

# **BREAKING THE CONSPIRACY OF SILENCE**

USA'S EUROPEAN  
'PARTNERS IN CRIME'  
MUST ACT AFTER SENATE  
TORTURE REPORT

**AMNESTY  
INTERNATIONAL**



**Amnesty International Publications**

First published in 2015 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Amnesty International Publications 2015

Index: EUR 01/002/2015  
Original Language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

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# 1. INTRODUCTION

*“Our Liaison partners who host these sites are deeply concerned by [REDACTED] press leaks, and they are increasingly skeptical of the [U.S. government’s] commitment to keep secret their cooperation...A combination of press leaks, international scrutiny of alleged [U.S. government] detainee abuse, and the perception that [U.S. government] policy on detainees lacks direction is eroding our partners’ trust in U.S. resolve to protect their identities and supporting roles.”<sup>1</sup>*

For nearly a decade, European states implicated in the US Central Intelligence Agency’s (CIA) rendition and secret detention programmes have equivocated about their roles in these operations, relied on secrecy laws to decline comment, or simply flatly denied any involvement in them. Not one has conducted a genuinely effective, broad-based investigation into the role their government played in these operations, let alone held state actors fully accountable and provided victims with an effective remedy. Europe’s assistance in facilitating the human rights violations attendant to the US operations – illegal abduction and transfer, secret detention, enforced disappearance, and torture and other ill-treatment – has long been an “open secret,” with various governments seeking to shield themselves from accountability based on unsubstantiated “national security” grounds, the dubious invocation of “state secrets,” or outright lies.<sup>2</sup>

Expressions of European shock and distress at the USA’s reliance on torture reek of hypocrisy: without European participation in the rendition and secret detention programmes, the USA would not have been able to execute these operations.<sup>3</sup> Numerous European governments were, in essence, the USA’s “partners in crime” – and must themselves be held to account.<sup>4</sup>

The release in December 2014 of a 524-page summary of the **US Senate Select Committee on Intelligence (SSCI) “Study of the Central Intelligence Agency’s Detention and Interrogation Program”** has provided additional, often gruesome, detail regarding the CIA’s ill-conceived and presidentially authorized foray into counter-terrorism detention operations, and describes in some detail how foreign governments both directly and indirectly assisted the CIA.<sup>5</sup> The summary (called “the Senate torture report” by the media) is a small window on the numerous human rights violations that characterized these operations: the full SSCI study runs to over 6,500 pages and remains classified top secret. In the course of the Committee’s five-year investigation, over six million pages of material provided by the CIA were collected, reviewed, and analysed.

The SSCI study focused exclusively on secret detention sites established and/or operated by the CIA where agents and medical professionals employed or contracted by the US government interrogated individuals using so-called “enhanced interrogation techniques” (EITs) and other brutal methods that amounted to torture and other ill-treatment. In addition to some European states having hosted secret CIA detention sites, where many of these abuses occurred, a number of European countries were also deeply embedded in the global

rendition network, permitting the USA and its agents and contractors to utilize airspace and airports to illegally transfer detainees around the world, beyond the reach of the law.<sup>6</sup> Despite the magnitude of the information, SSCI the study contains very limited information about renditions more broadly executed by the CIA; it only provides a few examples, and does not address conditions of transfers (about which the SSCI said the CIA had few records).<sup>7</sup> The study thus did not review CIA renditions of individuals "not ultimately detained by the CIA," that is, it does not contain information about anyone who does not appear on the list of 119 individuals in the study whom the SSCI determined to have been held in CIA custody.<sup>8</sup>

As a result, much information about European complicity, e.g. in rendition operations, remains locked away in US government files, with no oversight mechanism such as the SSCI to sift through it. The full truth about US counter-terrorism operations from 2001-2008, including Europe's role, thus has yet to be pieced together in the course of one comprehensive investigation, as advocated by Amnesty International.<sup>9</sup>

Amnesty International first called for a full independent commission of inquiry into the USA's post-9/11 rendition, detention and interrogation policies and practices in May 2004.<sup>10</sup> That call was renewed in December 2008 following the election of President Barack Obama.<sup>11</sup> In his fifth month in office he rejected such a commission on the basis that it would "distract" from future challenges and because "our existing democratic institutions are strong enough to deliver accountability."<sup>12</sup> Accountability remains absent six years later, and the Obama administration has, like its predecessor, successfully blocked remedy through, among other things, the repeated invocation of state secrecy.

Amnesty International continues to call for a full commission of inquiry and has also urged the US Department of Justice to re-open the limited criminal investigations into CIA interrogations it ended in 2012 without any charges being handed down. It should this time expand the scope of the investigation and ensure that it complies with international law and standards, with a view to bringing to justice all those involved in crimes under international law.<sup>13</sup> At the same time, the organization has called on the US government to declassify and publish the full SSCI study, with no redactions that obscure information about human rights violations, including the precise locations of all former secret detention sites.<sup>14</sup>

The SSCI study does provide one piece of the post-9/11 counter-terrorism puzzle, but was itself heavily redacted, with the names of individual countries that hosted CIA secret detention sites coded and then blacked out.<sup>15</sup> The details elaborated in the study, however, closely correlate with public information from a number of credible sources that directly points to European cooperation and collaboration with the CIA to execute these operations. It was not only the fact that key details in the SSCI study aligned with credible outside source material, however, that appeared to confirm heavy European involvement, it was the responses of various current and former officials in key European countries in the immediate aftermath of the summary's release that further verified European complicity. The SSCI summary triggered a range of such responses, from what appeared to be outright admissions of collusion with the CIA to various officials' statements that they would request the full, unredacted version of the SSCI report in order to determine what role their governments may have played. Assuming these admissions and statements have been made in good faith, the release of the SSCI summary has provided a key opportunity for the USA's European partners finally to come clean about their roles in these illegal operations. The time for cover-ups and

denials is over.

This briefing paper is **not** an exhaustive analysis of the SSCI study and European complicity. It does not address every detainee or former detainee mentioned in the SSCI study as having been held at the sites widely believed to have been located in European countries, nor does it capture every reference to those sites. This briefing provides a description of reactions to the SSCI study from a number of current and former officials in select European countries on which Amnesty International has conducted research that has led us to conclude that those countries were deeply involved in the US's post-9/11 counter-terrorism operations, including complicity in CIA secret detention and interrogation that amounted to torture and other ill-treatment. It draws selected information from the SSCI study to support the proposition that key European allies of the USA were complicit in the CIA operations. Those allies included Germany, Lithuania, Former Yugoslav Republic of Macedonia (Macedonia), Poland, Romania, and United Kingdom.

This briefing paper also provides information regarding the current "state-of-play" with respect to accountability in these European countries for complicity in CIA secret detention and interrogation operations. The European Court of Human Rights has ruled against both Macedonia (2012) and Poland (2014) for their direct involvement and/or complicity in the CIA rendition and secret detention programmes, including in the torture and other ill-treatment of detainees. But Macedonia has yet to conduct its own investigation into the rendition to torture of a German national. Germany's own parliamentary inquiry, concluded in 2009, was undermined by a lack of cooperation by the German government, which failed to disclose key information. A Polish criminal investigation commenced in 2008 and has been plagued by delays, many of them apparently designed to forestall accountability for the alleged secret CIA site and torture that occurred therein. The Romanian authorities have consistently denied involvement, precluding the need, in their eyes, for an effective investigation into allegations that it also hosted a secret CIA site. An on-going pre-trial investigation in Lithuania into the detention of a Saudi national in a secret CIA detention facility there has also languished. While the UK authorities have claimed that they have made progress on accountability for UK involvement in the torture and ill-treatment of foreign detainees held overseas, that claim simply does not hold up to scrutiny. Although Europe has been more fertile ground for accountability than the USA, there is still much left to be done.

Although some officials and prosecutors in these countries have stated that they have requested or now plan on requesting the full, unredacted SSCI study from the US government, it is highly unlikely that the USA will share the document. But any claim by European governments that they cannot proceed with an effective investigation without US cooperation is nothing more than a handy excuse for inaction. According to the SSCI study, CIA officials and even some US diplomats, not only consulted with security and intelligence officials in each country that hosted a secret CIA site, but also discussed details of sites, including locations, specific detainees, and other key matters, including how much money would be required in order for the US to show sufficient "appreciation" for the host government's support. The SSCI study also makes clear that in some cases, politicians at the highest levels of government had knowledge about the sites and indeed became extremely disillusioned with the USA when leaks about the facilities began and the US's assurances of secrecy began to ring hollow. The governments in countries that hosted CIA secret sites thus already possess or have the ability to access or compel more than enough information about

the detention facilities to conduct effective investigations into their roles in the CIA operations.

## 1.1 RECOMMENDATIONS

In light of the release of the SSCI study summary, Amnesty International reiterates its longstanding call to all European governments implicated in the CIA's illegal rendition, secret detention and interrogation operations – including, among others, Germany, Lithuanian, Macedonia, Poland, Romania, and UK -- to:

- Conduct an effective, broad-based investigation as a matter of urgency into their involvement in these operations, with a view toward reforming the laws, policies, and practices that permitted such cooperation;
- Ensure that those state actors and any foreign agents responsible for crimes under domestic and international law such as torture and enforced disappearance on the territories of European states are criminally charged and held accountable after fair trials;
- Afford victims of the human rights violations attendant to these operations a full and effective remedy.



