

UPTURNED LIVES

THE DISPROPORTIONATE
IMPACT OF FRANCE'S
STATE OF EMERGENCY

**AMNESTY
INTERNATIONAL**



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“We cannot live forever under a state of emergency but so long as there is a threat, we should use all available means [...] until we have obviously got rid of Daech.”

Manuel Valls, Prime Minister of France, 22 January 2016¹

“My life’s been turned upside down. I have young kids, my wife doesn’t work. I run my business on my own. How am I supposed to make a living if I don’t work? I have to go to work every day and I am scared.”

K, a man from the Paris region, who has been subject to an assigned residence order since 15 November 2015

Shortly after the attacks in Paris on 13 November 2015, which killed 130 people and injured more than 300, the French government declared a state of emergency for 12 days, which was then extended by Parliament until 26 February. On 22 January, the French President François Hollande announced the government’s intention to extend the state of emergency for three more months after 26 February.²

¹ http://www.francetvinfo.fr/faits-divers/terrorisme/attaques-du-13-novembre-a-paris/etat-d-urgence-en-france/l-etat-d-urgence-va-durer-jusqu-a-quand_1281553.html. The name of the armed group mentioned by the Prime Minister Manuel Valls in this interview is referred to by Amnesty International as the armed group that calls itself Islamic State.

² Press release of 22 January 2016, <http://www.elysee.fr/communiqués-de-presse/article/projet-de-loi-constitutionnelle/>

The state of emergency is an exceptional regime that allows French authorities, mainly the Ministry of Interior and police, to exercise a wide range of powers at their own discretion, which would normally require prior judicial authorization. They can for example search houses, businesses and places of worship, impose assigned residence orders and restrictions on public assemblies.

In the months since the declaration of the state of emergency, police have conducted searches of the homes and premises of thousands of people without providing them with clear reasons for doing so and without being required to obtain a judicial authorization. In addition, by the end of January, more than 350 people were subject to assigned residence orders, which required them to report several times a day to a police station and did not permit them to leave their town of residence as authorities considered them to be a “threat to public security”.

International human rights law recognizes that governments can impose certain limits on people's rights in extreme circumstances in the context of a declared state of emergency, including when a country faces an exceptionally serious threat. However, measures under a state of emergency must respect strict conditions: they must always be limited to what is strictly required by the exigencies of the emergency situation, and they must never be applied in a discriminatory manner.

During and after the Paris attacks, French authorities were certainly confronted with an exceptional and unprecedented situation, which could, at that time, justify the declaration of a state of emergency for a limited period.

However, the implementation of the emergency measures, their impact on the human rights of those targeted and the very low number of criminal investigations to have resulted, raise serious questions about the extent to which they were necessary and proportionate to prevent “further terrorist attacks”, the stated aim of the French authorities when they first declared a state of emergency, and the basis for claims that there is a need for further extensions.

Amnesty International spoke to several people whose daily lives and human rights had been severely impacted by the state of emergency. Many interviewees did not understand why those measures had been taken against them. They considered the measures as a punishment against them. A member of the association running a mosque in Aubervilliers (Paris region), which was searched on 16 November, said: “The search was very violent, for us it was a desecration, it hurt our feelings and it scared us [...] The head of the mosque was also put in pre-charge detention afterwards...but no charges were pressed against any of us, there were no concrete elements. That's the worst... If there were serious suspicions, they would have launched an investigation....but at the moment it's like we're being punished for nothing”.³

Amnesty International interviewed many Muslims who believed that that the measures against them were motivated by their religious beliefs and practice. Elias, who runs a news

³ Interview with a member of the association who managed the mosque and who wished to remain anonymous, 16 December 2015.

website and whose house in the Paris region was searched on 4 December, said: “The emergency measures follow a blindfolded strategy. They primarily target Muslims, often without any foundation. In fact, most of the cases do not result in any investigation. Were that the case, if emergency measures were effective in fighting terrorism, Muslims would support them. But they are ineffective, they antagonize Muslims instead”.⁴

This report reviews a number of cases highlighting the flaws in the implementation of emergency measures, in particular house searches and assigned residence orders, and concludes that these measures have been applied in an overly-broad manner and, in some instances, arbitrarily. In particular, French authorities have restricted human rights, and more specifically the rights to liberty, private life, freedom of movement and freedom of assembly, beyond what was strictly required by the exigencies of the situation.

Moreover, in some instances, the measures were applied in a discriminatory manner. Some Muslims were targeted mainly on the basis of their religious practice, with no evidence pointing to their involvement in any criminal offence.

Karim, who has been assigned to residence since 15 November, told Amnesty International during an interview before the government’s January announcement that it would extend the state of emergency: “I am afraid it [the state of emergency] will be renewed. That could mean that the measure against me will last longer, that perhaps I won’t be able to work for months”.⁵

Amar, who was subjected to a house search on 16 November 2015 said: “It feels like if you display your religion, if you are bearded or wear a religious symbol or dress or if you pray in a particular mosque you can be considered to be “radical” and thus targeted. If you try not to display your religion too much, then they think you are concealing something. We don’t know any more who they want us to be, we don’t know how we’re supposed to behave”.⁶

International and regional human rights bodies have raised concerns regarding the emergency measures in France and their implementation. On 19 January, five UN Special Rapporteurs expressed concern about the vague grounds on the basis of which authorities had conducted searches and adopted assigned residence orders. They called on French authorities not to extend the current state of emergency after 26 February.⁷ On 22 January, in a letter to François Hollande, the Council of Europe Secretary General expressed concerns regarding the powers of administrative authorities under the current state of emergency, in particular with regards to searches and assigned residence orders.⁸

⁴ Interview with Elias, 14 December 2015.

⁵ Interview with Karim, 16 December 2015. The name of the interviewee has been anonymized

⁶ Interview with Amar, 14 December 2015.

⁷ UN experts warn France to respect fundamental freedoms while countering terrorism, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16966&LangID=E>.

⁸ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168059375b>

Key recommendations

- Amnesty International calls on the French government to refrain from proposing to extend the current state of emergencies unless it can effectively demonstrate that the situation it confronts reaches the very high threshold of public emergency threatening the life of the nation and that emergency measures are strictly required to confront that situation.
- Amnesty International urges all the Members of the French Parliament to refrain from supporting proposals aimed at extending the current state of emergency unless a sufficiently robust, reasoned and detailed justification has been made by the government.
- Even if the government is able to make the case for the existence of a state of emergency warranting the continued application of exceptional measures, the scope for their arbitrary application must be reduced, notably by reinstating prior judicial authorisation.

METHODOLOGY

Amnesty International has been monitoring the implementation of the emergency measures since they were declared in November 2015, with a particular focus on their impact on the everyday lives of those who have been subjected to them. As part of this ongoing project, this interim report primarily focuses on cases of searches without warrants of houses, mosques and business premises and the use of assigned residence orders. Amnesty International will continue to monitor and research the situation, and will update the findings of this report as the situation develops.

Amnesty International's researchers interviewed 35 individuals who had been the subject of and/or who had witnessed 16 searches. Researchers interviewed 25 individuals, including people subject to assigned residence orders as well as their family members, friends and lawyers (13 cases).

Amnesty International had access to documents, in particular search orders and assigned residence orders, regarding the implementation of the emergency measures in the cases described in this report. Moreover, Amnesty International consulted court judgments and other documents presented by authorities in courts. Amnesty International's research also relied on information made available to the public by civil society organizations monitoring the implementation of the current state of emergency, such as the observatory put in place by La Quadrature du Net.⁹

All the interviews were conducted in French with no interpretation. Some interviews were conducted in person, and others over the telephone. Some interviewees are identified by their real names; others have been assigned pseudonyms to protect their identities.

Amnesty International would like to thank Sihem Zine, of the *Collectif contre le Racisme et l'Islamophobie-Ile-de-France (CRI-IDF)*, who facilitated Amnesty International's field research.

⁹ https://wiki.laquadrature.net/%C3%89tat_urgence/Recensement

SEARCHES WITHOUT JUDICIAL AUTHORIZATION

"I thought it was an Islamophobic attack, a revenge for the Paris attacks".

Marc, who lives in the Picardy region in Northern France, whose house was searched late at night on 17 November 2015

Under French criminal law, a search of a house or other premises is authorized by judicial authorities.¹⁰ Searches can usually be carried out between 6am and 9 pm. However, French law already establishes some exceptions regarding the investigation of terrorism-related offences.¹¹ In particular, in those cases, searches of premises can be conducted during the night.¹²

Under the current emergency regime, Prefects, who represent the state at the local level, can authorize a search on the basis of vague grounds, below the threshold established by criminal law. More specifically, any premises, including houses, can be searched if authorities have "serious reasons to believe that the location is frequented by a person whose behaviour constitutes a threat to public order and security".¹³ The searches under the current state of emergency are conducted by police, at any time of the day or the night and without prior notice.

According to official statistics, authorities conducted 3242 searches between 14 November 2015 and 29 January 2016.¹⁴

All the search orders signed by Prefects and seen by Amnesty International were short documents that contained very little information. They usually included standard formulations pointing either to the threat to public order and security posed by the owner or the occupants of the premises subjected to the search or to the possibility that arms or criminal suspects could be hidden there.

