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WORKING DOCUMENT No 7

on 'extraordinary renditions'

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

Rapporteur: Giovanni Claudio Fava

A. GENERAL REMARKS

1. Fulfilling the European Parliament's remit

The purpose of this working document by the rapporteur is to examine all the cases of 'extraordinary rendition' which have been analysed by the TDIP temporary committee, with the aim of illustrating the evidence concerning the illegal transport of victims by the CIA, in particular by comparing the allegations received by the temporary committee with the data supplied to the European Parliament by Eurocontrol.

Since it was set up the TDIP temporary committee, on the basis of its remit, has looked in detail at several specific cases of 'extraordinary rendition', the first field in respect of which the temporary committee has to gather and analyse information.

2. The cases of 'extraordinary rendition' analysed by the temporary committee

The specific cases of 'extraordinary rendition' which have been analysed by the temporary committee invariably involve the illegal transport of a prisoner by the secret services, or other specialist services, of a third country (including, but not exclusively, the CIA and other American security services) to various locations, outside any judicial oversight, where the prisoners have neither fundamental rights nor those guaranteed by various international conventions, such as all *habeas corpus* procedures, the right of the defence to be assisted by a lawyer, the right to due process within a reasonable time, etc. The destinations may be Guantánamo Bay, secret detention centres (as confirmed by President Bush on 6 September¹) or countries including Egypt, Syria, Morocco, Afghanistan or Pakistan; these are acknowledged (including by the US State Department²) as having a very low level of protection of human rights and in some cases torture is said to be used by the security forces there.

In all the specific cases which have been analysed, one or more of the following conditions has to be met:

- the alleged victim is a citizen or resident of a Union Member State, a candidate country or an accession State;
- the air territory or airspace of a Member State, candidate country or accession State has been used in cases of 'extraordinary rendition', either by flights chartered by the CIA (or other specialist services) or by American military flights;
- there are indications that agents or officials of the Member States, candidate countries, acceding countries or associated States may have been involved, in some way or other, in acts of 'extraordinary rendition', such as assistance with transport, the communication of information to facilitate arbitrary arrest, participation in interrogations, etc.

¹ See White House transcription: <http://www.whitehouse.gov/news/releases/2006/09/20060906-3.html>

² Cf. US Department of State country reports on human rights practices (2003)

On the basis of these criteria the TDIP temporary committee has been able to study in detail only the following cases of ‘extraordinary rendition’ (although these account for only a portion of the actual number of cases):

- Abu Omar (Hassan Mustafa Osama Nasr),
- Khaled El-Masri,
- Maher Arar,
- Mohammed El-Zari,
- Ahmed Agiza,
- the ‘Six Algerians’ from Bosnia-Herzegovina,
- Murat Kurnaz,
- Mohammed Zammar,
- Abou Elkassim Britel,
- Binyam Mohammed,
- Bisher Al-Rawi,
- Jamil El-Banna,
- Martin Mubanga.

The temporary committee has been able to meet the victims themselves, their lawyers, the heads of national judicial or parliamentary bodies responsible for specific cases of ‘extraordinary rendition’, representatives of European and international organisations or institutions (the heads of such bodies in some specific cases), journalists who have followed these cases, representatives of non-governmental organisations (NGOs), experts in this area, etc., either during committee meetings or during official delegation visits.

3. Certainty of the existence of specific cases of ‘extraordinary rendition’

The main purpose of this working document is to compare the allegations from various sources (particularly the testimony given by the victims or their lawyers) concerning the details of the flights which are said to have been used for these specific instances of ‘extraordinary rendition’ with the data on the flights which have actually taken place in European airspace. The temporary committee has had access to such flight data via the confidential documentation forwarded to it by Eurocontrol (see below).

This exercise has made available to the temporary committee valuable information enabling it to state with certainty whether the cases of ‘extraordinary rendition’ have actually taken place or not. In addition, the analysis of the allegations and the comparison thereof with the Eurocontrol data have given us some idea of how the round trips for carrying out ‘extraordinary renditions’ are planned (see below).

In particular, in the 10 cases of ‘extraordinary rendition’ (where the victims or other sources have been able to give the temporary committee more or less precise details – dates, times, routes, type of aircraft and aircraft registration number, etc.) where it has been possible to compare the allegations made by the victims or other sources with the data provided by Eurocontrol, we have been able to establish that all the allegations correspond fully with the facts with regard to the existence and characteristics of the flights used. In addition, certain US Government documents to which the temporary committee has had access not only prove

the existence of the alleged flights, in one specific case involving several victims simultaneously, but also confirm the fact that those flights were used for ‘extraordinary renditions’ by the US army.

In the light of these facts, the statements made by Geoff Hoon, the British Minister for European Affairs, to the effect that ‘CIA flights’ is merely a term invented by the media³ manifestly do not correspond to reality.

In some cases, unfortunately, it has not been possible to compare the allegations of specific cases of ‘extraordinary rendition’ with the data relating to the flights which have actually taken place because:

- the victims and other sources have been unable to provide the temporary committee with details of the flights which are precise enough to enable them to be identified in the Eurocontrol data;
- most of the flights transferring prisoners to Guantánamo Bay were military flights, which do not appear in the Eurocontrol data.

Your rapporteur nonetheless believes that the result of the analyses of the 10 cases of ‘extraordinary rendition’ which have effectively been verified with the data available prove, with certainty, the existence of a widespread, methodical practice of ‘extraordinary rendition’, following precise rules, and carried out by certain US secret services (or other specialist services). It is also evident that the temporary committee has managed to obtain information about only a tiny fraction of all the cases of ‘extraordinary rendition’ which have occurred over the last few years.

