

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy

Ref.: OL SWE 2/2023
(Please use this reference in your reply)

24 July 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the right to privacy, pursuant to Human Rights Council resolutions 49/10, 52/9, 50/17 and 46/16.

In this connection, we offer the following comments on the Government's **Bill 2022/23:73 concerning special criminal provisions for participation in a terrorist organisation**, which entered into force in June 2023, amending the Terrorist Offences Act (2022:66), Code of Judicial Procedure, and the Act on measures to prevent certain particularly serious offences (2007:979). We respectfully address several serious human rights challenges raised by these amendments, including the definition for participation in a terrorist organization, which, in our view, is overly broad. We particularly highlight the negative and disproportionate impacts that the legislation may have on the exercise of freedom of opinion and expression, freedom of peaceful assembly and association, as well as the right to privacy. We respectfully encourage your Excellency's Government to review and reconsider certain key aspects of the law to ensure that it complies with Sweden's international human rights law obligations.

Applicable International and Human Rights Law Standards

We refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Sweden acceded to on 6 December 1971, and the Universal Declaration of Human Rights (UDHR). In particular, we would like to draw your Excellency's Government's attention to articles 12, 17, 19, 21 and 22 of the ICCPR, which guarantee, respectively, the right to freedom of movement, the right to privacy, the right to freedom of opinion and expression, the right to freedom of peaceful assembly, and the right to freedom of association.

We would specifically like to underline that the "principle of legal certainty" under international law, enshrined in article 9(1) ICCPR and article 11 of the UDHR, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offense and what would be the consequence of committing such an offense. This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse (A/73/361, para. 34). Moreover, the law must be formulated with sufficient precision so that the individual can regulate his or her conduct accordingly.

We also respectfully remind your Excellency's Government of the applicable international human rights standards outlined by the European Convention on Human Rights (hereinafter ECHR), specifically to articles 8, 10 and 11 which safeguard the rights to a private life, to freedom of expression and the right to freedom of assembly and association.

We also respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States ensure that any measures taken to combat terrorism or violent extremism, including incitement of and support for terrorist acts, must comply with all their obligations under international law. As the General Assembly noted in the United Nations Global Counter-Terrorism Strategy, effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing.¹ We would like to emphasize that any restriction on freedom of expression or information that a government seeks to justify on grounds of national security or counter terrorism, must have the genuine purpose and the demonstrable effect of protecting a legitimate national security interest (general comment no. 34, CCPR/C/GC/34). Similarly, articles 21 and 22 of the ICCPR state that any restrictions on the rights to freedom of peaceful assembly or association must be necessary and proportionate to achieving a legitimate public purpose as recognised by international standards, within a democratic society, with a strong and objective justification.

Background

On 9 March 2023, the Government of Sweden proposed **Bill 2022/23:73 concerning special criminal provisions for participation in a terrorist organisation** with, we understand, the aim to newly criminalize participation in a terrorist organization and strengthen criminalization of terrorism financing, public incitement, and recruitment and travel related to terrorism. The Bill was reviewed first by the Council on Legislation, which did not recommend the adoption of the amendments, arguing that the new legislation would go beyond the requirements of the EU Directive on combating terrorism (Directive (EU) 2017/541). On 22 April 2022, the proposal was also sent for a review to relevant stakeholders and received both positive and negative feedback. Finally, following the recommendation of the Standing Committee on Justice, on 3 May 2023 the Swedish Parliament ratified the Bill with 268 votes in favour, 34 against, and 47 absent. The Bill entered into force on 1 June 2023.

The legislation amends the existing Terrorist Offences Act (2022:66) with the introduction of a new offence under section 4a, as well as a change of language in sections 5-8 and 10. Furthermore, the legislation amended chapter 27, sections 18 and 33 of the Code of Judicial Procedure and section 1 of the Act (2007:979) introducing the use of covert measures during a pre-trial investigation also in relation to the new offences. These amendments builds on the **constitutional amendment** (Bill 2021/22:42, Freedom of association and terrorist organisations) which entered into

¹ General Assembly Res. 60/288.

force on 1 January 2023 and provides that: “Freedom of association can be limited only for *associations that are devoted to or support terrorism* or whose activities are of a military or similar nature or involve persecuting a group of people on the basis of ethnic heritage, skin color, or other similar condition. Lag (SFS 2022:1565).” In addition, on 12 November 2021 the European Commission decided to open infringement proceedings against Sweden for not conforming with the EU Directive on combating terrorism (Directive (EU) 2017/541). These proceedings are still active.

