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C O N F I D E N T I A L SECTION 01 OF 03 MADRID 001280

SIPDIS

FOR EUR/WE

E.O. 12958: DECL: 12/03/2018
TAGS: MARR PREF PGOV PTER KPAO SP
SUBJECT: SPAIN: ALLEGED DETAINEE FLIGHTS ISSUE BLOWS UP IN
MEDIA

REF: A. 07 MADRID 173
B. MADRID 1021

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Classified By: Deputy Chief of Mission Arnold A. Chacon for reasons 1.4 (b) and (d).

1. (SBU) SUMMARY: A hot issue in the Spanish press since 2005, the detainee transfer flights that allegedly transited Spain from 2002 until 2006 have once again hit the headlines. The most recent flurry of reporting began November 30 when El Pais, Spain's leading newspaper, printed several stories based on internal GOS documents purporting to relate U.S. requests in 2002 for permission to use Spanish airports should an emergency arise on flights transporting terrorism detainees to Guantanamo. Although GOS officials past and present continue to deny knowledge of any illegality, this long-running saga could have implications for our Agreement on Defense Cooperation (ADC). END SUMMARY.

The Story that Will Not Die

2. (SBU) The Guantanamo detainee flight story has long since become a press staple in Spain. The story appears on front pages (starting in El Pais) and disappears every two or three months. An investigation is underway in a Spanish court, brought by an NGO which claims illegally detained persons were transported via Spain. The press reporting almost invariably mixes so-called "CIA flights" and U.S. military flights via Rota and Moron (of which there are thousands annually) indiscriminantly. It also draws heavily on claims by various NGOs interested in Guantanamo and presents their allegations as fact (e.g., lists of aircraft tail numbers from planes alleged to have passed through Spain carrying detainees). The progress

of the case appears desultory and that translates into a periodic rash of stories each time the judge receives new information, say from air traffic control authorities or the Spanish MOD. Naturally, no allowance is made in the press for the fact that Guantanamo, aside from being home to the detention facility, is also a U.S. military base visited by routine logistical flights.

Leaks

3. (SBU) The current iteration of the story is the most virulent so far. It began November 30 when El Pais reported a document recounting a 2002 meeting between the then-Spanish MFA Director General for North America and the Embassy's Political-Military Counselor (NFI) in which the U.S. asked to use Spain as an emergency landing destination for flights moving detainees from Afghanistan to Guantanamo. The newspaper also described a second document from the same MFA official, addressed to the MOD Secretary General for Defense Policy, expressing the MFA's willingness to grant the U.S. request and suggesting use of a "discreet" military airport such as Moron. In a related article December 3, El Pais published a February 2007 letter from the Spanish President of the joint Permanent Committee which manages implementation of the ADC, asking the U.S. section to confirm that the U.S. was in compliance with Article 25.2 of the ADC with respect to U.S. military flights to and from Guantanamo (that article exempts from blanket flight clearances any plane carrying persons or cargo that would be controversial for Spain). The newspaper also published the U.S. section response, which was in the affirmative. (Note: In March 2007, the MOD decided that all flights to and from Guantanamo would require individual clearances; that is the procedure in use today).

Know Nothings

4. (SBU) Trying to get ahead of the story, FM Moratinos announced December 1 the formation of an independent investigative team including the Chiefs of Staff to the FM, the Secretary of State for Foreign Affairs, and the Undersecretary of State for Foreign Affairs as well as the FM's parliamentary advisor. On December 2, Moratinos confirmed press reports the investigative team has not been able to locate the original of the 2002 document described in paragraph 1 (although El Pais has printed a facsimile). This has only added to the government's embarrassment.

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5. (C) President Zapatero and his cabinet have let it be known that they had no knowledge of any arrangements the previous administration (that of Jose Maria Aznar) might have made with the U.S. This tactic could be effective but is blunted by allegations the flights continued into 2006, well into Zapatero's first term. Given the Socialists' consistent, outspoken anti-Guantanamo line, it would be a political disaster if they were shown to have winked at detainee flights. It would be only somewhat less damaging if they were perceived to be so incompetent they did not notice the flights. Moratinos has denied any knowledge. Two former Zapatero MODs, current President of Congress Jose Bono and current senior Socialist Party congressional spokesman Jose Antonio Alonso, have said they knew of no illegal U.S. activity in Spain. The opposition Popular Party (PP – the party Aznar led) has accused the Zapatero administration of leaking documents in an effort to discredit them and to distract public attention from Zapatero's alleged mishandling of the ailing Spanish economy. The PP has also pointed out that of two of the alleged flights occurred under Aznar and nine came under Zapatero's presidency. PP leader Mariano Rajoy has told the press he knew nothing about the flights, although he was First Vice President in Aznar's government at the time of the alleged agreement. A unsubstantiated rumor claims the leaker is the head of Spain's National Intelligence Center who is allegedly trying to pressure his former mentor

