Alleged use of European countries by the CIA for the transportation and illegal detention of prisoners

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The European Parliament adopted a resolution based on the own-initiative report drafted by Giovanni Claudio **FAVA** (PES, IT) on the Temporary Committee's findings on alleged use of European countries by the CIA for the transportation and illegal detention of prisoners. The report, which deplores the passivity of some Member States in the face of illegal CIA operations, as well as the lack of co-operation from the EU Council of Ministers, was approved with 382 votes in favour, 256 against with 74 abstentions.

The main points of the report were as follows:

- CIA flights: Parliament agreed with the Temporary Committee and concluded that "at least 1 245 flights operated by the CIA flew into European airspace or stopped over at European airports between the end of 2001 and the end of 2005". It regretted that European countries had been "turning a blind eye" to such flights, which, "on some occasions, were being used for extraordinary rendition or the illegal transportation of detainees." The report stressed that working documents published by the Temporary Committee provided "strong evidence of the extraordinary renditions analysed by the committee, as well as of the companies linked to the CIA, the aircraft used by the CIA and the European countries in which the CIA aircraft made stopovers". Parliament mentioned up to 21 cases of extraordinary rendition in which rendition victims were transferred through a European country or were residents in a European state at the time of their kidnapping. Bearing this in mind, the report "calls on the countries of Europe to compensate the innocent victims of extraordinary rendition". It went on to state that the CIA has been using civil aviation rules to bypass the legal obligations for state aircraft, including those operated by the military and the police, as provided in the Chicago Convention.

Parliament condemned extraordinary rendition as an illegal instrument used by the United States in the fight against terrorism, and also condemned the condoning and concealing of the practice, on several occasions, by the secret services and governmental authorities of certain European countries. It called on the Council and the Member States to issue a clear and forceful declaration calling on the US Government to put an end to the practice of extraordinary arrests and renditions, in line with the position of Parliament.

-Secret detention facilities: the report expressed deep concern that, in some cases, "temporary secret detention facilities in European countries may have been located at US military bases". It emphasised that the concept of "secret detention facility" included "not only prisons, but also all places where somebody is held incommunicado, such as private apartments, police stations or hotel rooms" - as in the well-publicised case of Khaled El-Masri in Skopje. In an amendment passed with a narrow majority (356 to 323), MEPs noted that, in light of the available circumstantial evidence, it was not possible to acknowledge or deny that secret detention centres were based in Poland. However, seven of the fourteen detainees transferred from a secret detention facility to Guantánamo in September 2006 coincide with those mentioned in a report by ABC News (published in December 2005) listing the identities of twelve top Al Qaeda suspects held in Poland.

-Possible use of torture: the report recalled that the programme of extraordinary rendition is an extra-judicial practice "whereby an individual suspected of involvement in terrorism is illegally abducted.....and /or transported to another country for interrogation which, in the majority of cases, involves incommunicado detention and torture". This was confirmed by the victims - or their lawyers - who gave

testimony to the committee. In light of the available evidence, the report noted that there was a strong possibility that some European countries may have received, knowingly or unknowingly, information obtained under torture. Parliament took note of the testimony to the Temporary Committee by Craig Murray, former UK Ambassador to Uzbekistan, on the exchange of intelligence obtained under torture and the legal opinion of Michael Wood, former legal advisor to the UK Foreign and Commonwealth Office. It expressed its concern about Michael Wood's legal opinion, according to which receiving or possessing information extracted under torture, insofar as there is no direct participation in the torture, is not per se prohibited by the UN Convention against Torture of 1989. Parliament condemned any attempt to obtain information by means of torture, regardless of who is involved.

-Lack of cooperation: Parliament denounced the lack of cooperation of many Member States, and of the Council of the EU towards the Temporary Committee. It stressed that the behaviour of Member States, and in particular the Council and its Presidencies, fell far below the standard that Parliament was entitled to expect. The serious lack of concrete answers to the questions raised by victims, non-governmental organisations (NGOs), the media and parliamentarians only served to strengthen the validity of already well-documented allegations. In addition, it was wholly unacceptable that the Council should first have concealed and then, at Parliament's request, only supplied piecemeal information on the regular discussions held with senior officials of the US Government, asserting that this was the only available version. These shortcomings of the Council implicate all Member State governments since they have collective responsibility as members of the Council.

The national governments specifically criticised for their unwillingness to cooperate with Parliament's investigations are those of Austria, Italy, Poland, Portugal and Britain. The report also gave detailed evidence of investigations of illegal rendition or CIA flight cases involving Bosnia, Cyprus, Denmark, Former Yugoslav Republic of Macedonia (FYROM), Germany, Greece, Ireland, Romania, Spain, Sweden and Turkey.

Parliament also expressed its concern about the omissions in the statements made to the Temporary Committee by the Council and its Secretary-General, regarding the Council's discussions and knowledge of the methods used by the United States in its campaign against terrorism. It deplored the fact that he was unable to supplement the evidence already in the possession of the Temporary Committee. Parliament questioned too the real substance of the post of EU Counter-terrorism Coordinator occupied by Gijs de Vries, since he was unable to give satisfactory answers to the questions raised by the Temporary Committee. It was of the opinion that a revision and strengthening of his competence and power, as well as the increased transparency and monitoring of his activities by Parliament must be undertaken in the near future. Parliament also criticised the lack of cooperation evinced by the Director of the European Police Office (Europol), Max-Peter Ratzel, and expressed its deep concern about the refusals of the former and current Secretaries-General of NATO, Lord Robertson and Jaap de Hoop Scheffer, to appear before the Temporary Committee.

Policy recommendations: Parliament made a series of specific political and legal recommendations and went on to state that it expected the Council to put pressure on all the governments concerned to give full and thorough information to the Council and the Commission and, where necessary, to start hearings and commission an independent investigation without delay. It recalled the principles and values on which the EU based, as provided in Article 6 of the TEU, and called on the EU institutions to meet their responsibilities in relation to Article 7 of the TEU all other relevant provisions of the Treaties, and to take all appropriate measures in the light of the conclusions of the work of the Temporary Committee. Parliament also instructed its Committee on Civil Liberties, Justice and Home Affairs to follow up politically the proceedings of the Temporary Committee and to monitor the developments. If no appropriate action had been taken by the Council and/or the Commission, the committee must determine whether there was a clear risk of a serious breach of the principles and values on which the EU is based, and recommend any resolution, taking as a basis Articles 6 and 7 of the TEU, which may prove necessary in this context.