



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

No. 18, July 2007

**Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights
held hearings on the Middle East and Europe**

In June, the Panel held a sub-regional hearing in Cairo to inquire into anti-terrorism laws and measures in Egypt, Jordan, Syria and Yemen. The hearing was hosted by the Arab Center for the Independence of the Judiciary and Legal Profession (ACIJLP), an affiliate of the ICJ.

Middle East Hearing

In July, the Panel held a public hearing in Brussels to examine the development of counter-terrorism laws and policies by the European Union, the Council of Europe and various European States. The hearing was organised with the co-operation of the European Policy Centre and hosted by Freshfields Bruckhaus Deringer.

EU Hearing

Next hearings

To conclude its 18 months global inquiry, the Panel will travel to Israel and the Occupied Palestinian Territory in the week of 20 August.

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IN BRIEF

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AFRICA & MIDDLE EAST

Egypt: Muslim Brotherhood trial before military court adjourned again

On 3 June, international and national trial observers were banned from observing the first session of the military trial of 33 leading members of the Muslim Brotherhood. The defendants were not formally charged, but received a list of offences relating to financing of terrorist activities for which they are allegedly responsible. A second hearing was held on 13 July, when the trial was again suspended until 5 August.

[AI & HRW Press Release](#)

[AI Statement](#)

Israel/OPT: UN expert on counter-terrorism and human rights visits Israel and OPT

UN Human Rights Council Special Rapporteur Martin Scheinin visited Israel and the Occupied Palestinian Territory in early July. In his preliminary findings, he raises a number of concerns about Israeli policies and practices, including the construction of the wall in the West Bank, the policy of targeted killings and the use of the doctrine of “necessity defence” in “ticking bomb” scenarios.

[Preliminary Report](#)

AMERICAS

United States: New Executive Order on detention and interrogation issued

On 20 July, President Bush signed an Executive Order on the application of common article 3 of the Geneva Conventions to a detention and interrogation programme operated by the CIA. Several NGOs criticized the order for affirming that the programme complies with US obligations under article 3, when the order fails to prohibit secret detention.

[Executive Order](#)

[HRW Press Release](#)

[HRF Statement](#)

United States: Supreme Court decides to review detainees’ rights to challenge their detention

Reconsidering its 2 April 2007 decision, the US Supreme Court decided on 29 June to review the cases of two groups of Guantánamo Bay detainees later in the year. Following this ruling, lower courts have refused to dismiss other *habeas corpus* cases, pending the Supreme Court decision.

[Supreme Court Decision](#)

[Background](#)

[Lower Courts Decisions](#)

United States: Court requests access to classified information on Guantánamo Bay detainees

On 20 July, the DC Circuit Court ruled that the Government should allow the Court and defence lawyers to access all information available on Guantánamo Bay detainees, recognizing that lawyers have a “right to know”, except when the information is “highly sensitive”. The Court will issue a new “protective order” to ease lawyers’ access to their clients and prospective clients in the Guantánamo Bay detention center.

[Background](#)

[Decision](#)

United States: Court rules that “enemy combatant” Ali Al-Marri must be charged

On 11 June, the DC Circuit Court ruled that neither the Constitution nor US legislation could authorize military detention of US resident Ali Al-Marri as an “enemy combatant”. The Court ruled that the Military Commissions Act did not strip US residents of their constitutional right to challenge their detention.

[Decision](#)

[HRF Press Release](#)

[Press Article](#)

United States: Military commissions dismiss charges against Salim Hamdan and Omar Khadr

On 4 June, two military judges rejected cases against Salim Hamdan and Omar Khadr on the ground that military commissions did not have jurisdiction over O. Khadr and S. Hamdan, as they had been classified as “enemy combatants” and not “unlawful enemy combatants”. On 4 July, the Pentagon prosecutors filed an appeal in the case of Omar Khadr to the new Court of Military Commissions Review, claiming that the designation of “enemy combatant” is sufficient to establish jurisdiction, and that in any case a military judge can determine the status of “unlawful enemy combatant”.

[Decision on O. Khadr](#)

[Decision on S. Hamdan](#)

[HRW Press Release](#)

[AI Report](#)

[HRF Trial Observation](#)

[Appeal documents](#)

Argentina: New law criminalizes financing of terrorism

On 13 June, the Argentinean Congress adopted a new bill to criminalize financing of terrorism. The bill was strongly criticised by NGOs for containing a very vague definition of the offence of “illicit terrorist association”. The *Centro de Estudios Legales y Sociales* (CELS), the ICJ Argentinean affiliate, submitted a memorandum to Congress expressing concern that the new offence is incompatible with the criminal law principle of legality.

