

EUROPEAN PARLIAMENT

2004



2009

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

5.7.2006

NOTICE TO MEMBERS

N° 5

Subject: Report on the TDIP Committee Delegation to the United States of America (Washington)

Committee Members will find attached a report on the delegation to Washington prepared by the Secretariat under the responsibility of Mr Carlos Coelho, Committee and Delegation Chairman

DIRECTORATE-GENERAL
FOR INTERNAL POLICIES

A. Proceedings

On 23 March 2006, the TDIP Committee decided to support the coordinators' proposal for a delegation to visit Washington from 8 to 12 May 2006.

TDIP Chairman Coelho requested that European Parliament President Borrell seek the approval of the Conference of Presidents for this delegation (letter dated 29 March 2006 reference 304346/D(2006)17404).

On 6 April 2006, the Conference of Presidents agreed to this request, allowing 13 Committee Members (Bureau, rapporteur and one representative from each political group) to travel to Washington from 8 to 12 May 2006.

Delegation participants are listed in [annex 1](#) and the programme is detailed in [annex 2](#).

The main messages received from the different interlocutors meeting the delegation are summarised hereafter.

B. Summary of meetings

Monday, 8 May 2006

John BRUTON, Head of the European Commission delegation, Washington

Upon arrival in the evening, the delegation met the Head of the European Commission delegation, former Irish Prime Minister, John BRUTON.

This informal exchange of views allowed almost every Member the opportunity to speak. According to Mr Bruton, the delegation programme was excellent and demonstrated that the visit would be taken seriously. Indeed, security issues have always been viewed as important in the United States, all the more at present as the country considers itself at war. It is a fact that since the beginning of Mr Bush's second term in office, special emphasis has been placed on maintaining good relations with Europe.

Tuesday, 9 May 2006

Scott HORTON, Chair, Committee on International Law Margaret L. SATTERTHWAITE, Assistant Professor of Clinical Law & Faculty Director

The delegation met Scott HORTON and Margaret SATTERTHWAITE on the first morning.

They made an evaluation of Mr FAVA's draft interim report and put forward some technical proposals to improve its content.

More particularly, they insisted that additional agents or services (e.g. within the Department of Defence [DOD] and the Federal Bureau of Investigation [FBI]) other than the Central Intelligence Agency [CIA] are involved in the alleged action under investigation.

Regarding detention centres, they stated these were located within existing facilities which were especially arranged for this purpose. Within these facilities, special blocks come under the exclusive control of the USA. Further, they explicitly referred to Poland, Romania, Bulgaria, Tunisia and Morocco.

They stressed the significance of making the appropriate distinction between different terms such as expulsion, deportation, and rendition.

In their estimation, approximately 200 people would be implicated as specialised agents in this inter-agency programme.

Indeed, they qualified the rendition programme as a criminal act carried out by the US government undoubtedly with at least the knowledge of EU Member States authorities.

Barbara OLSHANSKY, Deputy Legal Director for the Centre for Constitutional Rights

The delegation then met Barbara OLSHANSKY in the afternoon.

Reference was made to a secret presidential order allowing the CIA to set up secret detention centres where special interrogation techniques could be used.

In line with information received in the morning, she estimated that about 100 to 150 detainees had been held incommunicado.

Elisa MASSIMINO, Human Rights First, Director at the Washington office

Ms Massimino mentioned that the secret detention centres would form a flexible network where detainees are transferred between sites.

She underlined that competition existed between civil and military agencies as well as services.

Finally, she also confirmed that about 100 detainees had been held incommunicado.

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The delegation attended in the evening the Europe Day reception hosted by the Head of the European Commission delegation, John Bruton, at his residence.

The delegation had a series of meetings with Amnesty International, Human Rights Watch and Democrat Representative Robert WEXLER.

- **AMNESTY INTERNATIONAL:**
was represented by

Angela COLAIUTA, Center for Victims of Torture,
John BRADSHAW, Open Society Policy Center
Smita BARUAH, Physicians for Human Rights and
Jumana MUSA, Advocacy Director for Domestic Human Rights and International Justice

The speakers mainly commented on the Members of Congress that the delegation was due to meet.

Since this was a year of elections for partial renewal of Congress it was clear that most politicians wanted to show a tough profile on security issues. They stressed that the US Army was acutely aware of its image following scandals of prisoner mistreatment. This would perhaps help open the debate on CIA methods, especially since experts were doubtful about the reliability of evidence collected under torture or similar treatments.

They referred to the new Army Field Manual, which now explicitly forbids waterboarding as an interrogation technique. Further, the new manual states that Army personnel should consider any techniques not listed in the light of their possible reciprocal use on US armed force personnel captured abroad.

- **HUMAN RIGHTS WATCH:**

The delegation met with **John SIFTON** (Counterterrorism Researcher) and **Jennifer DASKAL** (US Advocacy Director) who provided the delegation with circumstantial evidence linking Poland and Romania to secret CIA prisons, including flight records, statements by Polish and Romanian government officials, as well as precise details of specific planes used by the CIA. Both recognised that they do not have formal evidence of these allegations, but stressed the indications of these facts were actually very strong. Their information was that there had been detainees in CIA custody well before the Guantanamo Bay detention centre had been established.

Since the most recent visit by Secretary of State RICE to Europe in December 2005, there had not been any further secret detention centres in Europe. John SIFTON confirmed that pressure had indeed been exercised by the US Administration on investigative journalists. He cited the criminal investigation opened by the Department of Justice against Dana PRIEST of the Washington Post, clear instructions given directly by the White House to ABC News Director Brian ROSS not to mention European countries just two hours before broadcasting the report and the same instructions in the case of CNN.

