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Milan Court Indicts 26 Americans in Abduction

Sarah Delaney and Craig Whitlock

ROME _ An Italian judge gave approval Friday for what will be the first overseas criminal trial of CIA officers involved in a covert counterterrorism operation, as a court in Milan indicted more than two dozen Americans on charges of kidnapping a radical Muslim cleric four years ago.

After a judicial hearing that lasted two months, the court handed down indictments against 25 CIA operatives, a U.S. Air Force lieutenant colonel and five Italian spies who are accused of grabbing an imam, Osama Mustafa Hassan Nasr, off the street and stuffing him into a white van as he walked to noonday prayers on Feb. 17, 2003. Nasr was taken from Milan to his native Egypt, where he claims he was tortured in prison for more than three years.

The trial is scheduled to open June 8 and will challenge the legality of a long-standing CIA practice known as ``extraordinary rendition,'' in which terrorism suspects are secretly abducted from their home countries and taken elsewhere for interrogation. None of the American defendants is in custody, nor are they expected to appear in court. Prosecutors said they will be tried in absentia.

Arrest warrants against the CIA operatives were obtained in 2005. A judge approved the indictments Friday after the judicial hearing and a lengthy criminal investigation that retraced in minute detail how the CIA put together the kidnapping plot.

The CIA and the State Department declined to comment on the indictments. ``This is an issue that is before the judiciary in Italy,'' State Department spokesman Tom Casey said.

It is the second case in which criminal charges have been filed against CIA officers for illegally abducting a terrorism suspect. German prosecutors in Munich issued arrest warrants last month for 13 CIA operatives suspected of kidnapping a Lebanese German man, Khaled el-Masri, in the Balkans in December 2003 and taking him to Afghanistan. He was released five months later after the CIA realized they had grabbed the wrong man.

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In addition, the Swiss government announced this week that it had approved a criminal investigation into the use of Switzerland's airspace to fly Nasr from Italy to a U.S. military base in Germany after his abduction. He was put on another CIA-chartered plane to Cairo soon afterward.

The Milan prosecution team, headed by investigating magistrate Armando Spataro, has asked the Italian government to file a request with the U.S. Justice Department for extradition of the 26 American defendants. The request has already been refused once, by Roberto Castelli, then Italy's justice minister. But it is being reconsidered by a new Italian government that came to power last year.

The indictment publishes the names of the 25 CIA operatives, including the CIA's former Rome station chief Jeffrey Castelli and former Milan substation chief Robert Seldon Lady, who are accused of conspiring with the Italian military intelligence agency, known as Sismi.

Most of the CIA operatives named in the indictments had been using undercover aliases; prosecutors said they do not know the operatives' true identities and acknowledged that it is unlikely they will be found or brought to Italy to stand trial.

A former Sismi director, Gen. Nicolo Pollari, has also been charged.

Arianna Barbazza, a Milan lawyer who has been appointed to represent several of the U.S. defendants, said she and other defense attorneys in the case had been unable to contact their clients. She said it was highly unlikely that the United States would respond to an extradition request, even if the Italian government decided to make one.

Barbazza said the trial will probably reveal more about the Italian spies and their agency, ``because it will attempt to verify whether Sismi was aware beforehand of the kidnapping.''

Matilde Sansalone, who represents the CIA's former Rome station chief and two other Americans, said the apparent decision by the CIA operatives not to hire their own lawyers ``demonstrates a specific choice to not participate in the proceedings.''

Sansalone said she and other defense lawyers would not contest Nasr's abduction but would argue that there is insufficient evidence to find individual defendants guilty.

Nasr was released this week by an Egyptian court after spending nearly four years in prison. He is staying with his family in Alexandria, Egypt, and is considering filing a civil lawsuit against the Italian and U.S. governments, according to a Cairo lawyer, Montasser al-Zayat, who has worked on his behalf.

Attorneys involved in the case said it was unlikely Nasr would return to Milan to testify in the trial; he faces arrest in Italy on terrorism-related charges that were filed after his abduction. Sansalone said the outcome of the trial could change if Nasr does testify, however.

This week the Italian government also asked the country's constitutional court to determine whether investigators overstepped their legal authority by ordering wiretaps of the Italian spies' telephone calls. A ruling in the government's favor could be a setback to the prosecutor's case. Whitlock reported from Berlin.

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