

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

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(Please use this reference in your reply)

10 February 2026

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolution 58/14.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning Law No. 003 of 25 September 2025 on the Amendment to the Counter-Terrorism Law of Puntland State, which was adopted in July 2025 and entered into force on 26 September 2025 (hereafter "the amended CT Law").

I acknowledge the efforts of the Puntland authorities to combat terrorism, including threats posed by Al-Shabaab and the Islamic State in Iraq and the Levant (ISIL), while seeking to strengthen the counter-terrorism legislative framework. In this context, the amended CT Law introduces several positive provisions that reinforce safeguards and protections, including judicial review of detention within 48 hours (art. 35); the prohibition on torture and forced confessions, and non-discrimination (article 52); witness protection (art. 42); and safeguards for women and children (art. 53). The humanitarian exemption is particularly commendable (art. 54). Oversight is strengthened through the Security and Peace Committee of the House of Representatives and the Office of the Puntland Human Rights Defender, which monitor the conduct of implementing institutions and detention facilities (art. 55). Additionally, the amended CT Law provides for compensation and apologies in cases of wrongful designation (art. 31), as well as the right to seek compensation and to appeal against measures considered unlawful in the context of counter-terrorism operations (art. 55). However, I would like to make recommendations to further align the amended CT Law with international human rights standards.

**Definition of terrorism and acts of terrorism**

I am concerned that some elements of the definition of terrorism under article 2(6), terrorist objective under article 2(7), and terrorist acts under article 6, are vague and overbroad, do not satisfy the requirement of legality under article 15 of the ICCPR, are prone to arbitrary application and abuse, risk violating other fundamental rights (including freedoms of expression, peaceful assembly and association, and the right to take part in public affairs), and depart from best practice international standards on the definition of terrorism. These includes terms such as "creating instability", "creating disorder," "disrupting essential services," threatening "freedoms, or security", "disrupting security, public stability, and the normal way of life", harming "public safety or security", destabilizing government institutions and services, and "undermining national security, [or] social cohesion". Acts such as "illegal extortion for money" (art. 2(6)) are not sufficiently serious to constitute terrorism and should

instead be covered by appropriate terrorist financing offences connected with the definition of terrorism, defined in accordance with best practice international standards. It also very confusing having separate but overlapping and inconsistent definitions of “terrorism”, “terrorist objective”, “acts of terrorism”.

The principle of legality under article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including to target civil society on political or other unjustified grounds (A/70/371, para. 46(b)) and suppress the exercise of fundamental rights and freedoms (A/HRC/40/52).

Some of acts listed in article 6 are also not sufficiently serious to constitute terrorism according to best practice international standards, including merely endangering or destroying property (art. 6(3)) and damaging or disrupting various public facilities (art. 6(7)). Terrorism should be limited to conduct causing death, serious bodily injury or hostage taking, in accordance with Security Council resolution 1566 (2004), the revised model definition of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/61/52 (2026), para. 68), and OHCHR’s Guidance Note on defining “terrorism” in national criminal legislation (2025). The definition should not include mere harm to property, which is not intended to cause death or serious injury, and such acts can be effectively addressed under other criminal laws.

While the Special Rapporteur’s model definition does not recommend including harm to property in the definition, if these are included, then high thresholds of harm must be applied (A/HRC/61/52, para. 69), such as by intentionally causing:

- (a) *Extensive destruction of public places, public transport, public property, State facilities, or other critical infrastructure,<sup>1</sup> which intentionally causes a high likelihood of danger to life or major economic loss.*
- (b) *Disablement, extensive damage or destruction of, or serious interference with, an electronic system, which intentionally causes a high likelihood of danger to life or major economic loss.*

Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments, the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the revised model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/16/51 (2010) as revised by A/HRC/61/52 (2026).

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<sup>1</sup> The terms should be narrowly defined, based on the International Convention for the Suppression of Terrorist Bombings and criminal law guidance on “critical infrastructure”.

