

**To: The European Parliament,
Temporary Committee on the alleged use of European countries by the
CIA for the transport and illegal detention of prisoners (TDIP)**

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**Subject: Special Report by Citizen of European Union State on Extraordinary
Rendition for Torture.**

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Dear Members of the European Parliament.

1. Executive Summary:

Since the end of 2001, Shannon Airport in the west of Ireland has come to be used as a military base of key strategic significance for the United States in its prosecution of its wars in Afghanistan and Iraq.

At the time of writing, the Irish Department of Transport's figures for troops passing through Shannon Airport indicate that almost all of the American troops in Iraq have transited through this civilian airport, back and forth between the United States and Iraq, several times.¹ Much military hardware has also passed through the airport.

At the same time, flight logs of aircraft owned or operated by the Central Intelligence Agency (CIA) show that Shannon Airport has served as one of the most important nodes in a network of airports used by the CIA to conduct its programme of "extraordinary renditions". Under this programme promoted by the administration of President George W. Bush, more than 10,000 people have been abducted in the course of the last four years and transported to and from various sites in a global network of prisons, including prisons in Afghanistan and Iraq, an internment camp at Guantánamo Bay in Cuba, and secret "black sites" in Eastern Europe. At these prisons, the abducted prisoners have been subjected to various forms of torture, which have been sanctioned by the administration.

Flight logs also implicate other Irish airports, including Dublin and Baldonnell, in crimes of torture related to the programme of extraordinary rendition. Airports in at least 30 other European countries have also been implicated in these crimes, as documented in reports in the international media.

¹ The latest official figures confirm that over one thousand three hundred armed US troops are passing through Shannon airport each day.

Some of the abducted prisoners have been sent (“rendered”) to countries such as Egypt and Syria, where they may be subjected to particularly harsh torture, even to the point of death.

At the time of writing, it is a matter of particular urgency that hundreds of undocumented prisoners are in danger of suffering summary execution in order to conceal crimes of torture committed under the United States’ programme of extraordinary renditions. It is most likely that some have already been murdered.

The United States’ programme of extraordinary renditions represents a backward step for humanity, by which various regimes around the world justify their own practices of torture. This represents a threat to the security of all of us, including, most strikingly, American citizens kidnapped, tortured and beheaded in Iraq. Two Irish citizens have also been abducted and murdered in Iraq.

All of the above-mentioned activities associated with the wars in Iraq and Afghanistan, and with the programme of extraordinary renditions (which is intimately related to those wars) are in breach of Irish and international law. In particular, the Irish Government has committed repeated, frequent breaches of Ireland’s obligations as a neutral state under the Hague Convention, of the UN Convention against Torture and of Irish legislation that incorporates the Convention against Torture.

Despite the outright illegality of these activities, the Irish state, including both elected government ministers and high-ranking public servants, has actively colluded in facilitating the use of Shannon Airport for the conduct of the United States’ unlawful wars in Afghanistan and Iraq, and for the transport of prisoners abducted under the programme of extraordinary rendition for torture. The government has granted explicit permission for aircraft in the service of the United States’ armed forces and of the CIA to transit Shannon Airport, and has effectively granted such aircraft immunity from being searched, or investigated.

The government has eagerly accepted worthless assurances and reassurances from the White House that Shannon Airport has not been used for purposes of torture, and, in the course of a visit on St. Patrick’s Day, prime minister Bertie Ahern has requested the administration to provide information about some of the flights, with view to mollifying the Irish citizenry, who are overwhelmingly opposed to the torture programme.

Statements from government ministers fall short of denying knowledge of the use of Shannon Airport for the programme of extraordinary rendition for torture, presumably because the ministers are well aware that these crimes have been committed.

In a perversion of justice, members of government have demanded that concerned citizens, including the author of this submission, present evidence of crimes of torture committed at Shannon Airport, while directing airport security staff and members of the Garda Síochána to harass, detain and arrest these same activists in their attempts to gather such evidence.

