



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 11 July 2006**

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COHOM 119  
USA 63**

**NOTE**

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from : General Secretariat of the Council  
to : Delegations

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Subject : Report on the meeting of the Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners, held in Brussels on 10 July 2006

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The meeting was chaired by **Baroness Ludford** (ALDE, UK).

I. Exchange of views with Mr Hofmann, Munich prosecutor in charge of the El-Masri case

In his introductory remarks, **Mr Hofmann** told the Committee that there were some points of his inquiry that he could not discuss with the Committee since investigations in the matter were still ongoing. Furthermore, some information that he had was classified and he would thus not be able to share it with the Members of the Committee. Mr Hofmann presented Mr El-Masri's testimony. According to Mr El-Masri, at the end of December 2003 he decided to go on vacation from Ulm in Germany, where he was living at the time, to FYROM. At the border of FYROM he was asked to leave the bus. He was questioned about his destination and had to show identification. His passport was confiscated and he was not allowed to continue his trip. Instead he stayed at the border crossing where he was questioned by officials in civil clothing. Later on, he was taken to a hotel in Skopje, where he was held for 23 days and questioned by people in civilian clothes. During this time, he was not allowed to leave his hotel room. After having been told that he would be taken to Germany, he was undressed, blindfolded and beaten, and forced to wear earplugs. He was taken on board a

plane, secured to the floor of the plane and received an injection in his upper arm, after which he lost consciousness. When he landed and disembarked the plane, he noted that the air was dry and the temperature higher than it would be in Germany at that time of year. He was taken to a prison where he was questioned by English-speaking persons. He believed that the interrogators were American. After having gone on a hunger-strike in March 2004, he was force-fed. In May 2004 a German speaking man called “Sam” came to the prison and questioned him. Mr El-Masri’s situation was improved when “Sam” was there. When Mr El-Masri was released from the prison, he was taken somewhere by plane. After landing, he was driven around in a bus for a while before he was set free. He was in Albania. At Tirana airport he bought a ticket to Frankfurt-am-Main where he landed in the morning of 29 May 2004.

After having given account of the testimony of Mr El-Masri, **Mr Hofmann** told the Committee that Mr El-Masri’s personal belongings had been subjected to microbiological tests and that the earplugs had been tested for DNA. The results of the tests did not form a basis for further investigation. With regard to his clothes, the marks indicating the country of manufacturing had been removed. It had been possible to secure Mr El-Masri’s fingerprints on his clothes, as well as fingerprints from two other persons. The identity of these persons could, however, not be established. There was an exit stamp from FYROM, dated 23 January 2004 in Mr El-Masri’s passport, but it was not possible to identify the border point in question. After having returned to Germany, Mr El-Masri was examined by medical services in Munich. No physical traces of violence or injections had been found on his body. Testing of his blood and urine had not revealed any drugs that would make him fall asleep or affect his central nervous system. An isotope examination of his hair had been requested and carried out. Changes in the isotope signature of his hair had been established. Two experts considered it probable that these changes were due to the events told by Mr El-Masri. One expert concluded that the change in the isotope structure showed a change in living conditions which in time could coincide with the account given by Mr El-Masri, or that it at least did not contradict his account of the events. The Munich prosecutor’s office and the police investigators responsible had found and questioned a number of witnesses in Germany. The driver of the bus from Ulm to FYROM as well as passengers on the bus had confirmed the information given by Mr El-Masri concerning the bus trip. Mr El-Masri was of the opinion that he landed in Kabul and that the prison was situated there. The Munich prosecutor’s office had carried out investigations on the basis of that hypothesis. With regard to the weather conditions in Kabul for the day when Mr El-Masri said that he arrived at the prison, Mr Hofmann told the Committee that it had been established that the temperature had been

between 6.8°C and 14.3°C. Mr El-Masri had also mentioned that there was a possible earthquake in April 2004. The prosecutor's office had received information that there had been earthquakes in Kabul in April 2004. The German liaison officer in Kabul remembered that there had been an earthquake in the morning one day at the beginning of May 2004. Mr Hofmann said that there was a person who was a possible witness of Mr El-Masri's imprisonment in Kabul, but that it had not been possible to reach that person. At this stage of the investigation, Mr Hofmann had not found anything that contradicted the statements given by Mr El-Masri.

With regard to the identity of "Sam", Mr El-Masri had seen a photo of a senior official of the BKA (German federal criminal police) and identified him as "Sam". This person had denied being "Sam" and had an alibi which proved that he was in Germany during the second half of May 2004. Later, when Mr El-Masri had the possibility to see the person, he was not absolutely sure that he was indeed "Sam". Mr El-Masri had seen photos of other people in an attempt to identify "Sam" among them, but that had not led to any developments in the investigation. The Munich prosecutor's office was still exploring several theories regarding "Sam's" identity. Other measures taken in the investigation included checking the passenger list of the flight from FYROM to Afghanistan, inquiries with different German representatives in Tirana, Skopje and Kabul, as well as investigations regarding lists of persons transported by the army. None of these measures had resulted in any further investigation. Some of the information was classified.