Finally, it is worth pointing out that the temporary committee has used other means of checking the veracity of the allegations of ‘extraordinary renditions’, apart from verifying the flight data:

- the results of various judicial and parliamentary inquiries under way in some Member States, candidate countries, accession States and third countries,
- information from other European and international institutions and bodies,
- certain sources of information which have wished to remain confidential.

4. The rapporteur’s comments

Your rapporteur wishes to recall, once again, that the purpose of the temporary committee’s work, including this working document, is not to hamper the fight against terrorism, but to shed light on the illegal acts and abuses committed since 9/11 in the name of that fight. It is worth remembering that our democratic societies have only one weapon with which to combat terrorism, namely respect for all the principles governing the rule of law and those relating to the protection of human rights.

³ Statement made to members of the TDIP temporary committee on 5 October 2006 during an official visit to London by a committee delegation.

Any suspect is entitled to a process affording all the judicial guarantees which are recognised by international conventions and by the principles common to all the countries which are (or wish to become) Member States of the European Union. The mechanism of 'extraordinary rendition' is wholly illegal; it is a criminal act which cannot be justified in any circumstances. In addition, 'extraordinary renditions' have had the effect, in some cases, of hampering perfectly legal investigations by local security forces, and this has had substantial negative consequences for the security of the Member State concerned.

B. FLIGHT DATA PROVIDED BY EUROCONTROL

Your rapporteur wishes to take this opportunity to express his very special thanks to the Director-General of Eurocontrol, Mr Victor Aguado, and his team, for the valuable assistance that the temporary committee has received from them. It would not have been possible to carry out a substantial portion of the temporary committee's work without Eurocontrol's help.

There are two main sources for the Eurocontrol flight data (flight logs):

- **Central Flow Management Unit (CFMU)**

This comprises initial flight plans (FPLs) which are submitted by air operators (pilots, companies' air operations units, etc.) to the CFMU's Integrated Initial Flight Plan Processing System (IFPS), managed by Eurocontrol, before a flight takes place.

Limitation: the rules concerning the filing of flight plans and the content thereof are laid down by the International Civil Aviation Organization (ICAO). The information required does not include the purpose of a flight or the content of the aircraft. There are no penalties for non-compliance with the ICAO rules. It is possible that some flights take place without a flight plan being filed beforehand, or that some information is missing or is inaccurate (aircraft registration number, name of the operator, etc.). Where a FPL is unavailable, the CFMU/IFPS system has a mechanism for retrieving data from the first ATC centre.

- **Central Route Charges Office (CRCO)**

This is the information generated by the central system for collecting route charges (CRCO), which is operated by Eurocontrol on the basis of IFPS data and confirmations issued by national ATC authorities once a flight has taken place. This provides the basis on which the charges received by the national authorities for each flight are calculated.

Limitation: in a very limited number of cases, the national authorities do not always provide the data concerning the flights which have taken place, for a variety of reasons (e.g. the special case of marginal flights, old and/or defective systems, negligence, etc.)

It is important to bear in mind the fact that the Eurocontrol documents contain data on flights carried out using instruments and as part of General Air Traffic (IFR-GAT), and therefore do not include information about flights under Operational Air Traffic (OAT) or those carried out under visual flight rules (VFR).

Other means can be used to establish an aircraft's route, in particular primary and secondary radar data⁴: this is information which is held by the bodies responsible for air traffic control.

⁴ Secondary radar data is received by ATC from a transponder, a device which is installed on all aircraft (IFR-GAT) and which transmits the aircraft's position along the entire route taken by the flight to 'secondary' radar systems. It is activated by the pilot, who enters a specific code at the request of the ATC body.

C. ANALYSIS OF SPECIFIC CASES OF 'EXTRAORDINARY RENDITION'

The specific cases of 'extraordinary rendition' which have been investigated and analysed by the temporary committee have been selected on the basis of a very substantial number of allegations.

Some of the details featuring in this working document have already appeared in other reports, including those by the Council of Europe, some NGOs (such as Amnesty International and Human Rights Watch), and also some of the rapporteur's previous working documents. This document aims to provide an overview of all the specific cases that the European Parliament has analysed (in some cases, only the temporary committee has carried out a detailed investigation). It should also be noted that the temporary committee is the only European or international body which will have had the opportunity to have direct contact with four of the victims of 'extraordinary rendition'⁵.

In this working document, the rapporteur has used the Eurocontrol data which have enabled him to check the veracity of the information previously received by the temporary committee, and which prove that an offence of 'extraordinary rendition' has been committed.

The rapporteur considers that, given that the 'extraordinary renditions' reported to the temporary committee have been fully confirmed, the existence of a genuine system of 'extraordinary renditions', carried out by the United States, cannot be denied.

Before examining the individual cases, a number of points and conclusions are set out below.