¹⁰ Searches can be authorized by different judicial authorities depending on the phase of the investigation. They include the Prosecutor's Office in case of investigation of flagrancy (article 56 of the Code of Criminal Procedure) or preliminary investigations (where a person's premises are subject to a search with their express consent, or with judicial authorization in instances where consent is not required, article 76) or the investigating judge in the case of criminal investigations (article 92).

¹¹ Articles 421.1-421.6 of the Criminal Code.

¹² Articles 706.89-706-91 of the Code of Criminal Procedures.

¹³ Article 11 of the Law No. 55-385 of 3 April 1955 regarding the state of emergency (amended on 21 November 2015).

¹⁴ Data of the Ministry of Interior published by the National Assembly, <http://www2.assemblee-nationale.fr/14/commissions-permanentes/commission-des-lois/controle-parlementaire-de-l-etat-d-urgence/controle-parlementaire-de-l-etat-d-urgence/donnees-de-synthese/mesures-administratives-prises-en-application-de-la-loi-n-55-385-du-3-avril-1955-depuis-le-14-novembre-2015-au-29-janvier-2016>

Amnesty International has documented several cases in this report in which authorities had searched houses of or businesses owned by, or associated with, Muslim individuals. In the context of the United Nations Conference on Climate Change in Paris (21st Conference of Parties, or COP21), authorities also searched several premises occupied by environmental activists using emergency powers.¹⁵

SEARCHES IN PRACTICE

"They broke the doors, came into the mosque with their shoes on and threw the Quran onto the floor."

A member of the association of the mosque "La Fraternité", Aubervilliers, searched on 16 November 2015

USE OF FORCE AND DAMAGE

"I thought that was it. They said they were police, but I did not believe them. My wife and my son were panicking. Then, as soon as I opened the bathroom's door, they punched me in the face and handcuffed both me and my wife."

Marc, whose house was searched late at night on 17 November 2015

In many cases documented by Amnesty International or reported by other civil society organizations monitoring the emergency measures¹⁶, police forced the entrance doors open and caused other material damage during searches. Police sometimes handcuffed or pointed firearms at those who were occupying the premises subjected to the search. In some cases, this happened in the presence of children. In many cases, police copied data stored in computers or other electronic devices found on the premises. It remains unclear how authorities will use or store that data.¹⁷

On 21 November at 8:30 pm, about 40 police burst into the Pepper Grill restaurant in St-Ouen-L'Aumône (Paris region), where about 60 men, women and children were having supper. Ivan, the restaurant's owner, told Amnesty International: "They told everyone to put their hands on the table, then they searched everywhere for about 35 minutes. They forced open three doors. I told them I had the keys, I could have opened the doors for them, but they ignored me."¹⁸

Several mosques were also subjected to searches. On the night of 16 November, police conducted a search in the mosque "La Fraternité" in Aubervilliers (Paris region). A member

¹⁵ See Amnesty International France, "L'état d'urgence a visé les défenseurs de l'environnement", 11 December 2015, <http://www.amnesty.fr/Presse/Communiqués-de-presse/etat-urgence-visé-les-défenseurs-de-environnement-17123>

¹⁶ See for example the information collected by the NGO La Quadrature du Net: https://wiki.laquadrature.net/%C3%89tat_urgence/Recensement or the observatory run by the newspaper Le Monde: <http://delinquance.blog.lemonde.fr/2015/11/23/observons-letat-durgence/>

¹⁷ The rules applicable to the storage of data copied during searches are not spelled out by Article 11 of law 55-385 regarding the state of emergency.

¹⁸ Phone Interview with Ivan, the owner of the Pepper Grill restaurant, 28 November 2015. CCTV cameras installed in the restaurant recorded the search. Some images are available here: <https://www.youtube.com/watch?v=9fJBUhZCyzU>, accessed 17 January 2016.

of the association running the mosque, who was himself subjected to a house search, told Amnesty International: "We considered the search a desecration. They broke down the doors, came into the mosque with their shoes on and threw the Quran onto the floor... We recorded between 3,000 and 4,000 euros of material damage".¹⁹

On 17 November at about 11pm, Marc, who lives in the Picardy region in Northern France, was in his living room when the doorbell rang. He then heard someone kicking and banging on the door. He told Amnesty International: "I thought it was an Islamophobic attack, a revenge for the Paris attacks". His wife Sophie, who was eight months pregnant, and his 10-year-old son woke up. They phoned the police twice and then took refuge in their bathroom and locked the door. Meanwhile, police forced the front door open and then started to force the bathroom door. Marc said "I thought that was it. They said they were police, but I did not believe them. My wife and my son were panicking. Then, as soon as I opened the bathroom door, they punched me in the face and handcuffed both me and my wife."²⁰ Marc told Amnesty International that the search had lasted for several hours and that he had remained handcuffed for the whole duration. The search did not result in the launch of any criminal investigation against Marc or his family.

On 20 November, the house of M., a Chechen refugee living in the region of Toulouse in Southern France, was searched. He told Amnesty International: "My nightmare started on 20 November [M. was also assigned to residence after the search]. It was about 2:30 AM. I was in kitchen and my wife was changing our baby's nappy. She told me she had seen some police officers in the hallway. I went checking and I realized police were trying to force our door open. As soon as I opened it for them, one officer started yelling at me, he pointed a firearm at me, made me lie down on the floor and handcuffed me. He then kicked me several times and pressed my neck with his foot. I remained handcuffed for the whole duration of the search, until about 6am. I think the kicks might have damaged a nerve as I cannot move my arm as I used to. I need to go for a medical check".²¹

LACK OF INFORMATION PROVIDED TO THOSE SUBJECT TO SEARCHES

"Police pointed out in the search order that individuals whose behaviour constituted a threat to public order had connections with the association. However, what does that exactly mean? Who are those "individuals"?"

Virginie, vice-president of the Association Baytouna, Argenteuil, a women's shelter searched on 8 December 2015

Many of those subjected to searches told Amnesty International that authorities had not provided them with information about the specific reasons justifying the search of their homes. The lack of explanations, combined with the intrusion into an intimate space that any

¹⁹ Interview with a member of the association running the mosque, 16 December 2015. His name has been anonymized. Some photos documenting the material damage can be seen here: <http://journaldumusulman.fr/perquisition-a-la-mosquee-daubervilliers-le-lieu-de-culte-a-ete-saccage-par-la-police-photos/>

²⁰ Interview with Marc and his wife, 22 January 2016.

²¹ Phone interview with M., 26 January 2016.

house search inevitably entails, left many bewildered.

Orlando, a man who lives in the Nord-Pas-de-Calais region, in Northern France bordering Belgium, was subjected to a house search on 1 December at 4am. He told Amnesty International: "I converted to Islam a couple of years ago. I have always practised my religion discreetly. I don't do anything apart from respecting the five pillars of Islam...and yet they came in the middle of the night and searched my house for hours. I really don't understand why. I asked the police officers why they came and they just said it was an order from the Prefect. On the search order, the Prefect highlighted that my behaviour was a threat to public order and security. I am wondering if my neighbours have reported me...Police have also copied all the data from my hard disk as well as the mobile phones of my two sons [10 and 16-year old respectively] who were at home during the search".²²

Amar was living temporarily with his parents in the Paris region when their house was searched on 16 November at 4am. He told Amnesty International: "The police burst into the house, they handcuffed and pushed me to the floor, most of their faces were concealed... they were yelling and told me, my mum and my sister to shut up, I don't understand why they turned my house upside down. They broke some of the furniture, with no reason...I asked them why they were doing that and they just said they had some reasons to think I could be a threat...that I could have connections with terrorists."²³

Civil society organizations and businesses such as restaurants and bars were also searched.

In the evening of 8 December, about 15 police searched a women's shelter in Argenteuil (Paris region). The shelter is run by Baytouna, an association aimed at supporting women who have suffered domestic violence or other abuses. At the time of the search, only one young woman was there. Virginie, the vice-president of the association, told Amnesty International that she did not understand why the shelter had been searched. She explained: "Police pointed out in the search order that individuals whose behaviour constituted a threat to public order had connections with the association. However, what does that exactly mean? Who are those "individuals"? When our president arrived at the shelter, he introduced himself to the police officers in charge of the search. They did not ask him any question, nor did they then search the registered address of the association, which is where I live".²⁴

Ivan, the owner of the restaurant Pepper Grill, said: "What really struck me is that, on the basis of the search order, they thought they could have found some people who constituted a public threat in my restaurant. However, they did not check the ID of any of the 60 clients who were there".²⁵

Authorities have relied on emergency powers to conduct searches that in many cases appeared to be arbitrary. The cases documented in this report suggest that many have been

²² Phone interview with Orlando, 11 December 2015.

²³ Interview with Amar, 14 December 2015.

²⁴ Phone interview with Virginie, 9 December 2015.

²⁵ Phone Interview with Ivan, the owner of the Pepper Grill restaurant, 28 November 2015. CCTV cameras installed in the restaurant recorded the search. Some images are available here: <https://www.youtube.com/watch?v=9fJBUhZCyzU>, accessed 17 January 2016.

subjected to searches on the basis of vague grounds and with very little evidence that they, or anyone else in the premises searched, were involved in or had information regarding the commission of any crime.

THE IMPACT OF SEARCHES

"My father has heart problems [...] Police forced the entrance door open, they did not ring the bell, they burst into the flat, started screaming and handcuffed both my father and my sister. My father felt unwell and after a few minutes fainted. They had to call an ambulance."

