



Mr. Mevlüt Çavusoglu,
President of the Parliamentary Assembly of the Council of Europe

Mr. Christos Pourgourides,
Chair of the Committee on Legal Affairs and Human Rights

Brussels, 15 November 2010
Our Ref: B1015

Dear Mr. Mevlüt Çavusoglu,
Dear Mr. Christos Pourgourides,

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 countries¹, 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 the Council of Europe to continue its work on seeking accountability for human rights violations committed in the course of the US-led rendition and secret detention programmes, notably by promoting and supporting independent and effective investigations into Member States' alleged complicity in the US-led rendition and secret detention programmes. Continuing to refuse such responsibility 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 cooperation from the German

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

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.

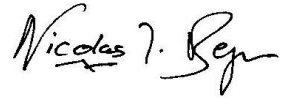
As recalled in Amnesty International's report, the work of the Council of Europe Parliamentary Assembly has been critical to expose European states' complicity in the CIA's rendition and secret detention programmes. The Parliamentary Assembly has been the leading institution working to uncover the truth about, and seek accountability for, Council of Europe member states' involvement in the rendition and secret detention programmes operated by the United States of America. It is now up to the Parliamentary Assembly, in particular through its Committee on Legal Affairs and Human Rights, to mobilise its resources to scrutinise the accountability processes underway in member states in light of international and European human rights law. To this end, this Committee could take the lead in preparing a new report on national investigations into human rights violations committed in the context of renditions and secret detention and assess the implementation of the Assembly's previous recommendations.

Amnesty International further calls on the Parliamentary Assembly to:

- Recommend that the Committee of Ministers formally remind member states of their obligations: to ensure full, effective, independent and impartial investigations with public findings and recommendations, complying in all respects with ECHR obligations, in all cases of credible allegations of human rights violations in the context of the rendition and secret detention programmes; to ensure that those suspected of responsibility are brought to justice; to provide victims of these abuses effective redress; and to refrain from invoking "state secrets" to shield them from scrutiny of their alleged involvement in serious human rights violations;
- Consider requesting that the Secretary General commence a new Article 52 inquiry into what steps member states have taken to date to ensure their compliance with these obligations;
- Urge its members, in particular those from relevant countries that have not yet established ECHR-compliant investigations, to take immediate action at national level to seek accountability for their government's role in the rendition and secret detention programmes, effective redress for victims, and reform of national laws and policies to ensure that the human rights violations perpetrated in the course of these operations do not happen in the future.

Amnesty International hopes that the Parliamentary Assembly of the Council of Europe will intensively engage in this work and stands ready to offer any cooperation and support in this regard. We look forward to hearing from you further on this issue.

Yours sincerely,

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

Dr. Nicolas J. Beger
Director

CC: Members of the PACE Committee on Legal Affairs and Human Rights.