

# AMNESTY INTERNATIONAL

## Public Statement

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### United Kingdom: The killing of Jean Charles De Menezes -- a missed opportunity

Today, the High Court of England and Wales dismissed the legal challenge brought by the family of Jean Charles de Menezes against the prosecuting authorities' decision not to bring criminal charges against any individuals in connection with his killing in London in July 2005.

Amnesty International considers that there were ample reasons for ordering the prosecuting authorities to re-consider their decision.

To date, the prosecuting authorities have failed to provide any explanation as to why charges have not been brought against people who provided intelligence information and those who gave orders. In addition, the original decision by the prosecuting authorities not to bring charges against individuals involved in the shooting was based on their assessment of the credibility of individual police officers that they had acted in self-defence.

However, Amnesty International considers that, in light of the misleading and/or false statements made in the immediate aftermath of the shooting and of other allegations that have emerged since, issues of knowledge and credibility should be left to a court and jury to assess.

Therefore, the organization believes that the High Court has missed an opportunity to let justice take its course in this case, and to uphold the principle that nobody is above the law.

In accordance with the UK's domestic and international human rights obligations, the courts should be allowed to consider chain of command responsibilities, the nature of the intelligence information on which the operation was based and unfolded, and the actions of all the officers involved in the operation which resulted in the killing of Jean Charles de Menezes.

Amnesty International considers that the failure, to date, to charge individuals in connection with the killing of Jean Charles de Menezes undermines public confidence in the rule of law and the conduct of law enforcement officials.

#### Background

The organization observed the legal challenge brought the family of Jean Charles de Menezes on 5 and 6 December 2006. Lawyers acting on behalf of the family argued that the decision of the Crown Prosecution Service of England and Wales (CPS)<sup>1</sup> not to bring criminal charges against any individuals in connection with the fatal shooting of Jean Charles de Menezes was flawed; and that there was enough evidence in the case, *prima facie*, to mount a prosecution of individuals for homicide offences.

On 22 July 2005, the day after a series of serious security incidents took place on the transport system in the capital, Jean Charles de Menezes, a 27-year-old Brazilian man, was killed by officers of the Metropolitan Police Service on board an underground train in London. He was reportedly pinned down, and shot seven times in the head, after being mistakenly identified as a suicide bomber.<sup>2</sup>

Initial police statements claimed that Jean Charles de Menezes was a suspect linked to the incidents of the previous day. It was also reported that he had tried to evade arrest and that, though it was summer, he had been wearing a thick jacket thought to conceal explosives. However, two days later, on 24 July 2005, the Commissioner of the Metropolitan Police stated categorically that Jean Charles de Menezes had not been involved in any suspicious activities, and that he had been shot dead as a result of a mistake. The police later acknowledged that Jean Charles de Menezes was wearing a denim jacket, and had not acted in any way as to arouse suspicion.

On 17 July 2006, following its completion of the review of the investigation into the circumstances surrounding the death of Jean Charles de Menezes, the CPS announced that it did not intend to prosecute any individual police officer

for murder, manslaughter or any other criminal offence in connection with his fatal shooting. The CPS concluded that there was insufficient evidence to provide a realistic prospect of conviction against any individual police officer.

In July 2006, the CPS announced its decision to prosecute the Office of the Commissioner of Police of the Metropolis under s. 3 of the Health and Safety at Work etc Act 1974 of failing to provide for the health, safety and welfare of Jean Charles de Menezes. Such a prosecution could result in a financial penalty only, and not in someone being found individually criminally responsible for his death.

In September 2006, the inquest into the death of Jean Charles De Menezes was adjourned indefinitely, pending completion of ongoing criminal proceedings against the Office of the Commissioner of Police of the Metropolis.

Amnesty International does not consider that the prosecution of the Office of the Commissioner of Police of the Metropolis under Health and Safety legislation would adequately fulfil the procedural obligations stemming from Article 2 (enshrining the right to life) of the European Convention on Human Rights (ECHR) and articulated in its case-law. The current criminal prosecution under health and safety legislation is too narrowly focused for the courts to determine whether the state has violated its obligations under human rights law, specifically Article 2 of the ECHR.

For further information, please see *United Kingdom -- The Killing of Jean Charles de Menezes: let justice take its course*, issued by Amnesty International on 4 December 2006, (AI Index: EUR 45/021/2006), <http://web.amnesty.org/library/print/ENGEUR450212006>.

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<sup>1</sup>The CPS is responsible for prosecuting criminal cases investigated by either the police or the Independent Police Complaints Commission in England and Wales.

<sup>2</sup>For more information, see *United Kingdom: The Killing of Jean Charles de Menezes*, issued by Amnesty International on 6 September 2006 (AI Index: EUR 45/015/2006); see also [www.justice4jean.com](http://www.justice4jean.com); and [www.inquest.org.uk](http://www.inquest.org.uk).