

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

**No. 99, December 2015-February 2016**

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## AFRICA & MIDDLE EAST

### **Morocco: Human rights organizations call for dropping of 'terrorism' charges against journalist**

On 21 January, a group of human rights organizations called on the Moroccan authorities to drop the charges of 'defending, providing material assistance to, and inciting terrorist acts' against journalist and blogger Ali Anouzla. Arrested on 17 September 2013, and released provisionally on 25 October 2013, Ali Anouzla continues to face prosecution for having allegedly published on the online news website "Lakome" a story concerning a video of Al-Qaeda in the Islamic Maghreb (AQIM), including the organization's own video. The contested article is reported to contain criticism of AQIM and the video in question was posted by the Spanish newspaper *El Pais*. The human rights organizations repeated "loud and clear that these charges remain unfounded under international law, and amount to a violation of his freedom of expression and his right to inform the public."

NGOs Statement

### **Egypt: New Parliament ratifies counter-terrorism legislation**

On 17 January, the first elected Parliament to sit since the overthrowing of President Mohamed Morsi ratified, with 457 votes in favour and 24 against, the counter-terrorism law issued by President Abdel Fattah Saeed Hussein Khalil el-Sisi by Presidential Decree, despite calls by human rights organizations for its repeal. The Counter-Terrorism Law includes 'terrorism' offences with broad definitions with the potential to criminalize the legitimate and peaceful exercise of rights, including the rights to freedom of expression, association and assembly. The law grants wide powers to investigative and law enforcement officials that the ICJ considers to present severe risks of arbitrary detention and extensive infringements of the right to privacy without adequate safeguards or judicial oversight. It also grants immunity from criminal prosecution for State officials, including potentially those who unlawfully use lethal force. Finally, it introduces new expedited procedures in 'terrorism' cases, which fall short of international fair trial standards. The Parliament also ratified a Presidential Decree that extends the jurisdiction of military courts to all "critical government facilities."

NGO Statement

Press Article

### **Egypt: Journalist detained for 'belonging' to Muslim Brotherhood**

On 29 November, the police arrested Ismail al-Iskandrani, a journalist and researcher for the Egyptian Center for Economic and Social Rights, after he had returned to Egypt from a number of seminars in Europe. He was interrogated by the State Security Prosecution office in Cairo and charged, on 1 December, with 'belonging to an illegal group', the Muslim Brotherhood, 'promoting the ideas of an illegal group' and 'propagating false news'. His defence lawyers reported that his arrest warrant had been issued in May 2015 but they could not have access to the relative memo. His detention has been repeatedly renewed for periods of fifteen days by the Supreme State Security Prosecution. Human Rights Watch has called for the charges to be dropped as they "appear to be entirely based on his work as a journalist and researcher."

NGO Statement 1

NGO Statement 2

Press Article

### **Egypt: UN Racial Discrimination Committee concerned at abuse of anti-terrorism laws**

On 6 January, the UN Committee on the Elimination of Racial Discrimination issued its concluding observations on the compliance by Egypt with its obligations under the *Convention on the Elimination of All Forms of Racial Discrimination*. Among their observations, the independent experts expressed concern at the fact that "counter-

terrorism law could be interpreted and applied so broadly as to hamper freedom of expression and assembly, particularly that of vulnerable groups." The Committee called on Egypt to ensure that the Convention is applied while combating terrorism and to avoid the use of racial profiling by the police.

#### Concluding Observations

#### **Saudi Arabia: 47 persons executed after 'terrorism' convictions**

On 2 January, Saudi Arabian authorities carried out the execution of 47 persons convicted and sentenced to death on 'terrorism' charges. The persons executed included prominent Shia cleric Sheikh Nimr al-Nimr, whose death sparked protests in Iran against Saudi Arabia, including an attack to its Embassy, and ensued tensions in the region. Reportedly, the executions were carried out in twelve different prisons across the country and, apart from four in which authorities resorted to firing squads, were carried out by beheading. This was reported as the largest mass execution in Saudi Arabia since 1980.

NGO Statement

Press Article

#### **Bahrain: Journalist detained for 'supporting terrorist activities'**

On 28 December, Mahmood Al Jazeera, a journalist of the newspaper Al Wasat, was arrested in his home and charged, with eleven other persons, with "supporting terrorist activities funded by Hezbollah and Iran's Revolutionary Guards." Reporters Without Borders expressed concern at his arrest and detention and called for his immediate and unconditional release. The human rights organization reported that his last published article "referred to a controversial bill before the Shura Council..., providing for the confiscation of state housing from members of a family whose head has been stripped of his nationality."