When asked by **Mr Fava** (PSE, IT) about the credibility of Mr El-Masri's descriptions of the events in Skopje, **Mr Hofmann** said that so far he had not obtained any information indicating that Mr El-Masri's testimony would be incorrect. In this context he mentioned that the Munich prosecutor could not make its own inquiries in FYROM, but had to rely upon mutual legal assistance. Regarding the cooperation of the German government with him, Mr Hofmann stated that much of the information he had received was classified as secret or confidential. If he received such information, he was not entitled to divulge it or use it as a basis for further investigations. He could, however, ask for mutual legal assistance or refer to media reports containing the same information and would be able to use information obtained through those channels. He stressed that he had no information indicating that the German authorities were aware of the events before they took place or during the time they occurred. To a question from **Mr Özdemir** (Verts/ALE, DE), **Mr Hofmann** answered that the interrogators seemed to be very well informed about Mr El-Masri's life, but that he was not in a position to draw any conclusions with regard to the way the interrogators had

received their information. **Mr Özdemir** and other members also asked about a meeting that should have taken place between the US Ambassador to Germany at the time, Mr Coats, and Mr Schilly, then German minister for Interior affairs. Mr Hofmann said that whatever information he might have about that meeting, which he had first known about through a press article in December 2005, was confidential. Asked by **Mr Fava** whether he intended to ask for information from the German ambassadors in Skopje and Kabul, the director of the German secret services and the directors of the outposts in Afghanistan and FYROM at the time of the events, **Mr Hofmann** said that he had sent questions in writing to them. However, he was not in a position to simply command these people, or the former minister for Interior affairs, to come to his office. Normally, the procedure was initially to send written questions, and decide on any follow up later. To a question from **Baroness Ludford**, he answered that while he was authorised to convene any witness, the issue was whether the witness would be authorised to make a statement. It would probably be up to the Federal Chancellor to decide whether a former minister would be allowed to make a statement concerning the case. Asked about “Sam”, Mr Hofmann could not say whether he should be seen as a “good guy” or a “bad guy”. With regard to the contents of the replies given from FYROM regarding his request for legal mutual assistance, Mr Hofmann refrained from commenting. As for legal mutual assistance from Afghanistan, Mr Hofmann underlined that there was no convention regulating that, and that he would not know who to approach. Asked by **Ms Malmström** (ALDE, SE) about details concerning the results of the examinations that Mr El-Masri had undergone, **Mr Hofmann** said that none of the results contradicted Mr El-Masri’s testimony. He recalled that traces of toxic substances in blood and urine disappeared after a while and that physical traces of injections would heal. To **Baroness Ludford’s** question as to whether it was possible that Mr El-Masri had landed in FYROM when he was released from the prison, Mr Hofmann answered that it depended on the distance he had been transported by bus before being taken to Tirana airport. It was a fact that he had flown from that airport to Frankfurt-am-Main. Asked by **Ms Brepoels** (PPE-DE, BE) about an Algerian man named Laid Saidi, who was said to have been imprisoned in Afghanistan for 16 months, in the same prison as Mr El-Masri, and whose imprisonment partly would have coincided with Mr El-Masri’s detention, **Mr Hofmann** said that he was definitely an interesting witness for the prosecutor in the El-Masri case.

Several questions related to the information given by Mr Mengel, a telecommunications manager who was working in FYROM at the time. Mr Mengel has said that he contacted the German embassy in Skopje in early 2004 when he heard about the arrest of a German, and that he was told

by the embassy official that the embassy knew about the arrest. **Mr Hofmann** confirmed that Mr Mengel would be called as a witness in the case.

## II. Work programme of the Committee

The draft meeting calendar of the Committee can be found in the annex. **Baroness Ludford** stressed that in addition to the meetings scheduled in the calendar, there would also be, subject to authorisation, meetings on Monday evenings in Strasbourg.

**Mr Fava** said that the second half of the mandate of the Committee would comprise two phases. First it would be important to receive responses from the governments of Member States, acceding countries and candidate countries, as well as from European institutions, to questions regarding the information gathered. Second, the information gathered and the responses would be evaluated. There should be contacts with committees of inquiry in national parliaments and with representatives of governments. At this stage, current representatives of governments should be invited, but it would also be interesting to achieve information from the ministers in office at the time of the events. He considered it vital that Mr Schilly come to the Committee or that the Committee's delegation to Germany would be received by him. Mr Fava suggested that Mr Frattini, Ms Ferrero-Waldner and Mr Solana should be invited, as well as the former Secretary-General of NATO, Lord Robertson, and UN representatives. He also wanted a new hearing with Mr Spataro, Milan prosecutor, with regard to the new developments in the Abu Omar case. Mr Saidi, the man who was possibly imprisoned at the same time and in the same prison as Mr El-Masri, would also be invited. Apart from the delegation to Germany, there would also be one to the United Kingdom, where many legal representatives of victims of rendition were based. Mr Fava also stressed the importance of meeting with government representatives of the Polish and Romanian governments, as well as with other official sources and journalists in those countries. He emphasised that the work programme would have to be rather open and flexible.

