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*Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners*

7.2.2007

## WORKING DOCUMENT NO 9

on certain European countries analysed during the work of the Temporary Committee

Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners

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## **INTRODUCTION**

The aim of this working document from the rapporteur is to provide with an overview on certain European countries analysed during the work of the Temporary Committee, in relation to the matters falling under its remit.

The details on the proved facts concerning the victims of extraordinary renditions as well as the network of CIA flights through European countries have already been presented by the rapporteur in previous working documents. Consequently, in order to avoid redundancies, this document should be read in the light of the:

- working document N° 7 on extraordinary renditions;<sup>1</sup>
- working document N° 8 on the companies linked to the CIA, aircraft used by the CIA and the European countries on which CIA aircraft has made stopovers.<sup>2</sup>

In the present document, the rapporteur intends to reassemble, country by country, some of the various pieces of information gathered by the Temporary Committee during its work. This information is arranged in fact sheets on the most relevant facts, concerning most of the European countries the Temporary committee has dealt with. The information contained in these fact sheets is far from being exhaustive. The rapporteur has included only a selection of the enormous amount of information that the Temporary Committee had access to. Also, it is worthy to remind that the Temporary Committee does not have competencies to access to the same information than judiciary or other national bodies.

Attention is focused on the extraordinary renditions cases, the CIA flights, the official inquiries that have been launched by national authorities, the overall role or attitude of national bodies as well as statements and reports from other sources.

Among the main sources are the outcome of the hearings carried out by the Temporary committee and the information gathered during its seven official delegations (Former Yugoslav Republic of Macedonia, United States, Germany, United Kingdom, Romania, Poland and Portugal).

The rapporteur would like to point out that this working document should not be regarded as a condemnation of those European countries listed, but rather as an incentive for these countries that still have not done so, to launch appropriate and effective investigations at both parliamentary and judicial level on the facts dealt with by the Temporary committee. To this end, the rapporteur hopes that working documents N° 7, 8 and 9 (and previously N° 3 and 4<sup>3</sup>) may constitute a useful and objective contribution for these eventual investigations.

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<sup>1</sup> See Working Document N° 7 PE 380.593.

<sup>2</sup> See Working Document No 8, PE 380.984.

<sup>3</sup> See PE 374.339 and PE 374.340

# ITALY

## A) CASES OF EXTRAORDINARY RENDITION

### 1) ABU OMAR<sup>4</sup>

**Name, Nationality, Status:** Abu Omar, Egyptian, Refugee Status in Italy.

**Date and place of arrest:** Milan, 17 February 2003.

**Place of detention:** Egypt.

**Current Status:** detained in Egypt.

### 2) ABU AL KASSEM BRITEL<sup>5</sup>

**Name, Nationality:** Abu Al Kassem Britel, Italian.

**Date and place of arrest:** Pakistan, 10. 03. 2002.

**Places of detention:** Pakistan and Morocco.

**Current Status:** detained in Morocco.

### 3) MAHER ARAR<sup>6</sup>

**Name, Nationality:** Maher Arar, Canadian.

**Date and place of arrest:** New York, 26 September 2002.

**Place of detention:** Syria.

**Current Status:** released with no charges on 5 October 2003.

Maher Arar was transported by a Gulfstream III, Registration Number N829MG<sup>7</sup> from Bangor Maine (USA) to Roma Ciampino (Italy) on the 8th of October 2002 (landing at 20h22); from Roma Ciampino to Amman on the 8th of October 2002 (take off at 20h59).

## B) NATIONAL OFFICIAL INQUIRIES

- *Procura di Milano*: judicial inquiry on the Abu Omar's case has finished and currently a trial is ongoing in a Milan's Court: preliminary hearings have started on 9 January 2007.

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<sup>4</sup> See working document n° 7, PE 380.593.

<sup>5</sup> See working document n° 7, PE 380.593.

<sup>6</sup> See working document n° 7, PE 380.593.

<sup>7</sup> See working document n° 8, PE 380.984.

- Parliamentary Committee of Control on Secret services (Copaco): Copaco has heard several testimonies on Abu Omar's case.

## **C) ROLE OR ATTITUDE OF ITALIAN BODIES**

### **1) Abu Omar's extraordinary rendition**

General Nicolò Pollari, Head of the Italian Secret Services (SISMI) at the time of this extraordinary rendition, stated before the Temporary committee that with all his responsibility he was announcing that SISMI has neither assisted nor participated or supported the abduction of Abu Omar.<sup>8</sup>

According to the investigation carried out by Milan's Prosecutor Armando Spataro and the collected evidences:<sup>9</sup>

- An Italian *carabiniere*, Luciano Pironi, admitted his participation in the abduction of Abu Omar. He had the role to ask Abu Omar for his documents, before he was kidnapped and brought away into a van. Pironi explained the facts by specifying that the request was coming from Robert Lady, head of CIA in Milan, who assured that the operation was organised by virtue of an agreement of the CIA and the SISMI.

- Milan Prosecutors carried out interrogatories of Marco Mancini and Gustavo Pignero, both SISMI high ranking officials. Mancini admitted to have obeyed to Pignero's orders: carrying out some searches in view of the abduction of Abu Omar, as asked by Jeff Castelli, CIA Head in Italy, to the Director of the SISMI, General Nicolò Pollari. Mancini confessed to have organised a meeting in Bologna with all the Heads of SISMI Centres; in such an occasion he would illustrate the plan for the abduction, namely studying places and habits of Abu Omar in order to the abduction according to higher rank orders.

- On these grounds, on 15 June 2006, the Milan prosecutors requested the judge to issue another arrest warrant against Jeff Castelli, against other US agents, against Mancini and Pignero.

- At the meantime, investigations from Prosecutor Spataro revealed the existence of an office (an apartment in a building in centre of Rome), linked to SISMI, in charge of 'secret operations'. The director of this secret centre was a close collaborator of Mr Pollari. The main target of this office consisted in distorting the national press information, through journalists ad hoc hired by SISMI, by editing false reports with the aim to keep high the "*terrorism alert*" vis-à-vis the public opinion. Among the duties also the one of chasing and tapping the communications of the two journalists of the newspaper "*La Repubblica*" in charge of the

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<sup>8</sup> General Nicolò Pollari appeared before the Temporary Committee on 6 March 2006.

<sup>9</sup> Transcript of the hearing of Milan's Prosecutor Armando Spataro, heard by the Temporary Committee on 23 February 2006 and on 9 October 2006.

Abu Omar case: Carlo Bonini and Giuseppe D'Avanzo.<sup>10</sup>

- In mid-July 2006, Mancini broke with a piece of evidence discharging him: a secretly registered conversation with Pignero. In such a conversation Pignero confirmed to have met SISMI Director Pollari right after a meeting with Jeff Castelli, to have received by Pollari a list of names, among the others of Abu Omar, and to have been ordered to observe Abu Omar in view of his abduction. Pignero ordered then Mancini to proceed with all these activities.

- In July 2006 Nicolò Pollari was interrogated by the *Procura di Milano*. In order to clear himself, he involved the Italian Government at the time, mentioning a classified document. The Secrecy on such a document was decided by the former Government and confirmed by the current one.

- At the beginning of August 2006 Pollari has been heard by the Italian Parliamentary Committee on Secret services control (Copaco). During the hearing his defence was strictly attached to the up-mentioned classified document proving his innocence

- In October 2006, Prosecutor Spataro transmitted to the Temporary Committee a copy of a SISMI's document dated on 01.07.2005 which was seized on 05.07.2006 from an apartment used by the SISMI following a search ordered by an official mandate. From the annexes 9 and 10 of such a document it comes out that SISMI, since 15 May 2003, was informed by the CIA that Abu Omar was in Cairo interrogated by Egyptian services.<sup>11</sup>

- Enrico Micheli (Italian Government's responsible for secret services) declared before the Copaco that the Berlusconi's Government classified some documents on the Abu Omar's case and that the current Government has confirmed such secrecy.<sup>12</sup>

## 2) Abu Al Kassem Britel's extraordinary renditions

Abu Al Kassem Britel's lawyer, Francesca Longhi<sup>13</sup>, transmitted to the Temporary Committee some documents demonstrating that the Italian judicial authorities and the Italian Ministry for Home Affairs (the latter, acting on behalf of the *Direzione Centrale della Polizia di Prevenzione* cited in connection with the investigation by the *Divisione Investigazioni Generali ed Operazioni Speciali*) cooperated constantly with foreign secret services and were well aware of all Britel's movements and whatever unlawful treatment he received, from the time of his initial arrest in Pakistan.

On 10 May 2005, Francesca Longhi reported his client's situation again before the Farnesina, the Italian Embassy, the Moroccan Justice Department and other authorities, which should all be entitled to intercede. She only received one answer from the *Farnesina* (Italian Ministry for Foreign Affairs), where the sole formal aid, but not the substantive one, was granted.<sup>14</sup>

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<sup>10</sup> Carlo Bonini was heard by the Temporary Committee on 4 September 2006.

<sup>11</sup> Atti della *Procura della Repubblica presso il Tribunale Ordinario di Milano*, n° 3458/06 Ris.

<sup>12</sup> *La Repubblica*, 25 October 2006

<sup>13</sup> Francesca Longhi was heard by the Temporary Committee on 14 September 2006.

<sup>14</sup> Written statement transmitted by Francesca Longhi, previously to her hearing before the Temporary Committee.

### 3) Maher Arar's extraordinary rendition

*"Eventually I could tell where the plane was going, because they did not blindfold me and there was a small overhead screen showing the trajectory of the plane on a map, which indicated that the plane's destination was Rome in Italy.*

*When we landed, and while the plane was on the tarmac in Rome, I noticed there was a tall man wearing a civilian suit standing by the wing of the plane. This man stayed in this position for the whole time the plane was on the ground. This man, who was never on board the aircraft, gave me the impression he was guarding the plane. To the best of my knowledge, no person boarded the aircraft. I was never seen by or spoken to by any Italian official. I remained in the aircraft, chained and shackled, while in Rome. I do not recall whether any of the crew or the pilots left the aircraft during our stop in Rome.*

*Well, I trusted the screen. That was my source of information. When I stopped in Rome, it was dark. The only thing that I could see outside on the tarmac was a tall person in a civilian suit standing by the wing. I could not see anything else because it was dark. At the same time I was extremely disorientated and preoccupied with what would happen when I reached Syria. So really my source of information is the screen that I saw. I have no reason to believe that they were misleading me, because since my release my story about the flight trajectory has been corroborated by other investigative reporters, including Stephen Grey, who is with us here today. If I remember correctly, the plane refuelled in Rome. I am not sure about it but I think I could hear the noise of the refuelling. I could not see but I could hear."<sup>15</sup>*

### **D) FLIGHTS**<sup>16</sup>

**Total Flights Number since 2001: 46**

**Principal airports:** Pisa; Rome; Sigonella; Naples; Bari; Florence; Venice; Palermo; Milan; Brindisi; Cagliari; Catania; Olbia; Genova; Montichiari.

**Suspicious destinations and origins:** Amman (Jordan); Cairo, Luxor (Egypt); Rabat (Morocco); Misurata (Libya).

**Stopovers of planes transited through Italy and used in other occasion for extraordinary renditions:**

N379 used for the extraordinary renditions of Al-Rawi and El-Banna; Benyam Mohammed; Kassim Britel and for the expulsion of Agiza and El-Zari: 3 stopovers in Italy

N313P used for the extraordinary renditions of El-Masri and Benyamin Mohamed: 1 stopover in Italy.

N85VM used for the extraordinary rendition of Abu Omar: 7 stopovers in Italy

N829MG used for the extraordinary rendition of Maher Arar: 6 stopovers in Italy

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<sup>15</sup> Transcript of the hearing of Maher Arar, heard by the Temporary Committee on 23 March 2006.

<sup>16</sup> See working document n° 8, PE 380.984.

## **E) STATEMENTS AND REPORTS FROM OTHER SOURCES**

**Carlo Bonini**, journalist of the Newspaper "*La Repubblica*" who wrote a number of articles related to Italian Intelligence stated that:

*"I was wondering how SISMI could know where we were for working missions, in which hotel of Milan we were and why and with whom we were speaking at the phone. The Milan Prosecutors started to believe that we were object of an illegal activity of abusive interception, searches and pursuit. SISMI's office in Via Nazionale was not only a centre for data gathering information but rather of manipulation of the orientation of the public opinion through the divulgation of false piece of information."*<sup>17</sup>

**A Marshal of the "Raggruppamento Operativo Speciale dei Carabinieri" (ROS)**, stated that: *"Four of us went to Guantánamo, to interrogate some detainees in the camp, in November 2002, following an order coming from the General Commander Giampaolo Ganzer. We did not report to the Judiciary authority because none of the people interrogated answered to our questions."*<sup>18</sup>

**Luciano Pironi**, the Italian *carabiniere* who participated to the abduction of Abu Omar said that Robert Lady (Head of the CIA in Milan) promised that if he carried out the operation, this could help him get promoted to the Italian secret services, something Catalano, Pironi's lawyer, said never happened. *"Lady said that there was an agreement (to recruit Abu Omar) at a very high level of the governments, American and Italian"* Catalano said.<sup>19</sup>

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<sup>17</sup> Transcript of the hearing of Carlo Bonini, heard by the Temporary Committee on 4 September 2006.

<sup>18</sup> *L'Unità*, 18 October 2006

<sup>19</sup> Reuters, 15 November 2006

# **THE UNITED KINGDOM**

## **A) CASES OF EXTRAORDINARY RENDITION**

### **1) BISHER AL-RAWI, JAMIL EL-BANNA<sup>20</sup>**

**Names, Nationality, Status:** Bisher Al Rawi, Iraqi, UK's Residence; Jamil El-Banna, Jordanian, UK Residence.

**Date and place of arrest:** First arrest: under UK Terrorism Act at Gatwick airport, on 1st November 2002, then released on 4 November 2002. Second arrest: Gambia, on 8 November 2002.