- Each of the cases set out below invariably concern one instance of 'extraordinary rendition' per prisoner. In two cases, two prisoners were transported illegally in the same aircraft (cases 1 and 6). In case 4, Binyam Mohammed underwent two 'extraordinary renditions' in the space of 18 months. This explains the total figure of 10 cases which have been confirmed by the Eurocontrol data referred to earlier in this working document.
- One other specific case (case 3, concerning six individuals at the same time) has been confirmed by sources other than the Eurocontrol data.
- This working document does not limit itself to confirming the existence of the flight or flights which transported a prisoner in each specific case, but also attempts to establish the aircraft's round trip, i.e. the entire route followed by the aircraft from leaving the United States to returning there. In almost every case the same airport was used. The purpose of this exercise is to obtain a better understanding of the logic followed by those designing the 'extraordinary restitution' round trips, and also to provide leads on the possible accountability of Member States (together with candidate countries and accession States) in which 'extraordinary rendition' flights made stopovers.

⁵ See the actual cases of 'extraordinary rendition' detailed below.

- In the ‘extraordinary rendition’ round trips which have been analysed, the flight on which a prisoner (or prisoners) was (or were) transported is indicated in **bold**.
- In cases 4 (second part) and 8, the same aircraft carried out two ‘extraordinary renditions’ on the same round trip with two different prisoners before returning to the United States.
- In virtually every case aircraft departed from and returned to the same airport in the United States. Each round trip normally lasted between three and five days.
- In the case of a few of the round trips described below there may have been intermediate flights not shown in the Eurocontrol documents, in particular because those flights took place outside European airspace.
- In the three cases where it was not possible to verify the allegations, either the details provided by the victims or other sources were insufficient to identify the flight or the flight in question was a military flight or one outside European airspace (i.e. there are no references to them in the Eurocontrol data).
- Another working document⁶, providing a detailed analysis of the companies involved, the aircraft used by the CIA and the Member States in which the CIA flights made stopovers, is also already available.
- The specific cases presented below follow the chronological order of the dates of ‘extraordinary renditions’ that the temporary committee has been able to verify.

⁶ See Working Document No 8, PE 380.984.

1. MOHAMMED EL-ZARI AND AHMED AGIZA

As attested by the report (register no 2169-2004) of 22 March 2005 drawn up by the Swedish Parliamentary Ombudsman, Mats Melin (who concluded his report with extremely serious criticism of the Swedish security police), the Egyptian asylum-seekers El-Zari and Agiza were arrested by the Swedish police on 18 December 2001, following a decision taken by the Swedish Government that day on the basis of a briefing note provided by the CIA; the decision rejected their asylum applications and ordered their expulsion from Sweden.

On the same date, El-Zari and Agiza were transferred to Stockholm airport (Bromma), handed over to CIA agents there, stripped naked, drugged and shackled in an inhuman and unacceptable manner, according to Mats Melin's report. Once in Egypt, El-Zari and Agiza were tortured for several months and then brought to trial. Agiza was sentenced to 25 years' imprisonment (he is still currently in prison) and El-Zari was released; he now lives at liberty in Egypt, under constant surveillance.

Kjell Jönsson, El-Zari's lawyer, and Mats Melin, the Swedish Parliamentary Ombudsman, appeared before the TDIP temporary committee on 23 March 2006 and 4 May 2006, respectively.

According to the testimony of El-Zari's lawyer, the report by the Swedish Parliamentary Ombudsman and other sources, Agiza and El-Zari were supposedly taken from Stockholm (Sweden) to Cairo (Egypt) on 18 December 2001, after having been handed over to CIA agents.

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Gulfstream V with the registration number N379P for the following flights:

- from Washington (USA) to Cairo (Egypt) on 18 December 2001 (departure: 2.19, arrival: 13.19);
- from Cairo to Stockholm Bromma (Sweden) on 18 December 2001 (departure: 14.43, arrival: 19.43);
- **from Stockholm Bromma to Cairo on 18 December 2001 (departure: 20.48, arrival: 1.30 on 19 December);**
- from Cairo to Prestwick (United Kingdom) on 20 December 2001 (departure: 6.56, arrival: 12.03);
- from Prestwick to Washington on 20 December 2001 (departure: 13.07, arrival: 19.18).

The operator indicated is PREMIER EXECUTIVE TRANSPORT SERVICE⁷.

⁷ See Working Document No 8, PE 380.984.

2. ABOU ELKASSIM BRITEL

Abou Elkassim Britel is an Italian citizen (he acquired Italian nationality in 1999) of Moroccan origin.

It emerges from the documentation provided by his lawyer that the Italian citizen Abou Elkassim Britel left Italy on 17 June 2001 for Iran, and subsequently Pakistan. He was arrested in Lahore on 10 March 2002 on a charge of having a false passport, and was then transferred to Islamabad on 5 May 2002. Throughout this time Elkassim Britel was allegedly tortured and US agents were said to have taken part in his interrogations. Following his transfer in the form of 'extraordinary rendition', he is currently incarcerated in Morocco, where he is serving a nine-year prison sentence in inhuman conditions, following a high-speed trial tainted by irregularities, according to his lawyer and several NGOs; he is demanding to be allowed to return to Italy, despite the lack of action by the Italian authorities to date. He has been on hunger strike several times and is in a very poor state of health. The documents submitted to the temporary committee give some indication that the Italian authorities were aware at all times of Elkassim Britel's situation from his arrest onwards.

His lawyer, Francesca Longi, appeared before the temporary committee on 14 September 2006.

According to the testimony of his lawyer and other sources, the Italian citizen Abou Elkassim Britel was supposedly taken from Pakistan to Morocco during the night of 24/25 May 2002.

