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Resolution 1507 (2006)<sup>1</sup>

**Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states**

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1. The Council of Europe is both the point of reference and the guardian for human rights, democracy and respect for the rule of law in Europe. It draws its legal and moral authority from, *inter alia*, the common standards of human rights protection embodied in the European Convention on Human Rights (ECHR – ETS No. 5) and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), to which all of its 46 member states subscribe.

2. The Parliamentary Assembly of the Council of Europe places human rights at the heart of its work. It is the duty of the Assembly to raise the alarm internationally whenever human rights are set aside, or when established standards for their application are undermined.

3. The Assembly clearly reaffirms the absolute necessity to prevent and combat the threat of terrorism, and its commitment to do so; but it must equally speak out in the strongest possible terms against the numerous and systematic human rights abuses committed in the pursuit of the so-called “war on terrorism”. It considers that such violations play into the hands of the terrorists and ultimately serve to strengthen those who aim to destroy the established political, legal and social order.

4. The United States of America finds that neither the classic instruments of criminal law and procedure nor the framework of the laws of war (including, *inter alia*, respect for the Geneva Conventions) have been apt to address the terrorist threat. As a result, the United States has introduced new legal concepts, such as “enemy combatant” and “rendition”, which were previously unheard of in international law and stand contrary to the basic legal principles that prevail on our continent.

5. Thus, across the world, the United States has progressively woven a clandestine “spiderweb” of disappearances, secret detentions and unlawful inter-state transfers, often encompassing countries notorious for their use of torture. Hundreds of persons have become entrapped in this web, in some cases merely suspected of sympathising with a presumed terrorist organisation.

6. The spiderweb has been spun out with the collaboration or tolerance of many countries, including several Council of Europe member states. This co-operation, which took place in secret and without any democratic legitimacy, has allowed the development of a system that is utterly incompatible with the fundamental principles of the Council of Europe.

7. The facts and information gathered to date, some of which are still in the process of being brought to light, clearly indicate that the key elements of this spiderweb include, among others: a worldwide network of places of secret detention on CIA “black sites” and in military or naval installations; the CIA’s programme of renditions, under which persons suspected of terrorism are transferred from one state to another on civilian aircraft, outside of the scope of any legal protections, often to be handed over to states who customarily resort to degrading treatment and torture; and the use of military airbases and aircraft to transport detainees as human cargo to Guantánamo Bay in Cuba or to other detention centres.

8. The Assembly condemns the systematic exclusion of all forms of judicial protection and regrets that, by depriving hundreds of suspects of their basic rights, including the right to a fair trial, the United States has done a disservice to the cause of justice and has tarnished its own hard-won reputation as a beacon of the defence of civil liberties and human rights.

9. Some Council of Europe member states have knowingly colluded with the United States to carry out such unlawful operations; others have tolerated them or simply turned a blind eye. They have also gone to great lengths to ensure that such operations remained secret and protected from effective national or international scrutiny.

10. This collusion with the United States of America by some Council of Europe member states has taken several different forms. Having carried out a legal and factual analysis on a range of cases of alleged secret detentions and unlawful transfers, the Assembly has identified instances in which Council of Europe member states have acted in one or several of the following ways, wilfully or at least recklessly in violation of their international human rights obligations, as explained in the explanatory memorandum of the report (see [Doc. 10957](#)) which led to the present resolution:

10.1. secretly detaining a person on European territory for an indefinite period of time, whilst denying that person's basic human rights and failing to ensure procedural legal guarantees such as habeas corpus;

10.2. capturing and handing a person over to the United States whilst knowing that such a person would be unlawfully transferred into a US-administered detention facility;

10.3. permitting the unlawful transportation of detainees on civilian aircraft carrying out rendition operations, travelling through European airspace or across European territory;

10.4. passing on information or intelligence to the United States whilst being fully aware that such material would be relied upon directly to carry out a rendition operation or to hold a person in secret detention;

10.5. directly taking part in interrogations of persons subjected to rendition or held in secret detention;

10.6. accepting or making use of information gathered in the course of detainee interrogations, before, during or after which the detainee in question was threatened or subjected to torture or other forms of human rights abuse;

10.7. making available civilian airports or military airfields as "staging points" or platforms for rendition or other unlawful detainee transfer operations, and facilitating the preparation and take off of an aircraft on its operation from such a point; and

10.8. making available civilian airports or military airfields as "stopover points" for rendition operations, whereby an aircraft lands briefly at such a point on the outbound or homebound flight, for example to refuel.

11. Attempts to expose the true nature and extent of these unlawful operations have invariably faced obstruction or dismissal from the United States and its European partners alike. The authorities of most Council of Europe member states have denied their participation, in many cases without actually having carried out any inquiries or serious investigations.

12. In other instances such attempts have been thwarted on the grounds of national security or state secrecy. The Assembly takes the view that neither national security nor state secrecy can be invoked in such a sweeping, systematic fashion as to shield these unlawful operations from robust parliamentary and judicial scrutiny.

13. The Assembly highlights the widespread breach of the positive obligation of all Council of Europe member states to investigate such allegations in a full and thorough manner. It has now

been demonstrated undeniably, through numerous well-documented and convergent facts, that secret detentions and unlawful inter-state transfers of persons deprived of their rights and involving European countries have taken place, such as to require in-depth inquiries and urgent responses by the executive and legislative branches of all the countries concerned.