Nadia, whose 80-year-old father's house in the Strasbourg region, was searched on 21 November 2015

Some of the people subjected to house searches explained to Amnesty International that those measures were having long-term consequences for them. These effects included fear, stress or other health-related issues.

On the afternoon of 21 November, authorities searched the house of Nadia's father, who was 80 and living with her disabled sister, in the region of Strasbourg. Nadia told Amnesty International: "My father has heart problems, he had just been released from hospital. Police forced the entrance door open, they did not ring the bell, they burst into the flat, started screaming and handcuffed both my father and my sister. My father felt unwell and after a few minutes fainted. They had to call an ambulance. He was so terrified, he cried a lot when we visited him at the hospital the first days".²⁶

On 1 December at 5:20 am, about 30 police officers searched the house of Sid Ali and his wife Fahima in Chambéry, in the Rhône-Alpes region in south-eastern France. Sid Ali was in Paris for work-related reasons and Fahima was at home on her own with their three-year-old child. Fahima told Amnesty International: "Police knocked violently on the door. I opened it. The staircase was full of police officers, some pointed their firearms against me. I thought I was going to die."²⁷ Fahima said that the search lasted for about four hours and left her in shock. She explained: "I slept for 15 days at my mother-in-law's house. I did not want to stay on my own. I don't sleep well anymore and if someone speaks loud I tremble". Sid Ali told Amnesty International: "We are thinking of leaving the town, maybe moving to another country".²⁸

In some cases, searches had a negative impact on neighbours' or acquaintances' perceptions of those subjected to them, especially in smaller cities or towns. Some of the people who spoke to Amnesty International raised concerns that the searches could lead to further stigmatization of Muslims and to discrimination in their everyday lives.

Orlando, who lives in a small town in Northern France and whose house was searched on 1 December, said: "I live in a village of 5000 people. I now feel like people see me as "the terrorist". Quite a few people supported me, but I think the search changed my neighbours' perceptions. Also, some local media covered the search. A journalist called my ex-wife at work and asked her what she thought about me, asked if she was worried about the kids,

²⁶ Phone interview with Nadia, 9 December 2015.

²⁷ Phone interview with Fahima, 18 December 2015.

²⁸ Phone interview with Sid Ali, 4 December 2015.

about how I practiced my religion...that made me furious, they didn't have any right to do that".²⁹

On 26 November at 4.30 am, police searched the house of D., a woman living in the Rhône-Alpes region in south-eastern France, on the basis of an order signed by the Prefect. D. told Amnesty International that she had signed the police report at the end of the search. It stated that no elements that could have justified the launching of an investigation were found during the search.

She said that a few days later, the human resources department of her employer informed her that she was dismissed without providing any further information. On 21 December, the management informed her that she had been dismissed because she represented a threat for the company. She said authorities had informed the management about the house search. D. explained: "I was dismissed just because of my supposed connections. They don't have anything to complain about my work and I have been working with them for 12 years. I've completely lost my bearings."³⁰

The searches conducted under the current state of emergency have had a significant impact on human rights of thousands of individuals. They violate the right to private life and can fuel further stigma and discrimination against those targeted. The scale of the searches and the flimsy grounds on which many have been conducted suggest that the authorities have used this emergency measure in a manner that was not limited to what was strictly required by the exigencies of the situation, as prescribed by international human rights law.

²⁹ Phone Interview with Orlando, 12 December 2015.

³⁰ Phone interviews with Amnesty International on 18 December 2015 and 15 January 2016. When this report went to press (end of January 2016), the legal proceeding launched by D. regarding the dismissal was ongoing.

ASSIGNED RESIDENCE ORDERS

"You are punished without a real proceeding, without any real possibility to defend yourself."

Lawyer for Daoud, a man living in Avignon and subject to an assigned residence order³¹

Under French criminal law, judicial authorities can impose assigned residence orders on individuals when there are serious or consistent elements for suspecting they have committed a crime.³² In some cases, administrative authorities can impose assigned residence on non-EU nationals against whom an expulsion order has been issued but which cannot be immediately implemented.³³

Under the state of emergency, the criteria for imposing an assigned residence order are much less stringent. An order for assigned residence may be imposed where "there are serious reasons to believe that a person's behaviour constitutes a threat to security and public order". The order requires authorisation at the ministerial level from the Ministry of the Interior.³⁴

An assigned residence order usually includes a night curfew up to 12 hours in the house (in practice usually ranging between nine and ten hours), a prohibition on travel outside the territory of a specific municipality and the requirement to report daily to a police station up to three times a day. Assigned residence orders under the state of emergency do not usually include specific information about the length of time the order will be in force.³⁵ In courts, authorities have explained that the length of assigned residence orders is bound to the duration of a state of emergency.³⁶

In the context of many court proceedings initiated by those seeking to challenge the assigned residence orders imposed against them, authorities referred to this measure as a preventive, rather than a punitive, tool. However, authorities have failed to provide evidence regarding the effectiveness of this measure to prevent "further terrorist attacks", which was the aim invoked by them upon declaring the current state of emergency.

³¹ Phone interview with Daoud's lawyer, 1 December 2015.

³² Articles 137 and 142-5 (assigned residence compounded with electronic surveillance) of the Code of Criminal Procedures.

³³ Article 561-1 of the Code on Entry and Residency of Foreign Nationals and on Asylum, <http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070158&idArticle=LEGIARTI000006335269&dateTexte=&categorieLien=cid>

³⁴ Article 6 of the law 55-385 of 3 April 1955. In French: « des raisons sérieuses de penser que son comportement constitue une menace pour la sécurité et l'ordre publics ».

³⁵ With the exception of the assigned residence orders imposed on climate activists during the COP21, which were bound to the duration of the event.

³⁶ On 22 December, the Constitutional Court highlighted that assigned residence orders will have to be renewed, and cannot be automatically be extended, after 26 February, should authorities extend the state of emergency. Decision 2015-527 QPC.

Assigned residence orders are a restriction on liberty and have an impact on other human rights including the rights to freedom of movement, to private and family life or to employment. The vague grounds on which assigned residences orders are usually adopted, the lack of transparency regarding the collection of the information used to justify them as well as their negative consequences on the human rights of those subjected to them point to their disproportionate impact in respect of the aim they seek to achieve, namely “preventing further terrorist attacks”.

THE GROUNDS FOR ASSIGNED RESIDENCE ORDERS

RELIGIOUS PRACTICE AND “RADICALIZATION”

In the cases examined by Amnesty International, the authorities often justified assigned residence orders by alleging that those targeted were either themselves a threat because of their religious practice or supposed “radicalization” or individuals had connections with other Muslims who were supposed to be “radicalized”, without providing any specific allegations as to why the behaviour or beliefs alleged constituted a threat to public order.

On 17 December, Claire was assigned to residence in the town where she lived, in the area of Le Mans. In the assigned residence order, the Ministry of Interior justified the measure by stating that she wore the full-face veil, she was a “radical Salafist” and she founded a Salafist association. Authorities also highlighted that she was married to a religious preacher who had travelled to Yemen. She told Amnesty International: “Initially, I thought it was a joke. I have never worn the full-face veil and I am not married to that man. He is the father of my daughter but we don’t live together. Police searched my house in November. They were looking for him. But he lives in another French region. The most absurd is that they gave me an assigned residence, but not him!”³⁷

Claire appealed in court against the restrictions imposed on her. In preparation for the court hearing, she produced photographs of herself in public spaces showing that she was not wearing the full-face veil and certificates proving that she had promoted internationally renowned fashion brands in the context of her job. On 21 January, the Nantes administrative court suspended the assigned residence order imposed on Claire.³⁸

In another case, authorities justified an assigned residence order against Daoud by referring to his “proven radicalization”. In the document informing him that the measure had been imposed, seen by Amnesty International, the authorities pointed out that Daoud had travelled within a 5 km distance of Molenbeek, the neighbourhood in Brussels where some of the alleged perpetrators of the Paris attacks lived. Authorities additionally highlighted Daoud’s associations with the right-hand man of an imam whom they considered to be “radical”.

Additionally, authorities noted that Daoud had shaved his beard the day of the Paris attacks. According to his lawyer and Barakacity³⁹, an organization which monitored his case and

³⁷ Interview with Claire, 22 January 2016. The name of this interviewee has been anonymized.

³⁸ Amnesty International saw the statement of case prepared by her lawyer. This is one of the rare cases in which the administrative court highlighted that the Ministry of Interior had not produced sufficiently precise information to justify the measure, Decision no. 1600385 of 21 January 2016.

³⁹ Meeting with Barakacity, 17 December 2015.

assisted him during his period of assigned residence, it was likely that someone had reported him to authorities. Such suspicions that people had been reported to the police were not far-fetched, given that the government had in fact set up a "Stop Jihadism" free hotline earlier in the year aimed at "preventing violent radicalization", through which people could report suspected cases of "jihadism" on an anonymous basis.⁴⁰

Amnesty International is concerned that the vague criteria on the basis of which authorities can impose assigned residence orders have resulted, in some instances, in the measure being applied arbitrarily, on the basis of flimsy evidence at best, and in a discriminatory manner against individuals considered to be "radicalized" because of their religion beliefs and practice.

