

Check against delivery



**Statement by the Special Rapporteur on the promotion and
protection of human rights and fundamental freedoms
while countering terrorism, Martin Scheinin**

In the framework of the review of the mandate

**Sixth resumed session of the Human Rights Council
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Mr President, distinguished delegates, ladies and gentlemen,

As I had only yesterday the honour to appear before the Council with my thematic report and three mission reports, I will be brief. The mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism is still a 'new kid on the block'. The mandate was established less than three years ago and I have the honour to be the first mandate-holder. Many of the well-established special procedures of the Council have in recent years included a strong component related to counter-terrorism measures, and rightly so. Torture, arbitrary detention, extrajudicial executions, contemporary forms of racism, indigenous people, independence of judges and lawyers – these are just some of the other mandates that have given, and need to give, attention to counter-terrorism measures. The mandate I am entrusted with is complementary and comprehensive in nature. It should avoid duplicating the work of others and, instead, complement where needed and systematically implement the principles of indivisibility and interdependence of all human rights. While my thematic reports have focused on areas not covered by other mandates, the country-specific dimensions of the mandate, by necessity, must strive for comprehensiveness and the identification of the most burning concerns in each specific case, irrespective of whether the same issues are being addressed also by other mandate-holders. Of course, there is plenty of room for coordination and cooperation with other mandates, including in planning country missions.

Mr President,

This mandate was established in the post-9/11 era. After September 2001 individual States and the international community have, rightly, intensified their actions against terrorism. Unfortunately, all too often insufficient attention has been paid to the imperative of respecting human rights while countering terrorism.

I would be the first one to welcome the discontinuation of this mandate, if only the world was ready for it. Unfortunately, the frequency of human rights abuses in the fight against terrorism and the complex and interrelated nature of the human rights issues involved will make it necessary to maintain the mandate at least for another three years.

Among the achievements of the mandate during the first two and a half years I would highlight the following three: Firstly, constructive country-specific work through opening up of a scheme of country visits, including to some countries among the most pertinent ones in the context of the mandate and through engaging in a dialogue with some other Governments concerning their framework of counter-terrorism law, primarily with focus on prevention of potential human rights violations.

Secondly, extending the dialogue and cooperation beyond the human rights world by engaging with the Counter-Terrorism Committee (CTC) of the Security Council and participating in the Counter-Terrorism Implementation Task Force (CTITF) entrusted to implement the Global Counter-Terrorism Strategy adopted by the General Assembly. And thirdly, the production of thematic reports that reflect the complementary and comprehensive nature of the mandate.

As to challenges ahead, let me mention three. Firstly, this mandate is in urgent need of more resources from the side of the Office of the High Commissioner for Human Rights. With some embarrassment I must confess, that the impact of the mandate beyond human rights circles and in particular into the work of the CTC and CTITF would be greater if we simply were able to intensify our own efforts. Secondly, after a first round of country visits it is now time to turn towards new countries and regions. With reference to my consultations with Permanent Missions here in Geneva this week, I look forward to closer interaction, including through but not limited to country visits, with Egypt and other Northern African countries, Pakistan, the Philippines and other states in South East Asia, and a region in respect of which the first consultations will take place later this week. Thirdly, much more needs to be done in the identification and dissemination of best practice in combating terrorism while respecting human rights. In my mission reports and thematic reports I have opened this path, and I have made a proposal to the CTC/CTED on joining forces in this respect. Despite these steps, I am afraid that another three years will be needed for the production of an analytically structured compilation of best practice.

Mr President,

Let me finish by addressing three expectations of my mandate in respect of the work of the Human Rights Council.

Firstly, it has been somewhat frustrating that the Council's interactive dialogue on the basis of my reports has remained a discussion, and no actual action has been taken upon the recommendations contained in my reports. I would like to refer to this year's draft resolution by the General Assembly on 'Protection of human rights and fundamental freedoms while countering terrorism' as an example of the direction where I would wish to see the Council develop its own methodology when dealing with reports by Special Rapporteurs.

Secondly, my mandate is one of those where visits to places of detention are an important part of any country visit. In order to address allegations of human rights violations in the fight against terrorism, the exercise of my mandate needs access to places of detention. The possibility to conduct confidential interviews of detainees convicted of or charged with terrorist crimes, or subject to administrative detention for terrorism-related reasons is crucial in the assessment of the law and practice of countering terrorism. While other visited countries except the United States have granted access to detainees on the basis of confidentiality, in every case there has been a degree of hesitation or selectivity involved. Therefore, I appeal to the Council that it would endorse the 1998 Terms of Reference for Fact-Finding Missions by Special Rapporteurs.

Thirdly, as the Council is moving to the actual implementation of the Universal Periodic Review (UPR), I would like to flag the expectation that the new mechanism will be implementation-oriented. Instead of second-guessing or duplicating the work of treaty bodies or special procedures, the UPR should evolve as a mechanism of collegial peer pressure towards the effective implementation of findings and recommendations by independent expert procedures.