, upon modification of the rules on disclosure, the system complied with the European Convention on Human Rights (ECHR). On 5 December, the 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.”

[Ruling](#)

[Press Article](#)

### **UK: Government admits to have put lawyer-client communication under surveillance**

On 18 February, in the context of litigation initiated by two alleged victims of the US-led rendition programme, the UK Government conceded that “since January 2010 the policies and procedures for the interception/obtaining, analysis, use, disclosure and destruction of legally privileged material have not been in accordance with human rights legislation specifically Article 8(2) of the ECHR. It is the intention of the Security Service and GCHQ to work with the Interception Commissioner ... to review their policies and procedures ...” The challenge concerned the surveillance by the secret services of communications between lawyers and their clients, Abdul-hakim Belhaj and Farima Boudchar, who had allegedly been victims of rendition led by the US to Libya with the complicity of MI6. On 19 January, press reports revealed that “[e]mails from the BBC, Reuters, the Guardian, the New York Times, Le Monde, the Sun, NBC and the Washington Post were saved by GCHQ and shared on the agency’s intranet as part of a test exercise by the signals intelligence agency.”

[Communications](#)

[NGO Statement](#)

[Press Article](#)

### **UK: European Court of Human Rights upholds terrorism extradition to the USA**

On 29 January, the European Court of Human Rights ruled that Haroon Aswat’s extradition to the USA on 21 October 2014 was in compliance with the principle of *non-refoulement* under the European Convention on Human Rights. Haroon Answat is sought for trial on charges of conspiracy to establish a *jihad* training camp in Bly, Oregon. The European Court had previously held in April 2013 that the mental illness of Haroon Answat was so severe that “there is a real risk that the applicant’s extradition to a different country and to a different, and potentially more hostile, prison environment would result in a significant deterioration in his mental and physical health and that such a deterioration would be capable of reaching the Article 3 threshold”. The US subsequently provided assurances that directly addressed the concerns of the Court in its previous judgment and the European Court’s new ruling found that UK “authorities have clearly and judiciously considered the severity of the applicant’s mental health problems in addition to the availability of relevant and sufficient accommodation and treatment starting from the pre-trial period and continuing to the post-conviction period.”

[Ruling](#)

[Press Article](#)

### **Italy: Government issues emergency law decree on foreign fighters**

On 10 February, the Government enacted the emergency Law Decree “Urgent measures to fight terrorism, also international, and to extend international missions of the army and of the police, and initiatives of development cooperation.” The decree, which is already in force but requires ratification by Parliament within sixty days to maintain its legal force, introduces the criminal offence of organizing, financing and advertising travel for the purpose of committing terrorist acts, the extension of the crime of terrorism also for persons recruited for terrorism but not into a terrorist organization, and the punishment of persons who ‘self-train’ in terrorist techniques. The law extends the use of control orders to ‘potential’ foreign fighters, including through passport seizures of terrorism suspects, and it increases maximum sentences for the offences of apology and incitement to terrorism.

**Law Decree (Italian)**

**Government Statement (Italian)**

**Press Article (E)**

### **Spain: UN Special Rapporteurs urge Congress to drop new anti-terrorism law**

On 23 February, Maina Kiai, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association; David Kaye, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Ben Emmerson, the UN Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism; François Crépeau, the UN Special Rapporteur on the human rights of migrants; and Michel Forst, the UN Special Rapporteur on the situation of human rights defenders, called on the Spanish Congress to refrain from enacting a series of proposed amendments to the Criminal Code and the Basic Law on the Protection of Public Security that would have a “chilling effect on the exercise of freedom of peaceful assembly” and other human rights. The concern arose after Congress fast-tracked the proposed legislative amendments. The UN experts stressed that the proposed reform “includes broad or ambiguous definitions that pave the way for a disproportionate or discretionary enforcement of the law by authorities.” The UN Special Rapporteurs further noted that “the definition of terrorist offenses and provisions relating to the criminalization of acts of ‘incitement and glorification’ or ‘justification’ of terrorism’ contained in the reform project of the Penal Code regarding the crimes of terrorism, are too broad and vague.”

