

CHAPTER 14

The Great EU Inquisition: Europe's Response to the U.S. Rendition Policy

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“We do not have a war against terror.”¹ This extraordinary statement by a senior European Union (EU) official reflects the divide between Washington and Europe's leading political institutions over the fight against al-Qaeda. Despite three major terrorist attacks on European soil in the past three years (in London, Madrid, and Istanbul), many top European officials still do not grasp the magnitude of the terrorist threat. Instead, they are engaged in a campaign of pandering and grandstanding to delegitimize U.S. counter-terrorism efforts, especially the policy of rendition.

The Council of Europe,² which oversees the European Court of Human Rights, has already released a flimsy report on rendition, and the European Parliament has launched its own investigation. These supranational institutions' anti-American animus reinforces the need for the U.S. to oppose “ever-closer union” in Europe. While U.S.–EU relations have been damaged by the rendition controversy, Washington should continue to work closely with the governments of individual European states and must maintain the successful policy of rendition, a vital weapon in the defense of the West. Officials from the United States and European nation-states should unite in castigating the EU-Council of Europe witch-hunt, which is widening the transatlantic divide.

Europe's Political Show Trial

The leaders of al-Qaeda and the many other Islamic terrorist organizations that operate across the globe will no doubt warmly welcome the latest attempts by European officials to rein in the U.S.-led war on terrorism.

The European Parliament in Strasbourg has launched a 46-member inquiry into “the alleged illegal transfer of detainees and the suspected existence of secret CIA detention facilities in the European Union and in candidate countries,” with members haggling for “much-coveted seats” on the investigative committee.³ Baroness Sarah Ludford, vice chairman of the committee and patron of the “Guantanamo Human Rights Commission,”⁴ has pledged to leave “no stone unturned” in “upholding the core values of human rights which lie at the heart of the union” and has urged senior U.S. officials to face hearings in Europe.⁵ In a major affront to U.S. sovereignty and a demonstration of breathtaking arrogance, Vice President Dick Cheney and Secretary of Defense Donald Rumsfeld have been called upon to testify before the committee.

There is little doubt that the inquiry will feed upon widespread anti-American sentiment in the European Parliament and will be used to batter U.S. counter-terrorism strategy. As one British Conservative Member of the European Parliament put it, the inquiry will likely serve as “a platform for anti-U.S. bile.”⁶

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1. Quoted in *The Financial Times*, December 14, 2005. The official is not named in the article.
 2. The 46-nation Council is a separate from the European Union but works closely with the European Commission.
 3. “MEPs Scramble for Seats on CIA Prison Committee,” *European Report*, January 18, 2006.
 4. See www.guantanamohrc.org. Ludford is a long-standing critic of the Iraq War and U.S. policy in the war on terrorism.
 5. “MEPs Aspire to Cheney and Rumsfeld Hearings in CIA Probe,” *EUObserver.com*, January 27, 2006.
 6. Roger Helmer, British Member of the European Parliament for the East Midlands, quoted in the *Press Association*, January 26, 2006.

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The U.S.-EU spat was sparked by an article in *The Washington Post* which alleged that the Central Intelligence Agency (CIA) ran a covert prison, or “black site,” for senior al-Qaeda suspects at a Soviet-era compound in Eastern Europe as part of a “hidden global internment network.”⁷ The *Post* article also charged that scores of detainees had been “delivered to intelligence services in Egypt, Jordan, Morocco, Afghanistan and other countries, [in] a process sometimes known as ‘rendition.’” The U.S.-based Human Rights Watch later claimed that the CIA was operating secret detention facilities in Poland and Romania.⁸

These reports prompted moral indignation and mass hysteria among the political elites of Brussels and Strasbourg and led to sensational accusations that the United States tortured terror suspects while holding them in “gulags,” with the connivance of Eastern European governments. Some alleged that the U.S. flew terror suspects to countries in North Africa and the Middle East for the specific purpose of torture.

This controversy led to an undignified political power play by federal European politicians who seek to dictate the security policy of European nation-states. With echoes of French President Jacques Chirac’s infamous threat to aspiring EU members in Eastern Europe who had supported the United States over the war with Iraq,⁹ the European Union’s Justice Minister Franco Frattini warned of “serious consequences, including the suspension of voting rights in the council,” for any EU member-state found to have hosted secret CIA facilities.¹⁰

In addition, the United Nations, with its hugely discredited human rights apparatus in tow, could not resist the opportunity to take a swipe at the United States. Louise Arbour, the U.N.’s High Commissioner for Human Rights, launched a fierce attack on America’s “so-called war on terrorism,” condemning U.S. interrogation techniques and the rendition of terrorist suspects.¹¹ While millions languish under the boot of brutal dictatorships from Rangoon to Pyongyang to Tehran, the U.N.’s chief concern on its “Human Rights Day” last December was U.S. tactics in the battle against the most barbaric terrorist movement in modern history.

