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country summary

European Union

Attacks and foiled plots in the United Kingdom, Germany, Denmark, and Spain underscored the ongoing threat of terrorism, some of it homegrown. The state response continues to weaken rights and the rule of law.

National security removals of persons remain an important tactic, but with inadequate safeguards against return to abuse, including the use of unreliable "diplomatic assurances" against torture. EU states show an increasing willingness to categorize as terrorism actions only remotely connected to the planning and commission of violent attacks, with damaging consequences for expression, privacy, and in some cases liberty.

Migration and asylum policy remain largely driven by border control rather than protection concerns. Removals without proper safeguards continue, including under agreements with countries that lack the capacity to protect migrants. Interdiction at sea, including through the EU border agency, largely focuses on keeping asylum seekers and migrants outside EU territory rather than protecting them.

Counterterrorism Measures and Human Rights

In February the European Parliament adopted the final report of a special committee tasked with investigating EU member states' complicity with the US Central Intelligence Agency (CIA) in the illegal detention and transfer of terrorism suspects to risk of torture and ill-treatment. The report criticized many EU countries including Germany, Italy, Sweden, and the UK for allowing their airspace to be used by the US agency for the practice, known as "extraordinary rendition." The report called on EU states to launch independent national investigations, seek the return of citizens and residents held illegally by US authorities, and compensate victims.

A joint declaration issued after the October 2007 G6 meeting of interior ministers from France, Germany, Italy, Poland, Spain, and the UK identified diplomatic assurances against torture and ill-treatment as an “effective way forward” for the forced removal of national security suspects. Austria, Germany, Italy, the Netherlands, Sweden, and the UK have all sought to rely on such assurances, despite evidence that they fail to protect persons against abuse on return, and criticism from United Nations and European human rights bodies.

A committee of the Parliamentary Assembly of the Council of Europe (PACE) confirmed in a June report that the CIA operated illegal prisons for terrorism suspects in Poland and Romania in 2003-2005 in which prisoners were subjected to “interrogation techniques tantamount to torture.” The Polish and Romanian governments continue to deny that such centers existed. The PACE report also deplored obstruction to its investigation by EU governments including Germany, Italy, Poland, and Romania.

Common EU Asylum and Migration Policy

The EU continues to pursue the externalization of its migration and asylum policy, notably through readmission agreements with third countries and coordinated naval patrols in the Mediterranean Sea, to the detriment of access to asylum and protection against return to risk of abuse.

The EU External Borders Agency FRONTEX conducted joint naval operations with Senegal and Mauritania in their territorial waters to intercept and turn back boats heading for the Canary Islands before they reached international waters. The EU pursued the participation of Tunisia, Algeria, Morocco, and Libya in similar joint patrols. The operations lacked clear guidelines to ensure access to asylum, and there was disagreement among states over responsibility when boats are intercepted in international waters, and among EU and other Mediterranean states over who should bear responsibility for rescuing shipwrecked migrants.

The EU signed readmission agreements with five western Balkan countries in September, and continued to negotiate agreements with other countries, including Morocco, Algeria, and Turkey. Agreements have already been reached with Ukraine,

Sri Lanka, Albania, Hong Kong, and Macao. Under the agreements, states outside the EU accept the return of migrants from third countries who have transited their territory en route to the EU. Readmission agreements raise concerns that persons in need of protection will be removed to countries that lack effective asylum systems or protection against return to risk of human rights abuse.

In June the European Commission launched a consultation process on the common European asylum system with the publication of a green paper examining ways to increase and harmonize protection. The European Court of Justice concluded hearings on the European Parliament's petition to annul widely criticized provisions in the Asylum Procedures Directive establishing common lists of "safe countries of origin" and "safe third countries." In the first step to a decision, the Court's advocate general issued an opinion in September recommending the provisions be annulled.

Iraqis now represent the largest number of asylum applicants in the EU, with 19,375 asylum applicants in 2006 and 18,205 in the first half of 2007. Over half of the latter were in Sweden. Germany, the recipient of the third largest number of Iraqi asylum seekers in the first half of 2007 (820), continued to revoke the status of Saddam Hussein-era Iraqi refugees, citing changed circumstances. About 18,000 Iraqi refugees have had their status revoked since 2003.