MEMBERSHIP OF "RADICAL LEFT" GROUPS

The clearest example of the abusive application of the emergency measures occurred in the context of the United Nations Conference on Climate Change (COP 21), which took place in Paris between 30 November and 12 December, when the Ministry of Interior ordered 26 climate change activists to assigned residence for the whole duration of the conference.

In some cases authorities justified the measures against the activists on the basis of their membership of "radical left" groups and their past alleged participation in violent demonstrations that had disrupted public order.⁴¹ However, according to the information available to Amnesty International, most of the activists had never been subjected to any investigation, nor have they been charged or convicted for any crime before the COP21, when authorities imposed the assigned residence orders against them.⁴²

The assigned residence orders in these cases were not directly aimed at "preventing the commission of further terrorist acts", which is the basis on which French authorities declared a state of emergency.⁴³

⁴⁰ <http://www.stop-dijhadisme.gouv.fr>, accessed 17 January 2016.

⁴¹ Documents regarding the assigned residency of C.D. and J.D. of 25 November 2015. Statement case of the Ministry of Interior in the appeal introduced by C.D. before the Melun Administrative Court, 2 December 2015.

⁴² Interview with the lawyer of J.D and other activists subjected to assigned residence orders, against whom an investigation for his alleged participation in violent protests had never been launched.

⁴³ Notification of the derogation to the UN-Secretary General on the basis of article 4.3 of the International Covenant on Civil and Political Rights (<https://treaties.un.org/doc/Publication/CN/2015/CN.703.2015-Eng.pdf>) and to the Secretary-General of the Council of Europe on the basis of article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, http://www.coe.int/en/web/conventions/search-on-reservations-and-declarations/-/conventions/declarations/results?coeconventions_WAR_coeconventionsportlet_formDate=1448451789_213&coeconventions_WAR_coeconventionsportlet_searchBy=cets&coeconventions_WAR_coeconventionsportlet_numSTE=005&coeconventions_WAR_coeconventionsportlet_codePays=FRA&coeconventions_WAR_coeconventionsportlet_enVigueur=true&coeconventions_WAR_coeconventionsportlet_dateDebut=05/05/1949&coeconventions_WAR_coeconventionsportlet_dateStatus=25/11/2015&coeconventions

The Ministry of Interior argued before the courts that the measures against the activists had been taken with the aim of protecting public order and security during the COP 21. In the Ministry's view, law enforcement authorities would not have been able to simultaneously deal with the threats of further violent acts, the security plans to protect the COP 21 and the threats to public order posed by the activists. On 11 December, the Council of State, the higher administrative Court, supported the government's views and confirmed the rejection by the administrative courts of the appeals brought by the environmental activists.⁴⁴

As the government acknowledged, the climate activists did not themselves present a threat to national security. The state thus employed emergency measures to neutralize a potential risk to public order not associated with the state of emergency. Amnesty International is concerned that others not linked in any way to acts of terrorism but seeking to lawfully exercise their rights to freedom of assembly and expression were caught in the cross-hairs of the emergency measures, highlighting the inherent dangerous of emergency measures, particularly where they become progressively normalised through repeated extensions.

SERIOUS ALLEGATIONS, LITTLE EVIDENCE

In some other cases documented by Amnesty International, authorities made allegations of serious crime in order to justify assigned residence orders, with little evidence to substantiate those claims.

For example, on 10 December, the Ministry of Interior ordered Laurent, a young man who lives in the outskirts of Paris, to assigned residence because of his alleged cooperation with the group calling itself Islamic State. Authorities alleged in the assigned residence order that Laurent had facilitated the recruitment of young men willing to travel to Syria, which constitutes a criminal offence in France. Laurent told Amnesty International: "They say I've committed a crime. If they think I've done that, why haven't they opened an investigation? Why haven't I been charged?"⁴⁵

Judicial authorities could launch a preliminary investigation against a person whenever there are indications that he or she may have committed an offence under French law,⁴⁶ including crimes that are considered terrorism-related offences under French law. They include participation in a group that aims at perpetrating a terrorism-related act.⁴⁷ However, to

[WAR coeconventionsportlet numArticle=15& coeconventions WAR coeconventionsportlet codeNature=](#)

⁴⁴ Decisions of the Council of State regarding the appeals introduced by seven environmental?? activists who had been assigned to residency, <http://www.conseil-etat.fr/Actualites/Communiqués/Assignations-a-residence-prononcees-a-l-occasion-de-la-COP-21-dans-le-cadre-de-l-etat-d-urgence>

⁴⁵ Interview with Laurent, 21 January 2016. The name of this interviewee has been anonymized.

⁴⁶ Article 75.2 of the Code of Criminal Procedure.

⁴⁷ They include a wide range of provisions (Articles 421.1, 421.2, 421.2.1, 421.2.2, 421.2.3, 421.2.4, 421.2.5, 421.2.6, 421.3, 421.4, 421.5, 421.6 of the Criminal Code) criminalizing for example the participation in a group that aims at perpetrating a terrorism-related act under French law (Article 421.2.1 of the Criminal Code) or the stay in a region where "terrorist groups" are operating or the regular consultation of internet websites "inciting to or justifying terrorist acts" (Article 421.2.6 of the Criminal Code),

<http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006418425&idSectionTA=LEGISCT>

Amnesty International's knowledge, at the time of our interview with Laurent, authorities had not launched an investigation against him on the basis of the information available to the Ministry of Interior.

Amnesty International is concerned that emergency measures restricting human rights are being used as a proxy for criminal sanctions, denying a person subject to the emergency measures the requisite safeguards that come with a criminal prosecution.

INFORMATION COLLECTED BY THE INTELLIGENCE SERVICES

"I didn't get what they meant [by radical Islamist]...then I read the note drafted by the intelligence service and presented in court. It included a list of people they thought I was in touch with. I knew three of them, I didn't know the others. I have a shop and those three were my clients...they were apparently in touch with radical Islamists...but how was I supposed to know that?"

K, a man living in the Paris region, subject to an assigned residence order

Lawyers who spoke to Amnesty International said that authorities usually took the decision to order assigned residence on the basis of information collected by the intelligence services, included in an intelligence note (*note blanche*) and passed on to the Ministry of Interior.⁴⁸ Some of that information was usually included in the document notifying a person that he or she would be targeted by the measure.

Individuals subjected to assigned residence do not have access to the full information available to the intelligence services unless they appeal against the measure imposed on them. If so, they, as well as their lawyers, receive the statements of case prepared by the Ministry of Interior for the court hearing only shortly before the hearing. The statements of case usually refer to the notes prepared by the intelligence services. The information included in those notes is usually quite general. For example, it could refer to the supposed connections or meetings between a person assigned to residence and other individuals who allegedly constitute a threat to public order or security without clarifying the nature of the connection or the specific dates or circumstances of the meetings.

For example, on 15 November, K., a young man living in the Paris region, was assigned to residence. Authorities indicated in the document of notification that he was a "radical Islamist" who was in touch with "pro-jihadi militants" and was eager to travel to Syria to join the Islamic State. He told Amnesty International: "I didn't get what they meant...then I read the note drafted by the intelligence service and presented in court. It included a list of people they thought I was in touch with. I knew three of them, I didn't know the others. I have a shop and those three were my clients...they were apparently in touch with radical Islamists...but how was I supposed to know that? That does not imply anything. They did not find anything indicating that I wanted to travel to Syria, not even a text message. I don't even

[A000006149845&cidTexte=LEGITEXT000006070719&dateTexte=20160123](#). Although this is outside the scope of this report, the vague formulation of some of those provisions raises questions regarding their implementation, which could result in human rights violations.

⁴⁸ This is also confirmed by administrative courts and the Council of State in the judgments regarding the appeals introduced by individuals subjected to assigned residence orders.

know exactly what happens in Syria, I don't follow the news. I have my family and my business, that's what matters to me".⁴⁹

Administrative courts and the Council of State have very rarely challenged the information included in the notes collected by the intelligence services or required the Ministry of Interior to produce more specific information, which is detrimental to the effectiveness of the remedies available to those subjected to assigned residence orders (see p.25, available remedies).⁵⁰

Amnesty International is concerned that assigned residence orders have been imposed on individuals on the basis of information available to the intelligence services that was not fully disclosed to those subjected to the measure. Individuals who appeal against assigned residence orders can only challenge the information presented by the intelligence services in court. This has often been incomplete or based on undisclosed intelligence sources. In cases examined by Amnesty International, courts have failed to effectively scrutinise the conclusions of the Ministry of Interior, effectively resulting in restrictions on liberty being imposed on vague, unchallengeable grounds.

THE IMPACT OF ASSIGNED RESIDENCE ORDERS

"I had four medical checks and one interview with the employment office scheduled in January and February. I cannot attend any of them as they require travelling outside my town."

Y, a man subject to an assigned residence order in the Paris region, who requires frequent medical checks for a brain disorder

FREEDOM OF MOVEMENT, EMPLOYMENT AND ACCESS TO HEALTH

Assigned residence orders can have a hugely negative impact on the lives of the people subjected to them. In many cases, those targeted cannot go to work anymore (or are restricted in the amount or type of work they can do), unless they work in the same town where they are required to reside.

Daoud was subjected to a house search on 16 November. After spending 48 hours in pre-charge detention, no charges were brought against him. However, he was made subject to an assigned residence order. He cannot travel outside Avignon and is confined to his home during the night. Moreover, Daoud was required initially to report to the police station three times a day: at 8am, 3pm and 7 pm. The police station is a few kilometres distance from where he lives, and requires him to walk and take public transport to go there. Those requirements constitute a significant restriction of freedom of movement and place an additional burden on Daoud, who is blind since birth.