NGO Statement

## AMERICAS

#### **USA: Israeli Prime Minister's communications and drone video feeds intercepted by the National Security Agency**

On 29 December, the *Wall Street Journal* revealed that the National Security Agency (NSA) had put under surveillance Israeli Prime Minister Benjamin Netanyahu and his advisers, including by intercepting the "contents of some of their private conversations with U.S. lawmakers and American-Jewish groups." *The Intercept* revealed, based on documents provided by former NSA agent and whistleblower Edward Snowden, that the same agency, in strict collaboration with the UK Government Communications Headquarters (GCHQ), "secretly tapped into live video feeds from Israeli drones and fighter jets, monitoring military operations in Gaza, watching for a potential strike against Iran, and keeping tabs on the drone technology Israel exports around the world." This surveillance was carried out under an operation code-named 'Anarchist'.

Press Article 1

Press Article 2

Press Article 3

Press Article 4

#### **USA: Ill-treatment pictures in Afghanistan and Iraq partly released after legal action**

On 5 February, forced by a Freedom of Information Act action brought in 2004 by the American Civil Liberties Union, the Department of Defense released 198 of around 2,000 photos related to its investigations into torture and ill-treatment practices carried out by members of the US forces in Iraq and Afghanistan. The pictures illustrate body parts of detainees with evident signs of ill-treatment but they do not clearly refer to location or

time. Reportedly, they were taken between 2003 and 2006 and they appear less controversial than the rest of the pictures which remain undisclosed and which would reportedly “show soldiers posing with dead bodies, kicking and punching detainees or posing them stripped naked next to female guards.”

[Pictures](#)

[NGO Statement](#)

[Press Article](#)

### **USA: UN Special Rapporteurs calls for Guantánamo closure and accountability in renditions**

On 11 January, the UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, on the promotion and protection of human rights while countering terrorism, Ben Emmerson, on the independence of judges and lawyers, Mónica Pinto, the Chair of the UN Working Group on Arbitrary Detention, Seong-Phil Hong, and the director of the OSCE Office for Democratic Institutions and Human Rights, Michael Georg Link, wrote an open letter to the Government of the United States calling for the immediate closure of the detention centre at Guantánamo Bay, fourteen years after its opening. They further stressed that “[e]veryone implicated, including at the highest level of authority, must be held accountable for ordering or executing extraordinary renditions, secret detention, arbitrary arrest of civilians and so-called ‘enhanced interrogation techniques’.”

[Open Letter](#)

[UN Statement](#)

### **USA: White House accelerates speed of transfer and pledges to close Guantánamo**

Since 1 January, ten Guantánamo detainees of Yemeni origin have been transferred to Oman, two other Yemen nationals have been transferred to Ghana, a Kuwaiti national was sent back to his country of origin, an Egyptian citizen and a Yemeni citizen have been transferred to Bosnia and Herzegovina and Montenegro, and a national of Saudi Arabia was repatriated to his country. There remain 91 persons detained in Guantánamo Bay, 34 of whom are already cleared for release. The White House Chief of Staff, Denis McDonough, has declared that President Barack Obama intends to maintain his promise to close the detention centre by the end of his term in office.

[DoD Statement 1](#)

[DoD Statement 2](#)

[DoD Statement 3](#)

[DoD Statement 4](#)

[DoD Statement 5](#)

[DoD Statement 6](#)

[Press Article](#)

### **USA: VISA waiver programme restricted for travellers or double nationals from Middle East**

On 21 January, the Department of Homeland Security announced the implementation of changes to its VISA waiver programme under the *Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015*. Under those changes, the waiver of a VISA will not be allowed for nationals of countries to which the VISA waiver programme is applied but “who have traveled to or been present in Iran, Iraq, Sudan, or Syria on or after March 1, 2011” or who are “also nationals of Iran, Iraq, Sudan, or Syria.” These groups of people must apply for a VISA to enter the United States while their co-nationals are exempted. Exceptions apply for people who travelled in these countries on behalf of international organization, sub-national governments, humanitarian NGOs, or journalism. The BBC reported that its journalist Rana Rahimpour, a double UK-Iranian national, was not allowed to board a plane to the USA after the entry into force of these requirements.

[DHS Statement](#)

[Press Article](#)

### **Canada: Defense Minister stops data sharing with allied countries**

On 28 January, the Minister of Defense, Harjit Sajjan, announced that the sharing of metadata with its key allies, including the United States, by the Canadian intelligence agency Communications Security Establishment (CSE) was to be stopped and not to be resumed until sufficient guarantees were set up for the enjoyment of the right to privacy. This decision was reached after the Commissioner of the CSE, Jean-Pierre Plouffe, revealed, in a report to Parliament, that "certain types of metadata containing Canadian identity information were not being minimized properly before being shared with CSE's partners in the United States, the United Kingdom, Australia and New Zealand." Minimization is the process through which data is made unidentifiable before being shared.

