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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Promotion and protection of human rights and fundamental freedoms while countering terrorism

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, submitted in accordance with Assembly resolution [72/180](#) and Human Rights Council resolution [49/10](#).

* [A/79/150](#).

** The present report was submitted after the deadline in order to reflect the most recent information.



Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul

Protection of human rights by regional organizations while countering terrorism: norms, cooperation, victims of terrorism and accountability

Summary

In the present report, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, examines the protection of human rights by regional organizations while countering terrorism, in relation to regional norms, regional cooperation, victims of terrorism, and regional oversight, accountability and remedies. The Special Rapporteur identifies both good practices and deficiencies and recommends improvements.

I. Activities of the Special Rapporteur

1. At the Human Rights Council in March 2024, the Special Rapporteur presented his first report, outlining his priorities, and conducted an interactive dialogue with 50 States, two national human rights institutions and 10 civil society organizations. He co-hosted side events on victims of terrorism, his priorities and violations against children detained in the north-east of the Syrian Arab Republic. Also in Geneva, he co-hosted an expert round table on counter-terrorism issues; briefed regional groups of States; and met with representatives of States and United Nations entities. Other Geneva-centred work included numerous communications and *amicus curiae* interventions. Three States accepted requests for official country visits.

2. With regard to the United Nations counter-terrorism architecture in New York, the Special Rapporteur is an active member of the Global Counter-Terrorism Coordination Compact and its working groups, and met with the leadership of the Office of Counter-Terrorism, the Counter-Terrorism Committee Executive Directorate, the Office of the Ombudsperson established pursuant to Security Council resolution 1904 (2009) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). He gave presentations to the Counter-Terrorism Committee, the Global Compact Coordination Committee and the secretariat of the Compact, and addressed Member States at the quarterly briefing organized by the Office of Counter-Terrorism. During an academic visit to New York, he met with many States and briefed regional groups, spoke at the launches of the OHCHR toolkit on strengthening human rights in counter-terrorism strategy and policy and the scoping report on independent civil society-United Nations counter-terrorism engagement, and presented at events on civil society engagement.

3. The Special Rapporteur presented at and made a written submission to the Commission on Crime Prevention and Criminal Justice in Vienna; presented at a United Nations Office on Drugs and Crime workshop on foreign terrorist fighters held in the United Republic of Tanzania; and published an assessment of the draft United Nations convention against cybercrime. He participated in the reference group for the drafting of the Global Counterterrorism Forum's Brussels Memorandum on Oversight and Accountability Mechanisms in Counter-Terrorism, including presenting in Nairobi. In preparing the present report, the Special Rapporteur met with regional organizations worldwide and gave presentations to the African Commission on Human and Peoples' Rights, the Committee on Counter-Terrorism of the Council of Europe and the Inter-American Committee against Terrorism of the Organization of American States (OAS). He undertook academic visits to Nepal, the Netherlands, France, Belgium, the Gambia, Ethiopia, Turkey and Kenya, including meetings with United Nations country teams. He attended the Paris Court of Appeal to hear testimony from victims of the terrorist attack in Nice, France. He also engaged with hundreds of civil society organizations globally.

4. The Special Rapporteur made many other presentations, including at the Pan-African Conference on Human Rights and Counter-Terrorism, held in Kenya; at the International Fair Trial Day Conference, held in the Philippines; at an event on border security organized by the Global Counterterrorism Forum; at an event on humanitarian exemptions to sanctions organized by the International Peace Institute; at a briefing on administrative measures organized by the International Centre for Counter-Terrorism; and at an event to mark the award of the Sydney Peace Prize to the International Red Cross and Red Crescent Movement. He also gave briefings to parliamentarians on conflicts, various public and closed briefings on the misuse of counter-terrorism laws, and seminars about special procedures in various countries.

Many of the statements delivered by the Special Rapporteur are available on the website of the mandate.¹

5. The Special Rapporteur appreciates assistance from the University of Sydney, the Human Rights Center at the University of Minnesota Law School, the Leitner Center for International Law and Justice at Fordham Law School, Leigh Day Solicitors and London counsel. He reiterates that greater financial and human resources are required from Member States to effectively carry out the mandate (A/HRC/55/48, paras. 15 and 16) and to close gaps in protection for victims. He urges States to match their rhetorical commitment to human rights in counter-terrorism by adequately funding independent international human rights monitoring by the mandate holder, just as other United Nations international counter-terrorism activities are already well-funded.

II. Protection of human rights by regional organizations while countering terrorism

6. Regional organizations play an increasingly important role in countering terrorism, including through 38 binding instruments (see annex I²), prolific soft law and specialized institutions, yet overall, they have received insufficient human rights scrutiny. Regional solidarity can productively propel regionally responsive standard setting and cooperation. As noted by stakeholders, regional organizations can contribute regional solutions to regional problems and promote ownership of norms and processes. They can also be a constructive bridge between the universal and the national in both implementing and stimulating global standards. At the same time, regional counter-terrorism efforts can suffer deficits in implementation, resourcing, monitoring and enforcement, as well as political divisions. Their norms and practices can also sometimes collide with international human rights law.

7. The prolific and diverse counter-terrorism activities of the many regional organizations involved cannot be captured in one report. The present report focuses on the protection of human rights in relation to: (a) binding regional norms; (b) regional cooperation; (c) victims of terrorism; and (d) oversight, accountability and remedies. A subsequent report will examine measures to prevent and counter violent extremism, including regional strategies; conditions conducive to terrorism; sanctions and countering terrorist financing; civil society engagement; regional military operations; and relationships with the United Nations and other partners.³

A. Regional counter-terrorism norms and human rights

8. Transnational criminal cooperation instruments have historically made little reference to human rights. The universal counter-terrorism conventions adopted since the 1970s typically have been limited to ensuring “fair treatment” of suspects, consular access, and non-discrimination in extradition and mutual assistance. The traditional assumption was that the application of international human rights law in the background would be enough to protect human rights, while the conventions themselves were narrowly targeted at specific methods of terrorism. Most regional instruments were adopted from the late 1990s onwards as counter-terrorism efforts

¹ See www.ohchr.org/en/special-procedures/sr-terrorism/statements-special-rapporteur-terrorism.

² Available at www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/reports/srct-report-protection-human-rights-regional-organisations-annex1.pdf. See also A/78/221, paras. 26 and 41.

³ The present report does not cover the Global Counterterrorism Forum, the Financial Action Task Force, the North Atlantic Treaty Organization or military initiatives, which will be addressed in future work.

accelerated. Some went beyond the limited approach possible in universal instruments, heightening human rights concerns.

9. Positively, many regional instruments acknowledge human rights, augmenting the commonplace political statements by regional organizations in support of human rights while countering terrorism. First, some instruments recognize that terrorism violates human rights,⁴ thus framing one purpose of countering terrorism as the protection of human rights.⁵ Second, most (but not all⁶) regional instruments acknowledge the obligation to respect human rights generally while countering terrorism.⁷ Certain instruments also refer to regional human rights law,⁸ international refugee law,⁹ international humanitarian law, or international law generally.¹⁰ While many commitments are contained in the preamble, some are binding, whether as positive obligations to respect human rights¹¹ or, more commonly, as savings clauses pledging that the instrument does not affect human rights.¹²

10. Only a few instruments adopt the good practice of identifying specific rights affected by the instruments in general¹³ or particular measures in them. For instance, the Council of Europe Convention on the Prevention of Terrorism, adopted in 2005, and its Additional Protocol, adopted in 2015, require national preventive measures to respect human rights generally; preparatory offences to respect freedoms of expression, association and religion; and offences generally to be necessary and proportionate in pursuit of a legitimate aim and to exclude arbitrariness,

⁴ Preambles to the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism (1999), the Convention of the Organization of the Islamic Conference on Combating International Terrorism (1999), the Shanghai Convention on Combating Terrorism, Separatism and Extremism (2001), the Inter-American Convention against Terrorism (2002), the Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism (2004), the Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004) (see also art. 3 (1) (a)), the Association of Southeast Asian Nations (ASEAN) Convention on Counter-Terrorism (2007) and European Union Directive 2017/541 on combating terrorism, recital 2.

⁵ Council of Europe Convention on the Prevention of Terrorism (2005), art. 2.

⁶ South Asian Association for Regional Cooperation (SAARC) Regional Convention on Suppression of Terrorism (1987); Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism (1999).

⁷ Convention of the Organization of the Islamic Conference on Combating International Terrorism (1999); Shanghai Convention on Combating Terrorism, Separatism and Extremism (2001); Protocol amending the European Convention on the Suppression of Terrorism (2003); Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism (2004); Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation Convention on Cooperation in Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking (2009); Council of Europe Convention on the Prevention of Terrorism (2005); ASEAN Convention on Counter-Terrorism (2007); European Union Directive 2017/541 on combating terrorism, recital 35.

⁸ OAU Convention on the Prevention and Combating of Terrorism (1999), art. 22 (1); Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004); Council of Europe Convention on the Prevention of Terrorism (2005), art. 3 (1); European Union Directive 2017/541 on combating terrorism, recital 35.

⁹ Inter-American Convention against Terrorism (2002), art. 15 (2); ASEAN Convention on Counter-Terrorism (2007), art. 10.