[Law](#)

[CELS Commentary](#)

[Press Article](#)

ASIA-PACIFIC

Thailand: Interim Government proposes new Internal Security Act

In mid-June, the Interim Government proposed a new Internal Security Act, which would give broad law enforcement and administrative powers to the Royal Army Commander, as the Director of a revived Internal Security Operations Command. These exceptional powers would be permanent and cover all of Thailand, amounting to permanent state of emergency powers with little accountability to Parliament and the courts. On 13 July, the ICJ made a submission to the Interim Government expressing concerns about the bill.

[ISA Unofficial Translation](#)

[ICJ Press Release](#)

[ICJ Submission](#)

Philippines: New anti-terror legislation comes into force

The Human Security Act adopted last March, containing a new definition of terrorism offences and activities, entered into force on 15 July. The former Vice-President and several NGOs filed petitions to the Supreme Court alleging its unconstitutionality.

[Human Security Act](#)

[Petition 1](#)

[Petition 2](#)

Indonesia: Police arrests leaders of Jemaah Islamiyah network

In June, the police arrested military commander Abu Dujana and overall leader Zarkasih of Jemaah Islamiyah, a network allegedly responsible for several bombings in Bali and Jakarta since 2000. Both have been charged with terrorism and their trial will be held later this year.

[Press Article](#)

[ICG Article](#)

Sri Lanka: New emergency regulation creates high security zone

On 30 May, the President promulgated a new emergency regulation to create a "High Security Zone" in the Northern district of Trincomalee. Under the new regulation, no person is permitted to enter the zone without written authority. On 18 July, the Supreme Court rejected a fundamental rights petition by the Centre for Policy Alternatives, a Sri Lankan NGO, challenging the creation of

the zone on grounds of discrimination and freedom of movement.

Emergency Regulation

Press Article

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: New counter-terrorism measures debated

On 25 July, the UK Home Office published a discussion paper on measures that could be included in a future counter-terrorism bill. These would include, among others, the extension of the length of pre-charge detention, continued questioning of suspects after being charged, and new powers to use and store DNA material for counter-terrorism purposes. The Government has also commissioned a review on the admissibility of intercept evidence in court. On 30 July a report by the Parliamentary Joint Committee on Human Rights (JCHR) concluded that it is unnecessary to extend pre-charge detention beyond 28 days.

Background

JCHR Report

JUSTICE Submission

UK: New report on intelligence agencies' involvement in renditions

On 25 July, the Intelligence and Security Committee published a report on allegations of UK intelligence and security agencies' involvement in renditions. The report notes that the intelligence agencies were slow to perceive the emerging pattern of renditions to detention in 2002, and criticises the UK authorities' failure to take sufficient care in sharing intelligence on Bisher Al-Rawi and Jamil el-Banna, subsequently rendered to Guantánamo Bay detention centre.

Report

UK: Compatibility of control orders with human rights challenged before the House of Lords

On 5 July, the House of Lords started to hear an appeal against the control order scheme under the Prevention of Terrorism Act 2005. The Law Lords will examine whether the use of secret evidence in control orders proceedings breaches the right of suspects to a fair trial and whether the imposition of various restrictions on suspects breaches their right to liberty. ICJ British Section JUSTICE has intervened in the case.

Press Article

JUSTICE Press Release

JUSTICE Submission

UK: Lord Carlile presents reports to Parliament

On 7 June, Lord Carlile, Independent Reviewer of counter-terrorism legislation, presented his 2006 annual report and his report on the definition of terrorism to the House of Commons. In March, ICJ British Section JUSTICE had made a submission to Lord Carlile expressing concern at the breadth of the definition.

2006 Annual Report

Govt Response to 2006 Annual Report

Report on Definition

Govt Response to Definition

JUSTICE Submission

France: International NGO publishes report on counter-terrorism policies

In June, Human Rights Watch published a report on the French policy of expulsions of foreigners suspected of terrorism. In the report, the organisation questions the fairness and transparency of the procedure, particularly when decided on the basis of secret intelligence. It also documents cases of expulsions in violation of the principle of *non-refoulement*. In May, the UN Committee against Torture found France in breach of the Convention against Torture in the case of a terrorism suspect deported to Tunisia despite the risk of torture.

HRW Press Release

HRW Report

CAT Decision

Italy: Trial of CIA agents accused of abduction of Abu Omar suspended

The trial of 25 CIA agents, accused of abducting Egyptian Imam, Abu Omar, in Milan in 2003, began on 8 June. The trial was suspended on 18 June, pending a decision from the Constitutional Court on whether prosecutors had the right to use secret service wiretaps and classified documents to build their case against the defendants. The trial is scheduled to resume on 24 October 2007.