There are continuing concerns over a draft directive proposed by the Commission establishing common EU standards and procedures for returning irregular migrants. As drafted, it would allow member states to detain migrants pending deportation for up to 18 months. At this writing the European Parliament has yet to debate the directive.

Human Rights Concerns in EU Member States

France

The new government of President Nicolas Sarkozy proposed new immigration legislation in September. Adopted by Parliament at the end of October, the law tightens the rules on family reunification and creates an in-country appeal for failed asylum seekers detained at the border; the latter is in response to a critical April ruling by the European Court of Human Rights (ECtHR) that the French asylum system

lacks effective safeguards. Parliament failed to improve procedural safeguards for others at risk of return to human rights abuse, including asylum seekers under accelerated procedures and terrorism suspects subject to expulsion.

Inadequate safeguards were also highlighted in a May decision by the UN Committee Against Torture (CAT) that France had violated the torture convention when it expelled Adel Tebourski. The French-Tunisian dual national had been stripped of his French citizenship prior to his release from prison on terrorism charges and expelled to Tunisia in August 2006, before French courts and the CAT had fully examined his appeal alleging risk of torture on return.

Also in May 2007 the appellate court in Paris increased prison sentences for nine of the thirteen defendants in the so-called Chechen Network trial. A lower court had convicted 24 people, 16 of them foreign nationals, of the broad offense of "criminal association in relation to a terrorist undertaking" in June 2006. The court ordered 11 of the 16 foreigners to be deported upon completion of their sentences. A 12th man was expelled in February 2007 on order of the Interior Minister.

The forced removal of irregular migrants topped the agenda for the newly created Ministry of Immigration, Integration, National Identity and Development, which imposed a quota of 25,000 expulsions by year's end.

Germany

In June a Munich court ordered the arrest of 13 CIA operatives for their involvement in the 2003 kidnapping of Khaled el-Masri, a German citizen of Lebanese descent apprehended in Macedonia and flown to Afghanistan, where he was imprisoned for five months and tortured. The chief prosecutor for Bavaria formally requested that the German federal government seek to have the 13 extradited to Germany for trial, but in September the Ministry of Justice dropped the extradition effort because of non-cooperation from the US government.

A July report by the Council of Europe human rights commissioner accused the German government of assisting in el-Masri's abduction and noted that a German

intelligence officer visited el-Masri in Kabul in May 2004. Foreign Minister Frank-Walter Steinmeier denied Germany had played a role in el-Masri's kidnapping.

In August prosecutors reopened an investigation into allegations that two German soldiers interrogated and mistreated Murat Kurnaz, a German-born Turkish citizen, at a detention camp in Afghanistan in 2002. Kurnaz later spent almost five years at Guantanamo Bay. He was released without charge in 2006 and repatriated to Germany. Prosecutors dropped the charges against the soldiers in May 2007 due to lack of evidence, but reopened the case against them in August with plans to question two new witnesses detained with Kurnaz in Afghanistan.

A German parliamentary panel continued its investigation into possible human rights violations during counterterrorism operations by the German intelligence services, including in the el-Masri and Kurnaz cases.

The arrest of two academics in July raised questions about academic freedom and free speech in the context of counterterrorism. The federal police arrested Andrej Holm, a professor from the University of Humboldt, and another academic identified only as "Mattias B.," citing their academic writings and accusing them of being intellectual supporters of a militant left-wing faction allegedly responsible for a series of arson attacks since 2001. Neither of the men is a suspect in the arson investigation, but Holm is accused of meeting with one of the suspected arsonists earlier in 2007. Holm was detained and placed in solitary confinement until bail was granted in August. Charges of membership in a terrorist organization are pending against both men.

The German government tabled a draft law in September criminalizing "acts of preparation" of violent terrorist attacks, following the arrests earlier that month of three alleged Islamic militants. The offense would cover training in a terrorist camp or flight training, but would apply only where there is intent to carry out a terrorist attack. Another proposed offense, "instructions for an act of violence," would apply to anyone distributing instructions over the internet on building bombs for use in an attack, or to anyone downloading such instructions. Opponents argue that criminalizing internet use infringes privacy rights.