**SRs Statement**

### **The Netherlands: Data protection authority urges Government to drop draft surveillance law**

On 16 February, the Dutch Data Protection Authority (DPA) issued a public opinion recommending the Government not to present to Parliament a draft law modifying the Dutch Telecommunications Data Retention Act of 2009. The amendments were proposed after the Court of Justice of the European Union (CJEU) had annulled the EU Data Retention Directive. The DPA found that “the need to retain all telephony and internet data in the Netherlands is insufficiently substantiated” and that the Government draft law does not respect the principles of necessity, proportionality and subsidiarity. On 8 April 2014, the CJEU ruled that European Union Directive 2006/24/EC on Data Retention was invalid, as it was contrary to EU obligations under articles 7, 8, and 11 of the EU Charter of Fundamental Rights relating to the rights to privacy, protection of personal data and freedom of expression.

**DPA Opinion (Dutch)**

**DPA Statement (E)**

**CJEU Judgment (E)**

### **Denmark: Government announces anti-terrorism measures after gunman shootout**

On 19 February, after an attack by a lone gunman on Saturday 14 February, the Danish Government unveiled a series of proposed legislative counter-terrorism measures. According to the press, the Executive announced the use of 415 million crowns for “collection of information on terrorist threats from abroad.” Further resources, around 350

million crowns, were to be dedicated to emergency response, “as well as security monitoring systems and an overall improvement in information technology.” The plan includes better protection of politicians and “gathering “relevant information” about airline passengers and possibly registering pre-paid mobile phone cards.” On 14 February, a solitary gunman shot a gathering of people at Krudttoenden café who were attending a “Charlie Hebdo” debate event and another person in front of a synagogue in Copenhagen. The attacker wounded five police officers before being killed in an exchange of gunfire.

[Press Article 1](#)

[Press Article 2](#)

### **Poland: European Court confirms Poland complicity in US-led rendition programme**

On 16 February, the Grand Chamber of the European Court of Human Rights refused to hear the referral by Poland of the cases of Abd al-Rahim al-Nashiri and Zayn Al-Abidin Muhammad Husayn, also known as Abu Zubaydah, making the Court’s judgments in those cases final. On 24 July, the European Court had ruled that Poland had been complicit in their enforced disappearance, torture and other human rights violations. The individuals were found to have been held incommunicado between 2002 to 2006 by the CIA in various secret detention centres, including Stare Kiejkuty military base in Poland, and are currently detained at Guantánamo Bay. The Court held that, as a result of its acquiescence and connivance in these actions, Poland had violated its obligations under the European Convention on Human Rights. In addition, the Court had found that Poland had failed to protect Al-Nashiri and Abu Zubaydah against these human rights violations and the foreseeable real risk of other egregious human rights violations following their transfer abroad. The Court had also found that Polish authorities had not investigated the cases effectively, and had failed in their obligation to disclose the truth about what had happened. The ICJ and Amnesty International, who intervened jointly in the case, welcomed the judgment as an advance in the fight against impunity. On 18 February, the Polish Government announced that Poland will abide by the ruling.

[Press Article](#)

[Judgment 1](#)

[Judgment 2](#)

[NGOs Statement](#)

### **Turkey: European Court rules Turkey breached freedom of expression for sanctioning of newspaper under anti-terrorism law**

On 3 February, the European Court of Human Rights ruled that Turkey had violated the right to freedom of expression of Ali Gürbüz and Hasan Bayar, the owner and editor of the daily newspaper *Ülkede Özgür Gündem*. The two had been convicted under the Prevention of Terrorism Act for “publishing a statement of an illegal armed organization” by publishing statements of Zübeyir Aydar, chair of a branch of the Kurdistan Workers Party (PKK). The Court ruled that the sanction imposed constituted an unnecessary and disproportional limitation of the freedom of expression in breach of article 10 of the European Convention on Human Rights (ECHR). It further ruled that their right to access justice under article 6(1) of the ECHR was breached as Mr Gürbüz and Mr Bayar were impeded from appealing against their convictions on points of law.

[Judgment \(F\)](#)

## **UNITED NATIONS & REGIONAL ORGANIZATIONS**

### **UN: Security Council issues new resolution on foreign fighters**

On 12 February, the UN Security Council adopted resolution 2199 (2015) on tackling the phenomenon of ‘foreign terrorist fighters.’ With the aim of clarifying certain provisions of its earlier resolution 2178 (2014), the resolution clarifies that “any engagement in direct or indirect trade, in particular of oil and oil products, and modular refineries and related material, with ISIL, ANF and any other individuals, groups, undertakings and entities designated as associated with Al-Qaida” constitutes “support for such individuals, groups, undertakings and entities.” It further held that the obligation not to make assets or

economic resources, directly or indirectly available “applies to the direct and indirect trade in oil and refined oil products, modular refineries and related material.” The resolution was unanimously adopted under Chapter VII of the UN Charter.