Government ministers have repeatedly stated that, if the concerned citizens will only produce evidence of crimes, then the government will conduct an investigation into the

torture flights. This kind of false reassurance is clearly a disingenuous tactic by which they seek to blur the distinction between “prima facie evidence” and “conclusive proof” - a distinction of which Minister for Justice Michael McDowell in particular, being a practising barrister, must be acutely aware.

In accordance with its duties, the Intelligence Section of the Irish Defence Forces has probably conducted an investigation into these abuses at Shannon Airport – though without publicising its conclusions – and so we must presume that high-ranking members of the Defence Forces are also aware of crimes of torture committed or facilitated at Shannon Airport. Senior members of the Garda Síochána (Irish police force), Civil Aviation Authority and other key organs of state are presumably also privy to specific details of these crimes of torture.

The response of the Irish Government to a request from the Council of Europe, in accordance with its Article 52, constitutes a fraudulent attempt to conceal its crimes. While the government in this official reply to the Council asserts that it is in compliance with its obligations to investigate and prevent crimes of torture, it is clear that it has in fact failed to protect the victims of torture. The government has not only failed to prevent the “unacknowledged deprivation of liberty” of victims of torture, but on dozens of occasions abused its powers to unlawfully deprive protesters and peaceful observers of their liberty. As recently as 16th April 2006 four peace activists were arrested at Baldonnel military airport near Dublin.

This submission documents the misuse of Shannon airport by the US military and provides detailed flight logs of almost one hundred landings of CIA aircraft at Shannon. These confirmed CIA landings represent only some of the CIA use of Shannon airport, because the complete set of flight logs, which are available to the Irish Government, are not available to peace activists so far.

In view of the failure of the United Nations to effectively intervene to enforce the rule of law as regards crimes of torture, the European Union must intervene as a matter of utmost importance and urgency. The TDIP Committee must call at least four Irish Government ministers to face questions about the abuses at Shannon Airport (and other Irish airports): Ministers for Justice, Minister for Foreign Affairs, Minister for Defence and Minister for Transport.

2. Introduction

My name is Edward Horgan and live near Shannon airport in the west of Ireland. I come before you as a private individual, one of over 400,000,000 citizens of the European Union. I do not come to Brussels to criticise the actions of the United States. In a just and democratic world, that would be the task of the people of the United States and of the United Nations, if the United Nations were functioning properly.

I do not come here to criticise the European Union or other EU States. That is more properly your job as European parliamentarians.

I come principally to set out the case against the Irish Government for failing in its duty under the UN Convention Against Torture to prevent Irish territory being used to facilitate the torture of prisoners, and failing to uphold the UN Charter by facilitating mass murder in Afghanistan and Iraq, which of course is also a form of torture for all the victims involved, and is also intimately linked to the process of extraordinary rendition.

I come to accuse: “J’accuse” in the words of Emile Zola. I accuse the Irish Government, of knowingly facilitating mass murder and torture. I stand before you as an individual citizen of Ireland, doing my civic duty to take my government to task for the wrongs it is perpetrating on innocent people. I do not agree with those who hold that politics should be the exclusive preserve of politicians. I take Plato’s view that politics is the business of the people, the *polis*.

But I come here also for positive reasons. I welcome the respect for the principles of liberty, democracy, human rights and the rule of law that the setting up of this important committee demonstrates. I therefore urge the members of this committee to take your duties very seriously. We know, and each of us should have made it our business to have known in the past, that European territory and airports have been used to transport prisoners for torture to and from Guantánamo Bay prison, to and from Afghanistan, Iraq, and elsewhere, and to special prisons, known as ‘black sites’ in European states, and prisons best described as ‘Black Holes’ in dictatorial states such as Morocco, Egypt, Jordan, Pakistan and Uzbekistan. Even at this present time, and throughout the year while your enquiry is taking place, prisoners are being tortured and disposed of by brutal execution. We all bear some responsibility for these crimes, by our actions or failures to act, because it has been widely known for several years that extra-judicial transport of prisoners for the purpose of torture has been taking place since September 2001, and possibly even before this date, at the instigation and behest of the United States Government, in an inappropriate and disproportionate response to the 2001 attacks on the United States. I am reminded of Dag Hammarskjöld’s motto:

From injustice—never justice
From justice—never injustice. ²

I come here as an optimist, believing that the European Union does abhor the use of torture, and does, for the most part, uphold the rule of law. I come not seeking justice for myself, but seeking justice for some of most vulnerable individuals in the world today.