[Press Article](#)

[Press Article](#)

Italy: European Court of Human Rights hears case on deportation to risk of torture

On 11 July, the Grand Chamber of the European Court of Human Rights held a hearing in the case of Nassim Saadi, a Tunisian national convicted of terrorism offences in Italy in 2005 who risks deportation to Tunisia, where he claims that he will be subjected to torture or ill-treatment. Italy has sought diplomatic assurances against torture from Tunisia.

[Statement of Facts](#)

[ECHR Press Release](#)

[Joint NGOs Press Release](#)

Spain: Trial of 11 March attacks concludes

The trial of 28 suspects charged in connection with the 11 March attacks with murder, belonging to or collaborating with a terrorist organisation and handling explosives concluded in July in Madrid. On 2 July, the prosecutors requested life sentences, although Spanish law allows for a maximum of 40 years of detention for terrorism. The verdict will be pronounced in October.

[Press Article](#)

[Press Article](#)

Switzerland: First convictions for terrorism propaganda on the Internet

On 21 June, the Swiss Federal Criminal Tribunal convicted Moez Garsallaoui and Malika El-Aroud, two Tunisian nationals, for running websites that supported terrorism. The defendants had argued that freedom of expression allowed them to show violence on their website. The decision will be made public in August.

[Press Article](#)

Russian Federation: Extremism law amendments approved by President

On 24 July, President Putin signed into law amendments to the existing extremism legislation. Members of the Duma and NGOs have criticized the extension of the definition of extremism to include “public justification of terrorism” and crime motivated by “hatred or hostility toward a certain social group”, which risks to silence political opposition ahead of the presidential election.

[Amendments \(in Russian\)](#)

[Article 19 Press Release](#)

[Press Article](#)

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: Convention against nuclear terrorism enters into force

The Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly in April 2005, entered into force on 7 July. It creates new crimes of possessing and/or using nuclear and/or radioactive material. It also provides for the coordination of investigations, the treatment of nuclear substances seized from terrorists, the creation of a multilateral extradition system, and reaffirms the application of international human rights law to persons charged with these new offences.

[Convention](#)

[Background](#)

[Press Article](#)

EU: New agreements on data sharing signed with the United States

On 28 June, the Council of the European Union agreed on a text to provide a legal basis for the exchange of bank data (SWIFT) with the US authorities for counter-terrorism purposes. On 23 July, the Council approved an agreement on the processing and transfer of passenger data by air carriers to the US to combat terrorism and transnational crime.

[EDPS opinion on SWIFT](#)

[Agreement on SWIFT](#)

[Press Release on SWIFT](#)

[Agreement on PNR](#)

[Press Release on PNR](#)

Council of Europe: New report on renditions and secret detentions released

On 27 June, the Parliamentary Assembly of the Council of Europe adopted the second report of Rapporteur Dick Marty. The report presents detailed evidence on the existence of secret detention centres in both Poland and Romania, with the knowledge of high-level authorities of both countries. The Parliamentary Assembly criticized the use of state secrecy laws to obstruct investigations into renditions and called on Member States to make available all relevant information to national parliaments.

[Dick Marty's Report](#)

[Assembly Resolution](#)

[CoE Press Release](#)

[ICJ Press Release](#)

Council of Europe: Convention on the Prevention of Terrorism enters into force

The Convention on the Prevention of Terrorism 2005, entered into force on 1 June. The Convention creates new offences for activities that may lead to acts of terrorism, such as participation, provocation, recruitment and training. It also establishes a duty to investigate and to extradite or prosecute terrorism suspects, and provides for the protection and compensation of victims of terrorism.

[Convention](#)

[CoE Press Release](#)

OAS: New hearing on the renewal of precautionary measures for Guantánamo Bay detainees

On 20 July, the Inter-American Commission on Human Rights held its fourth hearing since 2002 on the legal status of Guantánamo Bay detainees. NGOs argued that the continued detention of 350 individuals without charge violates US international obligations. The US Government responded that the petitioners had not exhausted domestic remedies in US courts.

[Recording of the Hearing](#)

[2002 Precautionary Measures](#)

[CCR Background](#)

[Press Article](#)

IN BRIEF

NGOs document cases of “disappeared” detainees in the “war on terror”

Six NGOs published a report collecting the stories of 39 people who have been allegedly held in secret detention by the US and whose whereabouts are still unknown.

[Report](#)

New report on the consequences of US policies on human rights worldwide

The International Helsinki Federation criticises US counter-terrorism practices for paving the way for many OSCE States to justify repressive measures.

[Report](#)