I encourage the State of Puntland to revise its definition of terrorism following the model definition. The revised model definition is as follows:

*Any person commits a terrorist offence if that person, by any serious criminal act, intentionally causes death, serious bodily injury, or hostage-taking, where:*

- (a) *The purpose of the conduct, by its nature or context, is:*
  - (i) *To provoke a state of terror in<sup>2</sup> the public or a group of persons; or*
  - (ii) *To unduly compel a Government or an international organization to do or to abstain from doing any act;*
- (b) *The conduct is intended to advance a political or ideological purpose, which must be a substantial purpose; and*
- (c) *The conduct, given its nature or context, intentionally causes serious damage to a country or an international organization.*

The revised model definition also recommends enacting the following exclusion clauses (explained in A/HRC/61/52, paras. 47-65 and 68):

1. *An act of advocacy, protest, dissent or industrial action that does not intentionally cause death or serious bodily injury;*
2. *Conduct committed in armed conflict that does not violate international humanitarian law;*
3. *The provision of humanitarian [and medical] activities by impartial humanitarian organizations in accordance with international humanitarian law;*
4. *The activities of State military forces in the exercise of their official duties, inasmuch as they are accordance with international law; and*
5. *Acts intended to establish or re-establish democracy, constitutional government or the rule of law, or to exercise or safeguard human rights.*

### **Terrorism-related offences**

Chapter 2 of the amended CT law sets out a detailed list of terrorism-related offences, defining and establishing penalties for a range of conduct, including terrorist acts, preparatory offences, inchoate offences, and certain expression-related offences. The various offences associated with a proscribed terrorist organisation (arts. 8, 11, 13, 15, 20 and 22 of the amended CT law) should ensure that there is a sufficiently narrow and precise link between an individual's conduct and the terrorist activities of the group in order to avoid unjustified liability. The person's conduct should materially and

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<sup>2</sup> "To seriously intimidate" could be substituted for "To provoke a state of terror in".

proximately contribute to the commission of a terrorist act by the group; each offence must satisfy the requirements of legality and certainty under article 15 of the ICCPR so that individuals may reasonably foresee what behaviour is criminal; and the person must have knowledge of the group's terrorist purpose, in addition to intending to commit the physical conduct (A/80/284, practice 10). Article 8 of the amended CT Law, for example, criminalises, *inter alia*, undefined membership in a terrorist organisation, without requiring intent to participate in or facilitate the terrorist acts of the group. Vague and overbroad offences are highly susceptible to arbitrary interpretation and enforcement, risking undue restrictions on the rights to freedom of expression and opinion (ICCPR, article 19) and freedom of association (ICCPR, article 22). It is accordingly recommended to review and amend the offences.

Under article 22 of the amended CT law, the terrorist financing and weapons/materials offences should be limited to "intentionally" providing such support with the further intention or knowledge that they be used for terrorism and not criminalise the bare provision of funds or impose strict liability where weapons/material happen to be "used" for terrorism.

There is overlap between the terrorist training offences in articles 8 and 11; and the harbouring-type offences in articles 12 and 20 of the amended CT Law. It is recommended to remove the duplication and consolidate the relevant elements of these offences, to improve legal certainty and avoid the risk of criminalising conduct that is not genuinely terrorist in nature, contrary to the principle of legality under article 15 of the ICCPR.

With respect to expression-related offences, article 13 criminalises conduct such as "advertising or disseminating terrorist ideology," "portraying a group positively," "producing propaganda," and "managing" websites or media outlets that "support, glorify, or promote the reputation of a terrorist group," as well as unlawful access to government websites for terrorist purposes. Article 18 further addresses "incitement and encouragement" of terrorist acts. The overbroad and imprecise language used in these offences could potentially lead to arbitrary and abusive application and risk restricting legitimate expression, including academic debate, journalistic reporting, or other protected speech. In line with article 20 of the ICCPR and the Rabat Plan of Action, incitement-related offenses should be narrowly defined, limited to conduct that is genuinely terrorist in nature, avoid vague terminology, require intent to incite terrorism and a real risk of violence resulting, and preserve defences by referring to "unlawful" incitement (see A/HRC/31/65, para. 24).