Italy

The trial of 26 US citizens (25 alleged CIA agents and a US air force officer) and six Italians accused of abducting Muslim cleric Hassan Mustafa Osama Nasr (known as Abu Omar) was suspended in June so the Constitutional Court could consider a complaint by the government of Romani Prodi that Milan prosecutors violated state secrecy during their investigations. At this writing the Constitutional Court has not ruled on the complaint. The Italian government failed to forward the prosecutors' request for extradition of the US citizens, who will instead be tried in absentia, represented by court-appointed attorneys. Abu Omar, kidnapped in Milan in February 2003 and rendered to Egypt, remains there following his release from custody in February 2007.

Italy continued to expel terrorism suspects under an expedited procedure that explicitly denies the right to an in-country appeal. The UN CAT expressed concern in May that the procedure lacked effective protection against return to risk of torture and ill-treatment. In January Fouad Cherif Ben Fitouri was expelled to Tunisia where he was held incommunicado for 12 days and allegedly tortured. He was later charged with terrorism offences and at this writing awaited trial in prison. Interior Minister Giuliano Amato said in March that 30 expulsion orders had been made under the expedited procedure since its introduction in August 2005.

The ECtHR Grand Chamber was due to rule by the end of the year in the case of Nassim Saadi, a Tunisian man the Italian government sought to expel on the basis of unreliable diplomatic assurances of humane treatment upon return. Italy argued before the Grand Chamber in July (with support from the UK government, which intervened in the case) that the absolute prohibition on returns to ill-treatment under the European Convention on Human Rights should be reconsidered to allow a national security exception.

In October the Italian government adopted an emergency decree for the immediate expulsion of EU citizens considered threats to public security. By mid-November authorities had moved to expel more than 150 Romanians, and at this writing Parliament is considering improved safeguards for such cases. The emergency

decree followed a brutal crime in October allegedly committed by a Roma man from Romania.

According to the Interior Ministry, 12,419 irregular migrants reached Italy by sea in the first eight months of 2007, a slight decrease from 2006. Migrants continue to die attempting the crossing in unseaworthy boats: according to one estimate, 491 people had died in the Strait of Sicily by September. In a development that risked discouraging rescues at sea, seven Tunisian fishermen were prosecuted for abetting illegal immigration after they rescued 44 migrants and brought them to Lampedusa, an island off Sicily, in August. No verdict has been handed down at this writing.

Malta

Malta continued to be criticized for its failure to rescue migrants in distress at sea and unwillingness to allow ships carrying migrants rescued at sea to enter its ports. In May a Maltese fishing vessel refused to rescue a group of 27 shipwrecked African migrants, leaving them clinging to fishing nets for three days. The Maltese government declined to rescue the group on the grounds that they were outside its search and rescue area, and that it was Libya's responsibility to do so; the migrants were eventually rescued by an Italian military vessel. Days later the government refused to allow a Spanish fishing vessel carrying 26 migrants rescued at sea to enter Malta, again pointing to Libya. The migrants were subsequently admitted by Spain.

Irregular migrants who enter Malta are subject to mandatory detention in closed centers for up to 18 months (one year in the case of asylum seekers), unless they are pregnant women or minors in which case the maximum detention is six weeks. Detention conditions remain poor, with overcrowding, malnutrition, insufficient access to health care, poor sanitary conditions, and inadequate exercise. In September the government established an independent board of visitors to monitor detention centers.

The Netherlands

A new government took power in February. In June parliament approved the government's plan to grant amnesty to up to 30,000 failed asylum seekers who had

applied for asylum prior to 2001. The move was seen as a clear break from the policies of the former government.

The asylum system remained problematic. The UN CAT expressed concern in May 2007 that the accelerated asylum procedure under the Aliens Act of 2000 could result in people being returned to risk of torture. The committee criticized the procedure's 48-hour timeframe for not providing an asylum seeker enough time to adequately access counsel; allowing only "marginal scrutiny" of appeals against rejected claims; and restricting the opportunity to submit additional documentation and information.

