

EUROPEAN PARLIAMENT

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Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners

6.6.2006

NOTICE TO MEMBERS

N°2

Subject: Report of the TDIP Committee Delegation to the Former Yugoslav Republic of Macedonia (FYROM)

Committee Members will find attached a report on the delegation to the FYROM prepared by the Secretariat under the responsibility of Ms Sylvia-Yvonne Kaufmann, Delegation Chairwoman

DIRECTORATE-GENERAL
FOR INTERNAL POLICIES

A. INTRODUCTION

At the TDIP Committee hearing on 13 March 2006, Mr. Khaled el-Masri testified that he was detained in the FYROM from 31 December 2003 to 23 January 2004. He was then transported from Skopje to Kabul and detained there until May 2004. On 23 March 2006, the TDIP Committee decided to send a delegation to the FYROM since this case comes within the TDIP Committee mandate under point 1 a) of the European Parliament's decision dated 18 January 2006¹ and, further, because the FYROM government failed to confirm Mr. el-Masri's description. The delegation of the TDIP Committee to the Former Yugoslav Republic of Macedonia took place between 27th and 29th of April 2006.

The delegation was chaired by Vice President of the European Parliament, Ms. Sylvia-Yvonne Kaufmann. There were four other Members of the Committee in the delegation, accompanied by administrators of the European Parliament and of the political groups. In the spirit of good cooperation with the Council of Europe, a guest participant of the Secretariat of the Parliamentary Assembly of the Council of Europe's (PACE) Committee on Legal Affairs and Human Rights was accompanying the delegation in Skopje. The full list of participants is in Annex I to this report.

Organisational and logistical assistance to the delegation in Skopje was provided by the FYROM authorities, the EU Delegation and the European Agency for Reconstruction.

An oral report of the delegation was discussed by the TDIP Committee at its meeting of 4th May 2006. Two press conferences were organised by the delegation chairwoman and the TDIP rapporteur: in Skopje on 28th April 2006 and in Brussels on 4th May 2006.

¹ European Parliament decision setting up a temporary committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, P6_TA-PROV(2006)0012

B. LIST OF MEETINGS

Between 27th and 29th April 2006 the delegation had official meetings with the following persons (in chronological order):

- Branko CRVENKOVSKI, President of the Republic,
- Radmila SEKERINSKA, Deputy Prime Minister,
- Slobodan CASULE, Member of the Parliament, former Minister of Foreign Affairs, in office from November 2001 to November 2002)
- Siljan AVRAMOVSKI, Deputy Director of the Security and Counter-Intelligence Directorate,
- Ljubomir MIHAILOVSKI, Minister of Interior, (in office since December 2004)
- Karolina RISTOVA-ASTERUD, President of the Parliament's EU Affairs Committee,
- Ganka SAMOILOVSKA CVETANOVA, Member of the Parliament's EU Affairs and Foreign Affairs Committees,
- Teuta ARIFI, President of the Foreign Affairs Committee,
- Ljupco JORDANOVSKI, President of the Parliament,
- Mirjana NAJCEVSKA, President of the Macedonian Helsinki Committee,
- Esad RAHIC, President of the Parliamentary Committee for Defence and Security,
- Stojan ANDOV, President of the Standing Inquiry Committee for Protection of Civil Freedoms and Rights,
- Zvonimir JANKULOVSKI, former FYROM Ambassador to the Council of Europe (in office from March 2002 to March 2005).

In addition to the official meetings:

- The delegation visited hotel SKOPSKI MERAK in Skopje in which Mr. el-Masri stayed,

- A press conference was organised,
- The delegation members participated, at the invitation of the EU Ambassador in Skopje, in a reception with Ambassadors of EU Member States in the country.

The agenda of the delegation is attached to the report as Annex II.

