



## EXECUTIVE SUMMARY

# OPEN SECRET: MOUNTING EVIDENCE OF EUROPE'S COMPLICITY IN RENDITION AND SECRET DETENTION

The time has certainly come to break the conspiracy of silence around the complicity of European governments in the human rights violations which have taken place during the counter-terrorism actions since September 2001.

Thomas Hammarberg, Council of Europe Human Rights Commissioner, 9 June 2010<sup>1</sup>

## INTRODUCTION

European governments' involvement in the rendition and secret detention programmes operated by the United States of America in the aftermath of the 11 September attacks in the USA has been well-documented. Research reports by intergovernmental bodies, nongovernmental organizations, and investigative journalists, among others, comprise a body of information clearly pointing to European complicity in these programmes. After nearly a decade of widespread impunity and absence of remedy for human rights violations – including unlawful transfer, enforced disappearance, torture, and secret detention – that have occurred in the context of these CIA-led operations, the legal obligation to look back and ensure full accountability for such violations has been ignored by many governments for too long.

The near absence of any accountability in the USA for these violations is a scandal that cries out for the US government to take urgent action to remedy. In Europe, the overall “scorecard” to date regarding the establishment of investigations that are truly independent and effective, as well as sufficiently public, has been disappointing. Progress toward accountability gained some momentum, however, between 2008 and 2010 as evidence of European complicity mounted, indicating that Europe remains fertile ground for accountability.

This report by Amnesty International, titled *Open Secret: Mounting Evidence of Europe's Complicity in Rendition and Secret Detention* (November 2010), focuses on the “state-of-play” with respect to accountability for European states' complicity in these

abusive practices. The report documents key developments in Germany, Italy, Lithuania, Macedonia, Poland, Romania, Sweden, and the United Kingdom – countries where inquiries into state complicity or legal processes aimed at individual criminal responsibility have occurred or are currently in process. It also highlights new reports and sources of information that have the potential to propel the project for accountability forward, in particular the February 2010 United Nations Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism (hereafter UN Joint Study on Secret Detention).<sup>2</sup> The UN Joint Study on Secret Detention builds on past intergovernmental investigations, including by the Parliamentary Assembly of the Council of Europe and the European Parliament.

Although *Open Secret* includes a section on the USA, Amnesty International concludes that the USA has systematically failed to meet its international obligation to address these past violations. While Amnesty International welcomes the positive rhetoric of Obama administration officials with regard to human rights, words are not enough. The USA is obliged under international law to investigate and hold accountable those responsible for authorizing and carrying out past violations in the context of the CIA's rendition and secret detention programmes, including by bringing those responsible for crimes under international law to justice. The US government should not continue to invoke “state secrecy” to shield itself from scrutiny for abuses committed in the context of rendition and secret detention operations.

Amnesty International urgently calls on European governments to reject such impunity, to capitalize on the momentum in Europe toward accountability, and to commit in full to justice for the victims of rendition, enforced disappearance, and torture and ill-treatment in the context of the fight against terrorism in the aftermath of the 11 September 2001 attacks in the USA. Claims of state secrecy must not be used to shield governments and individuals from scrutiny for their involvement in serious human rights violations. Moreover, in order to ensure that such abuses do not occur in the future, European governments must implement reforms for the civilian oversight of national intelligence and security agencies and of foreign intelligence agencies operating on their territories. This combination of accountability, effective redress for victims, and reform will help re-establish respect for human rights law and the responsibilities of states under that law to provide human rights protection to all persons entitled to it.

## ACCOUNTABILITY FOR EUROPEAN COMPLICITY: COUNTRY UPDATE SUMMARIES

The detailed country entries in *Open Secret* document significant developments in key European countries where such developments have either propelled accountability processes forward or require that, in the face of new and compelling information, governments make concrete commitments to the establishment of a human rights-compliant process to ensure accountability for their roles in the US rendition and secret detention programmes. The entries below briefly summarize those developments.

