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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina^{*}, Armenia^{*}, Australia^{*}, Austria, Belgium, Bosnia and Herzegovina^{*}, Botswana, Chile, Colombia^{*}, Costa Rica, Croatia^{*}, Czech Republic, Denmark^{*}, Ecuador, Greece^{*}, Guatemala, Ireland^{*}, Latvia^{*}, Liechtenstein^{*}, Lithuania^{*}, Mexico, Monaco^{*}, Netherlands^{*}, Norway, Peru, Portugal^{*}, Serbia^{*}, Slovakia^{*}, Somalia^{*}, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland^{*}: draft resolution

19/.. Protection of human rights and fundamental freedoms while countering terrorism

The Human Rights Council,

Reaffirming Human Rights Council decision 2/112 of 27 November 2006 and Council resolutions 6/28 of 14 December 2007, 7/7 of 27 March 2008, 10/15 of 26 March 2009 and 13/26 of 26 March 2010, and Commission on Human Rights resolutions 2003/68 of 25 April 2003, 2004/87 of 21 April 2004 and 2005/80 of 21 April 2005, and recalling General Assembly resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010, and 66/171 of 19 December 2011 and welcoming the efforts of all relevant stakeholders to implement those resolutions,

1. *Calls upon* States to ensure that any measure taken to counter terrorism complies with international law, in particular international human rights, refugee and humanitarian law;
2. *Expresses serious concern* at the violations of human rights and fundamental freedoms, as well as of refugee and international humanitarian law, in the context of countering terrorism;
3. *Reaffirms* its unequivocal condemnation of all acts, methods, practices and financing of terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renews its

^{*} Non-Member State of the Human Rights Council.

commitment to strengthen international cooperation to prevent and combat terrorism and, in that regard, calls upon States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars, which reaffirm, inter alia, respect for human rights for all and the rule of law to be the fundamental basis of the fight against terrorism;

4. *Deeply deplores* the suffering caused by terrorism to the victims and their families, and expresses its profound solidarity with them, and stresses the importance of providing them with proper support and assistance;

5. *Welcomes* the holding, on 1 June 2011 and pursuant to decision 16/116 of the Human Rights Council, of a panel discussion on the issue of human rights of victims of terrorism, which raised awareness on the importance of addressing the human rights of victims of terrorism in the determined effort by the international community to deal with the scourge of terrorism and as part of a comprehensive counter-terrorism policy that respects human rights and fundamental freedoms;

6. *Reaffirms* that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group;

7. *Recognizes* the work carried out by the special procedures of the Human Rights Council in the promotion and protection of human rights and fundamental freedoms while countering terrorism;

8. *Acknowledges* that the active participation of civil society can reinforce ongoing governmental efforts to protect human rights and fundamental freedoms while countering terrorism;

9. *Calls upon* States to ensure, while countering terrorism, that any person whose human rights or fundamental freedoms have been violated has access to an effective remedy and that victims will receive adequate, effective and prompt reparations where appropriate, including by bringing to justice those responsible for such violations;

10. *Urges* States to protect, while countering terrorism, all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of those rights;

11. *Calls upon* States to safeguard, while countering terrorism, the right to privacy in accordance with international law, and urges them to take measures to ensure that interferences with the right to privacy are regulated by law, subject to effective oversight and appropriate redress, including through judicial review or other means;

12. *Notes with concern* measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, and the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures;

13. *Stresses* that all measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must comply with the obligations of States under international law, including international human rights, refugee and humanitarian law;

14. *Urges* States to respect, while countering terrorism, the rights to be equal before the courts and tribunals and to a fair trial, as provided for by international law, including international human rights law, such as article 14 of the International Covenant on Civil and Political Rights and, as applicable, international humanitarian law and refugee law;

15. *Reiterates* the concerns expressed by the General Assembly in its resolution 64/168 with regard to measures that can undermine human rights and the rule of law, and urges all States to take all necessary steps to ensure that persons deprived of their liberty, regardless of the place of arrest or detention, enjoy the guarantees to which they are entitled under international law, including the review of their detention and other fundamental judicial guarantees;

16. *Takes note with appreciation* of the report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism;¹

17. *Takes note* of the compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism,² and appreciates the work of the Special Rapporteur in its elaboration at the request of the Human Rights Council;³

18. *Requests* the Special Rapporteur, in accordance with his mandate, to continue to gather, request, receive and exchange information on alleged violations of human rights and fundamental freedoms while countering terrorism, and to report regularly to the Human Rights Council;

19. *Requests* all States to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the urgent appeals and providing the information requested, and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

20. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism,⁴ as well as the work to implement the mandate given to her by the Commission on Human Rights in its resolution 2005/80 and the General Assembly in its resolution 60/158 on the protection of human rights and fundamental freedoms while countering terrorism, and requests the High Commissioner to continue her efforts in this regard;

21. *Requests* the High Commissioner and the Special Rapporteur to contribute further, as appropriate, to the ongoing discussion regarding the efforts of States Members of the United Nations to assure adequate human rights guarantees to ensure fair and clear procedures, in particular with regard to placing individuals and entities on and removing them from terrorism-related sanctions lists;

22. *Recognizes* the need to continue to ensure that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency, and welcomes and encourages the ongoing efforts of the Security Council in support of these objectives, including by supporting the enhanced role of the Office of the Ombudsperson and continuing to review all the names of individuals

¹ A/HRC/16/51.

² A/HRC/14/46.

³ See Human Rights Council resolution 10/15.

⁴ A/HRC/16/50.

and entities in the regime, while emphasizing the importance of these sanctions in countering terrorism;

23. *Stresses the importance* that relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those that are participating in the Counter-Terrorism Implementation Task Force, which provide technical assistance related to the prevention and suppression of terrorism to consenting States, include, as appropriate and where consistent with their mandates, the respect of international human rights law and, as applicable, international humanitarian law and refugee law, as well as the rule of law, as an important element of technical assistance that they offer to States related to counter-terrorism, including by drawing on the advice of, and otherwise ensuring the ongoing dialogue with, the special procedures of the Human Rights Council within their mandates and the Office of the High Commissioner and relevant stakeholders;

24. *Requests* the High Commissioner and the Special Rapporteur to present their reports, bearing in mind the content of the present resolution, to the Human Rights Council under agenda item 3, in conformity with its annual programme of work.