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Gulfstream V with the registration number N379P (the same aircraft used to take El-Zari and Agiza from Stockholm to Cairo, and for transporting Binyam Mohammed) for the following flights:

- from Washington to Frankfurt am Main (Germany) on 23 May 2002 (departure: 00.45, arrival: 7.39);
- from Frankfurt am Main to Dubai (United Arab Emirates) on 23 May 2002 (departure: 10.08, arrival: 16.10);
- **from Islamabad (Pakistan) to Rabat (Morocco) on 24 May 2002 (departure: 21.05, arrival: 7.03 on 25 May);**
- from Rabat to Porto (Portugal) on 25 May 2002 (departure: 7.58, arrival: 9.19);
- from Porto to Washington on 26 May 2002 (departure: 8.00, arrival: 15.09).

The operator indicated is PREMIER EXECUTIVE TRANSPORT SERVICE⁸.

No references to the flight (or flights) between Dubai and Islamabad on 23 or 24 May 2002 have been found in the documents provided by Eurocontrol, since Eurocontrol's remit does not extend to flights which take place outside Europe.

⁸ See Working Document No 8, PE 380.984.

3. BENSAYAH BELKACEM, HADJ BOUDELLAA, SABER LAHMAR, MUSTAFA AIT IDIR, BOUMEDIENE LAKHDAR AND MOHAMED NECHLE

Bensayah Belkacem, Hadj Boudellaa, Saber Lahmar, Mustafa Ait Idir, Boumediene Lakhdar and Mohamed Nechle are the victims of what is more widely known as the ‘six Algerians’ case, involving six Bosnian citizens or residents of Algerian origin who underwent a multiple ‘extraordinary rendition’.

In October 2001 the Supreme Court of the Federation of Bosnia-Herzegovina issued arrest warrants for these six individuals on suspicion of an attempt to commit an act of international terrorism (although they have never formally been charged). However, on 17 January 2002 the same Supreme Court ordered their release. This was the point at which they were illegally handed over to the custody of the Federation police. During the night of 17/18 January 2002 the Bosnian Federation police handed over the ‘six Algerians’ to the American army in Bosnia-Herzegovina and they were arrested by these military forces without any extradition order and transferred to ‘Eagle Base’ at Tuzla. Between 18 and 19 January 2002 they were first taken to the American base at Incirlik, in Turkey, and then to Guantánamo Bay, where they remain.

The transfer took place the day after the Bosnian Supreme Court ordered their release from preventive detention, and in violation of an order by the Bosnia-Herzegovina Human Rights Chamber that four of the men should not be transferred to the US. The Bosnian Government was on the receiving end of very heavy pressure from the US authorities to hand the six over. According to some sources, on 17 October 2001 the chargé d’affaires at the American Embassy in Skopje issued threats against the Bosnian Prime Minister, should Bosnia-Herzegovina fail to charge the ‘six Algerians’ formally with terrorism.

Stephen Oleskey, the lawyer of the six Bosnian-Herzegovinan citizens or residents imprisoned in Guantánamo Bay, Michèle Picard, former chairman of the Human Rights Chamber of Bosnia-Herzegovina, and Srdjan Dizdarevic, chairman of the Helsinki Committee in Bosnia-Herzegovina, appeared before the temporary committee on 25 April 2006.

Given that the flights in question were military flights, it is not possible to confirm their existence using the Eurocontrol data. The temporary committee has nonetheless had access to a set of documents supplied by the US Government as a result of legal proceedings which are under way in the United States, and which Mr Oleskey has submitted to the committee. These documents have already been circulated to the temporary committee.

A summary of the content of these documents, which prove not only the existence of these flights but also the fact that they were used for ‘extraordinary renditions’ carried out by the US army (the ‘six Algerians’ were transferred to Guantánamo Bay in the same aircraft as 28 prisoners from Kandahar) is set out below. The US Government sometimes also refers to the ‘six Algerians’ as the ‘six Bosnians’.

1. The U.S. military dedicated at least two aircraft to transport the six Bosnians from the U.S. base at Tuzla (Bosnia and Herzegovina) to the U.S. Naval Base at Guantanamo Bay (Cuba). The “primary” C-130 aircraft is identified by number UJM166301019; the “back up” as number UQU09Z10L019.

- “Primary C-130 transporting the detainees is Msn # UJM166301019. Departs [redacted]. Back up C-130 is UQU09Z10L019 [redacted].”

“Centcom Update for Friday, 18 Jan 02,”

2. At least one of the aircraft originated at the U.S. Base at Ramstein, Germany, before departing for Tuzla.

- “Back up C-130 is UQU09Z10L019 [redacted]. Will not return to Ramstein until primary C-130 is in the air en route to Incirlik with detainees.”

“Centcom Update for Friday, 18 Jan 02,”

- “Detainee mission scheduled to depart for Tuzla at 190930Z. Total detainees transported to date: 110.”

-Situation Report 130 of the U.S. Commander-In-Chief, Europe (USCINCEUR), 19 January 2002,

3. During the rendition, the Bosnian citizens and former residents were shackled, their eyes were covered by opaque goggles, and their hands were covered by mittens. These are the same measures used for other renditions to Guantanamo Bay.

- “Same security procedures (i.e. shackled, mittens on hands and goggled).”

“Centcom Update for Friday, 18 Jan 02,”

4. The Bosnian citizens and former residents were transported via the U.S. Air Force Base at Incirlik, Turkey.

- “[Back up C-130 aircraft]Will not return to Ramstein until primary C-130 is in the air enroute to Incirlik w/detainees.”

Centcom Update for Friday, 18 Jan 02”

- “[P]lan to pick-up 6 Algerians in Incirlik moved by EUCOM assets.”

