

# *Nyt fra Europa rådet*

Opdatering februar og 1. marts, samt kalender marts  
Pressemeddelelse DK 4/06, 2. marts 2006

---

## **Council of Europe Secretary General: publication of the report on alleged illegal detentions and rendition flights in Europe**

Strasbourg, 01.03.2006, "Europe appears to be a happy hunting ground for foreign security services" said Terry Davis at a [press conference](#) on the occasion of the publication of his report under Article 52 of the European Convention on Human Rights. "Hardly any country in Europe has any legal provisions to ensure an effective oversight over the activities of foreign agencies on their territory" he continued.

The analysis of the replies received by the governments of the Council of Europe member states to his letter of 21 November 2005 also revealed that the existing procedures to monitor who and what is transiting through European airports and airspace do not provide adequate safeguards against abuse. Indeed, no Council of Europe member state appears to have established any kind of procedure in order to assess whether civil aircraft are used for purposes which would be incompatible with internationally recognised human rights standards.

The Secretary General also said that the existing rules on state immunity create considerable obstacles for effective law enforcement in relation to the activities of foreign agents. "Immunity cannot mean impunity" he added. "Exceptions to state immunity already recognised in the case of torture should be extended to other serious violations of human rights, such as enforced disappearances."

Terry Davis said that his inquiry will continue in the case of individual countries which provided incomplete or inadequate replies, and he announced that he will make specific proposals for new Council of Europe legal standards to deal with the deficiencies revealed by the report.

The full text of the report, the replies received from the governments, as well as the speaking notes for the Secretary General's press conference are available at <http://www.coe.int/T/E/Com/Files/Events/2006-cia/>

### **Speaking notes for the press conference on the report under Article 52 of the ECHR**

Thank you very much for coming. The subject of the press conference today is the publication of my report under Article 52 of the European Convention on Human Rights, which deals with allegations of what is commonly described as "secret detentions and rendition flights" in Council of Europe member states.

Before commenting on the content of my report, I should like to clarify the parameters of my inquiry. We need to bear in mind that the European Convention on Human Rights prohibits secret and unlawful detention, false imprisonment and torture. The Council of Europe member states are obliged to enforce the Convention through law – which means that what has allegedly happened is illegal under the internal law of all our member states. The primary responsibility to prevent, investigate and punish any such violations of human rights therefore lies with the authorities of the member states. Consequently, the focus of my inquiry was on whether our member states comply with their responsibilities in this regard. These obligations are of a positive nature, which means that the member states are obliged to actively prevent such human rights violations from taking place, and not simply react if they stumble upon them accidentally.

I am fully aware that the allegedly committed illegal acts would have taken place in the context of the fight against terrorism, which is one of the priorities of the Council of Europe, but the threat of terrorism cannot justify disregard for the European Convention on Human Rights. Blatant violations of human rights, such as secret detention and torture, are not only morally wrong and illegal, they are dangerous because they undermine the long term effectiveness of our fight against terrorism.

I am also fully aware that most allegations concern alleged activities of agencies belonging to an allied country which is an observer state to the Council of Europe. I strongly support cooperation between Europe and the United States of America on all issues and especially the fight against terrorism but I also insist that European governments should have sufficient confidence to participate in such cooperation as equal partners and not play the role of the proverbial three brass monkeys.

The report which is made public today contains an analysis of the replies received by the governments of the 46 member states to my letter of last November. In the letter I asked the governments to respond to three sets of questions:

First, how their internal laws ensure that foreign agencies operating on their territory are subject to adequate controls.

Second, whether their internal laws provide adequate safeguards against unacknowledged, that is secret, deprivation of liberty.

And third, how their internal laws ensure an adequate response to alleged violations of human rights, especially those committed by foreign agencies.

Against this background, I also asked the governments to respond to the question whether, in the period since 1 January 2002, any of their officials have been involved, by action or omission, in any secret deprivation of liberty or transport of any secretly detained individual, including any such secret deprivation of liberty committed or instigated by a foreign agency. I also asked whether any investigations were underway or finished.

It is certainly encouraging that we have received the replies from all 46 member states. On the other hand, not all replies can be qualified as complete and fully satisfactory, which means that a number of countries will receive follow-up letters with specific further inquiries. The report contains concrete information on which countries failed to reply to which part of the inquiry. I have no doubt that our member states will continue to be cooperative, and that very soon we will not only have a complete picture of where we are today but where we should be going tomorrow in order to ensure that violations of human rights such as those which have been alleged not only do not happen but also cannot happen.

For the time being, the analysis of the replies received already indicates that there are several areas of general concern.

First, it would appear that most of Europe is a happy hunting ground for foreign security services. While most of our member states have mechanisms to supervise the activities of their domestic intelligence agencies as well as the presence of foreign police officers on their territory, hardly any country, with the clear exception of Hungary, has any legal provisions to ensure an effective oversight over the activities of foreign security services on their territory. In Hungary, the competent authorities are instructed by law to detect any activities of foreign secret services interfering with or threatening the sovereignty, or the political, economic or other important interest of Hungary.

