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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

"EXTRAORDINARY RENDITIONS: A EUROPEAN PERSPECTIVE"

SPEECH
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1. Extraordinary rendition may be defined as the transfer of an individual suspected of involvement in terrorism, captured and in the custody of American officials, who is sent to another country often for interrogation sometimes facing torture there.

As the term suggests this "extraordinary" practice appears to be one form of what is an acknowledged practice-the covert rendition by US officials of individuals suspected of involvement in terrorism to justice, *i.e.* for trial or criminal investigation either to the United States or to foreign states. What is "extraordinary" about this more recent form of rendition is the role of torture and cruel, inhuman or degrading treatment reportedly involved in such transfers.

2. The news of secret CIA detention centers was circulated in early November 2005 by the American NGO Human Rights Watch, the Washington Post and the ABC television channel. Whereas the Washington Post did not name specific countries hosting, or alleged having hosted, such detention centers, Human Rights Watch reported that the countries in question are Poland and Romania.

The Council of Europe responded straight away. The President of the Parliamentary Assembly of the Council of Europe immediately took a very firm position and asked the Committee on Legal Affairs and Human Rights to look into the matter without delay. The Committee did so at his meeting on November 7, 2005. The Committee appointed as rapporteur Mr. Dick Marty from Switzerland.

The Secretary General of the Council of Europe, for this part, set in motion the procedure established by article 52 of the European Convention on Human Rights which allows him to launch an inquiry towards the member States.

In early 2006, the European Parliament set up a 46 members temporary committee and instructed it to investigate the alleged existence of CIA prisons in Europe in which terrorist suspects had allegedly been detained and tortured.

The Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe issued its report on June 12, 2006.

I - The conclusions of the report

1. The report is based on 10 case studies of alleged unlawful inter-state transfers, involving a total of 17 individual detainees.

Those 10 cases are the following:

- Khaled El-Masri, a German citizen of Lebanese descent, travelled by bus from his home in Germany, to Skopje, Macedonia, in the final days of 2003. Mr. El-Masri was detained at the Serbian-Macedonian border because of alleged irregularities with his passport. He was interrogated by Macedonian border officials, then transported to a hotel in Skopje where during three weeks he was repeatedly interrogated about alleged contacts with Islamic extremists. After 23 days of detention, Mr. El-Masri was flown to Kabul, Afghanistan. There he would be detained for more than four months. After a hunger strike, Mr. El-Masri was brought to meet with two American officials and a German intelligence officer. On May 28, 2004, Mr. El-Masri was finally flown back from Kabul to Germany. Upon his return to

Germany Mr. El-Masri contacted an attorney and related his story, thereby initiating a formal investigation by public prosecutors.

- Six Bosnians of Algerian origin, four Bosnian citizens and two longstanding residents, were arrested in October 2001 by order of the Supreme Court of the Federation of Bosnia and Herzegovina and detained on remand. They were suspected of having planned bomb attacks on the American and British embassies. On January 17, 2002, the office of the federal prosecutor informed the investigating magistrate at the Supreme Court that he had no reason to keep the men in custody any longer. On that same day, the investigating magistrate ordered the immediate release of the six men. However, on the evening of January 17, 2002, the six men were arrested by Bosnian police officers, and handed over to members of the United States military forces stationed in Bosnia and Herzegovina. They were then flown to Guantanamo on January 20, 2002 from the Tuzla military base. The six men have been prisoners in Guantanamo until the present time, that is to say for over four years.

- Ahmed Agiza and Mohammed Alzery were two Egyptian asylum-seekers "handed over" by the Swedish authorities to American agents who took them to Egypt, where they were tortured in spite of diplomatic assurances given to Sweden. This case led to Sweden's being condemned by the United Nations Committee against Torture.

- Abu Omar, an Egyptian citizen, was abducted in the middle of Milan at midday on June 17, 2003. Via the military airbases at Aviano (Italy) and Ramstein (Germany), Abu Omar was flown to Egypt, where he was tortured before being released and re-arrested. An Italian judicial investigation established beyond all reasonable doubt that the operation was carried out by the CIA.