They both referred to the good cooperation between American and European services, naming specifically France and Germany, with whom secret services would have interrogated detainees in Syria and Jordan.

They finally stated that the CIA had indeed made several mistakes leading the Agency to now be much more cautious.

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– **US CONGRESS**

The delegation went to Capitol Hill in the afternoon to meet Representative **Robert WEXLER** (Democrat - Florida), Member, House of Representatives' Committees on International Relations and on the Judiciary.

In his welcome, he noted that some people in Washington were not so happy about the delegation visit.

He recognised the existence of grey areas regarding abuse of law and that fair inquiries should be carried out on both sides.

He made explicit reference to the case of Mr El Masri. In his view, if the allegations were true, US government participation would be very serious. He acknowledged that any actions of this nature could promote hatred against Americans.

He took it that the US Government statements that real numbers were far less than those mentioned in the European Parliament's report were true and correct. However, isolated cases do not change the reality of the problem.

He sought the delegation's understanding, asking that the time context be taken into account.

Further, he stressed that the US Administration had a full appreciation of the present problem.

In his view, the same principles could hardly be applied to both civil and terror offences. Unfortunately, more than one third of Americans agreed to the violation of human rights in the context of the "war on terror". He added that only a small minority of Americans are of the alternative general view as in Europe. Nevertheless, he insisted that these violations are not ongoing today.

Concerning CIA actions in Europe, he viewed the carrying out these actions without informing local intelligence services as being arrogant and risky. Even if this had occurred, it would be unthinkable that such a programme would have been on a large scale and could have taken place without any involvement of European authorities.

Even if some mistakes had been made (e.g. Mr El-Masri) he concluded that both sides should avoid putting at risk maintaining cooperation in the fight against terrorism.

– **DEPARTMENT OF STATE**

The delegation visited the Department of State to meet **Dan FRIED**, Assistant Secretary of State, Bureau of European and Eurasian Affairs, and **John BELLINGER**, Department of State Legal Adviser Office

"Perfection is unattainable" according to **Mr FRIED**'s first words to the delegation. Since 9/11, the United States have been dealing with completely new issues outside the usual framework.

He spelt out that facing new threats and choosing options within that context should be factors taken into account as the basis for the discussion. However, in his view, the fight against terrorism should remain consistent with international values and obligations.

In fact, the US is seeking advice from its European friends to defend themselves from such allegations. The alleged number of detainees has no relation to reality.

Mr FRIED also expressed concern that future cooperation between the US and European intelligence services could be harmed as a result of pressure from public debate in Europe.

Regarding renditions, he made reference to the case of "Carlos the Jackal". He also stressed that private planes have been used by the CIA for more than a decade and was therefore not an issue open for discussion.

Finally he claimed that detention without trial should be viewed as normal in the context of war against terror.

Mr BELLINGER recalled that Secretary of State Rice had engaged in dialogue with Europe based on facts rather than unsubstantiated probabilities. Regrettably, she was unable to meet with the delegation during its visit to Washington.

"We welcome discussion but not inquisition from the rapporteur. I claim that the US did not send people to countries to be tortured, because the US respects legal obligations and they seek diplomatic assurances".

The way to fight terror is through intelligence contacts and this cannot be done alone. The increase in the number of flights can be viewed as a sign of better ongoing cooperation with European countries. However, CIA flights have not carried detainees.

Since intelligence activities are kept secret by their very nature, it is impossible to confirm or deny allegations. In any event, there are only two or three alleged cases that could possibly be confirmed having taken place more than three years ago.

Responding to questions on the El-Masri case, the legal adviser clarified that the US does not want to comment on any particular case. Again, this was an intelligence matter.

Regarding the Maher Arar case, he maintained that he was simply expelled by an immigration court.

Mr Bellinger admitted that if one mistake was ever proven, there would be important consequences.

He stated that Article 3 of the Convention Against Torture (CAT) is not legally binding for cases outside the United States, despite US legislation being wider. Among the different legal regimes the law is interpreted from different perspectives (European and American courts do not give or indeed share identical interpretation).

He admitted that the US Government might not have conducted adequate dialogue and, as far as extraordinary renditions are concerned, he did not want to confirm the three or four best-known cases.

He concluded his statement by acknowledging that Guantanamo was a major concern for the US but unfortunately there were no good solutions to the problem.

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The delegation then split up to cover overlapping appointments with Members of Congress.

– **AMERICAN CIVIL LIBERTIES UNION (ACLU)**

Part of the delegation had a working lunch with **Steven M. WATT**, *Staff Attorney*, **Ann BEESON**, *Associate legal Director* and **Chris ANDERS**, *Legislative Counsel*, who represented the Human Rights Group of the ACLU.

It has to be noted that Steven Watt and Ann Beeson represent El-Zari and Agiza, as well as El-Masri, in the different judicial procedures undertaken by their clients in the US, having sued George Tenet and one of the "ghost companies" used by the CIA for the alleged extraordinary renditions and transport of prisoners.

They provided technical information on the legal issues currently pending in the case, namely whether or not "State Secret Privilege" was applicable, where the US Government can refuse to submit secret documents in court and therefore stop any judicial prosecution. The same argument had already been used in the Maher Arar case.

Apparently, the phrase "extraordinary renditions" had actually originally been a term coined by the media in the US. In fact, a more appropriate term would be "unlawful renditions", both in cases where the US has allegedly rendered an individual to a prison run by the CIA or where the CIA has allegedly rendered a prisoner to another government, nevertheless keeping some control on the interrogation process. It follows that the term "lawful rendition" (those renditions carried out prior to 9/11) should be used for extradition procedures or arrest warrants executed in accordance with the law.

