



**COUNCIL OF
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NOTE

from :	General Secretariat of the Council
to :	Delegations
Subject :	European Parliament plenary session, from 3 to 6 July 2006 - Debate on the interim report of the Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners, held in Strasbourg on 5 July 2006

Mr Fava (PSE, IT), rapporteur on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners, gave a short presentation of his report. He said that the existence of extraordinary renditions during the last couple of years was a fact, not only an opinion, and stressed that the practice had been admitted to by the US Secretary of State. He said that some Member States had been complicit, some covered illegal operations and that some had just turned their backs. The European Parliament Temporary Committee had tried to find out the truth and had reconstructed in detail a very complex system of flights used by the CIA and of flight planes. Many flights had been routine CIA flights, but some had been involved in rendition cases. Mr Fava stressed the need to find the objective truth about what had happened in the Member States in regard to the renditions. He asked the European Parliament to authorise the Committee to continue its work throughout the 12-month mandate.

Ms Lehtomäki, Finnish Minister for European Affairs, stressed the importance of the initiatives taken by the European Parliament and the Council of Europe to investigate the issues and emphasised that fundamental rights and the fight against terrorism should not be in conflict with each other. Underlining that the treaties do not give EU the competence to deal with these issues, and that the national intelligence services were monitored by the Member States, she stressed that the Council had nevertheless not been passive in the matter. The reports about US detention facilities in Europe and the use of aircraft to transfer terrorist suspects between countries in order to interrogate them using torture and ill treatment were debated by the Foreign Ministers in November 2005. Following that debate, the Presidency wrote on 29 November 2005 to the US Secretary of State, Ms Rice, on behalf of the European Union, seeking the views of the United States Government on these allegations. Ms Rice made a detailed statement on the matter on 5 December 2005 before her visit to Europe. In that statement it was stressed that the US had not violated the sovereignty of other countries. The issue was subsequently discussed by EU Foreign Ministers and Ms Rice during her visit to Brussels. Furthermore, since the beginning of this year, an intensified dialogue with the US on these questions had taken place at different levels and at different times. In discussions with the EU, most recently at the EU-US Summit in Vienna, the EU underlined the requirement to respect international law in the fight against terrorism. The US Administration has also been urged on several occasions to grant full access to Guantánamo Bay to the Human Rights Rapporteurs of the United Nations. The EU had called for the US to close Guantánamo Bay, and had welcomed Mr Bush's comment that he was willing to do so. Ms Lehtomäki concluded by saying that Finland during its Presidency would continue to keep human rights issues on the agenda of the dialogue with the US.

For **Mr Frattini**, Vice-President of the Commission, the debate, held at the eve of the first anniversary of the London bombings, was a great opportunity to recall that the fight against terrorism was a top priority for the Commission. It was paramount that fundamental rights were respected in this fight, and the fact of not respecting these rights could be used as propaganda against the international community. Mr Frattini underlined that the Commission had cooperated closely with the Committee, for example by requesting data from Euro-control. That data turned out to be a key source in the report. Furthermore, in cooperation with the Council, it had ensured that access had been given to satellite pictures. Mr Frattini said that he had called on the Council and the Member States to cooperate with the Temporary Committee.

He would repeat this call at the Council meeting on 24 July. He considered that it was time for the national authorities investigating the matter to use the information contained in the report of the Temporary Committee, and stressed that if national investigations had not yet been carried out, they should be. He emphasised the need for procedural guarantees for victims and accused, and underlined that trust should be put in the national courts. Saying that intelligence services fell under national competence, he wanted to look at whether transparency rules with regard to parliaments could be improved. There could also be more transparency with regard to coordination. In this context he said that national parliamentary scrutiny of financial resources to intelligence services could influence operations. He concluded by saying, with regard to non-commercial flights with civilian aircraft and the definition of state aircraft, that the Commission was ready to look into a European definition of state aircraft and thought that there could be significant progress in this area, which was not sufficiently covered by national rules.

Mr Gawronski (IT), *on behalf of PPE-DE*, considered that the report was extremely tendentious and took into account only opinions which were critical of the US. He was disappointed that amendments referring to statements before the Temporary Committee by Mr Solana and Mr De Vries, who had said that they were not aware of any violations of the law by any of the Member States of the EU in cooperation with the CIA, had not been included in the report. Furthermore, a statement by a representative of Human Rights Watch, according to which there were “suspicions but no proof”, had not been included. He acknowledged that the US had made mistakes, but stressed that these mistakes were made because it actually did something. He concluded by saying that his group was very critical about the report and disappointed with it.

Mr Kreissl-Dörfler (DE), *on behalf of PSE*, stressed that the fight against terrorism should not be waged with the same weapons as those used by terrorists, and emphasised that the end did not justify the means. He said that criticising the Bush administration should not be seen as anti-Americanism. The US government had to answer the question of what the CIA was entitled to do, even in relation to a friendly country. He was very critical about the statements of the FYROM government. He stressed that the role of the Temporary Committee was not that of a state prosecutor, but that its task was to present the state of the current knowledge. He was of the opinion that it had to continue its work.