Definition of participation in a terrorist organization

We observe that the new section 4a provides that “a person who participates in the activities of a terrorist organisation in a way that is likely to promote, strengthen or support the organisation is sentenced for participation in a terrorist organisation.” We acknowledge that your Excellency’s Government has incorporated different categories and degrees of liability and sentencing. For instance, the provision establishes that the penalty is imprisonment for a maximum of four years, or two to eight years if the offence is serious. In assessing the seriousness of the offence, the section establishes that particular consideration shall be given to: 1) whether the person had a central role in the terrorist organization; 2) whether the offence contributed significantly to the activities of the terrorist organization, and; 3) whether the offence was particularly dangerous.

To explain the meaning of the term “participation”, we note that the preparatory works of the proposed legislation refer to the definitions of “*promotion, strengthening and support of terrorist organizations*” as provided by the Bill 2021/22:133 (p. 181) within the ambit of the offence of conspiracy and according to which:

“promoting a terrorist organisation means creating favourable conditions for it to grow or operate through association with the organisation; strengthening the organisation means making it more effective or efficient through association with it; supporting the organisation means, through association with it, to favour, support or in any other way facilitate it.”

On these grounds, according to the Government of Sweden, “[t]he fact that the participation is intended to promote, strengthen or support a terrorist organisation means that the prosecutor does not need to show a specific purpose for the participation, nor that a specific effect has arisen” (Bill 2022/23:73, p. 40; Bill 2021/22:133, p. 181). We further note that section 3 of the Terrorism Offences Act defines a terrorist organization as “an association of persons who commit or otherwise participate in terrorist offences or are guilty of attempting, preparing or instigating terrorist offences”.

We positively acknowledge the willingness expressed by your Excellency’s Government to avoid the overcriminalization of certain behaviours, including by stipulating in section 4a that “the act does not constitute an offence if it is minor or if it is justifiable in the circumstances” (See also Bill 2022/23:73, pp. 33-36). However, we observe the vague definition of *participation in a terrorist organization* under section 4a and the vague and low threshold for *promotion, strengthening and support of terrorist organizations*, which may undermine the principle of legal certainty. The broad character of these phrases could lead to the criminalization of a range of speech and association activities protected under international human rights law and which for

their nature fall outside the definition of “terrorist organization”. Echoing the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, texts that criminalize “encouraging”, “advancing” or “supporting” acts of terrorism, “justifying” or “glorifying” terrorism, and “inciting” the commission of a terrorist act must be properly defined, and the *actus reus* and *mens rea* requirements of the offences they create must be narrowly circumscribed to meet the tests of necessity and proportionality (A/70/371, para. 15). We reiterate that the “*principle of legal certainty*” under international law requires that criminal laws are sufficiently precise, so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognises that ill-defined and/or overly broad laws are susceptible to arbitrary application and abuse.

In addition, we recall that any criminalization of conduct in support of terrorist offences should be restricted to conduct in support of offences having all the elements characterising the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2006/98 para. 50). The model definition includes acts that have the following cumulative characteristics:

- a) Acts, including against civilians, committed with the intention of causing death or serious bodily injury, or the taking of hostages;
- b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, acts also committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act; and
- c) Such acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism (E/CN.4/2006/98, para. 37).

We stress that in the prohibition of terrorist conduct, it is important for States to ensure that prescriptions to that effect are accessible, formulated with precision, applicable to counter-terrorism alone, non-discriminatory, and non-retroactive (E/CN.4/2006/98, para. 50).

While some behaviours mentioned also in the preparatory works of the amendments (i.e., provide a service to the organisation, swearing allegiance to the organisation, providing information, guidance, materials or equipment to the organisation) could be understood or interpreted as implying participation in a terrorist conduct, we observe that the potential punishments for those accused of participating to a terrorist organization risk being unlawfully disproportionate due to the broad range of entities, persons, or activities that could be deemed as “participating in terrorist organizations” under these overly flexible definitions. We stress that persons who belong to or support associations should not be unduly penalized by the application of proscription laws that are unduly imprecise, in line with the “*principle of legal certainty*”. In this regard, we recall that the Special Rapporteur on the promotion and

protection of human rights and fundamental freedoms while countering terrorism has urged states to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds (A/70/371, para 46(c)).