## 2. POLAND: “DETENTION SITE BLUE”?

One day after the SSCI summary was released, a press conference featuring former President Aleksander Kwasniewski and former Prime Minister Leszek Miller was convened in Warsaw, Poland. After years of denials, Kwasniewski acknowledged that he had in fact cooperated with the CIA and knew that detainees had been held at a secret site on Polish territory, although he claimed that he did not know how detainees at the site had been treated.<sup>16</sup> The former President, in office from 1999-2005, subsequently stated on Polish radio that he took steps to end the activity at the site, amid pressure from other Polish officials, implying that he and/or other officials had actual knowledge or at least some sense that coerced interrogations were occurring at the site.<sup>17</sup> Former Prime Minister Miller maintained that the SSCI summary “changed nothing” because it was not Polish intelligence officials that had engaged in torture.<sup>18</sup>

The admissions by the two former officials gave credence to the widely held belief that Poland had hosted a secret CIA detention site. While the SSCI summary did not specifically name Poland as having hosted such a site, it did refer to “DETENTION SITE BLUE” -- and the details of engagement with officials in the country that housed that site, relevant dates, flight data, and the names of persons who have alleged that they had been detained and interrogated using techniques that amounted to torture in Poland correlate with already public information about the CIA secret site at a military base at Stare Kiejkuty, near the small city of Szczytno in northeastern Poland.<sup>19</sup> The Szymany Airport, near Stare Kiejkuty, served the site, with rendition flights arriving and departing from the small airfield.<sup>20</sup>

In fact, Poland was the first EU member state to have been found complicit by a regional court in the USA's rendition, secret detention, and torture of alleged terrorism suspects. In July 2014, the European Court of Human Rights issued two separate rulings finding that the Polish government colluded with the CIA to establish the secret detention facility at Stare Kiejkuty, which operated sometime between 2002 and 2005.<sup>21</sup> At the site, 180 kilometers north of Warsaw, detainees were held in secret detention and tortured. The Court found Poland in violation of the European Convention on Human Rights (ECHR) for, among other things, the lack of an investigation into the two victims' claims; and their torture and other ill-treatment, secret detention, and onward transfer to other places where they were at risk of further human rights violations including torture and other ill-treatment. The Court also reaffirmed the victims' and the public's right to know the truth about the CIA operations and Poland's role in them.<sup>22</sup> The Polish government requested in October 2014 that the two cases be referred to the European Court's Grand Chamber for re-hearing.<sup>23</sup> At the time of writing, the Grand Chamber had not pronounced on whether it would accept the referrals.

The two claimants, Abd al-Rahim al-Nashiri and Zayn al-Abidin Muhammed Husayn (Abu Zubaydah) lodged their cases with the European Court in 2011 and 2013, respectively, and much of the information in their applications to the Court aligns very closely, often precisely, with the information regarding “DETENTION SITE BLUE” in the SSCI study. But Poland had been in the spotlight since 2005, when it was first identified as having hosted a secret CIA

detention facility.<sup>24</sup> In March 2008, nearly six years ago, the Polish authorities opened a criminal investigation that has been repeatedly delayed due to changes in prosecution personnel, a shift in location from Warsaw to Krakow, and claims that cooperation from the US government had not been forthcoming. "National security" has routinely been invoked as a justification for the secrecy that has shrouded the investigation.<sup>25</sup> Many have speculated that the obstacles and obfuscations surrounding the Polish investigation have been purposeful, allowing the Polish authorities to delay as long as possible any accountability for complicity in torture and enforced disappearance.<sup>26</sup>

The investigation is still under way. In a meeting with an Amnesty International delegation in October 2014, representatives of the Polish Prosecutor General's office told the delegation that the US government had not responded to a number of requests for mutual legal assistance in carrying out the Polish investigation.

Abd al-Rahim al-Nashiri is a Saudi Arabian national alleged by the US government to have masterminded the bombing of the USS Cole off the coast of Yemen in 2000. He has claimed that he was questioned in a secret facility in Poland from December 2002 until June 2003, and subjected to "enhanced interrogation techniques" (EITs)<sup>27</sup> and other human rights violations, such as "mock execution" with a gun and a threat of sexual assault against his mother. Zayn al-Abidin Muhammed Husayn (Abu Zubaydah), a stateless Palestinian born in Saudi Arabia, also has claimed that he was transferred to a secret site in Poland in December 2002 where he endured extreme physical pain and psychological suffering. Former US President George W. Bush asserted in his 2010 memoirs that he authorized the use of "enhanced interrogation techniques", including "waterboarding" – mock drowning – against Abu Zubaydah in secret CIA detention.<sup>28</sup> The European Court of Human Rights found in favor of both men in the July 2014 rulings. On the US side, Al-Nashiri currently faces a capital trial by military commission in Guantánamo Bay. Abu Zubaydah is also detained at Guantánamo but the US authorities have yet to charge him with any crime, more than 12 years after taking him into detention.

In June 2013, a third man who has alleged that he was held at a secret detention site in Poland in 2003 was granted "injured person" status in Poland's ongoing criminal investigation into the CIA site. Walid bin Attash, a Yemeni national, is currently detained and awaiting capital trial by military commission at Guantánamo Bay.<sup>29</sup>

A fourth man, Mustafa al-Hawsawi, a Saudi Arabian national, lodged an application with the Polish prosecutors seeking "injured person" status based on a claim that he was transported to Poland in March 2003.<sup>30</sup> In March 2014 the Prosecutor rejected the application for victim status. Mustafa al-Hawsawi appealed the prosecutor's decision to the District Court of Szczytno in April 2014. As part of that process, the Prosecutor called on al-Hawsawi's lawyers to provide further information at a hearing in Kraków on 12 June 2014. In December 2014, the Prosecutor General refused again to grant al-Hawsawi formal status in the investigation and Mustafa al-Hawsawi's Polish lawyer has again appealed the decision in the Polish courts. Mustafa al-Hawsawi is currently detained and awaiting capital trial by military commission at Guantánamo Bay.

According to the SSCI summary, the country that hosted "DETENTION SITE BLUE" (DSB) originally requested a written agreement laying out the CIA's role and responsibilities, which

US authorities refused to sign.<sup>31</sup> Relevant information regarding DSB from the SSCI study included:

- Abd al Rahim al-Nashiri and Abu Zubaydah were rendered to DSB in December 2002 (SSCI summary, p. 67);
- Based on CIA records, the four "enhanced interrogation" periods for Abd al-Rahim al-Nashiri all took place at DSB between December 2002 and January 2003; the sessions included waterboarding, which was an "authorized" EIT, and other unauthorized techniques, such as forced nudity; approximately two-and-a-half days of sleep deprivation in December 2002, with his arms shackled over his head for as long as 16 hours (p. 103, fn 597); and mock execution with an unloaded gun, having a drill revved near al-Nashiri's head, and threats of sexual assault against his mother (p. 67-70);
- Ramzi bin al-Shibh, another "high value detainee" also currently at Guantánamo Bay awaiting capital trial by military commission, was rendered to DSB in February 2003 (p. 76) and immediately subjected to "sensory deprivation" that entailed shaving his head, stripping him naked, exposing him to loud noise in a white room with white lights and to uncomfortably cool temperatures, and shackling him hand and foot with his arms outstretched over his head (p. 77) and to EITs, including sleep deprivation, dietary manipulation, facial holds, attention grasps, abdominal slaps, facial slaps and walling, all of which continued for weeks after DSB interrogators had told CIA HQ that Ramzi bin al-Shibh was cooperative and they did not believe he had any information about future attacks (p. 78-79);
- Khalid Sheikh Mohammed (KSM), another "high value detainee" also currently at Guantánamo Bay awaiting capital trial by military commission, was rendered to DSB in March 2003 (p. 83) and was subjected to EITs, including 15 waterboarding sessions, over one, two-week period at DSB (pp. 85-92) and sleep deprivation, most of it in the standing position, for 180 hours or over 7 straight days (p. 90);
- Authorities in the country that hosted DSB originally refused to permit the transfer into the country of a group of detainees that included KSM, but became more "flexible" after money in the millions of dollars was offered by the US (pp.74-75);<sup>32</sup>
- Walid bin Attash (referred to as Khallad bin Attash in the SSCI summary) was taken into CIA custody in May 2003 and immediately subjected to EITs (p. 244) including facial grabs, facial insult slaps, abdominal slaps, walling, and water dousing; the chief of base at DSB, however, had determined that bin Attash did not "'warrant' the CIA's enhanced interrogation techniques" (p. 122, fn 724);
- In July 2003 while seeking policy reaffirmation that EITs were "humane" the CIA suspended approvals of the use of EITs. During that time, Walid bin Attash, who had only one leg and a prostheses on the other, was subjected to "standard" interrogation techniques which included standing sleep deprivation for 70 hours, then sleep for 4 hours, then standing again for 23 hours and then 20 more hours of seated sleep deprivation (p. 117);<sup>33</sup>
- KSM, al-Nashiri, and Abu Zubaydah were all subjected to rectal rehydration or rectal

feeding -- and Ramzi bin al-Shibh and Walid bin Attash were threatened with the procedure -- "without evidence of medical necessity;"<sup>34</sup> some of the interviews, emails, and cables containing information about this procedure pertaining to these detainees date from 2003, indicating that the procedure or threats of employing the procedure could have taken place at DSB (p. 100, fn 584);

- DSB was closed in the fall of 2003, but officials in the country that hosted the site reacted with "deep shock and regret," were "extremely upset" at the CIA's inability to keep secrets, and were "deeply disappointed" in not having had more warning of President Bush's September 2006 acknowledgment of the secret detention program (pp.74-75).