The second concern is that Europe's skies appear to be excessively open. Very few countries seem to have adopted an adequate and effective way to monitor who and what is transiting through their airports and airspace. Indeed, no member state appears to have established any kind of procedure in order to assess whether civil aircraft are used for purposes which would be incompatible with internationally recognised human rights standards. This is alarming because the explanations provided on the specific point of controls over aircraft allegedly used for rendition show that existing procedures do not provide adequate safeguards against abuse.

The third general concern arising from the analysis of the replies is related to the existing rules on jurisdiction and state immunity, which create considerable obstacles for effective law enforcement in relation to the activities of foreign agents, especially when they are accredited as diplomatic or consular agents. The

principle of state immunity is of course recognised under public international law. But this being said, immunity cannot mean impunity. International and national courts have already recognised exceptions to state immunity in the case of torture, and this could be extended to other serious violations of human rights, such as enforced disappearances which, under the Statute of the International Criminal Court, may be qualified as a crime against humanity.

In addition to these more general comments, I should like to mention four countries which have also been highlighted in the preliminary information document of 24 January by Dick Marty, namely Bosnia and Herzegovina, Germany, Italy and former Yugoslav republic of Macedonia. These four countries were the subject of the most detailed and documented allegations of rendition known so far. Regrettably, with the exception of Germany, they have missed the opportunity to provide complete and adequate replies and dispel all doubts about their alleged misconduct. It is difficult to understand how their replies could omit to mention the cases of alleged renditions which were not only mentioned by Dick Marty, but have also been dealt with by their judiciary or were the subject of requests for legal cooperation by another Council of Europe member state.

Similarly, the reply received from Poland – a country mentioned in the initial allegations on the existence of secret prisons – is disappointing, and with the best of will cannot be qualified as adequate in terms of the inquiry.

I will conclude by stressing that this report is not an end, but rather the beginning of a process. I shall continue with my inquiry in the case of individual countries which provided incomplete or inadequate replies, but I also intend to formulate concrete proposals for action at the Council of Europe level. This could in particular include standard-setting activities in the three areas mentioned above, namely the oversight over the activities of foreign agencies, reinforced safeguards against an abusive use of civil aircrafts and possible limitations to state immunity in the case of serious human rights violations.

## **Council of Europe Secretary General on controversy regarding the caricatures of Prophet Mohammad**

Strasbourg, 06.02.2006 - "The violence, destruction and hate which marred some of the protests against the publication of caricatures of Prophet Mohammad over the weekend are totally unacceptable but I am confident that they are not supported by the vast majority of people of Islamic faith, regardless of how offended they feel by these caricatures", said Terry Davis in commenting on the controversy regarding the publication of caricatures of Prophet Mohammad in several European newspapers.

"Everyone needs to act, on the basis of dialogue and mutual respect and prevent any further escalation. Political and religious leaders in the Islamic world share the responsibility to calm the situation down.

As for the caricatures themselves, I must stress that all freedoms, including the freedom of speech, come with responsibility. The European Convention on Human Rights guarantees the freedom to hold opinions and to receive and impart information and ideas. The European Court of Human Rights has also repeatedly ruled in favour of this freedom even in cases when the views expressed were offensive.

But having the right to cause offence does not make it right to do so. It is the responsibility of editors and journalists to use good judgment in deciding what should or should not be published. The publication of caricatures may not have transgressed any legal boundaries, but it certainly violated ethical norms based on mutual respect and acceptance of other people's religious beliefs" concluded the Secretary General.

## **PACE President on controversy over caricatures: ‘Rights come with responsibilities – but violence is never ever justified’**

Strasbourg, 09.02.2006 – Referring to the controversy and violent response to Danish caricatures in several countries worldwide, Council of Europe Parliamentary Assembly (PACE) President René van der Linden said today that there cannot be a democratic society without the fundamental right to freedom of expression and information, but underlined that freedom of thought, conscience and religion constitutes one of the essential freedoms of individuals.

Mr van der Linden, who is paying an official visit to Greece at the invitation of the Speaker of Parliament Anna Benaki, said: “Democratic pluralism and tolerance require that the religion and beliefs of individuals are fully respected. Rights come with responsibilities. In a globalised world where information travels so fast, the media should be aware of its impact on millions and millions of people. Everywhere, they should use their power to cultivate peace and understanding, as well as respect for what other cultures and religions hold most sacred,” the President said.