“Future Detainee Mission Flow” and attached spreadsheet entitled “Gitmo Incirlik Mission Flow,”

5. The Incirlik base in Turkey was a hub for the transportation of prisoners to Guantanamo.

- “Follow-on missions depart Incirlik: 20, 21, 22, 25, 26, 29, 30, 31 Jan, 1 Feb”

6. The six Bosnian citizens and former residents were then flown to Guantanamo, along with 28 other prisoners who had originated in Qandahar, Afghanistan. The aircraft arrived at Guantanamo at or around 19:30 GMT on 20 January 2002.

- “5th Mission: - En route to Guantanamo, ETA 201930Z

- 34 total detainees

- 28 from Qandahar

- 6 Algerians [redacted]”

7. The U.S. Government took over 30 hours to transport the six Bosnian citizens and former residents from Tuzla to Guantanamo.

- The six Bosnians *left* Incirlik at 12:00 GMT on 19 January 2002, meaning that they had been picked up in Tuzla sometime before then.
- The six Bosnians did not arrive at Guantanamo until 19:30 GMT the next day, 20 January 2002.

4. BINYAM MOHAMMED

Binyam Mohammed is an Ethiopian national, legally resident in the United Kingdom since 1994. He travelled to Afghanistan during the summer of 2001, and then went to Pakistan. He was arrested at Karachi airport when he was preparing to return to the United Kingdom. He claims to have been tortured during the following three months and that American and British officers took part in interrogating him (Jack Straw, the then Secretary of State for Foreign Affairs, admitted to the House of Commons Foreign Affairs Committee on 13 December 2005 that a British officer had ‘interviewed’ Binyam in Karachi in 2002⁹). He was then held in Morocco for 18 months – where he was allegedly tortured – then transferred to Afghanistan for five months, prior to being once again transferred, this time to Guantánamo Bay, where he remains.

It seems that Binyam will be tried by the Military Commission at Guantánamo Bay in the near future. According to his lawyer, the only evidence against Binyam is confessions obtained under torture.

An official delegation of the temporary committee met his lawyer, Clive Stafford Smith, in London on 4 October 2006.

According to information received by his lawyer, Clive Stafford Smith, and from other sources, Binyam was supposedly initially taken from Pakistan to Rabat (Morocco) on 21 July 2002.

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Gulfstream V with the registration number N379P (the same aircraft used to take El-Zari and Agiza from Stockholm to Cairo, and Elkassim Britel from Pakistan to Morocco) for the following flights:

- from Washington to Frankfurt am Main (Germany) on 17 July 2002 (departure: 00.26, arrival: 7.46);
- from Frankfurt am Main to Adana-Incirlık (Turkey) on 18 July 2002 (departure: 10.14, arrival: 13.56);
- from Adana-Incirlık to Frankfurt am Main on 18 July 2002 (departure: 12.14, arrival: 15.31);
- from Frankfurt am Main to Amman (Jordan) on 19 July 2002 (departure: 15.48, arrival: 19.41);
- from Amman to Kabul (Afghanistan) on 19 July 2002 (departure: 21.15, arrival: 1.35 on 20 July);
- **from Islamabad to Rabat on 21 July 2002 (departure; 17.35, arrival: 3.42 on 22 July);**
- from Rabat to Shannon (Ireland) on 22 July 2002 (departure: 4.44, arrival: 7.21);

⁹ [<http://www.publications.parliament.uk/pa/cm200506/cmselect/cmfaaff/uc768-i/uc76802.htm>]

- from Shannon to Washington on 23 July 2002 (departure: 9.55, arrival: 16.07). The operator indicated is PREMIER EXECUTIVE JET TRAVEL¹⁰.

According to the testimony of his lawyer and other sources, Binyam was supposedly transferred again from Morocco to Kabul during the night of 21/22 January 2004.

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Boeing 737 with the registration number N313P (used only two days later for transporting Khaled El Masri) for the following flights:

- from Washington to Shannon on 16 January 2004 (departure: 1.25, arrival: 7.29);
- from Shannon to Larnaca (Cyprus) on 17 January 2004 (departure: 10.33, arrival: 15.03);
- from Larnaca to Rabat on 21 January 2004 (departure: 18.39, arrival: 18.39);
- **from Rabat to Kabul on 22 January 2004 (departure: 2.05, arrival: 9.58);**
- from Kabul to Algiers (Algeria) on 22 January 2004 (departure: 12.09, arrival: 19.54);
- from Algiers to Palma de Mallorca (Spain) on 22 January 2004 (departure: 21.36, arrival: 22.08);
- from Palma de Mallorca to Skopje (FYROM) on 23 January 2004 (departure: 17.40, arrival: 19.56);
- from Skopje to Baghdad (Iraq) on 24 January 2004 (departure: 1.30, arrival: 5.53);
- from Baghdad to Kabul on 24 January 2004 (departure: 7.15, arrival: 11.14);
- from Kabul to Timisoara (Romania) on 25 January 2004 (departure: 18.23, arrival: 23.51);
- from Bucharest (Romania) to Palma de Mallorca on 26 January 2004 (departure: 1.03, arrival: 3.45);
- from Palma de Mallorca to Washington on 28 January 2004 (departure: 10.08, arrival: 18.41).

The operator indicated is STEVENS EXPRESS¹¹.

¹⁰ See Working Document No 8, PE 380.984.

¹¹ See Working Document No 8, PE 380.984.