### **Mandatory sentences**

I am concerned that certain offences require the imposition of mandatory sentences, including death sentences and life sentences. Mandatory sentences are not consistent with the principles of proportionality and judicial discretion in sentencing under international human rights law and general principles of criminal law, particularly where the offences cover a wide range of conduct that may involve varying degrees of culpability in individual circumstances. Mandatory life sentences with the possibility of parole are also not consistent with international human rights law.

## **Death Penalty**

I am concerned that numerous offences (articles 7-10, 16-17, 21, 25 of the amended CT law) prescribe the death penalty where an act “results in death”. Not all the offences meet the threshold of “most serious crimes” under article 6(2) of the ICCPR, which means crimes of “extreme gravity involving intentional killing” (general comment No. 36, para. 39) and not merely acts (including unintentional ones) which result in death. In addition, article 8 of the amended CT law mandates either life imprisonment or the death penalty for creating, establishing, managing or leading a terrorist organisation, even in the absence of any death or injury. It is equally concerning that the death penalty has been imposed on civilians for terrorism after often rapid military trials which do not satisfy fair trial under the ICCPR.

I wish to recall that the mandatory imposition of the death penalty, without judicial discretion and proportionality in sentencing, is incompatible with article 6 of the ICCPR and has been deemed arbitrary by the Human Rights Committee (general comment No. 36, para. 37). The principle of proportionality in sentencing, a cornerstone of international human rights law and a general principle of criminal law, requires punishment to correspond to the gravity of the offence and to take account of mitigating factors. Mandatory death sentences preclude such individualised assessment and violate this principle. Equally concerning is the absence of any possibility of commutation or pardon, which contravenes article 6(4) of the ICCPR, guaranteeing that “[a]nyone sentenced to death shall have the right to seek pardon or commutation of the sentence,” without exclusion of any category of persons (general comment No. 36, para. 47).

In addition, methods of execution such as death by firing squad, as well as prolonged conditions on death row, may amount to cruel, inhuman or degrading treatment, contrary to article 7 of the ICCPR (general comment No. 36, para. 51). Execution methods that inflict unnecessary suffering, such as prolonged pain or botched procedures, have been criticised by the Human Rights Committee as incompatible with article 7.

## **Protection of children**

While I welcome that article 53 of the amended CT Law recognises that women and children suspected of, or involved in, terrorism-related offences should receive special consideration, further improvements would ensure full consistency with child rights under international law. First, the law does not define “child”, expressly reference the Puntland Juvenile Justice Law 2016 as the governing framework for all persons under 18, or clarify whether it relies on the age of maturity (15 years) or the age of majority for criminal responsibility (18 years). To provide legal certainty and align international law, it is recommended that article 53 define “child” in line with article 1 of the Convention on the Rights of the Child; that the law expressly reference and give primacy to the Juvenile Justice Law when addressing cases involving child and adolescent offenders, and that only adult offenders be detained and prosecuted under the amended CT Law.

It is further recommended that the amended CT Law codify that children associated with armed groups are addressed primarily through child-protection and

juvenile-justice systems; prohibit the death penalty and other severe penalties for offences committed while under 18 years; and limit arrest or detention to a measure of last resort, with a focus on rehabilitation and reintegration. Finally, the State of Puntland is encouraged to operationalise these safeguards through standard operating procedures and specialised training for police, prosecutors and judges, and to ensure diversion wherever possible and periodic judicial review.