### GERMANY: UNCONSTITUTIONAL RELIANCE ON STATE SECRETS UNDERMINES INQUIRY

A three-year long parliamentary inquiry into Germany's alleged involvement in the US CIA-led rendition and secret detention programmes completed its work in June 2009 and did not find any German state actor responsible for involvement in any rendition, enforced disappearance, or torture and ill-treatment of detainees.<sup>3</sup> On 17 June 2009, however, the German Constitutional Court ruled that the government's failure to cooperate with the inquiry violated the German Constitution by impeding the parliament's right as an oversight body to investigate the government.<sup>4</sup>

The UN Joint Study on Secret Detention specifically identified Germany as a government complicit in secret detention, referring to the case of Muhammad Zammar, who was reportedly interrogated by German agents while being held in secret detention in Syria in November 2000.<sup>5</sup> Evidence before the German parliamentary inquiry confirmed that Muhammad

Zammar was interrogated by German officials in Syria, that high-level German officials were aware of the use of torture in Syrian prisons, that Muhammad Zammar told his German interrogators that he had been ill-treated by the Syrians – and that German agents had additionally sent questions for use by Syrian agents in their interrogations of Muhammad Zammar.<sup>6</sup>

The profound lack of cooperation from the German authorities in the course of the inquiry, coupled with the identification of Germany in the UN Joint Study on Secret Detention as complicit in abuses perpetrated against Muhammad Zammar, urgently require further action on the part of the German government.

### ITALY: FIRST CONVICTIONS OF CIA AND FOREIGN AGENTS

In November 2009, an Italian court handed down the first and only convictions to date in relation to human rights violations in the context of the CIA rendition and secret detention programmes. Convicted were 22 CIA agents, one US military official and two Italian intelligence operatives, all for their involvement in the abduction of Egyptian national Usama Mostafa Hassan Nasr (better known as Abu Omar) from a Milan street in February 2003.<sup>7</sup> Abu Omar was subsequently unlawfully transferred from Italy to Egypt where he was held in secret and allegedly tortured. Eight other US and Italian defendants were not convicted as the court held that they were protected either by diplomatic immunity or the "state secrets" privilege.

The trial of the US nationals proceeded in absentia (in their absence) due to successive Italian governments' refusal to transmit extradition warrants to the US government. Trials in absentia are not permitted under international human rights law in the circumstances present in this case. If the US nationals are apprehended in the future, they should be entitled to a new trial before a different judge and to the presumption of innocence in that new trial.

The Italian Constitutional Court ruled in March 2009 that much of the evidence against particular defendants, particularly high-level officials in the Italian military intelligence service, was covered by the "state secrets" doctrine and could not be admitted at trial.<sup>8</sup>

The case was appealed in March 2010 by the prosecutor, who has challenged the interpretation and application of the "state secrets" privilege in the lower court and the scope of diplomatic immunity. The appeal proceedings commenced in October 2010.<sup>9</sup>

## LITHUANIA: CIA SECRET PRISON REVEALED FOR FIRST TIME

A Lithuanian parliamentary inquiry concluded in December 2009 that CIA secret prisons existed in the country, but stopped short at determining whether detainees were actually held there.

On 5 November 2009, the Lithuanian parliament mandated the Committee on National Security and Defence to conduct a parliamentary inquiry and present findings to the parliament. The inquiry's final report, released on 22 December 2009, concluded that two secret sites were prepared to receive suspects; it concluded that one was not used (Project No. 1), and that it could not establish on the information available to it whether another, at Antaviliai, outside Vilnius, had ever actually held prisoners (Project No. 2).<sup>10</sup>

The key recommendation in the inquiry's final report was a proposal that the Prosecutor General's Office investigate whether the acts of three former senior Lithuanian State Security Department (SSD) officials amounted to the criminal misuse of office or abuse of powers under Lithuanian law. In January 2010, the Lithuanian Prosecutor General's Office opened a criminal investigation into state actors' alleged involvement in the establishment and potential operation of the sites, which is on-going.

The UN Joint Study on Secret Detention issued in February 2010 was the first public intergovernmental report to include independent evidence that Lithuania was incorporated into the CIA rendition and secret detention programmes. By analyzing "data strings", the study confirmed that planes operating in the context of the CIA rendition and secret detention programmes had landed in Lithuania under cover of "dummy" flight plans.<sup>11</sup>

The two secret sites were subsequently visited in June 2010 by a delegation from the European Committee for the Prevention of Torture (CPT).<sup>12</sup> The CPT's landmark visit signified the first time that an independent monitoring body had visited a secret prison established by the CIA in Europe in the context of the US government's global counter-terrorism operations and made that visit known to the public.