¹⁰ OAU Convention on the Prevention and Combating of Terrorism (1999), art. 22 (1); European Union Directive 2017/541 on combating terrorism, recital 37; Inter-American Convention against Terrorism (2002), art. 15 (2).

¹¹ Inter-American Convention against Terrorism (2002), art. 15 (1).

¹² For example, instruments of OAS, SAARC, OAU and the European Union.

¹³ Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015), art. 8; European Union Directive 2017/541 on combating terrorism, recital 35 (listing a dozen rights).

discrimination or racism.¹⁴ In non-binding recitals, European Union Directive 2017/541 on combating terrorism mentions the latter safeguards and seeks to safeguard freedom of expression in relation to its offence of public provocation to commit a terrorist offence (recitals 39–40). The Directive also addresses media freedom (art. 23 (2)). The Protocol to the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism, adopted in 2004, prohibits torture, discrimination and racism (art. 3 (1) (k)).

11. Regional instruments also contain concrete safeguards in specific areas, such as “fair treatment” in legal proceedings,¹⁵ the principle of legality and the presumption of innocence in criminal offences,¹⁶ non-discrimination in extradition or mutual assistance, the right of asylum,¹⁷ data protection¹⁸ and witness protection.¹⁹ Intersectional vulnerabilities, such as gender or disability, are seldom mentioned. One instrument enumerates the grounds of non-discrimination²⁰ and also addresses children in sentencing.²¹ While most instruments leave penalties to national law, one commendably encourages the sharing of best practices on rehabilitation and social reintegration of offenders.²² The same instrument reaffirms that terrorism cannot be associated with any religion, nationality, civilization or ethnic group.²³ Reference to human rights is more common in regional strategies on countering terrorism and violent extremism, but these typically lack enforceability.

12. Various instruments recognize international humanitarian law.²⁴ The Council of Europe and European Union instruments provide that they are without prejudice to international humanitarian law and exclude the activities of armed forces in armed conflict as those terms are understood under international humanitarian law,²⁵ following the post-1997 universal conventions. Uniquely, European Union Directive 2017/541 further exempts the provision of humanitarian activities by impartial humanitarian organizations recognized by international law.²⁶ Regional instruments that define terrorism by reference to the universal conventions implicitly incorporate their “armed forces” exclusion clauses. The Shanghai Convention on Combating Terrorism, Separatism and Extremism, adopted in 2001, excludes attacks on people taking an active part in hostilities in armed conflict (art. 1 (1) (1)), mirroring the

¹⁴ Council of Europe Convention on the Prevention of Terrorism (2005), art. 12 (1) and (2), and Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015), art. 8.

¹⁵ OAS Convention for the Prevention and Punishment of Certain Acts of International Terrorism (1971), art. 4; ASEAN Convention on Counter-Terrorism (2007), art. 8; Inter-American Convention against Terrorism (2002), art. 15(3).

¹⁶ European Union Directive 2017/541 on combating terrorism, recital 35.

¹⁷ OAS Convention for the Prevention and Punishment of Certain Acts of International Terrorism (1971), art. 6.

¹⁸ European Union Directive 2017/541 on combating terrorism, recital 35.

¹⁹ Arab Convention on the Suppression of Terrorism (1998), chap. III.

²⁰ European Union Directive 2017/541 on combating terrorism, recital 35.

²¹ *Ibid.*, art. 15 (4).

²² ASEAN Convention on Counter-Terrorism (2007), art. 11.

²³ ASEAN Convention on Counter-Terrorism (2007), art. 8.

²⁴ OAU Convention on the Prevention and Combating of Terrorism (1999), art. 22 (1); Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (Malabo Protocol) (2014), art. 28 G (D); Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (2004), art. 19; Inter-American Convention against Terrorism (2002), art. 15(2); European Union Directive 2017/541 on combating terrorism, recitals 37 and 38.

²⁵ Council of Europe Convention on the Prevention of Terrorism (2005), art. 26 (4) and (5);

European Union Directive 2017/541 on combating terrorism, recital 37.

²⁶ Recital 38.

International Convention for the Suppression of the Financing of Terrorism, adopted in 1999.

13. Safeguards for humanitarian law are good practices that regional organizations should adopt. Unlike in the Council of Europe instrument, the European Union safeguards are non-binding and have not been implemented in all member States. In some States, they have been legislated but courts have not interpreted them consistently with international humanitarian law, such as by not applying the “armed forces” exclusion clause to cover non-State armed groups.²⁷ Positively, African instruments eliminate ambiguity by expressly excluding both government forces and organized armed groups.²⁸ The European Union has also not applied the exclusion clause when replicating the terrorism definition contained in European Union Directive 2017/541 as the basis for imposing autonomous counter-terrorism sanctions.²⁹

14. The problematic criminalization of activities protected under international humanitarian law, including humanitarian relief and medical care, is well known.³⁰ Regional counter-terrorism law should unambiguously avoid conflict with humanitarian law. It is also desirable for regional instruments to separate the regulation of armed conflict generally from counter-terrorism law, to avoid criminalizing conduct that is not unlawful under humanitarian law (such as mere participation in hostilities) and thus not undermine incentives for compliance with humanitarian law. International humanitarian law already comprehensively regulates violence in armed conflict, including by criminalizing unlawful violence against civilians. The “best practice” approach is to exclude the activities of armed forces – State and non-State – that are “in accordance with” humanitarian law. This would ensure that regional counter-terrorism law would not undermine humanitarian law, while also holding accountable, under both humanitarian and counter-terrorism law, State or non-State actors who target civilians. It thus maximizes avenues for accountability and treats similar conduct equally, regardless of the perpetrator, defusing legitimate concerns about double standards in the regulation of comparable violence.

15. Five regional instruments operatively exclude self-determination struggles, in accordance with international law.³¹ The exclusions do not immunize self-determination violence, which remains subject to other international rules, but they exempt it from legal suppression as “terrorism”. The international community has repeatedly condemned terrorism as unjustifiable regardless of the motive or the perpetrator,³² suggesting there can be no exclusion for self-determination. Yet, it is well accepted that various instruments already exclude violence by State and non-State armed forces in armed conflict, as well as the “activities of the military forces of a State in the exercise of their official duties”, i.e. in peacetime.³³ Terrorism definitions are usually not limited to attacks on civilians but extend to violence against State authorities. Under international law, armed struggle is permissible to

²⁷ See Ben Saul, “From conflict to complementarity: reconciling international counter-terrorism law and international humanitarian law”, *International Review of the Red Cross*, vol. 103, Nos. 916–917 (April 2021).

²⁸ Malabo Protocol (2014), art. 28 G (D); African Model Anti-Terrorism Law (2011), part I (4) (xl) (c).

²⁹ Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP), art. 1 (3).

³⁰ See A/75/337; and *International Review of the Red Cross*, vol. 103, Nos. 916–917 (April 2021), pp. 1–762.

³¹ Convention of the Organization of the Islamic Conference on Combating International Terrorism, art. 2 (a); Arab Convention on the Suppression of Terrorism (1998), art. 2 (1); OAU Convention on the Prevention and Combating of Terrorism (1999), art. 3 (1); Malabo Protocol (2014), art. 28 G (C); Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism (2004), art. 2 (a). See also African Model Anti-Terrorism Law (2011), part I (4) (xl) (b).

³² General Assembly resolution 49/60, annex, para. 3.

³³ European Union Directive 2017/541 on combating terrorism, recital 37.

resist the forcible suppression of self-determination,³⁴ subject to international humanitarian law and human rights law. This legitimate right should be accommodated in counter-terrorism instruments, just as some State and non-State violence is excluded. The exclusions in the regional instruments are, however, overbroad in carving out any self-determination violence, including attacks on civilians (A/59/2005, para. 91). The better approach is not to exclude self-determination as such but armed forces in armed conflict, with the understanding that these include self-determination forces,³⁵ where acting “in accordance with” international humanitarian law.

16. While some regional instruments follow the narrowly circumscribed sectoral approach to offences in the universal counter-terrorism conventions,³⁶ others adopt more general definitions of terrorism.³⁷ The Council of Europe, for example, is proposing to replicate the European Union definition.³⁸ Elements of most of these general definitions do not satisfy the principle of legality embodied in the prohibition on retroactive punishment,³⁹ namely that offences must be precisely defined so as to foreseeably inform individuals of their potential liability. Some also encompass acts that are not sufficiently serious to be characterized as of a genuinely terrorist character, including property damage absent danger to life. Similar defects are found in the three regional instruments that address “extremism” and “separatism”.⁴⁰ As has been well documented by the Special Rapporteur, vagueness and overbreadth enable the politicized misuse of counter-terrorism laws and infringements of many fundamental rights. These problems are aggravated in regional instruments because misuse can occur not only in national implementation but also through transnational cooperation facilitated by the instruments.

17. There may be a legitimate place for bespoke regional definitions tailored to regional concerns, but these cannot “contract out” of international human rights law. Moreover, regional definitions that depart too far from the broad international consensus on the meaning of terrorism may undermine prospects for optimal international cooperation with States outside the region, since they create barriers to

³⁴ See e.g. General Assembly resolution 37/43, para. 2; and *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Separate Opinion of Judge Charlesworth, ICJ Reports 2024, para. 23.

³⁵ Under Protocol I Additional to the Geneva Conventions of 1949 (1977), art. 1 (4), and common art. 3 of the Geneva Conventions of 12 August 1949.

