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# REPORT

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## EVIDENCE OF THE USE OF GERMAN TERRITORY AND AIRSPACE FOR ILLEGAL RENDITION AND ABUSE OF PRISONERS

### 1. Background

Reprive has for the first time made public unclassified information derived from detainees in Guantanamo Bay, indicating that German territory and airspace may have been used for the rendition and abuse of U.S. prisoners.

Evidence relating to the use of German territory and airspace for illegal rendition and abuse has so far been limited to an official investigation into the use of Ramstein airbase for the rendition of Abu Omar<sup>1</sup>, and a spate of news reports documenting "suspicious stop-overs" at Ramstein airforce base and Rhein-Main airbase in Frankfurt.<sup>2</sup>

### 2. New information relating to the possible use of German territory for the rendition and abuse of U.S. prisoners

#### a. Waleed Tawfiq Bin Attash

**Unless otherwise indicated, the following information has been derived from prisoners in Guantanamo Bay by Reprive, and is not classified under the rules put in place by the U.S. authorities.**

<sup>1</sup> At midday on 17 February 2003, Egyptian citizen Hassan Osama Mustafa Nasr (aka Abu Omar) was kidnapped on the streets of Milan by CIA agents<sup>1</sup>. He was then flown by military helicopter from Avenna to Ramstein where he changed planes. On 17 February 2003, Abu Omar was flown by Gulfstream IV N85VM (later N227SV, and owned by CIA front company Richmore Aviation) from Ramstein to Cairo. The plane's owner confirmed to the *Boston Globe* in March 2005 that he charters his plane through Richmor to the CIA, as well as to other clients. The plane was recently advertised for charter at a rate of US\$5,365 per hour. The CIA has made frequent use of Richmor's Gulfstream IV, which has made over 100 trips to Guantánamo Bay. (see Council of Europe report of 12 June 2006: *Alleged Secret Detentions and Unlawful Inter-state Transfers Involving Council of Europe Member States* (Doc 10957); at 3.4/162. The report states that "The Italian judicial investigation established beyond all reasonable doubt that the operation was carried out by the CIA."; and *Below the Radar – Secret Flights to Torture and 'Disappearance'*, Amnesty International 5 April 2006 (AI Index: AMR 51/051/2006); <http://web.amnesty.org/library/Index/ENGAMR510512006>)

<sup>2</sup> See for example *Extraordinary Renditions Gate Grows in Europe*, Spiegel's Daily take, November 22, 2005; <http://www.spiegel.de/international/0,1518,386338,00.html>; and CIA Flights Landed in Germany, BBC, 3 December 2005; <http://news.bbc.co.uk/2/hi/americas/4496322.stm>

Waleed Bin Attash was arrested in Pakistan on 29 April 2003.<sup>3</sup> Announcing Waleed bin Attash's capture, President George W. Bush called him a "killer", adding "he is one less person that people who love freedom have to worry about".<sup>4</sup> Waleed was initially imprisoned in Bagram but then vanished into the secret CIA prison programme until he reappeared on September 6th, 2006, in Guantanamo Bay.<sup>5</sup>

Information relating to the possible whereabouts of Waleed Bin Attash from the time of his arrest in Pakistan in April 2003 and his reappearance at Guantanamo Bay on 6 September 2006 comes from his brother Hassan bin Attash, also in Guantanamo Bay.

Hassan (Guantanamo ISN 1456), was 17 when he was seized in Pakistan on 10 September 2002, transferred to Afghanistan on 14 September, and then onto Jordan on 18 September 2002,<sup>6</sup> to face interrogation about his older brother Waleed Tawfiq bin Attash, alleged to be a senior member of Al Qaida.

During the flight to Jordan, Hassan's hands and feet were tied and chained together for hours. He was unable to move and pain was unbearable. In Jordan, he was subject to torture and beatings 12 hours a day. He was forced to sign a confession that was, he was told, what the US military demanded. **In Jordan, his torturers told Hassan that Waleed was being held for interrogation at a prison at a U.S. airforce base in Germany.** On January 8th, 2004 Hassan was transported back to the Dark Prison, then to Bagram and, on September 19th, 2004, to Guantanamo Bay where he remains. He is not charged with any offence.

