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Lithuania Opens CIA Rendition Investigation

Amnesty International has welcomed the decision of the Lithuanian Prosecutor General to open an investigation into the alleged rendition to Lithuania of Mustafa al-Hawsawi. The decision comes after the Vilnius Regional Court ruled on 28 January that al-Hawsawi had a right to an investigation of his claims.

The Vilnius Regional Court judgment is the first in a European Union member state to mandate that victims of the CIA's rendition and secret detention programmes -- which involved the illegal transfer (rendition), torture and enforced disappearance of persons suspected of terrorism-related activities -- have an absolute right to an effective investigation of their claims.

The Lithuanian pre-trial investigation was launched on 13 February 2014 and will focus on al-Hawsawi's allegation that he was illegally transferred to Lithuania at the hands of the US Central Intelligence Agency (CIA), with the complicity of Lithuanian intelligence officials. Mustafa al-Hawsawi claims that he was held in a secret CIA detention facility in Lithuania sometime between March 2004 and September 2006. He is currently detained at Guantanamo Bay pending a trial by military commission, including capital charges, for alleged crimes related to the 11 September 2001 attacks in the USA. Amnesty International has criticized the military commissions system for violating international fair trial standards and opposes the death penalty in all circumstances.

The nongovernmental organizations Redress (London) and Human Rights Monitoring Institute (Vilnius) had filed a complaint on al-Hawsawi's behalf with the Lithuanian Prosecutor General in September 2013. Later in September 2013, the Lithuanian Prosecutor General declined to open an investigation into their allegations and a lower Lithuanian court upheld that decision in December 2013. On appeal of the lower court decision, the Vilnius Regional Court ruled in January 2014 that al-Hawsawi had a right to an effective investigation, annulled the Prosecutor General's original decision, and urged the Prosecutor General to launch a fresh investigation.

Mustafa al-Hawsawi's representatives have also lodged an application with the Polish Prosecutor General, which claims that al-Hawsawi was held in Poland prior to his illegal transfer to Lithuania. The Polish Prosecutor General has publicly acknowledged the application but has yet to determine whether al-Hawsawi will be granted formal status as an "injured person" in the on-going criminal investigation into Polish involvement in the CIA rendition and secret detention programmes. If so, he would be the fourth recognised victim in a pre-trial investigation there that commenced in 2008, but with little information having been made public. The other acknowledged victims are Abd al-Rahim al-Nashiri, Zayn al-Ibidin Mohammed Hussein (also known as Abu Zubaydah), and Walid bin Attash, all currently detained at Guantanamo Bay.

Abu Zubaydah has also alleged that he was held in Lithuania, but the Lithuanian Prosecutor General has refused, to date, to launch an investigation into his allegations. Any investigation into Lithuanian involvement in the CIA rendition and secret detention programmes should include an examination of Abu Zubaydah's claims.

In two resolutions adopted in 2012 and 2013, the European Parliament concluded that it is the obligation of all implicated EU member states to respect the right to an effective investigation of all the above named and any other victims of the CIA rendition and secret detention programmes. The EP has further insisted that it is the responsibility of all EU countries and institutions to join forces and cooperate together to promote this right. The recent developments in Lithuania and Poland oblige all EU member states and EU actors to ensure that the EP calls become a reality.

Background

The Lithuanian Prosecutor General had abruptly closed a prior investigation into Lithuanian involvement in the CIA rendition and secret detention programmes that ran from January 2010 until January 2011, without recommending any prosecutions. Amnesty International criticized that investigation for being shrouded in secrecy and neither thorough or effective. Subsequently, the Prosecutor General declined to investigate claims submitted to him by the representatives of Abu Zubaydah. Abu Zubaydah had also alleged that he was illegally transferred to Lithuania and held in CIA secret detention there sometime between February and December 2005. The nongovernmental organization Interights (London) has since lodged an application with the European Court of Human Rights on Abu Zubaydah's behalf. A decision on that case is expected in 2014.

Mustafa al-Hawsawi's representatives have also lodged an application with the Polish Prosecutor General which claims that al-Hawsawi was held in Poland at some time prior to his illegal transfer to Lithuania. The Polish Prosecutor General has publicly acknowledged the application, but has yet to determine whether al-Hawsawi will be granted formal status an "injured person" in the on-going criminal investigation into Polish involvement in the CIA rendition and secret detention programmes.

The Polish investigation began in 2008 and three other victims of the CIA operations have been given formal status, including Abd al-Rahim al-Nashiri, Abu Zubaydah, and Walid bin Attash, all of whom are currently detained at Guantanamo Bay. Abd al-Rahim al-Nashiri and Abu Zubaydah also have pending cases against Poland at the European Court of Human Rights and a decision in their cases is expected in 2014.

There has been no effective investigation in Romania since the secret internal inquiry conducted by the Romanian government in 2007, concluding that any allegations of secret detention in Romania are groundless. The case of Abd al-Rahim al-Nashiri against Romania is currently pending at the European Court of Human Rights.

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