C. MEETINGS WITH AUTHORITIES' REPRESENTATIVES

I. Presentation of political background

The representatives of the authorities introduced the interviews by presenting the political situation of the country:

- The Former Yugoslav Republic of Macedonia is a candidate country to the EU (membership) and wants to fulfil all requirements as stated in the Copenhagen criteria, in particular stable institutions guaranteeing democracy, the rule of law, human rights and respect for minorities.
- Full cooperation of all the FYROM institutions was offered to the TDIP Committee. Clarifying the el-Masri case as of the utmost importance for FYROM, in order to prove readiness of the country for the EU membership. If necessary, the FYROM government would prefer to admit to having made mistakes rather than put the country's reputation at risk.
- Awareness was raised about specific political/demographical/geographical situation of the country: significant ethnic and religious minorities, recent violent ethnic conflicts, increasing number of foreign terrorists trying to destabilize the country, the unstable neighbourhood of Kosovo. The need for close cooperation with USA in the war on terror was stated.

II. Involvement in and knowledge of facts concerning the el-Masri case

During the meetings all Government representatives presented the official version of the events concerning the stay of Mr. el-Masri in the FYROM, based on information from the Minister of Interior. It was stated that the FYROM authorities were not aware of the el-Masri case until it appeared in the media. Their investigation of the case was started by the

Ministry of the Interior after receiving a letter with questions from the Council of Europe. The results of the investigation by the FYROM authorities were as follows:

Mr. el-Masri arrived into the FYROM at the border crossing TABANOVCE in the afternoon of the December 31st 2003. He came with a regular passenger bus. He was asked to leave the bus for interrogation and the bus has left the border without him and with the rest of the passengers.

Mr. el-Masri was interrogated at the border for 4 hours until around 8 p.m. - both border guards and counterterrorist policemen were present. It was on the basis of the assessment of the border guard that the interrogation of Mr. el-Masri took place - there were no warnings or instructions from outside to do so. Two reasons were repeatedly given for this interrogation by different government officials:

- The interrogation was a standard one aimed at checking the documents, the purpose of his visit to the country, and whether he had enough money to cover his expenses.*
- Mr. el-Masri had raised mistrust among the guards, because it is very unusual for any foreigner who does not know the country and visits it for the first time, to arrive on the evening of New Year's Eve. As Mr. el-Masri's passport was a relatively new one, there was a question as to whether it was a fake. At that time, there were many terrorist suspects of foreign nationality, who were trying to enter the country, which is why the police needed to be very cautious and suspicious.*

During interrogation an official in the Ministry of the Interior in Skopje (on the request of the border crossing officials) logged into the INTERPOL database in Lyon, to find out if Mr. el-Masri was not in the data base of wanted persons. However, there was no information on the INTERPOL database about Mr. el-Masri. The German embassy in Skopje was not contacted to check if the passport was authentic, as the border officers were able to examine it themselves.

After the interrogation and not finding any reason to hold him, Mr. el-Masri was released at the border to enter the country. There is no record about how he arrived to Skopje.

On the same day, Mr. el-Masri checked into the hotel "Skopski Merak" in Skopje. His 23 day stay is registered in the hotel records and the invoice for this stay exists. Further,

Mr. el-Masri's stay was recorded for purposes of registration of foreigners at the Immigration Office.

The FYROM authorities have no record or any further information regarding Mr. el-Masri's 23 day stay in the hotel. However, it would not have been possible to detain someone at the hotel during such a busy period and at a location that is open to everyone.

The BLACE border register confirms that on 23 January 2004, Mr. el-Masri left the country crossing into Kosovo. Since FYROM provides an exit stamp, the date and location of Mr. el-Masri's departure will be confirmed in his passport.

All information about this case, which the FYROM authorities have, was sent to the Council of Europe. In March 2006, the Ministry of Interior responded to the German government's judicial assistance request. However, the TDIP Committee was not authorised to have access to the contents of this response and received no documentation in this regard. More particularly, the Ministry of Interior considered that it was not authorised to provide records from the investigation at the TABANOVCE border crossing. The Ministry of Interior has no documentation regarding the hotel registration and invoice, which should be obtained directly from the hotel. However, the delegation was provided with samples of border stamps from the TABANOVCE and BLACE crossings.

The authorities emphasized that they were not involved in any way with any events regarding Mr. el-Masri after he was released at the border on 31 December 2003, throughout his stay in the country or indeed following his departure from the country after 23 January 2004. Foreign secret services are not authorised to operate in the FYROM, although the authorities have no instruments to check this. There are no records about activities of the CIA or other third country's secret services in the FYROM and in particular no indications of their involvement in the case of Mr. el-Masri.