5) MAHER ARAR

As shown by the report of the *Committee of Inquiry on the Actions of Canadian Officials in relation to Maher Arar*, published by Commissioner Dennis O'Connor on 18 September 2006, Maher Arar was the victim of one of the most alarming cases of 'extraordinary rendition' that the temporary committee has had to deal with.

Maher Arar is a Canadian citizen who has lived in Canada since 1987. Returning from a holiday in Tunisia, on 26 September 2002 he was arrested and held at New York's Kennedy airport while in transit on the journey back to Canada. He was accused of belonging to Al Qaeda and, despite his protests (he knew he would be tortured), was first taken from New York to Washington and then transferred via Jordan to Syria, his country of origin, where he was tortured and held in a cell measuring 1 x 2 x 2 metres in the Far'Falastin prison for 10 months and 10 days. He was then released without charge, and is now living in freedom in Canada. The reasons for his arrest are still unknown. The report by the Canadian Committee of Inquiry criticises the total lack of cooperation exhibited by the American authorities. In a conversation with an official Temporary Committee delegation in Washington on 11 May 2006, the US State Department said that the case of Maher Arar was simply a matter of 'illegal immigration'.

Maher Arar and his lawyer, Lorne Waldman, were heard by the temporary committee on 23 March 2006.

According to Maher Arar's own testimony, to his lawyer and to other sources, Maher Arar was taken from Washington to Amman via Rome (Italy) on 8 October 2002. From Amman he is said to have been taken by car to Damascus (Syria).

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Gulfstream III with the registration number N829MG for the following flights:

- **from Bangor, Maine (USA) to Roma Ciampino (Italy) on 8 October 2002 (departure 13h45, arrival 20h22);**
- **from Roma Ciampino to Amman on 8 October 2002 (departure: 20h59, arrival: 23h54);**
- from Amman to Athens (Greece) on 9 October 2002 (departure: 01h15, arrival: 03h25);
- from Athens to Santa Maria (Azores, Portugal) on 9 October 2002 (departure 17h36, arrival: 23h09);
- from Santa Maria to Washington on 10 October 2002 (departure: 00h01, arrival: 06h30).

The airline referred to is: PRESIDENTIAL AVIATION.¹²

No flight from New York to Bangor, Maine on 8 October 2002 is recorded in the documents supplied by Eurocontrol, since Eurocontrol's remit does not cover flights outside Europe.

¹² See working document No 8. PE 380.984.

6) BISHER AL-RAWI AND JAMIL EL-BANNA

Bisher Al-Rawi is an Iraqi citizen residing legally in the United Kingdom, and Jamil El-Banna is a Jordanian citizen who was granted asylum and a residence permit by the British authorities in 1997.

On 1 November 2002 Al-Rawi and El-Banna were preparing to travel to the Gambia when they were arrested by the police at Gatwick Airport because their luggage contained a battery charger, which later turned out to be harmless. They were released on 4 November 2002. On 8 November El-Banna and Al-Rawi arrived at Banjul Airport; they were with Bisher's brother Wahab El-Rawi and Abdullah El Janoudi when they were all arrested by the Gambian authorities. They were interrogated for a month by American agents. Bisher Al-Rawi and El-Banna were then taken by the CIA to Afghanistan, first to the infamous 'Dark Prison' in Kabul, then to Bagram Air Base, and were ultimately moved to Guantanamo in January 2003. Over this whole period they were interrogated by American agents, who told them that the British authorities were behind the actions that had led to their arrest. The temporary committee has had access to telegrams sent by the British intelligence services to unspecified foreign agencies giving very precise details of these two victims of 'extraordinary rendition'.

An official delegation from the temporary committee met with Bisher Al-Rawi's brother Wahab Al-Rawi and the two victims' lawyers, Clive Stafford Smith, Gareth Peirce and Brent Mickum, on 4 October 2006 in London.

According to the testimonies of Al-Rawi and El-Banna's lawyers, Clive Stafford Smith, Gareth Peirce and Brent Mickum, and to other sources, Al-Rawi and El-Banna were taken from Banjul (in the Gambia) to Kabul on 9 December 2002.

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Gulfstream V with the registration number N379P (the plane used to take El-Zari and Agiza from Stockholm to Cairo, Elkassim Britel from Pakistan to Morocco and Binyam Mohammed from Pakistan to Morocco) for the following flights:

- from Washington to Banjul on 8 December 2002 (departure: 13h15, arrival: 20h19);
- **from Banjul to Cairo on 8 December 2002 (departure: 21h45, arrival: 03h45 on 9 December 2002);**
- **from Cairo to Kabul on 9 December 2002 (departure: 04h45, arrival: 09h04);**
- from Tashkent (Uzbekistan) to Frankfurt am Main on 10 December 2002 (departure: 06h52, arrival: 13h01);
- from Frankfurt am Main to Rabat on 11 December 2002 (departure: 23h09, arrival: 01h55 on 2 December);
- from Rabat to Kabul on 12 December 2002 (departure: 03h56, arrival: 11h05).

The airline referred to is: PREMIER EXECUTIVE TRANSPORT SERVICE.¹³

No reference to a flight (or flights) between Kabul and Tashkent on 9 or 10 December 2002 was found in the documents provided by Eurocontrol, since Eurocontrol's remit does not cover flights outside Europe. Similarly, there is no record of the aircraft after it landed at Kabul. The same plane left Washington for Frankfurt am Main on 21 December 2002.

¹³ See working document No. 8. PE 380.984.