Several references were made to the "Foreign Affairs Reform and Restructuring Act" adopted by Congress in 1998, by which, and according to their interpretation, the US Government is banned from carrying out renditions against Article 3 of the CAT in any part of the world, within or outside of the US.

Explanation was also offered that other agencies or services of the US Administration were involved in the whole process, some from within the Department of Justice and the Department of Homeland Security.

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– **US CONGRESS**

Part of the delegation went to Capitol Hill to meet with Senator SPECTER and then with Senator DURBIN.

Senator Arlen SPECTER (Republican - Pennsylvania), Chair, Committee on the Judiciary, the Senate.

Senator Spector was the only Republican Member of Congress who took the initiative to meet the delegation, following cancellation by Representative Pete HOEKSTRA, Chairman of the House Permanent Select Committee on Intelligence. The Committee on the Judiciary is responsible for the confirmation hearing of nominees to head the CIA, namely at present General Michael V. HAYDEN, proposed by President BUSH to replace Porter J. GOSS.

Senator SPECTER underlined that US legislation prohibits torture and acknowledged that extraordinary renditions could be viewed as a risk in this respect.

He also referred to divergences between the executive and the legislative, which in turn create tensions between the two powers. Indeed, the Presidential practice of issuing interpretation statements while signing Bills passed by Congress (with particular reference to the McCain amendment) illustrated this situation.

If violations of human rights was ever proven, those guilty would be tried.

As far as the United States is concerned, he expressed confidence in the judiciary to enforce the law.

Senator Richard DURBIN (Democrat - Illinois), Member, Committee on the Judiciary.

Senator DURBIN recognised that since the invasion of Iraq the United States had indeed lost ground in support from around the world in their fight against terrorism.

He appealed for the reinforcement of cooperation between the intelligence services on both sides of the Atlantic and for the strengthening of their capacities.

Senator Durbin made reference to the McCain amendment prohibiting torture, while stressing that Vice-President CHENEY had declared that it should not apply to the intelligence services.

He expressed concern about the situation in Guantanamo and wondered what would be done with the detainees if it was ever closed. In his view, detainees should be tried and

legally imprisoned, "because one should not use the same methods as one's enemies".

He reiterated, however, that this was not a priority for the American population.

He underlined that Vice-President CHENEY and Defence Secretary RUMSFELD were obsessed with pre-emptive action. Presently, they were giving more attention to Iran than Iraq, while in his view by seeking a non-military solution Iran could be an opportunity to restore good cooperation with Europe.

He concluded by expressing his conviction that, despite their differences, the United States and Europe shared common values, which should be defended on the global stage against the real threat of terrorism, even if the means of the BUSH Administration were not the best.

Part of the delegation was also meeting Congressman Ed MARKEY.

Representative Ed MARKEY (Democrat - Massachusetts), Member, House Committee on Homeland Security.

Representative Markey expressed the view that, in the framework of transatlantic relations, it is essential that the US and the EU join forces.

Reference was made to the Maher Arar case and Mr Bellinger's earlier explanation that this concerned merely an expulsion carried out by the Immigration Office. Representative Markey viewed the current unpopularity suffered by Bush as being due to the abuse of power by his administration.

On being asked to comment on the defeat in Congress by the Republican majority of his initiative of a Rendition Bill to avoid unlawful renditions, he simply stated that this was "in solidarity with the President". He then gave a short overview of his Rendition Bill, stating clearly that this initiative also contained clear rules on the prohibition to run black sites and to hold prisoners using "detention incommunicado" and was inspired by the present black hole in US legislation on this issue.

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The complete delegation then met former CIA Director [1993-1995] James WOOLSEY.

James WOOLSEY was unwilling or unable to comment on alleged actions conducted by the CIA outside his term of office.

He stressed however that every intelligence service could be viewed as violating the law and sovereignty of foreign countries where it undertook operations.

In his assessment, there were nevertheless good relations with European allies on intelligence matters. This good cooperation was on a bilateral basis because multilateral cooperation in this context was not at all useful. He added that he did not believe in sharing intelligence since secret services never offered information without some kind of trade.

Friday, 12 May 2006

The delegation met two think-tanks for a panel discussion, namely the American Legislative Exchange Council and the Center for American Progress.

- **THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL** was represented by **David RIVKIN**, *Partner, Baker & Hostetler LLP*, **Olivier GUITTA**, *Consultant*, and **Sally McNAMARA**, *International Relations Project Director*.

Their main message was that the alliance between the United States and Europe should not be put at risk, because the global threat of terrorism required both close and decisive cooperation and this could be endangered by the issue investigated by the Council of Europe and the European Parliament.

Renditions were in this context a legitimate instrument, while torture or sending people to countries where it was more likely than not that torture would be used, was to be excluded. To date no concrete evidence of such actions had been forthcoming.

They also underlined that the whole issue was first and foremost a matter for the US Congress and not for a foreign parliament.

They then pointed out that many European legal provisions that deal with facing the terrorist threat were at least as strong as the American provisions such as the Patriot Act. They stressed that if the United States were obliged to comment on specific operations, clearly they would also have to divulge any involvement of friendly foreign services, which could be potentially embarrassing and even damage efficiency.

- **THE CENTER FOR AMERICAN PROGRESS**

The Center for American Progress was represented by **Morton H. HALPERIN**, *Senior Fellow and Director of the Security and Peace Initiative*, **Lawrence J. KORB**, *Senior Fellow*, **Peter RUNDLET**, *Vice President for National Security*, and **Ken GUDE**, *Associate Director, International Rights and Responsibilities Program*.