The vague definition of the term participation also raises the issue of the overlap between section 4a and section 5. The latter punishes anyone who “*in cases other than referred to in section 4a*” collaborates with a terrorist organization. The regulatory commentary of the legislation explains that the criminal provision is subsidiary to section 4a, hence it will not be applied if the conditions for participation in a terrorist organization are met. Nonetheless, we observe that section 5, as formulated, is vague and potentially overbroad, lacking further specificity and clarity that is required under the objective criteria of legality, necessity, and proportionality. We caution that this provision risks serving as a limitless catch-all category that results in criminalizing any action or behaviour that does not meet the section 4 threshold.

Freedom of Peaceful Assembly and Association

We recall that article 21 of the ICCPR protects the fundamental human right of peaceful assembly, which enables individuals to express themselves collectively and to participate in shaping their societies. Article 22 of the ICCPR protects the right to freedom of association with others. Everyone has the right to freely associate with others to pursue common interests. This right includes the right of individuals to form and join associations and the collective right of an existing association to pursue its lawful activities, without unlawful interference. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and the restrictions must be a necessary and proportionate means of achieving that purpose within a democratic society, with a strong and objective justification.

We acknowledge your Excellency’s Government’s stated aim to introduce a permissible limitation to the rights to freedom of peaceful assembly and association in full compliance with international and regional human rights law, including the international law requirements of legality, necessity, and proportionality. For instance, your Excellency’s Government clarified that section 4 of the Bill’s stipulated “criminalisation is limited to participation in an organisation whose activities are criminal and where attacks on the state and civilians are part of the purpose of the activities” and that “the restriction does not go beyond what is necessary with regard to the purpose that has prompted it” (Bill 2022/23:73, pp. 24-26). Nonetheless, section 4a of the legislation (“participation in a terrorist organization”), by its broad nature, does not seem to provide the requisite narrowly defined area of application and scope. Thus, it may directly or indirectly criminalise the peaceful exercise of freedom of association and assembly and may create a chilling effect on civil society engaged in non-violent criticism of state policies. In addition, the amendments punish the crimes of terrorist financing (section 6, para.1b), public incitement to terrorism (section 7), recruitment for terrorism (section 8, para. 2) and travel for terrorism (section 10, para 2.), where any of them relates to participation in a terrorist organization under section 4a.

Under article 2 of the ICCPR, States have the responsibility to take deliberate, concrete and targeted steps towards the implementation of the obligations set out in the ICCPR, including by adopting such laws and legislative measures as may be necessary to give domestic legal effect to the rights provided for in the Covenants and to ensure that the domestic legal order is compatible with the treaties. In this sense, noting that the amendments fail to provide the requisite narrow and legally precise definition of participation in terrorist organizations, any restriction on the rights to freedom of peaceful assembly or association under the aforementioned provisions risk being contrary to the principles of necessity, proportionality, legality and non-discrimination, as required under international human rights law. The Special Rapporteur on the rights to freedom of peaceful assembly and of association has repeatedly expressed concern about the increasing overregulation and financial exclusion of civil society organizations as a result of counter-terrorism and anti-money-laundering measures, and states that legislation is often disproportionate to the risk and is frequently exploited by governments to curtail freedoms of association, peaceful assembly and expression.² In recently published guidelines, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has urged states to ensure that measures targeting harmful activities, such as terrorist financing, do not unduly or inadvertently restrict associations' right to access resources, including financial resources, to carry out their legitimate activities.³ The guidelines recommend states ensure that definitions of terrorism and terrorist financing and other forms of "material support" to terrorism are not overly broad and vague. They must be precise and sufficiently narrow to not criminalize legitimate activities of civil society, including accessing financial resources. Reporting and documenting on terrorism and carrying out charitable work in conflict zones, including humanitarian assistance, are legitimate and protected activities of associations in the exercise of their rights to freedom of expression and association. These activities must not be construed as material support of terrorism or financing of terrorism.⁴

Incitement to terrorism

We also observe that under section 7 of the Bill anyone who incites or seeks to incite a terrorist offence, a particularly serious crime or any of the offences referred to in sections 4a-6 or 8-10 (participation in terrorist organization, terrorism financing, recruitment for terrorism and travelling for terrorism purposes) is sentenced for public incitement to terrorism. The penalty is imprisonment for a maximum of three years, one to six years if the offence is serious. We welcome the decision of your Excellency's Government to include in section 7 a gravity threshold, which gives particular consideration to the following elements: 1) the offence was endangering individuals' lives or any property of particular relevance; 2) the offence was part of a larger-scale activity, and; 3) the offence was of particularly dangerous nature.