### **Military trials of civilians**

I note with concern that the amended CT Law has retained the use of the military tribunals for the trial of civilians accused of terrorism-related charges (art. 32) and empowers the Office of the General Prosecutor of the Armed Forces to initiate and conduct investigations and supervise and prosecute terrorism cases. In the country visit report to Somalia (A/HRC/61/52/Add.2, para. 44), I stressed that while international humanitarian law and human rights law do not prohibit military trials, courts must be independent and impartial and fair trial standards must be fully guaranteed. Under human rights law, military trials should be limited to “exceptional” situations where they are “necessary and justified by objective and serious reasons” and where “the regular civilian courts are unable to undertake the trials.” (general comment No. 32). Civilians must also not be tried for capital crimes before military courts (general comment No. 36, para. 45). Where such trials occur, they must afford all guarantees of independence, impartiality and due process (general comment No. 32; see also ECOSOC resolution 1984/50). In my view, military courts may not be sufficiently independent from the military chain of command, both under the executive power, and trials do not appear to meet fair trial standards. In many cases, no written reasons for judgments are given, accounting in part for why appeals are rare.

### **Administrative measures**

Article 26 of the amended CT law empowers “the competent court” to impose a range of administrative measures following a terrorism conviction, for up to five years. These measures potentially impact the rights to freedom of movement, freedom of opinion and expression, liberty, family life, and access to work, health and education.

However, the law does not provide for adequate due process judicial review or effective remedies. Best practices concerning procedural rights and remedies for administrative measures include the right to effective, independent and impartial judicial review on the merits of the law, the right to be informed of such right, and the right to prompt and effective remedies, including termination or adjustment of the measure, compensation, and rehabilitation (A/80/284, para. 7(c) and (f)).

The automatic application and extended duration of these measures, up to five years, without mandatory review raises concerns about their necessity and proportionality. With respect to travel bans and mandatory residency, I recall that, in accordance with article 12 of the ICCPR and general comment No. 27, any restriction on freedom of movement must be lawful, necessary, proportionate, and subject to effective review by an independent authority. Such a review should consider the impact on family life, employment, health, education, and the best interests of dependent children (A/80/284, para. 31). Prolonged limitations on movement, communication, and liberty further risk amounting to additional penalties rather than preventive

measures (*ibid*, para. 32), potentially violating the principles of legality and proportionality under articles 9 and 12 of the ICCPR, the right to privacy under article 19, the prohibition on double jeopardy under article 14(7) of the ICCPR, and other affected rights such as freedom of expression, work, health and education. Administrative measures should be imposed for renewable periods of one, not five years.

Regarding mandatory participation in rehabilitation programmes, such measures should remain exceptional and be subject to strict regulation. A prior conviction alone should never automatically trigger post-release compulsory interventions. Any compulsory measure must be necessary and proportionate to prevent the commission of a terrorist act (A/80/284, paras. 31 and 32). It must only apply to where an individual is assessed to pose a genuine and significant risk of engaging in terrorist activity, on the basis of transparent, evidence-based criteria. Less intrusive alternatives, including voluntary or consensual interventions, must be demonstrably ineffective before resorting to compulsory programmes. Detention can never be justified solely to compel participation in counselling or re-education, and refusal to participate should not constitute a criminal offence. Selection criteria must be individually tailored, transparent, and free from discriminatory profiling. These safeguards are essential to ensure that rehabilitation programmes do not become punitive in nature and remain consistent with the principles of legality, necessity, and proportionality under international law (*ibid*).

### **Broad powers of Security Forces and Security Agencies**

Articles 34, 37 and 38 of the amended CT law significantly expand the powers of Security Forces and Agencies. With respect to article 34(5), I am concerned that allowing criminal investigation officers to enter and search, without a warrant (followed by notification of the competent authorities within 48 hours), the home or place of residence of a suspected person is not consistent with the right to privacy under article 17 of the ICCPR. Warrantless searches should be limited to urgent situations, such as where there exists an imminent danger to life or the destruction of evidence, and should not extend to any case where a person is merely suspected of terrorism.

