



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 November 2006**

**15859/06**

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COHOM 176  
USA 99**

**NOTE**

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from :	General Secretariat of the Council
to :	Delegations
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 22 November 2006

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The meeting was chaired by Mr COELHO (PPE-DE, PT) followed by Mr ÖZDEMİR (Verts/ALE, DE).

**Exchange of views with Mr Bernhard DOCKE, partner of Dr. Hannover and Partner Bremen, lawyer of Mr KURNAZ, alleged victim of extraordinary renditions, and with Mr KURNAZ<sup>1</sup>**

In his opening remarks, Mr DOCKE informed the Committee that the state authorities had investigated Mr Kurnaz, who was suspected of travelling to Afghanistan to fight for the Taliban. That procedure had been closed since there was no supporting evidence. During his time in detention in Afghanistan, Mr Kurnaz had been in contact with German soldiers, and in Guantánamo Bay he had been visited twice by German officials. Investigations were currently ongoing in the German intelligence Committee.

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<sup>1</sup> See previous report, doc. 13038/06

Asked by members about the events in Kandahar, Afghanistan, where he had been taken from Pakistan, and his contacts with German soldiers there, Mr Kurnaz gave an account of the event. Two American soldiers had told him to approach them. They were accompanied by two German soldiers. He had looked the German soldiers in the face and suggested that they talk. He thought that they would have questions for him, or that they could help him. Instead one of the German soldiers said that he had “chosen the wrong side” and ordered him to look down. He was told to go back. Then he was called back and a team came to escort him. He was told to get prepared and was taken to a military truck in which the two German soldiers were waiting. The American soldiers having escorted him withdrew and left him with the German soldiers. One of them asked him if he knew who they were, and said that they were soldiers of KSK (Kommando Spezialkräfte, a special operations unit). One of them banged Mr Kurnaz’ head on the ground and one stamped on him. They laughed. They did not ask him any questions. Then the escort team took him back. Asked by Ms KLAMT (PPE-DE, DE) and Mr KÖNIGSHAUS from the Bundestag committee of inquiry about details regarding the German soldiers and how he knew that they were KSK soldiers, Mr KURNAZ repeated that they had said that they were KSK soldiers. They had spoken German to him and had German flags on their uniforms. Mr DOCKE referred to the report of the internal investigation group in the German Defence Ministry, which, according to media reports, stated that there had been KSK soldiers who had seen someone identified as “a German Turk” in the Kandahar camp. The state prosecutor was investigating the matter, but Mr Docke did not have access to the file. Asked whether he had heard of any mistreatment of any other prisoners by German soldiers, Mr Kurnaz answered in the negative.

Mr DOCKE clarified that certain media reports claiming that Mr KURNAZ had been interrogated by German soldiers in Afghanistan were incorrect. Any interrogations in Afghanistan had been carried out by American soldiers.

Regarding visits by German officials in Guantánamo Bay, Mr KURNAZ said that he had one visit in 2002 and one in 2004. At the first occasion, there were three persons, at the second, only one of the previous three visited. They interrogated him in detail about “everything”. They did not introduce themselves, so he did not know who they represented. They did not say that they were there to help him, but simply interrogated him, and did not give him any information from or about his family. Asked about the method of interrogation, Mr KURNAZ said that the German officials had not beaten him. His feet had been chained, but he had not been handcuffed. Mr DOCKE added that the persons at the first visit had been two people from the intelligence service and one person from the constitutional protection department.

Asked about interrogations and any obligation to sign documents, Mr KURNAZ said that the frequency of the interrogations in Afghanistan varied. Sometimes there were two interrogations a day, sometimes a few days in between interrogations. The frequency of interrogations varied also in Guantánamo Bay. Sometimes there were several weeks without interrogations, sometimes one interrogation could last for several days. The Americans tried to make him sign papers, confessing that he was part of Al-Qaeda or that he had fought for the Taliban, but he refused.

Asked whether he knew of prisoners from other European countries, and whether he knew anything about any visits to those prisoners from their countries, Mr KURNAZ said that apart from the Algerian Six, one of whom was his neighbour in Guantánamo Bay for a while, he knew two Belgians, one Dane, and one English. He had been told that Belgian and Danish officials had visited, but he did not know anything about the precise nature of any interrogations carried out during those visits. Mr Kurnaz thought that the Danish detainee was the first one to be released from Guantánamo Bay.

Asked by Ms KLAMT when he went to Afghanistan and what the purpose of his trip was, Mr DOCKE explained that Mr Kurnaz had not gone voluntarily to Afghanistan, but was sent there from Pakistan, where he had been arrested. Mr KURNAZ said that he had gone to Pakistan to learn more about his faith and that he had not broken any laws or committed any crimes.

