

AMNESTY INTERNATIONAL

Public Statement

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France : Amnesty International's concerns on « preventive detention » bill

Amnesty International is deeply concerned by some provisions of the legislation on preventive detention (*loi relatif à la rétention de sûreté et à la déclaration d'irresponsabilité pour cause de trouble mental*), adopted by parliament on 7 February. The legislation allows for individuals who have completed their prison sentence following conviction for certain crimes to subsequently be held in "preventive detention" ("rétention de sûreté") for indefinitely renewable periods of one year, if they are considered to be dangerous and present a high risk of recidivism.

This legislation in effect allows the custodial sentence imposed at trial to be extended indefinitely, on grounds of predicted future dangerousness or recidivism. Amnesty International considers that such a provision is inconsistent with France's obligations under international human rights law to respect the right to liberty, the prohibition of arbitrary detention and the presumption of innocence. This law, by in effect retroactively extending the sentence of a person indefinitely, creates a source of legal uncertainty, and replaces the presumption of innocence by a presumption of guilt. In doing so it is also inconsistent with Article 15 of the International Covenant on Civil and Political Rights (ICCPR) and Article 7 of the European Convention on Human Rights (ECHR), which state that no one should be subjected to a heavier penalty than the one that was applicable at the time the offence was committed (the principle of non-retroactivity of criminal sanction).

The argument put forward by the government that the legislation does not impose further punishment but rather relates to the imposition of preventive detention is not convincing, as the effect of the implementation of this measure would be the prolonged and indefinite deprivation of liberty (in a form of confinement similar to that of a prisoner) of a person who has already been convicted and served their sentence. The National Consultative Commission on Human Rights has observed that "a measure which restricts freedom such as the proposed preventive detention, which foresees confinement and a regime similar to that of a prisoner, should be classed as a punishment".¹

Furthermore, the law allows for "preventive detention" to be imposed on individuals on the basis of the vague criteria of "dangerousness", and "high risk of recidivism", which are not adequately defined in the text.

Amnesty International considers that elements of this law are inconsistent with France's obligations under international human rights law to respect the rights to freedom from arbitrary detention and the presumption of innocence, and the requirement of non-retroactivity of criminal sanctions, and calls for the repeal of the articles which breach these principles.

¹ « *Qu'une mesure restrictive de liberté qu'est la rétention de sûreté prévue, qui prévoit un enfermement et un régime similaire à celui d'un détenu, devrait être assimilé à une sanction* » National Consultative Commission on Human Rights (Commission Nationale Consultative des Droits de l'Homme, CNCDH) note of 17 January 2008.

/ENDS

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