## MACEDONIA: EUROPEAN COURT TO CONSIDER FIRST RENDITION CASE

Efforts to hold the Macedonian government accountable for its role in the unlawful detention in Macedonia in December 2003 and subsequent CIA-led rendition to Afghanistan in 2004 of German national Khaled el-Masri gained momentum in September 2009 when Khaled el-Masri lodged a case

against Macedonia at the European Court of Human Rights.<sup>13</sup> The landmark application represents the first time the European Court is likely to consider on the merits a case involving a Council of Europe member state's alleged complicity in the CIA rendition and secret detention programmes. The European Court transmitted the el-Masri v Macedonia application to the Macedonian authorities for the government's observations in October 2010.<sup>14</sup>

Khaled el-Masri's application to the European Court of Human Rights alleges that Macedonian state actors were directly responsible for his unlawful detention for 23 days in a hotel in Skopje; for his ill-treatment during that period; and for handing him over to the CIA with the knowledge that he would be unlawfully transferred, detained, and at risk of torture and ill-treatment in Afghanistan – all violations of Macedonia's obligations under the European Convention for the Protection of Human Rights and Fundamental Freedom.<sup>15</sup> The Macedonian government has previously consistently denied that Khaled el-Masri was held illegally on its territory and handed over to the CIA.<sup>16</sup>

## POLAND: EVIDENCE MOUNTS IN SECRET PRISON INVESTIGATION

In compliance with Poland's Statute on Access to Public Information, the Polish Air Navigation Services Agency (PANSa) released 19 pages of raw flight data to the Polish Helsinki Foundation for Human Rights (HFHR) and the Open Society Justice Initiative (OSJI) in December 2009.<sup>17</sup> The data revealed not only that planes operating in the context of the US rendition and secret detention programmes had landed on Polish territory but also that PANSa had actively collaborated with the CIA to create "dummy" flight plans to cover-up the true destinations of some of the flights: some flight plans listed Warsaw as the destination when in fact the plane had landed at Szymany.<sup>18</sup> According to the data, PANSa also assisted in navigating aircraft into Szymany on two occasions without having received any official flight plans at all.<sup>19</sup>

Further conformation of Polish involvement in these operations came in July 2010 with information released to the HFHR from the Polish Border Guard Office indicating that between 5 December 2002 and 22 September 2003 seven planes operating in the context of the CIA's rendition programme landed at Szymany airport.<sup>20</sup> On five of the flights, passengers were aboard on arrival, but on departure only the crew remained on board. Another plane arrived with seven passengers, but departed with four. A plane that arrived on 22 September 2003, landed at Szymany with no passengers, but departed with five passengers on board and continued on to Romania (see section below on Romania).<sup>21</sup>

Analysis contained in the February 2010 UN Joint Study on Secret Detention, supported by the statements of confidential sources, gave credence to the notion that one of the secret detainees held in Poland was Abd al-Rahim al-Nashiri, a Saudi national alleged to have masterminded the bombing of the USS Cole, and who is currently detained and awaiting trial by military commission in Guantanamo Bay.<sup>22</sup>

The criminal investigation by the Appeal Prosecutor's Office into Poland's alleged involvement in the CIA rendition and secret detention programmes has never made public its terms of reference or timeline. In September 2010, however, the prosecutor's office publicly confirmed that it was investigating claims by Saudi national, Abd al-Rahim al-Nashiri, that he had been held in secret in Poland in 2002–2003.<sup>23</sup> The prosecutor formally granted Abd al-Rahim al-Nashiri status as a victim in October 2010: the first time a rendition victim's claims have been acknowledged in the context of the official investigation into a secret prison in Poland.<sup>24</sup>

On 27 October 2010 the UN Human Rights Committee called on the government of Poland to ensure that it establishes an independent inquiry, with public findings, into its role in CIA renditions and secret detention that has "full investigative powers to require the attendance of persons and the production of documents... and to hold those found guilty accountable, including through the criminal justice system".<sup>25</sup>

## ROMANIA: IMPLAUSIBLE DENIALS AMIDST MOUNTING ALLEGATIONS

The Romanian government has consistently denied the presence on its territory of a secret detention facility since the allegation first arose in 2005. Since late 2008, however, claims that Romania hosted a secret CIA prison have surfaced from a variety of additional sources. In August 2009, the New York Times reported that unnamed former US intelligence sources claimed that one such centre was located in Bucharest, the Romanian capital city.<sup>26</sup>