- Bisher Al-Rawi and Jamil El-Banna are two British permanent residents arrested in Gambia in November 2002 and transferred first to Afghanistan and from there to Guantanamo where they still are.

- Maher Arar, a Canadian citizen of Syrian origin, was arrested in September 2002 at JFK Airport in New York by American agents during a stopover on return from holiday in Tunisia. After being detained in a high-security prison and interrogated for two weeks by the New York police, the FBI and the American immigration service, he was allegedly transported from New Jersey airport via Washington, Rome and Amman to a prison belonging to Syrian military intelligence. He spent more than 10 months there, during which he says he was tortured, abused and forced to make false confessions. This case is the subject of a very thorough investigation by a special commission in Canada.

- Muhammad Bashmila and Salah Ali Qaru were arrested in Jordan and disappeared as far as their families were concerned. According Amnesty International investigations, they were held in at least four secrete American detention centers, probably in 3 different countries Djibouti, Afghanistan and somewhere in Eastern Europe.

- Mohammed Zammar, a German of Syrian origin, was suspected of having been involved in the “Hamburg” cell of Al Qaeda and had been under police surveillance for several years in Germany. On October 27, 2001, he is reported to have left Germany for Morocco, where he spent several weeks. When he attempted to return to Germany, he was allegedly arrested by Moroccan officials at Casablanca airport. Towards the end of December 2001, he is said to have been flown to Damascus, Syria, on a CIA-linked aircraft. A detailed German

government report to the Bundestag gives a balanced version of this affair.

- Binyam Mohamed al Habashi is an Ethiopian citizen who has held resident status in the United Kingdom since 1994. Binyam is now detained at Guantanamo Bay and has been selected as one of the first group of ten prisoners to appear before a special United States Military Commission. According to his testimony, Binyam travelled voluntarily to Afghanistan in 2001 and spent some time there, probably several months, before crossing into Pakistan and seeking to return to the UK. He was arrested by Pakistani officials at Karachi airport on April 10, 2002. After interrogating him, the Pakistani security services took him to a military airport in Islamabad and handed him over to the United States. Binyam testifies that he underwent his first rendition on July 21, 2002. He was forced onto an aircraft and flown to Morocco. Binyam has described various secret detention facilities in which he was held in Morocco and tortured on numerous occasions between July 2002 and January 2004. Binyam says he was subjected to a second rendition on the night from 21 to 22 January 2004. He was flown from Rabat to Kabul in the early hours of January 22, 2004. Binyam Mohamed's ordeal continued in Kabul, Afghanistan, where he was held in the facility he refers to as "the prison of darkness" for 4 months, before being transferred to Bagram Air Base at the end of may 2004.

2. According to the conclusions of the report, "O*ur analysis of the CIA "rendition" programme has revealed a network that resembles a "spider's web" spun across the globe. The analysis is based on official information provided by national and international air traffic control authorities, as well as other information including from sources inside intelligence agencies, in particular the American. This "web", shown in the graphic attached, is composed of several landing points, which we have subdivided into different categories, and which are linked up among themselves by civilian planes used by the CIA or military aircraft.*

These landing points are used for various purposes that range from aircraft stopovers to refuel during a mission to staging points used for the connection of different "rendition circuits" that we have identified and where "rendition units" can rest and prepare missions. We have also marked the points where there are known detention centres (Guantanamo Bay, Kabul and Baghdad…) as well as points where we believe we have been able to establish that pick-ups of rendition victims took place.

In two European countries only (Romania and Poland), there are two other landing points that remain to be explained. Whilst these do not fall into any of the categories described above, several indications lead us to believe that they are likely to form part of the "rendition circuits". These landings therefore do not form part of the 98% of CIA flights that are used solely for logistical purposes, but rather belong to the 2% of flights that concern us the most. These corroborated facts strengthen the presumption – already based on other elements - that these landings are detainee drop-off points that are near to secret detention centres."[1]

3. Two points must be stressed:

- From a quantitative point of view, we should not lose our sense of proportion. It would be exaggerated to talk of thousands of flights, let alone hundreds of renditions concerning Europe and the report itself underlines that a maximum of 2% of the CIA flights are concerned.

