



Juan Fernando López Aguilar
European Parliament
Chair of the Committee on civil liberties, justice and home affairs (LIBE)

Brussels, 15 November 2010
Our Ref: B 1013

Dear Mr López Aguilar

Subject: Amnesty international new report - “Open Secret: Mounting Evidence of Europe’s Complicity in Rendition and Secret Detention”

Today, 15 November 2010, Amnesty International is releasing a new report entitled “Open Secret: Mounting Evidence of Europe’s Complicity in Rendition and Secret Detention”. The report documents the situation in eight European countries, including seven EU Member States and one candidate country¹, with respect to accountability for complicity in human rights violations in the context of the CIA-led programmes, including abduction, unlawful transfer, enforced disappearance, secret detention, and torture. It provides a unique and updated analysis of the progress underway and the obstacles that remain to achieve full justice, as well as recent new evidence of European states’ collusion in serious human rights violations. In contrast to the situation in the United States and despite some persistent lacuna in the processes, the report demonstrates that there is potential ground for accountability in Europe.

Against this background, Amnesty International calls on all the EU institutions to commit publicly to ensuring accountability in Europe by promoting and supporting independent and effective investigations into EU Member States’ alleged complicity in the US-led rendition and secret detention programmes. Continuing to refuse such responsibility at EU level would constitute a serious failure to respect international human rights law and create a situation where impunity is tolerated, with the ripple effect of undermining efforts to encourage respect for human rights by governments elsewhere in the world.

As illustrated by the examples highlighted below, Amnesty International’s report focuses on key countries where new developments have either propelled accountability processes forward or require them to do so in the face of new and compelling information. In all cases, governments must make concrete commitments to establish a human rights-compliant accountability process.

Germany: A three-year long parliamentary inquiry completed its work in June 2009 and did not find any German state actor responsible for involvement in any rendition, enforced disappearance, or torture and ill-treatment of detainees. However, also in June 2009, the German Constitutional Court ruled that the German government’s failure to cooperate fully with the inquiry violated the Constitution. The profound lack of cooperation from the German authorities in the course of the inquiry, coupled with the identification of Germany in the UN Joint Study on Secret Detention of 26 January 2010 as complicit in some of these abuses, urgently requires further action on the part of the German government.

¹ Countries covered in the report include: Germany, Italy, Lithuania, Macedonia, Poland, Romania, Sweden, and the United Kingdom.

Lithuania: A Lithuanian parliamentary inquiry concluded in December 2009 that CIA secret prisons existed in the country, but stopped short at determining whether detainees were actually held there. The Lithuanian Prosecutor General's office has now opened a criminal investigation into state actors' alleged involvement in the establishment and potential operation of the sites.

Poland: In response to "freedom of information" requests, new evidence of Polish complicity in the US-led rendition and secret detention programmes came in 2009-2010 from the Polish Air Navigation Services Agency (PANSAs) and the Polish Border Guard Office. In October, the prosecutor's office formally granted the status of victim to Saudi national, Abd al-rahim al-Nashiri. Nevertheless, the terms of reference and timeline of the criminal investigation by the Appeal Prosecutor's Office into Poland's involvement have never been made public.

Romania: New evidence of Romanian participation in the CIA's rendition and secret detention programmes came to light in July 2010 when the Polish Border Guard Office released information indicating that a September 2003 flight took on passengers in Poland and continued on to Romania. Despite steadily mounting public information alleging that detainees were housed in a secret detention centre in Romania, including press reports citing unnamed former US intelligence officials, the Romanian government continued to deny any involvement in the CIA's rendition and secret detention programmes.

United-Kingdom: The UK government has acknowledged its involvement in the US-led rendition programme through the use of UK territory. In February 2010, the UN Joint Study on Secret detention referred to allegations of UK collaboration with the Pakistani intelligence services leading to complicity in secret detention. It also contained reference to the allegation that persons were held in secret detention on Diego Garcia. In July 2010, the UK government announced that it would establish an inquiry into the involvement of UK state actors in the alleged mistreatment of individuals detained abroad by foreign intelligence services. It is crucial that the inquiry's scope and depth are broad enough to ensure real accountability.

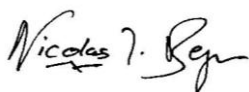
As recalled in Amnesty International's report, the work of the European Parliament has been critical to expose European states' complicity in the CIA's rendition and secret detention programmes. It is now up to the committee on civil liberties, justice and home affairs (LIBE), as mandated in the European Parliament's 2007 resolution, to follow-up on the implementation of its recommendations. In a 2009 resolution, the European Parliament denounced the lack of any follow-up by EU institutions to its recommendations but it has failed to take further action. Amnesty International's report could provide a useful basis for the LIBE committee to re-engage on this issue and challenge EU member states' obligations to establish human rights-compliant accountability processes.

Amnesty International calls on the LIBE committee to mobilise its resources to scrutinise the accountability processes underway in member states in light of international and European human rights law, including article 2 TEU and the EU Charter of Fundamental Rights. Such assessment should also include an evaluation of the actions undertaken at EU level to support accountability processes.

To this end, LIBE should take the lead in preparing a new 'own initiative' report that could cover the new developments since the adoption of the 2007 resolution; assess the implementation of the previous recommendations made by the European Parliament; and confront EU member states and EU institutions with their obligation to conduct or support in-depth, independent and impartial investigations to establish the truth about EU member states involvement in grave human rights violations. Amnesty International hopes that LIBE will intensively engage in this work and stands ready to offer any cooperation and support in this regard.

We look forward to hearing from you further on this issue.

Yours sincerely,



Nicolas J. Beger
Director