[Report](#)

[Commissioner Statement](#)

[Press Article](#)

## **ASIA - PACIFIC**

### **China: New anti-terrorism law approved by National People's Congress**

On 27 December, the National People's Congress enacted new anti-terrorism legislation. Reportedly, the new law includes the obligation on internet service providers to "extend technical interfaces, decryption, and other technical assistance and support to anti-terror authorities." Furthermore, the definition of 'terrorism' is said to have been broadened to include acts "violating person and property". Finally, a new provision introduces penalties of imprisonment and fines for "disseminating false information, reporting on the methods of terrorist actions, transmitting 'gruesome or inhumane scenes' from terrorist incidents, or transmitting the identities of involved individuals."

[Law \(C\)](#)

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

### **India: Controversial Gujarat anti-terrorism bill sent back to Parliament**

On 29 January, out of fear that the President of Gujarat, Pranab Mukherjee, would not give his assent, the Home Minister, Rajnath Singh, sent back to Parliament the *Gujarat Control of Terrorism and Organised Crime (GUJTCOC) Bill 2015*, that, passed on 31 March 2015, had been heavily criticized for its lack of compliance with human rights law. The legal text would have introduced an overbroad definition of terrorism including the intention to "disturb public order" or the requirement of likelihood to cause "loss of, or damage to, or destruction of, property." It would have: allowed for administrative detention of terrorist suspects for up to 180 days without charge; recognized 'confessions' as evidence before courts; shielded with immunity from criminal action police or government officers acting "in good faith"; and provided for the reversal of the burden of proof in certain situations, e.g. when someone's fingerprints were present on the site of the offence.

[NGO Statement](#)

[Press Article](#)

### **Pakistan: ICJ denounces executions of four persons convicted in unfair and secret military trials**

On 2 December, the International Commission of Jurists denounced the execution of Maulvi Abdus Salam, Hazrat Ali, Mujeebur Rehman and Sabeel alias Yahya, after their conviction and sentencing to the death penalty in secret trials by military courts. According to armed forces' statements, the individuals had been convicted for their involvement in 'terrorist activities', including harboring, funding and transporting 'suicide bombers' who attacked the Army Public School in December 2014. The ICJ, which rejects resort to the death penalty in all circumstances, said that these executions violate Pakistan's obligations under international human rights law because military courts in Pakistan do not meet the basic requirements of the right to a fair trial.

[ICJ Statement 1](#)

[ICJ Statement 2](#)

## **Singapore: Collective expulsion of Bangladeshi nationals for 'national security' reasons**

On 21 January, the Ministry of Interior announced the arrest, under the Internal Security Act, between 16 November and 1 December, of 27 Bangladeshi nationals on suspicion of supporting "the armed ideology" of the Islamic State in Iraq and the Levant (ISIL). 26 of the arrested persons had been deported back to Bangladesh, while one of them, Md Zahidul Islam Md Foyej Uddin, will be deported after having served a twelve week imprisonment sentence for having tried to leave the country illegally. Prime Minister Lee Hsien Loong wrote on Facebook that the individuals "were plotting nefarious activities in Bangladesh and other countries, and not in Singapore. But they were still a serious threat to us."

[Press Article 1](#)

[Press Article 2](#)

## **Indonesia: Government pursues stiffening of anti-terrorism powers**

On 21 January, the Government announced that it will pursue reform of its Law No. 15/2003 and Law No. 9/2013 on the prevention and eradication of terrorism, despite criticism that announced changes would infringe human rights law. Reportedly, one of the planned amendments will give the power to the National Intelligence Agency (BIN) to arrest and detain any suspect for up to two weeks. Further amendments would reportedly give power to the Government to strip "Indonesian citizens, suspected of traveling abroad to fight for Islamic State, of their citizenship as well as criminalizing any "insult" to the Republic of Indonesia."

[ICJ Statement](#)

[NGO Statement](#)

[Press Article](#)

## **Malaysia: Parliament speedily approved new anti-terrorism law**

On 22 December, after a quick approval by the House of Representatives on 3 December, the Senate passed the *National Security Council Bill*. The legislation establishes a National Security Council (NSC) that will be the central authority in the Government on matters pertaining to national security. It grants to the Prime Minister the power to declare any part of Malaysia as a "security area", for up to six months. This designation can be renewed indefinitely. Within these areas, authorities would reportedly have the power to prevent any person from entering, to transfer persons out of them, to impose curfews, and, at least temporarily, to take possession of any property necessary in the interest of national security or for the accommodation of the security team. Authorities could also conduct warrantless arrests and warrantless searches and seizures. On 18 January, seven persons charged under the anti-terrorism law, *Security Offences (Special Measures) Act 2012* (SOSMA), claimed to have been abused and subjected to ill-treatment during their detention and interrogation.