7) ABU OMAR (HASSAN MUSTAFA OSAMA NASR)

As shown by the investigations carried out by the Milan Public Prosecutor's Office, this is a case of a citizen being kidnapped by CIA agents on the territory of a Member State, in collusion with the Italian secret services and certain *carabinieri*, followed by an 'extraordinary rendition'.

Hassan Mustafa Osama Nasr (Abu Omar) is an Egyptian citizen, who was an imam in Milan, having been granted political asylum by Italy. He was kidnapped on a public street in Milan on 17 February 2003, and then transferred to Egypt. When released for lack of evidence, he stated that he had been repeatedly tortured. He was subsequently returned to gaol; he is still in prison in Egypt. During the time he spent in Italy Abu Omar was closely watched by the Italian police, as he was suspected of being a member of radical fundamentalist movements. His abduction by the CIA prevented the Italian authorities from completing their own inquiries regarding Abu Omar.

Public Prosecutor Spataro's investigation led to the issuing of warrants for the arrest of 26 American citizens, 8 Italian secret service agents and one *carabiniere* who were involved in the case. Currently, CPACO, the Italian Parliament's committee for oversight of the secret service, is looking into the case, including the possible involvement of then members of the Italian government.

Milan Public Prosecutor Armando Spataro has been heard twice by the temporary committee, on 23 February and 9 October 2006.

According to the investigations carried out by Milan Public Prosecutor Armando Spataro and to other sources, Abu Omar was taken on 17 February 2003 from Aviano Airport (Italy) to Ramstein (Germany), and immediately afterwards from Ramstein to Cairo (Egypt).

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Gulfstream IV with the registration number N85VM for the following flights:

- from Washington to Ramstein on 4 February (departure: 03h20, arrival: 10h27);
- **from Ramstein to Cairo on 17 February 2003 (departure: 18h52, arrival: 22h32);**
- from Cairo to Shannon on 18 February 2003 (departure 00h22, arrival: 05h42);
- from Shannon to Washington on 18 February 2003 (departure: 14h52, arrival: 21h43).

The airline referred to is: RICHMOR AVIATION.¹⁴

The flights from Ramstein to Aviano and back on 17 February 2003 do not feature on the lists received from Eurocontrol. The plane was a Lear Jet 35 with the call sign 'SPAR92'. This

¹⁴ See working document No 8 PE 380.984.

plane was authorised to be parked at the Aviano American Base by the Italian authorities. As proved in Prosecutor Spataro's investigation, **this plane took off from Aviano for Ramstein (with Abu Omar on board) on 17 February 2003 at 18h20.**

8) KHALED EL-MASRI

The investigations by the Bundestag's parliamentary committee of inquiry and the Munich Public Prosecutor turned up many pieces of evidence showing that Khaled El-Masri was indeed the victim of an 'extraordinary rendition'.

Khaled El-Masri is a German citizen who went on holiday in late 2003 to the Former Yugoslav Republic of Macedonia (FYROM). On 31 December he was arrested at the Serbia-FYROM border by FYROM border police, handed over to the secret service and then detained and interrogated for three weeks in a hotel in Skopje. On 23 January 2004 he was handed over to the CIA and moved to Afghanistan. El-Masri remained in an Afghan prison for more than four months, and was tortured and interrogated by, among others, a native German speaker known as 'Sam'. After the four months of imprisonment in Afghanistan, he was transferred to Europe and released on Albanian soil. German Federal Chancellor Angela Merkel said on 5 December 2005 that the United States had admitted they were mistaken about El-Masri.

A committee of inquiry has been set up in the Bundestag and is analysing the involvement of the secret service and other German official bodies in this case.

Khaled El-Masri and his lawyer, Manfred Gnjidic, were heard by the temporary committee on 13 March 2006; the Munich prosecutor in charge of the case, Martin Hofmann, was heard by the temporary committee on 10 July 2006. An official delegation from the temporary committee went to Skopje (FYROM) from 27 to 29 April 2006. Another delegation met with the German Parliament's committee of inquiry on 19 September 2006 in Berlin.

According to the information that the temporary committee was given by the victim himself, his lawyer Manfred Gnjidic, Prosecutor Hofmann and other sources, the German citizen El-Masri was flown from Skopje (Former Yugoslav Republic of Macedonia, FYROM) to Baghdad (Iraq) in the early hours of 24 January 2004.

Eurocontrol documents contain matching flight plan and/or CRCO data regarding the Boeing 737 with the registration number N313P (which was used two days earlier to move Binyam Mohammed from Islamabad to Rabat for the second time) for the following flights:

- from Washington to Shannon on 16 January 2004 (departure: 01h25, arrival: 07h29);
- from Shannon to Larnaca on 17 January 2004 (departure: 10h33, arrival: 15h03);
- from Larnaca to Rabat on 21 July 2004 (departure: 18h39, arrival: 23h48);
- from Rabat to Kabul on 22 January 2004 (departure: 02h05, arrival: 09h58);
- from Kabul to Alger on 22 January 2004 (departure: 12h09, arrival: 19h54);
- from Algiers to Palma de Mallorca on 22 January 2004 (departure: 21h36, arrival: 22h08);

- from Palma de Mallorca to Skopje on 23 January 2004 (departure: 17h40, arrival: 19h56);
- **from Skopje to Baghdad on 24 January 2004 (departure: 01h30, arrival: 05h53);**
- from Baghdad to Kabul on 24 January 2004 (departure: 07h15, arrival: 11h14).
- from Kabul to Timisoara on 25 January 2004 (departure: 18h23, arrival: 23h51);
- from Bucharest to Palma de Mallorca on 26 January 2004 (departure: 01h03, arrival: 03h45);
- from Palma de Mallorca to Washington on 28 January 2004 (departure: 10h08, arrival: 18h41).