There was no attempt to deny that most of detainees caught in the framework of the fight against terrorism posed a threat. However, they stressed the need to deal with them according to a legal system which guaranteed minimum basic rights. One alternative available could be to develop a surveillance system of suspects based on good coordination between services.

Having been informed of potential terrorism threats by the previous Administration, this present Administration had decided on a military course of action. Those accused of having fomented the attacks against the World Trade Center in 1993 had been tried before an ordinary court. In August 2001, former CIA Director TENET had warned of the terrorist threat, but no reaction had been forthcoming. This had in turn led to the reaction following 9/11 being so disproportionate.

The ability of Congress to make intelligence services and other Administration bodies at large accountable was put into question, partly due to the electorate disinterest and Democratic opposition playing it safe.

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Other contacts of a confidential nature were conducted by the President and the rapporteur.

According to these interlocutors it was impossible for the CIA not, at the very least, to have informed corresponding services where it had operated, but simultaneously it was feasible that not all European governments had been aware of those actions undertaken by their own services.

C. Conclusions. Assessment

President COELHO and rapporteur Claudio FAVA held a press conference in Washington on 11 May 2006 at the European Commission delegation premises, where they drew the main conclusions of the delegation visit.

A full transcript of this press conference is attached in annex 3, with an opening statement by President Coelho.

The TDIP Committee had an exchange of views on the outcome on 15 May 2006 in Strasbourg. On 17 May 2006 President Coelho held a further press conference to issue a supplementary statement, attached in annex 4.

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The TDIP Committee delegation to the USA

List of participants

MEPs

- **Bureau**

- | | | |
|----|-------------------------------|-------------------|
| 1. | COELHO Carlos | Chairman |
| 2. | Baroness LUDFORD Sarah | Deputy Chairwoman |
| 3. | ÖZDEMİR Cem | Deputy Chairman |

- **Rapporteur**

4. **FAVA**, Giovanni Claudio

- **Political Groups:**

- | | | |
|-----|-----------------|--|
| 5. | EPP-ED: | GAWRONSKI Jas |
| 6. | EPP-ED: | SALAFRANCA SÁNCHEZ-NEYRA J. Ignacio |
| 7. | PSE: | KREISSL-DÖRFLER Wolfgang |
| 8. | ALDE/ADLE: | CHIESA Giulietto |
| 9. | GREENS/AFE/ALE: | LAMBERT Jean |
| 10. | GUE/NGL: | CATANIA Giusto |
| 11. | UEN | SZYMAŃSKI Konrad |
| 12. | IND/DEM: | PIOTROWSKI Mirosław |
| 13. | Non attached: | HELMER Roger |

STAFF

- **TDIP Committee secretariat:**

1. NÉMOZ-HERVENS François, Head of the Secretariat
2. MAURIN DE FARIÑA Christian, Administrator

- **Political Groups Advisers/Assistants:**

3. SPEISER Michael Alex (EPP-ED)
4. TUSAR Anita (PSE)
5. RASMUSSEN Anders (ALDE)
6. ROBERT Jean-Luc (Greens)
7. TAMBURINI Chiara (GUE/NGL)
8. DI SIMONE Valentina (FAVA)

- **Interpreters**

9. COLGAN Kenneth
10. RIBOLDI Livia
11. VENTURI Annalisa

- **Press service**

12. ANDRÉS MARÍN María

Council of Europe (Parliamentary Assembly)

13. SIMPSON Gavin, Legal Affairs and Human Rights Committee [staff]

**Detailed Program
Visit of the
TDIP Temporary Committee of the European Parliament
Washington, D.C.
8 May through 12 May 2006**

Monday 8 May

Afternoon

Arrival to Dulles International Airport

Transfer to hotel individually by taxi

19:00

Cocktail with H.E. John Bruton

Head of Delegation

Delegation of the European Commission in Washington

M Street Hotel Renaissance Marriott

Tuesday 9 May

8:30 – 10:00 Internal Working Breakfast for entire TDIP Delegation
Dining Room of the Renaissance Hotel

10:30 *Short walk to EU Commission Delegation Office*

11:00 – 15:00 **Meetings Location:**

Delegation of the European Commission
Press Room, Ground Floor
2300 M Street, N.W.
Washington, D.C. 20037

Meeting with:

11:00 **Scott Horton, Chair, Committee on International Law;**
New York City Bar Association;
Adjunct Professor, Columbia Law School;
Partner, PATTERSON, BELKNAP, WEBB & TYLER LLP
**Margaret L. Satterthwaite, Assistant Professor of Clinical Law &
Faculty Director**
Center for Human Rights & Global Justice
New York University School of Law

Lunch Break for free lunch

Meeting with:

14:00 **Barbara Olshansky, Director and Counsel**
Guantanamo Global Justice Initiative
Deputy Legal Director for the Center for Constitutional Rights

15:00 **Elisa Massimino, Director of the Washington, D.C. Office**
Human Rights First
Washington Office

18:00 *Transfer from Hotel to Residence via bus service*

18:00 – 20:00 **Europe Day Reception**

**Hosted by Ambassador John Bruton and
Mrs. Finola Bruton**
EU Residence
2534 Belmont Road, N.W.
Washington, D.C. 20008

20:30 *Transfer from Residence to Hotel via bus service*

Wednesday 10 May

8:45 Internal Working Breakfast for entire TDIP Delegation

9:45 *Short walk to EU Commission Delegation Office*

10:00 – 12:30 **Meetings Location:**

Delegation of the European Commission
Press Room, Ground Floor

Meeting with:

10:00 – 11:00 **Angela Colaiuta, Center for Victims of Torture**
John Bradshaw, Open Society Policy Center
Smita Baruah, Physicians for Human Rights
Jumana Musa, Advocacy Director for Domestic Human Rights and
International Justice
Amnesty International

11:00 - 12:30 **Jonathan Sifton, Counterterrorism Researcher**
Jennifer Daskal, US Advocacy Director
Human Rights Watch

Lunch Break for free lunch

14:15 *Transfer from Delegation to Capitol Hill via bus service*

15:00 **Meeting with:**

Representative Robert Wexler (D-Florida)
Rayburn House Office Building Room 2255

15:45 *Transfer from Capitol Hill to Hotel via bus service*

Thursday 11 May

9:00 Internal Working Breakfast for entire TDIP Delegation
Room to be confirmed of the Renaissance Hotel

10:00 *Transfer from Hotel to Department of State via bus service*

10:30 *Greeted by: John Robinson, Political Officer, State Department*

10:45 – 12:00 **Meeting with:**

**Dan Fried, Assistant Secretary of State,
Bureau of European and Eurasian Affairs
John Bellinger, Legal Adviser, Office of the Legal Adviser
US Department of State
2201 C Street N.W.
Washington, D.C. 20510
Room 6909**

12:15 *Transfer from Department of State to Delegation via bus*

12:30 **Meeting Location:**

Delegation of the European Commission
Press Room, Ground Floor

Working Lunch and Meeting with:

**Steven M. Watt, Staff Attorney
Ann Beeson, Associate Legal Director
Chris Anders, Legislative Counsel
Human Rights Working Group
American Civil Liberties Union**

13:00 **Meeting with:**

**Senator Arlen Specter (R) Pennsylvania
Hart Senate Office Building 711**

14:00 *Transfer from Delegation to Capitol Hill via bus*

14:30 **Meeting with:**

**Senator Richard Durbin (D) Illinois
Capitol Building S-321**

15:00

Meeting with:

**Congressman Ed Markey (D) Massachusetts
Rayburn House Office Building Room 2255**

Transfer from Capitol Hill to Delegation via bus

16:30

Meeting with: (at European Commission Delegation)

James Woolsey (Former CIA Director 1993-1995)

17:30

Press Conference with:

Chairman Carlos Coelho and Rapporteur Claudio Fava

Arranged by:

María Andrés Marin, Press Service, TDIP Committee
Kasper Zeuthen, Commission Delegation

18:45

Transfer from Hotel to Austrian Ambassador's Residence via bus

19:00

Cocktail Reception

Hosted by Austrian Ambassador Eva Nowotny

Austrian Ambassador's Residence
2419 Wyoming Avenue, N.W.
Washington, D.C. 20008

20:30

Transfer from Austrian Ambassador's Residence to Hotel via bus

Friday 12 May

8:30 Internal Working Breakfast for entire TDIP Delegation
Dining Room of the Renaissance Hotel

9:00 *Short Walk to EU Commission Delegation*

9:30 – 11:30 **Meetings Location:**

Delegation of the European Commission
Press Room, Ground Floor

Panel Discussion with:

9:30 - 10:30 **David Rivkin, Partner, Baker & Hostetler LLP**
Olivier Guitta, Consultant
Sally McNamara, International Relations Project Director
American Legislative Exchange Council

10:30 – 11:30 **Panel Discussion with:**

Morton H. Halperin, Senior Fellow and
Director of the Security and Peace Initiative
Lawrence J. Korb, Senior Fellow
Peter Rundlet, Vice President for National Security
Ken Gude, Associate Director,
International Rights and Responsibilities Program
The Center for American Progress

Afternoon Departure of the TDIP Delegation

**THE DELEGATION OF THE EUROPEAN
COMMISSION TO THE UNITED STATES**

PRESS CONFERENCE

**WITH
CARLOS COELHO,
AND
CLAUDIO FAVA,**

MAY 11, 2006

*Transcript by:
Federal News Service
Washington, D.C.*

MARIA ANDRÉS (European Parliament's Press Service): Welcome, everyone. We have here the Commission Delegation today. As you know, a group of 13 members of the commission investigating the alleged use of European countries by the CIA for the illegal detention and transfer of prisoners arrived last Monday and they conducted a series of meetings with U.S. government officials, congressmen, NGOs and think tanks. Let me please introduce you now to the president of the delegation, Mr. Carlos Coehlo, and our rapporteur, Mr. Claudio Fava, who will give the first conclusions on the outcome of these meetings.

Mr. Coehlo, please.

Statement by Carlos COELHO, Chair of the TDIP Committee

CARLOS COEHLLO: Good afternoon, ladies and gentlemen. Thank you so much for being here. As president of this temporary committee of the European Parliament on the transportation and illegal detention of prisoners, I would like to make a first assessment to this visit to Washington. Let me first thank all of the interlocutors who have accepted to meet our delegation: lawyers, journalists, NGOs, members of Congress, and from the part of the administration, Assistant Secretary of State Dan Fried, and the legal advisor of the Department of State, John Bellinger, without forgetting former CIA director James Woolsey whom we have just met.

The aim of this trip to the United States was, first and foremost, to enter into a dialogue with our American friends in order to put some more light on the alleged practice we have been asked to investigate. We appreciate the readiness shown by Representatives Robert Wexler and Ed Markey, and by Senators Richard Durbin and Arlen Specter to cooperate with us, but we also regret that no more congressmen or members of this administration or the former, when we asked to meet, have accepted or been in a position to meet our delegation. This does not contribute to a better understanding of each other's point of view, nor to the necessary reformation of the common vows we are supposed to share on both sides of the Atlantic.