It was said that the FYROM authorities had no information about whether the plane mentioned by Mr. el-Masri was indeed a CIA plane and there was no information regarding any passengers.

The FYROM authorities have stated, that they had never been officially informed about a Skopje airport stamp dated January 23rd 2004 on the passport of Mr. el-Masri, and treated this information as a speculation.

Both delegation meetings with Mr. AVRAMOVSKI, Deputy Director, Security and

Counter-Intelligence Directive and with Mr. MIHAILOVSKI, Minister of Interior, were recorded on tape by the FYROM authorities. The authorities are willing to provide any further information about the el-Masri case, if needed.

D. MEETINGS WITH THE SPEAKER OF THE PARLIAMENT AND COMMITTEE CHAIRPERSONS

The main issue discussed with the Members of the Sobranie was the passive position of the parliamentary bodies into the inquiry of the el-Masri case. There was no activity in the Parliament, except one parliamentary question of an opposition MP to the Minister of the Interior. The delegation was told that the FYROM Parliament is not going to set up a Committee of Inquiry as there are two Standing Committees (scrutiny of secret services and human rights), which are competent to deal with the case.

All the senior politicians of the Sobranie took the position, that the Sobranie or its Committees did not start an inquiry, only because there was no petition from Mr. el-Masri. However, some opposition Members and a human rights expert confirmed that, according to the Rules of Procedure, such an enquiry could be launched without the victim's personal request. Most of the parliamentary interlocutors underlined that the Parliament would deal with the case only if there was a petition from the alleged victim. Additionally, it was said, the Parliament is so busy with amending laws accordingly to the Ohrid peace agreement that it has no time to deal with the problem.

There are two parliamentary committees, which by their mandate are competent to examine the el-Masri case: the Standing Inquiry Committee for Protection of Civil Freedoms and Rights and the Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency. The following reasons for inactivity of these committees were given:

- The chairman of the Standing Inquiry Committee for Protection of Civil Freedoms and Rights had been contacted by Mr. Gnjidic, the lawyer of Mr. el-Masri. It was communicated to Mr. Gnjidic that the case of Mr. el-Masri could be dealt with by the Committee, if Mr. el-Masri would formally request it. As there was no such a petition, the Committee has not initiated any inquiry procedure.

- The Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency has not been summoned to sit for 3 years since its chairman Ljube Boshkoski was arrested by the International Criminal Tribunal for the former Yugoslavia. The Parliament's interpretation of the Rules of Procedure is that, except in the event of the chairman resigning, it is solely the chairman who is able to convene the Committee.

E. MEETINGS WITH OPPOSITION AND INDEPENDENT EXPERTS

During the meetings with opposition politicians and independent experts, the TDIP delegation was able to obtain information about political situation and functioning of human rights protection mechanisms in the country, which might put in question the willingness of the authorities to clarify the case of Mr. el-Masri, although no specific information about the case as such was obtained. The following statements and information were obtained:

- The case of Mr. el-Masri as described by him, could happen in the FYROM as this is how the police sometimes works in the country (examples were given of local, similar cases, when human rights were breached, in particular cases concerning illegal detention). The FYROM is known for not respecting human rights - there are constant complaints to the Ombudsman. The FYROM police used to use private apartments for illegal interrogations (so-called "informative conversation") - this has been proven in some court cases. There are cases where illegal immigrants or terrorist suspects were handed over to foreign agents. The Skopje airport is used both for civilian and military purposes. The FYROM authorities do not have full control over it, a part of it is under KFOR, NATO and US control. It is common for the police to go beyond its legal mandate and for the Government to deny such breaches of law. A reason for not investigating the case properly by the Government could be to protect the police as an institution;
- The police always make records of its own activities, so if the el-Masri case is true, there should be a record of it. Perhaps the FYROM Ombudsman would be able to obtain such a record, as the Ombudsman has a right to access all documents, including those which are classified;

