

AMNESTY INTERNATIONAL

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Council of Europe's Committee of Ministers: Still no Action on Renditions and Secret Detention: if not now, when?

Amnesty International is deeply disturbed by the failure of the representatives of the governments of 47 member states -- sitting as the Committee of Ministers of the Council of Europe -- to agree to unreservedly condemn the US-led programme of rendition and secret detention to announce that they will take particular action aimed at preventing the grave human rights violations which have occurred, including in and through Europe, in this context..

The complicity of officials of European states in secret and unlawful detentions, the transfer of persons to foreign countries outside the rule of law, enforced disappearances and torture and other ill-treatment of the men subjected to rendition and secret detention is -- by now -- indisputable.

This complicity, and gaps in law -- which facilitated foreign and European national intelligence services' unlawful conduct, and shielded them from accountability -- have been clearly identified in the decisions of the UN Human Rights Committee, the UN Committee against Torture, the Bosnian Human Rights Chamber as well as in the course of the inquiries of the Council of Europe's Parliamentary Assembly and its Secretary General, and the European Parliament.

Amnesty International considers that the facts revealed to date by these and other inquiries clearly indicate that action is necessary to ensure accountability for the grave violations of human rights which have occurred and to prevent their reoccurrence.

The organization therefore continues to call on all 47 Council of Europe member states to ensure an end to the secrecy and obfuscation.

Where there are credible allegations that violations of human rights have occurred on the territory or by an agent of a Council of Europe member state, an independent and thorough investigation must take place. The investigators must have powers to require the production of evidence and witnesses.

Those responsible for the unlawful conduct that has occurred must be brought to justice

States implicated in the human rights violations which have occurred have a duty to provide reparation, including just compensation, to the victims of renditions and secret detention.

This is required by the European Convention of Human Rights.

Amnesty International also considers that the Council of Europe has a role in setting standards to ensure that:

- o foreign and national intelligence services operate within the law, respect human rights and are held accountable when they fail to do so;
- o information about human rights violations is not protected by the shield of secrecy in the guise of protecting national security.

True security of people in the 47 Council of Europe member states and beyond rests on respect for human rights and the rule of law. It is these founding principles of the Council of Europe that we expect its highest decision-making body, the Committee of Ministers, to act to protect.

Background

On 18 January, the Committee of Ministers of the Council of Europe made public their Reply to the recommendations made by the Parliamentary Assembly on secret detentions and illegal transfers of detainees involving Council of Europe member states. The Assembly's recommendations were adopted in June 2007, following the debate of the second report of its Rapporteur, Swiss Senator Dick Marty

This Reply, set out in document CM/AS(2008) Rec1801 final, among other things noted that the two reports of the Parliamentary Assembly contained allegations of serious human rights violations and mention certain lacunae in the national legislation of Council of Europe member states.

The Ministers' reply also recalled that:

- o existing obligations under the European Convention on Human Rights (ECHR), which "require prompt and effective investigations capable of leading to the identification and punishment of those responsible for any illegal acts is the most appropriate reaction to serious allegations of grave human rights violations";
- o "according to the relevant case law of the European Court of Human Rights, the responsibility of a State Party for the material breach of the provisions of the Convention may not only result from direct action by its authorities, but also from failing to comply with their positive obligations to prevent human rights violations on their territory or to conduct an independent and impartial investigation into substantial allegations of such human rights violations" and
- o that "the International Convention for the Protection of All Persons from Enforced Disappearance, opened for signature on 6 February 2007, the entry into force of which would significantly contribute to combating the practice of enforced disappearances."

The Committee of Ministers stated that it was "convinced of the utmost importance of promoting and protecting human rights for all and the rule of law while combating terrorism." They also said that, "taking into account the complex nature of the issues raised, the Committee of Ministers, **if necessary**, will consider undertaking further work in this respect". (emphasis added)

However, the Ministers' Reply stopped short of outright condemnation of European complicity in the US-led programme of rendition and secret detention and agreement to draft additional standards.

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