The Council of Europe Report

The European Parliament’s investigation follows a major inquiry by the Council of Europe, which published its initial findings in late January. In presenting his report, Dick Marty, the Council’s Rapporteur, condemned the “gangster-style methods” of the Bush Administration, stating that “individuals have been abducted, deprived of their liberty and all rights, and transported to different destinations in Europe, to be handed over to countries in which they have suffered degrading treatment and torture.”¹²

On closer examination however, Marty’s case is paper-thin and lacks any concrete evidence. If this case were presented in a court of law, it would be dismissed out of hand. In the words of Denis MacShane, the UK’s former Minister for Europe, the report has “more holes than a Swiss cheese.”¹³

Marty’s report contains no primary source documentation and relies entirely upon media accounts. It is filled with conjecture, innuendo, and a barely disguised sneering contempt for the U.S. approach to the war on terrorism. For example, Marty concludes that “the current U.S. Administration seems to start from the principle that the principles of the rule of law and human rights are incompatible with efficient action against terrorism,” a clear misrepresentation of the U.S. position.¹⁴

7. Dana Priest, “CIA Holds Terror Suspects in Secret Prisons,” *The Washington Post*, November 2, 2005.

8. “Evidence CIA Has Secret Jails in Europe,” *Financial Times*, November 3, 2005.

9. Chirac attacked the “infantile” and “dangerous” behavior of Poland, Hungary, and the Czech Republic, which joined Britain, Spain, Italy, Denmark, and Portugal in supporting the United States in the Iraq war. Chirac complained that they were “not well brought up” and had “missed a good opportunity to keep quiet. When you are in the family, after all, you have more rights than when you are asking to join and knocking at the door.” See “Threat of War: Furious Chirac Hits Out at ‘Infantile’ Easterners,” *The Guardian*, February 18, 2003.

10. “EU Threat to Countries With Secret CIA Prisons,” *The Guardian*, November 29, 2005.

11. “UN Official Faults US Detentions,” *The Washington Post*, December 8, 2005. Arbour’s less-than-subtle critique of U.S. policy followed an attack in August on British anti-terror plans by the U.N.’s Special Rapporteur on Torture, Manfred Nowak, who threatened to report the UK to the U.N. General Assembly for human rights violations. See “Expulsions Illegal, UN Tells Clarke,” *The Guardian*, August 25, 2005.

12. “Report on CIA Says ‘Gangster’ Methods Used,” *Financial Times*, January 25, 2006.

13. “‘Gangster’ US Accused Over Torture,” *The Daily Telegraph*, January 25, 2006.

Significantly, the Council of Europe's report admits, "At this stage of the investigations, there is no formal, irrefutable evidence of the existence of secret CIA detention centers in Romania, Poland or any other country."¹⁵ It cites the findings of an investigation appointed by the Romanian Parliament and conducted by OADO, a human rights NGO, that "do not seem to provide any evidence of such centers."¹⁶ Nevertheless, the report freely cites rumors and circumstantial and highly ambiguous facts as justification for condemning U.S. efforts to protect itself and its allies against terrorist attacks.

U.S. Rendition Policy

The U.S. practice of rendition dates back to the mid-1990s and was established by the Clinton Administration to target al-Qaeda cells operating across the world. Rendition involves the capture of terrorist suspects, who are brought to the United States to face trial or are transferred to the governments of their home countries for further questioning.

The policy has three main goals:

- Keep terror suspects off the streets,
- Bring to justice those wanted for terrorist offenses, and
- Gather valuable intelligence information about possible future terror attacks.

The CIA and FBI put rendition to good use in June 1997 in the capture in Pakistan of Mir Aimal Kasi, who was brought back to America to face trial for the 1993 murder of two CIA employees in Virginia. According to then-CIA Director George Tenet, more than two-dozen terrorists, half of them al-Qaeda suspects, were brought to justice by rendition between July 1998 and February 2000.¹⁷ A number of European governments also employ rendition. France, for example, captured Carlos the Jackal in Sudan in 1994 and brought him to France to face trial; this operation was deemed lawful by the European Court of Human Rights. After 9/11, the United States greatly expanded its use of rendition. Between 100 and 150 major terrorist suspects have been apprehended under the policy since 9/11.¹⁸

The U.S. rendition policy is not intended to facilitate the torture of detained suspects. Torture is against U.S. law, and government policy requires that American officials must obtain assurances from countries where detainees might be transferred that no methods contrary to international and U.S. law will be employed.