**Places of detention:** Gambia, Afghanistan, Guantánamo.

**Current Status:** currently detained in Guantánamo

### **2) BENYAMIN MOHAMMED EL HABASHI<sup>21</sup>**

**Name, Nationality, Residence:** Benyamin Mohammed El Habashi, Ethiopian, UK residence.

**Date and place of arrest:** Pakistan, 10 April 2002.

**Places of detention** Afghanistan, Guantánamo.

**Current Status:** currently detained in Guantánamo

### **3) MARTIN MUBANGA<sup>22</sup>**

**Name, Nationalities:**

Martin Mubanga, British and Zambian

**Date and place of arrest:** Zambia, 10 April 2002

**Places of detention:** Afghanistan, Guantánamo

**Current Status:** Released without charges on 25 January 2005

## **B) NATIONAL OFFICIAL INQUIRIES**

- All-Party Parliamentary Group on extraordinary rendition (House of Commons and House of Lords). Starting date: 5th December 2005.

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<sup>20</sup> See working document n° 7, PE 380.593.

<sup>21</sup> See working document n° 7, PE 380.593.

<sup>22</sup> See working document n° 7, PE 380.593.



## **C) ROLE OR ATTITUDE OF UK BODIES**

### **1) Bisher Al-Rawi and Jamil El-Banna's extraordinary renditions**

Bisher Al-Rawi and Jamil El-Banna's requests for British consular assistance were declined and they were told independently that the British had initiated their arrest.<sup>23</sup>

At his tribunal in Guantánamo, Bisher requested that 3 MI5 agents appear before the tribunal to support his claims, the tribunal president “*determined that these three witnesses were relevant*” and instructed the military prosecutor to make inquiries and determine whether the British government would make the witnesses available. The British government declined this request. In his conclusion the “Tribunal President” stated: “*The British government didn't say they didn't have a relationship with you, they just would not confirm or deny it. That means I only have your word what happened.*”<sup>24</sup>

The British Authorities provided the following information:<sup>25</sup>

a) That 3 individuals travelling to Gambia to invest in a peanut oil factory had been detained at Gatwick under the Terrorism Act of 2000.

b) That both Bisher and Jamil were members of Abu Qatada's “*close circle of associates*”; that Jamil was assessed to be Abu Qatada's financier; that Abu Qatada has had extensive links to a wide range of terrorist groups including the Al-Qaida network; saying that “*we would be interested to learn if [the Gambians] are able to cover these individuals whilst they are in Gambia*”

c) Information on the day that the men flew to Gambia on 8 November 2002: giving the exact spellings of the men's names at check-in, their flight details and times of arrival, saying “*this communication should be read in light of earlier communications.*”

Jamil El-Banna said he had continually been told the same thing during his subsequent detention at Guantánamo: that the British Government, the MI5, called the CIA and told them that he and his brother were in The Gambia. That Britain sold them out to the CIA.<sup>26</sup>

Wahab Al-Rawi (Jamil's brother) stated that one time the US agents interviewed him they told him that the British authorities knew that he was being arrested, that it was them ho have

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<sup>23</sup> Statements and evidences provided by Clive Stafford Smith, Al-Rawi and El-Banna's US Lawyer, before the Temporary Committee delegation to the UK on 4 -6 October 2006.

<sup>24</sup> Statements and evidences provided by Clive Stafford Smith, Al-Rawi and El-Banna's US Lawyer, before the Temporary Committee delegation to the UK on 4 -6 October 2006.

<sup>25</sup> Statements and evidences provided by Clive Stafford Smith, Al-Rawi and El-Banna's US Lawyer, before the Temporary Committee delegation to the UK on 4 -6 October 2006.

<sup>26</sup> Report of Dick Marty, Parliamentary Assembly of the Council of Europe "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states" (12 June 2006), footnote 153: See Jamil El-Banna, statement made to his lawyer during an interview at Guantánamo (contained in unclassified attorney notes), submitted to the High Court of Justice in Case No. 2005/10470/05 through the "Witness Statement of Clive Stafford Smith"

asked US to arrest him<sup>27</sup>

Wahab Al-Rawi stated at the APPG hearing that the CIA and Gambian officials repeatedly alluded to the fact that British told them to arrest him.<sup>28</sup>

The UK Foreign Affairs Select Committee asked Ian McCartney, Minister for Trade and Human Rights, to comment on British involvement in the rendition of Bisher Al-Rawi and Jamil El-Banna. The response was *"In the cases of el-Banna and el-Rawi, we did not request the detention, and we played no role in their transfer to Afghanistan and Guantánamo."*<sup>29</sup>

## **2) Binyam Mohammed El Habashi's extraordinary rendition**

On 13 December 2005, Foreign Secretary Jack Straw gave oral evidence before the Foreign Affairs Committee of the House of Commons regarding British knowledge or involvement in Binyam's rendition and torture.<sup>30</sup>

In the course of interrogations, Binyam was presented with information that could only have originated in the UK, and the nature of which implies that it was being collected during an active investigation in the UK. Binyam was also shown photographs of and questioned about a selection of individuals who lived in the UK: the Moroccans told him that this was the "British file".<sup>31</sup>

Former Foreign Secretary Jack Straw admitted that British officials met with Binyam once in Pakistan, but played no part in his seizure or his transfer from Pakistan.<sup>32</sup>

## **3) Martin Mubanga's extraordinary rendition**

Foreign Secretary Jack Straw insisted that since Martin Mubanga was travelling on his Zambian passport, the UK had no legal right to intervene. And, he maintained, he had intelligence information on Mubanga that could not be disclosed because it would jeopardise the safety of the source/informant.<sup>33</sup>

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<sup>27</sup> BBC Panorama Transcript, 3 March 2004

<sup>28</sup> Report of Dick Marty, Parliamentary Assembly of the Council of Europe "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states" (12 June 2006), Paragraph 171

<sup>29</sup> Report by the UK Foreign Affairs Select Committee "Foreign Policy Aspects of the War Against Terrorism", published on 2 July 2006.

<sup>30</sup> "Mr Al Habashi was interviewed once by a member of the UK Security Service while he was in detention in Karachi in 2002" Jack Straw before the Foreign Affairs Committee on 13 December 2005.

<sup>31</sup> Statements and evidences provided by Clive Stafford Smith, Al-Rawi and El-Banna's US Lawyer, before the Temporary Committee delegation to the UK on 4 -6 October 2006.

<sup>32</sup> Report of Foreign Affairs Select Committee, February 2006 quoting Jack Straw before the Foreign Affairs Committee on 13 December 2005: "Mr Al Habashi was interviewed once by a member of the UK Security Service while he was in detention in Karachi in 2002. The Security Service had no role in his capture or in his transfer from Pakistan".

<sup>33</sup> The Independent, 8 August 2004

#### 4) UK Government

Geoff Hoon, Minister for Europe- Foreign and Commonwealth Office) stated that:<sup>34</sup>

- The only cases of renditions happened in 1998. 2 out of 4 requests for renditions from the US authorities were granted by the UK authorities. He admitted that laws on extraditions have been evolving during last years, and stressed that the UK had supported mutual recognition of national extradition requests, so that suspects would be tried quicker.

- According to him, it is not clear what "CIA flights" mean, nor what are ghost detainees, these are terms invented by the Media and nothing more. In any case the UK would not facilitate any flight carrying people who would be facing human rights' violations. Civil non commercial flights are not covered by the Chicago Convention's requirement to provide passengers' lists.

- In relation to the press release on the EU General Affairs Council on 15 September, Minister Hoon stated that detainees should be treated in respect of the Geneva Conventions. The UK Government has never used or condoned torture.

- Concerning the statements made by Craig Murray<sup>35</sup>, he stated that Murray had resigned, so his declarations were made as a private person, which meant that the minister felt he did not have to respond to them.

Also, a Foreign and Commonwealth Office spokesman said that:

*"The men detained in Gambia are not British nationals so we're not able to provide any consular or diplomatic protection for them."*<sup>36</sup>

#### 5) UK Parliament

Andrew Tyrie, Tory MP, Chairman of the All-Party Parliamentary Group on extraordinary rendition, said that:

*"By apparently assisting the US in the practice of extraordinary rendition, the UK and the west are losing the moral high ground so valuable to foreign policy since the end of the cold war."*<sup>37</sup>

All-Party Parliamentary Group on extraordinary rendition:

*"We want to see a sea change in the way that the Government approaches this issue. We want full disclosure from the government about the information it possesses about these flights:*

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<sup>34</sup> Statements of Geoff Hoon before the Temporary Committee delegation to the UK on 4-6 October 2006.

<sup>35</sup> Statements and evidence provided by Craig Murray to the Temporary Committee on 20 April 2006.

<sup>36</sup> The Guardian, 11 July 2003

<sup>37</sup> The Guardian, 5 December 2005

*What questions or demands has it made to the US? Has the government received information which has been extracted under torture? What steps is it going to take to ensure that UK airports and bases are not used to assist in the practice of extraordinary rendition".<sup>38</sup>*

## **D) FLIGHTS<sup>39</sup>**

**Total Flights Number since 2001:** 174

**Principal airports:** Glasgow, Northolt, Prestwick, London, Luton, Brize Norton, Edinburgh.

**Suspicious destinations and origins:** Tripoli, Libya; Islamabad, Pakistan; Amman, Jordan; Doha, Qatar; Marrakech, Morocco.

**Stopovers of planes transited through UK and used in other occasion for extraordinary renditions:**

N379 used for the extraordinary renditions of Al-Rawi and El-Banna; Benyam Mohammed; Kassim Britel and the explosion of Agiza and El-Zari: 34 stopovers in UK

N313P used for the extraordinary renditions of El-Masri and Benyamin Mohamed: 19 stopovers in UK.

N85VM used for the rendition of Abu Omar: 11 stopovers in UK

N829MG used for the rendition of Maher Arar: 3 stopovers in UK

## **E) STATEMENTS AND REPORTS FROM OTHER SOURCES**

### **1) Victims and Lawyers:**

**Binyam Mohamed** said that:

*"I never thought the British Government would allow me to be slashed with a razor blade for a full year. I never thought they would let me be hauled to the Dark Prison in Kabul for further abuse before my trip to Guantánamo".<sup>40</sup>*

**Wahab Al-Rawi** (Bisher's brother) stated that:

*"Every time the American tried to interview me in the first couple of days I refused to say anything, I refused to cooperate with him. I wanted to see the High Commission; I wanted a lawyer, and every time he would say: "No". At one time he said: "Well the British authorities know that you are being arrested. It is them who have asked us to arrest you".<sup>41</sup>*

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<sup>38</sup> APPG Press release; APPG Publications: [www.extraordinaryrendition.org](http://www.extraordinaryrendition.org)

<sup>39</sup> See working document n° 8, PE 380.984.

<sup>40</sup> Amnesty International Report "Who are the Guantánamo detainees?"  
<http://web.amnesty.org/library/index/engamr511522005>

<sup>41</sup> BBC Panorama Transcript, 03.03.2004

He also stated at the APPG on extraordinary rendition hearing that the CIA and Gambian officials repeatedly alluded to the fact *"it is the British who have told us to arrest you"*.<sup>42</sup>

## 2) Other sources:

### New York University Centre for Human Rights:

*"The British government is guilty of breaking international law if it allowed secret CIA "rendition" flights of terror suspects to land at UK airports. Merely giving permission for the flights to refuel while en route to the Middle East to collect a prisoner would constitute a breach of the law, according to the opinion commissioned by an all-party group of MPs, which meets in parliament for the first time today."*<sup>43</sup>

**Report of Dick Marty**, Parliamentary Assembly of the Council of Europe "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states" (12 June 2006):

*"In this sense, it must be stated that to date, the following member States could be held responsible, at varying degrees, which are not always settled definitively, for violations of the rights of specific persons identified below (...) ...The United Kingdom in the cases of Bisher Al-Rawi, Jamil El-Banna and Binyam Mohamed."*

**Craig Murray**, former UK Ambassador in Uzbekistan said that:<sup>44</sup>

*"The relationship of the UK with the CIA in sharing intelligence coming from torture was based on a policy decision between USA and UK according to which they would obtain intelligence which was got under torture by other countries. I say that with regret and I say it with certainty".*

*"I can attest the willingness of the CIA and the UK to obtain intelligence which was got under torture by the Uzbek security service and other security services around the World".*

*"The information that crossed my desk would be precisely the format and the same information which crossed the desk of J Straw and other Ministers of USA. In this information there is no mention of the names of the detainees. The reasons for that are to ensure nobody would ever say 'this man was tortured' or 'this came from torture'."*

*"Sir Michael Wood replied to me that for us to obtain intelligence which was got under torture was not contrary to the UN convention against torture, provided we neither did the torture ourselves nor instigate the torture. The Uzbek were just torturing people that they were asking them to and providing us with the intelligence that wasn't against UN convention against torture from "our point of view".*

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<sup>42</sup> Report of Dick Marty, Parliamentary Assembly of the Council of Europe "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states" (12 June 2006), Paragraph 171.

<sup>43</sup> APPG Publications: [www.extraordinaryrendition.org](http://www.extraordinaryrendition.org)

<sup>44</sup> Statements and evidence provided by Craig Murray to the Temporary Committee on 20 April 2006

# GERMANY

## A) CASES OF EXTRAORDINARY RENDITION

### 1) KHALED EL MASRI <sup>45</sup>

**Name, Nationality, Residence:**

Khaled El Masri, German citizen

**Date and place of arrest:**

31.12.2003 at the border crossing Tabanovci between Serbia and Fyr of Macedonia

**Place of detention:** Fyr of Macedonia, Afghanistan.

**Current Status:** released at the end of May 2004

### 2) MURAT KURNAZ <sup>46</sup>

**Name, Nationality, Residence:**

Murat Kurnaz, Turkish citizen, German resident

**Date, place of arrest:** November 2001 in Pakistan

**Place of detention:** Pakistan, Afghanistan, Guantanamo

**Current Status:** released on 26 August 2006

### 3) MOHAMMED ZAMMAR <sup>47</sup>

**Name, Nationality, Residence:**

Mohammed Zammar, German and Syrian citizen

**Date and place of arrest:** 8.12.2001 at Casablanca airport, Morocco

**Place of detention:** Morocco, Syria

**Current Status:** still detained

## B) OTHER RELEVANT FACTS

### 1) ABU OMAR <sup>48</sup>

**Name, Nationality, Residence:**

Abu Omar, Egyptian citizen

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<sup>45</sup> See working document n°7, PE 380.593

<sup>46</sup> See working document n°7, PE 380.593

<sup>47</sup> See working document n°7, PE 380.593

<sup>48</sup> See working document n°7, PE 380.593.