The February 2010 UN Joint Study on Secret Detention concluded that a plane operating in the context of the CIA's rendition programme – a Boeing 737, registration number N313P – flew from Poland to Romania on 22 September 2003.<sup>27</sup> The UN experts could not, however, confirm definitively that the flight involved transfers of detainees.<sup>28</sup> In a note verbale to the UN experts dated 27 January 2010, the Romanian authorities repeated their stock denials that planes carrying detainees had landed on Romanian territory and that they had hosted a secret detention site.<sup>29</sup>

Documents released by the Polish Border Guard Office in July 2010 (see above section on Poland) indicate that the same Boeing 737 (Reg. No. N313P) arrived in Poland on 22 September 2003 with no passengers aboard, but took on five passengers before departing Szymany for Bucharest.<sup>30</sup> In August 2010, the Associated Press, citing unnamed current and former US officials, reported that Khaled Sheikh Mohamed, alleged mastermind of the 11 September 2001 attacks in the USA, was transferred around 22 September 2003 on a Boeing 737 from Szymany, Poland to a new detention facility codenamed "Britelite" in Bucharest, Romania.<sup>31</sup>

Citing claims by unnamed former US intelligence officials, the Associated Press also reported in October 2010 that Abd al-Rahim al-Nashiri was held in secret detention in Romania.<sup>32</sup>

Revelations in 2009 and 2010 regarding Romania's alleged complicity in the CIA rendition and secret detention programmes require that the Romanian government recommit to the establishment of a full, impartial, independent, and effective investigation into its role in these operations.

## SWEDEN: RENDITION CASES REQUIRE FULL ACCOUNTABILITY AND REDRESS

The Swedish government has failed to date to satisfy its obligation to fully investigate the renditions at the hands of the CIA in December 2001 of Ahmed Agiza and Mohammed al-Zari from Sweden to Egypt, where the men reported that they were tortured and ill-treated in Egyptian custody.<sup>33</sup> Although the Swedish government claimed that it had obtained diplomatic assurances against torture and ill-treatment from the Egyptian authorities prior to transfer, the UN Committee against Torture and UN Human Rights Committee both held that Sweden had violated the prohibition on torture by its involvement in the men's transfers to Egypt and that Egypt's diplomatic assurances did not provide a sufficient safeguard against that manifest risk of torture and other ill-treatment.<sup>34</sup>

Although the government has paid the men compensation, Sweden has failed to provide them with full, effective redress, which should include not only compensation, but also rehabilitation, restitution, just satisfaction, and guarantees of non-repetition. To that end, Sweden should implement preventive measures to ensure full judicial review of all decisions to expel persons alleged to be threats to national security whenever allegations are raised that a person would face a real risk of torture or other ill-treatment as a result of the transfer. Such preventive measures should include a commitment by the Swedish government

not to employ diplomatic assurances against torture or ill-treatment as a basis for removals to countries where there is a real risk to the individual of such treatment.<sup>35</sup>

The Swedish government formally rescinded the men's expulsion orders in 2008, but in November 2009 the men's appeals against the government's refusal to grant them residence permits were dismissed, partly based on information never disclosed to either Mohammed al-Zari or Ahmed Agiza.<sup>36</sup> Awarding both men residence permits would contribute toward ensuring that they receive an effective remedy, including adequate restitution.<sup>37</sup>

Although the Swedish Parliamentary Ombudsman and the parliamentary Standing Committee on the Constitution conducted internal inquiries, neither satisfied Sweden's legal obligation to investigate the human rights violations that occurred in the context of the men's unlawful transfers and allegations of torture or other ill-treatment, and to bring those responsible to account.<sup>38</sup>

## UNITED KINGDOM: GOVERNMENT ANNOUNCES "TORTURE INQUIRY"

The UK government announced in July 2010 that it would establish an inquiry into the involvement of UK state actors in the alleged mistreatment of individuals detained abroad by foreign intelligence services. Despite allegations of such involvement in a number of cases across a range of countries – including Afghanistan, Egypt, Pakistan, and at Guantanamo Bay, Cuba – the former Labour government refused for years to heed repeated calls for an independent, impartial inquiry.

