

English Summary

Since 2005 reports regarding the CIA's use of civil registered aircrafts for extraordinary renditions of detainees to countries, where the detainees risk torture, have been the focus of extensive attention in Denmark, Greenland and on the Faroe Islands. The Danish government has consistently stated that no governmental authority possessed information on CIA overflights or stopovers in Denmark, Greenland and on the Faroe Islands. The government has furthermore underlined that Denmark on several occasions has discussed the matter with the United States of America and clearly indicated that Denmark does not accept the use of Danish, Greenlandic and Faroese airspace nor airports for flights and stopovers, which are not in accordance with international law.

On 30 January 2008 the Danish television station DR1 broadcasted a documentary titled "CIA's Danish Connection". The documentary claimed that a number of specific American private airline companies were in fact fronts for the CIA and that aircrafts from these companies had flown through Danish/Greenlandic airspace as part of CIA's detention program, and that at least one aircraft has landed at the airport in Narsarsuaq in Greenland.

In the light of the new information presented about the landing in Narsarsuaq and the alleged linkage between this aircraft and the CIA, the government decided to set up an inter-ministerial working group with the mandate to examine the new information and if necessary to consult with the relevant American authorities as part of the inquiry. The Inter-ministerial Working Group for the Compilation of the Report Concerning Secret CIA Flights in Denmark, Greenland and on the Faroe Islands (The Working Group) consisted of representatives from the Defence Command Denmark, The Ministry of Defence, the Home Rule governments of Greenland and the Faroe Islands, the Greenland Airport Authority, The Ministry of Justice, Naviair (air navigation services provider), the Civil Aviation Administration, the Prime Minister's Office, the Ministry of Transport, and the Ministry of Foreign Affairs (chairman).

The objective of the Working Group was to examine all prior information on alleged CIA flights in Denmark, Greenland and the Faroe Islands, and to examine the new information highlighted in the documentary "CIA's Danish Connection". This report is the result of the Working Group's examination of the existing information within its mandate.

The purpose of the report is not to make an inquiry into the CIA's secret detention program as such. As a consequence, the report primarily deals with the existing information on alleged secret CIA flights in Denmark, Greenland and the Faroe Islands as well as the Danish, Greenlandic and Faroese authorities' possible knowledge of such alleged flights. However, to ensure comprehensive background information on the issue in general, the report also contains other substantially relevant information including information on national and international inquiries into the CIA's secret detention program.

The report aims to answer the following three overall questions:

- Has the CIA carried out extraordinary renditions through Danish, Greenlandic or Faroese airspace?

- If so, to which extent may the United States of America have violated its international obligations in relations to Denmark?
- Did Danish, Greenlandic and Faroese authorities have knowledge of such extraordinary renditions in Danish, Greenlandic or Faroese territory?

The Working Group furthermore has considered how to address alleged extraordinary renditions occurring in the airspace of Denmark, Greenland and the Faroe Island in the future.

Chapter 1 in the report sets out the legal frame for the inquiry, including the background, purpose and content of the report. Chapter 2 provides an overview of the relevant international and Danish rules for overflights and stopovers of civilian private aircrafts, commercial aircrafts, chartered aircrafts, civilian state aircrafts and military state aircrafts. Chapter 3 provides an outline of other relevant legal regimes.

Chapter 4 outlines the historical background concerning the secret CIA flights. The description is based on an examination of all the existing information, such as the most important international and national inquiries including the inquiries by the Council of Europe and the European Parliament.

Chapter 5 summarizes the specific circumstances related to this issue in Denmark, Greenland and the Faroe Islands. This chapter examines all allegations about secret CIA aircrafts activities in Danish, Greenlandic and Faroese airspace, in particular those presented in the DR documentary, and includes an account of the knowledge and actions taken by the Danish, Greenlandic and Faroese authorities.

Chapter 6 contains the conclusions of the Working Group based on the existing material on the key questions, including to what extent the United States of America may have violated its international obligations in relations to Denmark and whether Danish authorities had any knowledge of this and thereby bears any possible responsibility and/or co-responsibility. Finally in chapter 7 the Working Group presents a number of recommendations as to the further national and international handling of the issue, including recommendations to strengthen the international regulations concerning civilian flights in the airspace of other countries.

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The Working Group has come to the following main conclusions on the basis of the existing information before it.

