

American Prisoners in Europe

Human Rights Watch

Dick Marty

Council of Europe

Human Rights Watch, a non-governmental organisation, has urged the United Nations and relevant European Union bodies to launch investigations to determine which countries have been or are being used by the United States for transiting and detaining incommunicado prisoners.

Dick Marty of the Council of Europe's Legal Affairs Committee reports on the key aspects of his inquiry regarding the alleged existence of secret detention centres in Council of Europe member states and flights which may have transferred prisoners without any judicial involvement.

I

The *Washington Post* reported on 3 November 2005 that the United States has used secret detention facilities in Eastern Europe and elsewhere to illegally hold terrorist suspects without rights or access to counsel. Citing US government concerns, the article did not identify the locations in Eastern Europe.

Human Rights Watch has conducted independent research on the existence of secret detention locations that corroborates the *Washington Post's* allegations that there were detention facilities in Eastern Europe. Specifically, we have collected information that CIA airplanes travelling from Afghanistan in 2003 and 2004 made direct flights to remote airfields in Poland and Romania. Human Rights Watch has viewed flight records showing that a Boeing 737, registration number N313P – a plane that the CIA used to move several prisoners to and from Europe, Afghanistan, and the Middle East in 2003 and 2004 – landed in Poland and Romania on direct flights from Afghanistan on two occasions in 2003 and 2004. Human Rights Watch has independently confirmed several parts of the flight records, and supplemented the records with independent research.

According to the records, the N313P plane flew from Kabul to north-east Poland on 22 September 2003, specifically, to Szymany airport, near the Polish town of Szczytno, in Warmia-Mazuria province. Human Rights Watch has obtained information that several detainees who had been held secretly in Afghanistan in 2003 were transferred out of the country in September and October 2003. The Polish intelligence service maintains a large training facility and grounds near the Szymany airport.

The records show that the N313P plane landed the next day, 23 September 2003, at the Mihail Kogalniceanu military airfield in Romania. The flight records indicate that the plane flew on to Morocco the same day, and then to Guantánamo Bay. The Department of

Defence, which releases information about all detainee transfers to Guantánamo, released no statement about a transfer to Guantánamo around this date.

According to our research, the United States has been using the Mihail Kogalniceanu airfield in Romania for operations in Iraq and Afghanistan since 2002, and the base has been closed to the public and journalists since early 2004. Secretary of Defence Donald Rumsfeld visited Romania and the Mihail Kogalniceanu base in October 2004. The N313P plane also flew from Kabul to Timisoara airport in Romania on January 25, 2004.

The Associated Press quoted Szymany airport officials in Poland confirming that a Boeing passenger plane landed at the airport at around midnight on the night of September 22, 2003. The officials stated that the plane spent an hour on the ground and took aboard five passengers with US passports.

The N313P airplane, and other planes allegedly used by the CIA to transport prisoners, have also repeatedly landed at airports in Jordan, Morocco, Egypt, and Libya, as well as in Germany, the United Kingdom, Switzerland, Spain, Portugal, Macedonia, Cyprus, the Czech Republic, and Greece. Most of these landings have taken place at major civilian airports or joint civilian-military airports, both unlikely locales for clandestine operations. The Szymany and Mihail Kogalniceanu airfields are more remote.

Further investigation is needed to determine the possible involvement of Poland and Romania in the extremely serious activities described in the *Washington Post* article. Arbitrary incommunicado detention is illegal under international law. It often acts as a foundation for torture and mistreatment of detainees. US government officials, speaking anonymously to journalists in the past, have admitted that some secretly held detainees have been subjected to torture and other mistreatment, including waterboarding (immersing or smothering a detainee with water until he believes he is about to drown). Countries that allow secret detention programmes to operate on their territory are complicit in the human rights abuses committed against detainees.

Human Rights Watch knows the names of 23 high-level suspects being held secretly by US personnel at undisclosed locations. An unknown number of other detainees may be held at the request of the US government in locations in the Middle East and Asia. US intelligence officials, speaking anonymously to journalists, have stated that approximately 100 persons are being held in secret detention abroad by the United States.

Human Rights Watch emphasises that there is no doubt that secret detention facilities operated by the United States exist. The Bush Administration has cited, in speeches and in public documents, arrests of several terrorist suspects now held in unknown locations. Some of the detainees cited by the administration include: Abu Zubaydah, a Palestinian arrested in Pakistan in March 2002; Ramzi bin al-Shibh, arrested in September 2002; Abd al-Rahim al-Nashiri (also known as Abu Bilal al-Makki), arrested in United Arab Emirates in November 2002; Khalid Sheikh Mohammed, arrested in Pakistan in March 2003 along with Mustafa al-Hawsawi; and Hambali (aka Riduan Isamuddin) arrested in Thailand in August 2003.