Torture, terror, and unlawful killing are so intrinsically linked that we should avoid separating them, for example, by focusing only on torture, for the purposes perhaps of avoiding dealing with the primary evil, the unlawful mass killing of innocent people that has been happening in Afghanistan and Iraq. Your terms of reference document P6_TA-PROV(2006)0012 states that the protection of fundamental human rights is also part of the constitutional order of the European Union/Community. The right to life and the right to bodily and mental integrity are the most basic human rights. On 11 September, 2001, about 3000 people were killed in the United States. The passengers in the hijacked planes were mentally tortured, and were brutally and unlawfully killed by Al-Qaeda terrorists, and many people in the US and throughout the world were terrorised by these events.

The response to these events should have resulted in the application and enforcement of the rule of law at international and national levels, and an appropriate and proportionate international security response under the auspices of the United Nations. The opposite has happened. International law has been flouted by the US and its allies, and especially by several European Union states. The military response, the so-called War on Terror,

² Dag Hammarskjöld, *Markings*, translated from Swedish by Leif Sjöberg & W.H. Auden (New York, Random House, 1964), p. 120.

has been a War *of* Terror that has included unlawful military attacks on Afghanistan and Iraq, the unlawful overthrow of two sovereign governments, and the unlawful killing of well over 100,000 innocent people. We cannot vindicate the killing of innocent people by torturing and killing more innocent people, as Hammarskjöld reminded us. The claim by the main leaders of this mayhem, President Bush and Prime Minister Blair, that they are doing this in the name of humanity and with the approval of God, amounts to blasphemy, in any religion.

While I fully understand that the legality of these wars is beyond the remit of this investigation, I would point out that the torture and terror that these wars have unleashed on the peoples of Afghanistan and Iraq has been perpetrated primarily by two states, the United States and the United Kingdom, the latter being a member state of the European Union. Other EU states also actively participated in these wars, including Ireland, which can now best be described as a *rogue neutral state*, because it volunteered the use of Shannon Airport to the US military, and to the CIA, for the conduct of these wars and torture programme, in flagrant breach of the customary international laws on neutrality. Spain, Italy, Denmark, Poland, Hungary, the Netherlands and other European states also participated to a very significant degree, by contributing troops to this war. The European Union and the European Parliament have so far failed in their responsibilities to humanity by failing to investigate and condemn the gross breaches of international law by this cohort of EU States led by the United Kingdom. If the rule of law means anything to the European Parliament, then let's hope this enquiry is just the first of many, and EU sanctions against these rogue member states should be a matter of priority.

The programme known as extraordinary rendition for torture is directly related to and inseparable from these two unlawful wars. This extraordinary rendition programme has imprisoned over 10,000 people, tortured many of these, and resulted in the deaths of an unknown number, at least several hundred, prisoners. US torture planes operated by the CIA and the US military have transited Irish territory and landed at Shannon Airport on well over a hundred occasions, as part of this rendition programme. It is inconceivable that a significant number of these flights and landings did not have prisoners on board, and the very manner that the prisoners were being transported means that they were experiencing torture while the aircraft was refuelling at Shannon Airport. Even if some of these flights did not have prisoners on board, their refuelling at Shannon Airport was still an essential part of the programme of rendition for torture, and therefore constitutes complicity with and facilitation of torture under the UN Convention Against Torture.