1. The DR documentary “CIA’s Danish Connection” presented a linkage of circumstantial evidence which demonstrated a probable connection between an aircraft, which has landed in Greenland and persons connected to the CIA. However it has not been possible for the Working Group to confirm or rule out this connection.
2. The United States of America’s reply to questions from Denmark has not made it possible authoritatively to determine whether or not CIA flights have occurred in Danish, Greenlandic or Faroese airspace, including illegal transit of detained persons.

3. Denmark's and the United States of America's interpretation of the international rules concerning overflights of other states differ.

4. Based on the information available to the Working Group it is not possible for the relevant Danish authorities to confirm or rule out that extraordinary renditions have been carried out in Danish, Greenlandic or Faroese airspace.

5. None of the available information verify or substantiate the claim that Danish, Greenlandic and Faroese authorities should have had or actually did have knowledge of alleged extrajudicial CIA activities. Consequently, there is no basis to conclude that the Danish Government bears responsibility or co-responsibility for alleged illegal activities of the CIA or other foreign authorities' activities.

6. It cannot be ruled out that the United States of America will continue to make use of secret detention programs in the future, and that these programs amongst other things may involve renditions not in conformity with international law. The relevant Danish, Greenlandic and Faroese authorities are therefore advised to be vigilant in ensuring that Danish, Greenlandic and Faroese territory is used in accordance with national and international regulations.

7. If Denmark in the future should receive a request for permission to carry out intelligence activities in Danish, Greenlandic and Faroese airspace, such a request will be assessed in the light of Denmark's obligations under international law, including human rights law. Denmark cannot give consent to renditions of detained persons in cases where there are substantial grounds for believing that the persons being transported would be in danger of being subjected to torture or other types of cruel and inhuman treatment or of other violations of the detainees' fundamental human rights.

8. The existing Danish control regimes are adequate to ensure that the relevant authorities have the necessary possibilities to intervene should the authorities receive concrete knowledge of an extraordinary rendition heading towards or being in Danish, Greenlandic or Faroese airspace.

9. It is generally not possible to enforce a flight restriction upon aircrafts suspected of assisting in extraordinary renditions, as the authorities cannot in advance identify whether specific aircrafts are being used for extraordinary renditions.

10. As it is not possible to rule out that the United States of America will continue to make use of secret detention programs in the future, and that these programs amongst other things involve extraordinary renditions, Denmark should in the view of the Working Group continue to strongly criticize such detention programs both within the relevant international forum and in the bilateral contacts with the United States of America.

On the basis of the above conclusions the Working Group recommends that the government takes the following new measures in the case:

The Working Group recommends that the government

- in clear and definite terms informs the United States of America that any kind of renditions through Danish, Greenlandic and Faroese airspace without the explicit

permission of the Danish authorities will be an unacceptable violation of Danish sovereignty;

- informs the United States of America that aircrafts operated by foreign intelligence services, including for the transport of detainees, according to the Danish interpretation operates as civilian state aircrafts and therefore, in accordance with the Chicago Convention and the relevant Danish legislation, can only enter Danish, Greenlandic and Faroese airspace on the basis of prior, explicit consent from the Danish authorities;
- strongly emphasize towards the United States of America that any Danish consent to a request for permission from US authorities for civilian state flights, will be given only if it can be determined that such consent would be consistent with Denmark's international obligations, including human rights obligations;
- informs the United States of America in clear and explicit terms that Denmark disapproves of renditions, which are not in conformity with national and international law;
- consistently at any given opportunity - multilaterally as well as bilaterally - rejects all means which violate the rights of the detainee, including secret detentions, indefinite detention, as well as the use of torture and other cruel, inhuman and degrading treatment;

The Working Group recommends, that the government and the home rule governments instruct all relevant Danish, Greenlandic and Faroese authorities to

- make use of all possible measures of control in accordance with national aviation legislation in relation to flights which are under specific suspicion of being used for extraordinary renditions;
- ensure that concrete information of possible extraordinary renditions entering or being in Danish, Greenlandic and Faroese airspace is immediately reported to the relevant Danish, Greenlandic or Faroese authorities to ensure that the situation is immediately addressed in accordance to the existing measures outlined in this report.

The Working Group recommends,

- that the government initiates that the question of the definition of civilian state aircrafts is discussed in ICAO on the basis of the previous work undertaken by the Council of Europe and in cooperation with the European aviation authorities including the EU and ECAC, and
- that the government initiates a debate with relevant partners within the Council of Europe on the question whether the existing rules on supervision with foreign intelligences, supervision of flights and immunity provide an adequate protection against violation of the human rights.