In most of the cases, there is credible evidence that UK personnel participated in interrogations of detainees and/or provided information that led other countries to apprehend, detain, and interrogate individuals when the UK knew that individuals would be at risk of torture and/or unlawful detention or that the UK sent questions to the detaining state to be put to a detainee.<sup>39</sup> Moreover, the government has acknowledged that the UK was involved in the US-led rendition programme through the use of UK territory, for example Diego Garcia.<sup>40</sup>

In February 2010, the UN Joint Study on Secret Detention, specifically referencing allegations of UK collaboration with the Pakistani intelligence services, identified the UK as a country complicit in the secret detention of a person for "knowingly [taking] advantage of the situation of secret detention by sending questions to the State detaining the person or by soliciting or receiving information from persons who are being kept in secret detention".<sup>41</sup> The UN study also contained references to

the allegation that persons were held in secret detention on Diego Garcia.<sup>42</sup>

In an attempt to ensure that the inquiry's scope and depth are broad enough to ensure accountability, a coalition of nine human rights NGOs – including Amnesty International – wrote in September 2010 to Sir Peter Gibson, the chair of the inquiry panel, and recommended, among other things, that victims have official standing and publicly-funded representation by counsel of their choice; that nongovernmental organizations be permitted to participate in the inquiry and make submissions; that any resort by the government to invoke state secrecy be subject to independent review; and that the inquiry must look broadly at relevant government policies and the oversight mechanisms for the security services and make recommendations in order to prevent human rights violations in the future.<sup>43</sup>

## CONCLUSION

The idea that governments and individuals must be held accountable for violating people's rights underpins the modern human rights movement. Identifying abusive governments and individual perpetrators, collecting evidence of their responsibility in relation to human rights abuses (whether by direct perpetration, complicity, or failure to prevent), ensuring the truth is revealed to the victims and survivors as well as the wider public, and bringing that evidence before intergovernmental bodies or courts of law for criminal prosecution or civil suits for damages: these all contribute to real accountability. In the absence of such accountability, impunity prevails and the noble words avowed by states in the text of so many human treaties are robbed of their true value: as basic safeguards for respecting and ensuring the dignity of every human being.

European governments have an opportunity now to recommit to a human rights machinery at the national level that works to end impunity, not perpetuate it. The fact that European states colluded in such egregious violations – illegal transfers, secret detention, and torture and ill-treatment; crimes under international law, in fact – is sobering.

Amnesty International calls on European governments to reject impunity and set a corrective course toward accountability for their role in the CIA's rendition and secret detention programmes. Europe is fertile ground for such accountability and governments and the public across the region should capitalize on the momentum generated by on-going accountability processes in a number of countries. Europe must not become an "accountability-free" zone.