**Date and place of arrest:** 17.02.2003, Milan, Italy; transfer from Aviano, Italy, via Ramstein, Germany, to Egypt  
**Place of detention:** Egypt  
**Current Status:** still detained

According to the investigations carried out by Milan Public Prosecutor Armando Spataro and to other sources, Abu Omar was taken on 17 February 2003 from Aviano Airport (Italy) to Ramstein (Germany) and immediately afterwards from Ramstein to Cairo (Egypt).

### **C) NATIONAL OFFICIAL INQUIRIES**

- **1st Bundestag Inquiry Committee** "on events relating to the Iraq war and combating international terrorism", was set up on 24 April 2006. The inquiry committee does not expect to complete its work before the end of 2007 at the earliest.

During the **Temporary Committee delegation to Berlin on 19 September 2006** the Bundestag inquiry committee members were not in a position to already draw any decisive conclusions on the truthfulness of the allegations on which they investigate, nor as a consequence on the responsibilities involved. They have decided to discuss one by one the different elements of their mandate and started by investigating the El-Masri case, before looking at the Kurnaz and Zammar cases, the CIA flights over Germany and the German intelligence services' activities in Irak (order to be confirmed).<sup>49</sup>

- **Spanish judicial authorities have handed over to German authorities a list of 20 names of alleged CIA agents** who could have conducted secret operations in the El Masri case from Palma de Mallorca.

- **Munich Prosecutors** gave their attention to the **El-Masri case** in terms of criminal proceedings against unknown persons for abduction. They have just issued 13 Arrest Warrants against CIA agents.

- **The state prosecutors in Potsdam** have launched an investigation against unknown perpetrators in order to establish whether **Murat Kurnaz** was abused by German soldiers in Afghanistan before being sent to the U.S. Guantanamo Bay prison camp. Simultaneously the **defence ministry has set up an internal working group** to clarify the allegations. This commission has stated its interest in personally questioning Kurnaz about the allegations.

The Bundestag's Defence Committee has also decided to look into this case meeting for that purpose as an inquiry Committee.

In the case of **Abu Omar** (see the table on Italy) normal cooperation between the **Zweibrücken public prosecutor's office** and the Milan public prosecutor's office took place as far as the use of the Ramstein US base is concerned.

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<sup>49</sup> Report on the Temporary Committee Delegation to Berlin (Federal Republic of Germany).



## **D) ROLE OR ATTITUDE OF GERMAN BODIES**

### **1) Khaled El Masri's extraordinary rendition**

- **German Foreign Ministry** assured that it had not received knowledge before 9 June 2004 of El Masri case, *"or its partial aspects."*
- **Foreign Minister Frank-Walter Steinmeier:** *"In all clarity: Federal Government, Federal Intelligence Service (BND), Federal Criminal Police Office (BKA) and Federal Office for the Protection of the Constitution (BfV) gave no help to the kidnapping of the German citizen El Masri. Let me just as clearly repeat: the former Minister of the Interior and the former Minister of Foreign Affairs just like me got to know about the kidnapping only after El Masri had been released."*<sup>50</sup>
- **Munich Prosecutor Martin Hofmann** told the Temporary Committee on 10 July 2006 that he had found no evidence to refute the claim El-Masri was abducted. "We have not obtained any material indicating El Masri's witness statements are incorrect," Hofmann said.<sup>51</sup> "The agents who interrogated El-Masri seemed to be very well informed of him, they really knew his lifestyle. One can only have suspicions about the possible sources of this detailed information... but it is not something [about which] I have any information to offer".<sup>52</sup>
- **Mario Prikker, an officer with the BKA federal police,** said at a public session of the Bundestag inquiry committee on 21 September 2006 that the German police were shadowing El Masri and exchanging information on him with US authorities well before he was seized by the CIA.<sup>53</sup>

### **2) Murat Kurnaz's extraordinary rendition**

**Interior Minister Wolfgang Schaeuble** told Stuttgarter Zeitung on 15 December 2005: *"If we were to say that under no circumstances would we use information where we cannot be certain it was obtained under completely constitutional conditions that would be totally irresponsible. We must use such information."* Schaeuble justified the questioning of Mohammed Zammar by the BKA officials in a Syrian prison in which torture is also conducted under certain circumstances. *"A couple of months of detention have already motivated quite a few people to talk,"* the minister said, *"and German law enforcement is working with that."*<sup>54</sup>

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<sup>50</sup> Speech by German Foreign Minister Frank-Walter Steinmeier in Bundestag, 14.12.2005, available at: <http://www.auswaertiges-amt.de/diplo/de/Infoservice/Presse/Reden/Archiv/2005/051214-SteinmeierImBundestag.html>

<sup>51</sup> Transcription of the Temporary Committee meeting held on 10 July 2006.

<sup>52</sup> Idem.

<sup>53</sup> Reuters News, 21.09.2006.

<sup>54</sup> Stuttgarter Zeitung, 15.12.2005



Murat Kurnaz's **lawyer Bernhard Döcke** gave testimony to the Temporary Committee on 14 September and said that the United States offered Berlin already in 2002 to release Kurnaz from Guantanamo, since the US could not prove any participation in terror plans. "The German reaction was: 'We don't want him!'" said Döcke.<sup>55</sup> This has been, however, vehemently denied by the German foreign minister **Frank-Walter Steinmeier**. One issue is for example whether there has been a formal letter from the US offering Kurnaz to be returned. Steinmeier denies it, whereas other sources say there is such a letter.<sup>56</sup>

Confidential institutional information in possession of the rapporteur tends to confirm the testimony of Mr Kurnaz's lawyer in this respect.

In an interview published on 5 October 2006 in the Stern weekly, **Murat Kurnaz** also claimed that two Germans came to interrogate him and slammed his head into the ground at an open-air camp near Kandahar.

### 3) Mohammed Zammar's extraordinary rendition

According to the information obtained from the lawyer, Mrs. Gül Pinar, Syrian and German secret services discussed the possibility of ending the procedures against Syrian nationals in Germany, in exchange of the possibility for the German investigators to interrogate Zammar in a Syrian prison.<sup>57</sup> The testimony by Gül Pinar, Zammar's lawyer, can be corroborated by a confidential document from another authorised source.<sup>58</sup>

**German Defence Ministry spokesman Thomas Raabe** said 61 soldiers who were stationed near the southern Afghan city of Kandahar in early 2002 had answered questions about the allegation made by Murat Kurnaz. Raabe said German troops had occasionally helped short-manned U.S. military police to guard prisoners in Kandahar. "*The most important result according to our investigations so far is that there is still no evidence that Mr. Kurnaz was abused by German soldiers,*" Raabe said. He said many of the German soldiers questioned were aware of the German-speaker among the detainees. However, he said there was no evidence they had taken part in or acted as translators during interrogations of Kurnaz.<sup>59</sup>

## E) FLIGHTS

**Total Flights Number since 2001:** 336<sup>60</sup>

**Principal airports:** Frankfurt; Brunswick; Ramstein; Köln-Bonn; Nürnberg; Hahn; Bremen;

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<sup>55</sup> Transcription of the Temporary Committee meeting held on 14 September 2006.

<sup>56</sup> Die Südostschweiz, 28 January 2007

<sup>57</sup> Transcript of the TDIP meeting of 14 September 2006

<sup>58</sup> The document is on file with the Chairman and the rapporteur of the TDIP Committee .

<sup>59</sup> Associated Press, 18 October 2006

<sup>60</sup> See working document n°7, PE 380.593

Munich; Berlin; Karlsruhe; Hannover; Hamburg; Leipzig; Augsburg; Stuttgart.

**Suspicious destinations and origins:** Kabul, Afghanistan; Tashkent, Uzbekistan; Islamabad, Pakistan; Ashkhabad, Turkmenistan; Amman, Jordan; Cairo, Egypt; Rabat, Morocco; Baku, Azerbaijan; Baghdad, Iraq; Misurata, Libya; Guantanamo, Cuba.

**Stopovers of planes transited through Germany and used in other occasion for extraordinary renditions:**

N379 used for the extraordinary renditions of Al Rawi and El Banna; Benyam Mohammed; Kassim Britel and the expulsion of Agiza and El-Zari: 37 stopovers in Germany

N313P used for the extraordinary renditions of El Masri and Benyamin Mohamed: 47 stopovers in Germany.

N85VM used for the rendition of Abu Omar: 12 stopovers in Germany

N829MG used for the rendition of Maher Arar: 5 stopovers in UK

## **F) OTHER ALLEGATIONS**

The Temporary Committee has noted the allegations concerning the temporary detention and mistreatment of suspected terrorists at the US military prison in Mannheim-Blumenau (Coleman Barracks), and welcomed the investigations opened by the Federal Public Prosecutor's Office and hopes that the German Bundestag and/or the competent committee of inquiry will investigate this case more closely.

## **G) STATEMENTS AND REPORTS FROM OTHER SOURCES**

**Wolf -Dieter Mengel, former employee of a telephone company in FYR of Macedonia responsible for security, contradicted Mr Steinmeier's stance** in his testimony to the Bundestag Inquiry Committee on 22 June 2006. He told he had heard from a colleague in early 2004 that a German citizen had been arrested in FYR of Macedonia. Mengel said he had heard no details of who was arrested, where or why, but had passed on the information to the German Embassy in Skopje, where an unidentified person answering the phone told him the information was already known.<sup>61</sup> The telephone call with the German Embassy in Skopje must have taken place "*shortly after the event*" (in early 2004).<sup>62</sup>

Munich prosecutors have questioned **the former interior minister Otto Schilly** over the kidnapping of El-Masri. Prosecutor Martin Hoffman told Die Welt (21.10.2006): "*We have made progress,*" but gave no details. From judicial circles it was reported that the questioning did not provide any new indications that Schilly or the federal government had been informed

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<sup>61</sup> Transcription of the Bundestag inquiry committee meeting held on 22 June 2006 (Stenographisches protokoll-endgültige Fassung - (Auszug: offener Teil) der 6. Sitzung des 1. Untersuchungsausschusses der 16. Wahlperiode am Donnerstag, den 22. Juni 2006, 9.30 Uhr).

<sup>62</sup> Transcription of the Bundestag inquiry committee meeting held on 22 June 2006 (Stenographisches protokoll-endgültige Fassung - (Auszug: offener Teil) der 6. Sitzung des 1. Untersuchungsausschusses der 16. Wahlperiode am Donnerstag, den 22. Juni 2006, 9.30 Uhr).

about the kidnapping at an earlier stage than known so far.<sup>63</sup>

**Ferdinand Muggenthaler and Susanne Baumann (Amnesty International Germany)** told the Temporary Committee delegation in Berlin on 19 September 2006 that the Government lacks transparency on the different cases (Kurnaz, Zammar, El Masri). Very often the government is hiding behind secrecy and only answers to the parliamentary oversight committee of intelligence services, whose works are also secret and which has no sufficient means to fulfil its remit.<sup>64</sup>

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<sup>63</sup> Spiegel Online, 12 October 2006

<sup>64</sup> Report on the Temporary Committee Delegation to Berlin (Federal Republic of Germany)

## **SWEDEN**

### **A) CASE OF EXPULSION**

#### **1) AHMED AGIZA and MOHAMMED EL-ZARI**

**Names, Nationality, Residence:**

Ahmed Agiza and Mohammed El-Zari (El Zari), Egyptian citizens, asylum seekers in Sweden

**Date and place of arrest:**

18.12.2001 at Bromma airport, Stockholm, Sweden

**Place of detention:** Egypt

**Current Status:** El-Zari released from prison in October 2003, but is not allowed to leave his village without permission from authorities. After more than two years of detention since his forced return to Egypt, Agiza was sentenced to 25 years imprisonment by a military court.

### **B) NATIONAL OFFICIAL INQUIRIES**

- *Swedish chief parliamentary ombudsman*, Mats Melin investigated the behaviour of the Swedish secret police (Säpo). His report concluded that the Swedish security service and airport police “displayed a remarkable subordination to the American officials” and “lost control of the situation,” resulting in the ill-treatment of Agiza and El-Zari, including physical abuse and other humiliation, at the airport immediately before they were transported to Cairo.

<sup>65</sup>

- Swedish chief parliamentary ombudsman, Mats Melin told the Temporary Committee on 4 May 2006 that the US agents present at Bromma airport cut off El-Zari's and Agiza's clothing with scissors, piece by piece, draped them in hoods and chained them "hand and foot". The detainees were transported to Cairo bound to a pair of mattresses. "I have no clue why this was necessary", added Mr. Melin, referring to such procedures as “degrading treatment”. <sup>66</sup>

- Mats Melin argued that “the Americans were doing the job of the Swedish authorities on Swedish territory”. Although the arrest and the expulsion had a legal basis, he said, "there was no legal basis for the behaviour of the Swedish authorities”, who allowed the Americans to take over their own responsibilities. <sup>67</sup>

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<sup>65</sup> Mats Melin, Parliamentary Ombudsman (Sweden), A review of the enforcement by the Security Police of a Government decision to expel two Egyptian citizens, Adjudication No. 2169-2004, 22 March 2005.

<sup>66</sup> Transcript of the hearing of Mats Melin, heard by the Temporary Committee meeting on 4 May 2006.

<sup>67</sup> Idem.

