



“What is new on the alleged CIA illegal detention and transfers of prisoners in Europe?”

**European Parliament
Committee on Civil Liberties, Justice and Home Affairs
27 March 2012**

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Many thanks to H  l  ne Flautre and the LIBE committee for convening this hearing and for inviting Amnesty International to appear and give testimony. It is indeed fitting that we gather today, five years after the 2007 report by the European Parliament special committee (TDIP) on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners. Today’s timely hearing and the much anticipated follow-up report on European involvement in these operations are critical benchmarks in the ongoing project to seek and achieve accountability for

EU member states' willing complicity in the CIA's rendition and secret detention programmes.

It would be an understatement to say that such accountability has been elusive, despite several new developments since 2007 that cry out for further investigation. I will say a few words about some of the more striking developments in the last couple of years and then make a few comments about why the absence of accountability does harm to victims, to the rule of law, and to the EU's ability to go forth as a block and encourage other governments, most notably those involved in the "Arab Spring", to promote and protect human rights. (It would be remiss as well, if I didn't note that all of the governments invited to make presentations on a panel at this hearing have declined, including the governments of Poland, Romania, and Denmark.)

So, let me begin by attempting to answer a question – or rather respond to a recently much-heard complaint -- and that is that there is just nothing new to say about these CIA operations or about European involvement in them. There is, in fact, much that is new since 2007, indeed much that is new in the last two years, and this more recent information in particular provides pieces of the puzzle that have helped fill in some critical gaps and fill out the picture of Europe's involvement in these programmes.

Along with the new information, however, and no matter how compelling it has been, you will note a decided lack of will on the part of

EU member states to vigorously pursue it to ensure accountability. Thus, there is an insidious “inverse process” occurring: as the field of credible evidence of complicity expands, the number of governments willing to investigate it shrinks. And we see that process in the following examples.

In 2009, the Lithuanian authorities acknowledged hosting two CIA detention centres and the European Committee for the Prevention of Torture (CPT) even visited the sites and actively encouraged the Lithuanian government to ensure a full investigation. An investigation did commence in January 2010, but was abruptly halted one year later, despite input from Amnesty International and others regarding lines of inquiry, sources and their contact details, and other information relevant to the prosecutor’s work. In September 2011 Reprieve and Amnesty International presented new flight data to the Lithuanian Prosecutor General possibly linking the transfer of Abu Zubaydah, currently detained at Guantanamo Bay, from a Moroccan secret prison to such a black site in Lithuania. In response to our urgent call to the Lithuanian authorities to re-open the closed investigation, they refused, stating – incredibly -- that the new information was not enough to trigger the resurrection of the investigation.

The discovery of the Lithuanian secret prisons also should have triggered a wave of analysis of all existing data relating to the CIA rendition and secret detention programmes and also in the disclosure of new data. In some cases, this did happen, but -- unfortunately -- to precious little effect.

For example, after Amnesty International pointed out to the Finnish authorities that there appeared to be credible links between Finland and Lithuania in the data on renditions, the Finnish government released a significant store of data that appeared to confirm some of those links. (It remains unclear why such data was not shared with the TDIP committee when it first came calling in 2006). Still, the Finnish government has refused to date to initiate the kind of rigorous investigation that could get to the bottom of the truth. While we welcomed the initial data disclosures, the release of that data set in no way satisfies the requirement that a full investigation ensue.

Likewise, links between Lithuania and Denmark were evident in the data included in the 2009 Lithuanian parliamentary inquiry report that acknowledged that Lithuania had hosted two secret CIA detention centres (the flight path of an aircraft with the tail number N787WH was: Bucharest, Romania-Palanga, Lithuania-Copenhagen, Denmark on the 18th of February 2005). But Denmark's current inquiry, which was announced in November 2011, is narrowly limited to Greenland and only permits the review of information collected up until 2008, not after. Amnesty International has urged the Danish government, which holds the EU Presidency at the moment, to set the example and implement a full and effective investigation into Danish involvement in these operations, taking into account developments from 2007 into 2012.

And although not an EU member state, it is well worth noting that as recently as last month the Norwegian authorities released data that also indicated that aircraft likely to have been operating in the rendition context had travelled between Bergen and Oslo airports and airports in Lithuania. But the Norwegian authorities have simply claimed that the US government has assured them that there was nothing questionable about the flights -- and the authorities in Oslo have declined to investigate further. This easy acceptance of US assurances by the Norwegian authorities in the face of the growing pile of evidence of CIA abuses, not to mention explicit admissions regarding the CIA programs by the Bush administration, simply defies logic.

The “Scandinavian Connection” to the CIA rendition and secret detention operations thus remains woefully under-researched and uninvestigated, but for certain, it cannot be labeled as old or of little interest.