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[1] Parliamentary Assembly, Doc 10957, 12 June 2006, "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member States", §280 to 282, http://assembly.coe.int.

- From a qualitative point of view, collectively the cases in the report testify to the existence of an established *modus operandi* of rendition, put into practice by an elite, highly-trained and highly-disciplined group of CIA agents who travel around the world mistreating prisoner after prisoner in exactly the same fashion. The "security check" used by the CIA to prepare a detainee for transport on a rendition plane was described by one source in the American intelligence community as "a 20 minutes takeout".

The general characteristics of this "security check" can be established from a host of testimonies as follows. It generally takes place in a small room at the airport, or at a transit facility nearby. The man is sometimes already blindfolded when the operation begins, or will the blindfolded quickly and remain so throughout most of the operation. Four to six CIA agents perform the operation in a highly-disciplined, consistent fashion. The CIA agents don't utter a word when they communicate with one another. The man's hands and feet are shackled. The man has all his clothes cut from his body using knives or scissors in a careful, methodical fashion. The man is subjected to a full-body cavity search. The man is photographed with a flash camera. Some accounts speak more specifically of a tranquiliser or suppository being administered *per rectum*. The man is then dressed in a nappy or incontinence pad and a loose-fitting "jump-suit" or set of overalls. The man has his ears muffled, sometimes being made to wear a pair of headphones. Finally, a cloth bag is placed over the man's head with no holes through which to breathe or detect light. The man is typically forced aboard a waiting airplane where he may be placed on a stretcher, shackled or strapped to a mattress or seat, or laid down on the floor of the plane. In his report on the Agiza and Alzery case, the Swedish Ombudsman has qualified as degrading this way to treat detainees.

4. In the framework of his inquiry, Mr. Dick Marty, rapporteur, requested an opinion of the European Commission for democracy through Law, known as the Venice Commission, which is a separate organ of the Council of Europe. The request concerned the two following inter related matters.

"*a) An assessment of the legality of secret detention centers in the light of the Council of Europe member States international law obligations, in particular the European Convention on Human Rights (ECHR) and the European Convention for the prevention of torture. In particular to what extent is a State responsible if- actively or passively- it permits illegal detention or abduction by a third State or an agent thereof ?*

b) What are the legal obligations of Council of Europe member States, under human rights and general international law, regarding the transport of detainees by other States through their territory including the airspace?"

The Commission issued its Opinion on the international legal obligations of Council of Europe member States in respect of secret detention facilities and inter-state transport of prisoners during its Plenary Session on March 17 and 18 2006[2]. I have been one of the six rapporteurs of this opinion which I will now develop.

[2] Opinion No.363/2005, CDL-AD (2006)009, http://venice.coe.int.

II - The opinion makes clear three points which did not raise many questions

1. As regards the concept of "rendition", the Commission makes it very clear that under international law and human rights law, there are four situations in which a State may lawfully transfer a prisoner to another State: deportation, extradition, transit and transfer of sentenced persons for the purposes of serving their sentence in another country.

Even if the public debate frequently uses the term "rendition", this is not a term used in international law. It is only a practice. However, the European Court of Human Rights has admitted that an atypical extradition cannot as such be regarded as being contrary to the European Convention of Human Rights subject to its being the result of cooperation between the States concerned and provided that the legal basis for the order for the suspect's arrest is an arrest warrant issued by the authorities of the suspect's State of origin.

2. As regards the arrest of an individual by foreign authorities on the territory of a Member State, Article 5 ECHR protects the right to liberty and security of person. Although this right is not absolute (see the authorized deprivations of liberty under paragraph 1 a) to f) of Article 5), a person may only be detained on the basis of and according to procedures set out by the law, and the law in question must be consistent with recognized European standards, that is *inter alia* with the provisions of the ECHR. In addition, paragraph 4 of Article 5 provides for all forms of deprivation of liberty allowed under that article, that the detainee *"shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful"* (*habeas corpus*).