The airline referred to is: STEVENS EXPRESS.¹⁵

(These data are exactly the same as those recorded for the second time that Binyam Mohammed was moved; the plane and the itinerary used by the CIA are the same).

On the question of the absence of data concerning the alleged flight between Timisoara and Bucharest, Eurocontrol explained to the temporary committee that in some cases the pilot changes his route during the flight and informs the air traffic controllers, but sometimes air traffic control does not pass on this change of route. Given the very short interval between arrival in Timisoara (25 January 2004 at 23h51) and departure from Bucharest (26 January 2004 at 01h03), everything would seem to suggest that in fact the flight from Kabul on 25 January landed in Bucharest and not in Timisoara.

¹⁵ See working document No 8 PE 380.984.

Finally, there follows a summary of the cases where the temporary committee has been unable to verify the existence of the flights:

MOHAMMED ZAMMAR

Mohammed Zammar is a German of Syrian origin. When he acquired German nationality in 1982, he relinquished his Syrian citizenship. After the attacks of 11 September 2001 in New York, the federal public prosecutor launched preliminary proceedings against him for his presumed involvement in planning the attacks, but finally decided against ordering his arrest.

He went to Morocco on 27 October 2001 to divorce his second wife. When he was about to return to Germany on 8 December 2001, he was arrested at the airport in Morocco. It was reported in the press on 18 June 2002 that he was being held in Far'Falastin prison in Syria. In the eyes of the Syrian authorities, he is a Syrian national. The German authorities therefore take the view that they can do nothing to help their fellow citizen. On 20 November 2002 six German officers travelled to Syria to question Zammar, but did not inform his family. The German press has said on several occasions that the German secret service supplied the American authorities with information about Zammar to help with his arrest. Minister Schäuble confirmed on 14 December 2005 to the Bundestag that Zammar had been questioned by German agents in Syria. The activities of these agents are said to have taken place under an agreement whereby the German authorities undertook in return not to pursue judicial proceedings against a number of Syrian nationals in Germany. This is confirmed by a confidential official document which is in the possession of the chairman and rapporteur of the temporary committee.

Zammar's wife has had no news of her husband for almost 5 years, apart from an 8-line letter received via the Red Cross. Prisoners at Far'Falastin have access to fresh air for only 10 minutes a month.

Zammar's lawyer, Gül Pinar, was heard by the temporary committee on 14 September 2006.

The details received by the temporary committee regarding the flight (or flights) used to carry out the 'extraordinary rendition' in this particular case are so limited that it has proved impossible to verify the allegations using Eurocontrol data.

MURAT KURNAZ

Murat Kurnaz has Turkish nationality, but lives in Bremen, Germany, where he was born. On 3 October 2001 Kurnaz travelled to Pakistan to make a kind of pilgrimage, with the intention of returning to Bremen no more than two months later. In November 2001 Murat Kurnaz was arrested in Pakistan during a routine check carried out on a bus on the way to the airport. A few days later he was handed over by the Pakistan police to American units stationed on the other side of the frontier with Afghanistan, clearly in exchange for a ransom, without any legal grounds or hearing of witnesses. Murat was initially held on the American airbase at Kandahar, then transferred in late January 2002 to the Guantanamo camp. Kurnaz was repeatedly tortured in both Afghanistan and Guantanamo. It was confirmed on 14 December 2005 that the German secret services had taken part at least once in interrogating Kurnaz, between 21 and 27 September 2002.

He was released last August and now lives in freedom in Germany, with no formal charge ever having been made against him. The Bremen court did start proceedings against Kurnaz with a view to ascertaining whether he had contacts with any terrorist or extremist groups. At the end of the investigations, however, the court concluded that there was no evidence for the existence of such contacts.

Kurnaz's lawyer, Bernhard Docke, was heard by the temporary committee on 14 September. Murat Kurnaz himself is due to be heard by the temporary committee on 22 November 2006.

Given that it would involve a flight (or flights) between Afghanistan and Guantanamo, very probably in a military aircraft, the temporary committee has been unable to verify the truth of this 'extraordinary rendition'.

MARTIN MUBANGA

Martin Mubanga has dual British and Zambian nationality. In 2001 he travelled to Pakistan and Afghanistan. Having escaped the war, before returning to the United Kingdom Mubanga stopped over in Zambia in December 2001, and was arrested there on 1 March 2002, accused of attending an Al Qaeda training camp in Kandahar and having a notebook with a list of 33 Jewish organisations in New York. He was handed over to the CIA by the Zambian authorities on 20 April 2002 and sent to Guantanamo.

After 33 months in Guantanamo, where he was tortured, Mubanga was released on 25 January 2006 and returned to the United Kingdom, where he now lives in complete freedom, with no formal charge ever having been made against him.

An official delegation of the temporary committee met with Martin Mubanga and his lawyer, Louise Christian, on 4 October 2006 in London.

The temporary committee has been unable to verify the existence of the flight from Zambia to Guantanamo. Given that the flight (or flights) went from Zambia to Guantanamo, it is certain that it did not fly through European air space. Furthermore, it was probably a military flight, as it flew straight to Guantanamo.