



Viviane Reding
Vice-President of the European Commission
Commissioner for Justice, Fundamental Rights and Citizenship

Dear Commissioner

Brussels, 15 November 2010
Our Ref: B 1012

Subject: Amnesty international new report - “Open Secret: Mounting Evidence of Europe’s Complicity in Rendition and Secret Detention”

Today, 15 November 2010, Amnesty International is releasing a new report entitled “Open Secret: Mounting Evidence of Europe’s Complicity in Rendition and Secret Detention”. The report documents the situation in eight European countries, including seven EU Member States and one candidate country¹, with respect to accountability for complicity in human rights violations in the context of the CIA-led programmes, including abduction, unlawful transfer, enforced disappearance, secret detention, and torture. It provides a unique and updated analysis of the progress underway and the obstacles that remain to achieve full justice, as well as recent new evidence of European states’ collusion in serious human rights violations. In contrast to the situation in the United States and despite some persistent lacuna in the processes, the report demonstrates that there is potential ground for accountability in Europe.

Against this background, Amnesty International calls on all the EU institutions to commit publicly to ensuring accountability in Europe by promoting and supporting independent and effective investigations into EU Member States’ alleged complicity in the US-led rendition and secret detention programmes. Continuing to refuse such responsibility at EU level would constitute a serious failure to respect international human rights law and create a situation where impunity is tolerated, with the ripple effect of undermining efforts to encourage respect for human rights by governments elsewhere in the world.

As illustrated by the examples highlighted below, Amnesty International’s report focuses on key countries where new developments have either propelled accountability processes forward or require them to do so in the face of new and compelling information. In all cases, governments must make concrete commitments to establish a human rights-compliant accountability process.

Germany: A three-year long parliamentary inquiry completed its work in June 2009 and did not find any German state actor responsible for involvement in any rendition, enforced disappearance, or torture and ill-treatment of detainees. However, also in June 2009, the German Constitutional Court ruled that the German government’s failure to cooperate fully with the inquiry violated the Constitution. The profound lack of

¹ Countries covered in the report include: Germany, Italy, Lithuania, Macedonia, Poland, Romania, Sweden, and the United Kingdom.

cooperation from the German authorities in the course of the inquiry, coupled with the identification of Germany in the UN Joint Study on Secret Detention of 26 January 2010 as complicit in some of these abuses, urgently requires further action on the part of the German government.

Lithuania: A Lithuanian parliamentary inquiry concluded in December 2009 that CIA secret prisons existed in the country, but stopped short at determining whether detainees were actually held there. The Lithuanian Prosecutor General's office has now opened a criminal investigation into state actors' alleged involvement in the establishment and potential operation of the sites.

Poland: In response to "freedom of information" requests, new evidence of Polish complicity in the US-led rendition and secret detention programmes came in 2009-2010 from the Polish Air Navigation Services Agency (PANSAs) and the Polish Border Guard Office. In October, the prosecutor's office formally granted the status of victim to Saudi national, Abd al-rahim al-Nashiri. Nevertheless, the terms of reference and timeline of the criminal investigation by the Appeal Prosecutor's Office into Poland's involvement have never been made public.

Romania: New evidence of Romanian participation in the CIA's rendition and secret detention programmes came to light in July 2010 when the Polish Border Guard Office released information indicating that a September 2003 flight took on passengers in Poland and continued on to Romania. Despite steadily mounting public information alleging that detainees were housed in a secret detention centre in Romania, including press reports citing unnamed former US intelligence officials, the Romanian government continued to deny any involvement in the CIA's rendition and secret detention programmes.

United-Kingdom: The UK government has acknowledged its involvement in the US-led rendition programme through the use of UK territory. In February 2010, the UN Joint Study on Secret detention referred to allegations of UK collaboration with the Pakistani intelligence services leading to complicity in secret detention. It also contained reference to the allegation that persons were held in secret detention on Diego Garcia. In July 2010, the UK government announced that it would establish an inquiry into the involvement of UK state actors in the alleged mistreatment of individuals detained abroad by foreign intelligence services. It is crucial that the inquiry's scope and depth are broad enough to ensure real accountability.

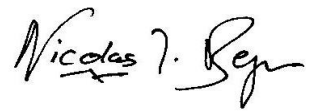
A strong line at EU level on the need and the way to achieve genuine accountability would provide clear and common guidelines for EU Member States to follow, as well as monitoring benchmarks for the EU institutions. As guardian of the treaties, the European Commission could lead on this by proposing an EU framework for accountability processes.

Amnesty International calls on the European Commission to acknowledge its responsibilities as guardian of the treaties- including the EU Charter of Fundamental Rights and Freedoms- to engage in processes that aim to ensure that EU institutions, member states' governments and individuals are held accountable for grave violations of international human rights law.

This entails:

- monitoring if and how EU member states are abiding by their legal obligation under European human rights law, as reflected in article 2 TEU and the EU Charter, to conducting full and impartial investigations into allegations of complicity in renditions and secret detention (whether by direct perpetration, complicity or failure to prevent)
- engaging and following-up as relevant with member states to ensure that such investigations are effective; that evidence is brought before intergovernmental bodies or courts; and that the truth is revealed to the victims and wider public
- reporting publicly on all actions undertaken to ensure that accountability processes are in place, including on the follow-up to letters that were sent to Poland, Romania and Lithuania, among other member states
- proposing new EU-wide measures in the field of Justice, Freedom and Security aimed at the prevention of rendition and unlawful detention in the future
- raising the issue of complicity in rendition and secret detention with EU candidate and potential candidate countries governments' in the context of the enlargement process; while doing so, it should ensure that similar pressure and standards apply to EU member states.

Yours sincerely,

A handwritten signature in black ink, reading "Nicolas J. Beger". The signature is written in a cursive style with a large, stylized initial 'N'.

Nicolas J. Beger
Director

CC. Cecilia Malmström, Commissioner for Home Affairs; Štefan Füle, Commissioner for Enlargement and European neighbourhood policy.