## ENDNOTES

---

- <sup>1</sup> Thomas Hammerberg, Council of Europe Human Rights Commissioner, “Human Rights Comment: Torture Allegations Must be Properly Investigated”, 9 June 2010, [http://commissioner.cws.coe.int/tiki-view\\_blog\\_post.php?postId=45](http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=45).
- <sup>2</sup> United Nations Human Rights Council, Joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, and the Working Group on Enforced and Involuntary Disappearances (hereafter UN Joint Study on Secret Detention), A/HRC/13/42, 19 February 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>. An advanced unedited version was originally published on 26 January 2010.
- <sup>3</sup> The parliamentary inquiry was referred to as “BND-Untersuchungsausschuss”.
- <sup>4</sup> Federal Constitutional Court press release, “Limited Grant of Permission to Testify and Refusal to Surrender Documents to BND Committee of Inquiry Partly Contrary to Constitutional Law”, No. 84/2009, 23 July 2009, <http://www.bundesverfassungsgericht.de/en/press/bvg09-084en.html>. The full decision (in German) can be accessed here: [http://www.bundesverfassungsgericht.de/entscheidungen/es20090617\\_2bve000307.html](http://www.bundesverfassungsgericht.de/entscheidungen/es20090617_2bve000307.html).
- <sup>5</sup> UN Joint Study on Secret Detention, para. 159.
- <sup>6</sup> Deutscher Bundestag, Beschlussempfehlung und Bericht des 1. Untersuchungsausschusses nach Artikel 44 des Grundgesetzes, Drucksache 16/13400, 18. 06. 2009.
- <sup>7</sup> Tribunale di Milano, IV Sezione Penale, Decision No. 12428/09, 4 November 2009 [Judge Oscar Magi presiding as sole judge in non-jury trial]. See also, Amnesty International news release, “Convictions in Abu Omar Rendition Case a Step Toward Accountability,” 5 November 2009, <http://www.amnesty.org/en/news-and-updates/news/convictions-abu-omar-rendition-case-step-toward-accountability-20091105>. See also, Amnesty International, *State of Denial: Europe’s Role in Rendition and Secret Detention*, pp. 45 (case sheet on Abu Omar).
- <sup>8</sup> Sentenza della Corte Costituzionale n.106 del 2009.
- <sup>9</sup> “Italy trial of CIA kidnapping case begins”, *Associated Press*, 12 October 2010, [http://www.msnbc.msn.com/id/39634807/ns/world\\_news-europe/](http://www.msnbc.msn.com/id/39634807/ns/world_news-europe/).
- <sup>10</sup> Findings of the parliamentary investigation by the Seimas Committee on National Security and Defence concerning the alleged transportation and confinement of persons detained by the Central Intelligence Agency of the United States of America in the territory of the Republic of Lithuania, 22 December 2009, [http://www3.lrs.lt/pls/inter/w5\\_show?p\\_r=6143&p\\_k=2](http://www3.lrs.lt/pls/inter/w5_show?p_r=6143&p_k=2).
- <sup>11</sup> According to the UN Joint Study on Secret Detention, para. 120: “Two flights from Afghanistan to Vilnius could be identified: the first, from Bagram, on 20 September 2004, the same day that 10 detainees previously held in secret detention, in a variety of countries, were flown to Guantanamo; the second, from Kabul, on 28 July 2005. The dummy flight plans filed for the flights into Vilnius customarily used airports of destination in different countries altogether, excluding any mention of a Lithuanian airport as an alternate or back-up landing point.”
- <sup>12</sup> European Committee for the Prevention of Torture news release, “Council of Europe Anti-Torture Committee Visits Lithuania”, 23 June 2010, <http://www.cpt.coe.int/documents/ltu/2010-06-23-eng.htm>.
- <sup>13</sup> Application to European Court of Human Rights, *El-Masri v Macedonia*, Application No. 39630/09, 18 September 2009, <http://www.soros.org/initiatives/justice/itigation/macedonia/Application-Public-Version-20090921.pdf>.
- <sup>14</sup> European Court of Human Rights, *El-Masri v Macedonia*, Application No. 39630/09, Statement of Facts and Questions to the Parties, 8 October 2010, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=2&portal=hbkm&action=html&highlight=el-masri%20%7C%20v%20%7C%20macedonia&sessionId=61179632&skin=hudoc-cc-en>.
- <sup>15</sup> Application to European Court of Human Rights, *El-Masri v Macedonia*, op. cit., fn 12.
- <sup>16</sup> Letter from Macedonian Ministry of Foreign Affairs to then Secretary General of the Council of Europe, Terry Davis, 3 April 2006, on file with Amnesty International; see also Amnesty International, *Europe: State of Denial: Europe’s Role in Rendition and Secret Detention*, (AI Index: EUR 01/003/2008), 24 June 2008, p. 31 <http://www.amnesty.org/en/library/info/EUR01/003/2008/en>.
- <sup>17</sup> Open Society Justice Initiative news release, “Fresh Evidence Shows Polish Government, CIA Cooperation on Renditions”, 22 February 2010, <http://www.soros.org/initiatives/justice/focus/foi/news/poland-rendition-20100222>.
- <sup>18</sup> Open Society Justice Initiative and Polish Helsinki Foundation for Human Rights, Explanation of Rendition Flight Records Released by the Polish Air Navigation Services Agency, 22 February 2010, <http://www.soros.org/initiatives/justice/focus/foi/news/poland-rendition-20100222/flight-records-20100222.pdf>. The raw data which this explanation analyzes can be found at <http://www.soros.org/initiatives/justice/focus/foi/news/poland-rendition-20100222/disclosure-20100222.pdf>.
- <sup>19</sup> Ibid.
- <sup>20</sup> Helsinki Foundation for Human Rights news release, “The Border Guard Office has Provided New Information regarding Crew and Passengers of CIA Planes Landing at the Polish Airport in Szymany”, 30 July 2010, <http://www.hfhr.org.pl/cia/images/stories/PRESS%20RELEASE%202.pdf>. The HFHR noted that the Polish government refused to release this information to the PACE special rapporteur on renditions and secret detention, Swiss Senator Dick Marty, when he

---

requested cooperation from Poland in the course of his investigation. The information included a 23 July 2010 letter from the Border Guard Office confirming that seven flights landed at Szymany between December 2002 and September 2003, [http://www.hfhr.org.pl/cia/images/stories/Letter\\_23\\_07\\_2010.pdf](http://www.hfhr.org.pl/cia/images/stories/Letter_23_07_2010.pdf).