³⁶ SAARC Regional Convention on Suppression of Terrorism (1987); Inter-American Convention against Terrorism (2002); ASEAN Convention on Counter-Terrorism (2007).

³⁷ Arab Convention on the Suppression of Terrorism (1998); Convention of the Organization of the Islamic Conference on Combating International Terrorism (1999); OAU Convention on the Prevention and Combating of Terrorism (1999); Shanghai Convention on Combating Terrorism, Separatism and Extremism (2001); European Union Directive 2017/541 on combating terrorism; Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism (1999); Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism (2004), art. 1 (2); Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (2004); Arab Convention on Combating Money-laundering and the Financing of Terrorism (2010). See also African Model Anti-Terrorism Law (2011), part I (4), (xxxix).

³⁸ The Council of Europe proposes to replicate the European Union’s definition in a protocol amending the Council of Europe Convention on the Prevention of Terrorism (see <https://rm.coe.int/cdct-2024-06-plenary-list-of-decisions/1680afaa1d>). See also the OSCE Office for Democratic Institutions and Human Rights note on the proposed revision of the definition of terrorist offences.

³⁹ International Covenant on Civil and Political Rights, art. 15.

⁴⁰ Shanghai Convention on Combating Terrorism, Separatism and Extremism (2001), Convention of the Shanghai Cooperation Organization against terrorism (2012) and Convention of the Shanghai Cooperation Organization on Countering Extremism (2017). See also A/HRC/43/46, paras. 12–15; and OSCE Office for Democratic Institutions and Human Rights note on the Shanghai Convention on Combating Terrorism, Separatism and Extremism.

satisfying the double criminality rule in extradition and mutual assistance and non-refoulement. They can also complicate efforts to agree a comprehensive United Nations counter-terrorism convention, which have been ongoing since 2001. The Special Rapporteur has long advocated for definitions that are consistent with Security Council resolution 1566 (2004) and the Special Rapporteur's model definition (A/HRC/16/51, para. 28). In addition, it is good practice to exclude from definitions acts of advocacy, protest, dissent or industrial action where they do not cause death or serious personal injury,⁴¹ as under the African Model Anti-Terrorism Law.⁴²

18. While many regional instruments criminalize traditional forms of inchoate liability for terrorist offences, some recent instruments also establish preparatory offences⁴³ concerning training, recruitment, participation in or direction of a terrorist group, public provocation, terrorist publications, and terrorist travel or facilitating travel. These offences are intended to intervene at an earlier stage than traditional criminal law to disrupt preparations for terrorism, even where no specific terrorist act is imminent or contemplated, based on assumptions about the special danger of terrorism. Such offences have a legitimate role, but also pose distinctive human rights risks, including where they compound the problem of an overbroad predicate definition of terrorism. Even in a region where preparatory offences are relatively tightly drafted, the European Union Agency for Fundamental Rights has expressed concern that some offences are overbroad and lack clarity and foreseeability, impinging on the principle of legality; can be causally distant from the realization of any terrorist act; may limit or chill the legitimate exercise of certain rights; may pose problems for objective proof of intent, potentially resulting in religious or other discrimination; and can encompass activities that are not genuinely terrorist, including non-violent movements, public protests, and non-governmental organization activities.⁴⁴ Yet, the European Commission largely rejected the Agency's call for greater clarity and guidance.⁴⁵

19. Present and future preparatory offences in all regions should: (a) require an intention to knowingly contribute to the commission of a genuinely terrorist offence; (b) involve a sufficiently proximate causal connection to and objective risk of the commission of such offence; (c) contain clearly defined, foreseeable elements; and (d) be strictly necessary and proportionate in pursuit of a legitimate security aim.⁴⁶ In addition, adequate and continuing guidance⁴⁷ and training on the rights-respecting

⁴¹ See Counter-Terrorism Executive Directorate, "CTED analytical brief: a commentary on the codification of the terrorism offence", June 2024, p. 17.

⁴² Part I (4) (xl) (a).

⁴³ Council of Europe Convention on the Prevention of Terrorism (2005), arts. 5–7; Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015), arts. 2–6; and European Union Directive 2017/541 on combating terrorism, arts. 5–12.

⁴⁴ European Union Agency for Fundamental Rights, *Directive (EU) 2017/541 on Combating Terrorism: Impact on Fundamental Rights and Freedoms* (Luxembourg, Publications Office of the European Union, 2021). See also the concerns of civil society in Open Society Foundations and others, "Joint civil society report on the fundamental rights impact of the EU Directive on Combating Terrorism", November 2021.

⁴⁵ Report from the Commission to the European Parliament and the Council (COM/2021/701 final), p. 7.

⁴⁶ See also Andrew Ashworth and Lucia Zedner, *Preventive Justice* (Oxford, Oxford University Press, 2014), pp. 103–116; Ben Saul, "Precursor crimes of international terrorism", in *Precursor Crimes of Terrorism: the Criminalization of Risk in Comparative Perspective*, Cliver Walker and others eds. (Northampton, Edward Elgar Publishing, 2022); and OSCE Office for Democratic Institutions and Human Rights, *Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework* (Warsaw, 2018), paras. 37 and 38.

⁴⁷ See e.g. International Commission of Jurists, *Counter-Terrorism and Human Rights in the Courts: Guidance for Judges, Prosecutors and Lawyers on Application of EU Directive 2017/541 on Combating Terrorism* (Geneva, 2020).

interpretation of offences should be provided, including to guard against discriminatory profiling or stereotypes in policing and prosecutions.

20. Various regional instruments include speech-related terrorist offences.⁴⁸ Those of the Shanghai Cooperation Organization, the League of Arab States (LAS) and the Cooperation Council for the Arab States of the Gulf are particularly vague and overbroad, referring without further limiting criteria to concepts such as “promotion”, “defending”, “praising”, “advocating of recognition” of terrorism, as well as disseminating terrorist symbols. Such offences risk criminalizing ideas that “offend, shock or disturb” and that are protected free expression in a pluralist, tolerant, broad-minded, democratic society.⁴⁹ The Special Rapporteur has previously recommended that incitement offences should be restricted to conduct that is genuinely terrorist; satisfy legality, including by avoiding vague terms such as “glorifying” or “promoting” terrorism; be necessary and proportionate in pursuit of a legitimate security aim; include an objective risk that the act incited will occur; and require an intent to both communicate the message and incite a terrorist act (A/HRC/16/51, para. 31).⁵⁰ The Rabat Plan of Action also offers guidance on advocacy of hatred that incites violence, to assess expression according to: (a) context; (b) speaker; (c) intent; (d) content and form; (e) extent of the speech; and (f) likelihood of result, including imminence (A/HRC/22/17/Add.4, para. 29).

21. In addition to criminalizing public provocation to commit a terrorist offence, European Union Directive 2017/541 requires member States to promptly remove or block online content constituting public provocation, subject to adequate safeguards, necessity and proportionality, the giving of reasons, and judicial redress (art. 21). European Union Regulation 2021/784 on addressing the dissemination of terrorist content online provides further rules, including procedural safeguards and review rights. Special procedures experts have previously raised concerns, most still valid, that the then draft regulation infringed on freedoms of opinion, expression, association, information and political participation.⁵¹ Criticisms include overbroad definitions of “terrorist content” (including “glorification”); lack of adequate time and institutional independence in content removal decisions; the absence of a necessity and proportionality assessment, including contextual analysis of the meaning of content (particularly across multiple jurisdictions); the risks involved in the duty on hosting service providers to additionally screen content themselves (which may entail risk aversion and pre-emptive, overbroad censorship, the use of automated tools without human oversight, and excessively restrictive terms of use); and inadequate attention to business and human rights norms in the context of privatized regulation.⁵² A recent concern is the politicized over-policing of certain content related to the Israel-Palestine conflict.⁵³ Given the “Brussels effect”, where

⁴⁸ Council of Europe Convention on the Prevention of Terrorism (2005), art. 5; European Union Directive 2017/541 on combating terrorism, art. 5; Shanghai Cooperation Organization Convention against Terrorism (2009), art. 9 (4); and Convention of the Shanghai Cooperation Organization on Countering Extremism (2017), art. 9 (1), (6) and (7).

⁴⁹ European Court of Human Rights, *Handyside v. The United Kingdom*, Application No. 5493/72, Judgment, 7 December 1976, para. 49.

⁵⁰ See also Human Rights Committee, general comment No. 34 (2011), para. 46.

⁵¹ Communication No. OL OTH 71/2018.

⁵² Communication No. OL OTH 71/2018; European Digital Rights, “Between policy and reality: EDRI’s assessment of the implementation challenges in the troubled terrorist content online regulation”, 29 May 2024; and Tarik Gherbaoui and Martin Scheinin, “A dual challenge to human rights law: online terrorist content and governmental orders to remove it”, *European Journal of Human Rights*, vol. 1 (2023), p. 3.

⁵³ European Digital Rights, “Between policy and reality: EDRI’s assessment of the implementation challenges in the troubled terrorist content online regulation”, 29 May 2024 <https://edri.org/our-work/between-policy-and-reality-edris-assessment-of-the-implementation-challenges-in-the-troubled-terrorist-content-online-regulation/>.

European Union rules can influence regulation globally, it is all the more important that European Union measures fully comply with human rights law.