In the aftermath of the SSCI study summary Polish prosecutors said that they will request the full version of the Committee's study for use in their investigation.<sup>35</sup>

Following the European Court ruling in the al-Nashiri and Abu Zubaydah cases, Amnesty International called again on the Polish government to conduct a timely and effective investigation, ensure that those state actors responsible for crimes under international law such as torture and enforced disappearance are brought to justice, and afford victims an effective remedy.<sup>36</sup> In light of the December 2014 SSCI study and public admissions and statements of former Polish officials, we now reiterate that call and urge the Polish authorities to vigorously pursue all lines of inquiry in the case -- including what laws may have been violated by the alleged transfer of any monies from the US to Polish authorities for the purpose of hosting a secret detention site -- and conclude the investigation as a matter of urgency.

## 3. ROMANIA: “DETENTION SITE BLACK”?

One of the most surprising reactions to the SSCI summary came from Ioan Talpes, the former head of the Romanian intelligence service (1992-1997) and national security adviser to then President Ion Iliescu from 2000-2004. After years of official denials of any involvement in the CIA's interrogation operations, Talpes told *Der Spiegel* on 13 December 2014 that the Romanian intelligence agency had in fact cooperated with the CIA and permitted it to operate “one or two” detention facilities in Romania where people “probably” were held between 2003 and 2006, and suffered inhumane treatment.<sup>37</sup> Talpes said that he had informed then President Iliescu that the CIA was engaged in “certain activities” in Romania, but denied knowing at the time what was happening in the facilities. He claimed Romania had “explicitly taken no interest” in what the CIA was doing-- and attributed the close cooperation with the CIA to Romania's bid for membership in the North Atlantic Treaty Organization (NATO).<sup>38</sup> Talpes' admissions conform to information previously collected by a wide range of media, and intergovernmental and non-governmental organizations that categorically concluded that Romania had hosted a secret CIA detention site where detainees were held and tortured and otherwise ill-treated.<sup>39</sup>

Shortly after Talpes' statement, Prime Minister Victor Ponta claimed that he had no knowledge of CIA sites in Romania, but pointed to an on-going investigation by the Romanian Prosecutor General of allegations by Abd al-Rahim al-Nashiri that he had been held in secret CIA detention in Romania (see below regarding al-Nashiri's European Court of Human Rights case). Ponta has said that Romania will be “completely transparent” about any information it has regarding the facilities.<sup>40</sup> It has been reported that the Ministry of Foreign Affairs has launched its own inquiry and will request the full, unredacted version of the SSCI report from the US authorities.<sup>41</sup>

The admission by Ioan Talpes and the promise of transparency from Prime Minister Ponta signalled a sea change in terms of Romania's approach to years of mounting evidence that it had in fact housed a secret CIA detention facility. Since it was first reported in the media in 2005 that Romania housed a secret site, the official response has been to categorically deny any involvement in the CIA operations and/or to maintain complete silence regarding any new allegations, including from credible sources at Council of Europe, EU, and UN levels.<sup>42</sup> A Romanian Senate Committee of Inquiry conducted proceedings in secret and in 2007 concluded that Romania had no role in the CIA operations.<sup>43</sup> Between 2008 and 2013 several media outlets claimed that their investigations revealed that Khalid Sheikh Mohammed and Abd al-Rahim al-Nashiri, among others, had been secretly held in Romania.<sup>44</sup> Flight data collected by journalists and human rights organizations revealed several rendition flights into and out of Romania, and linked flights into and out of Poland with some arriving and departing Romania.<sup>45</sup>

In December 2011, an Associated Press and German TV report revealed that the CIA detention facility in Romania was called “Bright Light” and was located in a government building housing the National Registry Office for Classified Information (ORNISS) in

downtown Bucharest.<sup>46</sup> In August 2012, the Open Society Justice Initiative lodged an application on Abd al-Rahim al-Nashiri's behalf against Romania at the European Court of Human Rights alleging that he had been held in secret CIA custody and tortured there.<sup>47</sup> According to the Court's "statement of facts," after being held in CIA secret detention in Afghanistan (2002), Poland (2002-2003), Morocco (2003), Guantánamo Bay (2003-2004), and Morocco again (early 2004), al-Nashiri was moved to the CIA secret detention facility in Bucharest, Romania sometime in 2004.<sup>48</sup> He was finally transferred back to Guantánamo Bay in September 2006.<sup>49</sup>

The SSCI summary refers to "DETENTION SITE BLACK," (DSBK) the details of which closely correlate to public information and flight data regarding CIA rendition flights and the secret detention facility called "Bright Light" that operated in Bucharest from 2003-2005. Relevant information about DSBK in the SSCI report included:

- Detainees were first transferred to DSBK in the fall of 2003; the CIA offered the authorities in that country millions of dollars to show appreciation for their support, including an additional unsolicited subsidy in the million/s of dollars (p. 97);
- Although the US Ambassador at the time initially expressed concern about the legality of interrogations at the site and whether the US State Department was fully aware of the arrangement, he subsequently joined the CIA to encourage the authorities of the country to continue their support for the site, in part by "inaccurate representations" of the value of information gleaned through interrogations at DSBK (pp. 97-98);
- The same chief expressed concern to CIA HQ regarding the detention of detainees who arguably were not involved in terrorism-related activity or were in no condition to undergo interrogation, including Janat Gul, transferred to DSBK in January 2004 (p. 396) and who suffered "frightful" hallucinations following sleep deprivation and about whom the chief of the detention facility wrote, "[t]here simply is no 'smoking gun' that we can refer to that would justify our continued holding of [Janat Gul] at a site such as [DSBK] (pp. 16, fn 33; p. 349);
- Khalid Sheikh Mohammed was transferred to DSBK in the fall of 2003 (p. 95);
- Abd al-Rahim al-Nashiri was held in DSBK in 2004-2005 (p. 73, fn 372); his extreme psychological problems were a key consideration in the CIA's move toward an "end game" regarding detention operations (p. 114, fn 674);
- Hassan Ghul was transferred to DSBK in January 2004 and was immediately subjected to EITs (p. 375);
- Abu Faraj al-Libi was transferred to DSBK in May 2005; EITs were used on him there two days before the Office of Legal Counsel memos concluded that EITs did not violate the US's international legal obligations, namely Article 16 of the UN Convention Against Torture (pp. 147-148);
- After the publication of Dana Priest's article on 2 November 2005 revealing the presence in central and eastern Europe of secret CIA detention sites the authorities in the country where DSBK was located demanded the closure of DSBK and all detainees were

transferred out of DSBK “shortly thereafter” (p. 153).<sup>50</sup>

In light of the SSCI study summary, Amnesty International reiterates its call on the Romanian government to promptly initiate an effective investigation, ensure that those state actors responsible for crimes under international law such as torture and enforced disappearance are brought to justice, and afford victims an effective remedy.<sup>51</sup> In light of recent public admissions and statements of current and former Romanian officials, we urge the Romanian authorities to vigorously pursue all lines of inquiry in the case – including what laws may have been violated by the alleged transfer of any monies from the US to Romanian authorities for the purpose of hosting a secret detention site -- and to conclude the investigation as a matter of urgency.

