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Follow-up to the work of the Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners (TIDP)

Greens/EFA motion for a resolution

Tabled by ***Kathalijne Maria Buitenweg, Jean Lambert, Raül Romeva i Rueda, Cem Özdemir and Hélène Flautre***

on behalf of the Greens/EFA Group

The European Parliament,

 having regard to the international, European and national instruments on human rights and fundamental freedoms and on the prohibition of arbitrary detention, enforced disappearances and torture, such as the International Covenant on Civil and Political Rights of 16 December 1966 and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, and the relevant protocols thereto,

 having regard to the report on the TDIP Committee's findings on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, as well as to other reports and resolutions raising the issue, including the Council of Europe's work on this matter,

 having regard to its resolution of 4 February 2009 on the return and resettlement of the Guantánamo detention facility inmates[1],

 having regard to its decision to send a letter to national parliaments on the follow-up by Member States to the TDIP report,

 having regard to Rule 103(2) of its Rules of Procedure,

A. whereas its report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners addressed a series of 46 detailed recommendations to Member States, the Commission and the Council,

B. whereas since the adoption of the EP report, a series of developments have taken place in EU Member States, including:

 the statements by the UK Foreign Secretary on two US extraordinary rendition flights carrying two prisoners that landed on UK territory in 2002 and the compiling of a list of suspect flights that would be

sent to US authorities to request specific assurances that they had not been used for rendition, as well as the statements by the Prime Minister in this regard,

– the decision by the Polish Prime Minister to hand over to prosecutors documents on CIA flights and prisons, and the finding of the Polish Public Prosecutor that over a dozen CIA flights had used Szymany Airport, thereby confirming the TDIP Committee's findings,

– the publication by El País of documents containing new information concerning CIA flights carrying detainees in Spain during the Aznar government's term of office, as confirmed by the former Minister of Foreign Affairs,

– new information on CIA flights in Portugal carrying detainees, during the Barroso Government's term of office, as indicated by the Foreign Minister,

– the imposition of state secrecy requirements by some governments on information relevant to the inquiries into rendition, as occurred in Italy, where the proceedings on the rendition of Abu Omar are currently suspended and a ruling by the Constitutional Court on the legitimacy of the invocation of state secrecy is awaited,

C. whereas on 3 February 2009 the EU Commissioner for Freedom, Security and Justice stated in the European Parliament that he had undertaken a series of actions to implement Parliament's recommendations, including writing to the authorities of Poland and Romania to ask them to reveal the whole truth about the alleged existence of secret prisons on their soil, and issuing a Communication proposing new measures in the field of civil aviation,

D. whereas extraordinary rendition and secret detention are contrary to international human rights law, the UN Convention against Torture, the European Convention on Human Rights and the Charter of Fundamental Rights, and whereas the US authorities are currently reviewing these practices,

E. whereas those kidnapped in some Member States under the extraordinary rendition programme have been flown to Guantánamo or to other states by the US authorities on military or CIA flights, which have often flown over EU territory and in some cases have also made stopovers in certain EU Member States; whereas those taken to third countries have undergone torture in local prisons,

F. whereas some Member States have approached the US authorities requesting the release and repatriation of persons who have undergone extraordinary rendition and who are their nationals or who were previously resident on their territory; whereas officials of some Member States have had access to prisoners in Guantánamo or in other detention centres and have also interrogated them to verify the charges brought against them by the US authorities,

G. whereas its report stated, and subsequent events have confirmed, that several EU Member States had been involved in, or had cooperated actively or passively with the US authorities in, the CIA's and US military's illegal transport of prisoners to, and/or their detention in, Guantánamo and the 'secret prisons' acknowledged by President Bush – as proven by some recently disclosed information concerning governments' authorisations of US requests for over-flight and by government information on secret prisons – and that EU Member States bear a particular share of political, moral and legal responsibility for the transportation and detention of those imprisoned in Guantánamo and in secret detention facilities,

H. whereas the US Senate has ratified the EU-US agreement on extradition and mutual judicial assistance, ratified by all the EU Member States but Italy,

I. whereas the executive orders issued by President Obama on 22 January 2009, though a big step forward,

do not seem to fully address the issues of secret detention and abduction or that of the use of torture,

1. Denounces the lack of action taken so far by the Member States and the Council, in particular its High Representative CFSP, Javier Solana, to shed light on the extraordinary renditions programme and to implement Parliament's recommendations; deplores the lack of satisfactory answers given by the Council to Parliament on 3 February 2009;