B. Regional cooperation

22. Most regional instruments require transnational cooperation of diverse kinds, as in relation to investigations, extradition, mutual legal assistance, exchange of information, prevention, coordination, training and technical assistance. Some instruments facilitate cooperation in specialized areas, such as weapons, terrorist financing, border control, joint exercises, or special anti-terrorism forces. Cooperation can have profound human rights implications, particularly where instruments do not embed adequate human rights safeguards and national and regional human rights protections are weak.

23. Some regional instruments allow extradition and mutual assistance to be refused on the ground of discrimination, although most do not require refusal.⁵⁴ Such clauses are missing in other instruments.⁵⁵ One convention commendably includes savings clauses in relation to exposure to torture or inhuman or degrading treatment or punishment, and the death penalty or life imprisonment without parole,⁵⁶ but does not mandate refusal. One instrument allows cooperation to be refused on the grounds of double jeopardy and double criminality,⁵⁷ while another mandates refusal based on double jeopardy, amnesty and the age of criminal responsibility, and allows it for double criminality.⁵⁸

24. At a minimum, all regional instruments requiring criminal cooperation should include non-refoulement as a mandatory ground of refusal, consistent with its full scope under international human rights law, including where there is a real risk of: arbitrary deprivation of life, including the death penalty where it is not consistent with international law; enforced disappearance; arbitrary detention; torture or cruel, inhuman or degrading treatment or punishment; persecution; flagrant denial of justice (including for double jeopardy or retroactivity); sexual and gender-based violence; or other serious violations. It is also good practice to permit double criminality as a basis of refusal.

25. Various regional instruments require the denial of refugee status and/or asylum to suspected terrorist offenders.⁵⁹ While most require such action to be consistent with international law, a few omit this qualification.⁶⁰ The risks of excessive or abusive denial of refugee status in relation to terrorism make it highly desirable to include

⁵⁴ Inter-American Convention against Terrorism (2002), art. 14; Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (2004), art. 17; and Council of Europe Convention on the Prevention of Terrorism (2005), art. 21 (1).

⁵⁵ LAS, OIC, OUA, SAARC, Shanghai Cooperation Organization and the Cooperation Council for the Arab States of the Gulf instruments.

⁵⁶ Council of Europe Convention on the Prevention of Terrorism (2005), art. 21 (2) and (3).

⁵⁷ Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005), art. 28 (1) (f) and (g).

⁵⁸ Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, arts. 3 and 4.

⁵⁹ OAU Convention on the Prevention and Combating of Terrorism (1999), art. 4 (2) (g); Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (2004), art. 16; Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation Convention on Cooperation in Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking (2009), art. 7; Inter-American Convention against Terrorism (2002), arts. 12 and 13; ASEAN Convention on Counter-Terrorism (2007), art. 10; and Convention of the Shanghai Cooperation Organization on Countering Extremism (2017), art. 21.

⁶⁰ OAU, Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation and Shanghai Cooperation Organization instruments.

explicit, stringent safeguards for international refugee and human rights law. Relatedly, while there is a global trend towards the exclusion or restriction of the political offence exception to extradition, the range of criminal conduct of varying degrees of gravity under regional instruments warrants a cautious approach to automatically excluding it, particularly where violence is not aimed at innocent civilians.

26. Many cooperation provisions involve the collection and transnational sharing of personal information, whether in formal legal proceedings, informal or spontaneous law enforcement cooperation, or terrorist travel watch lists. Regional instruments often say little about the protection of personal data in these contexts, although in some regions comprehensive protections apply.⁶¹ Regional bodies are increasingly handling data directly.⁶² Positively, Economic Community of West African States (ECOWAS) rules and guidelines govern data protection concerning biometric and other criminal data-sharing by 17 States under the West Africa Police Information System.⁶³ It is good practice to embed in regional instruments explicit safeguards for personal data in accordance with the right to privacy,⁶⁴ in relation to both national and regional data handling. These include the principles of lawfulness and fairness; necessity and proportionality; non-discrimination; transparency; purpose limitation; data minimization; accuracy; storage limitation; security of data; and accountability and remedies. This mandate has also identified good practices specifically in intelligence-sharing (see [A/HRC/14/46](#)).

27. Heightened safeguards are necessary where regional organizations operate lists of “terrorist” individuals or entities. The Council of Arab Ministers of the Interior maintains a blacklist of terrorists and terrorist groups, based on information from States, but the process is a political one and is not based on legal criteria or procedures. The Council also circulates national terrorism arrest warrants to participating States.⁶⁵ While there is an apparent procedure for challenging and reviewing warrants, special procedures mandate holders have communicated concerns to the Council that its red notices do not appear to comply with obligations concerning non-refoulement, non-discrimination, due diligence and fair trial, and may undermine freedoms of opinion and expression.⁶⁶ In Africa, there are latent proposals to create an African arrest warrant through the African Police Cooperation Organization (AFRIPOL) and a passport “stop list”, and an ECOWAS arrest warrant and terrorist blacklist. The human rights principles applicable to watchlisting⁶⁷ developed by the special procedures are equally relevant to regional organizations.

⁶¹ E.g. European Union General Data Protection Regulation 2016/679. See also para. 51 below. See also Mikaela Heikkilä and Elina Pirjatanniemi, “EU security and counter-terrorism policies and human rights”, in *The European Union and Human Rights: Law and Policy*, Jan Wouters and others, eds. (Oxford, Oxford University Press, 2020), p. 457.

⁶² E.g. African Secure Communication System of AFRIPOL; Eastern Africa Police Chiefs Cooperation Organization; Gulf Police Agency of the Cooperation Council for the Arab States of the Gulf; OIC Centre for Police Cooperation and Coordination; SAARC Terrorist Offences Monitoring Desk; Commonwealth of Independent States Anti-Terrorism Centre; and Shanghai Cooperation Organization Regional Anti-Terrorist Structure.

⁶³ Supplementary Act A/SA.1/01/10 on Personal Data Protection within ECOWAS; and West African Police Information System best practice guide on personal data protection (2020).

⁶⁴ Human Rights Committee, general comment No. 16 (1988), para. 10; [A/HRC/39/29](#); and General Assembly resolution [77/211](#).

⁶⁵ Riyadh Arab Agreement for Judicial Cooperation (1983); and Arab Convention on the Suppression of Terrorism (1998).

⁶⁶ Communication Nos. OL OTH 71/2023; UA MAR 1/2023; and UA ARE 3/2022. See also the outcome document of the Middle East and North Africa civil society consultation on the impact of counter-terrorism measures on civil society and civic space and the submission of the MENA Rights Group.

⁶⁷ Available at www.ohchr.org/sites/default/files/Documents/Issues/Terrorism/ApplicableWatchlisting.docx.

28. Regional organizations allocate counter-terrorism functions to a wide variety of bodies with different competencies and levels of institutionalization. These include centres, units, desks, working parties or groups, committees, meetings, structures, focal points, envoys and coordinators (see annex II⁶⁸). Many bodies do not have dedicated human rights posts or other staff trained in human rights and gender mainstreaming among their often-small total staff, who commonly come from law enforcement or government backgrounds. Some bodies draw ad hoc on human rights expertise from other parts of the organization, such as offices of legal counsel or international law, or human rights mechanisms, as well as consultants or United Nations experts.⁶⁹ There is also often a stark gender imbalance in staffing. One regional stakeholder noted a common misconception that “counter-terrorism is a man’s job”. Women are virtually invisible in the prolific activities, publicized on social media, of one regional counter-terrorism body. Even where there is strong technical human rights expertise, as in Europe, it is vital to ensure that the senior leadership is committed to human rights and gender equality.

29. The previous mandate holder identified inadequate human rights due diligence in technical assistance by some regional organizations.⁷⁰ Most organizations do not appear to have human rights due diligence policies or procedures that are systematically applied in counter-terrorism. It is positive that the European Union adopted a human rights and international humanitarian law due diligence policy on security sector support to third parties in 2024,⁷¹ building on other policies, and following the human rights due diligence policy on United Nations support to non-United Nations security forces instituted in 2011.⁷² The principles underlying such policies, including risk identification and mitigation, monitoring and evaluation, and accountability and remedies, should apply, as relevant, to the cooperation activities between regional organizations and their member States, not only to third States (as under the aforementioned policies), since in some regions States pose serious human rights risks. As one regional stakeholder noted, some police say “don’t talk to me about the human rights of terrorists, because the terrorists took away the rights of their victims”. Regional organizations should adopt clear and comprehensive human rights assessment policies, apply them in decisions about assistance and, when delivering assistance, report publicly and transparently about the activities, and ensure accessible complaints mechanisms and remedies. Many counter-terrorism bodies are underresourced, so States should commit adequate funding for expert human rights staff and impact assessments.

30. It is critical that regional organizations meaningfully engage diverse civil society organizations in the design, implementation, monitoring and evaluation of their counter-terrorism activities, including to constructively assess and mitigate their human rights impacts. Expert and grass-roots civil society participation in counter-terrorism efforts generally is now well recognized as invaluable,⁷³ yet many regional organizations have had limited engagement to date.

⁶⁸ Available at www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/reports/srct-report-protection-human-rights-regional-organisations-annex2.pdf.

⁶⁹ E.g. United Nations Office on Drugs and Crime, “Regional framework for the Arab States (2023–2028)”, 2023, pp. 23–25.

⁷⁰ A/76/261, paras. 26–36 and 56–60.