Several members stressed the need to look into the issue of secret detention centres and to further inquire about the cases concerning El-Masri and Abu Omar. The role of FYROM had to be investigated further. It was suggested that national prosecutors dealing with rendition cases should be invited to the Committee. The importance of making priorities in the work was underlined. It was discussed whether current ministers or ministers in office at the time of the events would be invited.

**Mr De Rossa** (PSE, IE) strongly urged that Ireland would be among the list of countries for further investigation. He found the Irish case particularly interesting, since Ireland was not a member of NATO, and thus was not affected by agreements between the US and NATO countries. Mr De Rossa said that the Irish government had repeatedly blocked attempts to carry out inquiries, and that Irish airports were still used by the CIA, although the purpose was not known. He wanted the Irish Attorney General, the Foreign Affairs Minister and the Irish Human Rights Commissioner to be invited to the Committee.

**Ms Brepoels** (PPE-DE, BE) wondered when the Committee would receive the report by the Belgian parliament on the alleged renditions. She wondered why the names of former CIA agents included in the previous draft work programme had been removed.

**Ms Malmström** wanted the Finnish Presidency to react to the resolution adopted at the July session. With regard to representatives of the EU institutions and NATO, she considered that they should be invited to come before the Committee at a late stage, so that the Committee would have a lot of detailed information and could ask detailed questions. She also suggested that certain members could be given responsibility for certain countries.

**Mr Özdemir** had been approached by the legal representative of Mr Kurnaz, who had been held in Guantánamo Bay for several years. Mr Kurnaz' legal representative had asked if the Committee would consider his client's case.

**Mr Pinior** (PSE, PL) considered that it would be very difficult to get information from officials in Poland, but suggested that the Committee invite Mr Marek Antoni Nowicki, President of the Helsinki Foundation for Human Rights in Poland, as well as the Minister for Foreign Affairs and the Minister of Defence. He also thought it could be useful to ask local journalists about the activities at Szymany airport.

**Mr Fava** emphasised that the Committee had to be very selective in its work, since it had a strict time limit. While Ireland, Poland and Bulgaria could be mentioned in the draft programme, he was reluctant to name CIA agents or others who would come before the Committee. Naming the people in question could lead to hostility from certain foreign authorities, which should be avoided. With regard to the issue of whether current ministers or ministers in office at the time of events should be

invited to the Committee, Mr Fava concluded that it would be more correct to invite ministers currently in office, before inviting former ministers. With regard to NATO, it was, however, already planned to invite Lord Robertson, the former Secretary-General. Mr Fava underlined that the Committee had to focus its work around the events which were covered by its mandate. As regards a proposal from **Mr Chiesa** (PSE, IT) to invite Bryan Ross, chief investigator at ABC news regarding the alleged renditions and detention centres, Mr Fava said that Mr Ross had already been heard in New York. The information given by him had already been included in the interim report, and would also be included in the final report. With regard to **Mr Catania's** (GUE/NGL, IT) point of view that all political groups should be represented in the delegations, **Mr Fava** stressed that it was important that delegations were efficient. He feared that if delegations were too big, they would not be well received. He was positive about a proposal by **Ms Malmström** that certain questions could be dealt with in AFET and the sub-committee on human rights, to avoid duplication of work.

**Baroness Ludford** concluded the exchange of views by proposing that Mr Fava present a finalised working programme during the week, so that Members could make observations until the end of the week.

### III. Time and place of next meeting

Subject to authorisation: Strasbourg, 4 September 2006 at 19:00

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*For further information: Ms Cavallin (phone 8134)*

**Temporary Committee on the alleged use of European countries by the CIA for the transport  
and illegal detention of prisoners**

**Meeting Calendar July - December 2006**

**Brussels**

week	<i>day &amp; date / jour &amp; date</i>	time/heure am.	time/heure pm.
28	Monday <b>10 July</b> / Lundi <b>10 juillet</b>		15h00-18h30
37	Thursday <b>14 September</b> / Jeudi <b>14 septembre</b>	9h00-12h30	15h00-18h30
40	from Monday <b>2 October</b> to/ de Lundi <b>2 octobre</b> à Tuesday <b>3 October</b> / Mardi <b>3 octobre</b>	9h00-12h30	15h00-18h30
41	from Monday <b>9 October</b> to/ de Lundi <b>9 octobre</b> à Tuesday <b>10 October</b> / Mardi <b>10 octobre</b>	9h00-12h30	15h00-18h30
47	Monday <b>20 November</b> / Lundi <b>20 novembre</b>		15h00-18h30
	Wednesday <b>22 November</b> / Mercredi <b>22 novembre</b>	9h00-12h30	
	Thursday <b>23 November</b> / Jeudi <b>23 novembre</b>		15h00-18h30
48	Tuesday <b>28 November</b> / Mardi <b>28 novembre</b>		15h00-18h30
	Thursday <b>30 November</b> / Jeudi <b>30 novembre</b>		15h00-18h30
51	from Monday <b>18 December</b> to/ de Lundi <b>18 décembre</b> à Tuesday <b>19 December</b> / Mardi <b>19 décembre</b>	9h00-12h30	15h00-18h30