- Prompted by the rapporteur to say whether any disciplinary action was taken against the policemen who took part in this physical delivery of the two Egyptians, Melin answered: "I decided not to take any measures against these policemen. Their main crime was that they were left to their own fate by their superiors".<sup>68</sup>

- An investigation by the Parliament's standing Committee on the Constitution was initiated in May 2004. The results of the parliamentary investigation are found in a report of 21 September 2005. The committee concluded that the guarantees from Egyptian Government should not have been accepted, leading to the expulsion of the two men.

- The judicial authorities examined the Agiza and El-Zari case and concluded that there were no grounds for a criminal prosecution against either the Swedish agents involved, or the pilot of the aircraft, or other American agents who were part of the team responsible for transporting Agiza and El-Zari to Egypt.

### **C) ROLE OR ATTITUDE OF SWEDISH BODIES**

- Swedish Foreign Minister Carl Bildt wrote a letter to the Temporary Committee on 13 October 2006 stating "that the decision to expel Agiza and El-Zari to Egypt was made by the Government in accordance with the procedure laid down in the Aliens Act of 1989, then in force for so called "security cases". Hence, this deportation is not comparable with so-called renditions referred to in reports issued inter alia by Mr. Terry Davis, Mr. Dick Marty and Amnesty International. On the contrary, it was in full conformity with Swedish law, although the manner in which the deportation order was executed may be open to criticism."

- In its reply to the UN Human Rights Committee, the *Swedish government* said that in its opinion, the "assurances" given by Egypt were being and would be fully respected, and that the government had received no information such as to cast doubt on that conclusion.<sup>69</sup>

### **D) FLIGHTS<sup>70</sup>**

**Total Flights Number since 2001:** 5 different CIA aircraft

**Principal airports:** Stockholm (4 stopovers); Orebro (1); Malmoe (1).

**Suspicious destinations and origins:** Egypt, Cairo: 1 flight

N379: Cairo- Stockholm-Cairo, 18.12.2001

**Stopovers of planes transited through Italy and used in other occasion for extraordinary renditions:**

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<sup>68</sup> Idem.

<sup>69</sup> Comments by the Government of Sweden on the Concluding Observations of the Human Rights Committee (CCPR/CO/74/SWE) of 14 May 2003

<sup>70</sup> See working document n° 8, PE 380.984.

**N379** used for the extraordinary renditions of Al-Rawi and El-Banna; Benyam Mohammed; Kassim Britel and the expulsion of Agiza and El-Zari: 1 stopover in Sweden.

**N829MG**: 1 stopover in Sweden.

Aircraft used for the extraordinary rendition of Maher Arar (Rome-Amman, 08.10.2002).

**N50BH**: 2 stopovers in Sweden

**N168BF**: 1 stopover in Sweden

**N8213G**: 1 stopover in Sweden

## **E) STATEMENTS AND REPORTS FROM OTHER SOURCES**

- *UN Human Rights Committee* in its decision of 6 November 2006 ruled that Sweden's involvement in the US transfer of Mohammed El-Zari to Egypt breached the absolute ban on torture, despite assurances of humane treatment provided by Egyptian authorities prior to the rendition. The Human Rights Committee decision stated that Sweden "*has not shown that the diplomatic assurances procured were in fact sufficient in the present case to eliminate the risk of ill-treatment to a level consistent*" with the ban on torture and other cruel, inhuman or degrading treatment or punishment.<sup>71</sup>

- In a separate May 2005 ruling on Agiza's case, the *UN Committee Against Torture* concluded that Sweden violated the Convention against Torture by illegally expelling him to Egypt, and stated that "*procurement of diplomatic assurances [from Egypt], which, moreover, provided no mechanism for their enforcement, did not suffice to protect against this manifest risk.*" The UN Committee noted that Egypt had a well-documented history of torture abuses, especially when dealing with terrorism suspects. It said that Egypt's routine use of torture, in combination with interest in Agiza by the US as well as Egypt, should have led to a "natural conclusion" that he was at risk of torture upon return.<sup>72</sup>

- The ill-treatment that occurred at the airport in Stockholm should have made it clear to Swedish authorities that the men would be at risk of torture if they were returned to Egypt, said the *UN Committee Against Torture*. The Committee also stated that the "*procurement of diplomatic assurances [from Egypt], which, moreover, provided no mechanism for their enforcement, did not suffice to protect against this manifest risk.*"<sup>73</sup>

- The *UN Committee Against Torture* also noted that Agiza's re-trial in an Egyptian military tribunal in April 2004, during which he claimed that he had been tortured, was deemed unfair by the Swedish authorities themselves. This admission influenced the committee's conclusion that Egypt's assurances, which included a guarantee of a fair trial, could not be trusted to protect Agiza from risk of torture.<sup>74</sup>

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<sup>71</sup> UN Human Rights Committee, 88th session, 16 October - 3 November 2006.

<sup>72</sup> UN Committee against Torture, decision of 20 May 2005, CAT/C/34/233/2003 and UN Committee against Torture, Conclusions and recommendations of the Committee against Torture: Sweden. 06/06/2002, CAT/C/CR/28/6 (Concluding Observations/Comments)

<sup>73</sup> Idem.

<sup>74</sup> Idem.

- Amnesty International: *"In an attempt to circumvent their legal obligations, the Swedish authorities sought and obtained diplomatic assurances from Egypt that the men would not be tortured or be subjected to the death penalty, and would be given a fair trial on their return to Egypt. Such assurances were worthless and did not relieve Sweden of its obligation not to send the men to a country where they would be at risk of torture. Furthermore, Swedish police failed to prevent the ill-treatment of the two men by US agents on Swedish territory and during the flight. In summary, Sweden was complicit in the unlawful rendition of Agiza and El-Zari and the human rights violations they suffered at the hands of foreign agents in Sweden, on the plane and in Egypt."*<sup>75</sup>

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<sup>75</sup> Amnesty International: Partners in crime: Europe's role in US renditions, 14 June 2006.

# AUSTRIA

## A) FLIGHTS

**Total Flight Number since 2001:** 1<sup>76</sup>

**Principal airports:** Vienna

**Suspicious destinations and origins:**

**Stopovers of planes transited through Austria and used in other occasion for extraordinary renditions:** N368CE

## B) OTHER RELEVANT FACTS

### **1) MASAAD OMER BEHARI**

**Name, Nationality, Residence:**

Masaad Omer Behari, Sudanese, Austrian resident

**Date, place of arrest:**

Amman airport, 12 January 2003

**Place of detention:** prison close to Amman run by the Jordan General Intelligence Department

**Current Status:** released on 8 April 2003

### **2) GAMAL MENSHAWI**

**Name, Nationality, Residence:**

Gamal Menshawi, Egyptian, Austrian resident

**Date, place of arrest:**

Amman airport, February 2003

**Place of detention:**

Cairo, Egypt

**Current Status:** released in 2005

## C) NATIONAL OFFICIAL INQUIRIES

No special inquiry was carried out in Austria.

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<sup>76</sup> See Working document 8; PE 380.984v02-00



## **D) ROLE OR ATTITUDE OF AUSTRIAN BODIES**

As it is mentioned in the letter of the Austrian authorities, namely from the State Secretary Winkler, from the Foreign Ministry <sup>77</sup>, the persons referred to in the previous paragraphs, Masaad Omer Behari and Gamal Menshawi, are individuals who did not and still do not have Austrian citizenship, whose freedom of movement was unrestricted; notes that the two men left Austria voluntarily and without undergoing checks by the Austrian authorities, and that they were arrested by foreign agencies, outside Austrian territory and outside the area of influence of the Austrian authorities, with no Austrian involvement; notes that, accordingly, these are clearly not cases of rendition of persons to foreign authorities.

### **1) Masaad Omer Behari's case**

Masaad Omer Behari had been watched for a long time by the Austrian secret services. The BVT (Austrian authorities) allegedly received information from the Jordanian security authorities, which might have been extracted through means of torture.<sup>78</sup>

*"On the 13th of September 2001 Austrian Intelligence agents contacted me for speaking about the September the 11th attacks. I told them I had nothing to do with what it was been done in US"*<sup>79</sup>

*"There were judicial investigations against me started on September 17th 2001. Charge: Membership in a criminal organisation. On August 19th 2002 the judicial procedure was closed without any findings. No charge was brought up against me."*<sup>80</sup>

*"I was addressed several times by Austrian Police I should work with them and name suspicious Muslims. I refused.  
Before his kidnapping, he was addressed by civil American (or English?) agent in Vienna, invited to cooperate with them."*<sup>81</sup>

During his appearance before the Temporary Committee Mr. Masaad Omer Behar also said he suspected there was a cooperation between the Austrian police authorities and those of the U.S. He was also asked some very precise questions about some mosques and Muslim scene in Vienna.<sup>82</sup>

He also claimed to have applied for an Austrian citizenship but was refused one, on a basis of *"some reports from the Austrian Ministry of Interior."*<sup>83</sup>

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<sup>77</sup> letter sent to the TDIP President, Mr. Coelho on 13 December 2006, by the Austrian State Secretary of Foreign Affairs, Mr. Winkler

<sup>78</sup> Der Standard, Print, 30.11.2006

<sup>79</sup> From statements to the Temporary Committee, on 10 October 2006

<sup>80</sup> Fact sheet sent by Masaad Omer Behari to the Temporary Committee before his hearing

<sup>81</sup> Fact sheet sent by Masaad Omer Behari to the Temporary Committee before his hearing

<sup>82</sup> Fact sheet sent by Masaad Omer Behari to the Temporary Committee before his hearing

<sup>83</sup> Fact sheet sent by Masaad Omer Behari to the Temporary Committee before his hearing

## 2) Gamal Menshawi's case

*"We do not know anything about this. Since with Menshawi's case we are not dealing with an Austrian national, there is no interest for us to trigger an inquiry".<sup>84</sup>*

## **E) STATEMENTS AND REPORTS FROM OTHER SOURCES**

### **Italian Court says Austrian authorities were informed about the Abu Omar case:**

*"The Austrian authorities were informed on time about the abduction of Abu Omar, according to documents of the Italian court. Right afterwards Abu Omar abduction, the Austrian authorities (BVT) started to look for links with Abu Omar in Vienna."<sup>85</sup>*

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<sup>84</sup> Statement by a spokesman of the Ministry of Interiors to "Profil"

<sup>85</sup> *Profil*, 21 August 2006, by Von Otmar Lahodynsky as also stated before the Temporary Committee on 10.10.2006

## **SPAIN**

### **A) FLIGHTS**<sup>86</sup>

**Total Flight Number since 2001:** 68

**Principal airports:** Palma De Mallorca; Ibiza; Madrid; Barcelona; Tenerife; Málaga; Alicante; Vigo; Sevilla; Valencia

**Suspicious destinations and origins:** Kabul, Afghanistan; Baghdad, Iraq; Guantánamo, Cuba; Amman. Jordan; Misurata, Libya; Cairo, Luxor, Hurgada, Egypt; Casablanca, Rabat, Morocco;

**Stopovers of planes transited through UK and used in other occasion for renditions:**

N379 used for the extraordinary renditions of Al-Rawi and El-Banna; Binyam Mohammed; Al Kassem Britel and the expulsion of Agiza and El-Zari: 5 stopovers in Spain

N313P used for the renditions of El-Masri and Benyamin Mohamed: 7 stopovers in Spain.

N85VM used for the rendition of Abu Omar: 9 stopovers in Spain

N829MG used for the rendition of Maher Arar: 2 stopovers in Spain

### **B) OTHER RELEVANT FACTS**

**MUSTAFA SETMARIAN NASAR:**

**Name, Nationality, Residence:** Mustafa Setmarian Nasar, Spanish of Syrian origin

**Date, place of arrest:** Pakistan, October 2005

**Place of detention** held in a prison operated by the U.S. Central Intelligence Agency, Pakistani and European security service officials<sup>87</sup>

**Current Status:** currently detained

### **C) NATIONAL OFFICIAL INQUIRIES**

- *Comisión de control de los créditos destinados a gastos reservados* is the Spanish Parliament's committee responsible. The Secretary of State-Director of the *Centro Nacional de Inteligencia* (Spanish intelligence services) has appeared *in camera* before this committee on 3 July 200 as regards the case of the CIA flights in Spain.

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<sup>86</sup> See working document n° 8, PE 380.984.

<sup>87</sup> Reuters, October the 15<sup>th</sup> 2006

- The *Audiencia Nacional*<sup>88</sup> has started on 9 June 2006 the inquiries on the use of Spanish airspace and airports to carry out extraordinary renditions (after the Court of First Instance of Mallorca had started proceedings in 2005); currently, the Chief Prosecutor is undertaking the investigations on this matter.

#### **D) ROLE OR ATTITUDE OF SPANISH BODIES**

Minister for Foreign Affairs Miguel Angel Moratinos has appeared before the Temporary Committee on 14 September 2006.

He recognized that some of the aircraft used by the CIA that have stopped over in Spain and that have been identified by Spanish media and the investigations of the Spanish committee, were "*suspected to transport detainees in previous stopovers*"<sup>89</sup> having been used to carry out extraordinary renditions. In the specific case of the Boeing N313P used for the extraordinary rendition of Khaled El-Masri<sup>90</sup> and that made an stopover in Mallorca just before flying to Skopje in order to transport this victim to Kabul (via Baghdad), Minister Moratinos stated that "*even if it could have carried out criminal offences in another European place, this was not the case in Spanish territory*".

The Chief Prosecutor of the *Audiencia Nacional*, Javier Zaragoza, and the Prosecutor responsible on this matter, Vicente González Mota have appeared before the Temporary Committee on 20 November 2006.

They stated that current judicial investigations in Spain are mainly focused on the identification of members of the crews, but Spanish Laws do not allow disclosing those names until the inquiry is finished. They do confirm that several of the flights they are investigating are the same than those already identified by the Temporary Committee as having been allegedly used by the CIA to carry out extraordinary renditions. These judicial inquiries are undertaken in "*close cooperation with authorities of other countries where those abductions did take place (...). Basically, I am referring to Italy and Germany, with the cases of Abu Omar and Khaled El-Masri*".<sup>91</sup>

#### **E) STATEMENTS AND REPORTS OF INSTITUTIONS, PRESS, UNOFFICIAL SOURCES**

Baltasar Garzón, a Spanish magistrate said about the case of Mustafa Setmariam Nasar: "*I*

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<sup>88</sup> The Chief Prosecutor, Javier Zaragoza, and the Prosecutor responsible on this matter, Vicente González Mota, have been heard by the Temporary Committee on 20 November 2006.