Although the Romanian authorities remain stalwart in their denial of any involvement at all in the CIA operations, recent information points to the contrary. In December 2011, German media alleged that it had identified the building in downtown Bucharest that housed a secret detention facility code-named “Bright Light”. The investigative team referred to former CIA officials who confirmed that the building was used as a CIA detention center, some having previously visited the site. This report built upon numerous others alleging that Romania had housed at least one secret prison. It is critical to note that this media report and other

information that had been disclosed in 2009 linking Romania to Lithuania at the time secret sites were reported to be operating in both countries caused barely a ripple with the Romanian authorities. No manner of pressure thus far has seemed to matter. Implausible deniability seems to be working very well for the Romanian authorities who have claimed that the allegations of complicity in these CIA operations are simply “groundless”.

And in Poland, also alleged to have housed a black site, the secret nature of an investigation which started over three years ago and seems to have sputter along, has forced two former detainees to leapfrog the anemic and wholly inadequate domestic investigation and head to the European Court of Human Rights. Just this morning we heard from a press report that the former head of Polish intelligence had been charged in relation to detainees being held in secret CIA prisons in Poland and we will watch this development closely.

While the UK government promised in July 2010 that a meaningful inquiry into allegations that its agents were involved in the rendition and ill-treatment of persons overseas, the narrow terms for the inquiry, including complete government control over the disclosure of information, led former detainees and a coalition of NGOs, including Amnesty International, to boycott the proceedings. The discovery by Human Rights Watch of documents in Tripoli indicating that the UK government colluded with the CIA to render at least two men and their families to Libya in 2004 has led

to a welcomed criminal investigation of the two cases in the UK, but also to the demise of the more general inquiry, which has since halted its work. Investigating the rendition of the two Libyans is crucial but so is a human rights compliant inquiry into all aspects of UK involvement in CIA operations and its treatment of detainees abroad more generally.

There are many other governments that have yet to fulfill the requirement of carrying out a human rights compliant inquiry in line with the EP resolution of 2007, including Germany, Italy, Ireland, Portugal, Spain, and Sweden.

So we are left with an untenable situation: As you well know, there has been no accountability in the United States as the Obama administration persistently and successfully invokes state secrets to scuttle any and all litigation. Meanwhile, the documents in a little known federal case, *Richmor Aviation v Sportsflight*, have laid bare the finer details of the contracting and subcontracting arrangements that supplied private aircraft for the CIA's use to illegally transport people around the globe, including in Europe. The *Richmor* litigation gives lie to the notion that state secrets must be invoked to protect a vital national interest: invoice after invoice in that litigation sheds more and more light on the systematic nature of the rendition programme, which is hardly a secret anymore.

The idea that governments and individuals must be held accountable for violating people's rights underpins the principle of the rule of law and

respect for human rights. In a nod to the fact that governments the world over have failed to do so in the counter-terrorism context, the EU Counter-Terrorism Coordinator Gilles de Kerchove, the UN special rapporteur on counter-terrorism and human rights Ben Emmerson, and Villy Søvndal, Denmark's foreign minister, struck just the right tone in a *European Voice* article on 19 March 2012.

Invoking the UN Counter-Terrorism Strategy, the authors noted that the international community shares the view that “effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing”. The authors said, and we agree, that “The international community needs to give new life to this commitment, and show that it is not rhetoric.”

EU member states have an opportunity now, in the context of the LIBE follow-up, to recommit to a human rights machinery at the national level that works to end impunity, not perpetuate it. The fact that European states are alleged to have colluded in such egregious violations – illegal transfers, secret detention, and torture and ill-treatment; crimes under international law, in fact – is sobering. In that same *European Voice* article, the EU and UN authors agree that “Indefinite or even secret detention of terrorist suspects without charge or trial is not only against our values and unlawful, but also provides distorted arguments to terrorists.” Surely the authors themselves must agree that where allegations of such abuse exist,

those allegations must be fully investigated in line with member states' international human rights obligations.

And finally, it is critical to say that the EU will continue to struggle to regain its footing as a standard-bearer for human rights in the international community until member states commit to an authentic accountability process for their willing complicity in the CIA rendition and secret detention programmes. The authors of the *European Voice* article made an offer: "If they so wish, we [the EU and UN] stand ready to assist the emerging democratic governments of the Arab world in the reform of their security and judicial sectors, in line with international norms, including human rights, and the rule of law." But how can the EU step forward with advice on human rights when its own hands are not clean and EU member states stall and make excuses or just flat out deny their responsibility for human rights violations committed in the name of countering terrorism?

In closing, Amnesty International calls again on EU member states to:

- Cooperate in full with the LIBE process and the rapporteurs that are conducting the follow-up to the 2007 Fava report to ensure that the report is comprehensive and reflects all relevant information regarding member states' involvement in the CIA operations;
- Cooperate in full with any requests from the LIBE committee and the rapporteurs regarding site visits;

- Conduct independent, impartial, thorough and effective investigations into alleged state complicity in the CIA rendition and secret detention programmes;
- Hold the state accountable for any such complicity and prosecute any individual perpetrators for crimes under international law;
- Afford victims effective redress to which they are entitled under international law;
- Reform any state agency or system to ensure that abuses attendant to the rendition and secret detention programmes, abuses that included illegal transfers, torture, and enforced disappearance, ***never happen again.***

Thank you and I look forward to your questions.