## 4. LITHUANIA: “DETENTION SITE VIOLET”?

Arvydas Anušauskas, a member of the Lithuanian parliament (Seimas) and the former head of a parliamentary committee that had previously investigated allegations that Lithuania had hosted a CIA secret detention facility, told *Reuters* on 10 December 2014 that the SSCI summary “makes a convincing case that prisoners were indeed held at the Lithuanian site.”<sup>52</sup>

Although Lithuania was not specifically named, the description of “DETENTION SITE VIOLET” in the SSCI summary is consistent with details contained in the report (Seimas report) that Anušauskas’s committee publicly released in December 2009.<sup>53</sup> The spotlight was first turned on Lithuania in August 2009 when US-based ABC News quoted unnamed former CIA sources as saying that Lithuania had hosted a detention facility outside Vilnius where “high value detainees” had been held in secret until late 2005.<sup>54</sup> Unlike Poland and Romania, Lithuania had not been previously publicly identified by the media or any intergovernmental or non-governmental organization as a country that had hosted a secret CIA detention site. The day after the ABC news story, however, Swiss Senator Dick Marty, then special rapporteur on secret detentions for the Parliamentary Assembly of the Council of Europe’s Legal Affairs and Human Rights Committee (CLAH), publicly stated that his own confidential sources appeared to confirm the report of a secret CIA prison having been located in Lithuania.<sup>55</sup>

The Seimas report itself concluded that Lithuanian intelligence officials had cooperated with the CIA to establish two sites -- Project No. 1 and Project No. 2 -- in which detainees could have been held; Project No. 1, located in a small building in Vilnius, allegedly was never used for the purpose of holding detainees.<sup>56</sup> Project No. 2 was a secret site located at a converted horseback riding facility at Antaviliai, 20 kilometres from Vilnius. Cooperation with the CIA had been “blessed by the top officials of the state” according to one intelligence official interviewed by the Seimas committee.<sup>57</sup> As a result of the Seimas report, an investigation by the Lithuanian Prosecutor General commenced in January 2010 but came to an abrupt close in January 2011 amid claims by the Prosecutor General that the information gleaned in the course of the investigation was subjected to state secrets.<sup>58</sup>

Mustafa al-Hawsawi, a Saudi Arabian national, has alleged in national proceedings that he was held in secret detention in Lithuania sometime between 2004 and 2006 (this allegation is reflected in the details of DSV in the SSCI report; see below). The Vilnius Regional Court ruled in January 2014 that the Lithuanian Prosecutor General’s prior refusal to launch a pre-trial investigation into allegations that al-Hawsawi had been illegally transferred to and detained in a CIA detention centre at Antaviliai had been “groundless”.<sup>59</sup> Subsequently, the Prosecutor General opened a pre-trial investigation in February 2014 focusing on al-Hawsawi’s alleged illegal transfer to Lithuania. That investigation is ongoing.

The Prosecutor General had previously refused to investigate similar allegations made by lawyers for Abu Zubaydah, who allegedly had been held in secret CIA detention in Lithuania between February 2005 and March 2006.<sup>60</sup> The Prosecutor General’s refusal to investigate



Abu Zubaydah's allegations led to Abu Zubaydah filing an application against Lithuania at the European Court of Human Rights in 2011.<sup>61</sup> In the application, Abu Zubaydah alleged that he was rendered to Lithuania in February 2005 and was held in a secret CIA detention facility "in accordance with prior authorisation from high level Lithuanian authorities."<sup>62</sup> Moreover, Lithuanian officials participated in and provided cover for his and others' rendition into and out of Lithuania, and their secret detention and torture on Lithuanian soil. On an unknown date, likely after the public disclosure of the presence of CIA secret detention facilities in Poland and Romania in December 2005, Abu Zubaydah was transferred from Lithuanian territory to detention in an undisclosed location, from which he was transferred in September 2006 to Guantánamo Bay.<sup>63</sup>

In January 2015, the nongovernmental organization Reprieve published a detailed dossier of information, including new evidence sourced by Reprieve and information drawn from the SSCI study, to conclude "beyond reasonable doubt" that detainees were held in secret CIA detention in Lithuania in 2005-2006.<sup>64</sup>

Relevant information regarding "DETENTION SITE VIOLET" (DSV) in the SSCI summary included:

- DSV opened in early 2005 (p. 143) as part of "end game" plans for CIA secret detention operations;<sup>65</sup>
- The CIA concluded in mid-2003 that an original "holding cell" was "insufficient" and arranged to build an expanded facility (p. 98);<sup>66</sup>
- The CIA offered officials in the country that housed DSV an undisclosed number of millions of dollars to "show appreciation" for support of "the program" and developed "complex mechanisms" for the delivery of the money (p. 99);
- A high level official of the country "probably has an incomplete notion" of the site's actual function (p. 99);
- Mustafa al-Hawsawi and four other unnamed detainees suffered unspecified "acute ailments" while held in DSV in 2005-2006, and the CIA had to contract with other foreign governments to ensure adequate healthcare (p. 154);<sup>67</sup>
- As of 1 January 2006, 28 HVDs remained in CIA custody, some in DSV and others in what was referred to as "DETENTION SITE ORANGE" thought to be in Afghanistan (p. 156, fn 954);
- DSV was closed sometime in 2006 because national authorities balked at the idea of local medical facilities providing medical care for detainees, including Mustafa al-Hawsawi, held therein (p. 154).

In late December 2014, it was reported that the Lithuanian Prosecutor General had sent a request for legal assistance to the US government on 19 December 2014 but Lithuanian officials refused to disclose the contents of the request.<sup>68</sup> In the immediate aftermath of the SSCI summary release, however, Prosecutor General Irmantas Mikielionis, chief prosecutor of

the Office's Organized Crimes and Corruption Investigation Department, publicly stated that prosecutors would ask the United States for the full, unredacted version of the SSCI report.<sup>69</sup> In the meantime, a group of Lithuanian MPs lodged a motion in parliament to establish a new commission of inquiry into Lithuanian involvement in CIA secret detention operations.<sup>70</sup> President Dalia Grybauskaitė has stated that if the allegations are true “Lithuania will have to take the responsibility.”<sup>71</sup>

Amnesty International has repeatedly called on the Lithuanian authorities to conduct a full and effective investigation into its role in the CIA rendition and secret detention programmes and to ensure that any and all victims with claims against Lithuania are included in that process. We reiterate that call as a matter of urgency in light of the information included in the SSCI study summary.

## 5. UNITED KINGDOM

In Prime Minister David Cameron's response to the release of the SSCI study he condemned the use of torture and said that he was satisfied "that our system is dealing with all of these issues."<sup>72</sup> While any condemnation of torture is welcome, Cameron's assertion that the UK has adequately investigated its involvement in the US secret detention and interrogation programme, not to mention its own previous ill-treatment of foreign nationals abroad, does not hold up to scrutiny.

The UK was among a small group of key partners in the US's global counter-terrorism operations post 9/11, and arguably the US's most important ally. The SSCI summary, however, contains only one express reference to possible UK involvement in the CIA's secret detention and interrogation program: the return of former Guantánamo Bay detainee Binyam Mohamed to the UK in 2009, his subsequent law suit against the British government and court-compelled "summary of the torture" to which he had been subjected, and the reported 1 million GBP compensation award he received from the British government as a result of an out-of-court settlement.<sup>73</sup> All of this information previously had been contained in open source materials, including numerous media reports.

The absence of any other information indicating UK collaboration with the CIA has led to speculation that UK authorities "desperately lobbied" in advance of the summary's release for the document to be "cleaned" thoroughly of references that might lead back to the UK or its agents.<sup>74</sup> It had been reported that UK officials and/or envoys had met 24 times over the last 6 years with senior SSCI staff, but officials insisted that the UK sought redactions only in the interest of "national security."<sup>75</sup>

The United Kingdom government and intelligence agencies have faced a growing number of allegations, including in claims brought in domestic courts by individual victims and as a result of investigative work by NGOs and journalists, of their involvement in human rights violations of people detained overseas since 11 September 2001. The allegations have included direct involvement and complicity in torture and other ill-treatment, arbitrary detentions, enforced disappearance, and renditions of individuals detained overseas in the context of counter-terrorism operations. The issue as to whether Diego Garcia was used as a transit point and/or detention site in the context of rendition operations was also back in the news in 2014, although there is no express reference to Diego Garcia in the SSCI study summary.<sup>76</sup>

Although Prime Minister Cameron has claimed that the UK has engaged in an investigative process, there has been no genuinely independent, public inquiry into allegations of UK involvement in serious human rights violations of people detained overseas in the context of counter-terrorism operations.

In July 2010, the Prime Minister announced that he would establish an inquiry (which was later named the 'Detainee Inquiry') into the allegations of involvement of members of the UK intelligence services and other officials in torture and other human rights violations. One year later, on 6 July 2011, the UK government confirmed the terms of reference and protocol for

the Detainee Inquiry.<sup>77</sup> Amnesty International, other human rights organizations, and some of the victims raised concerns that the protocol did not meet international human rights standards because the government would have retained the final say over disclosure of material relating to national security, very broadly defined, and such executive power would undermine the inquiry's independence and effectiveness.<sup>78</sup> In August 2011, Amnesty International and nine other NGOs wrote a letter to the Solicitor to the Detainee Inquiry stating that, given the Inquiry's shortcomings, the NGOs would not cooperate with it.<sup>79</sup> Lawyers acting for the individuals who have alleged that they were tortured or otherwise ill-treated – including Binyam Mohamed -- also advised their clients that they should not participate in an inquiry that lacked independence and the proper powers. In January 2012, following further revelations about UK involvement in renditions to Libya and subsequent criminal investigations by the UK police, the UK Justice Secretary announced that the Detainee Inquiry was not capable of completing its task and would be closed.<sup>80</sup>

In December 2013, a report on the Detainee Inquiry's preparatory work was published, after significant delay. The report set out lines of investigation for any future inquiry to explore in greater detail.<sup>81</sup> To the dismay of the human rights community, the UK government retreated from David Cameron's original promise of a judge-led independent inquiry and announced that the matters raised by the Detainee Inquiry's report would be addressed by the Intelligence and Security Committee (ISC) of the UK Parliament.