[Law](#)

[ICJ Statement](#)

[Press Article 1](#)

[Press Article 2](#)

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

### **UK: Supreme Court upholds Foreign Secretary decision in UN Al-Qaeda listing**

On 27 January, the Supreme Court ruled that it could not invalidate the decision of the Secretary of State for Foreign and Commonwealth Affairs to remove its veto to the listing in the Al-Qaeda List by the UN Security Council's Al Qaeda Committee of Mr Youssef, an Egyptian national living in the United Kingdom since 1994. The Court rejected the claim that some of the evidence adduced by a third country, Egypt, and which was allegedly obtained by torture, could taint the validity of the Secretary of State's decision, because it was not on that evidence that the decision was taken and it could not be required of the

Secretary of State to assess the genuine origin of all evidence provided by other States to the UN Committee. It furthermore concluded that this power was provided by law under EU Regulation 881/2002 and upheld the standard of proof applied, and assessment made, by the Secretary of State and the UN Sanctions Committee.

[Judgment](#)

[Court Statement](#)

### **UK: Court of Appeals rules Terrorist Act stop powers breach freedom of press**

On 19 January, the Court of Appeal, overturning a decision of the High Court, declared that the stop powers under Schedule 7 of the *Terrorism Act*, under which David Miranda, the partner of journalist Glenn Greenwald, was arrested at Heathrow airport and detained for nine hours, was incompatible with the right to freedom of the press under article 10 of the European Convention on Human Rights. The Court found that this provision did not offer adequate protection for journalistic material and added that the “most obvious safeguard would be some form of judicial or other independent and impartial scrutiny conducted in such a way as to protect the confidentiality of the material.” David Miranda had been arrested and detained on 18 August 2013 while he was carrying confidential material on mass surveillance programmes to his partner Glenn Greenwald in Brazil.

[Judgment](#)

[Press Article 1](#)

[Press Article 2](#)

### **UK: UN Working Group finds Julian Assange’s ‘detention’ arbitrary**

On 5 February, the UN Working Group on Arbitrary Detention, a Special Procedure of the UN Human Rights Council, issued an opinion in which three of its five members concluded that Julian Assange had been deprived of his liberty in an arbitrary fashion by the United Kingdom authorities. The Working Group concluded that the ten days of detention in solitary confinement at the Wandsworth prison in London in 2010 were arbitrary per se, and that the following house arrest for “some 550 days” equally amounted to arbitrary detention. It further concluded that the time spent in the Ecuadorean Embassy, where he is still present, “should be considered as a prolongation of the already continued deprivation of liberty that had been conducted in breach of the principles of reasonableness, necessity and proportionality.” Julian Assange, the head and founder of Wikileaks, has remained in the Ecuadorean embassy in London since 2012 when he was granted political asylum by Ecuador out of fear of being indirectly transferred to the US. He is wanted for questioning by Sweden under a European Arrest Warrant in relation to accusations of rape and sexual harassment. The Working Group called on the United Kingdom and Sweden “to end Mr. Assange’s deprivation of liberty, respect his physical integrity and freedom of movement, and afford him the right to compensation.”

[Decision](#)

[WGAD Statement](#)

[UN Statement](#)

[Press Article](#)

### **UK: UN Special Rapporteurs and UK intelligence committee critical of new surveillance bill**

On 12 January, the UN Special Rapporteurs on freedom of expression, David Kaye, on freedom of peaceful assembly and of association, Maina Kiai, and on human rights defenders, Michel Forst, expressed concern at several provisions of the *Investigatory Powers Bill*, a draft surveillance law currently before Parliament, and called for a comprehensive review of the draft legislation. The independent experts pointed at “excessively broad definitions and disproportionate procedures to authorize surveillance, including mass surveillance, and data retention without adequate independent oversight and transparency.” On 9 February, the Parliament’s Intelligence and Security Committee stated that the draft legislation “fails to deliver the clarity that is so badly needed in this area” and “appears to have suffered from a lack of sufficient time and preparation.” The Bill seeks to explicitly authorize secret services to conduct mass surveillance programmes, like the Tempora programme, unveiled by the National Security Agency’s documents leaked by Edward Snowden.