Let me outline and reaffirm our attachment as Europeans to the fundamental principles of the state of law, to the protection of human rights in whatever circumstances, and to the democratic values. All of them are, in our view, a precondition for the successful fight against terrorism, which remains one of the main priorities at the global stage. Close cooperation between Europe and America is indeed of the utmost importance to defeat the scourge which is terrorism and extremism, and we are also sensible to this message constantly underlined by our American partners. But this cooperation should proceed in full transparency and by avoiding to make recourse to similar practices as which are precisely used by terrorists and can only lead to hatred and perpetuation of the phenomenon.

I thank you for your attention and I invite now our rapporteur, Claudio Fava, to add his own assessment before taking questions.

CLAUDIO FAVA: Thanks to all of you. Thank you for coming. And I beg your pardon if I prefer to speak in Italian, but you will have my translation immediately. Each word and each concept is very sensitive on this issue.

I agree with the introductory remarks of the chairman. We are very satisfied with the friendly and cooperative spirit which we found on the American side during our visit, and we're also happy to share the strong commitment expressed by NGOs, journalists, lawyers and members of the U.S. Congress on the question of human rights. And we all agree that it is a very difficult task to reconcile the problem of defeating terrorism while simultaneously protecting human rights.

And we're also pleased with the frank fashion in which the United States administration, in the person of John Bellinger from the State Department, agreed to meet with us and answered our questions. I think it's also appropriate that we sort out a substantive issue which arose when we talked with Mr. Bellinger and is also arising in the press conference this afternoon. And John Bellinger rightly said that the European Parliament has no jurisdiction over the U.S. government. We are indeed not a court, but we have received a mandate from our institution, which is to try to find the truth about what has happened in Europe and what has happened to certain European citizens, and we ask for information and views on certain specific cases which our committee is looking into. We noted the "no comment" which we sometimes received as a reply.

There were two views put to us today by Mr. Bellinger, views which we respect but which I personally do not agree with. The first view is that the United States is in a state of war and that international law does not provide an appropriate framework, that rendition is therefore necessary because the people concerned haven't committed any crime under United States law, and one could argue that that might have been necessary.

The second point is on the U.N. convention against torture and its interpretation, particularly the part which bounds extradition to countries where there is a risk of torture taking place. The State Department considers this applied only to transfers which occurred from the United States. I have my doubts about this both from a legal and moral standpoint. We've had confirmation of CIA planes both in European airspace and taking off and landing at European airports, and the State Department considers that these are civilian flights and are covered by cooperation with European countries in the war on terror. And Mr. Bellinger says that the fact that there are many flights is a good thing because it's a good sign of the cooperation between the United States government and its European partners in the battle against terrorism. We would like more information and more transparency on the purpose of said flights.

We've had confirmation from journalists and other sources of considerable pressure being exerted by the White House on newspapers and television channels, in particular requesting that they don't name the names of certain European countries in their reports. And at the same time, both on these and on other matters, we see that there is considerable debate going on in the U.S. Congress itself, and I believe – and I think I can speak for all of my colleagues here – that it's a very positive thing. It's good that there is a lively debate going on not simply in the U.S. media but in the United States' institutions as well.

I want to end by thanking all of the people who came to meet and talk with us, and I'm confident that we've learned a great deal which will be extremely useful for future work. And now I am awaiting your questions.

Q: *German newspaper Tageszeitung*: Was there any talk of the numbers of flights? Would you please mention this?

MR. FAVA: We talked about hundreds of flights – possibly amounting even to a thousand – a figure which we got from various sources – but we never, ever said that there were thousands of prisoners on board these flights. We did speak about definite cases of renditions taking place on CIA flights, and you can find information about that in the interim report, which we've published. We get the figure of a large number of flights from various sources. One source was the member state government in Europe or the air traffic control bodies therein. For example, the government of the United Kingdom admitted that more than 70 CIA flights had taken off or landed from airports during the period in question, and air traffic control in Germany said that there were more than 470 flights on CIA-related company aircraft. And in particular we've relied on ad hoc information provided by EUROCONTROL on flight logs and numbers of flights and aircraft which we think were used by the CIA.

If you put all that together, you have a very high number of flights, take offs and landings, and that was admitted by John Bellinger, who said it was highly likely that after 9/11, the cooperation would have increased and the number of flights would have increased as well. Now, we have the duty to ask certain questions, and they're the same questions that certain non-governmental organizations and certain law firms have been asking on the same cases. For example, what was the purpose of the flight of the Boeing 737 number N-313P, which was definitely used in a rendition and which flew on several occasions between Kabul and Guantanamo, stopping off in Poland, Romania, or Morocco on the way? And we don't think these were merely refueling stops.

Q: *NTV Television*: Now, it seems the United States effectively refuses to cooperate with you, and apparently there is some cooperation between the United States and some European countries, who in turn refuse to cooperate with you. It's a fundamental problem, and what will it be able to do about those uncooperative European countries? Could there be some eventual sanctions?

MR. FAVA: We don't believe that there has been a lack of cooperation up to now for European governments. We are going to be drawing the feds together when our work ends, which won't be until the end of this year. We also were hoping for a positive reply to be able to meet with the heads of the secret services in Germany and Spain, and we would like to think we could extend that request to cover other countries that are involved in the matters into which we are looking. And we just returned from a visit to the former Yugoslav Republic of Macedonia, which was exceedingly useful – talked to all sorts of people, including the president of the republic himself, the Home Affairs minister, the head of the secret service, and the chairman of the Parliamentary Committee of Inquiry.

