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PROPOSAL FOR A RECOMMENDATION TO THE COUNCIL

pursuant to Rule 114(1) of the Rules of Procedure

by Sarah Ludford

on behalf of the ALDE Group

on alleged 'extraordinary rendition' for secret detention and possible torture of
CIA prisoners through EU Member States and applicant countries

European Parliament recommendation to the Council on alleged 'extraordinary rendition' for secret detention and possible torture of CIA prisoners through EU Member States and applicant countries

The European Parliament,

- having regard to Articles 6 and 7 of the EU Treaty,
 - having regard to Articles 2, 3, 5 and 6 of the European Convention on Human Rights,
 - having regard to Articles 1, 4, 19, 47 and 48 of the Charter of Fundamental Rights of the European Union,
 - having regard to Articles 2, 3 and 11 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,
 - having regard to Rule 114(1) of its Rules of Procedure,
- A. whereas on 2 November 2005 the Washington Post alleged that the CIA had been holding and interrogating terrorist suspects at secret facilities in Eastern Europe as part of a global covert transport, prison and interrogation system known as 'extraordinary rendition', established after the 11 September 2001 attacks and operating outside any judicial controls or extradition requirements,
- B. whereas allegedly these and other terrorist suspects are in US or foreign custody as 'ghost detainees', meaning that they may have been kidnapped and are detained incommunicado without any legal rights or access to counsel or the Red Cross/Red Crescent,
- C. whereas such detainees may be subject to cruel, inhuman or degrading treatment or torture,
- D. whereas independent research by Human Rights Watch and others has documented via flight logs that CIA owned or leased planes which may have been transporting such detainees, and have used the civil and military airport facilities of a number of EU Member States and candidate countries, including landing at US bases, and specifically those of Aviano (Italy) and Ramstein (Germany),
- E. whereas judicial, parliamentary or official inquiries have been launched in several Member States to investigate the alleged role of the CIA in the abduction and subsequent transport and illegal detention of these 'ghost detainees',
- F. whereas on 21 November 2005 the Secretary-General of the Council of Europe set up an inquiry into these allegations under Article 52 of the ECHR, asking the 45 governments that are parties to the ECHR to provide answers by 21 February 2006,

- G. whereas the Parliamentary Assembly of the Council of Europe has appointed a rapporteur, Dick Marty, to lead this inquiry,
- H. whereas it is of the utmost importance to have a full investigation into any allegation of US breaches of human rights and the rule of law and the complicity of European governments, given that this has such serious implications for respect for fundamental rights in the European Union,
1. Stresses that the fight against terrorism cannot be won by sacrificing the very principles that terrorism seeks to destroy, notably that the protection of fundamental rights must never be compromised;
 2. Recalls that Article 6 of the EU Treaty obliges the Union to respect fundamental rights as guaranteed by the European Convention on Human Rights and as they result from the Member States' common constitutional traditions, and that international obligations as well as those common principles forbid the use of torture;
 3. Recalls that Article 7 of the EU Treaty foresees the possibility for the EU in the event of a serious and persistent violation of fundamental rights or of the risk thereof by a Member State to suspend certain rights, including the right to vote in Council, as recently re-stated by European Commission Vice-President Frattini;
 4. Expresses its deep concern at the allegations concerning the role of the CIA in the illegal kidnapping, transportation, secret detention and torture of terrorist suspects as well as the alleged presence of CIA secret detention sites inside the territory of the European Union and of candidate countries;
 5. Welcomes the Council of Europe's investigation into the allegations and urges all Member States to promptly provide any relevant information in relation to this;
 6. Believes that, in parallel with and learning from the inquiry of PACE rapporteur Dick Marty, Parliament must conduct its own investigation, which could be through a Committee of Inquiry set up under Article 193 of the EC Treaty and drawing on the expertise of its network of fundamental rights experts, with a view to examining inter alia:
 - a) whether the CIA has been involved in 'extraordinary rendition' of 'ghost detainees' that are detained incommunicado without any legal rights or access to counsel, subjected to cruel treatment or torture and transported within the territory of the European Union, including through flights and detention in secret sites;
 - b) whether such a practice could be considered legal in the territory of the European Union under Article 6 of the EU Treaty, Articles 2, 3, 5 and 6 of the ECHR and the EU/US agreement on extradition and judicial cooperation in criminal matters;
 - c) whether EU citizens or legal residents were among those involved in 'extraordinary rendition' operations, illegal detention or torture in the framework of alleged covert

CIA operations in the territory of the EU;

- d) whether Member States, public officials or persons acting in an official capacity were involved or complicit in the acknowledged or unacknowledged illegal deprivation of liberty of individuals, including rendition, transfer, detention or torture, whether by action or by omission;
7. Calls on the European Council, at its meeting on 16-17 December, to discuss these issues and demands that the current UK Presidency and future Austrian Presidency, with European Parliament President Joseph Borrell, urgently establish the necessary contacts with US Secretary of State Condoleezza Rice, the US Congress, the national parliaments and the Council of Europe;
 8. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the governments and parliaments of the Member States and applicant countries, and the Council of Europe.