[UNSRs Report](#)

[UNSRs Statement](#)

[ISC Report](#)

[ISC Statement](#)



## **France: National Assembly extends state of emergency and inserts it in the Constitution**

On 16 February, the National Assembly adopted the *Draft Law extending the implementation of Law no. 55-385 of 3 April 1955 on state of emergency* which will extend the current state of emergency, declared after the Paris attacks of 13 November 2015, until 26 May 2016. On 3 February, Amnesty International had published a report, *Upturned Lives: The Disproportionate Impact of France's State of Emergency*, revealing that, since the beginning of the state of emergency, there had been more than 3,242 house searches and more than 400 residence assignments, and that these have “trampled on the rights of hundreds of men, women and children, leaving them traumatized and stigmatized.” On 10 February, the same National Assembly approved a constitutional law, now before the Senate, to inscribe the state of emergency regime in the Constitution. The Council of State rejected a case by the French League of Human Rights demanding a stop to the state of emergency.

**Draft Law (F)**

**Council of State Order (F)**

**NHRI Statement (F)**

**NGO Report (E)**

**Press Article (F)**

## **France: UN Special Rapporteurs call for end of state of emergency**

On 19 January, the UN Special Rapporteurs on freedom of opinion and expression, David Kaye, on the rights to freedom of peaceful assembly and of association, Maina Kiai, on the situation of human rights defenders, Michel Forst, on the protection and promotion of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, and on the right to privacy, Joseph Cannataci, called for the end of the state of emergency and expressed concern at “a lack of clarity and precision on provisions regarding several state of emergency and surveillance laws that relate to the legitimate rights of privacy and freedoms – of expression, peaceful assembly and association.”

**SRs Statement (F)**

**UN Statement (E)**

## **France: Government proposes new anti-terrorism law**

On 3 February, the Government tabled before the Council of Ministers a *Draft Law strengthening the fight against organized crime, terrorism and their financing, and improving criminal procedure's effectiveness and guarantees*. The Draft Law would give prosecutors the power to carry out searches at homes at night, in case of terrorism or threat of life, and new powers of interception and surveillance. Police would be authorized to arrest for a maximum of four hours anyone against whom they have serious grounds to believe that he or she represents a threat to public safety, or of persons related to such suspect. The Draft Law would exempt from criminal responsibility any law enforcement officer that makes use of lethal force when this was absolutely necessary to avoid the commission of murders or attempts of murder of a plurality of victims, after a series of murders or attempts of murders have taken place shortly before. On 2 February, the Senate had already adopted in first reading a *Draft Law aimed at strengthening the anti-terrorist fight* that aimed at introducing similar provisions.

**Draft Law 1 (F)**

**Draft Law 2 (F)**

## **France: Government pushes for insertion of French nationality stripping for 'terrorism' convicts in Constitution**

On 28 December, the Government presented before the National Assembly a proposal of constitutional amendment that would have inscribed in the Constitution the principle that “French citizens having committed a crime or a *délit* constituting an act of terrorism or a threat to the fundamental interest of the National are stripped of their French nationality.” The proposal was later withdrawn, but the National Assembly, on 10 February, while approving the insertion in the Constitution of the regime of state of emergency, also approved a constitutional clause obliging to legislate on the “conditions under which a person can be stripped of his or her French nationality and of the rights attached to it

when the person is convicted for a crime or a *délit* constituting a serious threat to the life of the Nation.” In protest against these provisions, that leave open the possibility to create stateless persons, French Justice Minister Christiane Taubira resigned from Government.

[Draft Law \(approved\) \(F\)](#)

[Draft Law \(withdrawn\) \(F\)](#)

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

### **France: Constitutional Council upholds new surveillance legislation**

On 26 November, the Constitutional Council declared that that *Law on surveillance of international electronic communications* was not contrary to the Constitution. The Council held that, since the surveillance powers concern only administrative police, it cannot be used otherwise than for the aim of preserving public order and preventing the commission of offences, and cannot be used as an investigative tool to prosecute criminal offences. The Council found that the fact that targeted persons cannot complain against the surveillance before a judge, but that, instead, an oversight commission can file a complaint on his or her behalf, did not make this restriction to the right to privacy disproportionate.

[Ruling \(F\)](#)

### **France: Constitutional Council finds emergency residence assignment powers constitutional**

On 22 December, the Constitutional Council held that the system of residence assignment, under the state of emergency declared by President Holland after the Paris attacks of 13 November 2015, was constitutional. It found that both the measure itself, its length, conditions of implementation and complementary obligations, and the possibility to complain before an administrative judge made the restrictions to the right to freedom of movement proportionate to the threat to which the country was subject. It also found proportionate that all residence assignments would automatically phase out with the end of the state of emergency and that, if the state of emergency is extended, these measures will have to be renewed and could not be automatically extended.