A final view as to the information that we have received will be given at the end of our work, but I think we can say already that we are somewhat uncomfortable, and that discomfort is perhaps in written form in the interim report which will be debated in Brussels in the next few days.

Q: *Kuwait News Agency*: I was wondering, how would you characterize the meeting that you had today at the State Department? And the second thing is you said that you don't agree with some of the views mentioned today by the U.S. officials, particularly the one about

that the rendition is necessary and that the U.S. is in a state of war. Which part of that don't you agree with and why?

MR. FAVA: We found that on certain issues it wasn't just ourselves but members of the U.S. Congress who don't always agree with the position of the Council to the State Department. And the meeting we have with Congressman Markey today was extremely useful and very illuminating. Since the United States Congress is discussing banning extraordinary rendition and banning the removal of people to countries where they're likely to face torture, it's always that the debate isn't simply going on in our delegation but in the U.S. Congress as well. But we found obviously different views – diametrically opposed views to ours and different positions as well. Let me give you a specific example in the case of Mr. al-Masri.

Mr. Markey told us that he decided to come out against extraordinary rendition when he discovered that one of his constituents, Mr. Arah (ph), had been arrested and placed on a CIA flight to Syria. But when we raised the same case with Mr. Bellinger, he said that it wasn't a case – Mr. Arah's case – of extraordinary rendition; it was a simple administrative decision taken by an immigration court.

Q: *Al Jazeera International*: I wanted to ask – you said that the EU has no jurisdiction over the U.S., and I was curious to ask ultimately whatever you conclude from your findings, what can you do with those findings, at least in terms of what the U.S. – or in terms of what the U.S. has done with the flights? And secondly, do these flights continue today? Are they still taking place?

MR. FAVA: Our report will contain proposals affecting the European Union – the member states, the candidate countries, and associate countries. It's possible that the report would contain suggestions for more transparent forms of cooperation between the secret services of the European Union and the United States, and it might possibly contain a suggestion for a more restrictive reading of – application, rather, of the Chicago Convention. As you are aware, the Chicago Convention would only cover civil aviation and civil flights that are used for police purposes. We think that CIA flights could be – the definition of a CIA flight could be extended to cover civil police flights as well. And for none of these hundreds and hundreds of flights that have been logged was it possible to find out the names of the crew, the names of the passengers, and sometimes even the airport from which it left.

Q: Mr. Coelho, you regretted the fact at the beginning that no more congressmen had met with you. Does that indicate to you, after spending a week here, that there is less concern here among the lawmakers about these rendition flights and torture than there is in Europe?

MR. COELHO: I don't want to comment that there is lower concern here than in Europe. I can provide the list of the congressmen we have asked to meet and the decline, and I think sincerely each case is a case. Perhaps there are people who have no time at all in their schedule during this week, or because they were not in Washington or because they have a full schedule already. Perhaps there were people, without knowing anything about that, and they feel no need or interest to meet us. Perhaps, I will say a more malicious way, there are people who know too much and they don't want to share what they think about the issue. Or perhaps there are people who want to hide something. I don't know. I have no data enough to elaborate on each case. I must respect the fact they don't have time or will to meet us, but

at the same time I respect their decision, I regret it.

Q: You have indicated that in your meetings with Bellinger, he said that as far as you know, the extraordinary rendition flights did not take place with flights taking off from the United States. Does that mean that they're not denying that these flights took place in Europe? I'm not sure I understood what you said.

MR. FAVA: Mr. Bellinger didn't deny that there were a large number of CIA flights, and as I said, he said that this was a positive thing, showing the cooperation between the two sides has increased recently. And on the actual questions of flights bearing prisoners, he would neither confirm nor deny, and when we raised specific cases with him, he would give us a no comment, saying that that was the policy of the State Department not to comment on specific cases.

Q: The first question is how were your meetings with the NGOs? Second, did you discuss the case of Mr. al-Masri in your meetings?

MR. FAVA: We met with several various NGOs, so we've met with some in Brussels as well, Human Rights Watch, Amnesty International, Human Rights First, and the American Civil Liberties Union. Personally speaking, I considered that the work carried out by the NGOs over the last few months on possible illegal consignments has been exceedingly valuable, and that does indeed touch upon the case of Mr. al-Masri, but that's not the only case.

Q: *NewsMax*: Could you tell us if you've been meeting in New York in particular with former officials of the U.S. government as sources? You mentioned EUROCONTROL is turning over the flight logs, but have you also met with former members of the Central Intelligence Agency or former U.S. government officials as sources for these investigations?

MR. FAVA: No, we didn't meet with any U.S. government representatives in Europe. We thought the best place was here.

MR. COELHO: We did offer a meeting with the head of NATO in Brussels, which would have touched upon United States policy, and we've just come from a meeting with James Woolsey, who was director of the CIA between 1993 and 1995 regarding current officials from secret services. We have met already with the director of the Italian Secret Service, General Pollari. And as Mr. Claudio Fava, our rapporteur, already told you, there are requests to meet his counterparts, either from the Spanish government and from the German government.

I don't hide from you the fact, probably some members of the commission by itself have contacts with former secret agents of European countries but they are not contacts made by the committee itself, so they are not adding meetings between all the committee and the former agents, but of course each member of parliament has its own sources, as you have your own sources as journalists, I'm quite sure, and the same way you are not going to share your sources with me, I'm not going to share my sources with you. Thank you so much.