Detention must be lawful and in accordance with a procedure prescribed by law: in the European Court of Human Rights' view, the requirement of lawfulness means that both domestic law and the ECHR must be respected. The possible reasons for detention are exhaustively enumerated in Article 5 (1) ECHR. Paragraph 1 (c) of Article 5 permits *"the lawful arrest or detention of a person effected for the purpose of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so"*, while paragraph (f) of Article 5 permits *"the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition."* A detention for any reason other than those listed in Article 5 § 1 is unlawful and thus a violation of a human right.

Three conclusions derive from these provisions.

- A State party to the European Convention on Human Rights is presumed to exercise its jurisdiction over its whole territory. Any arrest of a person by foreign authorities on the territory of a Council of Europe member State without the agreement of this member State is a violation of its sovereignty and is therefore contrary to international law. In addition, the now defunct European Commission of Human Rights has stated that *"an arrest made by the authorities of one State on the territory of another State, without the prior consent of the State concerned, does not only involve the State responsibility vis-à-vis the other State, but also affects that person's individual right to security under Article 5 § 1".*[3]

[3] European Court of Human Rights, Stocké v. Germany judgment of 12 October 1989, Series A no. 199, opinion of the Commission, p. 24, § 167.

- Any form of involvement of a Council of Europe member State or receipt of information prior to the arrest taking place entails its responsibility under Articles 1 and 5 ECHR.

- The responsibility of a Council of Europe member State is engaged also in the case that some section of its public authorities (police, security, forces etc.) has cooperated with the foreign authorities or has not prevented an arrest without government knowledge.

3. As regards the secret detention centers, *incomunicado* detention, that is detention without the possibility of contacting one's lawyer and of applying to a court, is clearly not "in accordance with a procedure prescribed by law" of any of the member States of the Council of Europe, if alone because the detention is not subject to judicial review. For the detainee, it is not possible to exercise his entitlement to *habeas corpus* guaranteed by Article 5, paragraph 4. The unlike possibility that such a detention is "in accordance with a procedure prescribed by law" under the law of the foreign State by whose authorities the detention was ordered and executed, is irrelevant for the issue of the responsibility under the European Convention on Human Rights of the State on whose territory it takes place.

If and in so far as *incomunicado* detention takes place, is made possible or is continued on the territory of a member State of the Council of Europe, in view of its secret character that detention is by definition in violation of the European Convention on Human Rights and the applicable domestic law of that State.

Active and passive co-operation by a Council of Europe member State in imposing and executing secret detentions engages its responsibility under the European Convention on Human Rights. The European Court of Human Rights has ruled that *"the acquiescence or connivance of the authorities of a Contracting State in the acts of private individuals which violate the Convention rights of other individuals within its jurisdiction may engage the State's responsibility under the Convention"*[4]. This is even more true in respect of acts of agents of foreign States.

If a State is informed or has reasonable grounds to suspect that any persons are held *incomunicado* at foreign military bases on its territory, despite its limited jurisdiction over foreign military bases, its responsibility under the European Convention on Human Rights is still engaged, unless it takes all measures which are within its power in order for this irregular situation to end.

III - The opinion deals essentially with the transfer of prisoners suspected of terrorism by airplane

This is both the most interesting and the most original part of it. Why ? For two reasons.

1. It consecrates an extensive conception of the obligation of the Council of Europe member States to prevent torture.

Torture is prohibited by Article 3 of the European Convention on Human Rights, Article 7 of the International Covenant on Civil and Political Rights (ICCPR), the European Convention for the

[4] European Court of Human Rights, Ilascu and others v. Moldova and Russia judgment of 8 July 2004, § 318.

Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 3 of the UN Convention against torture prevents State parties from "*expelling, returning or extraditing a person to another State where there are substantial grounds for believing that he will be in danger of being subjected to torture.*"

The European Convention of Human Rights does not guarantee a right not to be extradited or deported. However, according to the Soering doctrine of the European Court of Human Rights, a State may be held responsible for a violation of article 3 if its decision, permission or other action has created a real risk of a violation of these rights by the State to which the prisoner is to be transferred.[5]

In this context, it is worth underlining that Council of Europe member States are under an obligation to prevent prisoners' *exposure to the risk* of torture: the violation does not depend on whether the prisoner is eventually subjected to torture.

The requirement of not exposing any prisoner to the real risk of ill-treatment also applies in respect of the transit of prisoners through the territory of Council of Europe member States: member States should therefore refuse to allow transit of prisoners in circumstances where there is such a risk.

The situation may arise that a Council of Europe member State has serious reasons to believe that the mission of an airplane crossing its airspace is to carry prisoners with the intention of transferring them to countries where they would face ill-treatment.

In the Commission's view, the territorial State is entitled to, and must take all possible measures in order to prevent the commission of human rights violations in its territory, including in its air space.

2. The Council of Europe member States have the means to implement this extensive obligation to prevent torture.

International air law has a codified framework in the Convention on International Civil Aviation (commonly referred to as the "Chicago Convention"), signed in Chicago on 7 December 1944.

The Chicago Convention sets out in Article 1 the principle that every State has complete and exclusive sovereignty over the airspace above its territory, that is to say above the land areas and territorial waters adjacent thereto.

Article 4 of the Chicago Convention provides that: *"Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention"*.

The Chicago Convention sets out the regime for civil aircraft and civil aviation. According to Article 3 (a), such regime does not apply to State aircraft.

Under the Convention, aircraft *"used in military, customs and police services"* are deemed to be

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[5] European Court of Human Rights Soering v. the United Kingdom judgment of 7 July 1989; Chahal v. United Kingdom judgment, of 15 November 1996, § 80.

state aircraft (Article 3 (b)). This presumption, however, is not irrebuttable. Moreover, aircraft engaged in other state activities such as coast guard and search and rescue could also be considered as state aircraft.

It has generally been admitted[6] that, in case of doubt, the status of an airplane as "civil aircraft" or "state aircraft" will be determined by the function it actually performs at a given time.[7] As a general rule, *"aircraft are recognised as state aircraft when they are under the control of the State and used exclusively by the State for state intended purposes."*[8] Accordingly, the same airplane can be considered to be "civil aircraft" and "state aircraft" on different occasions.

Civil aircraft that are not engaged in scheduled international air services of a State party to the Chicago Convention[9] are entitled to make flights into or in transit non-stop across the territory of another State party and to make stops for non-traffic purposes without the necessity of obtaining prior permission and subject to the right of the State flown over to require landing. The authorities of each State party have the right, without unreasonable delay, to search aircraft of the other State party on landing or departure, and to inspect the certificates and other documents prescribed by the Chicago Convention (Article 16).

State aircraft do not enjoy the overflight rights of civil aircraft. According to Article 3 (c), state aircraft are not permitted to fly over or land in foreign sovereign territory otherwise than with express authorisation of the State concerned, and in harmony with the terms of such authorisation.

Article 3 bis paragraph b) of the Chicago Convention provides that:

"[E]very State, in the exercise of its sovereignty, is entitled to require the landing at some designated airport of a civil aircraft flying above its territory without authority or if there are reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of this Convention; it may also give such aircraft any other instructions to put an end to such violations. For this purpose, the contracting States may resort to any appropriate means

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6 ICAO Secretariat Study on "Civil/State Aircraft" LC/29-WP/2-1, Pellet, Dailler, Droit International Public, LGDJ, 7è edition, 2002, pp. 1250; Combacau (J.), Sur (S), Droit international Public, Montchristien, 5è édition, 2001, p. 473; "Status of military aircraft in international law", address at the Third International Law Seminar of 28 August 1999, by Professor Michael Milde, formerly the head of the legal bureau of the International Civil Aviation Organisation, at: http:// www.mindef.gov.sg/dmg/ls/Il399.doc; Diederiks-Verschoor, Introduction to air law, Kluwer, pp. 30 and following.