The ISC, which commenced its inquiry in September 2014, had previously failed to fully investigate – or was not provided adequate powers to secure information to fully investigate – prior allegations of torture and other ill-treatment and rendition in the context of counter-terrorism and national security.<sup>82</sup> Despite some changes to the powers of the ISC following the enactment of the Justice and Security Act 2013, the UK government still retains the right to withhold information from the ISC where material is considered to be “sensitive” or on grounds of national security and retains the right to exclude material “prejudicial to the continued discharge of the functions [of the intelligence agencies from publication in any report published by the ISC. The UK government's position to date has been that “it would not be possible to initiate an inquiry while related police investigations continue,” but that “the Government has left open the question of whether there should be a further judge-led inquiry pending the outcome of the [ISC's] follow up work”.<sup>83</sup> In October 2014, in response to the ISC's call for written submissions, the NGOs formally stated the ISC was not and could not be, by its very design, adequate to the task of carrying out an independent investigation of these violations, and consequently, they did not propose to play a substantive role in the conduct of the ISC's inquiry.<sup>84</sup>

With respect to the ongoing criminal investigation referred to by the UK government, developments in 2013 and 2014 reflect continuing deference to the government in matters of disclosure of information. Abdul-Hakim Belhaj -- currently head of Libya's al-Watan Party though formerly a high-ranking opposition commander during the armed conflict in Libya -- has been pursuing a claim that British officials were complicit in his alleged abduction, illegal transfer to Libya and torture as part of the CIA's rendition programme in 2004. During his six-year detention in Libya, he was allegedly beaten, hung from walls, cut-off from human contact and daylight, and sentenced to death. Meanwhile, his wife - Fatima Boudchar - was also rendered to Libya, detained and denied proper medical care despite being pregnant at the time.<sup>85</sup>

In December 2013, the High Court held that the “act of state” doctrine, a rule of common law, prevented a court from judging the acts of foreign states committed on their own territory and ruled that the Belhaj case could not go forward in the UK courts.<sup>86</sup> Belhaj appealed the High Court decision to the UK Court of Appeal. In October 2014, the UK Court of Appeal ruled to allow the Belhaj appeal.<sup>87</sup> The case is currently pending before the UK Supreme Court after it permitted an appeal by the named defendants based on the “act of state” doctrine and the principle of “state immunity.”

Amnesty International has maintained the position that any new inquiry initiated by the UK must be in line with its international human rights obligations and should avoid the many deficiencies of the Detainee Inquiry.<sup>88</sup> Moreover, the ISC is not an independent body with the necessary powers to get at the truth.

In the aftermath of the release of the SSCI study, Amnesty International reiterates its longstanding called on the UK government to implement a fully independent, impartial, thorough and effective public inquiry to investigate UK state actors' alleged human rights violations of persons in the context of counter-terrorism operations abroad.

## 6. FORMER YUGOSLAV REPUBLIC OF MACEDONIA/GERMANY: CASE OF KHALED EL-MASRI

The SSCI study summary serves as further confirmation of what had been an open, but officially unacknowledged, secret for a decade: based on poor intelligence and institutional intransigence, German national Khaled el-Masri<sup>89</sup> was a victim of “wrongful detention” by the Macedonian authorities and the CIA, whose agents colluded to apprehend, secretly detain, and ill-treat el-Masri in Macedonia, and illegally transfer him to torture in a secret site in Afghanistan in the course of his five months in CIA custody.<sup>90</sup>

### 6.1 MACEDONIA

On 31 December 2003, the Macedonian authorities arrested el-Masri, a German national of Lebanese descent, after he entered Macedonia from Serbia. They held him incommunicado, subjecting him to enforced disappearance, repeated interrogations and to ill-treatment, until 23 January 2004 when they handed him over to the CIA, which transferred him to a secret detention site in Afghanistan. There he was held unlawfully in secret, not charged with any crime and his detention was not subject to judicial review. He did not have access to a lawyer. His whereabouts were not acknowledged and he was held incommunicado. As a result he was subjected to enforced disappearance for over four months. While in Afghanistan, he was subjected to torture and other ill-treatment. On 28 May 2004, El-Masri was put on a plane and flown to Albania where he was released.<sup>91</sup>

Macedonia was the first European country to have been held accountable for its direct involvement and complicity in a CIA-associated rendition. In December 2012 the Grand Chamber of the European Court of Human Rights held that Macedonia was responsible for the Khaled el-Masri's unlawful detention, enforced disappearance, torture and other ill-treatment, and for his transfer out of Macedonia to locations where he suffered further serious violations of his human rights. Further, the Court ruled that Macedonia had not satisfied its obligation to carry out an effective investigation.<sup>92</sup> The landmark ruling, which is final, set the stage for accountability in Europe and has been widely hailed for its reasoned judgment, including advancing the principle of the right to truth.<sup>93</sup> To date, the Macedonian government has not submitted a “plan of action” to the Council of Europe's Committee of Ministers that indicates how the Macedonian authorities will implement the European Court judgment.

Amnesty International calls on the Macedonian government to conduct an independent, impartial, thorough and effective investigation into the rendition of Khaled el-Masri and any other involvement on the part of Macedonia in the CIA's rendition and secret detention programmes. The Macedonian authorities immediately should submit a “plan of action” for the full implementation of the European Court of Human Rights judgment in the *Khaled el-Masri v Former Yugoslav Republic of Macedonia* case, including a commitment to conduct a full and effective investigation.

## 6.2 GERMANY

The release of the SSCI study also brought Germany back into the spotlight. Although it was reported that German Foreign Minister Frank-Walter Steinmeier tweeted that the SSCI study indicated "clear violations of democratic values" which "cannot be repeated," the German government itself has not fully and effectively investigated its own role in the CIA operations, nor has it taken necessary measures on behalf of its own national, Khaled el-Masri to ensure that he has access to justice and been afforded effective redress as a victim of torture.<sup>94</sup>

A three-year German parliamentary inquiry had included an examination of Khaled el-Masri's rendition, but eventually concluded in a June 2009 report that no German government actor was involved or would be held accountable.<sup>95</sup> The German Constitutional Court had ruled the day before the German parliamentary inquiry report was issued, however, that the German government had violated the German Constitution by failing to fully cooperate with the inquiry, including by withholding information related to Khaled al-Masri's case. Based on this Court decision, Amnesty International requested in February 2010 that the German government re-open the parliamentary inquiry and fully cooperate with the process in line with its Constitutional obligations. In an April 2010 letter, German Interior Minister Thomas de Maizière, who still holds the post, rejected that request.<sup>96</sup>

The SSCI study has also renewed calls for German government action on behalf of its citizen, Khaled el-Masri. In December 2014, the Berlin-based European Center for Constitutional and Human Rights (ECCHR) called on the German government to request the extradition of thirteen former CIA-employees believed to have been involved in Khaled el-Masri's rendition.<sup>97</sup> In January 2007, the Munich District Court had issued 13 arrest warrants against the CIA officials and agents on charges of causing grievous bodily harm and deprivation of liberty. To date, the German Federal Office of Justice has declined to officially request that the US government extradite the CIA employees, apparently in order to maintain good relations with the US government. In light of the SSCI study's acknowledgement that el-Masri was wrongfully detained, the ECCHR has also requested that the German government request that the USA apologize to Khaled el-Masri and offer him compensation.<sup>98</sup>

Amnesty International renews its call to the German government to re-open its own investigation into its role in the CIA counter-terrorism operations, including in the rendition of Khaled el-Masri, and to ensure that the German government complies with its Constitutional duty to cooperate fully with any such investigation. Amnesty International supports ECCHR's call for the German government to transmit to the USA the warrants for the extradition of the 13 CIA employees believed to have been involved in the el-Masri rendition. Amnesty International also urges the German authorities to take all necessary diplomatic measures to engage with the US government with an eye toward full and effective redress for Khaled el-Masri as a victim of torture.

## ENDNOTES

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<sup>1</sup> CIA document dated 12 January 2005 entitled, "DCI Talking Points for Weekly Meeting with National Security Advisor." Senate Select Committee on Intelligence, Committee Study of the Central Intelligence Agency's Detention and Interrogation Programme (hereafter "SSCI study"), approved 13 December 2012; updated for release 3 April 2014; declassification revisions 3 December 2014, released with redactions on 9 December 2014, p. 150, <http://www.intelligence.senate.gov/study2014/sscistudy1.pdf>.