14. While the Assembly has been seized in this instance with looking into allegations concerning very specific facts, it cannot ignore other allegations surrounding the existence of other secret detention centres in Europe, apparently also set up in the context of the war on terrorism. In particular, the Assembly expresses its deep concern at the continued reports of secret detentions in the North Caucasus. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued a public statement on this subject in 2003, which was recently supplemented by new, detailed testimony by victims and credible allegations from non-governmental organisations. Further serious investigation and analysis of secret detentions in the North Caucasus is clearly required.

15. The Assembly also regrets that detention centres in Kosovo were not accessible, until very recently, to the CPT. The lack of access seems all the more unacceptable in light of the fact that the international community intervened in that region with the declared aim of restoring order, peace and the respect for human rights. In that context the Assembly wishes to commend the repeated efforts of the Secretary General of the Council of Europe and his clear line taken on the matter.

16. The Assembly believes that broader rights should be attributed to the institution of the Commissioner for Human Rights of the Council of Europe, in order for it to be more closely involved in any investigation on violations of human rights the Assembly might carry out in the future. It encourages the Commissioner for Human Rights to play an active role in this respect.

17. The Assembly's main objective is to prevent violations of the sort described in this resolution from occurring in the future.

18. The Assembly therefore commends the Secretary General of the Council of Europe for the swift and thorough use of his power of inquiry under Article 52 ECHR.

19. The Assembly calls upon the member states of the Council of Europe to:

19.1. ensure that unlawful inter-state transfers of detainees will not be permitted and take effective measures to prevent renditions and rendition flights through member states' territory and airspace;

19.2. ensure that no one is arbitrarily detained, secretly or otherwise, on a member state's territory or any territory within the member states' effective control;

19.3. undertake a critical review of the legal framework that regulates the intelligence services, with the dual objective of enhancing their efficiency and strengthening accountability mechanisms against abuse; clear regulations must also govern co-operation with foreign services and the activities of foreign services on national territory;

19.4. ensure that all international co-operation and mutual legal assistance is carried out only in circumstances that respect human rights and international conventions in the field;

19.5. ensure that the laws governing state secrecy protect the whistle-blowers, that is persons who disclose illegal activities of state organs from possible disciplinary or criminal sanctions;

19.6. undertake a review of bilateral agreements signed between Council of Europe member states and the United States, particularly those on the status of US forces stationed in Europe and on the use of military and other infrastructure, to ensure that these agreements conform fully to applicable international human rights norms;

19.7. urge the United States to dismantle its system of secret detentions and unlawful inter-state transfers and to co-operate more closely with the Council of Europe in establishing common means of overcoming the threat of terrorism in line with international human rights standards and respect for the rule of law;

19.8. ensure that independent, impartial and effective investigations are carried out into any serious allegation that the territory, including airports or airspace, have been used in the context of rendition or secret detention. Such investigation should examine thoroughly any action taken by state or foreign agents linked to acts of rendition as well as laws or practices which may facilitate such acts. The scope and findings of the investigation should be made public;

19.9. ensure that any person responsible for human rights violations in connection with renditions or secret detentions, including those who have aided or abetted these crimes, are brought to justice;

19.10. ensure that all victims of rendition or secret detention have access to an effective remedy and obtain prompt and adequate reparation, including restitution, rehabilitation and fair and adequate financial compensation.

20. The Assembly also calls on the United States of America, which is an observer state to the Council of Europe and Europe's long-standing ally in resisting tyranny and defending human rights and the rule of law, to:

20.1. send a strong message to the world by demonstrating that terrorism can be overcome by lawful means, thereby proving the superiority of the democratic model founded on the respect of human dignity;

20.2. co-operate more closely in identifying and employing the most effective means with which to prevent and suppress the threat of terrorism in conformity with international human rights norms and the rule of law;

20.3. align its definitions of torture and other cruel, inhuman or degrading treatment with the definition used by the United Nations Committee against Torture;

20.4. prohibit the "extra-legal" transfer of persons suspected of involvement in terrorist organisations and all forcible transfers of persons from any country to countries that practise torture or that fail to guarantee the right to a fair trial, regardless of any assurances received;

20.5. issue official apologies and award compensation to the victims of illegal detentions or renditions, and bring to justice those responsible for secret detention or human rights violations in the course of renditions;

20.6. refrain from prosecuting any former or current public servants or journalists who, by providing testimony or other information, have helped to bring to light the system of unlawful detentions and mistreatment;

20.7. review, together with European states, their bilateral agreements in order to avoid creating direct or indirect *de jure* or *de facto* exemptions in applying European conventions to which Council of Europe member states are parties.

21. The Assembly invites its Committee on Legal Affairs and Human Rights to continue following up the issues raised in the present resolution and to report back to the Assembly as appropriate.

22. The Assembly further urges its members to call for rigorous inquiries in their respective national parliaments, especially in those states from which no or insufficient information has been forthcoming. The Secretary General's inquiry under Article 52 ECHR should be a first basis of information which member states should build upon.

23. The Assembly recognises, in the context of the present inquiry into secret detentions, that it lacks appropriate investigative powers akin to those provided to parliamentary inquiries in member states, including the powers to subpoena witnesses and compel the disclosure of documents, and calls for consideration of this issue.

24. Finally, the Assembly expresses its appreciation to the relevant European Union institutions (European Commission, European Parliament and EU Satellite Centre), as well as to Eurocontrol, for their valuable contributions to this inquiry, whilst reiterating the Council of Europe's role as the guardian of human rights, democracy and respect for the rule of law, throughout Europe.

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1. *Assembly debate* on 27 June 2006 (17th Sitting) (see [Doc. 10957](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Marty).  
*Text adopted by the Assembly* on 27 June 2006 (17th Sitting).