I am further concerned that articles 37 and 38 of the amended CT law grant Security Agencies extensive stop-and-search powers, allowing searches of vehicles, passengers and pedestrians with no threshold for vehicle searches (art. 37) and only a low standard for pedestrian searches within designated areas (article 38) (“anything that may give rise to suspicion of terrorism”, rather than a reasonable suspicion). In both cases, the low thresholds and the absence of prior judicial authorisation may give rise to violations of article 17 of the ICCPR, as such broad discretion risks arbitrary application, discriminatory profiling, and intrusive searches not demonstrably grounded in necessity or proportionality. These vague standards may also create practical difficulties for officers in distinguishing credible indicators from irrelevant information, thus wasting scarce resources and undermining the effectiveness of law enforcement.

Additionally, the definition of “Security Agencies” in article 2(19), referring to “any person or body working in the security and stability of the Puntland State Government”, appears sufficiently broad to potentially include non-state actors, including militias or other groups. Such an expansive formulation could unintentionally

enable actors outside formal law-enforcement structures to perform security functions, conferring far-reaching enforcement powers without the safeguards, including command and disciplinary structures, that are normally applicable to official public authorities.

### **Monitoring and interception of communications**

Article 44 of the amended CT law establishes the framework for the monitoring and interception of communications, including important safeguards, I note with concern that the law neither addresses privacy nor fully ensures that any surveillance conducted without individual knowledge is lawful or subject to prior judicial authorization, creating a risk of arbitrary interference with privacy. Interception carried out without strict legal limits, prior judicial oversight, and robust safeguards constitute a breach of the right to privacy under human rights law.

However, the grounds for authorizing surveillance appear broad and insufficiently defined, permitting secret monitoring on expansive bases such as “the security interests of the State of Puntland” and “serious crimes or acts intended to protect the interests of the Puntland State” (para. 4(a)–(b)). Moreover, the provision permitting urgent interception without prior judicial authorization (para. 2) may be vulnerable to misuse; the absence of a clearly articulated standard of proof for issuing interception warrants creates uncertainty; and the stipulation that “any information obtained through interception that is related to a case may be used as evidence before the court” (para. 14) raises concerns regarding admissibility safeguards and judicial discretion. In addition, the article does not establish clear, time-bound rules on data retention and deletion (para. 12), thus affecting the right to privacy and personal data protection, and sets out only minimal safeguards for cross-border disclosures, limited to a general requirement that foreign authorities provide “equivalent safeguards and confidentiality protections” (para. 13).

These aspects may give rise to arbitrary or disproportionate interferences with the right to privacy under article 17 of the ICCPR. It should be recalled that any interference with privacy must be “provided by law,” accessible, clear and precise, non-arbitrary, necessary for a legitimate aim, proportionate, and the least intrusive means available (HRC, general comment No. 16).

### **Designation**

Article 30 of the amended CT law sets out the procedure for listing individuals or organisations as terrorists. While these provisions include important procedural guarantees, such as the right to appeal, periodic review, and compensation, the framework remains limited in several respects. The designation process is entirely executive-driven, without independent judicial oversight at the initial stage, and lacks precise evidentiary standards beyond requiring a “reasoned list” with “sufficient supporting evidence.” According to best practice international standards, to list an organisation there must be reasonable grounds to believe that it has knowingly engaged in terrorism, as properly defined according to international standards, including the requirement of legality (A/HRC/16/51, para. 35; A/80/284, para. 37). As mentioned above, the amended CT Law’s definition of terrorism does not meet international standards. In addition, to list an organization, it must have the substantial purpose of

engaging in terrorist offences (A/80/284). It is not enough that some individuals commit isolated acts of terrorism while acting outside of the organization's legitimate purposes and leadership. Even where an individual or organization meets the formal criteria, listing must still be necessary and proportionate in the circumstances, including by demonstrating that less invasive means, such as surveillance and criminal investigation, would be ineffective. Proportionality will also depend on the nature and scope of the restrictive measures that flow from designation, including whether they apply automatically or in a tailored manner, and whether any offences are overbroad (A/80/284).

Further, under article 30 of the amended CT law, it is unclear whether designated entities are informed of the reasons for their listing and the specific consequences of designation. The law also does not provide robust safeguards for timely judicial review, as no timeframe is specified for courts to decide appeals.