7 In the case of a civil aircraft (B-737, MisrAir flight 2843 from Cairo to Tunis) carrying, on the basis of charter by the Government, suspected terrorists out of the country under Military Police escort and intercepted and forced to land in Italy by the US military based in Italy, the US Government, in a letter to the International Federation of Air Line Pilots Association, stated: "It is our view that the aircraft was operating as a state aircraft at the time of interception. The relevant factors - including exclusive State purpose and function of the mission, the presence of armed military personnel on board and the secrecy under which the mission was attempted - compel this conclusion". This case, quoted in ICAO document LC/29-WP/2-1, pp. 11-12, was cited by Professor Milde, see above, footnote 54. See also A. Cassese, Terrorism, Politics and Law, the Achille Lauro case, Polity Press, p. 39.

8 Diederiks-Verschoor, Introduction to air law, Kluwer, pp. 30 § 12 . See also footnote 52.

9 Status of ratifications of the Chicago Convention available at:

http://www.ICAO.int/ICDB/HTML/English/Representative%20Bodies/Council/Working%20Papers%20by%20Session/163/c.163.wp.11641.en/C.163.WP.11641.ATT.EN.HTM

consistent with relevant rules of international law, including the relevant provisions of this Convention, specifically paragraph a) of this Article.[10] *Each contracting State agrees to publish its regulations in force regarding the interception of civil aircraft".*

The question arises in this context of what would be the status of an airplane registered in the flag State as civil aircraft but carrying out "State functions" (such as special missions for the transport of prisoners) which entered the airspace of another State without seeking a specific authorisation or without following the applicable procedures for State aircraft.

The territorial State possesses a different course of action in respect of the suspect airplane, depending on its status.

If the state airplane in question has presented itself as if it were a civil plane, that is to say it has not duly sought prior authorisation pursuant to Article 3 c) of the Chicago Convention, it is in breach of the Chicago Convention : the territorial State may therefore require landing. The airplane having failed to declare its State functions, it will not be entitled to claim State aircraft status and subsequently not be entitled to immunity : the territorial State will therefore be entitled to search the plane pursuant to Article 16 of the Chicago Convention and take all necessary measures to secure human rights. In addition, it will be entitled to protest through appropriate diplomatic channels.

If the plane has presented itself as a State plane and has obtained overflight permission without however disclosing its mission, the territorial State can contend that the flag State has violated its international obligations. The flag State could thus face international responsibility. The airplane however will, in principle, be entitled to immunity according to general international law and to the applicable treaties: the territorial State will therefore be unable to search the plane, unless the captain consents.

However, if the overflight permission derives from a bilateral treaty or a status of forces agreement or a military base agreement, the terms of such treaty might be questioned if and to the extent that they do not allow for any control in order to ensure respect for human rights, or their abuse might be advanced. In this respect, the Venice Commission recalls that the legal framework concerning foreign military bases on the territory of Council of Europe member States must enable the latter to exercise sufficient powers to fulfil their human rights obligations. This means that Council of Europe member States may have to consider whether it is necessary to insert new clauses, including the right to search, as a condition for diplomatic clearances in favour of State planes carrying prisoners. Moreover, Council of Europe member States could bring possible breaches of the Chicago Convention before the Council of the International Civil Aviation Organisation pursuant to Article 54 of the Chicago Convention.

Two conclusions may be drawn from this analysis.

