



**Amnesty International Briefing
for EU-US Troika and EU-US Summit 2007**

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Ahead of the EU-US Troika on 2 March 2007, and the EU-US summit on 30 April 2007, Amnesty International is calling on the EU Presidency to ensure that human rights are a key element of the discussions with the US government and to place the fight against terrorism clearly within the bounds of international human rights law. In particular Amnesty International calls on the German presidency to use the opportunity of the summit to press for progress on the following areas:

- **practical steps towards the closure of Guantánamo Bay and similar detention facilities.** Following the five year anniversary of the detention centre in January 2007, the summit should request assurances from the US authorities that immediate steps will be taken to close the detention centre and achieve justice for all those within Guantánamo;
- **ending the CIA secret detention programme and revealing the names and locations of all those held in secret detention facilities.** As requested by the European Parliament, the Presidency should seek the return of EU citizens and residents who have been, or are still being, detained in secret;
- **ending the extraordinary renditions programme which contravenes established international human rights standards.** The Presidency should respond positively to the European Parliament's recent call for action within the EU on this issue, and use this as a basis for discussions with the US administration on ending the programme as a whole;
- **in addition, expressing concern at the ongoing use of the death penalty in the US.** The Presidency should reiterate the EU's opposition to the continued use of the death penalty and seek US commitment not to obstruct international activity promoting a moratorium on executions and the abolition of the death penalty.

1. Practical steps towards the closure of the detention centre at Guantánamo Bay

At the EU-US summit in 2006, the EU conveyed to the US its view that steps should be taken to close the detention centre at Guantánamo Bay, Cuba, as soon as possible. This view has been reiterated by European institutions on a number of occasions. Yet in January 2007, the world marked five years since the US authorities transferred the first "war on terror" detainees to the US Naval Base in Guantánamo Bay. Despite widespread international condemnation, hundreds of people, of more than 30 nationalities, remain there. It is the responsibility of the US administration to find a solution to the closure of Guantánamo which is in full compliance with international human rights law and standards. However, on a number of occasions in 2006, leading US officials, including John Bellinger, the Department of State Legal Adviser, have welcomed the involvement of the international community in resolving the issue. Now is the time to identify a clear timeline to achieve this objective as a matter of urgency.

Amnesty International has repeatedly made clear that all those detained in Guantánamo should either be brought to fair trial, or released, with full protections against further abuses. Released detainees and others still in the camp have alleged that they have been subjected to torture and other cruel, inhuman and degrading treatment while detained by US authorities at Guantánamo.

In June 2006 Amnesty International provided to the US authorities, and published, its suggested framework for closing the Guantánamo detention facility. The EU should offer the necessary support in bringing about fair trials or release of detainees and closure of the facility in line with this framework, and in ensuring the fair and transparent assessment of the cases of all detainees to be released. Released detainees must not be forcibly sent to any country where they may face serious

human rights abuses. Amnesty International asks EU countries to favourably consider resettlement of persons in need of protection and unable to be returned to their home country.

Pending closure of the detention facility, the EU should press the US authorities to invite the five UN experts – four Special Rapporteurs and the Chairperson of the Working Group on Arbitrary Detention – to visit Guantánamo without the restrictions that led them to turn down a previous invitation from the US. There must be no restrictions on the experts' ability to talk privately with detainees. International human rights organizations, including Amnesty International, should also be given such access.

2. End the CIA secret detention programme and reveal the names and locations of all held in secret detention facilities.

In September 2006, President Bush stated that 14 men held in secret CIA custody had been transferred to Guantánamo and indicated that they would be brought to trial. These 14 men included Majid Khan, a Pakistani national who was a victim of enforced 'disappearance' at the hands of the Pakistani and US authorities for more than three and a half years. US authorities have accused Majid Khan of being an *al-Qa'ida* operative. However, to date he has not been charged with a crime or brought before any court, nor has he had access to a lawyer.

In his announcement of the transfer of the men, President Bush publicly acknowledged for the first time the existence of a separate "high-value terrorist detainee programme" operated by the CIA. He also stated that there were, at that point, no longer any people held in the CIA programme, but that others could be held in similar conditions in the future. The location of the secret detention facilities where they were held remains unknown as does the number of people who were held, or continue to be held, within them. Additionally, there are a number of individuals, once believed to have been held in US secret detention, whose whereabouts remain unknown.