² A/HRC/50/23 Access to resources: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, paras 18, 37.

³ A/HRC/53/38/Add.4 General principles and guidelines on ensuring the right of civil society organizations to have access to resources: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, para 52.

⁴ A/HRC/53/38/Add.4 General principles and guidelines on ensuring the right of civil society organizations to have access to resources: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, para 52.

We note that the regulatory commentary of the legislation explains that for an action to be deemed as incitement it is sufficient that an invitation is for the purpose of participation in a terrorist organisation. The legislation further recalls the Bill 2021/22:133 which clarifies that the elements characterising the offence of “incitement” are the following: 1) the message may be oral, written or otherwise formulated; 2) the message is addressed to a wider public and not to an enclosed circle of individuals; 3) the offender must act with the intention of inducing someone else to commit the offence in question, and; 4) the message is such that it can be considered to include an invitation to commit relevant offences (Bill 2021/22:133, pp. 109, 189 and 190).

We caution that this provision carries potentially significant implications and consequences. We observe that the proposed legislation, as amended, fails to provide a precise and clear description of what types of expression and statement would fall within the scope of “*public incitement to terrorism*”. As formulated, the proposed legislation extends criminalization beyond acts or threats of lethal violence to acts protected under freedom of opinion and expression, as the definition of incitement to which the legislation refers fails to provide clear assessment criteria. On these grounds, we recall that when it comes to incitement to commit a terrorist act, only the incitement of conduct, which itself meets the three characteristics indicated within resolution 1566 (2004), should be treated as the “incitement to terrorism” (E/CN.4/2006/98, para 43).

We also remind your Excellency’s Government that article 19 of the ICCPR states that “everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”. The right to freedom of opinion and expression is reflected also in global and regional human rights treaties and while the freedom of expression may be subject to certain limitations, the freedom of opinion is absolute (CCPR/C/GC/34, general comment no. 34, para 9). The conditions for permissible restrictions are reflected in article 19(3) ICCPR which provides that any limitation must be determined by law, be necessary and proportionate and pursue a legitimate objective. In particular, the requirement of legality necessitates that laws are “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.” (CCPR/C/GC/34, general comment no. 34, para 25.) Precision is essential in the use of exceptional counter-terrorism powers, and ambiguity must be remedied to ensure adherence to international human rights obligations. The Human Rights Committee has particularly highlighted that prohibitions on the “encouragement”, “praising”, “glorification”, or “justification” of terrorism or of extremist activity must adhere to the requirement in article 19(3) (CCPR/C/GC/34, general comment no. 34, paras. 24, 25, 46, 50 and 51).

While we acknowledge that your Excellency’s Government has incorporated certain thresholds at which a person will be deemed punishable for incitement to terrorism, we observe that section 7 of the Bill lacks the sufficient precision and clarity to be consistent with the limitations required by article 19(3) of the ICCPR⁵, making it

⁵ See also ECHR, art. 6 (affirming the principle of legal certainty).

vulnerable to arbitrary interferences with the freedom of expression of journalists, human rights defenders, and civil society actors.

Travel for the purpose of participating in a terrorist organization

Section 10 paragraph 2 of the legislation provides that anyone who travels with the intention of participation in a terrorist organization is punishable with imprisonment for a maximum of 2 years. From the regulatory comment of the Bill, it is specified that for a person to be charged under paragraph 2 it is sufficient that a journey is made or started with the intention of participating in a terrorist organization.

While we acknowledge Your Excellency's Government effort in implementing Security Council resolution 2178 (2014)⁶, we recall again the vagueness of the underlying term "participation" and we note that section 10, paragraph 2 risks prosecuting a wider range of travel activities and may *de facto* contravene the international law requirements of necessity and proportionality and may also impinge upon the right to freedom of movement.

In this regard, we recall that:

"While Resolution 2178 (2014) provides the framework of obligations, it falls to states to give them effect in criminal law in a manner that respects the principle of legality and clarifies the scope of criminality. The burden, therefore, falls on individual states to ensure that their national legislation clearly and specifically defines the material and mental elements of foreign terrorist fighters related crimes."⁷

Moreover, as expressed by the former High Commissioner for Human Rights "certain measures adopted by States in the implementation of resolution 2178 (2014) have resulted in profound human rights challenge. [...] Some of [them] may have a negative impact, for example, on the right to due process for affected individuals, including the right to presumption of innocence; to enjoyment of the right to freedom of movement, and be protected against arbitrary deprivation of nationality; to the rights to freedom of thought, conscience, opinion, expression or association; and to protection against arbitrary or unlawful interference in privacy." (A/HRC/28/28, para. 49) Furthermore, individuals may be discriminated based on their ethnicity, gender, race, and religion or belief. Similarly, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stressed that, in criminalizing travelling abroad for the purpose of terrorism, the specific intent to carry out, contribute to or participate in an act of terrorism should be an essential element of the crime (A/71/384, para. 50).