<sup>21</sup> See data provided by the Polish Border Guard Office: [http://www.hfhr.org.pl/cia/images/stories/Data\\_flights\\_eng.pdf](http://www.hfhr.org.pl/cia/images/stories/Data_flights_eng.pdf).

<sup>22</sup> UN Joint Study on Secret Detention, para. 116.

<sup>23</sup> "Polish Prosecutors to Probe CIA Prison Acts", *Associated Press*, 22 September 2010, <http://www.google.com/hostednews/ap/article/ALeqM5je7nwMRcExNQyMHklyZ-5kcWqAD9ID07100>

<sup>24</sup> Open Society Justice Initiative news release, "Polish Prosecutor Recognizes Guantanamo Prisoner as Victim in CIA Black Site Investigation", 27 October 2010, <http://www.soros.org/initiatives/justice/focus/national-security/news/poland-cia-nashiri-20101027>. See also, Vanessa Gera and Adam Goldman, "Terror Suspect gets Victim Status in Polish Probe", *Associated Press*, 27 October 2010, [http://hosted2.ap.org/txdam/2328593e932a4d72bf7e9798dc61d072/Article\\_2010-10-27-EU-Poland-CIA-Prison/id-b6d8bb2d5ed244a8b80eb33f6eba4023](http://hosted2.ap.org/txdam/2328593e932a4d72bf7e9798dc61d072/Article_2010-10-27-EU-Poland-CIA-Prison/id-b6d8bb2d5ed244a8b80eb33f6eba4023) [citing unnamed US intelligence officials stating that Abd al-Rahim al-Nashiri was held in secret detention in Poland].

<sup>25</sup> Human Rights Committee, "Poland: Concluding Observations on Sixth Periodic Report", CCPR/C/POL/CO/6, 27 October 2010, para. 15, <http://www2.ohchr.org/english/bodies/hrc/hracs100.htm>.

<sup>26</sup> David Johnston and Mark Mazzetti, "A Window into CIA's Embrace of Secret Jails" *New York Times*, 12 August 2009, [www.nytimes.com/2009/08/13/world/13foggio.html?\\_r=2&ref=global-home](http://www.nytimes.com/2009/08/13/world/13foggio.html?_r=2&ref=global-home).

<sup>27</sup> UN Joint Study on Secret Detention, para. 117.

<sup>28</sup> The UN Joint Study on Secret Detention suggests that three Yemeni nationals, Mohammad al-Asad, Salah Ali, and Mohammed Farag Ahmad Bashmilah may have been held in a Romanian secret detention facility: para. 113. See also, Amnesty International, *USA/Yemen: Secret Detention in CIA 'Black Sites'*, AI Index: AMR 51/177/2005, 8 November 2005, <http://www.amnesty.org/en/library/asset/AMR51/177/2005/en/3bbac635-d493-11dd-8a23-d58a49c0d652/amr511772005en.html>.

<sup>29</sup> Human Rights Council, Note verbale dated 27 January 2010 from the Permanent Mission of Romania to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights", A/HRC/13/G/13, 2 March 2010.

<sup>30</sup> See data provided by the Polish Border Guard Office: [http://www.hfhr.org.pl/cia/images/stories/Data\\_flights\\_eng.pdf](http://www.hfhr.org.pl/cia/images/stories/Data_flights_eng.pdf).

<sup>31</sup> Adam Goldman and Matt Apuzzo, "CIA Moved Gitmo Suspects in 'Game to Hide Detainees from the Courts'", 6 August 2010, [http://www.msnbc.msn.com/id/38588813/ns/us\\_news-security](http://www.msnbc.msn.com/id/38588813/ns/us_news-security).