- The political pressure of the USA on the FYROM authorities is sometimes brutal (examples were given). The government was probably asked by the US for additional services within the "Coalition of Willing". The FBI officials present in the Ministry of Interior train the FYROM police. The CIA and the "Macedonian Information Agency" have a training agreement, which inter alia, means opening of the country to CIA activities. All security and some of the army officials are trained by US agencies;
- There are five institutions in the country, which could run an investigation of the case on their own initiative, but not even one of these has started any investigation:
 - the Ombudsman,
 - the Public Prosecutor,
 - the Standing Inquiry Committee for Protection of Civil Freedoms and Rights of the Sobranie,
 - the Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency of the Sobranie,
 - an internal enquiry body in the Ministry of Interior;
- The Parliament and its Committees can start inquiries on their own initiative, without a petition from a victim. Experience shows, that reports of the parliament's human rights committee, which are against the official position of the authorities are always voted out by the Sobranie's Plenary;
- There is no single state institution which is independent - all are run by people related to political parties, who are loyal to them. Additionally the authorities are very efficient in silencing investigative journalists - if there is a scandal it is reported by the media but then it is not investigated further and the topic is forgotten and not discussed after a short period of time,
- The opposition will insist on a parliamentary investigation of the case in order for it to be clarified to an extent which leaves no speculation about the involvement of the FYROM authorities. If what Mr. el-Masri says is true, the FYROM authorities should apologize and recompense Mr. el-Masri. Such a way of progressing the case would demonstrate a proper functioning of the legal system in the FYROM and

subsequently prove its compliance with European standards in protecting human rights.

- A recommendation was made to meet Mr. Hari Kostov, the Minister of the Interior at the time the events took place.

F. VISIT TO THE *SKOPSKI MERAK* HOTEL, IN WHICH MR. EL-MASRI STAYED IN SKOPJE

The delegation decided to visit the hotel where Mr. el-Masri stayed and claims to have been detained incommunicado. The delegation meetings in the FYROM Ministry of Interior had made the need to visit the hotel greater, as the delegation received confirmation from the authorities for the first time of Mr. el-Masri's stay in the hotel though no documentary evidence of his stay was made available to the delegation (in particular a copy of the hotel register or the bill paid by Mr. el-Masri). The delegation was encouraged during the meetings in the Ministry to ask for these documents in the hotel.

The visit to the hotel was arranged by the EU delegation in Skopje. When the TDIP delegation arrived at the hotel, there was no one from hotel management present, only junior staff working no longer than for one month. The hotel owner/manager had left Skopje for holidays on the day of the visit and hotel staff did not want to telephone him. The staff present was not aware of any facts concerning the stay of Mr. el-Masri in the hotel and were not authorised to present any documents concerning his stay.

The delegation was able to briefly examine only current documents of the hotel, as an example of the way in which the hotel operates. The delegation obtained a list of room prices, allowing an estimation of the cost of the stay of Mr. el-Masri at the hotel of around € 2500.

G. EVALUATION OF THE VISIT AND CONCLUSIONS

The delegation to the FYROM proved to be very useful by means of clarifying those parts of Mr. el-Masri's testimonies that could be confirmed by the authorities, those events in his testimony that could have feasibly have happened and the parts of his testimony requiring further investigation.

The delegation members appreciated the declared support for the work of the TDIP Committee offered by the President of the Republic. Members of the delegation and the FYROM authorities agree that clarification of the el-Masri case could be a key issue on the country's path to EU membership. The authorities' representatives presented themselves well prepared to meet the delegation.

The delegation learned for the first time, that the authorities of the FYROM confirmed, what Mr. el-Masri claimed, namely that he had stayed in a hotel in Skopje. It was repeated that Mr. el-Masri entered the FYROM on December 31st 2003 and left the country on January 23rd 2004.

On the other hand, the authorities denied the remaining part of Mr. el-Masri's testimony, in particular his detention for 23 days and leaving the country against his will from the Skopje airport.

The delegation was not provided with a single document which would support the course of events as stated by the FYROM authorities, apart from the oral explanations provided by their representatives.

