Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1801 (2007)[1]

Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report

Parliamentary Assembly

1. The Parliamentary Assembly refers to its Resolution 1562 (2007) on secret detentions and illegal transfers of detainees involving Council of Europe member states. It also recalls its Recommendation 1754 (2006) on alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, noting with regret and concern that the Committee of Ministers has not as yet acted positively either on its own proposals or on those of the Secretary General of the Council of Europe submitted in June 2006, which the Assembly fully endorses.[2]

2. The Assembly condemns the deafening silence of the Committee of Ministers as regards the 3rd public statement of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning the existence of secret detention facilities in the Chechen Republic of the Russian Federation, made on 13 March 2007. It urges the Committee of Ministers to play its full role as the decision-making body of the Council of Europe, an organisation which is guardian of human rights in Europe.

3. Given that the concepts of state secrecy or national security invoked by many governments make more difficult judicial or parliamentary proceedings aimed at ascertaining the responsibilities of the government authorities in relation to grave allegations of human rights violations and at rehabilitating and compensating the presumed victims of such violations, the Assembly invites the Committee of Ministers to prepare a recommendation on the matter, in order to:

3.1. ensure that information and evidence concerning the civil, criminal or political liability of the state's representatives for grave human rights violations committed are excluded from protection as state secrets;

3.2. introduce appropriate procedures ensuring that the culprits are accountable for their actions while preserving lawful state secrecy and national security, when secrets unworthy of protection are inextricably linked with lawful state secrets.

4. The Committee of Ministers should be guided in particular by the Canadian procedures followed in the case of Maher Arar and by national parliamentary inquiry procedures such as the rules of the German Bundestag commissions of inquiry providing for the possibility of the commission's appointing a special investigator.

5. As regards the improvement of democratic supervision of the activities of national intelligence services, the Committee of Ministers is invited to look into the need for member states to provide such supervision in respect of, in particular, military intelligence services as well as those foreign intelligence services operating on their territory.

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1. Assembly debate on 27 June 2007 (23rd Sitting) (see Doc. 11302 rev and addendum), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Marty). Text adopted by the Assembly on 27 June 2007 (23rd Sitting).
2. See Document SG(2006)01 "Follow-up to the Secretary General's reports drawn up under Article 52 of the European Convention on Human Rights (ECHR) on the question of secret detention and transport of detainees suspected of terrorist acts, notably by or at the instigation of foreign agencies (SG/Inf(2006)5 and SG/Inf(2006)13)" at: http://www.coe.int/t/dc/press/source/20060907_DocSG_en.doc.

6. The Committee of Ministers is invited to inform the Assembly, before the end of 2007, of the progress of its work on the implementation of the Secretary General's proposals, and of the Assembly's Recommendation 1754 (2006).