“We must not abuse our liberties with such insensitivity that tolerance of free speech becomes intolerance of diversity. These events have made it painfully clear that there is a lack of common understanding of the basic values enshrined in the Council of Europe, a lack of understanding of cultures and religions other than one’s own. There are prejudices and misunderstandings, but these can never ever justify violence. I express my full solidarity with the Danish people and other fellow-Europeans who are being subjected to totally unacceptable attacks”, he stated.

“It is most important to exchange experiences and information. We need to build on a continuous dialogue and learn to appreciate the diverse cultures and religions around us. The Assembly brings together politicians of every creed and culture in Europe. It is thereby able to act as an important forum for intercultural and inter-religious dialogue. We are only at the very beginning of such a dialogue and it is my firm intention to develop to the fullest extent the Council of Europe’s great potential in this field,” he concluded.

## **Human Rights Commissioner publishes final report on the human rights situation of the Roma**

Strasbourg, 15.02.2006 - The Commissioner for Human Rights of the Council of Europe, Alvaro Gil-Robles, presented today his final report on the human rights situation of the Roma, Sinti and Travellers in Europe. The Roma are present in virtually all member states of the Council of Europe and comprise approximately ten million people. In most of the countries the Commissioner has visited, the Roma populations face considerable obstacles to the full enjoyment of their fundamental rights.

In his report, Alvaro Gil-Robles stresses that the “long history of continued discrimination and persecution experienced by the Roma must finally come to an end.” While documenting the principal human rights violations the Roma are subjected to, the report also presents a series of recommendations for overcoming discrimination in housing, education, employment and health care as well as the treatment of Roma by public authorities.

The report calls for active partnerships of all authorities, institutions and people concerned, including the Roma themselves, for putting into place the measures needed for ensuring the full respect of human rights of Roma, Sinti and Travellers. Protocol 12 of the European Convention on Human Rights related to non-discrimination and the Equality Directive of the European Union provide a sound legal foundation for these efforts.

The Human Rights Commissioner also welcomes the establishment of the European Roma and Travellers’ Forum which will help understand the diversity of Roma communities in Europe and amplify their voices in European and national decision-making.

## Council of Europe analysis of the Russian NGO legislation

Strasbourg, 17.02.2006 – “We do not have a perfect law, but we do have a better law” said Terry Davis, Secretary General of the Council of Europe, following analysis of the recently adopted laws on non-profit organisations and public associations in the Russian Federation.

“Several recommendations made by the Council of Europe have been taken on board, including those regarding the crucial issues of registration and liquidation of non-governmental organisations, the participation of foreigners and the activities of foreign non-governmental organisations.

However, excessive powers of supervision remain an area of concern. Members of the State Duma also introduced some new amendments, which were not in the draft analysed by the Council of Europe, and which imposed an even stricter control of foreign NGOs. Such rules may be incompatible with the general prohibition of discrimination under the European Convention on Human Rights, and I will not be surprised if there is an appeal to the European Court of Human Rights on this issue.

Much will now depend on the secondary legislation and on how everything is put into practice” concluded the Secretary General.

## Council of Europe releases organised crime assessment

Strasbourg 31.01.2006 - A Council of Europe report detailing trends in organised crime in 2005 is now open to the public. The report provides facts and figures on organised criminal activities in Europe, ranging from drug trafficking, to trafficking in human beings, cybercrime and money laundering.

The report gives facts and figures for the 46 Council of Europe member states as well as showing global trends. A special chapter focuses on economic crime – presently estimated to be the most profitable area for organised criminals. To access the report: [www.coe.int/economiccrime](http://www.coe.int/economiccrime)

## Dom afsagt af Den Europæiske Menneskerettighedsdomstol i nordisk sag

28.02.2006 Hellborg v. Sweden (no. 47473/99): Violation of Article 1 of Protocol 1 (protection of property) and violations of Article 6 §1 (right to a fair hearing within a reasonable time).

## Møder i marts

(hvor intet andet er nævnt, holdes mødet i Strasbourg)

1. Ministerkomitéen
1. Offentliggørelse af Generalsekretærens undersøgelse af hemmelige CIA fængsler og -transporter i Europa
- 2.-4. Konference: Chernobyl, 20 years after: local and regional authorities facing catastrophes (Slavutych, Ukraine)
15. Ministerkomitéen
- 15.-17. Forårs-session i Kongressen af Lokale og Regionale Myndigheder
17. Møde i Den Parlamentariske Forsamlings Standing Committee (Paris)
19. Præsidentvalg i Belarus
22. Ministerkomitéen
26. Observation af parlaments- og lokalvalg i Ukraine
- 28.-29. Ministerkomitéen

---

**”Nyt fra Europarådet” udgives 11 gange om året af  
Europarådets pressekorrespondent i de nordiske lande  
Bremerholm 6, DK-1069 København K, Tlf. +45 33 14 15 84, Fax +45 33 15 54 84,  
E-mail: [arm@sm.dk](mailto:arm@sm.dk), Internet: [www.coe.int](http://www.coe.int)**