⁷¹ Available at <https://data.consilium.europa.eu/doc/document/ST-13848-2023-INIT/en/pdf>.

⁷² See A/67/775-S/2013/110, annex.

⁷³ Matthew Schwartz and others, *Independent Civil Society-UN Counterterrorism Engagement: A Scoping Report* (Washington, D.C., Global Centre on Cooperative Security and Rights and Security International, 2024).

C. Rights of victims of terrorism

31. Counter-terrorism instruments (international and regional) implicitly protect victims of terrorism by preventing terrorist threats and providing truth and justice through prosecutions of perpetrators of terrorism. Some instruments also recognize the passive personality principle (victim nationality) as a basis of criminal jurisdiction. Whereas universal instruments have otherwise neglected an explicit focus on victims, with a few exceptions,⁷⁴ regional organizations have done better at acknowledging victims in regional instruments, as well as in political statements and regional strategies, plans and guidelines. Binding standards are nonetheless limited and there is much scope to enhance the legal protection of victims in most regions, ideally by embedding the best practices in the United Nations Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism.⁷⁵

32. Seven binding regional instruments address victims but most do so only briefly. Two instruments simply require States to extend “necessary assistance to victims of terrorism”.⁷⁶ Neither defines “victim”, elaborates on the content of assistance, or recognizes victims as rights holders, let alone considering them as stakeholders entitled to active consultation. Two other instruments require⁷⁷ or encourage⁷⁸ States to compensate victims of terrorism with property confiscated in connection with terrorism. Neither requires States to provide remedies on a no-fault basis where no property is recovered from an offender. Another instrument encourages but does not require the protection of victims in criminal proceedings,⁷⁹ but not in other contexts.

33. The Council of Europe Convention on the Prevention of Terrorism offers greater protection by requiring States parties to protect and support victims of terrorist acts committed in their territory, which “may” include financial assistance and compensation (art. 13). The possibility of financial assistance or compensation is welcome but not obligatory, and the provision is restrictively “subject to domestic legislation” and “appropriate national schemes”. There is also no provision for cross-border victims. The Parliamentary Assembly of the Council of Europe has observed that existing instruments have not been fully implemented and has called for a more systematic approach.⁸⁰ In 2005, the Council of Europe also adopted guidelines on the protection of victims of terrorist acts, which address emergency and continuing assistance (including medical, psychological, social and material support), investigation and prosecution, justice and access to justice, protection, information, and training. The guidelines were revised in 2017,⁸¹ including to encourage States to create legal and administrative frameworks and structures and compensation funds.⁸² A commentary is also available. The guidelines are a positive initiative and have

⁷⁴ International Convention against the Taking of Hostages (1979), art. 3 (1) (duty to ease the situation of a hostage and secure their release) and art. 3 (2) (return of property); and International Convention for the Suppression of the Financing of Terrorism (1999), art. 8 (4) (mechanisms to fund victims with funds forfeited from terrorist financing offences).

⁷⁵ Organization for Security Cooperation in Europe, Parliamentary Assembly, “Resolution on victims of terrorism”, 2022, para. 26.

⁷⁶ Arab Convention on the Suppression of Terrorism (1998), art. 3 (II) (4); and Convention of the Organization of the Islamic Conference on Combating International Terrorism, art. 3 (B) (4).

⁷⁷ Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004), art. 3 (1) (c).

⁷⁸ Council of Europe Convention on the Prevention of Terrorism (2005), art. 25 (2).

⁷⁹ Shanghai Cooperation Organization Convention against Terrorism (2009), art. 7 (2) (8).

⁸⁰ Council of Europe resolution 2303 (2019) on protecting and supporting the victims of terrorism, para. 3.

⁸¹ Available at <https://edoc.coe.int/en/terrorism/7544-protection-of-victims-of-terrorist-acts.html>.

⁸² See also Council of Europe, “Guidelines on human rights and the fight against terrorism”, July 2002, art. XVII; and Council of Europe, European Convention on Compensation of Victims of Violent Crimes (1983), art. 2.

influenced national practice but are no substitute for equivalently prescriptive treaty obligations.

34. The European Union provides the most comprehensive binding protections. First, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime applies to all victims of crime and addresses rights of information and support, participation in criminal proceedings, protection, specific needs, training, and cooperation and coordination of services. The detailed measures contained in the Directive positively address many of the needs of victims of terrorism, while non-binding recitals 16 and 57 acknowledge the special needs of victims in terms of assistance, protection and recognition. The European Union has identified gaps in implementation,⁸³ although it has a robust system for monitoring and enforcing transposition into national law. In 2023, the European Commission proposed to strengthen access to information, protection, specialist support for vulnerable victims (including victims of terrorism), participation in criminal proceedings, and recovery of compensation from offenders.⁸⁴ However, some progressive proposals did not advance, including minimum standards on protection, rights to participate in and receive legal aid as a party to criminal proceedings, and minimum standards on compensation, including amounts.

35. Second, Directive 2004/80/EC relating to compensation to crime victims requires States to provide a scheme for “fair and appropriate” compensation to victims of violent crime committed on their territories and to cooperate on cross-border victims. Compensation schemes are largely left to national law and the Directive does not enumerate the heads of damage and the bases for quantifying compensation. The European Parliament has expressed concern about “glaring disparities” in compensation between member States.⁸⁵

36. Third, Directive 2017/541 sets out additional measures for victims of terrorism, including immediate and enduring attention to their specific needs; medical, emotional and psychological support; provision of relevant information; coordinated and comprehensive emergency response; legal aid for parties to criminal proceedings; protection of physical integrity and dignity and against intimidation and retaliation; and information, assistance and support to victims resident in another member State (arts. 24–26). Reviews in 2020 and 2021 identified implementation gaps,⁸⁶ particularly in cross-border situations and exchange of information.⁸⁷ In 2018, the European Council approved conclusions on improving support for victims of terrorism, in which it called upon member States to nominate national contact points to facilitate information and assistance. However, this is not obligatory and not all States did so.⁸⁸

37. The European Union Handbook on Victims of Terrorism, issued in 2021, assists in the implementation of the above standards. There are also 26 complementary national handbooks. The European Union Strategy on victims’ rights (2020–2025) also recognizes the special needs of victims of terrorism. Institutionally, the European Union Centre of Expertise for Victims of Terrorism was established in 2020 in concert

⁸³ Report from the Commission to the European Parliament and the Council (COM(2020) 188 final). See also Aleksandra Ivanković and others, *VOCIARE Synthesis Report* (2018).

⁸⁴ See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-eu_en#:~:text=On%2012%20July%202023%2C%20the,Directive%20adopted%20in%20June%202022.

⁸⁵ P8_TA(2018)0229, para. 75. See also P8_TA(2018)0512, para. 218; and European Union Strategy on victims’ rights (2020–2025).

⁸⁶ See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A0619%3AFIN.>

⁸⁷ See <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0701.>

⁸⁸ The German Presidency of the Council suggested good practices on national contact points (see <https://data.consilium.europa.eu/doc/document/ST-13175-2020-REV-1/en/pdf>).

with victim support organizations and promotes implementation of European Union standards through guidance materials, training and information-sharing, acting as a hub of expertise. It is the only entity devoted to victims established by a regional organization. In addition, the European Union Radicalization Awareness Network has a working group on victims of terrorism to amplify their voices and prevent radicalization. The European Union Counter-Terrorism Coordinator is among 34 members of the broader European Union Victims' Rights Platform. The European Union Agency for Criminal Justice Cooperation facilitates mutual assistance requests relating to the rights of victims.

38. While the approaches of the European Union and the Council of Europe are fairly comprehensive, areas for improvement remain. Victims are limited to those directly affected and their close family members,⁸⁹ whereas the European Parliament has encouraged support to be extended to indirect victims such as eyewitnesses and first responders and called for a common definition of the status of victims of terrorism.⁹⁰ There are no minimum rules on the grounds and assessment of the quantum of compensation, in contrast to international standards, and no provision for subsequent compensation if needed; and procedures could be simplified and expedited.⁹¹ The European Parliament has also called for a European fund to assist victims⁹² or for the extension of the European Union Solidarity Fund to cover terrorist acts.⁹³

39. As in other regions, European standards do not adequately address other forms of reparation, particularly satisfaction, such as public commemorations or tributes to victims, and preventing reoccurrence of terrorism (including by addressing conditions conducive to it). It is welcome that the Council of Europe guidelines on the protection of victims of terrorist acts call for recognition and remembrance of victims, and that the European Union Strategy on victims' rights encourages commemoration (e.g., memorials, museums and medals), but these are non-binding. Each year, the European Union commemorates European Remembrance Day for Victims of Terrorism; some other regions mark the International Day of Remembrance and Tribute to the Victims of Terrorism.⁹⁴ The European Union and the Organization of Islamic Cooperation (OIC) are members of the informal Group of Friends of Victims of Terrorism, and the European Union supported the United Nations Global Congress of Victims of Terrorism.

40. The European Parliament has recommended criminalizing the glorification of a specific act of terrorism as it humiliates the victims and causes secondary victimization by damaging the victims' dignity and recovery.⁹⁵ However, depending on its definition, such an offence could unjustifiably infringe on freedom of expression. There are already concerns about the unclear scope and misuse of the offence of public provocation to commit a terrorist offence and the risks in prosecuting statements perceived to humiliate victims.⁹⁶

41. In other regions, apart from the instruments mentioned above, attention to victims has been limited. The Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa adopted by the African Commission on

⁸⁹ Directive 2012/29/EU, art. 2 (1) (a); and Council of Europe guidelines on the protection of victims of terrorist acts (2017), guideline I.

