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Lithuania again refuses to investigate secret detention of Guantanamo Bay detainee

The Lithuanian Prosecutor General has rejected a complaint requesting that he investigate the alleged secret detention in Lithuania of Mustafa al-Hawsawi, a Saudi national currently detained at Guantanamo Bay, said Amnesty International today. In a letter to the nongovernmental organizations Redress and the Human Rights Monitoring Institute (HRMI), which had lodged the complaint on 13 September on al-Hawsawi's behalf, the Prosecutor General stated that they had failed to "prove" that al-Hawsawi was transported to Lithuania between 2004 and 2006, and illegally detained and tortured there.

"The Prosecutor General is confusing the role of the civil society with his role. It is his job to conduct an effective investigation, comb through the evidence, call witnesses, and perform forensic tests. The evidence of what happened in Lithuania regarding the secret facility at Antaviliai lies with the state – it was a secret site, after all -- and only the Prosecutor can access that information. It is his job to investigate credible allegations, not the NGOs' job to prove them," said Julia Hall, Amnesty International's expert on counter-terrorism and human rights.

"The rejection of al-Hawsawi's complaint is not only a violation of Lithuania's absolute obligation to investigate torture and enforced disappearance, it is a disgraceful dereliction of the Prosecutor General's duty," said Hall.

The Prosecutor General also referred in the letter to Redress and HRMI to the former pre-trial investigation, which ran from January 2010 until January 2011, and focused on rendition flights and two sites that a Lithuanian parliamentary committee claimed had been established by the CIA with the assistance of Lithuanian security and intelligence officials. That investigation was abruptly halted amidst claims by the authorities that they had not been provided with any evidence that people had been detained in Lithuania and in any event, the investigation was subject to state secrecy. The investigation was also closed because the prosecutors claimed that the statute of limitations on the charges against former intelligence officials had run its course. The authorities subsequently refused in September 2011 to investigate allegations by the nongovernmental organization Reprieve that Abu Zubaydah, another Guantanamo Bay detainee, had been held in secret CIA detention in Lithuania in 2005.

"The first 'investigation' was completely inadequate. It has recently come to light that the prosecutors spent a little over an hour examining the sites, never performed a forensic analysis, and generally failed to engage routine investigative techniques. Prosecutors aren't just 'provided' with evidence, they are supposed to actively seek and expose it. Either this is a sign of poor practice in the Prosecutor's office or there is a deeper reason why Lithuania failed to conduct an effective investigation," said Hall

The Lithuanian government is currently serving as the President of the European Council.

"The Lithuanians have had several opportunities to prove that they are committed to human rights and the rule of law and yet they consistently come down on the side of shielding themselves from accountability

for serious human rights violations. This is particularly distressing at a time when Lithuania is in the EU Presidency and should be setting an example for other member states. The authorities have now sent the dangerous message that it is all right to ignore allegations of torture and enforced disappearance and to enjoy the impunity that comes with such stonewalling,” said Hall.

Representatives from Amnesty International, Reprieve, Redress, and HRMI were in Vilnius last week for meetings with the Lithuanian government. On 26 September, the Prosecutor General's office told Amnesty International that it was considering Mustafa al-Hawsawi's complaint. The letter from the Prosecutor's office to Redress and HRMI rejecting the complaint was dated 27 September. Redress and HRMI plan to appeal the decision.