On 8 December, the Ministry of Interior changed the requirements of the assigned residence order without any explanation. Since then, he is required to report to a police station once a day.

⁴⁹ Interview with K., 20 January 2016. Amnesty International saw both the document notifying the assigned residency and the note drafted by the intelligence services.

⁵⁰ In a unusual decision, the Nantes Administrative Court did challenge the information provided by the Ministry of Interior on the basis of a note prepared by the intelligence services and suspended the assigned residence orders against Claire, see footnote 39.

Karim is a free-lance organizational advisor living in the Paris region. On 15 November, police showed up at his house and informed him that he would be subjected to an assigned residence order. Authorities justified the measure by pointing to his alleged connections with people they described as “radical Muslims” and with people who had travelled to Syria. At the beginning he had to report four times a day to police.⁵¹ He told Amnesty International:

“My life has been turned upside down...I had a work-related commitment in another region in the week starting on 5 December. I had already made all the plans, booked a venue etc. After having been assigned to residence, I wrote a message to several authorities, I explained my situation and asked for permission to run at least the workshop I had already scheduled. On 4 December, they rejected my request and sent me another document which included more information about the reasons justifying the assigned residence. They mentioned a long list of people I was supposedly in touch with....In all honesty, I only vaguely knew one of them... I lost a lot of money because I had to cancel all my work-related commitments...and I have three children and my wife does not work”.⁵²

K. has been subject to an assigned residence order since 15 November. He runs a business in a town close to where he is required to reside. Every day, K. breaks the conditions of the order imposed on him so that he can get to his place of work. He risks one year imprisonment for violating the terms of the assigned residence order.⁵³ He told Amnesty International: “I have small children and my wife doesn't work. I run my business on my own, I have a trainee and I cannot leave him alone. How am I supposed to make a living if I don't work? I have to go to work every day and I am terrified. I usually ride my bike because it's less likely to be checked by police”.⁵⁴

In other cases, those subjected to assigned residence orders cannot attend meetings or medical appointments. Y., a young man who is assigned to residence in the Paris region, has narcolepsy (a brain disorder which affects sleep) and needs frequent medical checks. As a job-seeker, he sometimes has to attend meetings with the employment office. He cannot travel outside the town where he lives. He told Amnesty International: “I have four medical checks and one interview with the employment office scheduled in January and February. I cannot attend any of them as they require travelling outside my town. My lawyer has just sought an authorization from the Prefect so that I can go to those appointments”.⁵⁵

M., a Chechen refugee living in the region of Toulouse, said: “I couldn't work for two months. I work in the private security sector and I am usually on short-term contracts. Several short

⁵¹ Reporting four times a day went beyond the permissible conditions established by article 6.1 of Law 55-385 on the state of emergency (maximum 3 times). The conditions associated with Karim's assigned residency were subsequently amended by the Ministry of Interior, who required him to report three times a day.

⁵² Interview with Karim, 16 December 2015. The name of the interviewee was anonymized.

⁵³ Article 13 of the law 55-385 on the state of emergency.

⁵⁴ Interview with K., 20 January 2016.

⁵⁵ Interview with Y., 20 January 2016. Amnesty International saw the letters confirming the four medical appointments and the letter from the employment office. Moreover, Amnesty International saw the request sent to the lawyer to the Prefect on 18 January 2016.

assignments were offered to me while I was assigned to residence and I had to turn them down as they required travelling to other towns. What worries me the most is the outcome of my request to acquire French citizenship. I am concerned it might be rejected because of the assigned residence".⁵⁶

Amnesty International is concerned that assigned residence orders have disproportionately restricted the human rights of those subjected to them, and more specifically their rights to liberty, freedom of movement, private and family life and employment. The absence of effective safeguards has enabled these restrictions to be imposed in cases that would appear to exceed the exigencies of the situation, more precisely the need to "prevent further terrorist threats", which was the aim French authorities sought to achieve upon declaration of a state of emergency.

⁵⁶ Phone interview with M., 26 January 2016.

OTHER MEASURES

CLOSURE OF MOSQUES

“If there are suspicions about one or two people, why don't they target them specifically? Why do they target a whole community? There are about 350 Muslims in Lagny who no longer have a mosque in which to pray.”

President of the Mosque in Lagny-sur-Marne (Paris region), which was searched on 2 December 2015 and subsequently shut down

Emergency measures allows authorities to temporarily shut down meeting spaces in any zones where the state of emergency applies.⁵⁷ On those bases, several mosques and prayer rooms have been closed down temporarily since November 2015.⁵⁸ They include for example the mosques of Gennevilliers (Paris region), L'Arbresle (Lyon region) and Lagny-sur-Marne (Paris region).

Under the current state of emergency, the Council of Ministers can also permanently dissolve an association involved in, facilitating or inciting to, the perpetration of acts that constitute a serious breach of public order.⁵⁹ Ordinary law already allows the dissolution of organizations for a wide range of grounds, including the engagement in acts that may provoke the perpetration of terrorist-related offences under French law.⁶⁰ Authorities relied on the latter provision, and not on an emergency measure, to dissolve the organizations linked to the mosque in Lagny-sur-Marne.

On 2 December, police reportedly conducted 22 searches in Lagny-sur-Marne (Paris region). They included the search of the mosque as well as of the houses of some of its key office-holders, the president, secretary and treasurer. The mosque's president told Amnesty International: “They came at 5am to search my house and at the same time they asked me to sign the order that had the effect to close down the mosque until the end of the state of emergency. They searched the mosque after having searched my house. So, they had decided to shut down the mosque before searching it”.⁶¹

Authorities subsequently reported to media that the searches in Lagny-sur-Marne found firearms, a “hidden religious school”, and religious audio materials glorifying the “martyrs” connected to the armed group Jabhat Al-Nusra in the mosque.⁶²

⁵⁷ Article 8 of law no. 55-385 regarding the state of emergency.

⁵⁸ Further information on administrative searches, closures and discriminatory violence targeting mosques can be found here:

https://www.google.com/maps/d/viewer?mid=zAVmG04MZRC4.kG8E023_e16g

⁵⁹ Article 6.1 of law no. 55-385 regarding the state of emergency. This is the only emergency measure whose length is not bound to the state of emergency.

⁶⁰ Article L212-1 of the Code on Internal Security.

⁶¹ Interview with the president, the treasurer and the secretary of the association “Muslims of Lagny-sur-Marne”, which manages the mosque. 21 January 2016.

⁶² On 6 December, the Prefect of Seine-et-Marne issued a press release further clarifying some of these

The statements given to the media ran contrary to official police reports regarding the house searches of the president, the secretary and the treasurer of the mosque, as well as the search of the mosque itself; those reports indicated that “no element justifying the opening of an investigation had been found”. On 7 December, prosecutorial authorities reportedly confirmed that, in the aftermath of the house searches conducted in Lagny-sur-Marne, only one investigation had been launched. It involved the possession of a firearm found in the house of a resident who had no involvement with the management of the mosque.⁶³

On 14 January 2016, authorities dissolved three organizations connected to the mosque of Lagny-sur-Marne. They mainly relied on the alleged role played by those organizations in the “indoctrination, recruitment and facilitation of travel of recruits for the armed jihad”. Moreover, they referred to the connections of the three organizations mentioned above with a former imam, who had left Lagny-sur-Marne in December 2014, and with one of his associates.⁶⁴

The president of the mosque and the three dissolved organizations, who was appointed at the end of 2014, said: “All this is quite shocking. If there are suspicions about one or two people, why don't they target them specifically? Why do they target a whole community? There are about 350 Muslims in Lagny who no longer have a mosque in which to pray. The closest mosque is about 15-20 km away from here.”⁶⁵

BLANKET BAN ON PUBLIC ASSEMBLIES

Under the current state of emergency, French authorities can ban demonstrations that could disrupt public order.⁶⁶ After the violent attacks in Paris on 13 November 2015, authorities banned all public assemblies in the Paris region. The ban was renewed twice and extended until 30 November 2015.⁶⁷

Following the instructions of the Minister of Interior, Prefects adopted decrees banning all public assemblies in other regions on the weekend of 28-30 November, with the exception of those meetings commemorating the victims of the violent attacks.

All the demonstrations scheduled for that weekend, when the United Nations Conference on

elements, <http://www.seine-et-marne.gouv.fr/content/download/18668/151835/file/CP%20JLM%20Lagny%20sur%20Marne%20.pdf>

⁶³ See article published by L'Express on 7 December 2015 : « Sollicitée par L'Express, la procureure de la République de Meaux, Dominique Laurens, indique qu'aucune enquête judiciaire n'a été ouverte après l'opération policière menée au sein du lieu de culte. Les perquisitions n'ont donné lieu qu'à une seule procédure, en marge, pour "détention illégale d'arme". Elle concerne l'individu au revolver -"un pistolet à grenailles », http://www.lexpress.fr/actualite/societe/fait-divers/fermeture-de-la-mosquee-de-lagny-coup-mediatique-ou-vrai-danger_1743173.html

⁶⁴ The decision, seen by Amnesty International, was taken by the Council of Ministers on the basis of article L 212.1 of the Code of National Security, decree of 14 January 2016..

