

REDRESS

Ending Torture. Seeking Justice for Survivors

87 Vauxhall Walk, London SE11 5HJ

Tel: +44 (0)20 7793 1777 Fax: +44 (0)20 7793 1719

Email: info@redress.org Web URL: www.redress.org

Sir Nigel Rodley
Chairperson, Human Rights Committee
Office of the High Commissioner for Human Rights
UNOG-OHCHR
CH1211 Geneva 10
Switzerland

24 April 2014

Dear Sir Nigel

111th session of the Human Rights Committee – List of Issues Prior to Reporting on Poland

I am writing in relation to the meeting of the Task Force for adoption of the List of Issues Prior to Reporting (“LOIPR”) on Poland which will be held during the 111th session of the Human Rights Committee (the “Committee”).

REDRESS would like to draw the Task Force’s attention to one issue which it urges should be included in the LOIPR: the involvement of Polish authorities in the United States’ Rendition, Detention and Interrogation (“RDI”) Programme from 2002 and 2005, and the State party’s continued failure to effectively investigate those allegations, disclose the truth about violations, and provide redress to victims.

This is of particular concern to REDRESS as the representative of Mustafa al-Hawsawi, currently in custody at Guantanamo Bay, and on whose behalf we have filed a complaint to Polish authorities alleging complicity in his extraordinary rendition, secret detention and torture. However, it is an issue which goes beyond Mr al-Hawsawi’s case and to the heart of Poland’s compliance with its obligations under the Covenant.

Poland’s involvement in the RDI programme, and the reports of the existence of a secret detention centre at Stare Kiejkuty, were matters of concern in Poland’s last review in October 2010. In paragraph 15 of the Concluding Observations, the Committee expressed its concern:

that a secret detention centre reportedly existed at Stare Kiejkuty, a military base located near Szymany airport, and that renditions of suspects allegedly took place to and from that airport between 2003 and 2005. It notes with concern that the investigation conducted by the Fifth Department for Organized Crime and Corruption of the Appellate Prosecution Authority in Warsaw has not yet been concluded (arts. 2, 7 and 9).

PATRONS:

Lord Archer of Sandwell QC
Professor Michael Bazylar (*USA*)
Lord Crickhowell
Dato’ Param Cumaraswamy (*Malaysia*)
Edward Datnow FRCS
François de Vargas (*Switzerland*)
Dowager Countess of Dundonald
Anthony Foulger
Viscount Gage
Sandy Gall CBE
Dr Inge Genefke MD, D.M.Sc.h.c. (*Denmark*)
Earl of Haddington
Judge Rosalyn Higgins DBE QC
Lord Judd
Lord Lester of Herne Hill QC
Ms Caroline Moorehead CBE
The Rt Rev the Lord Harries of Pentregarth
Lord Prosser
Lord Richard QC
Professor Dinah Shelton (*USA*)
John Simpson CBE
Professor Theo van Boven (*The Netherlands*)
Professor David Weissbrodt (*USA*)
Professor Graham Zellick

TRUSTEES

Sir Emyr Jones Parry (Chair)
Michael Birnbaum QC
Professor Bill Bowring
Sherman Carroll Ph.D, MBE
Sir Robin Christopher
Leah Levin OBE
Frances Pinter, Ph.D
Jennifer White (Hon. Treasurer)

LEGAL ADVISORY COUNCIL

Professor Michael Bazylar (*USA*)
Sir Geoffrey Bindman
Professor Kevin Boyle
Owen Davies QC
Joanna Glynn QC
Professor David Harris CMG
Professor Geraldine Van Bueren
Professor Colin Warbrick
Professor David Weissbrodt (*USA*)

FOUNDER

Keith Carmichael

THE REDRESS TRUST

Registered Charity Number 1015787 A Limited Company Registered in England Number 2274071

Incorporated as a Not-for-Profit corporation in the State of New York (No. 13-4028661)

The Committee recommended that:

The State party should initiate a prompt, thorough, independent and effective inquiry, with full investigative powers to require the attendance of persons and the production of documents, to investigate allegations of the involvement of Polish officials in renditions and secret detentions and to hold those found guilty accountable, including through the criminal justice system. It should make the findings of the investigation public.

Despite this, the investigation continues, largely in secret, with apparently very little progress. Since the Committee's previous review key developments have included:

- in 2011 the Prosecutor leading the investigation, Jerry Mierzewski, was removed from the investigation. It has been reported that sources suggest he was "removed after he refused to follow orders on the running of the investigation from a superior at the appellate prosecutor's office";¹
- a third individual, Walid Mohammed bin Attash, was granted victim status in the investigation in October 2013;²
- in December 2013 the European Court heard the cases of two individuals, Abu Zubaydah and Abd al-Rahim al-Nashiri, concerning Poland's responsibility for their alleged secret detention and torture in Poland; a decision is expected later this year;³
- in November 2013 a request for victim status was filed on behalf of a fourth individual, Mustafa al-Hawsawi, alleging that he was held in secret detention in Poland in 2003.⁴ The request for victim status was refused in March 2014, and is currently subject to appeal;
- in January 2014 the Washington Post published details of what it alleges was a USD 15 million payment made in early 2003 for Poland's agreement to host the CIA black site at Stare Kiejkuty, and names of a number of those alleged to have been involved.⁵

To date no findings from the investigation have been made public, although one individual has been named in the Polish press as a suspect in criminal proceedings relating to the investigation.

We hope that this information will be useful for the Country Report Task Force in preparing the LOIPR. Please do not hesitate to contact us should you require any further details.

Yours sincerely



Carla Ferstman
Director

Enc.

¹ The Constitution Project (2013), 'Report of the Taskforce on Detainee Treatment', April 2013, <http://detaineetaskforce.org/>, p. 185 (extract enclosed).

² Amnesty International (2013), 'Poland grants victim status to Guantánamo detainee over torture allegations', 30 October 2013, <http://www.amnesty.org/en/news/poland-grants-victim-status-guant-namo-detainee-over-torture-allegations-2013-10-30>. The two individuals previously granted victim status were Abd al-Rahim al-Nashiri and Abu Zubaydah.

³ See Reprieve's press release following the first day of hearings: http://www.reprieve.org.uk/press/poland_knew_about_cia_torture_prison/. The transcript of this hearing has not yet been released, although REDRESS understands that it may be released in the future.

⁴ See case page at <http://www.redress.org/case-docket/al-hawsawi-case-1>.

⁵ Adam Goldman (2014), 'The hidden history of the CIA's prison in Poland', *Washington Post*, 23 January 2014, http://www.washingtonpost.com/world/national-security/the-hidden-history-of-the-cias-prison-in-poland/2014/01/23/b77f6ea2-7c6f-11e3-95c6-0a7aa80874bc_story.html.