<sup>89</sup> Transcript of the hearing of Minister Moratinos, heard by the Temporary Committee on 14 September 2006.

<sup>90</sup> See working document n° 7, PE 380.593.

<sup>91</sup> Transcript of the hearing of Spanish Prosecutors, heard by the Temporary Committee on 20 November 2006.

*don't know where he is. Nobody knows where he is. Can you tell me how this helps the struggle against terrorism?"<sup>92</sup>*

*"Mustafa Setmarian, 48, a Syrian with Spanish citizenship, was captured in Pakistan in October 2005 and is held in a prison operated by the CIA, Pakistani and European security service officials told El Pais. Spain's high court is unable to request Setmarian's extradition as he has not been officially imprisoned".<sup>93</sup>*

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<sup>92</sup> New York Times, 4 June 2006

<sup>93</sup> El Pais, 16 October 2006

# **PORTUGAL**

## **A) FLIGHTS**<sup>94</sup>

**Total Flight Number since 2001:** 91

**Principal airports:** Cascais; Faro; Lajes; Lisboa; Ponta Delgada; Porto; Santa Maria.

**Suspicious destinations and origins:** Kabul, Afghanistan; Baku, Azerbaijan; Cairo, Egypt; Misurata, Libya; Amman, Jordan; Rabat, Morocco, Baghdad, Iraq; Guantanamo, Cuba.

**Stopovers of planes transited through Portugal and used in other occasion for renditions:**

N379 used for the renditions of :Al Rawi and El Banna; Benyam Mohammed; Kassim Britel: 13 stopovers in Portugal and for the expulsions of Agiza and El-Zari.

N313P used for the renditions of El Masri and Benyamin Mohamed: 8 stopovers in Portugal.

N85VM used for the rendition of Abu Omar: 8 stopovers in Portugal

N829MG used for the rendition of Maher Arar: 7 stopovers in Portugal

Also, the Temporary Committee had access to information on the big amount of American military flights that have crossed Portuguese air space and/or have made stopovers in Portuguese territory. This is namely the case of the military flight that has transported the 6 *Algerians*.<sup>95</sup>

## **B) OTHER RELEVANT FACTS**

### **ABDURAHMAN KHADR**

**Name, Nationality, Residence:** Abdurrahman Khadr, Canadian citizen,

**Date and place of arrest:** November 2001, Pakistan

**Place of detention:** Pakistan, Guantanamo, transfer via Santa Maria, Azores, Portugal (6 November 2003) to Tuzla, Bosnia-Herzegovina and then to Afghanistan

**Current Status:** released

Abdurrahman Khadr was a detainee in Guantánamo who was offered the possibility of freedom in exchange of collaboration with the CIA.

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<sup>94</sup> See working document N° 8; PE 380.984v02-00

<sup>95</sup> See working document n° 7, PE 380.593.

### **C) NATIONAL OFFICIAL INQUIRIES**

On 26 September 2006 the Portuguese Foreign Ministry has set up an inter-ministerial working group to examine the procedures followed and the possible weaknesses in the system with regard to CIA flights through Portugal. The team includes staff from the Ministries of Foreign Affairs, Defence and Home Affairs.

### **D) ROLE OR ATTITUDE OF PORTUGUESE BODIES**

**The Portuguese Minister of Foreign Affairs, Luis Amado**, told the Portuguese Parliament on 18 October 2006: "A broad government investigation has turned up no evidence to support claims that CIA flights carrying terrorism suspects landed at Portugal's airports or entered its airspace." "None of the explanations or data collected ... constitutes a credible indication that the law may have been broken on Portuguese soil," Amado said.<sup>96</sup> His predecessor Diogo Freitas do Amaral, who resigned for health reasons in July 2006, had denied any knowledge of CIA flights passing through Portugal. He stressed that the Temporary Committee nor the investigations carried out in Portugal had until now identified "any element which had been able to link (the country) to the alleged illegal acts" in question. In his view it was more important to investigate the political responsibilities of the government or the Portuguese authorities in relation to the CIA activities which may have broken Portuguese laws or international conventions. "What I want is to be tried, as foreign minister and a member of the Portuguese government, for complicity or connivance with an illegal act committed on Portuguese territory." "And if you can prove this to me, I will resign the next day," the Minister said.<sup>97</sup>

During the meeting in the framework of the Temporary Committee's delegation to Portugal, held on 6 December 2006,<sup>98</sup> Minister Amado stated that it was impossible to control all flights that passed through Portugal, and that the new international system was complex, so a new balance had to be found between security dimension and the need for fluidity of air transport. He claimed that, so far, there were no indications that Portugal was complicit in unlawful actions. No answer was given by Minister Amado to several requests by Members of the delegation asking for specific information concerning lists of passengers of suspected flights or details on the abundant US military flights that have passed through Portugal.

The Temporary Committee delegation to Portugal was also received by representatives from the political groups in the *Assembleia da Republica* on 6 December 2006. The Portuguese Parliament has decided not to set up an enquiry committee on these matters.

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<sup>96</sup> Associated Press, 18 October 2006.

<sup>97</sup> Idem

<sup>98</sup> Temporary Committee's delegation to Portugal took place on 5-6 December 2006.

The Temporary Committee's delegation to Portugal also met with representatives from the *Instituto Nacional de Aviação Civil (INAC)*, from the *Navegação Aérea de Portugal (NAV)* and from *Serviço de Estrangeiros e Fronteiras (SEF)*. In most of cases, they could not provide the Temporary Committee delegation with relevant information on the matters under its remit.<sup>99</sup>

## **E) STATEMENTS AND REPORTS FROM OTHER SOURCES**

**European Commission President Jose Manuel Barroso** did not authorise and was not even aware of any secret CIA flights through Portugal when he was prime minister, his spokesman said on 18 September 2006.<sup>100</sup> "During his term of office as prime minister of Portugal he has never authorised CIA rendition flights or any other measure that would be in contradiction with Portuguese law," spokesman Johannes Laitenberger told a news briefing. "At no point has information on such flights been brought to his attention."

Barroso's spokesman said Barroso could not testify in front of the European Parliament Committee in his role as President of the European Commission, adding that no request had been made yet to invite him as a former prime minister.<sup>101</sup>

Canadian Prime Minister Stephen Harper said that Canada has denied Abdurrahman Khadr a passport because of national security concerns, The Canadian Federal Court ruled on 8 June 2006 that the government was wrong to deny Khadr's application to renew his passport in 2004, but the Court stopped short of entitling him to a new one.<sup>102</sup>

The Temporary Committee delegation to Portugal also met with journalists Micael Pereira and Ricardo Lourenço, from "*Expresso*". Both journalists have been especially active tracing the passengers of suspect flights, especially during their stay in Portuguese hotels and could confirm that there were CIA agents amongst them. They also stated that there is a pact between secret services of western allied countries according to which it is not necessary to provide information on the movements of CIA agents when they travel through most of European countries. They also said that negligence from the SEF could be a possible cause why there were no checks on the crew and passengers of suspect flights.

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<sup>99</sup> See the report on the Temporary Committee delegation to Portugal, PE 384218v02-00

<sup>100</sup> Reuters News, 18 September 2006

<sup>101</sup> Idem

<sup>102</sup> Associated Press, 30 August 2006



# **IRELAND**

## **A) FLIGHTS**

**Total Flight Number since 2001:** 147 <sup>103</sup>

**Principal airports:** Shannon, Dublin, Cork, Eikn

**Suspicious destinations and origins:** Guantánamo, Kabul, Amman, Baku, Cairo, Rabat, Baghdad

**Stopovers of planes transited through Ireland and used in other occasion for**

**extraordinary renditions:** N313P: 13 stopovers in Ireland

Aircraft used for the Extraordinary Renditions of Khaled el-Masri (Skopje-via Baghdad-Kabul , 24.01.2004) and Binyam Mohammed (Rabat-Kabul, 22.01.2004)

**N85VM:** 18 stopovers in Ireland

Aircraft used for the Extraordinary Rendition of Abu Omar (Ramstein-Cairo, 17.02.2003)

**N829MG:** 2 stopovers in Ireland

Aircraft used for the Extraordinary Rendition of Maher Arar (Rome-Amman, 08.10.2002).

**N379P:** 14 stopovers in Ireland

Aircraft used for the Extraordinary Renditions of Abu Al Kassem Britel (Islamabad-Rabat, 25.05.2002), Benyamin Mohammed (Islamabad-Rabat, 21.07.2002) Bisher Al Rawi and Jamil El Banna (Banjul-Kabul, 09.12.2002).

It is believed that Abu Omar was picked up in Milan and taken by the CIA through Germany to Cairo, the plane took off from Cairo and its next stop was Shannon Airport to refuel on its way back to the US and for the expulsion of Agiza and Mohammed El-Zari (Stockholm-Cairo, 18.12.2001).

## **B) NATIONAL OFFICIAL INQUIRIES**

No national inquiry was open.

## **C) ROLE AND ATTITUDE OF IRISH BODIES**

The Irish Minister for Foreign Affaires, Mr. Dermot Ahern, appeared before the Temporary Committee on Thursday 30 November 2006. He admitted that the Irish government knew that the CIA was operating a programme of "such nature" when referring to the practice of "extraordinary rendition" long before the Washington Post and Human Rights Watch reports

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<sup>103</sup> See Working document N° 8; PE 380.984v02-00

of November 2005 but relied on "absolute assurances" from the highest U.S. authorities that these would never pass Ireland.<sup>104</sup> Mr Ahern admitted, however, that the Government knew of one "possible kidnap" flight refuelling at Shannon but insisted that, the Garda Síochána who could had had authority to board any suspicious flight, said wasn't aware until 18 months after the event that the plane in question was on its way back to the US after "allegedly" snatching Abu Omar in Italy and delivering him to Egyptian interrogators.<sup>105</sup> He suggested that a review of the Chicago Convention concluded 60 years ago needed revision. Under this Convention, according to hi, there is no requirement to provide information on passengers, crew or cargo if it is a transit flight.

*"The Government and our police authorities took very seriously indeed any allegations that aircraft chartered by the CIA engaged in illegal activity in Ireland. An Garda Síochána, the Irish police service, has investigated six complaints from members of the public related to extraordinary rendition.*

*The patterns of activity which have been alleged are based on the retrospective study months and indeed years after the fact of a mass of material which simply could not have been known at the time of the flights in question. Even if hypothetically an inspection regime had been in place, on what basis would planes have been searched?"<sup>106</sup>*

*"There is no requirement, I understand, under the Convention to provide information on passengers, crew or cargo if it is a transit flight. It is clear, therefore, that there are aspects of the regulation of international aviation which, after 60 years, need to be reviewed."<sup>107</sup>*

## **E) STATEMENTS AND REPORTS OF INSTITUTIONS, PRESS, UNOFFICIAL SOURCES**

### **Irish Human Rights Commission (IHRC)**

The IHRC has the authorisation to make recommendations to the Government to strengthen, protect and uphold human rights in the State.

Accordingly, on 21 December 2005, the IHRC advised the Government, in a form of a Resolution of 23 December 2005, that it should seek the agreement of the US authorities to inspect aircraft suspected, as reported in the press, of involvement in rendition. This advice was based on the IHRC's analysis of the state's obligations under the Irish Constitution and international human rights law regarding the right to be free from torture, inhuman or degrading treatment or punishment.

The principle of non-refoulement inevitably requires that such an investigation also takes place where the state's territory is being used to facilitate the transportation of any person to places where there is a risk of ill-treatment in violation of Article 3 of the European

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<sup>104</sup> Transcript of the TDIP meeting held on 30 November 2006

<sup>105</sup> Idem

<sup>106</sup> Idem

<sup>107</sup> Idem

Convention on Human Rights.<sup>108</sup>

On 5 April 2006 the IHRC received a reply from the Minister for Foreign Affairs regarding the above-mentioned advice. His letter indicated that the Government had rejected the Commission's advice regarding the impermissibility of diplomatic assurances in the particular context at hand.<sup>109</sup>

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<sup>108</sup> Transcript of the TDIP meeting held on 28 November 2006

<sup>109</sup> Idem

## **GREECE**

### **A) FLIGHTS**

**Total Flight Number since 2001:** 64 <sup>110</sup>

**Principal airports:** Athens, Iraklion, Kerkira, Diagoras, Thessaloniki, Mikonos, Rodos, Khios

**Suspicious destinations and origins:** Kabul, Amman, Baku, Cairo, Baghdad

**Stopovers of planes transited through Greece and used in other occasion for extraordinary renditions:** 19 stopovers in Greece

**N313P:** 1 stopover in Greece

Aircraft used for the Extraordinary Renditions of Khaled el-Masri (Skopje-via Baghdad-Kabul, 24.01.2004) and Binyam Mohammed (Rabat-Kabul, 22.01.2004)

**N829MG:** 1 stopover in Greece

Aircraft used for the Extraordinary Rendition of Maher Arar (Rome-Amman, 08.10.2002).

**N379P:** 7 stopovers in Greece

Aircraft used for Extraordinary Renditions of Abu Al Kassem Britel (Islamabad-Rabat, 25.05.2002), Benyamin Mohammed (Islamabad-Rabat, 21.07.2002) Bisher Al Rawi and Jamil El Banna (Banjul-Kabul, 09.12.2002) and for the expulsion of Ahmed Agiza and Mohammed El-Zari (Stockholm-Cairo, 18.12.2001),.

### **B) NATIONAL OFFICIAL INQUIRIES**

No national inquiry was open.