Bono into supporting a renewal of his term as director. We put little credence in such rumors, but they give a sense of how heated this has become. Adding to Zapatero's discomfort, the small but noisy far-left party (United Left) is in full cry over the story.

Subpoenas?

6. (SBU) The prosecutor handling the related court case indicated last year that there was no plan to request information from the USG (ref a). However, the latest round of stories has included speculation that the court might seek testimony from Aznar and members of his administration as well as from U.S. Embassy officials. We have received no official notification of any such requests, and consider it unlikely.

Comment

7. (C) Beyond the fact that it sells newspapers, there are a variety of reasons for this story's longevity. Although anti-Americanism in Spain is more theoretical than practical (the Spanish people fundamentally like the U.S. and want strong relations, and the Spanish government is anxious to establish closer ties with the incoming U.S. Administration), there remains an important segment in the media that is old-school European left. More importantly, the left-of-center press here enjoys bashing Aznar and his party, especially for their support for the war in Iraq. Additionally, although itself left-of-center, El Pais has its differences with Zapatero and may not mind inflicting pain on him as well as Aznar. Neither is El Pais very fond of Moratinos.

8. (C) Whatever the motive, the continual media muddling of so-called "CIA flights" and U.S. military flights is unhelpful. The ADC provides us the extremely valuable use of two military bases in southern Spain midway between the continental U.S. and the theaters of operation in Afghanistan and Iraq. To the extent our ADC -- which generally receives little public attention in Spain -- is hauled onto the front pages in connection with the detention facility at Guantanamo, we run the risk of seeing political support for the ADC and our mil-mil relationship undermined. By unfortunate coincidence, the ADC was already in the press in recent weeks thanks to MOD Chacon's repeated references to her hope that the U.S. would elevate it to the level of a treaty (septel).

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9. (C) In general, we have taken the approach that the less said by us to the press on the overflight topic, the better. The MFA North America Desk has told us in the past that they strongly prefer the Embassy not say anything, fearing it might stir the pot. In any case, our ability to beat down this story is constrained by the fact that we do not ourselves know, factually, what might have transpired five or six years ago as the battles in Afghanistan and Iraq began yielding large numbers of potentially dangerous terrorist detainees and unlawful combatants. Naturally, we are not going to answer questions on the activities of intelligence agencies, so in any conversation about these issues we run the risk of appearing less than transparent and thus seeming to confirm the media's worst insinuations. When we do speak publicly on the issue, our mantra is that we have not violated Spanish law and have complied fully with the ADC. Needless to say, we decline to comment on any leaked internal GOS documents. We also try at every opportunity to make the larger point about the war on terror and the very difficult choices that are faced when the U.S. captures suspected terrorists on foreign battlefields. Frankly, this is a losing argument with a Spanish public that -- although attuned to the dangers of terrorism -- largely rejects the muscular U.S. approach to fighting it overseas.

10. (C) Thus far, the MOD and MFA have done a reasonably good job in their public affairs efforts of making clear that they do not believe we have violated the ADC. The MOD issued a December 2 statement saying it knew of no U.S. military flights that were either illegal or in violation of our bilateral agreements (this echoes what MOD officials have told us privately -- e.g. ref b). However, we have no illusions. Politicians are not going to throw themselves on a grenade to protect a predecessor government they despise. More than anything, these stories are directed at Aznar and his party, and the damage to U.S. interests is in some measure collateral.

11. (C) Our guess is that the story will continue to rear its head every month or two for the foreseeable future. It is irresistible copy for Spanish editors, and Aznar is the left's favorite bogeyman. The court case, winding its way slowly through the system, also provides periodic opportunities to revive it. Also, the release in the U.S. at some point in the future of information relating Guantanamo and Spain would certainly generate renewed press interest here. Barring a categorical statement from the USG that no detainees passed through Spain -- and we understand that might be undesirable from a policy standpoint even if factually correct -- nothing but time is going to make this go away.

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