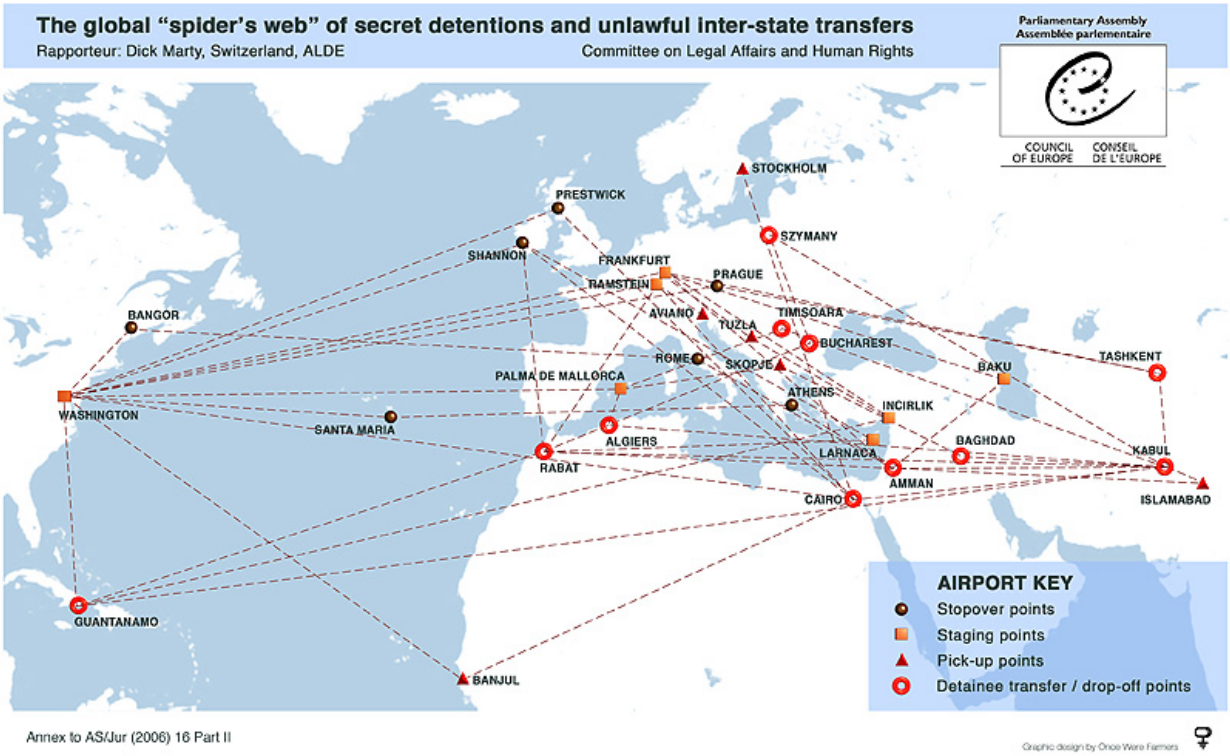
1. As regards the legal technique, it is an interesting example of a combination of human rights law and air law. One of the major issue of globalisation is the independence of the different

[10] Para. a) of Article 3bis of the Chicago Convention provides that "The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered. This provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations."

settings of rules to master it. For example, there is no connection between the International Labour Organization and the World Trade Organisation. Which means, for example, that the development of world trade can not be conditional upon the respect of labour standards. There is no real connection between the United Nations, the ILO and the WTO. Here, the Chicago convention may be interpreted in a way which allows the contracting States to implement their human rights obligations and this interpretation is consistent with the interpretation developed by the International Civil Aviation Organisation.

2. As regards substantial law and the war on terror, I will only quote Aharon Barak, the President of the Israeli Supreme Court, in the decision Morcos vs Minister of Defense[11]: *"When the cannons speak, the Muses are silent. But even when the cannons speak, the military commander must uphold the law. The power of our society to stand up against its enemies is based on its recognition that it is fighting for values that deserve protection. The rule of law is one of these values"*. And since we are in New York and since the whole contest of extraordinary renditions was launched in this country by US press and US NGOs, I will leave the final word to Benjamin Franklin, whose approach seems more relevant than ever, *"They that can give up essential liberty to attain a little temporary security deserve neither liberty nor safety"*.

http://assembly.coe.int/Documents/WorkingDocs/doc06/edoc10957-1.jpg



[11] HC 168/91, Morcos v. Minister of Defense, 45(1)P.D. 467, 470-471.