### **C) ROLE OR ATTITUDE OF GREEK BODIES**

*"All movements of aircraft to and from Greece fully respect the laws, regulations and treaties for international air navigation."*<sup>111</sup>

### **D) STATEMENTS AND REPORTS OF INSTITUTIONS, PRESS, UNOFFICIAL SOURCES**

*"The Government was obliged to give explanations regarding revelations in the (TDIP) Report which named Greece among the countries in which CIA planes made stopovers."*<sup>112</sup>

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<sup>110</sup> See Working document 8; PE 380.984v02-00

<sup>111</sup> alternate Greek government spokesman Evangelos Antonaros said to the Athens News Agency on 24 January 2007

<sup>112</sup> alternate Greek government spokesman Evangelos Antonaros said to the Athens News Agency on 24 January 2007

# **FORMER YUGOSLAV REPUBLIC OF MACEDONIA** **(FYROM)**

## **A) CASE OF EXTRAORDINARY RENDITION**

**KHALED EL-MASRI<sup>113</sup>**

**Name, Nationality:** Khaled el-Masri, German.

**Date and place of arrest:** Tabanovce, 31 December 2003.

**Place of detention:** FYROM & Afghanistan.

**Current Status:** released with no charges in May 2004.

## **B) NATIONAL OFFICIAL INQUIRIES**

There have been two official steps of the FYROM authorities to clarify the el-Masri case: an investigation of the Ministry of Interior and a single parliamentary question to the Minister of Interior.

There are several bodies in the country, which could run an investigation of the case on their own initiative: the Ombudsman, the Public Prosecutor, the Standing Inquiry Committee for Protection of Civil Freedoms and Rights of the Sobranie, the Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency of the Sobranie. None of these bodies investigated the case.

During meetings with representatives of the FYROM authorities in the framework of the TDIP delegation to Skopje, it was stated that the FYROM authorities were not aware of the el-Masri case until it appeared in the media. Their investigation of the case was started by the Ministry of the Interior after receiving a letter with questions from the Council of Europe. According to FYROM officials, all information about this case, which the FYROM authorities have, was sent to the Council of Europe. In March 2006, the Ministry of Interior responded to the German government's judicial assistance request. However, the Temporary Committee was not authorised to have access to the contents of this response and received no documentation in this regard.

The Sobranie took passive position into the inquiry of the el-Masri case. There was no activity in the Parliament, except one parliamentary question on 26 January 2006.<sup>114</sup> The situation has not improved after last general elections of 5th July 2006, as no additional activity about the

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<sup>113</sup> See working document n° 7, PE 380.593, transcript of Temporary Committee meeting with Khaled el Masri of 13 March 2006 and El-Masri statement to US Court in Alexandria, 6 April 2006.

<sup>114</sup> See report of the TDIP delegation to Skopje for more details

el-Masri case was taken by any institution in FYROM.

### **C) ROLE OR ATTITUDE OF FYROM BODIES**

The TDIP delegation in Skopje was not provided with a single document which would support the course of events as stated by the FYROM authorities, apart from the oral explanations provided by their representatives<sup>115</sup>. According to these statements, the FYROM services are neither involved nor aware of any illegal activities, which were described by Mr. el-Masri. According to official version Mr. el-Masri stayed for 3 weeks in Skopje as a free man and left the country on his own to Kosovo through Blace border crossing. The authorities emphasized that foreign secret services are not authorised to operate in the FYROM, although the authorities have no instruments to check this. There are no records about activities of the CIA or other third country's secret services in the FYROM and in particular no indications of their involvement in the case of Mr. el-Masri.

The Ministry of Interior considered that it was not authorised to provide to the Temporary Committee records from the investigation at the Tabanovce border crossing, where according to the authorities Mr. el-Masri left FYROM. The Ministry of Interior had no documentation (registration and invoice) regarding the hotel in which Mr. el-Masri stayed in Skopje. According to the Ministry these documents should be obtained directly from the hotel.<sup>116</sup> The hotel manager in contrary reported having handing over all the documentation to the Ministry.<sup>117</sup>

After interviews with non-governmental interlocutors concluded within the framework of the TDIP delegation to Skopje, there was a conviction that the FYROM authorities and other state institutions responsible for protection of human rights failed in investigating the case by showing no interest in dealing with it or by inadequate initiative to clarify involvement of the authorities.<sup>118</sup>

Minister of Interior Ljubomir Mihajlovski suggested the TDIP delegation in Skopje a conspiracy theory, designed to discredit FYROM. He said: *"Who is really behind all of this? This case is making so much damage to the country. If you can get a reason why it is happening, please send us a message; tell us."*

The TDIP delegation in Skopje experienced great hospitality and met top representatives of the FYROM authorities but the Government presented no prove of its version of events and the Parliament failed to explain why it was not willing to investigate the el-Masri case.

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<sup>115</sup> President of FYROM Branko Crvenkovski said to the TDIP delegation during its first meeting in Skopje: "Macedonia is completely determined and open for co-operation with you. What I want to repeat is that we're completely prepared to establish the truth... Our joint task is to find out the truth and not to respond to the current public opinion or the positions of the media". Declarations of the same sort have been stated during all meetings with representatives of the FYROM government.

<sup>116</sup> These statements come from TDIP delegation meetings with FYROM Minister of Interior Ljubomir Mihailovski

<sup>117</sup> See more in Draft report – Part II (Explanatory memorandum) of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly "Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states" by its Rapporteur Dick Marty

<sup>118</sup> See report of the TDIP delegation to Skopje for more details

## **D) STATEMENTS AND REPORTS FROM OTHER SOURCES**

Mr. Khaled el-Masri described events, which he experienced in FYROM in numerous interviews but most detailed testimonies are in a court complainant<sup>119</sup> and in his testimony before the Temporary Committee<sup>120</sup>. According to these statements, he was arrested at the FYROM border on 31st December 2003 by Macedonian border guards and transported incommunicado to Skopje. In Skopje he was detained incommunicado for 23 days in hotel, where he was interrogated and beaten. On January 23rd he was handed over to American services at the Skopje airport and transported incommunicado to Afghanistan.

According to the Macedonian Helsinki Committee such a case as described by Mr. el-Masri, could happen in the FYROM (examples were given of local, similar cases, when human rights were breached, in particular cases concerning illegal detention). The FYROM is known for not respecting human rights - there are constant complaints to the Ombudsman. The FYROM police used to use private apartments for illegal interrogations and it has been proven in some court cases. There are cases where illegal immigrants or terrorist suspects were handed over to foreign agents.<sup>121</sup>

According to experts in FYROM it is common for the police to go beyond its legal mandate and for the Government to deny such breaches of law. According to representatives of the Macedonian opposition the political pressure of the USA on the FYROM authorities is sometimes brutal.<sup>122</sup>

Mr. Hans-Martin Tillack of the Stern Magazine in his article published in July 2006 pointed out that the EU Police Mission Proxima in FYROM may have been aware of the abduction of Khaled El-Masri in January 2004.

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<sup>119</sup> El-Masri statement to US Court in Alexandria, 6 April 2006

<sup>120</sup> See more in the transcript of Temporary Committee meeting with Khaled el Masri of 13 March 2006

<sup>121</sup> See report of the TDIP delegation to Skopje for more details

<sup>122</sup> As above.

## **BOSNIA AND HERZEGOVINA (BiH)**

### **A) CASE OF EXTRAORDINARY RENDITION**

#### **"ALGERIAN/BOSNIAN SIX"<sup>123</sup>**

**Names:** Mustafa Ait Idir,  
Hadz Boudella,  
Lakhdar Boumediene,  
Saber Lahmar,  
Belkacem Bensayah,  
Mohammed Nechle.

**Citizenship status:** 4 citizens of Bosnia and 2 permanent residents of Bosnia with Algerian citizenships

**Date and place of arrest:** Sarajevo, 17 January 2002.

**Place of detention:** Guantánamo.

**Current Status:** detained with no charges till present.

### **B) NATIONAL OFFICIAL INQUIRIES**

The six men were arrested in Bosnia as terrorist suspects in October 2001 by order of the Supreme Court of the Federation of Bosnia and Herzegovina and detained in accordance with Bosnian law. The investigation, which ended in January 2002 brought no evidence of guilt of any of the arrested. On 17 January 2002 the magistrate responsible for the case ordered the immediate release of the "Algerian Six". On the same day the Human Rights Chamber of Bosnia and Herzegovina issued an order, which required the authorities of Bosnia to take all necessary steps to prevent deportation of the six men from the country<sup>124</sup>. The same day in the evening they were released from prison and illegally arrested<sup>125</sup> by Bosnian special police to be immediately handed over to US SFOR - American military forces stationed in Bosnia in the framework of international Stabilisation Forces, which have transferred the men to Guantánamo.

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<sup>123</sup> See working document n° 7, PE 380.593, transcripts of Temporary Committee meeting with Srdjan Dizdarevic, Stephen Oleskey, Michèle Picard and Wolfgang Petritsch of 25 April and 20 November 2006.

<sup>124</sup> Order for Provisional Measures and on the Organization of the Proceedings, 17 January 2001. AS/Jur (2006) 16 Part II.

<sup>125</sup> Illegality of the arrest was established by the Human Rights Chamber for Bosnia and Herzegovina in judgment of 11 October 2002 (cases of Boudellaa, Boumediene, Nechle and Lahmar against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina) and in judgment of 4 April 2003 concerning Mr Bensayah and Mr Ait Idir).



The Human Rights Chamber for Bosnia in its decisions asked and in one case<sup>126</sup> ordered the Bosnian Government to help for the illegally detained men by diplomatic and judicial means.

### **C) ROLE OR ATTITUDE OF BiH BODIES**

The Bosnian police followed orders of the Bosnian Ministry of Interior and arrested “the Algerian Six” against the judgment of the Bosnian court – the Human Rights Chamber of Bosnia and Herzegovina. The Government of Bosnia and Herzegovina admitted that the six men had been “handed over” to the American forces without extradition procedure. The American authorities tried to provide a justification for the “handing over” by providing, on the day of kidnapping, a note from its embassy to the Bosnian Government, where they informed that U.S. Government wanted to take charge of the “Algerian Six” and offered to arrange transfer of the six men<sup>127</sup>.

The Bosnian Parliament on two occasions ordered assistance for the detained men. In April 2004, the Human Rights Committee of the Parliament encouraged the Government to execute the decision of the Human Rights Chamber and commence negotiations with the American Government to release the six men<sup>128</sup>. On the other occasion, on 16 September 2005, the Parliament in its resolution invited the Government of Bosnia to contact the American authorities in order to release the “Algerian Six” as soon as possible.

The Bosnian Government has not been denying illegality of its actions which led to imprisonment of the “Algerian Six” in Guantánamo, as well as it recognised its legal obligations to assist in release of the detained men. Unfortunately Government’s activities in this field are barely exceeding declarative statements. In spring 2005 the Government sent a letter to American Secretary of State, where it requested the return of the six men. The letter was followed by a declaration before Parliamentary Assembly of the Council of Europe of the Prime Minister Adnan Terzić, where he confirmed the importance of this case as an indicator of democratic progress in Bosnia, and declared his willingness to identify the best way of ensuring the release of the six Bosnian citizens and residents. The attitude of the Bosnian Government might be described well with quotation of a lawyer of the six men: *“Despite lofty statements, the Bosnian Government has not taken any concrete action in the past year to remedy this situation. In a letter to a US Senator on 15 June 2005, the State Department repeated without any contradiction by Bosnia ‘although the Government of Bosnia and Herzegovina has made several inquiries regarding the condition of each detainee, and has asked for their release, it is not indicated that it is prepared or willing to accept responsibility for them upon transfer’. In other words, Bosnia has never said to the US that it accepts that it is its responsibility to have the men returned there, and that it will negotiate directly to have*

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<sup>126</sup> In the decision of 4 April 2003, the Chamber ordered the Government to take all possible steps to release one of the detained and his return home.

<sup>127</sup> The Human Rights Chamber ruled that such a document might not be treated as a request for extradition.

<sup>128</sup> The report was approved by the Parliament on 11 May 2004.

that done.’’<sup>129</sup>

It must be stressed that the Bosnian Government was under great pressure from American authorities, which were militarily present at the time in Bosnia and provided a large part of financial assistance to the budget of the country. This pressure was also well known to the former High Representative in Bosnia Wolfgang Petritsch, who admitted that even his institution was targeted: *“Clearly on this extremely sensitive issue it was necessary to be very careful in the wording because I already knew through my informal channels that the United States would have been ready to withdraw their support for the peace implementation mission. It was clear to me that I had to choose between the lesser evil – breaching the rule of law – or the greater evil – US withdrawal from the peace implementation efforts in Bosnia and Herzegovina.”*<sup>130</sup>

According to the highest civilian official in Bosnia, the attitude of the international forces in Bosnia presented while kidnapping the six men shall be observed in the context, who was in the command of the country: *“So it was only after the event that I was able to confront the commander of SFOR, the Stabilisation Force, the US General Sylvester, to ask him what had happened, since this was a security issue as much as a rule-of-law issue and both were of wider concern. The SFOR commander made it clear to me that he was not authorised to answer any questions pertaining to this case because he did not wear an international or NATO hat; he wore a US hat as a US general. That was a very clear and at the same time a very unsatisfactory answer.”*<sup>131</sup>

#### **D) STATEMENTS AND REPORTS FROM OTHER SOURCES**

*“Critically, you must understand that what happened to my clients in Bosnia in January 2002 was not extradition, deportation or lawful transit from Bosnia by air over other countries to Turkey and then to Cuba. It was a grossly unlawful, wholly extra-legal transfer by one sovereign state, Bosnia, to another: the US. The justification for this rests on nothing more than the naked use of military force and a bare assertion of political necessity by the US Government.”*<sup>132</sup>

According to Srdjan Dizdarevic, President of the Helsinki Committee for Human Rights of Bosnia and Herzegovina, many international institutions present in Bosnia and involved in kidnapping of the six men, were guilty of human rights abuses also on other occasions: *“Concerning the general international aspect of human rights in Bosnia and Herzegovina, not only SFOR and the IPTF were involved one way or another in this particular case. They can decide who has violated human rights! But generally speaking, instead of finding allies in the*

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<sup>129</sup> Stephen Oleskey, Wilmer Cutler Pickering Hale and Dorr LLP, who represents “the Algerian Six”, in his statement before the Temporary Committee – see transcript of the meeting of 25 April 2006.

