



HOUSE OF COMMONS

LONDON SW1A 0AA

H.E. Mr Doru Costea
President, Human Rights Council
Universal Periodic Review Submissions
Office of the United Nations
High Commissioner for Human Rights
UNOG-OHCHR
1211 Geneva 10
Switzerland

26 November 2007

Dear Mr President,

Universal Periodic Review: The United Kingdom and Extraordinary Rendition

My name is Andrew Tyrie MP and I am the Chairman of the All Party Parliamentary Group on Extraordinary Rendition in the UK Parliament.

This is a cross party body, independent of Government, that has been investigating the United Kingdom's role in the United States' renditions programme. It is our view that the policy of Extraordinary Rendition makes the United States, the United Kingdom and the rest of the world less secure, not more.

I welcome the Human Rights Council's review of the United Kingdom, in the first session of the Universal Periodic Review. I note that your stated objectives include the improvement of human rights on the ground; the fulfilment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State; support for cooperation in the promotion and protection of human rights; and the encouragement of full cooperation and engagement with the Council, other human rights bodies and the OHCHR.

The All Party Parliamentary Group on Rendition

1. The All Party Parliamentary Group on Extraordinary Rendition was formed in December 2005 to investigate claims that the United States had been abducting individuals and transferring them for interrogation either to third countries known to use torture, or to secret 'black sites' run by the CIA, and that the UK had been complicit in these 'extraordinary renditions'. Since we began, we have collected a considerable amount of information on many aspects of the practice, and our work has been referred to in numerous reports, both in the UK and internationally.

2. The existence of a rendition and secret detention programme operated by the US is no longer in dispute. On 5 December 2005 US Secretary of State Condoleezza Rice stated: "[f]or decades, the United States and other countries have used "renditions" to transport terrorist suspects from the country where they were captured to their home country or to other countries where they can be questioned, held, or brought to justice¹". President George Bush confirmed that this programme involved secret detention on 6 September 2006². It is clear that in the course of this programme many detainees have faced a real risk of torture, or of cruel, inhuman and degrading treatment, prohibited under international law.

The Involvement of the UK

3. It is also clear that the UK Government has been complicit in this policy. On two occasions in 1998 permission was granted for the rendition of two suspects to the United States through the UK³. On a further two occasions in 1998, permission was refused. In 2004, an approach was made by the United States for permission to conduct a rendition, but the United Kingdom indicated that permission would be refused if they were asked to give it. In addition, questions have been raised about between 73 - 170 flights through the UK or its overseas territories since 2001 by planes which have been linked to renditions⁴. Intelligence provided by the UK to the US has been linked to the

¹ <http://www.state.gov/secretary/rm/2005/57602.htm>

² <http://www.whitehouse.gov/news/releases/2006/09/20060906-3.html>

³ House of Commons Written Statement from the Secretary of State for Foreign and Commonwealth Affairs, Mr Straw, 20 January 2006, http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060120/wmstext/60120m01.htm#60120m01.html_sbhd2

⁴ See for example, the 73 flights referred to in House of Commons written answer from the Secretary of State for Transport, Mr Darling, 17 March 2006, Col. 2508W http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm060317/text/60317w02.htm#60317w02.html_sbhd2. In addition, the Temporary Committee of the European Parliament (TDIP Committee), which investigated rendition, referred to '170 stopovers made by CIA-operated aircraft at UK airports, which on many occasions came from or were bound for countries linked with extraordinary rendition circuits and the transfer of detainees', Report

renditions of British residents Jamil el-Banna and Bisher al-Rawi from the Gambia to Guantanamo⁵. The totality of the UK's involvement in and knowledge of this programme, however, remains unknown.

4. In a Written Statement on 20 January 2006 the then Foreign Secretary Jack Straw confirmed that much of what we do know comes from the 'recollection of officials'⁶. Adequate records do not appear to have been kept, although it seems that the Foreign Office has, belatedly, put in place some form of recording system⁷. It is unclear if this system is an improvement, and if other relevant Government departments have also put in place a similar system.

5. The current mechanisms for ensuring that renditions do not take place in the future through UK airspace or territory are inadequate⁸. The Government relies on the US making a request to find out about it. Earlier this year, the APPG drafted a measure aimed at legislative reform on this issue, following consultation with leading lawyers, academics, NGOs and other prominent individuals working on rendition. I have enclosed a copy for your reference.