On the information available to us, we cannot make a firm estimate as to the dates that Waleed bin Attash would have been in Germany. Waleed was arrested in Pakistan on 29 April 2003 and transferred to Bagram for an undisclosed period before disappearing into the secret prison network. Logically, the start date of **Waleed bin Attash's possible detention in Germany would have likely been sometime between his capture on 29 April 2003, and Hassan's transfer out of Jordan on 8 January 2004. On the facts available to us, we cannot make any estimate as to the duration of time Waleed Bin Attash may have spent in Germany.**

#### **b. Khalid Sheikh Mohamed**

**Unless otherwise indicated, the following information has been derived from prisoners in Guantanamo Bay by Reprive, and is not classified under the rules put in place by the U.S. authorities:**

Khalid Sheikh Mohamed (KSM) was arrested on 1 March 2003 in Rawalpindi, Pakistan.<sup>7</sup> On 9 March 2003, KSM was reportedly transferred to American custody at Chaklala Air Force Base in Rawalpindi and subsequently transported to Bagram, Afghanistan.<sup>8</sup> On either 11-12 March 2003, KSM was said to have been transferred to an undisclosed location.<sup>9</sup> KSM is previously reported to have been held in Thailand,<sup>10</sup> Jordan,<sup>11</sup> Diego Garcia,<sup>12</sup> Poland<sup>13</sup> On 6 September 2006, it was announced by President

<sup>3</sup> *Al-Qaeda Money Man Caught*, Elaine Shannon, Time Nation, Thursday May 1 2003; <http://www.time.com/time/nation/printout/0,8816,448922,00.html>

<sup>4</sup> *Below the Radar – Secret Flights to Torture and 'Disappearance'*, Amnesty International 5 April 2006 (AI Index: AMR 51/051/2006), at 1.5; <http://web.amnesty.org/library/Index/ENGAMR510512006>

<sup>5</sup> Fox News, 6 September 2006; <http://www.foxnews.com/story/0,2933,212606,00.html>

<sup>6</sup> 7 Detainees report transfer to nations that use torture, by Farah Stockman, The Boston Globe, April 26<sup>th</sup> 2006; [http://www.boston.com/news/nation/washington/articles/2006/04/26/7\\_detain](http://www.boston.com/news/nation/washington/articles/2006/04/26/7_detain)

<sup>7</sup> *The United States' "Disappeared" The CIA's Long-Term "Ghost Detainees"*, Oct. 2004, Human Rights Watch, Annex; [http://www.hrw.org/backgrounder/usa/us1004/7.htm#\\_Toc84652978](http://www.hrw.org/backgrounder/usa/us1004/7.htm#_Toc84652978).

<sup>8</sup> See Mark Bowden, *The Dark Art of Interrogation*, ATLANTIC MONTHLY, Oct. 2003; <http://www.theatlantic.com/doc/prem/200310/bowden>.

<sup>9</sup> See Mark Bowden, *The Dark Art of Interrogation*, ATLANTIC MONTHLY, Oct. 2003; <http://www.theatlantic.com/doc/prem/200310/bowden>.

<sup>10</sup> See Jason Burke, *Secret world of US jails*, OBSERVER, Jun. 13, 2004, available at

Bush that KSM and 13 other men had been transferred out of the secret CIA prison system to Guantanamo Bay.<sup>14</sup>

Information relating to the possible whereabouts of Khalid Sheikh Mohamed from the time of his arrest in Pakistan on 1 March 2003 and his reappearance at Guantanamo Bay on 6 September 2006 comes from Binyam Mohamed, also in Guantanamo Bay.

Binyam Mohamed (GTMO ISN 1458) was born July 24, 1978, and is of Ethiopian origin, but lived for seven years in Kensington, London, where he had applied for political asylum. He states that he was rendered to Morocco on July 21-22, 2002. This has been independently confirmed by the flight logs, which reflect that the CIA plane with the call sign N379P flew from Islamabad (Pakistan) to Rabat (Morocco) on that date. **Binyam Mohamed was tortured for 18 months by the Moroccans, with information provided by the United States. During this time, he was told by his Moroccan torturer that Khalid Sheikh Mohammed (KSM) was rendered from Afghanistan to Germany where he was held and interrogated by the United States.** KSM was relevant to Mr. Mohamed's case because the U.S. was suggesting a link between Mr. Mohamed and KSM, including a meeting between the two men on 3 April, 2002 (allegations that Mr. Mohamed strongly denies). Mr. Mohamed was then rendered to Afghanistan on 22 January, 2004, on the CIA plane with the call sign N313P. He is now being held in Guantanamo Bay where he is charged in the military commissions with a conspiracy involving KSM.