⁹⁰ P8_TA(2018)0512, paras. 201 and 204.

⁹¹ Ibid.

⁹² P8_TA(2018)0229, para. 72.

⁹³ P8_TA(2018)0512, para. 217.

⁹⁴ LAS and Intergovernmental Authority on Development.

⁹⁵ P8_TA(2018)0512, para. 212. See also P8_TA(2018)0229, para. 56.

⁹⁶ European Union Agency for Fundamental Rights, *Directive (EU) 2017/541 on Combating Terrorism: Impact on Fundamental Rights and Freedoms*, opinion 2.

Human and Peoples' Rights contain three paragraphs on defining victims of terrorism broadly, protection, and justice through investigations and accountability. While these references invoke international standards, they do not address assistance, compensation and satisfaction, or other measures. The Declaration of the High-Level African Counter-Terrorism Meeting held in Abuja in 2024, which was endorsed by the African Union, only briefly encourages collaboration to assist, support and protect victims.⁹⁷ The African Union Counter-Terrorism Centre administers a network for victims of terrorism. In 2022, the States parties to the Inter-American Convention against Terrorism made recommendations in relation to protection, truth, justice, redress and reparation for victims of terrorism. LAS developed a model law on victims of terrorism, but implementation is limited.

42. Some regional strategies have been attentive to victims. In its regional strategy for the stabilization, recovery and resilience of the Boko Haram-affected areas of the Lake Chad Basin, the African Union recognizes the need for comprehensive assistance to displaced people and communities affected by the Boko Haram conflict, including humanitarian assistance; safe and dignified return; protection, safety and security; targeted psychosocial support for traumatized individuals; and community interventions to promote social cohesion and peacebuilding (strategic objectives 13–16). The ECOWAS political declaration and common position against terrorism, adopted in 2013, has a comprehensive pillar entitled “Reconstruct”, but there was little progress in practice. In contrast, some regional strategies have focused on the rehabilitation and reintegration of former terrorists, without paying corresponding attention to their victims.⁹⁸ The Association of Southeast Asian Nations (ASEAN) has a nascent interest in assisting victims, including through restorative justice, in the limited context of rehabilitating and reintegrating former violent extremists, while the ASEAN Intergovernmental Commission on Human Rights is consulting on recommendations on victim protection.⁹⁹ The Regional Counter-Terrorism Centre of Excellence of the Eastern Africa Police Chiefs Cooperation Organization has published research to guide law and policy on victims in particular States.¹⁰⁰

43. Overall, regional counter-terrorism entities have rarely been given an explicit mandate for victims, and most regional organizations have not paid sufficient normative or programmatic attention to them. It is welcome that the United Nations joint appeal for counter-terrorism efforts in Africa proposes to advance regional cooperation on victims and that the United Nations Office on Drugs and Crime and the Victims of Terrorism Unit of the Office of Counter-Terrorism have had some regional engagement, albeit not systematically. These efforts could be augmented by high-level political support. General Assembly resolution [73/305](#) on enhancement of international cooperation to assist victims of terrorism does not mention regional organizations and future thematic resolutions should do so.

⁹⁷ Declaration of the High-Level African Counter-Terrorism Meeting, 22 and 23 April 2024, paras. 42 and 55.

⁹⁸ E.g. Inter-Governmental Authority on Development Regional Strategy for Preventing and Countering Violent Extremism 2018; ASEAN Plan of Action to Prevent and Counter the Rise of Radicalisation and Violent Extremism (2018–2025).

⁹⁹ Work plan of the ASEAN Plan of Action to Prevent and Counter the Rise of Radicalization and Violent Extremism 2019–2025.

¹⁰⁰ Eastern Africa Police Chiefs Cooperation and UNODC, “Law enforcement engagement with victims of terrorism”, EAPCCO Regional Counter Terrorism Centre of Excellence, Issue paper No. 3/2021 (2021).

D. Oversight, accountability and remedies

44. Effective oversight and accountability mechanisms, and accompanying remedies, are essential in ensuring respect for and the protection of human rights by regional organizations while countering terrorism. Many regional organizations are not engaged directly in operational counter-terrorism activities, but undertake standard setting, technical assistance, capacity-building, training, research and analysis and so on. Such activities may indirectly enable rights violations by member States when they use “bad” standards or skills learned. Such activities should not only be assessed in advance for their human rights impacts, but should also be monitored during implementation and evaluated after completion for any adverse impacts, to enable effective remedies and prevent the recurrence of violations. Some regional counter-terrorism activities can have more direct effects on human rights, including information- and intelligence-sharing about individuals or groups, the circulation of arrest warrants or terrorist blacklists, and participation in joint or regional law enforcement, border security or military operations.

45. Regional organizations bearing international legal personality are subject to customary international law, including human rights, refugee and humanitarian law, and any applicable agreements, including constituent instruments, which often recognize international law. A regional organization is internationally responsible for a breach of an international obligation attributable to it,¹⁰¹ regardless of whether a member State is responsible for its own breach relating to the conduct.¹⁰² Regrettably, States are seldom willing to invoke the responsibility of an international organization or another State in relation to breaches of human rights or humanitarian law affecting individuals. At the same time, few regional organizations allow individuals to vindicate their rights directly against the organization.

46. Most regional organizations have not established oversight or monitoring bodies or procedures dedicated to counter-terrorism activities, but regional human rights systems and certain other mechanisms are available. The European Union is one of the few organizations to empower its regional courts to directly review regional laws and the actions of its institutions, reflecting its unique degree of regional integration. European Union institutions, member States and individuals¹⁰³ may bring proceedings before the Court of Justice of the European Union, including to check compatibility with the Charter of Fundamental Rights of the European Union. In the Kadi litigation, the Court of Justice ensured the compliance with European human rights law of European Union sanctions implementing Security Council sanctions,¹⁰⁴ prompting the Security Council to strengthen due process in sanctions. The ECOWAS Court of Justice allows individuals to bring human rights complaints against both ECOWAS and member States. The Southern African Development Community Tribunal allowed individuals to bring cases against the Southern African Development Community from 2005, but regrettably ceased functioning in 2010.

47. In most regions, dedicated regional human rights mechanisms, typically comprised of human rights commissions and/or courts, may allow individual and/or inter-State complaints against member States, potentially including binding judicial remedies. They thus allow challenges to national implementation of regional counter-terrorism law, but not to the regional measures directly. However, since 2007, it has been intended that the European Union will accede to the Convention for the

¹⁰¹ International Law Commission, “Draft Articles on the responsibility of international organizations” (2011), arts. 3 and 4.

¹⁰² Ibid, art. 48.

¹⁰³ Treaty on the Functioning of the European Union, arts. 263 and 265.

¹⁰⁴ See [A/67/396](#).

Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights),¹⁰⁵ allowing individual complaints against the European Union. Regional mechanisms can be responsive to regional contexts, enjoy regional legitimacy and promote regional ownership of universal norms.

48. The European Court of Human Rights has been the most active in developing counter-terrorism jurisprudence in over 400 cases and regularly updates a user-friendly guide to its case law.¹⁰⁶ The high volume of cases has progressively clarified key human rights issues and in turn contributed to advancing international human rights law. Some judgments have nonetheless been controversial from an international human rights standpoint, including on the extent of the “margin of appreciation” accorded to States in security assessments; the threshold of “public emergency” justifying derogation; the scope of limitations on rights (including wearing of headscarves, glorification or apologie of terrorist acts, bulk surveillance and preparatory offences); and when human rights apply extraterritorially in armed conflicts. The Committee of Ministers of the Council of Europe supervises implementation of judgments. The Inter-American Court of Human Rights has also been active in individual cases,¹⁰⁷ including the abuse of counter-terrorism law against Indigenous social protest and medical activities.¹⁰⁸ Innovatively, member States can request advisory opinions from the Inter-American Court of Human Rights on the compatibility of national laws with human rights. The Inter-American Commission on Human Rights has set standards relating to terrorism,¹⁰⁹ issued precautionary measures concerning the United States detention facility at Guantanamo Bay, Cuba, and interacted with the OAS Inter-American Committee against Terrorism.

49. Few other regional human rights systems have directly addressed terrorism. The quasi-judicial African Commission on Human and Peoples’ Rights is a vibrant, albeit underfunded, mechanism with a focal point on armed conflict and specific commissioners monitoring terrorism-affected States, but no dedicated terrorism focus. Only 34 of 55 States members of the African Union recognize the competence of the African Court on Human and Peoples’ Rights, and only 8 (down from 11) permit individual complaints. The strengths and weaknesses of different regional mechanisms are well known¹¹⁰ and questions about their effectiveness are often amplified on security issues. Many regional organizations have human rights bodies but not courts,¹¹¹ with a stalled proposal for an Arab court of human rights. Some can monitor the compliance of States with human rights, but most have no or weak

¹⁰⁵ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (2007), art. 6 (2).

¹⁰⁶ See https://ks.echr.coe.int/documents/d/echr-ks/guide_terrorism_eng.