<sup>130</sup> For more details refer to transcripts of Temporary Committee meeting of 20 November 2006.

<sup>131</sup> Statement of Wolfgang Petritsch, for more details see as above.

<sup>132</sup> Stephen Oleskey, Wilmer Cutler Pickering Hale and Dorr LLP, who represents “the Algerian Six”, in his statement before the Temporary Committee – see transcript of the meeting of 25 April 2006.

*fight to improve human rights and promote human rights among the agencies of the international community, we unfortunately found that some of them in some situations were directly violating human rights. IPTF members were unfortunately involved in trafficking human beings, which was also a known and shameful case. SFOR was involved in ill-treatment and torture of those whom they kept in custody during the post-11 September situation. Dozens of citizens were taken by SFOR and kept for a couple of weeks or a couple of months until finally the High Representative himself was also involved in violating human rights, especially when Lord Ashdown was occupying that function.”<sup>133</sup>*

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<sup>133</sup> See more in Mr Dizdarevic’s statement before the Temporary Committee in the transcript of the meeting of 25 April 2006.

## **ROMANIA**

### **A) ALLEGED EXISTENCE OF DETENTION CENTRES<sup>134</sup>**

Suspected airports supposed to host secret detention centres have been mentioned in mass-media, in some NGOs' reports, in Council of Europe's report and have also been inferred from Eurocontrol data, as well as from pictures taken via satellite. These airports are:

- Timisoara- Garmata
- Bucuresti- Baneasa
- Constanta- Kogalniceanu
- Cataloi- Tulcea
- Fetesti- military

### **B) NATIONAL OFFICIAL INQUIRIES**

#### **Parliament**

A Temporary Inquiry Committee in the Romanian Senate on the Allegations Regarding the Existence of CIA Detention Centres or Flights over Romania's Territory was set up on 21st December 2005<sup>135</sup>.

On 16 June 2006, Ms Norica Nicolai, president of the Special Inquiry Committee presented during a press conference the conclusions of the preliminary report. At that stage, only the chapter 7 of the report was made public and the rest of the report remained classified.

After having conducted investigations on the spot on the incriminated airports and having received documents from all the institutions involved, the Committee drew the following conclusions:

In the case of the flight N313P from 22 September 2003 - announced as a military flight - the Committee found out that the flight landed at the airport Bucuresti-Baneasa for refuelling and ground services. No passenger got off the plane or came on board the plane. There is evidence that indicates beyond any doubt this fact, but also the purpose of the stopover. In the case of

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<sup>134</sup> The allegations are formulated on the basis of following sources:

- Washington Post "CIA Holds Terror Suspects in Secret Prisons" by Dana Priest, November 2, 2005 [LINK](#)
- Human Rights Watch Statement on U.S. Secret Detention Facilities in Europe, November 7, 2005 [LINK](#)
- The Amnesty International report "Below the radar: secret flights to torture and 'disappearance'" AMR 51/051/2006, April 5, 2006 [LINK](#)
- Draft report – Part II (Explanatory memorandum) of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly "Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states" by its Rapporteur Dick Marty, further "the Marty Report".

<sup>135</sup> Senate's decision no 29/2005

the flight N313P of 25 January 2004, the Committee came to the same conclusions.

To the question if there is or there were American secret detentions sites in Romania, the Committee answer is negative.

1. To the question if in Romania there are or there were, during the investigated period, facilities for detaining prisoners, other than the penitentiary ones (real, secret, ad-hoc, buildings that were used on that purpose on an improvised basis, eventually close to airports Timisoara, Bucuresti-Otopeni or Baneasa, Constanta), the Committee's answer is negative.
2. To the question if there are or there were detainees, with or without legal papers, held in the Romanian penitentiary system who could have been assimilated to prisoners, the Committee's answer is negative.
3. To the question if there could have been clefts in the complete control system of the air traffic-civil or military-or if, through an oversight, some flights could have passed without being monitored or recorded, or if in their cases it hasn't been applied the ground procedures foreseen by the international conventions, the Committee's answer is negative.
4. To the question if it would have been possible that some Romanian institutions would have consciously participated or have participated through an oversight to operations of illegal transport of detainees on the Romanian airspace or on the airports of our country, the Committee's answer is negative.
5. To the question if civil American flights or flights of other states could have transported persons assimilated to prisoners, the Committee answer is negative.
6. To the question whether an in-depth parliamentary investigation for establishing the allegations from mass-media regarding the existence of detentions sites or of flights with illegal transport of prisoners in Romania is being conducted, the Committee's answer is positive.
7. To the question regarding the purposes of the mentioned flights' stopovers in Romania, the Committee was able to answer that they had nothing to do with possible flights of illegal transport of prisoners.

The Committee's term of office has been extended by a Senate's decision on 21 June 2006 following a number of incidents, such as the investigation of the accident involving the Gulfstream aircraft N478GS on 6 December 2004 and the televised statements made by a young Afghan claiming to have been detained in Romania. The Committee's activity is ongoing and during the Senate sittings of 22 November 2006 a new deadline for submitting the final report has been settled: 05 March 2007.

### **C) ROLE OR ATTITUDE OF ROMANIAN BODIES**

Since the publication of the first news about alleged existence of the CIA prisons and illegal transportation of prisoners, Romanian official position has moved from a first categorical denial that CIA secret prisons could be hosted in Romania and that CIA flights could have landed in this country to a less firm and more doubtful attitude, which confirms that something clandestine, not supposed to be known by Romanian authorities, could have

happened either on the planes or in the areas controlled by the American authorities.

Cooperation of official authorities with the Temporary Committee's delegation was very high.

They claimed that nobody could have thought that human rights violations could have been taking place on Romanian territory and they confirmed that individuals, goods and other equipment circulating on Romanian territory were subject to checks by Romanian officials or military personnel.

On 10th November 2005, President Basescu denied during his visit in Bratislava, the existence of CIA detention centres on Romanian territory. One week after, he declared to be at the disposal of any institution that would like to verify the existence of CIA secret detention sites in Romania. In the same line with the declaration of Mr Basescu were also the declarations of former minister for external affairs, Mr. Mircea Geoana and of the spokesperson of Romanian Secret Service (SRI), Mr. Marius Beraru.

On 20th November 2005, former Romanian minister for defence, Mr Ioan Mircea Pascu, stated in an interview for Associated Press that the Romanian authorities did not have access to certain sites used by U.S. services in Romania. He came back to this declaration, later on, saying that his comments were taken out of the context.

Regarding the accident involving the Gulfstream aircraft N478GS on 6 December 2004 the position of the Romanian authorities differed in some extent: Ms Norica Nicolai, chairperson of the Romanian Senate's Special Committee of Inquiry pretended not being able to make available to the delegation the report drawn up by the frontier police on the mentioned accident by invoking the law on data protection. On the other hand, Mr. Anghel Andreescu, Secretary of State for Public Order and Security at the Ministry of Interior and Public Administration, willingly agreed after meeting the TDIP delegation to forward this report and only the following day after receiving it Mr Coelho, chairman of the delegation, was informed that this document has to remain confidential.

## **D) FLIGHTS**

**Total Flights Number since 2001:** 21<sup>136</sup>

**Principal airports:** Kogalniceanu, Timisoara, Otopeni, Banaesa

**Suspicious destinations and origins:** Guantanamo, Cuba; Amman, Jordan; Kabul, Bagram US airbase, Afghanistan; Rabat, Morocco; Baghdad, Iraq.

**Stopovers of planes transited through Romania and used in other occasions for extraordinary renditions:**

N379P, used for the extraordinary renditions of: Al Rawi and El Banna; Benyam Mohammed; Kassim Britel and the expulsion of Agiza and El Zari: 1 stopover in Romania.

N313P, used for the extraordinary renditions of Khalid El Masri and Benyamin Mohamed: 2 stopovers in Romania

N85VM, used for the rendition of Abu Omar: 3 stopovers in Romania

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<sup>136</sup> See working document n° 8, PE 380.984.

## **E) STATEMENTS AND REPORTS OF OTHER INSTITUTIONS AND PERSONS**

In November 2005 Dana Priest, American journalist was the first to report existence of secret detention centres in Europe on the basis of information leaked from CIA sources. She merely referred to countries involved as "Eastern-European Democracies". Although those countries were indeed known to Dana Priest, this information was not revealed following pressure from the White House on the editor<sup>137</sup>. Other media reports followed, with ABC News naming Poland and Romania for the first time as those countries where secret prisons existed. On September the 6th 2006, President George W. Bush confirmed the existence of secret detention centres.

In the explanatory memorandum of the Council of Europe's report of June 2006<sup>138</sup>, the rapporteur Dick Marty said there were corroborated facts strengthening the presumption that landing points in Romania and Poland were detainee drop-off points near to secret detention centres. *"Even if proof, in the classical meaning of the term, is not as yet available, a number of coherent and converging elements indicate that such secret detention centres did indeed exist in Europe."* These elements warranted further investigation, he said.

Romanian journalists and independent organisations confirmed that it was not possible for them to complete any in-depth investigation due to the shortage of information and the lack of interest and uncooperative attitude on the part of official institutions, which had not responded at any stage to the requests submitted to them by civil society. They also believed that the Senate Committee of Inquiry had not taken the task assigned to it seriously.

This is why and diverging from the official line, some of them expressed their doubts about the non-existence of secret detention sites in Romania:

- Alison Mutler, *Associated Press* writer, mentioned that she was in possession of information from confidential diplomatic sources which confirmed the existence of prisons in Romania. On the other hand, the mayor of Constanta made some statements about the prisons but then refused to say anything more<sup>139</sup>.
- Calin Cosmaciuc, journalist at *Evenimentul Zilei*, cited as a witness a worker from one of the mentioned Romanian airports who had stated that he had seen boxes being carried from an aircraft which was presumed to belong to the CIA, but without being able to reveal the identity of the witness<sup>140</sup>. He also stated that Mr. George Tenet (former director of CIA between July 1997 and July 2004) had visited Romania in 2002.
- Christian Radu, journalist of the *Romanian Centre for Investigative Journalism*, stated that he had spoken with two officers from Baneasa airport who had

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<sup>137</sup> Gazeta Wyborcza interview with Dana Priest, April 19, 2006 [LINK](#) and The Washington Post "Bush Presses Editors on Security" by Howard Kurtz, December 26, 2005 [LINK](#)

<sup>138</sup> Council of Europe's report, 12 June 2006 [LINK](#)

<sup>139</sup> Refer to the report of the TDIP delegation to Bucharest for more information, PE 382.407

<sup>140</sup> Evenimentul Zilei, "10 CIA planes haunted Romania", 12 April 2006 (RO version) [LINK](#)



confirmed that all the passengers on the aircraft involved in the accident of 6 December 2004 were dressed in civilian clothes and that after the accident they were put in a hotel. Concerning Mihail Kogalniceanu base, in his view, it was entirely possible that the Romanians had been in the dark about what was happening, since the base was outside their control during the period of the war against Iraq<sup>141</sup>.

- Maria Ionescu, from the Newspaper *Observator de Constanta*, expressed her belief that the Americans exercised control over the administration of Mihail Kogalniceanu airport, based on the declarations of two workers who confirmed movements of troops and equipment on the airport<sup>142</sup>.

- Renate Weber, chair of the *Open Society Foundation*, expressed her doubts about the non-existence of secret detention sites in Romania based on the declarations of both former Prime Minister, Mr Adrian Nastase and former minister for defence, Mr Ioan Mircea Pascu accordingly to whom American bases were outside Romanian jurisdiction and also referring to the administrative procedures regarding landing of military flights on Romanian territory for which the Ministry of Defence only requires to be informed but without asking for the reason of landing<sup>143</sup>.

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<sup>141</sup> Refer to the report of the TDIP delegation to Bucharest for more information, PE 382.407

<sup>142</sup> Refer to the report of the TDIP delegation to Bucharest for more information, PE 382.407

<sup>143</sup> Refer to the report of the TDIP delegation to Bucharest for more information, PE 382.407



# **POLAND**

## **A) ALLEGED EXISTENCE OF DETENTION CENTRE<sup>144</sup>**

Persons suspected of being terrorists were transferred by the CIA from Afghanistan to Poland, most probably using the small airport at Szymany.

At least one CIA secret prison was supposed to be operating in Poland, most probably from 2002 until autumn 2005, when it was shut down following media reports of its existence. The prison location was possibly a former Soviet air base, an intelligence facility or the airport itself. Around 10 high ranking al Qaeda members would have been held in this prison and subjected to the harshest interrogation techniques. The detention of prisoners was both illegal and secret.

## **B) NATIONAL OFFICIAL INQUIRIES**

Polish government investigated the allegations in internal, secret enquiry. The government refused to present methodology of the enquiry to the Temporary Committee. The conclusion of the investigation without any background was made public, stating that the allegation is entirely not true.<sup>145</sup>

According to journalists, the internal enquiry of the government could have been implemented in two stages. Firstly, the intelligence services (Agencja Bezpieczeństwa Wewnętrznego, Agencja Wywiadu, Wojskowe Służby Informacyjne), Border Guards and Police were to present reports to the Prime Minister. The Prime Minister would subsequently send a team of experts from intelligence and counter-intelligence services to suspected locations to conduct an investigation. The most possible locations would have been the Stare Kiejkuty training centre, some abandoned military bases and secret intelligence service premises.<sup>146</sup>

In December 2005, Roman Giertych, chairman (to May 2006) of the Special Services Committee of the Sejm initially considered setting-up a special inquiry committee regarding the allegations. This proposal received opposition, among the others, from Zbigniew

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<sup>144</sup> The allegation is formulated on the basis of following sources:

- Washington Post "CIA Holds Terror Suspects in Secret Prisons" by Dana Priest, November 2, 2005 [LINK](#)
- Human Rights Watch Statement on U.S. Secret Detention Facilities in Europe, November 7, 2005 [LINK](#)
- ABC News "Sources Tell ABC News Top Al Qaeda Figures Held in Secret CIA Prisons", December 5, 2005;
- The Amnesty International report "Below the radar: secret flights to torture and 'disappearance'" AMR 51/051/2006, April 5, 2006 [LINK](#)
- Draft report – Part II (Explanatory memorandum) of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly "Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states" by its Rapporteur Dick Marty, further "the Marty Report".

