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MOTION FOR RESOLUTION

on the Alleged use of European countries by the CIA for the transport and illegal detention of prisoners

tabled by Sarah Ludford, Ignasi Guardans, Adina Valean, Marco Cappato
on behalf of the ALDE Group

The European Parliament,

- having regard to the international, European and national instruments on **human rights** and fundamental freedoms and on the prohibition of arbitrary detention, enforced disappearances and torture, such as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984,
- having regard to the **report** on the Temporary Committee's findings on alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, as well as to other reports and resolutions raising the issue, including the Council of Europe work on this matter
- having regard to the resolution on the return and resettlement of the **Guantánamo** detention facility inmates, adopted by the EP on the 4 February 2009
- having regard to the **letter** sent by the EP President to national parliaments on the follow up given by Member States to the TDIP report,

A - whereas the report adopted by the European Parliament on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners addressed a series of detailed **recommendations** to Member States, to the Commission and to the Council,

B - whereas since the adoption of the EP report, a series of **developments** have taken place in EU Member States, including:

- the declarations of the UK Foreign Minister on two US extraordinary rendition flights carrying 2 prisoners that landed on UK territory in 2002, as well the compiling of a list of suspect flights that would be sent to US authorities to request specific assurance they were not used for rendition, as well as the declarations of the Prime Minister in this regard; the request of the UK Home Secretary to the Attorney General to investigate possible "criminal wrongdoing" by MI5 and the CIA over Mohamed's treatment; the High Court ruling of 5 February 2009 that it was unable to order the disclosure of information about the alleged torture of Binyam Mohamed because the UK Foreign Secretary affirmed that the UK was threatened by the US with the blocking of intelligence-sharing about terrorism,
- the decision by the Polish Prime Minister to hand over to Prosecutors documents on CIA flights and prisons, as well as the findings of the Polish Prosecutor that stated that over a dozen CIA flights involved the Szymany airport, hereby confirming the TDIP committee findings,
- the publication by El Pais of documents containing new information concerning CIA flights in Spain
- information in relation to CIA flights in Portugal, as well as the declarations by the Foreign Affairs Minister in this regard,
- imposition by governments of a requirement of state secrecy on information relevant to the enquiries, such as in Italy, where a pronouncement from the Constitutional Court is awaited on this issue

C - whereas the **EU Commissioner** for Freedom, Security and Justice stated on the 3.2.2009 in the European Parliament that he undertook a series of actions to implement the recommendations of the EP, including writing to the authorities of Poland and Romania to ask them to make full clarity on the alleged existence of secret prisons on their soil, and issuing a Communication planning new actions in the field of civil aviation,

D - whereas **extraordinary renditions** and **secret detention** are contrary to international human rights law, the European Convention on Human Rights, the Charter of Fundamental Rights, and whereas the US authorities are currently reviewing this practice,

E - whereas those kidnapped in some Member States under the **extraordinary rendition programme** have been flown to **Guantánamo** or to other States by the US authorities on military and CIA flights, which have often flown over EU territory and in some cases have also made stopovers in some EU Member States; whereas those taken to third countries have undergone torture in local prisons;

F - whereas **some Member States** have approached the US authorities requesting the release and repatriation of persons who have undergone extraordinary rendition who are their nationals or who were previously resident on their territory; whereas officials of some Member States have had access to prisoners in Guantánamo or in other detention centres, and have also interrogated them to verify the charges brought against them by the US authorities,

G - whereas the EP report and subsequent events stated that several EU Member States have been involved in, or have cooperated actively or passively with the US authorities in, the CIA's and US military's illegal transport of prisoners to, and/or their detention in, Guantánamo and the 'secret prisons' acknowledged by President Bush – as proven by some recently disclosed information concerning governments' authorisations of US requests for over-flight and by government information on secret prisons – and that EU Member States bear a particular share of political, moral and legal **responsibility** for the transportation and detention of those imprisoned in Guantánamo and in secret detention facilities,

1 - calls on the Member States, the Commission and the Council to fully implement the **recommendations** made by the European Parliament in its report on the alleged use of European countries by the CIA for the transport and illegal detention of prisoner and to collaborate in the finding of the truth by opening enquiries or collaborating with the competent authorities by disclosing and providing all relevant information, and by ensuring parliamentary scrutiny of secret services action; calls on Member States and EU institutions to transmit to the European Parliament any relevant information, parliamentary enquiry report or judgment in this regard;

2 - calls on the European Union and the United States to strengthen transatlantic dialogue on a new **common approach** to tackling terrorism based on the common values of respect for international human rights law, democracy and the rule of law, in a framework of international cooperation, such as the EU-US agreements on extradition and mutual assistance;

3 - welcomes the forthcoming **visit** of 16 and 17 March to the United States by the Commissioner for Freedom, Security and Justice, the Czech Presidency and the EU counter-terrorism coordinator and calls the EU representatives to raise the issue of **extraordinary renditions and of secret detention facilities**, as these are serious violation of international and European human rights law; calls the JHA Council of 26 February to take a firm stance on this, as well as to discuss the issue of the closure of Guantanamo and the resettlement of detainees, taking into due consideration the EP resolution on this issue;

4 - calls on the European Union, the Member States and the US authorities to **investigate** and fully clarify the abuses and violations of international and national law on human rights, fundamental freedoms, the prohibition of torture and ill-treatment, enforced disappearance and the right to a fair trial committed in connection with the 'war against terror', so as to establish responsibility for secret detention centres - including Guantánamo - and the extraordinary rendition programme, and to ensure that such violations will not recur in the future and that the fight against terrorism is pursued without breaching human rights, fundamental freedoms, democracy and the rule of law;

5 - Calls on the Commission, the Council and the Counter-Terrorism Coordinator after the visit of the EU delegation to the US to **report** to the European Parliament on the application of the agreements on mutual legal assistance and on extradition, as well as on EU-US cooperation in the field of anti-terrorism while ensuring full respect for human rights, so that the competent committee can address these issues in a report drafted also on the basis of par. 232 of the TDIP temporary committee report,

6 - Instructs its President to forward this resolution to the Council, the Commission, the High Representative for the CFSP, the Counter-terrorism coordinator, the parliaments of the Member States, the NATO Secretary General, the Secretary-General and President of the Parliamentary Assembly of the Council of Europe, the United Nations Secretary-General and the President and Congress of the United States of America.