2. Calls on the Member States, the Commission and the Council to fully implement the recommendations made by Parliament in its report on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners and to assist in ascertaining the truth by opening inquiries or collaborating with the competent bodies, including UN and Council of Europe bodies, by disclosing and providing all relevant information, and by ensuring parliamentary scrutiny of the action of secret services; asks the Council to disclose all relevant information on the negotiations that have taken place with the US authorities in the framework of the COJUR;

3. Calls on the European Union and the United States to strengthen transatlantic dialogue on a new common approach to tackling terrorism based on the common values of respect for international human rights law, democracy and the rule of law, in a framework of international cooperation;

4. Believes that the EU-US agreements on extradition and mutual judicial assistance constitute a relevant tool for lawful law enforcement and judicial cooperation in the fight against terror; welcomes, therefore, their ratification by the US Senate and calls on Italy to ratify them as soon as possible;

5. Welcomes the issuing by President Obama of three executive orders on closing the Guantánamo detention centre, halting the proceedings of military commissions, ending the use of torture and shutting secrete prisons abroad;

6. Highlights the fact, however, that some ambiguities persist as to the limited maintenance of rendition schemes and of secret detention facilities; reiterates, therefore, its call to close and prohibit the use of all other secret detention facilities directly or indirectly managed by the US authorities in the US or abroad; recalls that secret detention is in itself a serious violation of basic human rights;

7. Reaffirms that, according to Article 14 of the UN Convention against Torture, any victim of an act of torture has an enforceable right to redress and to fair and adequate compensation;

8. Welcomes the upcoming visit to the United States by the Commissioner for Freedom, Security and Justice, the Czech Presidency and the EU Counter-Terrorism Coordinator, and calls on the EU representatives to raise the issue of extraordinary rendition and of secret detention facilities, as these are serious violations of international and European human rights law;

9. Calls on the European Union, the Member States and the US authorities to investigate and fully clarify the abuses and violations of international and national law on human rights, fundamental freedoms, the prohibition of torture and ill-treatment, enforced disappearance and the right to a fair trial committed in connection with the 'war against terror', so as to establish responsibility for secret detention centres - including Guantánamo - and the extraordinary rendition programme, and to ensure that such violations do not recur in the future and that the fight against terrorism is pursued without breaching human rights, fundamental freedoms, democracy and the rule of law;

10.Asks for the setting-up of an EP standing rapporteur in charge of investigating any possible new evidence on the extraordinary rendition programme and of assessing the implementation of EP recommendations;

11.Calls on the Commission and the Council, after the visit of the EU delegation to the US, to report to Parliament on the application of the agreements on mutual legal assistance and on extradition, as well as on EU-US cooperation in the field of anti-terrorism while ensuring full respect for human rights, so that the competent committee can address these issues in a report drafted inter alia on the basis of paragraph 232 of the TDIP Temporary Committee report;

12.Instructs its President to forward this resolution to the Council, the Commission, the High Representative for the CFSP, the Counter-Terrorism Coordinator, the parliaments of the Member States, the NATO Secretary-General, the Secretary-General and President of the Parliamentary Assembly of the Council of Europe, the United Nations Secretary-General and the President and Congress of the United States of America.

[1] *Texts adopted*, P6_TA-PROV(2009)0045.

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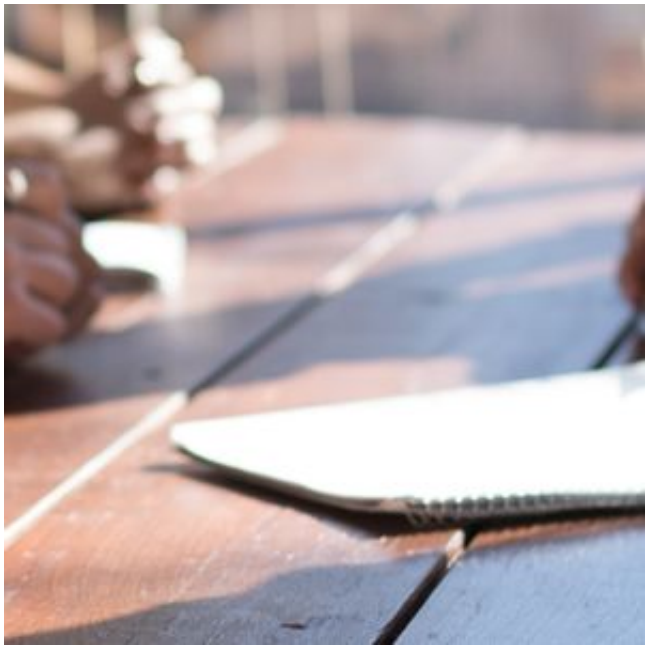

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