Ms Ludford (UK), *on behalf of ALDE*, considered that the area of justice and human rights was not working properly, and was critical about the fact that some Member States had not implemented EU anti-terrorism legislation five years after it had been adopted, and that some did not even have a definition of terrorism. While she found it very important to fight terrorism, she said that gross human rights violations had been committed in the war on terror. The EU, she considered, had allowed a situation where terrorist suspects could not be prosecuted, and instead were persecuted. The Temporary Committee had heard testimonies and corroborating evidence about the rendition programme, and could draw conclusions, which in her opinion meant that the burden of proof was shifted onto Member States. Ms Ludford hoped that the Presidency in private said something different to the Member States than it said in the plenary. She considered it untrue that the Treaties did not give the EU any powers on the matter and referred to Articles 6-7 TEU. If the Treaty did not give the EU any powers, how come the governments inserted these Articles into it, she asked.

Mr Özdemir (DE), *on behalf of Verts/ALE*, said that in the rendition programme, most of the victims had been illegally arrested and/or abducted and some had disappeared. This practice, which amounted to an outsourcing of torture, made it more difficult to prove that violations of human rights had taken place. He regretted that EU Member States had ignored their right under the Chicago Convention to investigate suspicious aircraft, and stressed that every state should take legal steps against those responsible for torture. He expressed his admiration for the investigations carried out in Italy and hoped that other states would follow the Italian example.

Mr Catania (IT), *on behalf of GUE/NGL*, said that the Temporary Committee had proven that the extraordinary rendition programme was part of a “mistaken strategy of combating terrorism”. The method, he considered, had not decreased terrorism, but increased and radicalised it and encouraged the goals of terrorism. He said that more than half of the detainees at Guantánamo Bay had been abducted in Afghanistan. This meant that the aircraft had had to transit through European states. He was of the opinion that the statements made by Mr Bellinger and Ms Rice that the US had not violated the sovereignty of other states showed that European governments had been complicit in the programme.

Mr Szymanski (PL), *on behalf of UEN*, wanted to soften the language of the report and make room for doubts, since he did not consider that the conclusions drawn were proven. He said that there was a gap between the European and the US approach to persons suspected of terrorism. In Europe, such persons would face criminal proceedings, while in the US, they would be subject to the laws of war. He considered the US approach the more appropriate one, and considered that international law needed to be adapted to deal with the situation. He would not support the report unless it was amended.

Mr Piotrowski (PL), *on behalf of IND/DEM*, was of the opinion that the Temporary Committee had failed to fulfil its task and considered that it had not obtained one piece of information that was not known before. He did not see any point in continuing the Temporary Committee's work, and considered that the process was driven by political and propaganda motives by socialists and liberals, who would use any pretext to attack the US and its allies.

Mr Claeys (NI, NL) was also very critical of the work of the Temporary Committee, and said that it had not managed to obtain one piece of evidence to support the allegations. According to him, there was nothing but suspicions and insinuations, made by left-wing anti-American MEPs. If the investigations had to be pursued, this should be done by national authorities, since those had competence in the matter.

In the general debate, many of the speakers stressed the importance of respecting human rights in the fight against terrorism. There was a divide among those who found the report anti-American and tendentious, and those who stressed that the work of the Committee aimed at finding out the truth about possible participation of EU governments in the rendition programme, and that it was not a question of anti-Americanism. **Mr Guardans** (ALDE, ES) said that the report was not aimed at the US but at the capitals of the EU, the Council and Brussels. He wanted the governments of the Member States and the Council and the Commission to explain their actions. Some speakers thought that it would be a waste of resources to continue the work of the Committee, while others stressed that it had to continue.

In general, the speakers who are members of the PPE-DE, the UEN¹ and the IND/DEM groups², and the non-aligned members were against the report in its current state. Many of them considered that there was no clear evidence of the allegations. A majority of the speakers from the PPE-DE group stressed the need to make the report more balanced and called for their amendments to be accepted. The speakers of the PSE, Verts/ALE, ALDE and GUE/NGL groups were in favour of the report. Many of the speakers who were in favour of the report said that it was impossible or highly unlikely that the governments of the Member States could have been unaware of what had been going on. **Mr Coveney** (PPE-DE) regretted that some MEPs reduced the debate to a debate *pro* or *contra* the US, and deplored that the debate had become polarised between the left and the right. **Ms In't Veld** (ALDE, NL) wanted a parliamentary dialogue with the US concerning terrorism and human rights. **Mr Karim** (ALDE, UK) stressed the need to scrutinize the security services and have adequate government control.

Mr Frattini, in his final remarks, said that the Commission was prepared to continue its cooperation with the Temporary Committee on many questions of substance. The implementation by the Member States of EU anti-terrorist legislation was an essential issue. He noted that five Member States had not even implemented the framework decision on anti-terrorism. Furthermore, only seven had concluded the ratification of the EU-US agreement on extradition, which would give clarity on the legal framework concerning transport of prisoners. A structured dialogue with the US at expert level had already begun and should continue. The Finnish Presidency would take action in this area. While he considered that a political debate on the restructuring of the secret services, including measures to increase democratic scrutiny, was important, he stressed that it was a national competence.

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¹ Mr Ryan (IE) was in favour.

² Ms Sinnott (IE) was in favour.