<sup>2</sup> Reports from the Council of Europe, European Union and United Nations comprise the foundational intergovernmental investigative reporting on European complicity in the CIA operations. They include: European Parliament, Report on alleged transportation and illegal detention of prisoners in European countries by the CIA (Flautre Report): follow-up of the European Parliament TDIP Committee report, September 2012, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2012-0266+0+DOC+PDF+V0//EN>; United Nations Human Rights Council, Joint study on global practises in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, and the Working Group on Enforced and Involuntary Disappearances, A/HRC/13/42, 19 February 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>; Parliamentary Assembly Council of Europe, Committee on Legal Affairs and Human Rights, Secret Detentions and Illegal Transfers of Detainees Involving Council of Europe Member States: Second Report, Doc. 11302 rev., 11 June 2007, <http://assembly.coe.int/Documents/WorkingDocs/Doc07/edoc11302.pdf>; European Parliament Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners (TDIP), Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners, A6-0020/2007 FINAL, February 2007, [http://www.europarl.europa.eu/comparl/tempcom/tdip/final\\_report\\_en.pdf](http://www.europarl.europa.eu/comparl/tempcom/tdip/final_report_en.pdf). See also Amnesty International, "Open Secret: Mounting Evidence of Europe's Complicity in Rendition and Secret Detention," EUR 01/023/2010, 15 November 2010, <http://www.amnesty.org/en/library/asset/EUR01/023/2010/en/3a3fdac5-08da-4dfc-9f94-afa8b83c6848/eur010232010en.pdf>; Open Society Justice Initiative (OSJI), "Globalizing Torture: CIA Secret Detention and Extraordinary Rendition," February 2013, <http://www.opensocietyfoundations.org/sites/default/files/globalizing-torture-20120205.pdf>; Constitution Project, Report of the Constitution Project's Task Force on Detainee Treatment, April 2013, <http://detainee-taskforce.org/read/>; Amnesty International, HDIM Statement on Accountability for European Complicity in CIA Torture and Enforced Disappearance: An Update on Developments in Europe, 2013-2014, HDIM.NGO/0093/14, 24 September 2014, <http://www.osce.org/odihr/124110?download=true>.

<sup>3</sup> Ray Sanchez, "World Reacts to U.S. Torture Report," CNN, 11 December 2014, <http://www.cnn.com/2014/12/10/world/senate-torture-report-world-reaction/>.

<sup>4</sup> Amnesty International, Partners in Crime: Europe's Role in US Renditions, EUR 01/008/2006, 13 June 2006, <http://www.amnesty.org/en/library/asset/EUR01/008/2006/en/e94ef88a-fa05-11dd-b1b0-c961f7df9c35/eur010082006en.pdf>.

<sup>5</sup> The "executive summary" of the SSCI study runs from pages numbered 1-6; the "findings and



conclusions” section is next and the pages are numbered 1-19; the body of the summary report then runs from pages numbered 1-499. Unless otherwise indicated, all citations to the SSCI study in this briefing paper are from the body of the summary report.

<sup>6</sup> The following European states were involved in some manner in US rendition operations: Albania, Austria, Belgium, Bosnia-Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Finland, Germany, Greece, Iceland, Ireland, Italy, Lithuania, Former Yugoslav Republic of Macedonia, Poland, Portugal, Romania, Spain, Sweden, Turkey, and UK. See the reports listed in footnote 2 above. Of the European countries identified as having been embedded in the US's rendition system, only Italy and Sweden have partially complied with their international legal obligations to investigate, hold perpetrators accountable, and offer effective redress to victims. In neither case, however, have these governments fully complied with these obligations. For the latest developments in Italy regarding the 2003 rendition of Abu Omar see Amnesty International, HDIM Statement on Accountability for European Complicity in CIA Torture and Enforced Disappearance: An Update on Developments in Europe, 2013-2014, HDIM.NGO/0093/14, 24 September 2014, pp. 2-3; for information on Sweden, see OSJI, Globalizing Torture, pp. 109-110.

<sup>7</sup> SSCI Study, p. 64, fn 318.

<sup>8</sup> For access to a detailed database of the entry and exit dates into/out of the CIA secret detention and interrogation programme of all 119 detainees named in the SSCI study, see Crofton Black, “Revealed: Only 28 Detainees from Secret CIA Torture Program Remain in Guantánamo Bay,” Bureau of Investigative Journalism, 14 January 2015, <http://www.thebureauinvestigates.com/2015/01/15/28-detainees-secret-cia-torture-program-guantanamo-bay/>.

<sup>9</sup> See Amnesty International, USA: Turning a Page, but Torture Chapter Far from Closed, AMR 51/059/2014, 9 December 2014, <http://amnesty.org/en/library/asset/AMR51/059/2014/en/c417ebfe-a210-41e6-adc3-ad91766261fd/amr510592014en.pdf>; and Amnesty International, USA: Senate Summary Report Must Not be End of Story, 9 December 2014, <http://www.amnesty.org/en/for-media/press-releases/usa-senate-summary-report-cia-detention-programme-must-not-be-end-story-2014>.

<sup>10</sup> Amnesty International, USA: Call for Commission of Inquiry into ‘War on Terror’ Detentions, 18 May 2004, <http://www.amnesty.org/en/library/info/AMR51/088/2004/en>.

<sup>11</sup> Amnesty International, USA: Investigation, Prosecution, Remedy: Accountability for Human Rights Violations in the ‘War on Terror’, 4 December 2008, <http://www.amnesty.org/en/library/info/AMR51/151/2008/en>.

<sup>12</sup> The White House, Remarks by the President on National Security, 21 May 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-national-security-5-21-09>.

<sup>13</sup> USA: Turning a Page, but Torture Chapter Far from Closed; and USA: Senate Summary Report Must Not be End of Story, 9 December 2014.

<sup>14</sup> Ibid.

<sup>15</sup> Amnesty International, “USA: ‘We Tortured Some Folks’: The Wait for Truth, Remedy, and Accountability Continues as Redaction Issue Delays Release of Senate Report on CIA Detentions,” AMR 51/046/2014, 2 September 2014, <http://amnesty.org/en/library/asset/AMR51/046/2014/en/8d0c7580-56f8-4b33-b8c9-78994c4e2c55/amr510462014en.pdf>.

<sup>16</sup> Kwaśniewski i Miller o raporcie ws. tortur CIA, Rzeczpospolita, 10 December 2014, <http://www.rp.pl/artykul/10,1163797-Kwasniewski-i-Miller-o-raporcie-ws--tortur-CIA.html>.

<sup>17</sup> John Hall, "Torture Report Reveals How Poland Objected to CIA's Secret Jail on It's Soil – but Became 'Flexible' after being Bought Off with Large Cash Payment", DailyMail.com, 9 December 2014, <http://www.dailymail.co.uk/news/article-2867879/CIA-paid-Poland-ease-qualms-secret-prison-Senate-report.html>.

<sup>18</sup> Kwaśniewski i Miller o raporcie ws. tortur CIA, Rzeczpospolita, 10 December 2014, <http://www.rp.pl/artukul/10,1163797-Kwasniewski-i-Miller-o-raporcie-ws--tortur-CIA.html>.

<sup>19</sup> Amnesty International, Unlock the Truth: Poland's Involvement in CIA Secret Detention, EUR 37/002/2013, 12 June 2013, <http://www.amnesty.org/en/library/asset/EUR37/002/2013/en/4c2d64c3-efbd-40db-aca6-7d5568efcd80/eur370022013en.pdf>; see also, OSJI, Globalizing Torture, pp. 99-102.

<sup>20</sup> See Amnesty International, Unlock the Truth: Poland's Involvement in CIA Secret Detention, pp. 12-13 for personal testimony by the airport manager of rendition flights arriving at Szymany. It has been reported that the EU will fund the building of an international airport at the Szymany Airport site and has promised 40 million euros for the project; see Wiktar Szary and Christian Lowe, "To Boost Tourism, EU Funds Help Poland Re-Fit CIA Rendition Hub," Reuters, 14 December 2014, <http://www.reuters.com/article/2014/12/14/us-poland-airports-szymany-idUSKBN0JS06T20141214>.

<sup>21</sup> *Al Nashiri v Poland*, Application No. 28761/11, 24 July 2014, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-146044>; and *Husayn (Abu Zubaydah) v Poland*, Application No. 7511/13, 24 July 2014, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-146047>.

<sup>22</sup> Amnesty International and the International Commission of Jurists submitted third party interventions in both cases. See *Al Nashiri v Poland*: Written submissions on behalf of Amnesty International and the International Commission of Jurists, 5 November 2012; *Al Nashiri v Poland*: Written supplementary submissions on behalf of Amnesty International and the International Commission of Jurists, 15 February 2013; *Husayn (Abu Zubaydah) v Poland*: Written submissions on behalf of Amnesty International and the International Commission of Jurists, 17 October 2013.

<sup>23</sup> "Poland Appeals European Court Ruling on CIA Prison," Associated Press, 24 October 2014, [http://www.nytimes.com/aponline/2014/10/24/world/europe/ap-eu-poland-cia-prison.html?\\_r=0](http://www.nytimes.com/aponline/2014/10/24/world/europe/ap-eu-poland-cia-prison.html?_r=0). As a result of the referral, the judgments in the two cases are not yet final.

<sup>24</sup> Human Rights Watch Statement on U.S. Secret Detention Facilities in Europe, 7 November 2005, <http://www.hrw.org/news/2005/11/06/human-rights-watch-statement-us-secret-detention-facilities-europe>.

<sup>25</sup> Amnesty International, Unlock the Truth: Poland's Involvement in CIA Secret Detention, pp. 15-18.