Q: Two questions. Are you going back to Europe with any more official information than you had before coming to United States? And second question, did you ask to meet any

CIA official, or not current CIA official?

MR. FAVA: We had asked to meet with the then-head of the CIA, Porter Goss, but he resigned, and we hadn't received a reply from him anyway and we felt that it wasn't really, given our timeframe, possible for us to repeat the request to meet the new head of the CIA only a day or two after he had taken office. And we are going to go back to Europe with valuable information, and we do consider that even a "no comment" can be construed as providing valuable information.

And we think that the detail confirmation that we had of pressure being exerted by the White House on journalists not to name certain European countries is an extremely important point for our work. But we've also received confirmation of the fact that the attention, from a moral and political and ethical standpoint, that the committee is paying to some of the victims of extraordinary rendition isn't just some quirk of the European Parliament. I think it's very important for us to learn, for example, as we learned this very afternoon, that the draft law banning renditions to countries where torture might be carried out derives from the direct experience of Mr. Markey with his constituent, Mr. Arah.

Q: *ITAR-TASS News Agency*: In initial press reports, some former USSR republics were mentioned in connection with the Syria flights and secret detention centers. Your findings – your new findings, do they show something new in that respect? Do they confirm or deny this allegation? Thank you.

Q: As I assume you will be aware, we did hear in Brussels from Craig Murray, the former British ambassador to Uzbekistan, and his testimony was both significant and very moving.

MR. FAVA: As far as new information on the question you ask is concerned, we weren't here for that purpose. We were here to talk to representatives of the U.S. government and to look at the matter from the point of view of U.S. institutions, and not just institutions – U.S. non-institutions.

Q: To follow up basically on whether you got any further in some – (inaudible) – secret CIA detention centers and have found things in Poland or Romania that came out with during your talks.

MR. FAVA: No, as I said before, we do not have any jurisdiction over the U.S. government and so they gave us no comment as far as that was concerned, but this is something we'll be looking into in the second stage of our work, possible clandestine prisons on European territory. We figured out one thing, which might seem a little odd – it's not part of the mandate but definitely one of the things that we want to try and do is make sure that if these things did happen in the past, that they do not occur again. And we feel as the initiatives carried out by nongovernmental organizations, by journalists and indeed by ourselves in the committee, are useful because they add to the broad-ranging debate on the use of renditions as part of the war on terror.

MS. ANDRÉS: To those interested in following the works of the committee, let me remind you that the 12th of June there will be the vote in the committee of the preliminary report, which will also be adopted by the plenary of the Parliament in July. If you wish to receive more information about it, don't hesitate to contact me and give me your email. And there is a copy of the statement made by President Coelho if you want to get one copy now. Thank you.

(END)

Statement by President Coelho

Our mission to Washington was very useful and productive.

We arrived in the United States in a week when security issues filled the main headlines of the press -- the replacement of the CIA Director and the scandal of protection of data violated by some telephone companies. Despite this climate of unrest they were many organisations and officials who accepted our invitation to meet us.

I would like to underline the availability of the American Government and US Congressmen, as well as their willingness to speak to us. Overcoming some initial scepticism, we could finally talk to government representatives --Assistant secretary of State Dan Fried and the Legal Advisor of the Department of State John Bellinger, as well as to members of Congress from both political parties and both chambers --the Senate and the House of Representatives--

I have to admit that US officials are very well informed about our work on the TDIP committee and our concerns and that Europe and European officials - such as the TDIP delegation - are taken very serious. Based on my personal experience, I can add that the availability of the US Administration and of Congress has been far better than what we experienced 5 years ago during the visit of the temporary committee on Echelon.

Besides the activities initially scheduled we managed to have other interesting meetings with people like ABC News director Brian Ross or former CIA agent Vincent Cannistraro, among others who prefer to remain confidential. From all those meetings we obtained valuable information and names of people, new sources whom we will try to contact in the near future.

As a first assessment of our visit to Washington, I would like to draw the following conclusions:

1. There are clear differences of opinion between the United States and the European Union on security issues, specially those related to legal concepts like the definition of torture or the fact they believe to be at 'state of war'. As representative Wexler said during our meeting, "*we are now two groups sharing the same values but living on different planets*". However it is important for us both to reduce such differences in the name of our common fight against terrorism, and to bring together both sides of the Atlantic around the common values we share.
2. There are not only clear differences between the United States and the European Union, these differences also exist inside the United States, as we could confirm by talking to various NGOs and members of Congress. American civil society is alive and active, and we can only applaud and look with favour on their constant fight to defend human rights.
3. Many people we met encouraged us to continue with our works and our efforts. It is an

absolute priority for the European Parliament to continue being the people's voice; we have a key role to play in the defence of democratic and human rights values.

4. All our guests suggested or confirmed that the extraordinary rendition programme carried out in Europe could only be achieved with the knowledge and support of European national governments. State Department officials said, in a diplomatic manner, that the United States never violated the sovereignty of European Member States; others admitted the involvement of European governments in a more straightforward way. These allegations should be taken serious and we should examine if that really happened, if other prisoners where effected and if European or domestic law was broken.

In all the meetings we had I took the opportunity to reaffirm our attachment as Europeans to the fundamental principles of the state of law, to the protection of human rights in whatever circumstances and to the democratic values, all of them are in our view a precondition for a successful fight against terrorism, which remains one of the main priorities at the global stage.

Close cooperation between Europe and America is indeed of the utmost importance to defeat the scourge of terrorism and extremism, and we are also sensible to this message constantly underlined by our American partners.