A new law expanding state powers to investigate and prosecute terrorist acts came into effect in February. The law lowers the standard upon which special surveillance powers, including wire-tapping, can be invoked from a "reasonable suspicion" to "indications" that a terrorist act is being planned; permits a public prosecutor to designate preventive cordons within which persons can be searched; and increases the maximum period of pretrial detention in terrorism cases from 90 days to two years. Human rights groups expressed concern that the new measures could violate the rights to privacy, liberty and security of person, and fair trial.

A bill aimed at preventing acts of terrorism passed the House of Representatives in March and is pending before the Senate at this writing. It contains provisions limiting the freedom of movement and the right to privacy of persons suspected of being "connected" to or supporting terrorist activities, including bans on residence in a defined part of the Netherlands and association with specific persons, and periodic reporting to the police. The bill has been criticized by rights groups for failing to define specifically what constitutes a terrorist activity or "support" for such activity. There is no requirement that a judge authorize the measures, and judicial supervision would only be triggered if an appeal is lodged.

Poland

The opposition Civic Platform party won early parliamentary elections in late October 2007 and formed a coalition with the Polish Peasants' Party a month later. The outgoing government blocked the EU's adoption of October 10 as the European Day

against the Death Penalty. The day was subsequently proclaimed by the Council of Europe.

In April the European Parliament adopted a resolution that referred to the climate of state-sponsored homophobia in Poland. In May the ECtHR ruled that the Warsaw mayor's decision to ban the 2005 Equality Parade contravened free assembly and association under the European Convention. In June the Council of Europe human rights commissioner criticized Poland's policies towards lesbian, gay, bisexual, and transgender communities in a report on Poland's compliance with the European Convention.

Spain

In June 2007 the violent Basque separatist group ETA officially declared an end to the unilateral ceasefire it had announced in March 2006. ETA claimed responsibility for a car bomb explosion at Madrid's Barajas airport in December 2006 that killed two men. Spanish and French authorities arrested numerous suspected ETA members during 2007, including its alleged top explosives expert and its logistics chief. In October authorities arrested 21 alleged members of Batasuna, the banned Basque separatist political party, on charges of belonging to a terrorist organization.

In January the Supreme Court designated as a terrorist organization a Basque youth group involved in street violence in the Basque autonomous region, overturning a lower court's ruling. In May the National Court said the terrorism prosecution of seven former staff at the Basque-language newspaper *Egunkaria* could go to trial despite the prosecutor's December 2006 recommendation that all charges be dismissed. The decision reflects the involvement of two victims' rights organizations as civil parties in the case. The 16-month mass trial of over 50 members of organizations accused of providing support to ETA ended in March 2007. No verdict has been announced at this writing.

In October 2007 the National Court convicted 21 men of involvement in the Madrid train bombings in March 2004. Three men were sentenced to between 34,000 and 42,000 years in prison for hundreds of counts of murder, while 18 others were

sentenced to between three and 23 years on other charges, including collaboration with a terrorist organization. Seven others were acquitted.

The regime that allows terrorism suspects to be held in incommunicado detention for up to 13 days remains in effect despite ongoing international criticism. In a July report on Spain, the European Committee for the Prevention of Torture (CPT) recommended improving safeguards, including access to a lawyer from the outset of detention, increased judicial oversight, and prompt and effective investigations into allegations of mistreatment. The government responded that existing safeguards are sufficient.

There was a marked drop in arrivals by sea of irregular migrants—9,400 people in the first eight months of 2007 compared to 24,300 in the same period the previous year. Interception at sea, including by FRONTEX, and increased forced removals by Spain provide part of the explanation. By the end of August over 8,000 migrants had been removed. In July the Interior Ministry adopted new guidelines allowing for the use of straightjackets and helmets to restrain migrants resisting removal, after a Nigerian man died on a commercial flight while handcuffed and gagged.

A March agreement with Morocco on readmission of unaccompanied migrant children failed to include safeguards to protect children from potential harm and to ensure their best interests. Hundreds of unaccompanied migrant children continued to be housed in crowded emergency centers in the Canary Islands, where they were subjected to undue restrictions on freedom of movement, lack of access to public education, obstacles in applying for asylum, and instances of abuse and neglect by staff. The CPT included one of these centers in a September visit to Spain.

