

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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The United Kingdom fails on diplomatic assurances: Amnesty International's preliminary response to the UK counter-terrorism review

Amnesty International has condemned the recommendation of yesterday's UK Home Office review of counter-terrorism and security powers that supports and seeks to extend the use of diplomatic assurances in order to return individuals to countries where they risk being tortured. The findings and recommendations of the UK Home Office counter-terrorism review were announced before Parliament by Theresa May, the Home Secretary, on 26 January.

The UK Home Office review of six key counter-terrorism and security powers, including the use of diplomatic assurances to deport people accused of terrorism-related activity, rejected submissions from human rights organizations, including Amnesty International, that such "no torture" promises from governments of countries where torture and ill-treatment are systematic or widespread are inherently unreliable and do not sufficiently protect against torture and other ill-treatment.

Amnesty International deplores the UK's continued reliance on diplomatic assurances to deport people to countries where they are at real risk of torture.

The UK has been Europe's most aggressive and influential proponent of these dangerous deals, which are unreliable and unenforceable.

The UK government has sought to deport foreign nationals accused of terrorism-related activity by a variety of means, with a number of states with poor human rights records. To date, the UK has formal 'memoranda of understanding' (MoUs) with Lebanon, Jordan, Libya and Ethiopia which contain assurances regarding the treatment of such deportees.

The UK has also negotiated bilateral assurances with the Algerian government on a case by case basis to cover individual deportations. In recent months, the UK government has additionally sought to deport individuals suspected of terrorism-related activity to Pakistan.

The UK Home Office review asserted that monitoring arrangements with local human rights organizations in countries such as Ethiopia would ensure that any mistreatment would be quickly identified and would enable the UK to raise its concerns about mistreatment to the country in question.

Amnesty International considers that no system of post-return monitoring of individuals will render assurances an acceptable alternative to rigorous respect for the absolute prohibition of deportations to risk of torture or other ill-treatment. The organization stated that the UK government's position ignores the experience and concerns of international human rights organizations.

The Home Office review fundamentally fails to appreciate the context in which torture and other ill-treatment occurs in states where such practices are systematic or widespread. The climate of secrecy, impunity and deniability in such situations leads to inherent deficiencies in

assurances that prevent them from effectively and reliably mitigating against the risk of torture and ill-treatment.

Further, as even the review conceded, where an assurance is breached it is simply left to the governments involved to voluntarily assume responsibility for investigating the breach and hold perpetrators to account. Neither government is likely to wish to acknowledge, especially in any formal or public way, that their actions have led to the torture or other abuse of a prisoner. Relying only on the good faith of the states implicated also compromises the ability of any such torture victim to secure his or her right to reparation and redress, and ignores the fact that, even leaving aside physical consequences, the psychological harm to a person who has been subjected to torture can never fully be repaired.

The use of 'diplomatic assurances' by European countries has been criticised by a number of intergovernmental bodies, including a number of United Nations special procedures, and committees of the Parliamentary Assembly of the Council of Europe and the European Parliament, who have expressly called on member states to refrain from using diplomatic assurances against torture and other ill-treatment.

The UK counter-terrorism review further proposed the eventual repeal of the current 'control orders' regime as specified in the Prevention of Terrorism Act 2005 (PTA), which has been controversially used as an alternative to prosecution or deportation of UK terror suspects who have not been charged with any criminal offence. The Home Secretary outlined proposals for a new regime of administrative measures similar to control orders, though promising that the possible length of curfew periods would be reduced and that certain other restrictions would no longer be used. The renewed scheme the UK government is proposing retains, however, a variety of measures that will significantly restrict the individuals' rights to liberty, privacy, association, expression and movement. Examples of the measures that are proposed to be available without criminal trial, include the power to order people to spend 8-10 hours every night without leaving their residence (unless they obtain prior permission from the government to spend particular nights away); forcing people to wear an electronic tag that allows the government to monitor their movements; forcing disclosure of internet passwords; prohibiting contact with other named individuals; and regularly reporting to police. According to the proposals, a breach of these restrictions could itself, however, lead to a criminal conviction and sentence of up to five years in prison.

The proposals do not provide any detail about the government's intentions with respect to one of the most controversial aspects of the existing control order regime: the consequences of allowing the use of secret evidence that neither the person subject to the proceeding or his or her lawyer is ever shown, for the right to fair trial. The review implies such controversial procedures will be retained, with some changes, but defers any discussion of specific changes to a later "Green Paper on the use of sensitive material in judicial proceedings."

Amnesty International believes that if people will still face the consequences of being labelled 'suspected terrorists' and subjected to special restrictions on their lives, without a fair trial that includes a chance to know the allegations against them in enough detail to have a real chance of challenging the government's case, this would not be consistent with respect for human rights.

In making the announcement, the Home Secretary announced that the current control orders regimes under the PTA would be renewed until the end of 2011. Amnesty International has called for the immediate repeal of the PTA since its inception, and is disappointed that almost six years later, the so-called temporary legislation remains in place.

The Home Office review also examined stop and search powers under Section 44 of the Terrorism Act 2000, the length of pre-charge detention, the use of communications data including under the Regulation of Investigatory Powers Act 2000 and measures to deal with

organizations that promote hatred or violence. Amnesty International is currently assessing the full recommendations of the review in detail.

For further information see: EUR 45/015/2010 UK: Submission for the Review of Counter-terrorism and Security Powers (September 2010)

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