⁶⁵ Interview with Amnesty International, 21 January 2016.

⁶⁶ Article 8 of law 55-385 regarding the state of emergency

⁶⁷ Decree of the Paris Prefect, 2015-00915 of 20 November 2015, <https://api-site.paris.fr/images/76009>

Climate Change (COP21) started in Paris, were therefore banned. Authorities justified the bans by referring to the fact that the climate talks would attract violent protesters, who would have diverted considerable policing resources.

Amnesty International is concerned that the blanket ban on public assemblies was not limited to what was strictly required by the emergency situation and the aim invoked when the state of emergency was declared. In particular, the authorities did not attempt at seeking viable alternatives, which could for instance have resulted in restrictions on public assemblies without banning them altogether.

THE COMPOUNDED IMPACT OF THE MEASURES

"I have spent almost all my savings to cover the legal fees [appealing against my assigned residence order]. I cannot work anymore. I lost a job as delivery man. I passed some tests to work in a factory but I don't know what to do...I have to produce my ID and I don't want to show my replacement document. That'd be very stigmatizing. They probably wouldn't want to hire me."

Issa, who lives with his wife Samira in the Haute Savoie department, and is subject to several administrative measures

Since November 2015, Issa and his wife Samira, who live in Thonon-Les-Bains, in the Haute Savoie department in south-eastern France, have been subjected to several administrative measures which have infringed their rights and disrupted their life.

On 6 November, they were preparing for a trip to Turkey, scheduled for the following day and booked several weeks prior. All of a sudden, without explanation, the intelligence service summoned them to inquire about their religious practice and their travel plans. On 7 November, a few hours before their flight, authorities informed them that they had been made subject to a travel ban and were required to hand in their identity documents within the next 24 hours.⁶⁸ Issa told Amnesty International: "In the past, we often travelled abroad in autumn. It is usually cheaper. I wanted to go to Turkey for my business, I am a travelling salesman and I wanted to buy textile products in Turkey and sell them in France. No criminal investigation has ever been initiated against me. I am pretty sure we were reported to the government's hotline by a friend of my wife with whom we had an argument a few days before our departure. We did not allow her to stay in our flat during our absence."⁶⁹ A couple of days after the attacks in Paris on 13 November 2015, prosecutorial authorities launched a procedure aimed at assessing whether the supposed "radicalization" of Issa and Samira

⁶⁸ This is not a specific measure based on the state of emergency regime. Authorities can use this measure at any time on the basis of Article 1 of law 2014-1353 of 13 November 2014 regarding the strengthening of provisions aimed at combating terrorism (Law accessible here:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029754374&categorieLien=id>), Issa was given a replacement identity document, which cannot be used to travel abroad.

⁶⁹ Interview with Issa, 19 January 2016. The documents that authorities delivered to Issa and Samira, seen by Amnesty International, confirmed that someone reported them to the hotline. Issa and Samira appealed against the ban to travel abroad. On 10 November the Paris Administrative Court rejected their appeal arguing that the date of their trip had already passed and therefore the conditions for appealing the decision, in particular urgency, were not met.

constituted a threat for their three children. A social worker visited their home four times and inquired about their religious practice and characters.⁷⁰ Issa told Amnesty International: “On the day of the Paris attacks, we were in Lyon. I remember that we learnt about the attacks while we were eating in a restaurant. I thought, that's it. They will come up with something else against us”.

On 4 December, Issa and Samira's house was searched. Authorities copied all the data stored in Issa's computer. On 6 December, Issa was assigned to residence. Authorities justified the measures on the basis that Issa allegedly was a “radical Islamist”, had connections with the organization Free-Syria and was likely to leave France for Syria. Issa said: “I panicked. I did not know what they meant by saying that I was a radical Islamist. I go to the mosque from time to time, usually on Friday, but my religious practice had not changed. I tried to collect information about what being a radical Muslim could mean. I also asked my lawyer to explain. That really left me flummoxed.”

The many measures against Issa and his family are having a tremendous impact on their life. Issa told Amnesty International: “I spent almost all my savings to cover the legal fees and I lost the money I had already put into the trip to Turkey. I cannot work anymore. I lost a job as delivery man I got a few days before I was assigned to residence as I cannot travel outside Thonon. I passed some tests to work in a company but I don't know what to do...I have to produce my ID and I don't want to show my replacement document.⁷¹ That'd be very stigmatizing. They would probably not hire me. [...] Apart from that, I have the impression that in the current context the threshold for accusing you has really lowered”.

⁷⁰ The procedure was still ongoing when Amnesty International's researchers met Issa on 19 January 2016.

⁷¹ Following the ban on travelling abroad imposed on Issa, he received by French authorities a replacement identity document that he can use within the French territory.

AVAILABLE REMEDIES

"We all felt like it was a parody of justice. That the hearings took place only because they formally had to."

Z, whose brother runs a restaurant in the outskirts of Paris and is subject to an assigned residence order

All emergency measures, including house searches and assigned residence orders, are subject to the scrutiny of the administrative justice system, and individuals who are subjected to those measures have the right of appeal against them, initially to the administrative courts and thereafter to the Council of State, the body assigned to hearing appeals against the decision taken by administrative courts.⁷² However, very few emergency measures have been suspended or lifted by either administrative courts or the Council of State.⁷³

In a few cases known to Amnesty International authorities lifted assigned residence orders before court proceedings had started. These included for example the measure against a Christian man in the region of Toulouse. He had been identified as allegedly belonging to a "radical Islamist group".⁷⁴ His lawyer told Amnesty International that the measure had been lifted by the Ministry of Interior following a letter sent by him. Neither the individual who was the subject of the order nor his lawyer were informed about the rationale for the decision to lift the measure.⁷⁵ Four assigned residence orders against Chechen individuals living in the region of Toulouse also had the orders made against them lifted by authorities without providing any clear rationale behind that.⁷⁶

Some of the lawyers who spoke to Amnesty International⁷⁷ raised criticisms regarding the decisions of the administrative courts and the Council of State. In particular, they highlighted that, with regard to assigned residence orders, courts had tended to show strong deference to the arguments put forward by the Ministry of Interior on the basis of information collected by the intelligence services, without inquiring sufficiently about the provenance of the information and without requiring authorities to share detailed information regarding the allegations against those subjected to assigned residence orders. The intelligence notes

⁷² Article 14-1 of law 55-385 regarding the state of emergency.

⁷³ According to the information published by the National Assembly, until 14 January 2016, in 8 out of 62 cases brought before administrative courts, the emergency measures were either suspended or quashed. http://www2.assemblee-nationale.fr/static/14/lois/analyses_chiffrees_1.pdf

⁷⁴ Document notifying the assigned residency, signed by a representative of the Ministry of the Interior, dated 16 November 2015.

⁷⁵ Phone interview and email communication with Yvan de Courreges D'Agos.

⁷⁶ Amnesty International saw the four orders lifting the assigned residences (21 January) as well as the statement of case presented by the Ministry of Interior before the Toulouse Administrative Court (21 January). On 20 January, the four men had appealed against the measures they were subjected to.

⁷⁷ Phone conversation with Gérard Tcholakian, meetings with Marie Dosé and Marie Rueff.

(*notes blanches*) seen by Amnesty International and the information provided by authorities in court did not include specific details regarding the allegations against those subjected to assigned residence orders. For example an allegation that an individual subject to an assigned residence was associated with another individual who constituted a threat to public order and security was never accompanied by dates and times they were allegedly in contact or the nature of the alleged association. This placed individuals subjected to assigned residence at a profound disadvantage in court.

On 10 December, Y., a young man with an order assigning him to reside in a town on the outskirts of Paris, believes authorities targeted him by mistake. The order made against him was justified on the basis of his alleged connections with “radical Islamists” and with individuals who had allegedly travel to Syria or Iraq to join the Islamic state. Authorities also highlighted that he had often visited what they described as a “radical mosque” on the outskirts of Paris, 15 miles away from where he lived. Y. told Amnesty International: “Its not me: they were looking for someone else. Both the date and place of birth on the first document I received regarding the assigned residence were completely wrong. For example, they indicated that I was born in Tunisia, which is isn't true. I was born in France. In any case, what could wipe out all the suspicions against me? People I know around me have changed their attitudes towards me, and some make jokes...”⁷⁸

Y. appealed against the assigned residence order. In court, the representative of the Ministry of Interior justified the measure by relying on an intelligence note, which Amnesty International has seen, dated 14 November. The Ministry highlighted that in order to protect their sources and not to compromise their work they could make available to the court only some of the information collected by intelligence services.⁷⁹ The court did not challenge that argument and on 8 January rejected Y's appeal.⁸⁰

On 16 November, T.R., who runs a restaurant in the northern outskirts of Paris, was made subject to an assigned residence order. Authorities justified the measure on the basis of a long list of allegations. They argued that T.R had facilitated the recruitment of young French men “who could potentially become jihadist”, incited them to join the Islamic State, hosted meetings of “radical Islamists” in his restaurant, and supported the Islamic law (*sharia*).