United Kingdom

Prime Minister Gordon Brown, who assumed office in June, was immediately tested by failed terrorist attacks in England and Scotland. Two men drove a burning car loaded with gas cylinders into the main terminal at Glasgow international airport on June 30. A day earlier, police discovered two car bombs in central London that had failed to explode. Of the seven people arrested in the UK in connection with the attacks, three were charged, three were released without charge, and one suspect

died of burns sustained during the Glasgow attack. An eighth suspect was arrested in Australia but later released when Australian prosecutors dropped all charges.

In July the Brown government detailed new counterterrorism proposals, renewing the attempt to extend pre-charge detention beyond 28 days, already the longest in the EU. Other proposals included relaxing the prohibition on using intercept evidence in court, widening the already broad definition of terrorism, and enhancing sentences for ordinary criminal offenses when committed for a terrorist purpose. At this writing a bill has yet to be presented to Parliament.

Britain's highest court, the House of Lords Judicial Committee (Law Lords), ruled in October on four appeals relating to the system of control orders for terrorism suspects. The court held that orders based solely on secret evidence not properly disclosed to defendants violate the right to a fair hearing. It affirmed that orders confining suspects to their homes for 18 hours a day breached the right to liberty, but upheld the overall lawfulness of the control order regime, ruling that shorter periods are acceptable, and rejected arguments that the orders are criminal punishments.

Government figures showed that as of March more than half of all terrorism suspects arrested since September 2001 were released without charge. Nonetheless, several high-profile terrorism prosecutions ended in convictions in 2007. In July four men were sentenced to life imprisonment for conspiracy to murder in the failed attacks on London's transport system on July 21, 2005, while a fifth plotter was sentenced to 33 years in November. Five others were convicted in April and also sentenced to life for plotting to use fertilizer bombs against different targets. In June seven members of an alleged terrorist cell pled guilty to conspiracy to murder in 2006 and were sentenced to terms ranging from 15 to 26 years in prison.

Some prosecutions raised concerns about improper restrictions on free expression. In trials concluding in July, two men each tried separately and a group of five students tried together were sentenced to prison terms ranging from two to nine years for possession of terrorism-related documents. At this writing, two 17-year-olds face similar charges in ongoing cases. In the first trial of its kind in the UK, three men were given sentences, also in July, ranging from six-and-a-half to ten years after

pleading guilty to inciting terrorism over the internet. Two men received eight and six-year jail terms, in October and November respectively, for distributing terrorist material and other terrorism offenses. In November the first woman to be convicted under the Terrorism Act was found guilty of possessing articles likely to be useful for terrorism, including the "Al Qaeda Manual."

Three men convicted in separate trials between November 2006 and July 2007 of soliciting to murder and incitement to racial hatred during a protest outside the Danish Embassy in London in February 2006, over the publication of offensive cartoons depicting the Prophet Muhammad, were each sentenced in July to six years in prison. A fourth man, convicted in February of incitement to racial hatred, was sentenced to four years.

UK efforts to deport foreign terrorism suspects on the basis of diplomatic assurances of humane treatment were delayed by challenges in the courts, with mixed results. In February the Special Immigration Appeals Commission (SIAC) ruled that Omar Othman (known as Abu Qatada) could be returned safely to Jordan under the terms of a memorandum of understanding negotiated with the UK in 2005. SIAC approved the deportation of another Jordanian in November on the same grounds, despite fresh evidence of torture in Jordan. The same court ruled in April, however, that two Libyan terrorism suspects risked torture and a "complete" denial of due process if deported, notwithstanding a similar 2005 memorandum agreed between London and Tripoli.

In July the Court of Appeal ordered the SIAC to reconsider its prior decisions to allow the deportation of three Algerians. The men were not permitted in court and the reasons for granting their appeals are secret, but the Court of Appeal accepted the SIAC's conclusion that diplomatic assurances from Algeria would be effective. The SIAC ruled again in November that the men could be safely returned.

In a welcome reversal of policy, in August the UK officially requested the release from detention at Guantanamo Bay and return to the UK of Jamil al-Banna, a Jordanian with refugee status in the UK, and four other former UK residents. Another former UK resident, Bisher al-Rawi, was released and returned to the UK in April, after four years in Guantanamo.