<sup>32</sup> Vanessa Gera and Adam Goldman, "Terror Suspect gets Victim Status in Polish Probe", *Associated Press*, 27 October 2010, [http://hosted2.ap.org/txdam/2328593e932a4d72bf7e9798dc61d072/Article\\_2010-10-27-EU-Poland-CIA-Prison/id-b6d8bb2d5ed244a8b80eb33f6eba4023](http://hosted2.ap.org/txdam/2328593e932a4d72bf7e9798dc61d072/Article_2010-10-27-EU-Poland-CIA-Prison/id-b6d8bb2d5ed244a8b80eb33f6eba4023).

<sup>33</sup> See Amnesty International, *Sweden: The Case of Mohammed El Zari and Ahmed Agiza: Violations of Fundamental Human Rights by Sweden Confirmed*, (AI Index: EUR 42/001/2006), 27 November 2006, <http://www.amnesty.org/en/library/info/EUR42/001/2006>; *Europe: Partners in Crime: Europe's Role in US Renditions*, (AI Index: EUR 01/008/2006), 13 June 2006, <http://www.amnesty.org/en/library/info/EUR01/008/2006>; and *Europe: State of Denial: Europe's Role in Rendition and Secret Detention*, (AI Index: EUR 01/003/2008), 24 June 2008, <http://www.amnesty.org/en/library/info/EUR01/003/2008/en>.

<sup>34</sup> Committee Against Torture, *Agiza v Sweden*, Communication No. 233/2003, CAT/C/34/D/233/2003, 20 May 2005, para. 13.4 and Human Rights Committee, *Alzery v Sweden*, Communication No. 1416/2005, CCPR/C/88/D/1416/2005, 10 November 2006, para 11.5. See also See Amnesty International, *Dangerous Deals: Europe's Reliance on 'Diplomatic Assurances' against Torture*, (AI Index: EUR 01/012/2010), pp. 27-28, <http://www.amnesty.org/en/library/asset/EUR01/012/2010/en/608f128b-9eac-4e2f-b73b-6d747a8cbaed/eur010122010en.pdf>.

<sup>35</sup> See Amnesty International, *Dangerous Deals: Europe's Reliance on 'Diplomatic Assurances' Against Torture*, pp. 27-28 [country entry on Sweden and Ahmed Agiza and Mohammed al-Zari cases].

<sup>36</sup> See Amnesty International, Letter to Rafael Rivas Posada, Chairperson UN Human Rights Committee, on Consideration of Sweden's Sixth Periodic Report to the Human Rights Committee, 2 February 2009, [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AI\\_sweden\\_HRC95.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AI_sweden_HRC95.pdf).

<sup>37</sup> See *UN Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, adopted by the UN General Assembly in Resolution 60/147 of 16 December 2005, paras. 15-24.

<sup>38</sup> Chefsjustitieombudsmannen Mats Melin, *Avvisning till Egypten - en granskning av Skerhetspolisens verkstllighet av ett regeringsbeslut om avvisning av tv egyptiska medborgare* [Expulsion to Egypt: A review of the execution by the Security Police of a government decision to expel two Egyptian citizens], Reference Number: 2169-2004, 22 March 2005. See also Memorandum from Swedish Ministry of Foreign Affairs, "Government of Sweden's Response to CAT Recommendations", 3 June 2009, <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.SWE.CO.5.Add.1.pdf>.

<sup>39</sup> Amnesty International, *United Kingdom: Time for an Inquiry into the UK's Role in Human Rights Violations Overseas Since 11 September 2001*, (AI Index: EUR45/001/2010), March 2010, <http://www.amnesty.org/en/library/asset/EUR45/001/2010/en/6b65c47e-c1a1-42e6-b382-eae6a948b42a/eur450012010en.pdf>.

---

<sup>40</sup> David Miliband Rendition Statement, House of Commons Hansard Debates for 21 February 2008, Column 547, <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080221/debtext/80221-0007.htm>.

<sup>41</sup> UN Joint Study on Secret Detention, para. 159(b)

<sup>42</sup> *Ibid.*, para. 128.

<sup>43</sup> The AIRE Centre, British Irish Rights Watch, Cageprisoners, Justice, Liberty, Medical Foundation for the care of victims of torture, Redress, Reprieve, Amnesty International, "UK: Joint letter re: Inquiry into alleged UK involvement in the mistreatment of detainees held abroad", 8 September 2010, <http://www.amnesty.org/en/library/asset/EUR45/016/2010/en/fdea4db2-9786-4604-a643-074ac5266430/eur450162010en.pdf>.