

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.hrw.org/news/2006/03/09/letter-secretary-general-terry-davis-regarding-inquiries-illegal-cia-activities>

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The inquiry under article 52 of the European Convention on Human Rights focuses on member states laws and institutional structures and whether appropriate legal protections are in place to prevent or punish illegal activities, as well as on facts and specific information about such activities.

Human Rights Watch welcomes your initiative under article 52 of the European Convention on Human Rights to investigate allegations that suspected terrorists were abducted, detained or transported by the U.S. Central Intelligence Agency (CIA) on European soil.

Your inquiry is an important complement to ongoing factual investigations into these allegations by the Parliamentary Assembly of the Council of Europe and the European Parliament. Notably, it has already succeeded in revealing an important implementation gap in European human rights protections. In our view, your March 1 characterization of Europe as a happy hunting ground for foreign intelligence services is all too apt. We strongly support your conclusion that no European government has the necessary procedures in place to prevent foreign agents from engaging in wrongful activities on European soil.

We are writing now with concerns regarding the responses to your inquiry provided by some member states, and to suggest follow-up questions to ask member states.

We agree with you that many of the responses of member states to your inquiries were inadequate especially their responses to the factual inquiry contained in your fourth question. That question focused on whether any officials of member states were involved in the unacknowledged detention or transport of detainees, including in cases where such operations were carried out by foreign agencies, from January 1, 2002, to the present. It also asked whether investigations into such activities were underway or had been carried out.

As you noted in your report, several countries did not answer this key question in any detail and, indeed, a few countries failed to answer it at all. There were many denials of involvement, with no member states affirming that their officials had been involved in unacknowledged detentions or detainee transports.

We share your concern, expressed on March 1, that some States Parties have not replied or not replied completely to Question 4. Of greatest note, none of the principal countries allegedly linked to CIA prisoner transport or detention Germany, Italy, Macedonia, Albania, Sweden, Poland, and Romania responded to the question in a sufficiently full and detailed manner.

We offer the following country-by-country summaries, describing the gaps and weaknesses of member state responses to question four, as well as useful areas for follow-up:

As you noted in your report and March 1 press conference, Poland did not respond in a meaningful way to question four. As you stated, Poland provided a very incomplete reply [to question four] which cannot be considered as an adequate response or sufficient to put an end to the controversy. Beyond a blanket denial, the Polish authorities gave no factual information regarding their relations with foreign intelligence services and ignoring your request for information regarding investigations did not specify the inquiry that was supposedly carried out by the Polish Parliament in December 2005. (Their response says only that when the allegation of secret prisons surfaced, the competent authorities acted immediately in order to thoroughly investigate the matter.) In light of this non-response, we urge you to reiterate your request for information about CIA activities on Polish soil in 2003-2005. We suggest that you ask the Polish government for additional information about its parliamentary investigation, including a copy of the investigations conclusions, and specifically ask for information about special zones reportedly reserved for CIA use and about the governments knowledge of what activities the CIA carried out in those areas. ¹

Romania responded to question four by denying any involvement in illegal detention operations. Its submission did note, however, that the Romanian Senate had opened an investigation into allegations of secret CIA detention facilities in Romania, and that a preliminary report was expected on February 15. But the government provided no details about the conclusion of this investigation, nor did it explain

why the report itself was not included as an annex to the communication. We urge you to request a copy of the report. (Human Rights Watch has requested a copy of the preliminary report from Romanian Senate officials, but has been told that it is not available to the public. We have since filed a formal request for the report under Romanian freedom of information laws.) In addition, we suggest that you request information from the government about operations underway at Romanian airbases that were provided to the United States for their use in 2003 to the present. ² Follow-up questions should probe those arrangements and determine what knowledge the Romanian government has about U.S. operations that took place in 2003-2005.

