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

Argentina, Chile, Costa Rica*, Ireland*, Mexico, Norway, Peru*, Switzerland*, Uruguay: draft resolution

13/...

Protection of human rights and fundamental freedoms while countering terrorism

The Human Rights Council,

Reaffirming its decision 2/112 of 27 November 2006 and its resolutions 6/28 of 14 December 2007, 7/7 of 27 March 2008 and 10/15 of 26 March 2009, 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 and 64/168 of 18 December 2009, 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. *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 assistance;

4. *Recognizes* that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing;

* Non-Member State of the Human Rights Council.

5. *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 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, which reaffirms, inter alia, respect for human rights for all and the rule of law to be the fundamental basis of the fight against terrorism;

6. *Calls upon* States, while countering terrorism, to ensure 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;

7. *Urges* States, while countering terrorism, to protect 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 these rights;

8. *Calls upon* States, while countering terrorism, to safeguard 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;

9. *Urges* States, while countering terrorism, to respect the right 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;

10. *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 liberty, regardless of the place of arrest or of detention, enjoy the guarantees to which they are entitled under international law, including the review of their detention and other fundamental judicial guarantees;

11. *Acknowledges* the report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism (A/HRC/13/37);

12. *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;

13. *Regrets* that the compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism was not submitted, and therefore requests the Special Rapporteur, with the support of the Secretariat, to present the compilation to the Council at its fourteenth session;

14. *Welcomes* the report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism (A/HRC/13/36), 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, and requests the High Commissioner to continue her efforts in this regard;

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

16. *Welcomes* the decision taken by the Security Council in its resolution 1904 (2009) of 17 December 2009 to establish an office of the Ombudsperson, and looks forward to an early appointment as a step to continue enhancing due process guarantees for persons on the consolidated list of the Security Council;

17. *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 Council within their mandates and the Office of the High Commissioner and relevant stakeholders;

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

19. *Invites* the Office of the High Commissioner and the relevant special procedures of the Council to engage in a more comprehensive dialogue with the Security Council and its Counter-Terrorism Committee in order to promote a consistent approach to the protection of human rights and fundamental freedoms while countering terrorism, and welcomes further efforts by the Security Council and its committees, in the fulfilment of their respective mandates, to integrate a human rights approach into its counter-terrorism objectives;

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