¹⁰⁷ E.g. Inter-American Court of Human Rights, *Velazquez-Rodriguez v. Honduras*, Judgment, 29 July 1988; Inter-American Court of Human Rights, *Neira Alegria and Others v. Peru*, Judgment, 19 September 1996; Inter-American Court of Human Rights, *Lori-Berenson-Mejia v. Peru*, Judgment, 25 November 2004; Inter-American Court of Human Rights, *Castillo Petruzzi and Others v. Peru*, Judgment, 30 May 1999.

¹⁰⁸ Inter-American Court of Human Rights, *Norin Catrimán and Others v. Chile*, Judgment, 29 May 2014, and Inter-American Court of Human Rights, *De La Cruz Flores v. Peru*, Judgment, 18 November 2004, respectively.

¹⁰⁹ Inter-American Court of Human Rights resolution on terrorism and human rights (2001); Inter-American Court of Human Rights, “Report on Terrorism and Human Rights”, 2002; and Inter-American Court of Human Rights, “Recommendations for the protection by OAS Member States of human rights in the fight against terrorism”, 2006.

¹¹⁰ See [A/HRC/39/58](#).

¹¹¹ ASEAN, SAARC, Commonwealth of Independent States, LAS, OIC and Shanghai Cooperation Organization.

complaints procedures. Some regional human rights instruments appear not to be fully consistent with international law.¹¹²

50. Other types of regional human rights entities include the European Union Agency for Fundamental Rights (which has robustly reviewed European Union terrorism measures), the European Union Special Representative for Human Rights, the Council of Europe Commissioner for Human Rights (who developed guidelines on oversight of security services¹¹³ and can intervene in litigation) and the intergovernmental Permanent Arab Committee for Human Rights (distinct from the Arab Human Rights Committee that monitors the Arab Charter on Human Rights). The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) is mandated to monitor and assist member States to ensure respect for human rights,¹¹⁴ including by providing technical assistance, advice and training on implementing counter-terrorism measures.¹¹⁵ The Office also seeks to ensure that other OSCE bodies address human rights. It has vigorously promoted human rights in manuals,¹¹⁶ guidelines and publications on diverse counter-terrorism issues.¹¹⁷ It has commented on the adverse impacts of the counter-terrorism standards of other regional organizations¹¹⁸ and contributed to United Nations human rights mechanisms. Regional parliaments and their human rights or security committees can also be a progressive site of scrutiny. However, barriers in some regions include inadequate resourcing of human rights bodies to cover prolific counter-terrorism activities; insufficient consultation with human rights bodies by counter-terrorism bodies; and a lack of a human rights culture in counter-terrorism bodies.

51. A few regions task other specialized mechanisms with human rights scrutiny relevant to counter-terrorism,¹¹⁹ in particular in the European Union, where hundreds of legal measures relate to counter-terrorism. The independent European Data Protection Supervisor monitors the processing of personal data by European Union institutions, including the European Union Agency for Law Enforcement Cooperation (Europol) and the European Union Agency for Criminal Justice Cooperation (Eurojust),¹²⁰ to ensure compliance with European Union data protection rules. The European Data Protection Supervisor can investigate complaints, order compliance, suspend or terminate data processing operations, impose fines, and refer matters to the Court of Justice of the European Union. Europol is further scrutinized by the Europol Joint Parliamentary Scrutiny Group,¹²¹ albeit with no enforcement powers; a Data Protection Officer; and a Fundamental Rights Officer,¹²² whose independence is not guaranteed and whose powers and resources are limited.¹²³ The European Border

¹¹² Arab Charter on Human Rights (2004) and Cairo Declaration on Human Rights in Islam (1990) and its 2020 revision. See also Mona Rishmawi, "The revised Arab Charter on Human Rights: A step forward?", *Human Rights Law Review*, vol. 5, No. 2 (2005), p. 361.

¹¹³ Aidan Wills, *Democratic and Effective Oversight of National Security Services* (Council of Europe, 2015).

¹¹⁴ Helsinki Summit Declaration (1992).

¹¹⁵ Bucharest Plan of Action for Combating Terrorism (2001) and Madrid Ministerial Statement (2007).

¹¹⁶ OSCE, Office for Democratic Institutions and Human Rights, *Countering Terrorism, Protecting Human Rights: A Manual* (Warsaw, 2007).

¹¹⁷ Investigations, foreign terrorist fighters, border security and personal data, community policing and monitoring in detention.

¹¹⁸ TERR-AII/479/2023 (2023) (Council of Europe instrument); and TERR-BiH/382/2020 (2020) (Shanghai Cooperation Organization instrument).

¹¹⁹ E.g. OSCE (Office for Democratic Institutions and Human Rights).

¹²⁰ Under Regulations 2016/794 and 2018/1727, respectively.

¹²¹ Treaty on the Functioning of the European Union, art. 88.

¹²² Regulation (EU) 2022/991, art. 41c.

¹²³ Council of Bars and Law Societies of Europe, "CCBE position paper on the proposal for regulation amending Regulation (EU) 2016/794", 6 May 2021.

and Coast Guard Agency (Frontex) is subject to seven oversight and monitoring processes, including by the Fundamental Rights Officer, fundamental rights monitors and the Consultative Forum on Fundamental Rights, but there have been serious concerns about human rights compliance in its field operations.¹²⁴ Individuals have the right to access personal data held by European Union institutions,¹²⁵ including Europol, Eurojust and Frontex, and these agencies also come under the oversight of the European Parliament (including at the annual interparliamentary committee meeting on the activities of Eurojust), the European Ombudsman, the European Anti-Fraud Office and the European Court of Auditors. The Ombudsman investigates maladministration in European Union activities,¹²⁶ including by ensuring that European Union institutions have procedures to uphold fundamental rights, considering individual complaints about rights, and addressing systemic rights issues. The Council of Europe also has an independent Directorate of Internal Oversight for audit, evaluation and investigation of wrongdoing, which considers human rights and gender equality in its evaluation reports.¹²⁷

52. Requiring review of the implementation of counter-terrorism standards is another positive means of identifying national inconsistencies with human rights. A rigorous example is the European Commission's assessment of member State transposition of European Union law into national law, with the possibility of binding, phased infringement proceedings culminating in referral to the Court of Justice of the European Union. Such proceedings have been taken in respect of European Union counter-terrorism measures and can help to ensure rights compliance. At a non-binding level, European Union Directive 2017/541 required the European Commission to assess its impact on rights (art. 29 (2)), and the Commission duly requested a report from the European Union Agency for Fundamental Rights. Problematically, the generally positive findings in the Commission's report¹²⁸ did not adequately reflect the human rights defects identified by the Agency.¹²⁹

53. Some regional instruments provide for periodic or ad hoc consultations among,¹³⁰ or conferences of,¹³¹ States parties in relation to their implementation, but are not envisaged as procedures to criticize individual States. Innovatively, the Protocol to the OAU Convention on the Prevention and Combating of Terrorism tasks the African Union Peace and Security Council with examining State reports on implementation (art. 4), and the ASEAN Convention on Counter-Terrorism of 2007 allocates monitoring and review of implementation to ASEAN sectoral bodies (art. 16). None of the various procedures identifies human rights compliance as a focus. Nonetheless, treaty-based consultative and review procedures should be proactively used to scrutinize human rights impacts. Positively, the Conference of States parties to the Council of Europe Convention on the Prevention of Terrorism has considered human rights in its public assessment reports on implementation.¹³²

¹²⁴ European Anti-Fraud Office, document Olaf.03(2021)21088; and Human Rights Watch, "Frontex failing to protect people at EU borders", 23 June 2021.

¹²⁵ Regulation (EU) 2018/1725.

¹²⁶ Treaty on the Functioning of the European Union, art. 228.

¹²⁷ See Council of Europe evaluation policy, para. 23, and Council of Europe evaluation guidelines, p. 24.

¹²⁸ European Commission, document COM(2021) 701 final (2021), p. 4.

¹²⁹ European Union Agency for Fundamental Rights, *Directive (EU) 2017/541 on Combating Terrorism: Impact on Fundamental Rights and Freedoms*.

¹³⁰ Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (2004), art. 21; Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism (1999), art. 16; and Inter-American Convention against Terrorism (2002), art. 18.

¹³¹ Council of Europe Convention on the Prevention of Terrorism (2005), art. 30; and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005), art. 48.

¹³² See [www.coe.int/en/web/counter-terrorism/consultation-of-parties-cop-#{%224579702%22:\[0\]}](http://www.coe.int/en/web/counter-terrorism/consultation-of-parties-cop-#{%224579702%22:[0]}).

The same instrument also provides for a conference of States parties to express an opinion on its interpretation and application upon request from a member State,¹³³ which could also be useful to clarify rights issues.

54. Separately, treaty procedures for periodic consideration of the adequacy of and proposed amendments to conventions can enable the normative framework itself to be reconsidered if human rights concerns have arisen in practice. Many regional conventions have been updated over time with protocols. The Council of Europe is currently revising its definition of terrorism to align it with that of the European Union, and OIC is reviewing its 1999 instrument and considering a new protocol, including to address human rights.¹³⁴ Such processes should ensure that measures to strengthen the prevention and suppression of terrorism include corresponding human rights safeguards.