6. The UK's international legal obligations arise independently of those of the US. There is a duty to investigate allegations of torture. Substantial legal differences exist between the UK and US as to what constitutes torture and the level of risk of torture to which a detainee can be subjected when rendered. The Legal Opinion of Professor James Crawford, commissioned and published by the APPG, and enclosed with this submission, makes this clear⁹.

on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, para 78, http://www.europarl.europa.eu/comparl/tempcom/tdip/default_en.htm

⁵ Intelligence and Security Committee Report into Rendition, 25 July 2007,

<http://www.cabinetoffice.gov.uk/intelligence/>

⁶ House of Commons Written Statement from the Secretary of State for Foreign and Commonwealth Affairs, Mr Straw, 20 January 2006,

http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060120/wmstext/60120m01.htm#60120m01.html_sbhd2

⁷ Letter from Kim Howells MP to Andrew Tyrie MP, 16 October 2007,

http://www.extraordinaryrendition.org/component/option,com_docman/task,cat_view/Itemid,/gid,35/orderby,dmdate_published/ascdesc.DESC/

⁸ The Government has described the measures applicable to the granting of permission to rendition flights through the UK in the following terms: 'We would expect the US authorities to seek permission to render detainees via UK territory and airspace, including overseas territories, and we will grant permission only if we are satisfied that the rendition would accord with UK law and our international obligations.' House of Commons written answer from Foreign Office Minister Dr Howells, 20 March 2006, Col. 86W

http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060320/text/60320w25.htm#60320w25.html_sbhd2

⁹ James Crawford & Kylie Evans, 'OPINION: Extraordinary rendition of terrorist suspects through the United Kingdom', 9 December 2005. Available at www.extraordinaryrendition.org

Rendition Investigations

7. The British Government has been highly reticent in cooperating with investigations into rendition, and was described by the UK Foreign Affairs Committee as having a 'policy of obfuscation'¹⁰. Further, the European Parliament stated that they 'deplored'¹¹ the Government's level of cooperation.

8. Despite this, many investigations have been able to establish evidence of UK involvement in the rendition programme, and the inadequacy of reliance on US assurances.

9. The Council of Europe stated that the UK was responsible to some degree for the renditions of British residents Bisher Al-Rawi, Jamil El-Banna and Binyam Mohamed¹². It also found 'concurring confirmations' that the UK territory of Diego Garcia, home to a US military facility, had been used in the processing of high value detainees¹³. I have subsequently written to the Foreign Affairs Committee to request that they investigate these allegations, and attach a copy of my submission.

10. The European Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners (TDIP Committee) was also critical of the renditions of British citizens and nationals, and highlighted evidence of UK complicity in rendition flights¹⁴.

11. The Foreign Affairs Committee's Third Report of the 2006-07 session recommended that the Government seek from the US a confirmation of whether aircraft used in rendition operations have called at airfields in the United Kingdom or in the Overseas Territories en route to or from a rendition, and that it make a clear statement of its policy on this practice¹⁵. The Government refused¹⁶.

¹⁰ Foreign Affairs Select Committee, Sixth Report 2004-05, para 98,
<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmfaff/36/3607.htm>

¹¹ TDIP Report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, para 67, http://www.europarl.europa.eu/comparl/tempcom/tdip/default_en.htm

¹² Council of Europe Committee on Legal Affairs and Human Rights, Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, 12 June 2006, paras 175-176 & 198,
<http://assembly.coe.int/Documents/WorkingDocs/doc06/edoc10957.pdf>

¹³ Council of Europe Committee on Legal Affairs and Human Rights, Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report, 7 June 2007, para 70.
http://assembly.coe.int/CommitteeDocs/2007/EMarty_20070608_NoEmbargo.pdf

¹⁴ TDIP Report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, para 78, http://www.europarl.europa.eu/comparl/tempcom/tdip/default_en.htm

¹⁵ Foreign Affairs Select Committee, Third Report 2006-07, para 80,
<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmfaff/269/26907.htm#a13>

¹⁶ <http://www.fco.gov.uk/Files/kfile/CM%207127.pdf>

12. The UK Intelligence and Security Committee reported on rendition in July 2007, and found 'a lack of regard, on the part of the US, for UK concerns'¹⁷. The Committee continued: 'the U.S. will take whatever action it deems necessary, within U.S. law, to protect its national security from those it considers to pose a serious threat. Although the U.S. may take note of UK protests and concerns, this does not appear materially to affect its strategy on rendition'¹⁸. A copy of my written evidence to the Committee is enclosed.

13. Bearing these findings in mind it is now particularly important that the Human Rights Council establishes whether and, if so, to what extent the UK is in breach of its human rights obligations in this regard.

Suggested Action by the Human Rights Council

14. It would be of immense help if the Human Rights Council could use the review to try and establish three things:

- what breaches of human rights law have occurred due to UK involvement in the US rendition programme;
- if proper legal safeguards are in place to ensure the UK adheres to its international obligations relating to this issue;
- if the UK Government has fully cooperated with international and national rendition investigations.

Further to these findings, a recommendation from the Council to the UK Government on these points would be extremely useful.

I am willing to give evidence in person if it would be helpful. In accordance with the practice of the APPG, I am placing a copy of this letter in the public domain.

Yours sincerely,
Andrew

ANDREW TYRIE

¹⁷ Intelligence and Security Committee Report into Rendition, 25 July 2007, Para V, <http://www.cabinetoffice.gov.uk/intelligence/>

¹⁸ Intelligence and Security Committee Report into Rendition, 25 July 2007, Para Y, <http://www.cabinetoffice.gov.uk/intelligence/>