<sup>26</sup> See for example, comments by Adam Bodnar, vice-president of the Warsaw-based Helsinki Foundation for Human Rights: "...the Polish authorities are caught in a limbo: they cannot complete the investigation because that would lead to the conviction of high level political figures; but they cannot deny the existence of the black site either, because there is too much evidence and too many eyes are watching Poland. So a sine die delay is the preferred alternative," in Claudia Ciobanu, "CIA Prison will Haunt Poland," Open Democracy, 10 April 2013, <https://www.opendemocracy.net/claudia-ciobanu/cia-prison-will-haunt-poland>.

<sup>27</sup> Amnesty International considers that EITs -- which include walling, sleep deprivation, stress positions, facial grasps, abdominal slaps, and waterboarding, among others -- alone or in combination can

constitute torture and other ill-treatment.

<sup>28</sup> George W. Bush, *Decision Points*, Random House, 9 November 2010, pp. 168-169.

<sup>29</sup> In November 2014, The Guardian newspaper reported that Walid bin Attash's Guantánamo lawyers had been approached in February 2014 by "an investigator for a foreign country" – widely believed to have been a Polish investigator -- seeking to interview their client. Walid bin Attash drafted a 10-line response signalling his willingness to cooperate, and it was sent for declassification review. In June 2014, the review concluded that although the letter contained no specifically classified information, it could not be transmitted to the foreign investigator lest it reveal unspecified classified information. See Spencer Ackerman, "Highest Value Terror Detainees Excluded from Senate Investigation of CIA Torture," The Guardian, 24 November 2014, <http://www.theguardian.com/law/2014/nov/24/highest-value-terror-detainees-senate-investigators-report-cia-torture>

<sup>30</sup> See Mustafa al-Hawsawi's application to the Polish Prosecutor, 12 November 2013, <http://www.redress.org/downloads/application-to-appellate-prosecutor---english-translation.pdf>.

<sup>31</sup> SSCI study, pp. 74-75.

<sup>32</sup> A key line of inquiry in any investigation should include what happened to the money that changed hands and what laws may have been violated by accepting such funds in the first place.

<sup>33</sup> See also Spencer Ackerman, "How the Torture Report Could Unravel Prosecution of Alleged 911 Masterminds: Lawyers for Detainees Walid bin Attash and Khalid Sheikh Mohammed Argue that CIA Methods Render Evidence Invalid," The Guardian, 10 December 2014, <http://www.theguardian.com/us-news/2014/dec/10/how-the-torture-report-could-unravel-prosecution-of-alleged-911-masterminds>.

<sup>34</sup> In the absence of medical necessity, rectal rehydration or rectal feeding would amount to the rape of any detainees subjected to these procedures.

<sup>35</sup> Christian Lowe and Pavel Sobczak, "After U.S. Torture Report, Poland asks What its Leaders Knew," Reuters, 12 December 2014, <http://www.reuters.com/article/2014/12/12/us-usa-cia-torture-poland-insight-idUSKBN0JQ1QQ20141212>

<sup>36</sup> Amnesty International, "Landmark Rulings Expose Poland's Role in CIA Secret Detention and Torture," 24 July 2014, <http://www.amnesty.org/en/news/landmark-rulings-expose-poland-s-role-cia-secret-detention-and-torture-2014-07-24>.

<sup>37</sup> Keno Verseck, "Black Site" in Rumänien: Ehemaliger Spionagechef gibt Existenz von CIA-Lager zu, Spiegel Online, 13 December 2014, <http://www.spiegel.de/politik/ausland/rumaenien-ex-spionagechef-spricht-ueber-black-site-der-cia-a-1008333.html>; See also, Radu-Sorin Marinas and Christian Lowe, "U.S. Torture Report Puts Romania's Role under Scrutiny," Reuters, 16 December 2014, [http://news.yahoo.com/u-torture-report-puts-romania-role-under-scrutiny-184206844.html?utm\\_source=twitterfeed&utm\\_medium=twitter](http://news.yahoo.com/u-torture-report-puts-romania-role-under-scrutiny-184206844.html?utm_source=twitterfeed&utm_medium=twitter).

<sup>38</sup> Keno Verseck, "Black Site" in Rumänien". See also, Kate Connolly, "Romanian ex-Spy Chief Acknowledges CIA had 'Black Prison' in Country," The Guardian, 14 December 2014, <http://www.theguardian.com/world/2014/dec/14/romania-cia-black-prisons-ioan-talpes>.

<sup>39</sup> See footnote 2.

<sup>40</sup> Andra Timu, Aaron Eglitis, Misha Savic, "Romanian Prosecutors Investigate Alleged CIA Prison, Ponta Says," Business Week, 16 December 2014, <http://www.businessweek.com/news/2014-12-16/romanian->

[prosecutors-investigate-alleged-cia-prison-ponta-says](#).

<sup>41</sup> Marian Chiriac, "Romania Vows to Come Clean in CIA Report," Balkan Insight, 18 December 2014, <http://www.balkaninsight.com/en/article/romania-to-clear-all-issues-related-to-cia-report>.

<sup>42</sup> Human Rights Watch Statement on U.S. Secret Detention Facilities in Europe, 6 November 2005, <http://www.hrw.org/en/news/2005/11/06/human-rights-watch-statement-us-secret-detention-facilities-europe>. See also, fn 2 regarding intergovernmental investigative reports, all of which have named Romania as having hosted a secret CIA detention site.

<sup>43</sup> Amnesty International, Open Secret, pp. 30-31.

<sup>44</sup> Ibid.

<sup>45</sup> OSJI, Globalizing Torture, pp. 103-106.

<sup>46</sup> Adam Goldman and Matt Apuzzo, "AP Exclusive: Inside Romania's Secret CIA Prison," 8 December 2011, <http://news.yahoo.com/ap-exclusive-inside-romaniyas-secret-cia-prison-050239912.html>.

<sup>47</sup> Adb al-Rahim Husseyn Muhammad al-Nashiri v Romania, Application No. 33234/12, 1 June 2012, <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-113814>.

<sup>48</sup> Al-Nashiri v Romania, paras. 24-31.

<sup>49</sup> The SSCI Study states that beginning in June 2003, after having been held in Afghanistan and Poland, al-Nashiri was transferred to five different CIA detention sites before being finally moved to Guantánamo Bay in September 2006. SSCI study, p. 72.

<sup>50</sup> Dana Priest, "CIA Holds Terror Suspects in Secret Prisons," Washington Post, 2 November 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/01/AR2005110101644.html>.

<sup>51</sup> Amnesty International, Open Secret, p. 31.

<sup>52</sup> "Lithuania asks U.S. to say if CIA Tortured Prisoners there," *Reuters*, 10 December 2014, [http://www.huffingtonpost.com/2014/12/10/lithuania-cia-torture\\_n\\_6300540.html](http://www.huffingtonpost.com/2014/12/10/lithuania-cia-torture_n_6300540.html); see also,

<sup>53</sup> "Findings of the parliamentary investigation by the Seimas Committee on National Security and Defence concerning the alleged transportation and confinement of persons detained by the Central Intelligence Agency of the United States of America in the territory of the Republic of Lithuania" (hereinafter "Seimas Report"), 22 December 2009, p. 7, [http://www3.lrs.lt/pls/inter/w5\\_show?p\\_r=6143&p\\_k=2](http://www3.lrs.lt/pls/inter/w5_show?p_r=6143&p_k=2).

<sup>54</sup> Matthew Cole, "Officials: Lithuania Hosted Secret CIA Prison to Get 'Our Ear'", ABC News, 20 August 2009, <http://abcnews.go.com/Blotter/story?id=8373807>.

<sup>55</sup> Dick Marty, "Time for Europe to Come Clean Once and for All over Secret Detentions", 21 August 2009, <https://wcd.coe.int/ViewDoc.jsp?id=1491477&Site=DC>.

<sup>56</sup> Seimas Report, p. 6.

<sup>57</sup> Seimas Report, p. 6.

<sup>58</sup> Amnesty International, Unlock the Truth in Lithuania: Investigate Secret Prisons Now, EUR/53/002/2011, 29 September 2011, <http://www.amnesty.org/en/library/asset/EUR53/002/2011/en/dd6dc600-25ea-4299-8aec->

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<sup>59</sup> Amnesty International, "Lithuanian Court's Ruling on CIA Rendition Case a Breakthrough for Justice," 29 January 2014, <http://www.amnesty.org/en/news/lithuania-court-decision-cia-detention-2014-01-29>

<sup>60</sup> Amnesty International, *Unlock the Truth in Lithuania*, pp. 15-17 and 21-22.

<sup>61</sup> *Abu Zubaydah v Lithuania*, Application No. 46454/11, 14 July 2011, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115816>

<sup>62</sup> *Ibid.*, para. 9.

<sup>63</sup> *Ibid.*, paras. 10-12.

<sup>64</sup> Reprieve, *New Evidence Shows CIA Held Prisoners in Lithuania*, 16 January 2015, <http://www.reprieve.org.uk/press/new-evidence-shows-cia-held-prisoners-in-lithuania/>.

<sup>65</sup> This information from the SSCI summary comports with both Abu Zubaydah's claim that he was transferred to Lithuania in February 2005 and with Mustafa al-Hawsawi's claim to have been held in Lithuania between 2004 and 2006.