On the information available to us, we cannot make a firm estimate as to the dates that KSM may have been in Germany. KSM was arrested in Pakistan on 1 March 2003 and transferred to Bagram for an undisclosed period before disappearing into the secret prison network. Logically, the start date of **KSM's possible detention in Germany would have likely been somewhere between his capture on 1 March 2003, and Binyam Mohamed's transfer out of Morocco on 22 January, 2004.** On the facts available to us, we cannot make any estimate as to the duration of time KSM may have spent in Germany.

3. **New information relating to the possible use of German territory for the rendition and prisoners bound for Guantanamo Bay**

a. **British Resident Shaker Aamer**

**Unless otherwise indicated, the following information has been derived from prisoners in Guantanamo Bay by Reprieve, and is not classified under the rules put in place by the U.S. authorities:**

Shaker Aamer (ISN 239), born December 12th, 1966, is a British resident of Saudi origin. He lives in London, and is married with four British children – one of whom he has never met. He was seized in Pakistan and turned over to the Americans, who took him to Afghanistan. On February 12, 2002, late in the evening, he and 30 other prisoners were taken on a plane for Guantanamo. They stopped in Germany where, rather than simply refueling, they changed planes. The prisoners were blindfolded and shackled, but Shaker could see underneath his blindfold and hear people talking. The weather was cold and clear. The stop was in the early morning, around dawn. They arrived in Cuba mid-afternoon,

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<http://observer.guardian.co.uk/international/story/0,6903,1237589,00.html>. Support for this course of events is also increased by the fact that the United States reportedly has a secret detention facility in Thailand, *see* Ending Secret Detention, Human Rights First, Jun. 2004, available at [http://www.humanrightsfirst.org/us\\_law/PDF/EndingSecretDetentions\\_web.pdf](http://www.humanrightsfirst.org/us_law/PDF/EndingSecretDetentions_web.pdf).

<sup>11</sup> The United States' "Disappeared" The CIA's Long-Term "Ghost Detainees", Oct. 2004, Human Rights Watch, Annex, available at [http://www.hrw.org/background/usa/us1004/7.htm#\\_Toc84652978](http://www.hrw.org/background/usa/us1004/7.htm#_Toc84652978)

<sup>12</sup> *Welcome to the CIA's Hotel California*, Toby Harnden, The Telegraph, 4 March 2003; <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2003/03/04/walq04.xml>

<sup>13</sup> ABC News, 5 December 2005; <http://abcnews.go.com/WNT/Business/popup?id=1375287>

<sup>14</sup> Fox News, 6 September 2006; <http://www.foxnews.com/story/0,2933,212606,00.html>

roughly four p.m., on February 13, 2002. He is being held in Guantanamo Bay, and is not charged with any offence.

4. **The significance of this data**

There are various points of significance about this data:

- None of the information in this document is classified.
- All three provided this information about Germany without prompting. None was aware of the potential significance of such European involvement.
- Beyond counsel's unclassified notes of conversations with the prisoners, there is obviously no documentation of the use of German soil for the rendition, detention or interrogation of these prisoners. However, the three allegations derive from separate sources, each of which has proven to be reliable in the past. In the case of Mr. Mohamed and Mr. Bin Attash, statements about the dates of their rendition have been independently corroborated by the flight logs.
- The U.S. was providing the interrogators in Morocco and Jordan with information to facilitate the abusive interrogations, and it seems probable that those doing the torturing would not have understood the sensitivity of the German connections.
- In each instance, it is understood to have been Ramstein U.S. Airforce Base. This is not confirmed, and it could have been another U.S. Airforce Base in Germany.
- This provides a sufficient case to require a response from the U.S. government as to the truth of the allegations, notably as follows:
  - Whether all three prisoners were rendered illegally using German territory and airspace?
  - Whether German territory and air space was used for other illegal renditions?
  - Whether Waleed Bin Attash and Khalid Sheikh Mohammed were subjected to illegal abuses on German territory in violation of Common Article 3 of the Geneva Conventions, and in violation of the Convention Against Torture?
  - Whether other prisoners were subjected to similarly illegal abuses on German territory?
- This provides a sufficient case to require an inquiry by the German government as to whether German territory has been used to commit the crimes associated with these actions.