[Ruling \(F\)](#)

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

### **Italy: President of the Republic pardons two US agents convicted for rendition**

On 23 December, the President of the Republic, Sergio Mattarella, pardoned Betnie Medero and Robert Seldon Lady, two US agents that participated to the rendition of Hassan Mustafa Osama Nasr, also know as Abu Omar, in February 2013. Their convictions for the offence of kidnapping had been confirmed by the Court of Cassation. The President of the Republic pardoned Betnie Medero because of the lower sentence given to her in comparison to the other CIA agents. Robert Seldon Lady was only partially pardoned, i.e. his sentence was reduced from nine to seven years of imprisonment. The President of the Republic considered important the fact that, since the election of President Obama, the United States has “interrupted the practice of extraordinary renditions, considered by Italy and the European Union as incompatible with the fundamental tenets of the rule of law.”

[President Statement \(Italian\)](#)

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

### **Poland: Parliament passes new surveillance law**

On 15 January, Parliament enacted the *Draft Law modifying the Police Law and other laws*. The new legislation reportedly gives the authorities power to gather online data, collect it and analyse it, without having to request a prior authorization from a judge or another independent authority. It reportedly also does not protect professional confidentiality such as lawyer-client communications or journalistic sources, nor does it contain any obligation to notify the surveilled persons after the conclusion of the surveillance activity. Several human rights organizations and the Polish Ombudsman have qualified the law as unconstitutional and at odds with Poland’s human rights law obligations.

[Law \(Polish\)](#)

[Ombudsman Statement \(Polish\)](#)

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

## **Hungary: European Court of Human Rights finds mass surveillance system in breach of right to privacy**

On 12 January, the European Court of Human Rights ruled that the mass surveillance system led by the Anti-Terrorism Task Force (TEK) was not in line with Hungary's obligations under article 8 of the European Convention on Human Rights (ECHR). The mass surveillance system allowed the Task Force to "to search and keep under surveillance the applicants' homes secretly, to check their postal mail and parcels, to monitor their electronic communications and computer data transmissions and to make recordings of any data acquired through these methods." The Court found that virtually any person could be subject to secret surveillance under this legislation. Furthermore, the fact that the surveillance is ordered by authorities emanating from the Executive without proceeding to a strict necessity and proportionality assessment, coupled with the fact that with new technologies they could "intercept masses of data easily concerning even persons outside the original range of operation," and the absence of an effective remedy made this surveillance system at odds with Hungary's obligations under the right to privacy (article 8 ECHR). The case was brought by Máté Szabó and Beatrix Vissy, staff of *Eötvös Károly Közpolitikai Intézet*, a non-governmental organization.

[Judgment](#)

[Press Article](#)

## **Turkey: Academics arrested for 'terrorism propaganda' for signing petition**

On 15 January, police forces arrested and detained at least twelve academics on charges of 'making propaganda for a terrorist organization' and 'insulting the state' for having signed a petition calling for an end of military operations in the South-East of Turkey. The petition was signed by 1,128 Turkish and international academics and other experts. President Recep Tayyip Erdoğan publicly called this action "terrorist propaganda". The statement, entitled 'We won't Be a Party to This Crime', urged the Turkish Government to "abandon its deliberate massacre and deportation of Kurdish and other peoples in the region." According to the press, the Chief Public Prosecutor's Office of Istanbul has launched investigations into all the 1,128 signatories. Meanwhile, the authorities released Mohamed Ismael Rasool, Iraqi journalist and interpreter for VICE News, arrested on 27 August while covering armed clashes between Government forces and the Kurdistan Workers' Party (PKK). Notwithstanding, the charges against him of being in "close contact with Kurdistan Workers' Party (PKK) militants" have not been dropped.

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article 1](#)

[Press Article 2](#)

## **Turkey: UN Human Rights Commissioner and Committee concerned at human rights violations in counter-terrorism**

On 1 February, the UN High Commissioner for Human Rights, Zeid bin Ra'ad, after having examined a video on a 'security' operation carried out in the South-East of Turkey, called on Turkish authorities to "respect the fundamental rights of civilians in its security operations and to promptly investigate the alleged shooting of a group of unarmed people." He expressed further concern about the request of life imprisonment for Turkish journalists Can Dündar and Erdem Gül by the prosecution, in a trial where they are accused of 'terrorism' for having exercised their profession as journalists. The High Commissioner characterized the sentences sought as "extraordinarily harsh." The UN Committee on the Elimination of Racial Discrimination, in its concluding observations on the compliance by Turkey with its obligations under the *Convention on the Elimination of All Forms of Racial Discrimination*, had also stressed its concern that, "in the context of the fight against terrorism, the enforcement of anti-terrorism legislation and security-oriented policies have reportedly resulted in racial profiling of members of the Kurdish community."

