

Meeting of the Counter-Terrorism Committee, 26 October 2006

Briefing by Mr. Martin Scheinin, UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Madame Chairperson, Distinguished delegates,

Let me thank you for this opportunity to meet with you. In my letter requesting this briefing, I identified three items for discussion.

1. Provide a brief overview of my activities undertaken and thematic issues addressed since our meeting a year ago

As you will recall, my first report to the General Assembly, submitted immediately after my appointment in August 2005, outlined some methodological parameters of the mandate, including its complementary, comprehensive, proactive and thematic orientation.

In my first and last report to the Commission on Human Rights (E.CN.4/2006/98) considered by the Human Rights Council in September 2006, I elaborated on the issues that were discussed in the meeting with the members of the CTC a year ago. In particular, I presented illustrative examples of the role of human rights concerns in the consideration of State reports by the CTC and made some proposals concerning cooperation between the CTC and my mandate. The other thematic section in that report dealt with definitions of terrorism and the human rights consequences of the absence of an agreed international definition.

My second report to the General Assembly (A/61/267), discussed yesterday in the Third Committee, deals with the impact of counter-terrorism measures on the freedom of association and peaceful assembly. As an aspect of that theme, I also discuss the need for fair and clear procedures on the international level in listing and delisting entities as terrorist ones, as well as the requirement of national judicial remedies as long as the international remedies are inadequate.

The thematic sections of my forthcoming main report to the Human Rights Council will deal with racial or ethnic profiling in the context of countering terrorism, and with suicide attacks as a specific challenge to human-rights-conform responses to terrorism. Future themes to be covered in my reports, reflecting the comprehensive and complementary nature of my mandate, are the promotion and protection of economic, social and cultural rights in the fight against terrorism, and the impact of counter-terrorism laws and measures on the right to privacy, specifically as a consequence of broadening powers of surveillance and the sharing of information between different authorities and States.

2. Discuss the possibility of joint missions or exchange of information before and after mission undertaken separately

My first full-fledged country visit was to Turkey (E.CN.4/2006/98/Add.2) in February 2006. The preliminary conclusions and recommendations are in the public domain and the full report will be presented at March 2007 session of the Human Rights Council. I believe this report would be useful for the CTC in its country-specific work on Turkey.

As a pilot case, a desktop study has been conducted on the counter-terrorism law and practice of Australia. The government has provided its comments on a draft report, and the final report will also be presented at the Human Rights Council next spring. The electronic advance version of my reports on Turkey and Australia will be available by late 2006 or early 2007.

As I have requested a country visit to the Philippines, I would be highly interested in the findings of the CTC based on its mission to the country.

Other countries, where a request for a sSpecial Rapporteur's country visit has been made public are Algeria, Egypt, Malaysia, South Africa, Tunisia and the United States of America. Of these, a visit to South Africa is likely to materialize in April 2007. As to the three Northern African countries just mentioned, I see particular potential for cooperation with the CTC in a plan discussed with the Commission of the African Union to arrange a workshop or other event on human rights and counter-terrorism at the African Union Centre on the Study and Research on Terrorism, being set up in Algiers. Such an event might provide momentum for a Special Rapporteur's visit to one of the three North African countries or even a combined visit to two or three countries in this region.

On the basis of exchanging information before and after missions by the CTC or myself, I would like to explore the possibility of conducting a joint country visit.

3. Discuss how to proceed with identifying and compiling best practices regarding States' counter-terrorism measures and their conformity with human rights

I have taken note of the CTC's Directory of international best practices, codes and standards related to the implementation of Resolution 1373. Furthermore, I have taken note of the CTC's first report on the implementation of Resolution 1624 and the use of human rights language in that report, something that I regard as natural in the light of the specific reference to human rights conformity in the Resolution itself.

The Resolution that established my mandate also refers to the notion of best practices by mandating me "to identify, exchange and promote best practices on measures to counter terrorism that respect human rights and fundamental freedoms" (paragraph 14 c). So far, I have identified national and regional examples of best practices in my thematic reports and in my country-specific work, including the report on the mission to Turkey.

In light of the prominent role of human rights in the Global Counter-Terrorism Strategy adopted by the General Assembly on 8 September and the several references in Security Council and General Assembly resolutions to Member States' obligation to respect human rights when implementing counter-terrorism measures, I draw the conclusion that human rights conformity is a mandatory requirement for any measure being regarded as best practice in the field of countering terrorism.

Madame Chairperson, I want to take this opportunity to express my willingness to cooperate with the CTC in identifying best practices. Due to the human rights clause in Resolution 1624, joint identification of best practice in the implementation of that Resolution might be a good way to start.