Human Rights Watch urges the United Nations and relevant European Union bodies to launch investigations to determine which countries have been or are being used by the United States for transiting and detaining incommunicado prisoners. The US Congress should also convene hearings on the allegations and demand that the Bush administration account for secret detainees, explain the legal basis for their continued detention, and make arrangements to screen detainees to determine their legal status under domestic and international law. We welcome the decision by the Legal Affairs Committee of the Parliamentary Assembly of the Council of Europe to examine the existence of US-run detention centres in Council of Europe member states (see below). We also urge the European Union, including the EU Counter-Terrorism Coordinator, to further investigate allegations and publish its findings.

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Council of Europe investigates CIA flights

At the meeting of the Parliamentary Assembly of the Council of Europe's Committee on Legal Affairs and Human Rights held in Paris on 13 December 2005, the rapporteur and Chair of the Committee, Dick Marty, reported on the key aspects of his inquiry regarding the alleged existence of secret detention centres in Council of Europe member states and flights which may have transferred prisoners without any judicial involvement. He said the following steps had been taken.

Letters had been sent to the delegations to the Parliamentary Assembly of the two countries explicitly mentioned in the media, namely Poland and Romania, and to the Permanent Observer of the United States to the Council of Europe (the Romanian Delegation replied on 17 November 2005, while the Permanent Observer of the United States had sent him a copy of a speech made by Ms Condoleezza Rice, US Secretary of State, on 5 December 2005 [see page 64]; to date, the Polish delegation had not replied).

Letters requesting detailed information had been sent to the Director General of Eurocontrol [European Organisation for the Safety of Air Navigation] and the Director of the European Union Satellite Centre (EUSC). In an interim reply, the Eurocontrol Director had indicated that he first had to obtain the necessary authorisation to make an exception to the usual data protection rules, while the Deputy Director of the Satellite Centre had indicated that supplying images of the kind requested by Mr Marty was not part of the centre's usual remit. The Committee on Legal Affairs therefore called on the Council of the European Union (and Mr Javier Solana, Secretary General of the Council of the European Union and High Representative of the European Union for the Common Foreign and Security Policy) to intercede with the Satellite Centre so that progress could be made here and urged the European Commission and the member states of Eurocontrol to ensure that its executive body grant authorisation for the transmission of the data requested.

The rapporteur had made direct contacts with non-governmental organisations, in particular Human Rights Watch, while Parliamentary Assembly President René van der Linden had also been in contact with a number of individuals concerned (including an exchange of letters with Ms Rice); the rapporteur had also exchanged information with investigative journalists.

The rapporteur welcomed the opening by the Secretary General of the Council of Europe of the procedure under Article 52 of the European Convention on Human Rights for the purpose of obtaining relevant information from all contracting parties to the convention. He also expressed particular satisfaction at the willingness of Mr Franco Frattini, Vice-President of the European Commission, to co-operate closely with the Council of Europe on the matter. In this connection, he welcomed the participation of a representative of the European Commission and a member of the European Parliament at today's meeting.

From a general point of view, the rapporteur underlined that the information gathered to date reinforced the credibility of the allegations concerning the transfer and temporary detention of individuals, without any judicial involvement, in European countries.

Legal proceedings in progress in certain countries seemed to indicate that individuals had been abducted and transferred to other countries without respect for any legal standards. It had to be noted that the allegations had never been formally denied by the United States. The rapporteur takes note of the situation and deplores the fact that no information or explanations had been provided on this point by Ms Rice during her visit to Europe.

The rapporteur urges all member governments to commit themselves fully to establishing the truth about flights over their territories in recent years by aeroplanes carrying individuals arrested and detained without any judicial involvement. The rapporteur intends to ask the leaders of the parliamentary delegations to the Assembly to take initiatives within their parliaments in order to obtain more precise information on this matter, either by putting questions to their governments or by proposing the setting up of committees of inquiry. In fact, the delegations to the Parliamentary Assembly can make use of their unique position to lobby national parliaments to shed light on the matter. Mr Marty welcomes the fact that steps have already been taken here by certain national parliaments.

Postscript: On 15 January 2006, a Swiss newspaper, *Sonntags Blik*, published an intercepted fax between the Egyptian Foreign Ministry and its London Embassy which was sent in November 2005. This reveals that the Egyptians had learned through intelligence contacts that the CIA had interrogated 23 Iraqi and Afghan citizens in the secret Mihail Kogalniceanu prison, near the Romanian city of Constanza on the Black Sea. It also indicates that similar interrogation centres are situated in the Ukraine, Bulgaria, Kosovo, and Macedonia.