



Mr Thorbjørn Jagland
Secretary General
Council of Europe
F-67075 Strasbourg Cedex

30 November 2015

AI Ref : B1720

Dear Secretary General,

ARTICLE 52 INQUIRY ON SECRET DETENTIONS

On behalf of our respective organizations, we write to seek clarification regarding the status of the Article 52 inquiry launched by former Secretary General Terry Davis in November 2005. This inquiry seeks to verify member states' compliance with the European Convention on Human Rights (ECHR) in relation to their involvement in secret detentions and transport of detainees suspected of terrorist acts, notably by or at the instigation of foreign agencies throughout Europe.

We were encouraged by your renewed interest in this inquiry through a request for further information from all parties to the ECHR to provide you by the end of September 2015 with updated "information on past or ongoing investigations, relevant cases before domestic courts or other measures taken with regard to the matter of this inquiry".

However, we are concerned that this may now lead to the sudden conclusion of the Article 52 inquiry, despite a lack of resolution and accountability for governments' actions that blatantly violated Council of Europe standards and obligations. We recall the decisive work of various Council of Europe institutions and civil society to ensure that complicity of implicated member states in the rendition and secret detention programs was not kept in the dark. This includes in particular the Parliamentary Assembly (PACE), the (former) Secretary General, the European Court of Human Rights, the Commissioner for Human Rights, the Venice Commission, and the European Committee for the Prevention of Torture.

PACE carried out groundbreaking work from 2005 to 2007 on Europe's complicity in the US-led operations, specifically naming European states that had hosted CIA secret detention sites or colluded in rendition and torture. We also note the 2011 PACE report that highlighted member states' growing use of the state secrets privilege to avoid accountability for state actors involved in these operations. Indeed, PACE's efforts served as the basis on which the former Secretary General invoked his powers under Article 52. Unfortunately, the reports by the Secretary General to the Committee of Ministers proposing laws to

control the activities of foreign intelligence services in Europe were not followed up. Civil society actors also worked diligently alongside Council of Europe bodies to advocate for effective investigations and accountability for human rights violations.

Recent key developments in the global effort to hold states and individuals accountable for the violations committed in the course of the CIA operations call for your continued engagement on this matter. Some of these developments include:

- Release in December 2014 of the US Senate Select Committee on Intelligence (SSCI) summary report on the CIA secret detention programme, which contained critical new information on the CIA operations globally - including in Europe.
- On-going criminal investigations in Poland, Lithuania, Romania, and the United Kingdom, which require attentive scrutiny to ensure that they are effective.
- Renewed attention to this issue by the European Parliament, including a resolution in February 2015, a Committee delegation to Romania in September, and a public hearing in mid-October.
- Continued pursuit of advocacy and litigation opportunities by civil society actors, including lawyers, journalist, academics and NGOs, at the national and regional level, in Europe and the US, to hold perpetrators of human rights violations accountable and to press governments to initiate or complete investigations into their involvement in the CIA programmes.

Your critical role in these efforts cannot be under-estimated. The European Court of Human Rights' groundbreaking judgments on The former Yugoslav Republic of Macedonia and Poland's involvement in the rendition and secret detention programmes (with additional cases pending against Italy, Lithuania and Romania) are not enough. These judgments require ongoing engagement to ensure their execution at national level and, as indicated in the Brussels Declaration on "Implementation of the European Convention on Human Rights" adopted in March 2015, you are encouraged to use your authority, including powers granted through Article 52, "to facilitate the execution of judgments raising complex and/or sensitive issues at the national level". Furthermore, implementation of Court judgments will be limited to the few cases that reach Strasbourg and should complement, not substitute, the Council of Europe's broader efforts to establish the full truth of European complicity and hold all implicated states and individuals to account.

Given the limited timeline for States to provide you with information, and in view of the need for a meaningful process, we ask you to consider extending the Article 52 inquiry and to accept information from non-state sources as well. Furthermore, in light of the above, we respectfully request that you make publicly available the outcomes of the inquiry on member states' progress at conducting effective investigations, establishing the truth, and ensuring accountability for their roles in CIA rendition and secret detention operations.

Sincerely,

Amnesty International

Human Rights in Practice

Human Rights Watch

International Commission of Jurists

Open Society Justice Initiative

REDRESS