<sup>66</sup> This would explain the fact that, according to the Seimas report, Project No. 1 entailed the equipping of "facilities suitable for holding detainees...taking account of the requests and conditions set out by the partners," but in the end, the facilities of Project No. 1 were "not used for the purpose of holding detainees," Seimas Report, p. 6. Construction began on Project No. 2 in 2004, which would have made the facility available for use beginning in 2005. *Ibid.*

<sup>67</sup> The SSCI study summary noted some of Mustafa al-Hawsawi's ongoing health problems, specifically related to a "rectal exam" conducted with "excessive force" to which he had been subjected at "DETENTION SITE COBALT" sometime in 2003: "CIA leadership, including General Counsel Scott Muller and DDO James Pavitt, was also alerted to allegations that rectal exams were conducted with 'excessive force' on two detainees at DETENTION SITE COBALT. CIA attorney [REDACTED] was asked to follow up, although CIA records do not indicate any resolution of the inquiry. CIA records indicate that one of the detainees, Mustafa al-Hawsawi, was later diagnosed with chronic hemorrhoids, an anal fissure, and symptomatic rectal prolapse." SSCI study, p. 100, fn 584.

<sup>68</sup> "Lithuania Parliament urged to once again probe CIA prison," Baltic News Service, 29 December 2014, <http://en.delfi.lt/lithuania/foreign-affairs/lithuanian-parliament-urged-to-once-again-probe-into-cia-prison.d?id=66776060>.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> "President Grybauskaitė: Lithuania will have to accept responsibility, if CIA prison allegations prove correct", Baltic News Service, 10 December 2014, <http://en.delfi.lt/lithuania/foreign-affairs/president-grybauskaitė-lithuania-will-have-to-accept-responsibility-if-cia-prison-allegations-prove-correct.d?id=66633092>.

<sup>72</sup> Anoosh Chakelian, "'Torture is Always Wrong': David Cameron Responds to the CIA Report," *New Statesman*, 10 December 2014, <http://www.newstatesman.com/politics/2014/12/torture-always-wrong-david-cameron-responds-cia-report> and Iain Cobain, "Britain Convulsed by its Dirty Secret in Wake of CIA Torture Report," *The Guardian*, 12 December 2014, <http://www.theguardian.com/us->

[news/2014/dec/12/britain-torture-report-cia-cameron-uk-inquiry.](#)

<sup>73</sup> SSCI study, p. 238-239. In the SSCI study, Binyam Mohamed's name is spelled Binyam Mohammad.

<sup>74</sup> Ian Drury, "Ministers STILL Won't tell Truth about Foreign Torture: Foreign Office refuses to give details of UK meetings with team behind CIA dossier," Daily Mail, 29 December 2014, <http://www.dailymail.co.uk/news/article-2890686/Ministers-won-t-tell-truth-torture-Foreign-Office-refuses-details-UK-meetings-team-CIA-dossier.html>.

<sup>75</sup> Ibid.

<sup>76</sup> Cori Crider, "7 Things You should Know About Diego Garcia and Renditions," The Guardian, 11 July 2014, <http://www.theguardian.com/commentisfree/2014/jul/11/7-things-diego-garcia-rendition-flights-documentaton-water-damage>.

<sup>77</sup> These documents, published on 6 July 2011, are available to download directly from the Detainee Inquiry's website: <http://www.detaineeinquiry.org.uk/2011/07/news-release-terms-of-reference-and-protocol-published/>. For the formal ministerial statement, see Hansard, 6 July 2011, Column 100WS: <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110706/wmstext/110706m0001.htm#11070675000064>

<sup>78</sup> Amnesty International, "UK: Detainee Inquiry Terms of Reference and Protocol Fall Far Short of Human Rights Standards," EUR 45/011/2011, August 2011, <http://www.amnesty.org/en/library/info/EUR45/011/2011/en>.

<sup>79</sup> UK: Joint NGO Letter to the Solicitor to the Detainee Inquiry, AI Index EUR 45/010/2011, August 2011, <http://www.amnesty.org/en/library/info/EUR45/010/2011/en>.

<sup>80</sup> The formal ministerial statement can be found in Hansard, 18 January 2012, Column 751-760, <http://www.publications.parliament.uk/pa/cm201212/cmhansrd/cm120118/debtext/120118-0001.htm>. See also Statement by Chairman of the Detainee Inquiry, 18 January 2012, <http://www.detaineeinquiry.org.uk/2012/01/statement-by-the-chairman-of-the-detainee-inquiry/>; and Amnesty International, "UK: Detainee Inquiry Closure Presents an Opportunity for Real Accountability," EUR 45/005/2012, 18 January 2012, <http://www.amnesty.org/en/library/info/EUR45/011/2011/en>

<sup>81</sup> The full report can be downloaded here: <http://www.detaineeinquiry.org.uk/2013/12/report-of-the-detainee-inquiry/>. For Amnesty International's response to the report's publication, see: "UK: Decision to Hand Torture Inquiry to Intelligence Committee Strongly Criticised," PRE01/667/2013, 19 December 2013, <http://www.amnesty.org/en/for-media/press-releases/uk-decision-hand-torture-inquiry-intelligence-committee-strongly-criticised>.

<sup>82</sup> United Kingdom: Joint NGO letter regarding the parliamentary Intelligence and Security Committee's examination of allegations of UK complicity in torture and other ill-treatment of detainees held overseas, EUR 45/005/2014, 7 April 2014, <http://amnesty.org/en/library/info/EUR45/005/2014/en>

<sup>83</sup> Letter from William Hague, Secretary of State for Foreign and Commonwealth Affairs to Amnesty International, 4 May 2014.

<sup>84</sup> United Kingdom: Joint NGO letter to Intelligence and Security Committee, EUR 45/011/2014, 30 October 2014, <http://www.amnesty.org/en/library/info/EUR45/011/2014/en>

<sup>85</sup> Reprieve, Case of Abdul Hakim Belhaj and Fatima Boudchar, <http://www.reprieve.org.uk/case-study/abdul-hakim-belhaj/>

<sup>86</sup> High Court of Justice, Queen's Bench Division, *Abdul-Hakim Belhaj and Fatima Boudchar v Rt. Hon. Jack Straw MP, et al.*, Case No. HQ12X02603, 20 December 2013, <http://justsecurity.org/wp-content/uploads/2013/12/Belhaj-Judgement-UK.pdf>.

<sup>87</sup> Amnesty International, UK: Notorious Rendition-to-Torture Case Allowed to go to Trial," 30 October 2014, <http://www.amnesty.org/en/news/uk-notorious-rendition-torture-case-allowed-go-trial-2014-10-30>.

<sup>88</sup> For a detailed analysis of the deficiencies of the Detainee Inquiry, please see Amnesty International, "UK: Detainee Inquiry Terms of Reference and Protocol Fall Far Short of Human Rights Standards," EUR 45/011/2011, August 2011, <http://www.amnesty.org/en/library/info/EUR45/011/2011/en>.

<sup>89</sup> The name appears in the SSCI study summary as "Khalid al-Masri".

<sup>90</sup> SSCI study, pp. 128-129. The study concluded that "at least" 26 persons were wrongfully held in the course of the CIA's secret detention and interrogation operations, p. 12 (findings and conclusions).

<sup>91</sup> Amnesty International, USA/Macedonia/Germany: The Rendition of Khaled el-Masri, AMR 51/133/2006, 8 August 2006, <http://www.amnesty.org/en/library/asset/AMR51/133/2006/en/8b8771b8-d404-11dd-8743-d305bea2b2c7/amr511332006en.pdf>.

<sup>92</sup> *Khaled el-Masri v The Former Yugoslav Republic of Macedonia*, Application No. 39630/09, 13 December 2012, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115621>

<sup>93</sup> Amnesty International, "Historic Ruling on Europe's Role in CIA Renditions," 13 December 2012, <http://www.amnesty.org/en/news/historic-ruling-europe-s-role-cia-renditions-2012-12-13>.

<sup>94</sup> Ray Sanchez, "World Reacts to U.S. Torture Report," CNN, 11 December 2014, <http://www.cnn.com/2014/12/10/world/senate-torture-report-world-reaction/>.

<sup>95</sup> The German Constitutional Court had ruled the day before the German parliamentary inquiry report was issued that the German government had violated the Constitution by failing to fully cooperate with the inquiry, including by withholding information related to Khaled al-Masri's case. See Amnesty International, Open Secret, pp. 16-18.

<sup>96</sup> *Ibid.*, p. 18.

<sup>97</sup> ECCHR, "Germany Must Enforce Criminal Prosecution of CIA Agents and Demand an Apology and Compensation for CIA Victim El Masri," 15 December 2014, [http://www.ecchr.de/el\\_masri\\_case.html](http://www.ecchr.de/el_masri_case.html).

<sup>98</sup> *Ibid.* See also, Steven Watt, "Now Can Torture Survivor Khaled El-Masri Have His Apology?" ACLU Blog of Rights, 15 December 2014, <https://www.aclu.org/blog/national-security-human-rights/now-can-torture-survivor-khaled-el-masri-have-his-apology>.





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