Resolution

### **EU: European Council directs EU institution to take measures to counter terrorism**

On 12 February, the European Council held an informal meeting dedicated to countering terrorism after the events that had occurred in Paris and Brussels. The heads of State and government of the 28 Member States urged the European Parliament and the Council of the EU to “urgently adopt a strong and effective European Passenger Name Records directive with solid data protection safeguards.” It called on the European Commission to issue operational guidelines to “proceed without delay to systematic and coordinated checks on individuals enjoying the right of free movement against databases relevant to the fight against terrorism based on common risk indicators.” While urging competent authorities to “increase cooperation in the fight against illicit trafficking of firearms,” the European Council called for measures to be taken “in accordance with national constitutions, to detect and remove internet content promoting terrorism or extremism” and to engage in projects on security issues and counter-terrorism “particularly in the Middle East and North Africa and in the Sahel, but also in the Western Balkans.”

EU Statement

EU Paper

### **EU: EU foreign ministers outline anti-terrorism plan**

On 9 February, the Foreign Affairs Council adopted conclusions on counter-terrorism. In its conclusions, the Council called on Member States to ensure the swift implementation of Security Council resolutions 2170 and 2178 on foreign fighters “with full respect for human rights and the Rule of Law.” The 28 Ministers of Foreign Affairs stressed the need to “put more emphasis on the prevention of terrorism, in particular countering radicalisation, on recruitment, equipment and financing of terrorism.” They announced that the EU will respond positively to a request for counter-terrorism assistance by Iraq, without specifying the content of that request, and stated that projects “will be launched shortly to assist countries in the MENA region to implement UNSCR 2178 on foreign terrorist fighters, to prevent radicalization in Jordan and the Maghreb.”

Conclusions

### **EU: European Parliament outlines priorities in countering terrorism**

On 11 February, the European Parliament adopted a resolution on anti-terrorism measures. In this resolution, the Parliament stressed that, “while prosecution can be pursued in some cases, other measures should be applied to prevent radicalisation leading to violent extremism, to disrupt the travel of European and other foreign fighters and to deal with returnees.” The legislators committed themselves to “to work towards the finalisation of an EU PNR Directive by the end of the year; therefore urges the Commission to set out the consequences of the ECJ judgment on the Data Retention Directive” and the Council to reach an agreement on new legislation on data protection. The European Parliament also called on the European Commission “to immediately and thereafter regularly evaluate the current instruments and undertake a corresponding assessment of the remaining gaps in the fight against terrorism, where the European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.”

Resolution

EP Statement

## **EU: European Parliament reopens inquiry in EU Member States' complicity in renditions**

On 11 February, the European Parliament adopted a resolution, approved by 363 votes to 290, with 48 abstentions, on the US-led rendition programme, after the publication by the US Senate Intelligence Committee of the redacted executive summary of its investigation report. The European Parliament noted that this US report "reveals new facts that reinforce allegations that a number of EU member states, their authorities and officials and agents of their security and intelligence services were complicit in the CIA's secret detention and extraordinary rendition programme, sometimes through corrupt means based on substantial amounts of money provided by the CIA in exchange for their cooperation." The Parliament instructed the Committees on Civil Liberties (LIBE), and on Foreign Affairs and Human Rights "to resume their investigations into the alleged transportation and illegal detention of prisoners in EU countries by the CIA and to report to plenary within a year." Reportedly, the inquiry will include sending a parliamentary fact-finding mission to the relevant EU Member States.

[Resolution](#)

[EP Statement](#)

## **Council of Europe: Parliamentary Committee denounces mass surveillance programmes**

On 26 January, the Legal Committee of the Parliamentary Assembly of the Council of Europe approved a report and adopted a resolution stating that the mass surveillance programmes unveiled by former US National Security Agency (NSA) employee and whistleblower Edward Snowden "endanger fundamental human rights." The Committee noted that "[m]ass surveillance does not appear to have contributed to the prevention of terrorist attacks, contrary to earlier assertions made by senior intelligence officials. Instead, resources that might prevent attacks are diverted to mass surveillance, leaving potentially dangerous persons free to act." It urged that personal data gathering without consent be gathered only following "a court order granted on the basis of reasonable suspicion." It also called for measures to provide protection for whistleblowers, better judicial and parliamentary oversight of intelligence services and the establishment of an "inquiry into member states' use of mass surveillance using powers under the European Convention on Human Rights."

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