International human rights standards require, among others, that individuals or entities be promptly informed of their listing, the factual basis, its consequences, and applicable procedural rights; have the right to seek removal and obtain judicial review in accordance with fair trial guarantees, including disclosure of evidence and access to legal counsel; and be able to submit new requests for removal in case of significant changes in circumstances or new evidence (A/HRC/16/51, para. 35 and A/80/284). Listings must lapse automatically after 12 months unless renewed afresh must be available for any wrongful listing.

### **International cooperation and extradition**

Finally, articles 47 to 51 of the amended CT law in Puntland establish a framework for international cooperation on terrorism-related offences, including information-sharing, joint investigations, evidence-gathering, confiscation of assets, mutual legal assistance and extradition. However, article 49 of the amended CT law lists limited grounds for refusal of cooperation. While article 51 appropriately addresses non-discrimination in extradition, it does not fully incorporate the absolute and non-derogable obligation of *non-refoulement* under international human rights law, nor does it require an individual risk assessment prior to transfer. International human rights law prohibits the transfer of a person to a place where the person is at risk of arbitrary deprivation of life (including where the death penalty is not consistent with international law), torture or other ill-treatment, persecution, enforced disappearance and arbitrary detention, and flagrant denial of justice.

In addition, article 50(2) of the amended CT law, which allows extradition in the absence of a treaty "based on good relations", may not ensure the legal certainty and procedural guarantees required to protect against arbitrary detention (art. 9 of the ICCPR), refoulement to risks to life or ill-treatment (arts. 6 and 7 of the ICCPR and art. 3 of the CAT), and fair-trial guarantees in extradition proceedings (art. 14 of the ICCPR).

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on on this analysis.
2. Please indicate whether a review of the amended CT Law is envisaged to narrow and amend the terrorism definitions, offences, powers, procedures and safeguards under the law, in line with international best practice standards.
3. Please indicate steps taken to abolish the death penalty as incompatible with the right to life, acknowledging the international trend towards abolition.
4. Please indicate the steps taken to ensure that judicial discretion in sentencing is preserved and that robust, verifiable age-assessment mechanisms prevent any child from being exposed to the death penalty and explain how any mandatory sentencing provisions are reconciled with the principle of proportionality in sentencing under international human rights law.
5. Please clarify how the amended CT Law interacts with the Puntland Juvenile Justice Law 2016 and indicate whether the CT Law also applies to persons under 18 years of age.
6. Please indicate if the Government of Puntland is envisaging a transition from military to civilian trials of terrorism offences. Please also indicate how the independence and impartiality of the military judiciary are ensured and how fair trial rights are respected, including through training, capacity-building, resourcing, anti-corruption measures and independent trial monitoring.
7. Please clarify how article 26 of the amended counter-terrorism law ensures effective, independent and impartial judicial review and remedies for the administrative measures it authorises (including travel bans, mandatory residency and compulsory rehabilitation).
8. Please explain how the low thresholds for stop-and-search and the absence of prior judicial authorisation are reconciled with article 17 of the ICCPR and what measures are in place to prevent arbitrary application, discriminatory profiling, and intrusive searches.
9. Please explain how article 44 ensures that any monitoring and interception of communications are subject to prior judicial authorisation, based on clear and narrowly defined legal grounds, and governed by strict standards of proof, admissibility safeguards, and time-bound data-retention/deletion rules so as to prevent arbitrary or

disproportionate interferences with the right to privacy under article 17 of the ICCPR.

10. Please explain how article 30 of the amended CT law, governing the designation of individuals or organisations, ensures independent oversight, clear evidentiary standards, and effective safeguards to prevent arbitrary or erroneous listings.
11. Please explain how articles 49 and 51 of the amended counter-terrorism law ensure full compliance with the absolute and non-derogable prohibition of non-refoulement, including through individualised risk assessments prior to any form of transfer, return, removal or cooperation measure.

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 my highest consideration.

Ben Saul

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