ANNEX 1. EXTRACT

FULL REPORT AVILABLE AT:

BREAKING THE CONSPIRACY OF SILENCE

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

AMNESTY INTERNATIONAL
Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.
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.”

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.

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. Numerous European governments were, in essence, the USA’s “partners in crime” – and must themselves be held to account.

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. 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. 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). 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.

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.

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. That call was renewed in December 2008 following the election of President Barack Obama. 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.” 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. 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.

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. 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
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.
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. 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). 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.

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. 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.

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. A Romanian Senate Committee of Inquiry conducted proceedings in secret and in 2007 concluded that Romania had no role in the CIA operations. 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. 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.

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. 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. 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. He was finally transferred back to Guantánamo Bay in September 2006.

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
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. 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.
USA’s European ‘Partners in Crime’ must act after Senate Torture Report

ENDNOTES


5 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.

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.

SSCI Study, p. 64, fn 318.

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/.


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

Ibid.


18 See footnote 2.


23 Ibid.

24 OSJI, Globalizing Torture, pp. 103-106.


27 Al-Nashiri v Romania, paras. 24-31.

28 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.