T.R., his wife A. and his sister Z. explained to Amnesty International the efforts they had to make to prepare for the appeal they had launched against the measure. A. said: “Upon our lawyer's suggestion, we collected between 30 and 40 declarations from various people who know us well. We tried to show that we are far from being very conservative Muslims. For example, our daughter attends a Catholic private school. That was useless. The court found that the assigned residence order did not violate my husband's rights as he could still go to

⁷⁸ Interview with Y., 20 January 2016. His lawyer highlighted in the course of the appeal that the date and place of birth indicated on the first document informing Y. that he had been assigned to residency were incorrect. The Ministry of Interior clarified that it was just an error and that they indeed had wanted to target Y.

⁷⁹ Observations of the Ministry of Interior regarding the appeal before the Cergy-Pontoise Administrative Court, 7 January 2016. Document seen by Amnesty International.

⁸⁰ Cergy-Pontoise Administrative Court, judgment 1600067, 8 January 2016.

work. His restaurant is indeed in the same town where we live".⁸¹

They explained how they had to justify themselves even further before the Council of State.⁸² T.R. said: "I collected even more declarations, including from local public officials who said my restaurant had never caused any problem to public order. On 18 December, at the first hearing before the Council of State, I had the impression the judge was convinced by our arguments. At some point, he asked the representative of the Minister of Interior to produce some more evidence regarding the allegations against me. She referred to a propaganda document of the Islamic State regarding the security rules that Muslims living in Western countries were supposed to follow. She argued that we were deliberately following a Western lifestyle to dissimulate our intentions. She then requested some more time to present further arguments. The judge accepted her request."⁸³

Their lawyer contacted them the following day informing them that the Ministry had produced another note mentioning that T.R. had travelled abroad several times, including to Egypt and Saudi Arabia, with a man who was considered to be a "radical Muslim". A. told Amnesty International: "That was absurd. We go on holidays twice a year, my husband travelled only once on his own on pilgrimage to Saudi Arabia. He went there with the guy they mentioned. But that's it. We put together all the stamps from our passports and found an official translator to translate them into French, we wanted to show to the court that we had travelled together, that he did not travel on his own. Can you imagine the point they forced us to reach?".

The Council of State rejected the appeal. In the judgment, the Council of State highlighted that nothing prevented administrative courts taking into account the elements included in the intelligence notes produced by the Ministry of Interior. In this specific case, the Council of State referred to two intelligence notes regarding T.R. The second one referred to his many journeys abroad with a man who was considered to be a "radical proselytizer". The Council of State pointed out that T.R. had in fact travelled to Saudi Arabia, and, thus, the decision of the Ministry of Interior to subject T.R. to an assigned residence order had struck the right balance between countervailing interests, namely ensuring national security and protecting fundamental rights.⁸⁴ T.R. told Amnesty International: "What confounds us the most is that we have no idea when and how my name first became known to the intelligence services".

Z. concluded by commenting on the court proceedings: "We all felt like it was a parody of justice. That the hearings took place only because they formally had to. But that there was no real willingness to strike down the ill-founded arguments advanced by authorities against us."

⁸¹ Interview with T.R., A. and Z., 20 January 2016.

⁸² T.R. appealed the decision of the Administrative Tribunal. The Council of State is competent for the appeal.

⁸³ Amnesty International saw a document in French entitled "The security rules of Muslims". In the judgment regarding another case, the Administrative Court of Cergy-Pontoise referred to the fact that the Minister of Interior had presented this document to justify the measures in that case.

⁸⁴ Council of State, judgment 395229, 23 December 2015.

INTERNATIONAL LAW AND STANDARDS AND THE EMERGENCY MEASURES IN FRANCE

Under international human rights law, states are permitted, in exceptional circumstances, to derogate from certain of their obligations set out in provisions of international human rights treaties, subject to strict conditions. In particular:

- Derogations are permitted only in time of an **officially proclaimed state of emergency which threatens the life of the nation**;⁸⁵
- They must be **exceptional and temporary**. The UN Human Rights Committee has in this regard stated that the state's predominant objective when derogating must be the restoration of a state of normalcy.⁸⁶
- Such measures must be limited to what is **strictly required by the exigencies of the situation**. This applies not only to the derogation itself, but to specific measures taken pursuant to it. This requirement reflects the same principles of necessity and proportionality which apply to limitations on the exercise of human rights outside a state of emergency;⁸⁷
- Derogations must be **consistent with the state's other obligations under international law**. In particular, some obligations cannot be derogated from in any circumstance, including in a state of emergency. They include for example the right to life, the prohibition of torture and other ill-treatment and the principle of non-discrimination.⁸⁸

⁸⁵ Article 4 of the International Covenant on Civil and Political Rights (ICCPR) and Article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). In the case *A. and others v. UK*, the European Court of Human Rights highlighted that a public emergency threatening the life of the nation is "an exceptional situation of crisis or emergency which affects the whole population and constitutes a threat to the organised life of the community of which the State is composed", para. 176, [http://hudoc.echr.coe.int/eng?i=001-91403#{"itemid":\["001-91403"\]}](http://hudoc.echr.coe.int/eng?i=001-91403#{)

⁸⁶ Human Rights Committee General Comment 29 (2001), paras. 1, 2. UN Doc. CCPR/C/21/Rev.1/Add.11.

⁸⁷ General Comment 29, para. 4

⁸⁸ Article 4.1 of the ICCPR, General Comment 29, para. 8. Measures derogating from provisions of the Covenant must not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin; this prohibition is absolute. Moreover, measures taken under a state of emergency must not

- They are subject to an **international regime of notification** – that is, the state which is derogating must notify the other states parties to the relevant treaties of the provisions from which it is derogating and the reasons for it.⁸⁹

Following the violent attacks in Paris on 13 November 2015, the government declared a state of emergency, for an initial period of 12 days. On 20 November, the Parliament adopted a new law extending the state of emergency for three months, until 26 February 2016.⁹⁰ The law also amended the previous law on the state of emergency (Law No. 55-385 of 3 April 1955). France notified the state of emergency and the relevant derogations it entailed to the Secretary General of the Council of Europe and the UN Secretary General on 24 and 25 November respectively, specifically noting that the measures might involve a derogation from its obligations with regard to the rights to liberty, freedom of movement and privacy.

ASSESSMENT OF THE MEASURES TAKEN UNDER THE CURRENT STATE OF EMERGENCY

On the basis of the findings regarding the implementation of the emergency measures outlined in this report, Amnesty International is concerned that:

1. The emergency measures are **vaguely formulated providing scope for overbroad application**

Under the Law on State of Emergency (law 55-385), people's homes or other premises can be searched if authorities have "serious reasons to think that the location frequented by a person whose behaviour constitutes a threat to public security and order", and an order for assigned residence may be imposed where "there are serious reasons to believe that a person's behaviour constitutes a threat to public security and order".

In individual cases such as the ones cited in this report, the authorities have applied those measures arbitrarily, on the basis of vague information which did not substantiated their claims that the individuals targeted constituted a threat to public order and security.

Additional information was provided by the authorities to the individuals subjected to assigned residence orders only in the context of the appeals launched by them against the measures. This information was often

involve direct or indirect discrimination on any other prohibited ground; any distinction on these grounds is permissible only if it demonstrably has a reasonable and objective justification.

⁸⁹ In the case of the ICCPR this requires notification via the UN Secretary-General, and in the case of the European Convention on Human Rights via the Secretary General of the Council of Europe.

⁹⁰ Law 2015-501 of 20 November 2015. This law amended some emergency provisions of law no. 55-385 regarding the state of emergency. Under French law, the extension of a state of emergency beyond 12 days must be decided by Parliament.
http://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=816EC80202DA1B4713DC7C0B1DBB7151.tpdila22v_2?cidTexte=JORFTEXT000031500831&idArticle=LEGIARTI000031503876&dateTexte=20151121&categorieLien=id#LEGIARTI000031503876

based on incomplete notes drafted by intelligence services (*note blanches*), which administrative courts only rarely challenged. This raises concern regarding the effectiveness of the remedies available to those subjected to the measures.

2. The vague formulation of the emergency measures and the stripping of any *a priori* judicial authorisation has resulted in their excessive application in a manner that extends beyond what is **strictly required by the exigencies of the situation**.

According to official statistics, 3,242 administrative searches were conducted between 14 November and 29 January. The Paris Prosecution Office reported to media that the searches had resulted in the launch of 25 criminal investigations for terrorist-related offences under French criminal law.⁹¹ However, 21 of these investigations were related to the offence defined under French law as “apology of terrorism”, the definition of which raises questions about legality and compliance with international law and standards on freedom of expression.⁹² This indicates that less than one per cent of the searches resulted in the launching a criminal investigation for a terrorist-related offence (apart from the offence of “apology of terrorism”) under French law.

3. **Authorities used emergency measures for purposes other than those which were the basis of the declared state of emergency.** In particular, they imposed assigned residence on climate activists and introduced a blanket ban on demonstrations in the context of the UN Climate Conference, COP21. They justified those measures with the purpose of protecting public order and security, which is broader than the “prevention the commission of further terrorist attacks” which was the basis for the declaration of the state of emergency. Moreover, the blanket outright ban on public demonstrations throughout the entire country, with its impact on those wishing to exercise their right of peaceful assembly at a crucial juncture for an issue of global importance raised questions regarding the proportionality of the measures – particularly in view of the fact that authorities did not seek alternatives that could have imposed restrictions on public assemblies without banning them overall.