To Mr KREISSL-DÖRFLER's (PSE, DE) question about any physical signs of torture, Mr DOCKE said that that was a very intimate and private matter, and told the Committee that his client did not want to make public any findings of the medical examination he had undergone in Germany once he had been released from Guantánamo Bay. Asked about an offer from the Americans to release Mr Kurnaz as early as 2002 or 2003, Mr DOCKE said that he had not been aware of any such offer at the time. His impression was that the US did not discuss Mr Kurnaz' case with Germany, but with Turkey. Mr Docke only found out about this offer later. It appeared that the US had been surprised and annoyed at the German rejection of the offer. Mr Docke did not have access to any documents about this matter. No explanation had been given by the German government, but one possibility was that there had been too many conditions linked to the offer for release. In 2006, after Mrs Merkel's visit to Mr Bush, negotiations for the release of Mr Kurnaz had been initiated. Initially, the US demanded that Mr Kurnaz should be under surveillance 24 hours a day, that he should not have freedom to travel, and that he should not be allowed to have his passport in his possession. These conditions were unacceptable to Germany, and when Mr Kurnaz was finally released, it was without any of the conditions.

As regards the role of Turkey, Mr KURNAZ said that he had been interrogated by Turkish officials in Guantánamo Bay. He had been told that Turkey could not do anything to help him, and any decision about his release was up to the US. However, other Turkish citizens had been sent back to Turkey long before he was released. He had been told that Turkey assumed that he was a spy for Germany. Asked about the reactions of the Turkish government in a recent appearance of Mr Kurnaz on Turkish television, Mr KURNAZ said that he had received no reaction at all.

To questions about the conditions of his transportation to Guantánamo Bay and any stop-overs, Mr KURNAZ replied that he had been blindfolded, and forced to wear a mask and earplugs during the flight. He was either chained to a seat or to the floor, but could not see if the aircraft was equipped in a special way for the purpose of transporting prisoners. His flight from Afghanistan to Guantánamo Bay made one stop-over. He thought that the stop-over took place a couple of hours after take-off. Many prisoners had said that they had made one or several stop-overs during their transport to Guantánamo Bay. Others had been transferred from one aircraft to another. Mr DOCKE added that Mr Kurnaz' return flight from Guantánamo Bay to Rammstein did not stop for fuel, but refuelled mid-air. The transfer to Guantánamo Bay from Afghanistan had taken place in early 2002, probably in the beginning of February.

Asked about whether he knew anything about detention centres in Europe, he referred to the case of the Algerian Six who had been in a Bosnian prison.<sup>1</sup>

As regards any action taken by the German government, Mr DOCKE said that he had mainly been in contact with the Foreign Ministry. Contacts had been ongoing since 2002. He had repeatedly been told that Germany could not act since Mr Kurnaz was a Turkish citizen, and that the US only negotiated with the country of citizenship. It was the security services that had taken the decision to accept to take back Mr Kurnaz, and it seemed as if the Foreign Ministry had not been there when that decision was taken. Mr DOCKE however found it hard to believe that the Foreign Ministry did not know what the security services did.

Asked by Mr KÖNIGSHAUS from the Bundestag committee of inquiry if he had ever met a German called “Sam” during his time in detention, Mr KURNAZ answered in the negative. To further questions from Mr Königshaus, he answered that he had not been questioned by the intelligence services after his return to Germany. The state prosecutor had questioned him as a witness with regard to the events allegedly involving KSK soldiers in Afghanistan. He had not received any payment to keep quiet, but had been told by the Americans that he could get into trouble in Germany if he talked about what had happened to him. When the Americans offered him the opportunity of cooperating with them, he refused. As regards Mr Kurnaz’ residence permit, which was withdrawn owing to the fact that he had been away from Germany for more than six months, Mr DOCKE confirmed that Mr Kurnaz’ right of residence had been fully restored.

Asked about whether he knew about any surveillance of him before his abduction, Mr KURNAZ said that he had not been aware of that. When he came back to Germany, he had seen a documentary about himself, in which it was stated that there was some sort of investigation about him. Mr Kurnaz was convinced that the US had received information from the Germans, since they had very detailed information about him. MR DOCKE considered that it was also possible that the US intelligence service itself had gathered information about Mr Kurnaz. If there had been transfer of intelligence from Germany to the US it had probably been at police level. The public prosecutor had received a request for information, but had refused.

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<sup>1</sup> The Algerian Six had been in custody in Bosnia during judicial proceedings. When they were released on the basis that there were no grounds for their detention, they were handed over to US. See doc. 8824/06.

Mr DOCKE told the Committee that there had been no explanation of the reasons for the detention of Mr Kurnaz, and no explanation of why he was finally released. A case had been brought before American courts, but that was currently blocked, owing to the new Military Commissions Act.

During the exchange of views, Mr KÖNIGSHAUS took the opportunity to inform the Committee that the German Foreign Minister, Mr Steinmeier, would be heard by the Bundestag committee of inquiry on 14 December 2006. Mr Königshaus hoped that it would be possible for the European Parliament temporary committee to hear Mr Steinmeier, who had said previously that he could only come before that Committee after having been heard by the Bundestag committee.

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