The delegation learned that the Public Prosecutor of Munich received a formal answer from the FYROM authorities through Germany's judicial assistance request. The delegation had no access to these documents. Cooperation with the Prosecutor would be crucial to dispel remaining questions concerning the course of events.

Interviews with the non-governmental interlocutors concluded with a conviction that the FYROM authorities and other state institutions responsible for protection of human rights failed in investigating the case by showing no interest in dealing with it or by inadequate initiative to clarify involvement of the authorities.

Additionally, the interviews lead to a picture of extraordinarily close cooperation

between FYROM authorities and US security agencies, in particular, in combating terrorism.

The FYROM authorities exclude the possibility of any involvement of the country or USA intelligence services into the case of Mr. el-Masri.

The delegation posed many questions, and it has got some answers. But there are still a lot of open questions. The TDIP Committee needs to follow the case and cooperate with other institutions implementing similar investigations; in particular, the inquiry committee of the German Bundestag and the conclusions of the Public Prosecutor of Munich could be crucial to unveiling remaining inconsistencies.

ANNEX I

List of the delegation participants

Members of the TDIP Committee:

1. Sylvia-Yvonne KAUFMANN (GUE/NGL), the chairwoman of the delegation as the most senior member of the delegation - Vice President of the European Parliament (in absence of the TDIP Chairman Carlos COELHO, who had health problems),
2. Claudio FAVA (PES), Rapporteur,
3. Wolfgang KREISSL-DÖRFLER (PES),
4. Raül ROMEVA I RUEDA (GREENS),
5. Ryszard CZARNECKI (NON ATTACHED).

Staff:

1. François NÉMOZ-HERVENS (Head of the TDIP Secretariat),
2. Tomasz BAŃKA (TDIP Secretariat),
3. Anita TUSAR (PES),
4. Ottavio MARZOCCHI (ALDE),
5. Jean-Luc ROBERT (GREENS),
6. Jens WOLFRAM (GUE/NGL).

In the spirit of good cooperation with the Council of Europe, Gavin SIMPSON, of the Secretariat of the Parliamentary Assembly of the Council of Europe's (PACE) Committee on Legal Affairs and Human Rights was accompanying the delegation in Skopje.

ANNEX II

Agenda of the delegation

Thursday, April 27th

15.30	Arrival to the Skopje airport	
16.30 - 17.00	Branko CRVENKOVSKI	President of the Republic
17.30 - 18.20	Radmila SEKERINSKA	Deputy Prime Minister
18.45 - 20.00	Slobodan CASULE	MP, former Minister of Foreign Affairs
20.15	Reception on invitation of the Head of the European Commission Delegation in Skopje, Erwan FOUERE, with the participation of EU Member States Ambassadors.	

Friday, April 28th

9.15 - 9.55	Siljan AVRAMOVSKI	Deputy Director of the Security and Counter-Intelligence Directorate
10.00 - 11.30	Ljubomir MIHAILOVSKI	Minister of Interior
11.35 - 12.30	Joint Meeting with Members of the Parliament:	
	Karolina RISTOVA-ASTERUD (in the chair)	President of the Parliament's EU Affairs Committee

	Stojan ANDOV	President of the Standing Inquiry Committee for Protection of Civil Freedoms and Rights
	Teuta ARIFI	President of the Foreign Affairs Committee and other members of the Parliament
	Ganka SAMOILOVSKA CVETANOVA	Member of the Parliament's EU Affairs and Foreign Affairs Committees
14.15 - 14.45	Ljupco JORDANOVSKI	President of the Assembly
15.00 - 16.25	Mirjana NAJCEVSKA	President of the Macedonian Helsinki Committee
16.30 - 17.20	Esad RAHIC	President of the Parliamentary Committee for Defence and Security
17.20- 18.00	Stojan ANDOV	President of the Standing Inquiry Committee for Protection of Civil Freedoms and Rights
19.30 - 20.00	Press conference	
Saturday, April 29th		
9.30 - 10.30	Zvonimir JANKULOVSKI	former FYROM Ambassador to the Council of Europe
11.00 - 15.00	Visit to the hotel , where Mr. el-Masari claims to had been detained	
16.55	Departure from the Skopje airport	