[HCHR Statement](#)

[Concluding Observations](#)

### **Turkey: Party dissolution and dismissal of MPs breached European Convention, rules European Court of Human Rights**

On 12 January, the European Court of Human Rights ruled that Turkey had breached the right to freedom of assembly and association of the members of the Party for a Democratic Society (*Demokratik Toplum Partisi* - DTP) by ordering its dissolution for 'indirect support of terrorism'. The Court ruled that the reasons adduced were insufficient and found that its dissolution was a disproportionate interference with the right to freedom of assembly and association under article 11 of the European Convention on Human Rights (ECHR). The DTP was a pro-Kurdish party advocating for a peaceful solution to the Kurdish problem. For the same reasons, the Court further ruled that Turkey had breached the right to free elections, guaranteed under article 3 of Protocol No. 1 to the ECHR, of its two co-presidents, Ahmet Türk and Aysel Tuğluk, for having forfeited their parliamentary seat.

Judgment (F)

Press Article (E)

### **Turkey: Irreducible life sentence of terrorism convict breaches European Convention, holds Strasbourg Court**

On 15 December, the European Court of Human Rights ruled that Turkey had breached the right not to be subject to inhuman or degrading treatment or punishment of Emin Gurban, for having sentenced him to an irreducible life sentence. He was found guilty of the charges of membership of an illegal organization, the Kurdistan Workers' Party (PKK), and of taking part in two counts of murder for the organization. The Court ruled that, to meet its obligations, Turkey must "put in place a review mechanism... which would allow the judicial or other authorities to consider whether any changes in the life prisoner were so significant, and such progress towards rehabilitation was made in the course of the sentence, as to mean that continued detention could no longer be justified on legitimate penological grounds." The Court further found the criminal proceedings that led to his conviction had been excessively long, in breach of his right to a fair trial under article 6 of the European Convention on Human Rights, and that no effective remedy existed to complain against this violation.

Judgment

### **Armenia: Extradition to Bahrain blocked for risk of torture**

On 2 February, the Ministry of Justice announced to have rejected an extradition request from Bahrain for Fadhel Radhi Abbas, wanted under an INTERPOL red notice for the charges of "illegal assembly, vandalism of public vehicles, deliberately setting fire to a public property for terrorist purposes and setting an explosion for terrorist purposes." The Bahrain Center for Human Rights and other human rights organizations had called on the Armenian Government not to transfer Fadhel Radhi Abbas to his country of origin as the request of extradition was based on "politically motivated charges" and he would be at risk of being subject to torture if sent back. He had reportedly already been subjected to torture by Bahraini authorities at the time of his arrest in 2013. On 6 February, however, his attorney Tigran Safaryan was reported to have said that Fadhel Radhi Abbas had been forced to travel to Iran by Armenian authorities.

NGO Statement

Press Article 1

Press Article 2

### **Russian Federation: European Court rules surveillance system in breach of right to privacy**

On 4 December, the Grand Chamber of the European Court of Human Rights ruled that the Russian Federation had breached the right to privacy of Roman Zakharov, the editor-in-chief of a publishing company, in light of its overbroad and excessively intrusive surveillance laws, namely the *Operational Search Activities Act of 12 August 1995* ('OSAA') and the *Code of Criminal Procedure*, which govern the interception of communications. This legislation requires mobile network operators to install equipment to enable surveillance by Russian authorities. The Court ruled that the system of mass

surveillance did not provide adequate and effective guarantees against an arbitrary interference with the right to privacy, as required of article 8 of the European Convention on Human Rights. The Court found that the legislation allowed authorities to bypass any foreseen guarantee, in terms of oversight on renewal and necessity and proportionality, with the mere invocation of grounds of urgency. It furthermore held that no effective remedy existed to complain against the alleged violation of the right, in particular in absence of any form of notification, albeit posterior to the surveillance activity, or access to information.

#### Judgment

### **Russian Federation: European Court finds Human Rights Convention breached in counter-terrorism operations**

In a series of judgments, the European Court of Human Rights has ruled that Russian authorities were responsible for the enforced disappearance of a number of person during their 'counter-terrorism' operations in Chechnya between 2000 and 2004. In particular, the Court found that Russia was responsible for the disappearance of Ali Dudayev Khasan Sagayev, Rasul Mukayev, Islam Deniyev, Badrudi Nazyrov, Muma Babuyev, Ruslan Kagermanov, Eduard Zaynadinov, Ayndi Diniyev, in breach of their rights to life and to liberty. The Court found that they were all to be presumed dead following their unacknowledged detention by Russian security forces. Russian authorities were also found responsible for the extrajudicial execution of Aslan Dudayev, Ali Dudayev's son, in violation of his right to life under article 2 of the European Convention on Human Rights. The Court further ruled that the investigations into their disappearance and extrajudicial execution have been ineffective, in breach of the procedural aspects of their rights to life and not to be subject to torture or other inhuman or degrading treatment or punishment, and of the right to an effective remedy. With regard to a similar abduction of Sakhrab Abakargadzhiev in Dagestan, the Court did not find enough evidence to attribute direct responsibility to the Russian authorities. It ruled, however, that the investigations into his abduction were ineffective in breach of Russia's procedural obligations towards his right to life.

