

Liberty Beat

# Europe Shames U.S. Congress

## CIA war crimes in Europe are now under official investigation there, but not here

by Nat Hentoff

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*After 9-11, within the frame-work of the fight against terrorism, the violation of human and fundamental rights was not isolated, or an excessive measure confined to a short period of time, but rather a widespread regular practice by the CIA in which the majority of European countries are involved.*

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photo: Tech. Sgt. Cherie A. Thurlby, U.S. Air Force

**Giovanni Claudio Fava, chief investigator for a European Parliament report on the CIA's "extraordinary renditions" in Europe—following three months of hearings, April 26**

This is not a story about the CIA's secret prisons around the world, but rather a probe by the European Parliament that Congress's Republican leadership has refused to authorize here—into CIA "rendition" kidnappings throughout Europe of suspects sent to countries known for torturing prisoners. (A number of the victims testified at the European Parliament hearings.)

One of the crimes committed by the CIA in these renditions is a violation of U.S. Code 2441, the War Crimes Act of 1996 condemning torture—and the international Covenant Against Torture.

This European inquiry was started after the *Washington Post's* Dana Priest revealed last November that the CIA had secret prisons in Eastern Europe—a sequel to her many stories about the CIA's far from secret "renditions." She won a Pulitzer Prize for that November story—as well as an investigation of her and her sources by the Justice Department.

There are CIA agents who have feared for a long time that these scabrous chickens would come home to roost. In December 2005, Michael Scheuer—who had recently left the CIA after having begun the "rendition" program under the Clinton administration—spoke openly about it on *60 Minutes*.

He supports the "renditions," but as for what happens to those kidnapped *after* they're sent by the CIA to Jordan or Syria or Egypt or Morocco, Scheuer said: "It's very convenient. It's finding someone else to do your dirty work. . . . If you make a mistake [about whom you've

kidnapped], you make a mistake."

Scheuer was asked: "Doesn't that make the United States complicit in the torture?" The answer: "You'll have to ask the lawyers."

Starting in 2002, when lawyers in the Justice Department were advising the president to expand the "renditions" that Clinton had started, some of their internal memoranda expressed concern that someday, an independent prosecutor here would charge those responsible for the kidnappings and torture with war crimes. But the lawyers assured the president that there was "a reasonable basis in law" that the 1996 War Crimes Act would not apply. Bush, with no background in American or international law, went right along.

What Michael Scheuer said on *60 Minutes* and elsewhere is not likely to happen again—nor are the criticisms of the CIA by a growing number of its retired agents. The CIA has now warned former employees to have no contact with reporters unless approved by the agency; and as the April 26 *Financial Times* noted, those ex-agents who have consulting contracts with the CIA could lose their pensions if they speak freely.

Says former CIA official Larry Johnson, a critical blogger on these matters at [tpmcafe.com](http://tpmcafe.com)

: "They are trying to intimidate the press and trying to intimidate employees. Anybody who has been critical of the Bush administration is getting letters."

But the CIA can't shut up the European Parliament; the Council of Europe, a human rights organization; or reporters enthusiastically on the case in Britain, Italy, Sweden, Germany, and elsewhere, including Eastern Europe.

Moreover, European Parliament investigator Giovanni Fava and his committee come to Washington this month. He has some additional questions for Bush administration officials, members of Congress, and human rights groups here about the renditions around Europe. Also among those inquiries are other possible CIA crimes, including torture, in the CIA's secret prisons.

My suggestion to Tim Russert of *Meet the Press* and others who preside over Sunday morning programs that profess to get inside the news is that they invite Giovanni Fava—either in person or from wherever he is in Europe—to present his documented evidence on CIA renditions in a debate with obstructionist senator Pat Roberts, chair of the Senate Intelligence Committee, who keeps blocking any investigations of those who have been tortured with the complicity of the CIA and, at the top of the command, the president.

With Congress in a quagmire, here is a powerful example of an investigation by an American human rights organization into other criminal government behavior that the Congress avoids: *By the Numbers: Findings of the Detainee Abuse and Accountability Project*, produced by Human Rights Watch, Human Rights First, and the Center for Human Rights and Global Justice at New York University Law School.

This report is not about renditions by the CIA or its secret prisons. Its focus is on allegations of abuse (including torture) of detainees in U.S. custody in Afghanistan, Iraq, and Guantánamo—and most importantly, "what actions, if any, the U.S. government has taken in response."

There will be more of the findings of this long-needed Detainee Abuse and Accountability Project in future columns, but to begin: "The DAA Project has documented over 330 cases in which U.S. military and civilian personnel are credibly alleged to have abused or *killed detainees*. (Emphasis added.)

"These cases involve more than 600 U.S. personnel and over 460 detainees. . . . These numbers are conservative. . . . Only 54 military personnel—a fraction of the more than 600 U.S. personnel implicated in detainee abuse cases—are known to have been convicted by court-martial. . . . Many sentences have been for less than a year, even in cases involving serious abuse."

A crucial finding: "No U.S. military [superior] officer has been found accountable for criminal acts committed by subordinates under the doctrine of command responsibility [that] a superior is responsible for the criminal acts of subordinates if the superior knew or should have known that the crimes were being committed and failed to take steps to prevent them or to punish the perpetrators."

At the top of the United States chain of command is the commander in chief, the president. Homicides, as this report documents, have been committed on his watch.

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