55. Certain other processes can enable human rights scrutiny. Regional strategies to counter terrorism and violent extremism usually embed commitments to human rights, often corresponding with the emphasis in the United Nations Global Counter-Terrorism Strategy. They thus provide a framework that can facilitate measuring State compliance and promoting improvements. The African Union Counter-Terrorism Centre's country visits and assessments also often involve credible, African-led dialogue on human rights. With respect to the Asia-Pacific Economic Cooperation forum, member States self-reporting on national counter-terrorism action plans, concerning trade and transport security, are supposed to address human rights, but many do not and there seems to be little follow-up.

56. Regional measures potentially can be scrutinized before international human rights procedures, although this is usually only indirectly through review of national implementation, since most international monitoring only applies to States. Special procedures have occasionally addressed regional organizations.¹³⁵ There is dialogue between some regional human rights systems and the United Nations system, as well as between regional mechanisms, but rarely with a specific counter-terrorism focus. Some regional organizations have encouraged oversight and accountability globally, as in European Union support to develop the Global Counterterrorism Forum's draft Brussels Memorandum on Oversight and Accountability Mechanisms in Counter-Terrorism. The Forum's limited membership can, however, constrain the universal appeal of its standards, as can certain advocacy styles by regional organizations if they are not sensitive to legitimate concerns in other regions.

57. There is great variation between regional organizations in the level of disclosure of information and transparency about counter-terrorism activities, including on websites. Lack of disclosure can reflect not only resource constraints, but also cultures of secrecy, reflecting the prevailing attitudes of member States. It is concerning that a number of regional organizations have failed to publish their regional strategies on countering terrorism and violent extremism, when these are the bases of extensive, intrusive exercises of public power. It is good practice for regional organizations to report on their counter-terrorism activities publicly, comprehensively, regularly and accessibly, including in relation to human rights and gender impacts, and to publicize in advance the agendas and documentation, and afterwards the records, of meetings. Classified information can still be protected where necessary and proportionate to safeguard security.

¹³³ Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005), art. 48 (1) (b).

¹³⁴ See www.oic-oci.org/topic/ampg.asp?t_id=11148&t_ref=4385&lan=en.

¹³⁵ E.g. Communication Nos. OL OTH 71/2023 (Arab Interior Ministers' Council); AL VNM 5/2023 (ASEAN); OL OTH 71/2018 (European Union). See also [A/76/261](#), paras. 26–36.

58. Civil society organizations can also play an indispensable role in monitoring and evaluating regional counter-terrorism activities, identifying and documenting violations of human rights, advocating for remedies and accountability, representing victims, and petitioning human rights procedures. All this assists to enhance human rights compliance by regional organizations and thus their public legitimacy and effectiveness. Regional organizations must, however, refrain from reprisals and intimidation against human rights defenders, systematically protect them from reprisals by member States, and promote civic space, particularly in regions where many States are hostile to human rights defenders, and proactively engage with civil society.

III. Recommendations

A. Recommendations to regional organizations and States

1. Regional norms

59. **Ensure all regional counter-terrorism instruments, including future instruments, include obligations to respect international human rights law, international refugee law, and international humanitarian law in general, and specific rights that are relevant to particular provisions.**

60. **Revise regional definitions of terrorism to ensure that they satisfy the requirements of legality, including certainty and foreseeability, only encompass conduct that is genuinely terrorist in nature according to international standards, and do not infringe on protected rights and freedoms. Exclude from definitions: (a) the activities of State and non-State armed forces in armed conflict where they are “in accordance with” humanitarian law; and (b) acts of advocacy, protest, dissent or industrial action where they do not cause death or serious personal injury. Avoid criminalizing or imposing liability for “extremism”.**¹³⁶

61. **Ensure preparatory offences narrowly define intention elements and satisfy principles of proximity/objective risk, legality, necessity and proportionality. Ensure expression-related offences embody the criteria recommended by the Special Rapporteur and the Rabat Plan of Action.**¹³⁷

62. **Ensure rules to remove or moderate online terrorist content respect freedom of expression and non-discrimination, including by avoiding overbroad definitions; providing adequate time and institutional independence in content removal decisions; assessing necessity, proportionality and context; strictly controlling self-moderation by service providers, including human oversight of automated tools; and guaranteeing due process, judicial safeguards and effective remedies.**

63. **In proposing new instruments, meaningfully consult independent, expert regional and international human rights mechanisms and diverse civil society actors about the instruments’ compatibility with human rights law and amend proposals to eliminate incompatibilities.**¹³⁸

2. Regional cooperation

64. **Recognize the principle of non-refoulement under international refugee law and international human rights law as a mandatory ground for the refusal of**

¹³⁶ [A/HRC/43/46](#), para. 14.

¹³⁷ [A/HRC/16/51](#), para. 31, and [A/HRC/22/17/Add.4](#), para. 29.

¹³⁸ [A/76/261](#), paras. 59 and 60.

requests for extradition and mutual legal assistance under regional instruments. Ensure regional norms requiring the denial of refugee status or asylum in relation to terrorism are framed and applied in strict accordance with international refugee law and human rights law.

65. Guarantee that regional terrorist travel or other blacklists or watch lists, and related information-sharing procedures, are consistent with international obligations concerning legality, due process and non-discrimination, including the screening out of abusive listing proposals and a fair and independent procedure for delisting.

66. Ensure regional counter-terrorism bodies have sufficient human rights expertise, through dedicated or otherwise trained personnel, or coordination with other qualified personnel within the larger organization.

67. Adopt clear human rights due diligence policies for regional counter-terrorism activities and apply them systematically to assess and mitigate human rights risks, or halt activities where risks cannot be mitigated. Embed human rights guidance and training in all technical assistance and capacity-building activities undertaken.

3. Victims of terrorism

68. Adopt binding regional standards on victims of terrorism, in accordance with international human rights law and based on the United Nations Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism¹³⁹ and other guidance.¹⁴⁰ In particular, regional standards should define “victim” broadly and address comprehensive assistance; physical and psychological protection, including of privacy; reparation, including State-funded compensation; satisfaction, including the right to truth and public recognition; sufficient and accessible information; and access to justice and participation in legal proceedings.

69. Ensure that regional standards and programmes for victims address victims with specific needs and are victim-centred, respect human rights, do no harm and avoid secondary victimization. Provide training for personnel, ensure accountability of State authorities and service providers, treat victims of all crimes equally, and engage victims’ associations and civil society.

70. Establish a regional focal point or unit to promote the rights of victims, coordinate regional efforts, liaise with civil society (including victims’ associations) and international stakeholders, and develop and implement regional programmes.

71. Establish a regional fund to assist victims of terrorism, including to assist member States that lack capacity and to address large-scale events or protracted conflict situations.

¹³⁹ Available at www.un.org/counterterrorism/publication/The-Model-Legislative-Provisions.

¹⁴⁰ See A/HRC/20/14; UNODC, *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework* (Vienna, 2015); UNODC, *The Criminal Justice Response to Support Victims of Acts of Terrorism* (Vienna, 2011); Council of Europe, *Protection of Victims of Terrorist Acts: Human Rights and Terrorism – Council of Europe Revised Guidelines*; and Global Counterterrorism Forum, “Madrid memorandum on good practices for assistance to victims of terrorism immediately after the attack and in criminal proceedings”, 2019.

4. Regional oversight, accountability and remedies

72. Ensure all counter-terrorism activities are subject to internal and external human rights and other relevant oversight and monitoring mechanisms and procedures, commensurate with the scope and nature of activities. Provide prompt accountability and effective remedies where any regional activity violates regional or international human rights law.

73. Establish effective safeguards and procedures for the protection of personal data in regional counter-terrorism activities, in accordance with international law.

74. Ensure that treaty-based or other regional monitoring of national implementation of regional counter-terrorism instruments or standards assesses consistency with human rights.

75. Report publicly, comprehensively and accessibly, on a regular basis, on counter-terrorism activities, including on human rights and gender impacts.

76. Strengthen dialogue and cooperation between regional counter-terrorism actors and international human rights procedures, including the Special Rapporteur and other special procedures mandate holders, and between regional organizations.

77. Provide and publicize avenues for regular, accessible, inclusive and meaningful engagement by diverse civil society actors in the design, implementation and monitoring and evaluation of counter-terrorism measures; ensure that accountability and remedial mechanisms are accessible to civil society; and protect civil society from reprisals.

B. Recommendations to States

78. Become parties to regional human rights treaties, accept the competence of regional human rights mechanisms, including individual complaints procedures, and respect and implement the findings of regional mechanisms.

79. Strengthen the monitoring, enforcement and remedial powers of regional human rights mechanisms and adequately fund mechanisms.

80. Review regional human rights standards and interpretive practices to ensure that they are fully consistent with international human rights law.

81. Provide the Special Rapporteur with adequate and predictable resources in order to allow him to fulfil the mandate's uniquely broad scope under United Nations resolutions in an effective and sustainable manner. One additional post, based in New York, should be funded from the regular budget of the United Nations to engage with the counter-terrorism activities of United Nations entities and regional organizations.

Abbreviations

ASEAN	Association of Southeast Asian Nations
ECOWAS	Economic Community of West African States
LAS	League of Arab States
OAS	Organization of American States
OAU	Organization of African Unity
OHCHR	Office of the United Nations High Commissioner for Human Rights
OIC	Organization of Islamic Cooperation
OSCE	Organization for Security Cooperation in Europe
SAARC	South Asian Association for Regional Cooperation