That these programs are secret does not imply that they are illegal or conducted without the cooperation of the sovereign nations through which detained individuals may transit or in which they may be temporarily detained. Secrecy protects the personnel who transport these potentially dangerous prisoners. It also prevents terrorists from gaining any operational advantage by knowing who has been recently detained.

Finally, there is no credible evidence that renditions have been used in conjunction with "secret prisons" in Eastern Europe. There is no clear operational need for such prisons. The United States openly maintains a long-term detention facility at Guantanamo Bay that is run in accordance with U.S. law and abides by relevant international treaties.

Significantly, British Prime Minister Tony Blair has strongly supported U.S. statements that the policy of rendition has not been used to facilitate the torture of terror suspects in other countries and has firmly rejected calls for a British parliamentary inquiry. In a response to the House of Commons, Blair stated:

Let me draw a very clear distinction indeed between the idea of suspects being taken from one country to another and any sense whatever that ourselves, the United States or anyone condones

14. Council of Europe Committee on Legal Affairs and Human Rights, "Alleged Secret Detentions in Council of Europe Member States," p. 12, January 22, 2006, at http://assembly.coe.int/CommitteeDocs/2006/20060124_Jdoc032006_E.pdf.

15. "Alleged Secret Detentions in Council of Europe Member States," p. 15.

16. "Alleged Secret Detentions in Council of Europe Member States," p. 6.

17. For background on the history of rendition by the United States, see "A Brief History of Renditions," The Associated Press, December 27, 2005.

18. Figures cited by The Associated Press, December 27, 2005.

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the use of torture. Torture cannot be justified in any set of circumstances at all. The practice of rendition as described by Secretary of State Condoleezza Rice has been American policy for many years. We have not had such a situation here, but that has been American policy for many, many years. However, it must be applied in accordance with international conventions, and I accept entirely Secretary of State Rice's assurance that it has been.¹⁹

The Centralization of Power in Europe

The rendition controversy has seriously damaged the United States' working relationship with the EU in the war on terrorism. However, it should not weaken the ability of the United States to cooperate effectively with individual European nation-states, which have strongly supported U.S. efforts in the war on terrorism. Nor should it discourage the United States from continuing to use rendition, which has proved a very effective mechanism.

A key lesson that the United States should take away from the rendition debate is that the increasing political centralization of Europe poses a fundamental threat to U.S. interests. Washington must support a Europe of nation-states and stop paying lip-service to the Franco-German dream of ever-closer integration.²⁰ The United States works most effectively when it cooperates directly with national governments in Europe, employing a "coalition of the willing" strategy. Europe is not and never has been a united political entity, and U.S. policy must support national sovereignty in Europe. Washington's political capital in Europe must be spent not in Brussels or Strasbourg, but in the national capitals, where America's strongest allies are to be found.

Remain Firm on Rendition

Rendition has proved a highly effective tool in the war against terrorism and has pulled hundreds of extremely dangerous terror suspects off the streets. In all probability, many lives, both American and European, have been saved by this practice. The West is engaged in an epic war against Islamic extremists who will give no quarter, whether in London, Brussels, New York, or Baghdad. The policy of rendition is a response to this reality.

European Union officials and Members of the European Parliament should stop using the war on terrorism as an elaborate public relations exercise and cease wielding it as a stick with which to beat U.S. foreign policy.

The United States must continue to pursue aggressively those who threaten the security of the free world and should continue to work closely with individual European governments in the fight against al-Qaeda and other Islamic terrorist groups. Most importantly, the U.S. must resist the temptation to blunt its most effective weapons in the face of criticism from the EU, the U.N., and other supranational institutions.

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19. Tony Blair, "Prime Minister's Questions," December 7, 2005, quoted in BBC News Online, January 19, 2006, at http://news.bbc.co.uk/2/hi/uk_news/politics/4627360.stm.

20. For background, see Nile Gardiner, Ph.D., and John Hulsman, Ph.D., "The United States Should Not Back the European Constitution," Heritage Foundation *WebMemo* No. 668, February 16, 2005, at www.heritage.org/Research/Europe/wm668.cfm.