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Illegal detention of prisoners in Europe

Temporary committee on CIA activities

A few months ago, statements by American officials, newspaper reports and allegations by NGOs referred to the existence of secret CIA detention centres in Europe, illegal abductions and ill-treatment of prisoners.

In the view of the Greens/EFA group in the European Parliament, if such allegations are confirmed, they constitute a flagrant breach of Fundamental Rights. That is why the **Greens/EFA committed themselves to a parliamentary investigation**. As a result and thanks also to the support of other MEPs, the European Parliament agreed in January 2006 to set up a temporary committee to investigate allegations of the transport and illegal detention of prisoners by the CIA in European countries.

The temporary committee's mandate is to collect and analyse information to find out:
- whether the Central Intelligence Agency (CIA) or other US agents or intelligence services of other third countries have carried out abductions, "*extraordinary rendition*", detentions at secret sites, torture, inhuman or degrading treatment of prisoners on EU territory or in acceding or candidate countries, or have used this territory to these ends, for example by through flights to or from such countries;
- whether such actions, which would have been carried out as part of the fight against terrorism, could be considered a violation of the EU Treaty, in particular Article 6 of the EU Treaty on the respect for Fundamental Rights in the European Union, the Charter of Fundamental Rights, the European Convention on Human Rights and other international treaties and agreements.

This committee should determine whether EU citizens have been detained; whether EU Member States or institutions have been involved or have been complicit in the illegal deprivation of individuals' liberty .

The first phase was concluded last June with the vote of an **interim report** in the plenary session by a large majority. That report aimed at providing a provisional assessment of the work conducted by the temporary committee after the first four months. The report asked for and obtained authorisation to continue the work of the temporary committee up to a 12-month cut-off point.

In the first phase of activity, which benefited from the excellent work done by Dick Marty at the Council of Europe and by its Secretary-General, Terry Davis, it focused primarily on the experiences of certain victims of extraordinary rendition (Abu Omar, Khaled Al Masri, Maher Arar, Mohamed El Zary, Ahmed Al Giza and the 'six Algerians' - five of Bosnian nationality - arrested in Bosnia and transferred to Guantanamo). In the course of the hearings we heard their testimonies (or, for those still held in detention, those of their lawyers), which were often enhanced by the findings of enquiries under way in some countries. After reconstructing the events and the context in which they occurred, it was concluded that there had been a marked scaling-back of instruments for the safeguard and guarantee of human rights after 11 September. This scaling-back also contravened some basic tenets of international law, not least the United Nations Convention against Torture (CAT), violated not only as regards the complete ban on

torture but also as regards the explicit ban on extraditing prisoners to countries in which there is a risk of their being subjected to torture or to degrading or inhuman treatment.

Much of the work centred on gathering information and documents, responses and other data on the practice of extraordinary rendition (an extra-judicial system used for the purposes of the *War on Terror*), on the use of torture and on the hypothesis that the CIA had used clandestine prisons in European countries.

Special attention has also been awarded to the issue of European flights by aircraft operated by companies with direct or indirect links to the CIA. By cross-referencing the data obtained by Eurocontrol with that of the Federal Aviation Administration and with other sources available to it (NGOs, journalists, victims), the committee has been able to piece together records for over a thousand stop-overs made in Europe between late 2001 and late 2005 that it can be presumed were operated by the CIA. It is certainly possible that some of those flights were used for the rendition of prisoners.

In the second phase of its work, the committee is now examining the role and potential responsibilities of Member States and associate and candidate countries. After having gathered information during the first phase of the work, we try now to confront Member States and EU officials with the evidence but most of them are very reluctant to cooperate with the committee.

To this end a delegation was recently sent to Berlin to give the committee the opportunity to reinforce cooperation with the Bundestag inquiry committee and to meet German officials. Other delegations are foreseen for the UK, Romania, Poland and, if authorised, Portugal.

One of the initial assessments that can be made is that it seems clear that many Member States interpreted the Chicago Convention in an excessively liberal manner and that no European country has made consistent efforts to ensure that civilian aircrafts are used for purposes compatible with international human rights law.

Many of our suspicions have recently been confirmed by the recent statement made by George Bush admitting the existence of secret detention centres operated by US services. The main task of the committee now is to check whether such centres have actually been operated in the EU. It is particularly difficult to find the truth since such detention centres, if they have existed on the EU territory, were small structures and have most probably been closed in the meantime. We have also to assess the level of involvement of the EU Member States' authorities in CIA illegal activities in Europe. Were they only aware? Did they take part actively in such activities? When the investigation work is finished, our task will be to provide for both legal and practical recommendations in order to make sure that such activities will be made impossible on EU soil.

The positive assessment of the work is also made possible by the contribution of our group and our close cooperation with the rapporteur who repeatedly expressed satisfaction about the positive contribution of our group.

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