The US authorities have said that the 14 "high value" detainees will receive a hearing by Combatant Status Review Tribunal (CSRT) to review their status as "enemy combatants". Amnesty International has repeatedly voiced concern over this body as it is a wholly inadequate administrative review procedure consisting of panels of three military officers allowed to rely on classified or coerced evidence against a detainee, who has no access to a lawyer, and who is presumed to be an 'enemy combatant' unless he can prove otherwise. The US government has also indicated that it intends to bring to trial some or all of the 14 before military commissions, which would have the power to admit coerced evidence and hand down death sentences. In contravention of international standards, the military commissions would be able to try civilians captured outside zones of international or non-international armed conflict.

Civil society has repeatedly expressed concern about the CIA secret detention programme, on the grounds that secret detention; enforced disappearance; torture or other cruel, inhuman or degrading treatment; and indefinite detention without charge are all prohibited under international law. While the US has the right and duty to bring to justice anyone responsible for crimes, including crimes against humanity, it must do so in a manner that respects human rights and the rule of law. Amnesty International has called on the US government to clarify the fate and whereabouts of all people who have been secretly detained and to reveal the whereabouts of all secret places of detention. The European Parliament has backed this request and also called for the return of all EU citizens and residents who have been detained.

The EU-US talks provide a good opportunity to raise these concerns with the US administration and to express regret at the decision on 20 February 2007 by the US Court of Appeals that under the Military Commissions Act, signed into law by President Bush on 17 October 2006, the federal courts lack jurisdiction to hear any *habeas corpus* appeals from Guantánamo detainees. *Habeas corpus* is a fundamental safeguard against enforced disappearance, secret detention, arbitrary detention and torture or other ill-treatment. In the absence of *habeas corpus*, all these human rights violations have occurred against detainees held in US custody in the "war on terror".

3. End the renditions programme which contravenes established international human rights standards

The United Nations (UN), Amnesty International and many other organizations have voiced strong concerns about the CIA's programme of renditions on the grounds that the abduction by foreign agents of persons from European territory for the purpose or with the effect of facilitating ill-treatment and torture effectively amounts to a breakdown of the rule of law, breaching the fundamental values of the European Union. The final report of the European Parliament's Temporary Committee on CIA activities in Europe, adopted by the European Parliament on 14 February 2007, confirmed that complicity by Member States has allowed CIA renditions to occur in Europe. In line with fundamental principles of human rights and human security, the EU should set its own house in order, by conducting thorough national investigations within Member States into their possible involvement in internationally unlawful CIA activity.

In addition, the Presidency should use the forthcoming talks with the US administration to make a clear and forceful declaration calling on the US Government to put an end to the practice of arbitrary detention and renditions, in line with the position set out in the European Parliament report. It should also press for a ban or system of inspections to be introduced for all CIA-operated aircraft known or suspected to have been involved in extraordinary rendition.

4. Agree a way forward for international activity on the death penalty

January 2007 marked the 30th anniversary of the resumption of executions in the US, during this time more than 1,060 men and women have been put to death in state and federal execution chambers. In the same 30 years, some 70 countries have abolished the death penalty, bringing to 128 the number that have turned their backs on judicial killing.

Amnesty International has repeatedly called on US State and Federal authorities to put an immediate end to all executions. The death penalty is inherently cruel. It offers no constructive solution to violent crime, risks irrevocable error, and is prone to arbitrary and discriminatory application even under a sophisticated justice system. It extends the suffering of the families of murder victims to those of the condemned prisoners, and demeans society as a whole.

There are signs that the US is slowly turning against the death penalty. The 53 executions in 2006 was the lowest annual total for a decade, and death sentencing continues to drop from its peak in the mid-1990s. The number of people sentenced to death in 2006 was the lowest since 1977. An erosion of the public's belief in the deterrence value of the death penalty, an increased awareness of the frequency of wrongful convictions in capital cases, and a greater confidence that public safety can be guaranteed by life prison terms rather than death sentences have all contributed to the waning of enthusiasm for capital punishment. In line with Article 6(5) of the International Covenant on Civil and Political Rights, the US Supreme Court ended the use of the death penalty against offenders who commit capital crimes when under the age of 18. In addition, in 2002, the Court prohibited the execution of offenders with mental retardation, in line with international standards. Nevertheless, the US continues to sentence to death and execute people suffering from serious mental illness. In addition, the US death penalty continues to be marked by arbitrariness, discrimination and error.

The forthcoming EU-US talks provide an opportunity for the European Union to reiterate its opposition to the continued use of the death penalty in the US, and to promote its abolition. The Presidency should take the opportunity provided by the talks to secure a US commitment not to obstruct international activity promoting a moratorium on executions and the abolition of the death penalty.