4. Measures taken had a **disproportionately negative impact on human rights**.

International law and standards acknowledge that certain measures taken under a state of emergency may have a negative impact on human rights to an extent that would not normally be permissible under

⁹¹ The official data published by the National Assembly are not disaggregated by the criminal offence in respect of which an investigation was launched as an aftermath of administrative searches, <http://www2.assemblee-nationale.fr/14/commissions-permanentes/commission-des-lois/controle-parlementaire-de-l-etat-d-urgence/controle-parlementaire-de-l-etat-d-urgence/donnees-de-synthese/mesures-administratives-prises-en-application-de-la-loi-n-55-385-du-3-avril-1955-depuis-le-14-novembre-2015-au-29-janvier-2016>. The Paris Prosecutor Office reported these specific data to the daily newspaper Le Monde: http://www.lemonde.fr/les-decodeurs/article/2016/01/14/etat-d-urgence-les-perquisitions-en-chute-libre_4847528_4355770.html

⁹² Article 5 of law 2014-1353. Until November 2015, 700 individuals were prosecuted on the basis of this provision. Due to the very vague definition of that offence, in many cases authorities prosecuted statements that did not constitute incitement to violence and thus fall within the scope of legitimate exercise of freedom of expression. <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029754374&categorieLien=id>

international human rights law. But as stressed by the UN Human Rights Committee, the requirement that any derogations be limited to what is strictly required by the exigencies of the situation reflects the principle of proportionality that applies at all times. But the negative impact of the imposition of the emergency measures in practice, together with the questions noted above as to whether those measures were strictly required by the exigencies of the situation, points strongly to the conclusion that the measures were, in many instances at least, disproportionate.

Individuals were often targeted by house searches during the night. In some cases, men and women were handcuffed, including in the presence of children. Entrance doors were often forced open and, in some cases, searches caused material damage. Some of the individuals subjected to a house search whom Amnesty International talked to were continuing to experience negative consequences including stress, fear and insecurity, several weeks after the searches were carried out.

Those subjected to assigned residencies have their rights to liberty and to freedom of movement severely restricted, with a very negative impact on their everyday life including their exercise of other human rights. For example in many cases they could not go to work or attend medical appointments outside the town in which they were assigned to residence.

In some instances measures were imposed which had a negative human rights impact on a much wider group than those individuals who were identified as the targets of the measure. These include instances in which mosques were shut down.

5. Some emergency measures may discriminate against specific groups, especially Muslims, on grounds of their religion or belief. In particular, in some cases Muslims may have been targeted because of their religious practice, considered to be "radical", by authorities, without substantiating why they constituted a threat for public order or security. Similarly mosques have been subjected to searches, or in a few cases shut down, because of their alleged "radical" affiliation, without clear elements pointing to the commission of criminal acts of any of the individuals who ran them.

NEW LEGISLATIVE PROPOSALS

On 23 December, the French government proposed a Bill which would amend the Constitution by introducing a new article regarding the declaration of a state of emergency. The government justified the Constitutional amendment by pointing to current limitations on the powers available to administrative authorities in a state of emergency. The government argued that the inclusion of a specific provision regarding the declaration of a state of emergency in the Constitution would allow Parliament to amend the current law on state of emergency, and in particular to strengthen police powers in the context of identity checks and searches.⁹³

On 23 December 2015, the French government has also announced another legislative

⁹³ See the text of the Bill and the arguments provided by the government to support it here: <http://www.assemblee-nationale.fr/14/projets/pl3381.asp>

The Bill includes also another provision establishing the condition for stripping the French citizenship for bi-nationals who are born French and who are convicted for crimes constituting a serious threat to the life of the Nation

proposal aimed at strengthening the fight against organized crime and the effectiveness of criminal proceedings.⁹⁴ The proposal includes a new regime regarding administrative control measures against individuals who have travelled abroad with the aim of participating in “terrorist activities”, or have simply travelled to an area where “terrorist groups operate” under circumstances likely to be conducive to threaten public security when they return to France. The law proposal does not clarify the notion of “terrorist activities”. Nor, does it indicate the specific areas where “terrorist groups operate” or the criteria for determining such areas.

The proposal includes an administrative control regime, some conditions of which are similar to those associated with assigned residency under law no. 55-385 regarding the state of emergency. Those who fall within the criteria described above can be subjected to two administrative control regimes. One is more stringent; it can be adopted within one month from when the individual concerned has returned to France, can last a maximum of one month and is not renewable. This regime can include the prohibition to travel outside a specific geographic area, up to 8-hour per day curfew and the duty of reporting up to three times a week to a police station.

The second regime, which can be cumulative to the first one, can be adopted within one year from when the individual concerned has returned to France, can last three months and is renewable once. It includes for example the duty to inform authorities about travel outside a specific designated area or the prohibition to be in contact with specific individuals.

Amnesty International is concerned that this proposal, if adopted, will result in the establishment of a parallel administrative control order regime outside the current criminal procedures. This regime could be applicable to individuals against whom there are no elements pointing to their involvement in the commission of any criminal offences in proceedings offering greatly reduced safeguards.

⁹⁴ Projet de loi renforçant la lutte contre le crime organisé et son financement, l'efficacité et les garanties de la procédure pénale. <http://www.gouvernement.fr/partage/6151-saisie-du-conseil-d-etat-d-un-projet-de-loi-penal-renforçant-la-lutte-contre-le-crime-organise-et>. When this report went to press (end of January 2016), the Council of State was preparing an opinion on the proposal. At that time, the text of the proposal had not been made public by the government yet. Amnesty International saw the text of the law proposal sent by the government to the Council of State. <http://www.gouvernement.fr/partage/6151-saisie-du-conseil-d-etat-d-un-projet-de-loi-penal-renforçant-la-lutte-contre-le-crime-organise-et>

CONCLUSION AND RECOMMENDATIONS

Amnesty International's research provides strong indications that in many instances the measures imposed under emergency powers have not been limited to what is strictly required by the exigencies of the stated emergency and have had a disproportionate impact on the human rights of many of those affected.

Based on the findings set out in this interim report, Amnesty International urges the French government to:

■ Refrain from proposing to extend the current state of emergency unless it can effectively demonstrate that:

■ The situation it confronts reaches the very high threshold of public emergency threatening the life of the nation which is required under international human rights law, as set out in the International Covenant on Civil and Political Rights and the European Convention on Human Rights;

■ Emergency measures are strictly required by the exigencies of the situation and, specifically, that such measures are strictly required to confront the stated public emergency;

■ This should include evidence regarding the ongoing threat that emergency measures are purported to address as well as evidence that only the proposed emergency measures can effectively address that threat;

■ Any such proposal must have due regard to the proportionality of such measures, including all available data regarding the very low number of investigations for terrorism-related offences under French criminal law that have to date been launched as a result of the searches conducted since 14 November 2015.

Amnesty International urges all Deputies and Senators of the French Parliament to:

■ Refrain from supporting proposals aimed at extending the current state of emergency unless a sufficiently robust, reasoned and detailed justification has been made by the government;

■ Exercise the greatest possible scrutiny of any justification and information demanded to and/or provided by the government in support of extending the state of emergency, as well as of the adoption of proposed emergency measures;

- Ensure that the stated public emergency reaches the very high threshold required under international human rights law and that all proposed emergency measures are strictly required to confront that stated public emergency;
 - This should include evidence regarding the ongoing threat that emergency measures are purported to address as well as evidence that only the proposed emergency measures can effectively address that threat;
 - This should include careful consideration of the strict necessity and proportionality of such measures.

If the French government effectively demonstrates that the extension of the current state of emergency is strictly required by the exigencies of the situation, the proposed law aimed at extending it should:

- Ensure that judicial authorization is obtained prior to issuing or enforcing any decision to subject an individual, group or organization to an emergency measure, such as a search or an assigned residence order;
- Clearly define the criteria on the basis of which an individual can be subjected to emergency measures, including a search or an assigned residence order. In particular, amend and clarify the criteria on the basis of which authorities can adopt those measures under law no. 55-385 regarding the state of emergency. The amended law should precisely define the grounds on the basis of which an individual's actions constitute a sufficiently grave and imminent threat to public security to justify the adoption of each specific emergency measure. Authorities should be able to have recourse to those measures only in instances where enough concrete elements provide a sufficiently direct link between an individual subjected to the measure and the imminent threat at the origin of the stated public emergency. The information on the basis of which specific emergency measures are taken should be provided to the individuals concerned and their legal representatives in a manner that permits them an effective opportunity to appeal against their imposition;

In addition, the French government should:

- Ensure that any limitations on the exercise of human rights complies with the principles of necessity and proportionality, as required under international human rights law. In this regard, measures imposed under emergency powers must not have a disproportionate impact on the human rights of those subjected to such measures or of others affected by them;
- Refrain from proposing the establishment of a parallel administrative control order system when proposing the law strengthening the fight against organized crime and the effectiveness of criminal proceedings;

Amnesty International urges the National Assembly and the Senate to:

- Refrain from supporting proposal aimed at extending the current state of emergency unless it fulfils the criteria outlined above;
- Amend the proposed law on the revision of the Constitution to ensure that it complies with France's obligations under international law. In particular, the Constitutional amendment should explicitly establish that a state of emergency can only be declared in the circumstances allowed under international human rights law, and that the exceptional powers and measures taken under a justified state of emergency must be limited to what is strictly

required by the exigencies of the situation, must be necessary to confront the stated public emergency, must not have a disproportionate impact on human rights, and must be applied in a non-discriminatory manner.

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