⁶ The Resolution requires States to prosecute those who "who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving terrorist training".

⁷ OSCE, Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework, p.36.

Right to privacy

Finally, the Bill amends Chapter 27, sections 18 and 33 of the Code of Judicial Procedure and section 1 of the Act (2007:979) of the code of procedure. The amendments allow that covert interception of electronic communications, covert surveillance of electronic communications, covert camera surveillance and covert data reading may be used in a preliminary investigation of a participation offence. The exemption from the obligation to inform a person who is or has been investigated will also apply. The rationale, expressed in the Government's assessment, is to extend the possibility of obtaining information, already provided for terrorist offences, also in relation to activities which would fall under the definition of participation in a terrorist organization with the aim to prevent such offences (Bill 2022/23:73, p. 82).

We positively acknowledge Your Excellency's Government's effort to comply with regional human rights standards and in particular with article 8 of the ECHR according to which the right to private life may be restricted by the law provided that such measures are necessary in a democratic society, including for reasons of national security, public safety or the prevention of disorder or crime. We also welcome Your Excellency's Government's clarification that "the restriction may never go beyond what is necessary with regard to the purpose that has prompted it, nor may it go so far that it constitutes a threat to the free formation of opinion as one of the foundations of democracy. The restriction may not be made solely on the basis of political, religious, cultural or other such beliefs (Bill 2022/23:73, p. 78)".

However, we still find that the amended legislation currently lacks sufficient clarity and precision so as to ensure that any covert measures taken pursuant to it are necessary and strictly proportionate to the stated aim of preventing criminal activities involving the serious degree of the participation offence. Noting the vague and broad definition of the participation offence, we note the wide range of individuals that could potentially undergo secret surveillance. We remind your Excellency's Government that under article 17 of the ICCPR "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." We recognize that the right to privacy is not an absolute right. Once an individual is under suspicion and subject to formal investigation by intelligence or law enforcement agencies, that individual may be subjected to surveillance for entirely legitimate counter-terrorism and law enforcement purposes (A/HRC/13/37, para. 13). However, any limitations to privacy rights reflected in article 17 must be provided for by law, and the law must be sufficiently accessible, clear and precise so that an individual may look to the law and ascertain who is authorized to conduct surveillance and under what circumstances. The limitation must be necessary for reaching a legitimate aim, as well as in proportion to the aim and the least intrusive option available" (see A/HRC/27/37, para. 23).

The Human Rights Committee concluded that the right to privacy requires robust, independent oversight systems be in place regarding surveillance, interception and hacking, including by ensuring that the judiciary is involved in the authorization of such measures, in all cases, and by affording persons affected with effective remedies in cases of abuse, including, where possible, an ex post notification that they were

placed under surveillance or that their data was hacked (BRA 6/2021; CCPR/C/ITA/CO/6, para. 37).

We note that international best practice encourages States to regularly and independently review counter-terrorism legislation to ensure that it remains necessary and consistent with international law. In this context, we would be pleased to offer technical assistance on any of the issues raised in this communication.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please provide information in details of how the counter-terrorism efforts of Your Excellency's Government comply with the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123, 72/180 and 73/174, in particular with international human rights law.
3. Please justify the definition “participation in a terrorist organization” and how it is in line both UN Security Council resolution 1566 and with the Model Definition discussed previously.
4. Please provide further information of how the definition of participation in a terrorist organization is narrowly construed so as to guarantee that measures taken pursuant to it do not unduly interfere with human rights and civil society while complying with the principle of legality.
5. Please explain how the criminalization of certain behaviors under the amended Terrorist Offences Act will not restrict the enjoyment of the fundamental human rights protected by articles 19, 21 and 22 of the ICCPR.
6. Please provide information about specific safeguards for the oversight of surveillance and what independent authority, if any, is in charge of effective oversight, whether a law enforcement or national security agency, and how the new measures comply with your Excellency's obligation under article 17 of the ICCPR.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Fionnuala Ní Aoláin

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Irene Khan

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ana Brian Nougrères

Special Rapporteur on the right to privacy