#### Judgment 1

#### Judgment 2

#### Judgment 3

#### Judgment 4

#### Judgment 5

## **UNITED NATIONS & REGIONAL ORGANIZATIONS**

### **UN: Security Council extends Al-Qaeda listing regime to ISIL**

On 17 December, the UN Security Council approved resolution 2253(2015) by which it extended the UN sanctions regime to the Islamic State in Iraq and the Levant (ISIL). The resolution renamed the Al-Qaeda Sanction List as the 'ISIL (Da'esh) and Al-Qaida Sanctions List' and extended the entire regime of assets freezing, travel ban, arms embargo to anyone "[p]articipating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of; [s]upplying, selling or transferring arms and related materiel to; [r]ecruiting for; or otherwise supporting acts or activities of Al-Qaida, ISIL, or any cell, affiliate, splinter group or derivative thereof." The resolution extends the whole procedure of the sanction regime, including the de-listing procedure and the role of the Ombudsperson to ISIL.

#### Resolution

### **UN: Secretary-General report examines threat of ISIL for international peace and security**

On 29 January, the UN Secretary-General, Ban Ki-Moon, issued his report to the Security Council on the threat to international peace and security posed by the Islamic State in Iraq and the Levant (ISIL). In the report's conclusions, he stressed that "responses of

Member States and the United Nations must... be strategic and consistent in addressing the underlying political and socioeconomic causes of both the Syrian conflict and the recruitment of foreign terrorist fighters and in ensuring justice and accountability for human rights violations.” Among his recommendations, he urged Member States “to review their domestic legal frameworks to strengthen their capacities to bring to justice alleged perpetrators for criminal use of ICT in support of ISIL, in compliance with international human rights law,” including through the criminalization of travel of foreign fighters.

Report

### **UN: General Assembly sets workplan on foreign fighters for UN agencies and States**

On 17 December, the UN General Assembly adopted by *consensus* resolution 70/177 on *Technical assistance for implementing the international conventions and protocols related to counter-terrorism*. In the resolution, the General Assembly stressed the “importance of the development and maintenance of effective, fair, humane, transparent and accountable criminal justice systems, in accordance with applicable international law, as a fundamental basis of any strategy to counter terrorism.” It tasked the UN Office on Drugs and Crime (UNODC) to provide assistance “in addressing the threat of foreign terrorist fighters, through its capacity-building activities” and to develop measures, including criminal justice based ones, “to prevent the financing, mobilization, travel, recruitment, organization and radicalization of foreign terrorist fighters, and to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice.” On 14 December, it approved resolution 70/120 on *measures to eliminate international terrorism* that equally stressed Member States duty to counter the phenomenon of foreign fighters.

Resolution 177

Resolution 120

### **EU-US: European Commission announces data transfer deal with US**

On 2 February, the European Commission announced to have reached an agreement with the United States to replace the Safe Harbour Decision, that allowed the indiscriminate exchange of all forms of data between the EU space and the USA, without control over the effective respect of EU citizens’ rights under EU law. On 6 October, on grounds that this Decision breached the right to privacy under the EU Charter of Fundamental Rights, the Court of Justice of the European Union had invalidated the Decision, which had created a binding presumption that the rights to privacy and to an effective remedy of EU citizens was as equally protected in the United States as in the EU. According to the Commission, the yet unpublished agreement would contain US “written assurances that the access of public authorities for law enforcement and national security will be subject to clear limitations, safeguards and oversight mechanisms [, that these] exceptions must be used only to the extent necessary and proportionate [and that the] U.S. has ruled out indiscriminate mass surveillance on the personal data transferred to the US under the new arrangement.” The Working Party Article 29, the group of the EU Member States data protection authorities, reserved its position on the validity of this agreement.

EC Statement

Press Article

### **ACHPR: African Commission launches new principles and guidelines on counter-terrorism and human rights**

On 29 January, the African Commission on Human and Peoples’ Rights launched a new set of *Principles and Guidelines on Human Rights while Countering Terrorism in Africa*. The Principles and Guidelines have a particular focus on victims that the Commission found to be often marginalized in counter-terrorism and human rights discussions. They address

“general and specific rules that apply to the right to life; deprivation of liberty, humane treatment, and fair trials; rendition and transfers; anti-terrorism laws and “watch lists;” interstate cooperation; private security contractors; statelessness and citizenship; human rights defenders; the right to privacy and access to information; and human security.”

**Principles**

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