<sup>145</sup> As stated before the Temporary Committee delegation in Warsaw by Marek Pasionek, who represented the Polish government's official position - refer to the delegation report for more information

<sup>146</sup> Newsweek Polska "Czarne Dziury" December 2005, # 50/05

Wassermann (Minister Coordinator of Special Services)<sup>147</sup>. No such special inquiry committee was set-up but on 21 December 2005 the Committee held an *in camera* sitting with minister Zbigniew Wassermann and two heads of intelligence services Zbigniew Nowak (Agencja Wywiadu) and Witold Marczuk (Agencja Bezpieczeństwa Wewnętrznego). In fact, this was the only Parliament activity that dealt with the accusations and the Committee released no documentation or final statement in this regard. Unofficial statements by Committee members indicate that heads of special services proved in a comprehensive manner that no CIA prisons had existed in Poland.<sup>148</sup>

### **C) ROLE OR ATTITUDE OF POLISH BODIES**

To date, and since publication of the first news about alleged existence of the CIA prison and illegal transportation of prisoners, Poland has constantly denied any illegal involvement in any aspect of the accusation. The Polish authorities repeated their position by letter to Terry Davis, Secretary General of the Council of Europe: "*The findings of the Polish Government's internal enquiry into the alleged existence in Poland of secret detention centres and related over flights fully deny the allegations in the debate.*"<sup>149</sup>

On December 7, 2005, Aleksander Kwaśniewski, former President of Poland, rejected any allegation of the existence of secret CIA prisons in Poland. He made conflicting statements, namely that any decision taken by Polish authorities of this nature would have been brought to his attention and then that sometimes the secret services do not inform politicians of top secret operations.<sup>150</sup> Subsequent denials have been made by Polish prime ministers and ministers of foreign affairs following each new allegation involving Poland.

Zbigniew Siemiątkowski, former Head of the Internal Security Agency (ABW) stated, in December 2005 and repeated that services under his authority - Polish civilian intelligence - were not engaged in any secret detention or illegal transportation of prisoners. Mr Siemiątkowski stated that Polish and American intelligence services have been cooperating very intensively, especially after 9/11. Mr Siemiątkowski stressed that any CIA activity in Poland must have prior agreement from Polish authorities and that Polish authorities had full knowledge of CIA activities in Poland. Consequently, he excluded the possibility of any CIA activity being in connection with the illegal detention or transportation of prisoners. He learnt about the alleged illegal CIA flights from press reports in November 2005<sup>151</sup>

Cooperation of official authorities with the Temporary Committee's delegation was regrettably poor. The delegation was not able to meet any Parliamentary representatives. The government was reluctant to offer full cooperation to the TDIP investigation and to receive our delegation at an appropriate political level.

There was confusion about flight registers of CIA planes transferring through Poland. Polish

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<sup>147</sup> Rzeczpospolita "Co się działo w Szymanach" December 8, 2005

<sup>148</sup> Gazeta Wyborcza "Nie ujawnimy raportu Wassermanna", December 27, 2005

<sup>149</sup> Letter of Witold Waszczykowski, Undersecretary of State in the Ministry of Foreign Affairs of Poland to Terry Davis, Secretary General of the Council of Europe, March 10, 2006

<sup>150</sup> Gazeta Wyborcza "Wieżenie CIA w Polsce od 2002 roku?", December 8, 2005 [LINK](#)

<sup>151</sup> Refer to the report of the TDIP delegation to Warsaw for more information

authorities failed to present these logs directly to the Council of Europe as well as to journalists investigating the allegations<sup>152</sup>. Different managers and former managers of the Szymany airport reported contradictory statements about existence of flight logs and eventually in November 2006 the Temporary Committee was provided by the airport owner with partial summary about CIA flights. The most complete logs of the flights were provided by Eurocontrol.

## **D) FLIGHTS**

**Total Flights Number since 2001:** 11<sup>153</sup>

**Principal airports:** Szymany; Warszawa; Krakow.

**Suspicious destinations and origins:** Kabul, Afghanistan; Rabat, Morocco (Guantánamo, after a stopover in Rabat)

**Stopovers of planes transited through Poland and used in other occasion for extraordinary renditions:**

N379 used for the extraordinary renditions of Al Rawi and El Banna; Benyam Mohammed; Kassim Britel: 6 stopovers in Poland and the expulsion of Agiza and El-Zari.

N313P used for the extraordinary renditions of El Masri and Benyamin Mohamed: 1 stopover in Poland.

## **E) STATEMENTS AND REPORTS OF OTHER INSTITUTIONS AND PERSONS**

In November 2005 Dana Priest, American journalist was the first to report existence of secret detention centres in Europe on the basis of information leaked from CIA sources. She merely referred to countries involved as "Eastern-European Democracies". Although those countries were indeed known to Dana Priest, this information was not revealed following pressure from the White House on the editor<sup>154</sup>. Other media reports followed, with ABC News naming Poland and Romania for the first time as those countries where secret prisons existed. On 5 December 2005, ABC News published a report, listing the names of twelve top Al Qaeda suspects held in Poland. This report was available on the Internet for only a very short time; it was withdrawn from ABC's webpage shortly thereafter following the intervention of lawyers on behalf of the network's owners.<sup>155</sup> On September the 6th 2006, President George W. Bush confirmed the existence of secret detention centres and the transfer of 14 detainees suspected of terrorism to Guantánamo<sup>156</sup>. Shortly after President Bush's declarations, and in accordance with his statements, the list of the fourteen detainees who had been transferred from a secret detention facility to Guantánamo was published. Seven of the fourteen detainees referred to in

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<sup>152</sup> Gazeta Wyborcza had been unable to obtain documentation on flight logs of CIA planes - it had been informed that flight logs from Szymany airport had disappeared - as stated during meeting with the TDIP delegation in Warsaw by Paweł WRÓŃSKI, Journalist of Gazeta Wyborcza

<sup>153</sup> See working document n° 8, PE 380.984.

<sup>154</sup> Gazeta Wyborcza interview with Dana Priest, April 19, 2006 [LINK](#) and The Washington Post "Bush Presses Editors on Security" by Howard Kurtz, December 26, 2005 [LINK](#)

<sup>155</sup> Dick Marty Report, p. 8

<sup>156</sup> Bush's speech transcripts: The International Herald Tribune, September 6, 2006

this list, appeared in the ABC News report published nine months previously. Also according to Human Rights Watch Report<sup>157</sup>, several high-value detainees who had been held secretly in Afghanistan in 2003 were transferred out of the country in September and October 2003. According to Eurocontrol data, a Boeing 737 with Registration Number N313P, used by the CIA for the ascertained extraordinary renditions of Khaled El Masri and Benyamin Mohamed, flew from Kabul to Szymany airport in Poland on 22 September 2003 and was then directed to Guantánamo.

Senator Dick Marty in his report of June 2006, following analysis of reports and records available, indicates that Poland is a country "*which bears all the characteristics of a detainee transfer or drop-off point*". His logical analysis is as follows: "64. (...) *persons suspected of being high level terrorists were transferred out of a secret CIA detention facility in Kabul, Afghanistan in late September and October 2003. During this period, my official database shows that the only arrival of CIA-linked aircraft from Kabul in Europe was at the Polish airport of Szymany. The flights in question, carried out by the well-known 'rendition plane' N313P, bear all the hallmarks of a rendition circuit. (...) 66. Thus, the circuit in question continued on 22 September 2003, when the plane flew from Kabul to Szymany airport in Poland. On the same grounds given above for the case of Romania, one may deduce that this flight was a CIA rendition, culminating in a "detainee drop-off" in Poland. (...)*"<sup>158</sup>

Jaroslav Gizinski of *Newsweek Polska* described to the TDIP delegation in Warsaw a confirmation of existence of CIA prisons in Poland by a "senior member of Polish government". On 2 November 2005, a reporter working with him asked a Government member about Polish authorities having previously cooperated with the CIA regarding transportation of prisoners. Not denying such cooperation, the minister remained silent for 30 seconds, clearly indicating indirect confirmation of such cooperation. There was no clarification between detention or transportation of people.<sup>159</sup>

Extensive exchange of views with few managers of the Szymany airport and journalists investigating events, which took place at the airport included following information:<sup>160</sup>

- in 2002, two Gulfstream jets, in 2003, four Gulfstream jets and on 22 September 2003, one Boeing 737 with civilian registration numbers transferred through the airport. These planes were treated as military planes and have not been a subject to customs clearance. The military character of the flight was determined by the Border Guards and the relevant procedure was followed by the airport staff;
- Orders were given directly by the Border Guards about the arrivals of the aircraft referred to, emphasising that the airport authorities should not approach the aircraft and that military staff and services alone were to handle those aircraft and only to complete the technical arrangements after the landing;
- Landing fees of the planes were paid in cash and overpriced - between EUR 2000 and EUR 4000;
- One or two vehicles would wait for the arrival of Gulfstream aircraft. The vehicles had military registration numbers starting with "H", which are associated with the

<sup>157</sup> <http://hrw.org/english/docs/2005/11/07/usint11995.htm>

<sup>158</sup> Quotation from the Marty Report, for more details see section 2.6.2 of the report

<sup>159</sup> Refer to the report of the TDIP delegation to Warsaw for more information

<sup>160</sup> Refer to the report of the TDIP delegation to Warsaw and transcripts of the TDIP meeting of 23 November for more information

intelligence training base in nearby Stare Kiejkuty. In one case a medical emergency vehicle, belonging to either the police academy or the military base, was involved. One airport staff member reported once following the vehicles and seeing them heading towards the intelligence training centre at Stare Kiejkuty;

- According to the Border Guards the Boeing crew of 7 people was joined at Szymany airport by 5 passengers, who declared themselves as businessmen. All 12 people (crew and passengers) were American citizens.

## **OTHER COUNTRIES**

### **A) CYPRUS**

#### **FLIGHTS<sup>161</sup>**

**Total Flights Number since 2001:** 57<sup>162</sup>

**Principal airports:** Larnaca and Paphos.

**Suspicious destinations and origins:** Kabul, Afghanistan; Rabat, Morocco; Baghdad, Iraq.

**Stopovers of planes transited through Cyprus and used in other occasion for extraordinary renditions:**

- N313P used for the extraordinary renditions of Khaled el-Masri and Binyam Mohammed: 5 stopovers in Cyprus;
- N85VM used for the Extraordinary Rendition of Abu Omar: 5 stopovers in Cyprus;
- N379P used for the extraordinary renditions of Abu Al Kassem Britel, Benyamin Mohammed, Bisher Al Rawi and Jamil El Banna and the expulsion of Agiza and El-Zari: 11 stopovers in Cyprus.

### **B) DENMARK**

The data available to the Temporary Committee included record of 1 CIA flight transferring through the country<sup>163</sup>. The Committee invited a representative of the Danish Government to discuss this fact. The Minister for Transport, Flemming Hansen provided the Committee with a copy of detailed report about suspicious flights sent earlier to the Danish Parliament but he was not willing to meet the TDIP<sup>164</sup>.

### **C) TURKEY**

Murat Kurnaz, who is a Turkish citizen and a German resident, was illegally detained for 4 years in Afghanistan and Guantanamo. Regrettably, the Government of Turkey regarded Mr Kurnaz more as a German than a Turkish citizen and initially presented no interest in providing him any assistance. Only heavy pressure led by mother of the detained Rabiye

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<sup>161</sup> See working document n° 8, PE 380.984.

<sup>162</sup> According to Eurocontrol data

<sup>163</sup> See working document n° 8, PE 380.984.

<sup>164</sup> See letter of Mr Hansen of 8 November 2006 to TDIP Chairman Carlos Coelho.

Kurnaz made the Government view the case of Mr Kuranz as their responsibility. Even then, the Turkish Government has shown little interest in pressuring the American authorities to free the detainee<sup>165</sup>.

Turkish territory, in particular Adana-Incirlık airport, is regarded as part of the CIA extraordinary renditions program's staging point<sup>166</sup>. This airport was most probably used during extraordinary rendition of the "Algerian Six" when the six men, after a flight in two military planes from Bosnia, were joined at the airport by other detainees and together transported to Guantanamo on 20 January 2002.<sup>167</sup>

The Temporary Committee was able to collect information about three CIA planes, which transferred via Turkey<sup>168</sup>:

- N50BH flying from Canada, via Keflavik in Iceland before going to Turkey.
- N478GS and N475LC made the most frequent stopovers in Shannon airport, Ireland but also constantly visited UK, Greece, Turkey and Romania.

The Turkish authorities have not responded to the Temporary Committee invitation for cooperation<sup>169</sup>, but have sent comments to the Chairman and the rapporteur on 30 January 2007.<sup>170</sup>

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<sup>165</sup> Mr Kurnaz and his lawyer Bernhard DOCKE testified before the Temporary Committee – for more details see transcripts of meetings of 14.09.2006 and 22.11.2006.

<sup>166</sup> See p. 43 of Draft report – Part II (Explanatory memorandum) of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly "Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states" by its Rapporteur Dick Marty

<sup>167</sup> See transcripts of Temporary Committee meeting of 25.04.2006 with Stephen Oleskey, lawyer of the six men.

<sup>168</sup> See working document n° 8, PE 380.984.

<sup>169</sup> Letter of 22 February 2006 of the TDIP Chairman Carlos Coelho to the Turkish Permanent Representation in Brussels.

<sup>170</sup> Letter of 30 January 2007.