Germany denied that any of its officials had been involved in any unacknowledged deprivation of liberty, but as you noted in your report, it listed two ongoing criminal investigations into illegal prisoner transports. One investigation involves the February 2003 abduction in Italy of Abu Omar, an Egyptian cleric, allegedly by CIA personnel. A prosecutor in Milan, Italy, has indicted 22 U.S. personnel for Abu Omars abduction (most of them CIA agents). He has credibly alleged that Abu Omar was briefly held at the U.S. military base at Aviano in Italy, then flown to the U.S. military base in Ramstein, Germany, and then transferred to another plane and flown to Cairo, where he was allegedly tortured. The second case involves Khalid el Masri, a German national who was arrested by the Macedonian authorities in January 2004, transferred to U.S. custody in Skopje, and then flown to Afghanistan, where he was detained until mid 2004. Both investigations are ongoing. Although they briefly described these cases, the German authorities did not provide any information regarding the possible involvement of German military or intelligence personnel in each case. We urge you to request further information about the cases and about the involvement of German officials. We also note that the German parliament is considering opening a parliamentary investigation into, among other things, German involvement in CIA operations and prisoner transport. We urge you to ask about the progress of this inquiry as well.

As you noted, Italy (whose entire response to the inquiry was only two pages long) did not reply to question four in a meaningful way. It said only that no Italian officials are implicated in the so-called flying prisons issue. Notably, the Italian response made no reference to the Abu Omar case, described above, or to the ongoing criminal investigation of that case being carried out by a Milan prosecutor. As you suggest, Italy should be asked to provide additional information about the Abu Omar case in particular, information about what knowledge Italian intelligence services may have had about the activities of the CIA team that has been charged with kidnapping Abu Omar.

Macedonia and Albania likewise failed to respond to question four. (In fact, as you noted, Albania did not respond in an acceptable way to any of the questions.) We suggest that you ask the Macedonian authorities specifically to provide information about the Khalid el Masri case, referenced above in particular, information about the cooperation of Macedonian intelligence services in handing over el Masri to the U.S. personnel who transported him to a secret prison in Afghanistan. We further suggest that you ask the Albanian government to provide information about the same case. (El Masri was flown from Afghanistan to Albania in late 2004 and was apparently released from U.S. custody in a rural area in Albania.)

Sweden responded to question four but denied any official involvement in CIA detainee operations. Notably, its response included no mention of the cases of Ahmed Agiza and Mohammed al-Zari, two Egyptian asylum seekers in Sweden who were transported together in December 2001 on a CIA-operated plane from Stockholm to Egypt. In its decision on the Ahmed Agiza case in May 2005, the U.N. Committee against Torture found that Sweden had violated article 3 of the Convention against Torture by handing Agiza to U.S. authorities in Stockholm and thus assisting in his transfer to Egypt, where both men have made credible allegations of torture. The Swedish government has yet to fully comply with the committee's decision, has not fully explained its knowledge or involvement in the transfer, and has failed to take adequate steps to remedy the violations suffered by Agiza and al-Zari, both of whom remain in Egypt vulnerable to continued abuse. We strongly urge you to ask the government of Sweden to provide information on this case. We believe that it is not enough for the Swedish authorities to explain this omission by saying that these renditions occurred a few days earlier than the starting date of your inquiry, given that Sweden has a continuing involvement in the Agiza and al-Zari case. Swedish diplomatic officials continue to visit Agiza in detention in Egypt, and there are ongoing accountability processes and investigations under way into the renditions. In our view, a good faith reply to your inquiry would have contained an accounting of the case, including a description of the involvement of Swedish officials in the renditions, and follow-up action undertaken since.

The French response did not mention that a French prosecutor in Seine-Saint-Denis has opened a criminal investigation into whether planes used by the CIA landed on French soil. The investigation is looking particularly at a Gulfstream III, registration number N50BH, which allegedly landed at Bourget airfield on July 20, 2005. It will examine whether the plane was used by the CIA to transport detainees, and whether the French authorities were aware of its stop in France. We urge you to request additional information about this inquiry.

Human Rights Watch remains deeply supportive and stands ready to assist in your effort in carrying out this inquiry. We hope you will find the information discussed above useful in your follow-up with member states.

Thank you for your attention to these concerns and we look forward to continued fruitful dialogue with you.

Sincerely,

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International Alternatives to Detaining Immigrants

Abusive Night Raids by CIA-Backed Afghan Strike Forces

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