I do not come here with a 'smoking gun', conclusive proof such as a prisoner in an orange suit. What I do bring to you in these folders is comprehensive and broad-ranging documentation that constitutes overwhelming circumstantial evidence. My documentation follows the vapour trails in the sky created by the CIA's executive jets in a similar way that a corruption investigation would follow the money trails. I have been prevented from witnessing any prisoners being held or being tortured at Shannon Airport or at other European airports, by the very forces of law and order that should be collecting such evidence. This corruption of the forces of law and order in Europe should bring back memories of the 1930s in Europe, when fascists corrupted the rule of law, with devastating results.

So please do not ask me, as the Irish Government has done, to produce conclusive proof that prisoners have been taken through Shannon Airport. Some of this proof now lies buried in the unmarked graves of unknown and unacknowledged prisoners, in prisons in places such as Cairo, and the Salt –Pit north of Kabul, or bombed to death by US A-10 Thunderbolt warplanes during a prison riot at Mazar-i-Sharif. Please do not underestimate the importance of the work you are doing, or the attempts that will be made to hide the truth, or to minimise the importance of your work of exposure. The work of your committee is already shining a light on the blackness of torture. There are vital short-term and long-term priorities. In the short term, we must all work immediately to relieve the suffering and imminent danger to those prisoners who are being tortured and may be about to be executed, in order to hide the fact of their torture. The long-term priorities are the enforcement and enhancement of the rule of international law, towards prevention of torture not only in Europe, but everywhere in this interdependent world. The people of Iraq and Afghanistan should be as important to the people of Europe as are our colonial cousins in the United States. Our neighbours are now truly all of humankind. The most serious danger is that processes such as extraordinary rendition for torture and the United States' use of pre-emptive military force in contravention of the UN Charter will become established as norms of customary international law, if they are not successfully challenged and reversed. In view of the relative powerlessness of the United Nations, the European Union is now one of the few international bodies that can undertake this important role of challenger.

My submission deals primarily with the role of the Irish Government and its agents at Shannon Airport and elsewhere, who have been directly involved and complicit in the rendition of prisoners for torture. The Irish Government and its principal ministers have protested that they have been unaware that US military and CIA aircraft were using Shannon Airport for the purposes of transporting prisoners for torture. I have no doubt that these statements are false, because it is inconceivable that these senior Irish Government personnel were not aware of what was going on and why. Not only did they all have a duty to know what was happening at Shannon Airport, but I have seen evidence that leads me to believe that each of them knew that Shannon Airport was being deliberately and unlawfully misused for the purposes of torture, and that they not only did nothing to stop these crimes, but took steps to ensure that others, including the Irish police and peace activists, were prevented from preventing these crimes. These suspicions are reinforced by the recent spectacle of an Irish minister reviewing US troops at a St. Patrick's Day parade in the US, after their return from Iraq, where they had been engaged in the unlawful killing of innocent people, and by US President George W Bush being allowed to review US troops at Shannon's supposedly neutral, civilian airport on 1 March 2006. This represents the perversion of the friendship between the peoples of Ireland and the US of which the Irish Government frequently boasts.

I submit this report, and the attached supporting documents, to you as a person committed to the enforcement and the enhancement of the rule of international law, towards the achievement of a comprehensive system of justice for all of humanity's individuals.

Torture is almost as old as humanity, as is imprisoning people and moving them to places where they can be more easily and more secretly tortured. In recent centuries, these barbarous practices have been unlawful, but have continued to be used in

dictatorial states, or subversively in respectable states or states that are considered to be democratic. Since the foundation of the United Nations, such gross abuses of human rights have been progressively banned by international law, to such an extent that virtually all states deny that their security forces practise torture, even in countries where the practice has been widespread as a means of political repression. Where it did occur in democratic states, it was done secretly by the special security services, often allegedly in the national interest.

Following the terrorist attacks on the United States of 11 September, 2001, and the subsequent so-called War on Terror unleashed by the United States in response, the use of, and/or complicity in, torture as a political and security measure, by countries that are recognised as the most democratic states in the world, has become one of the most serious issues confronting the international community, and undermining the rule of international law. While it may be expected, albeit unacceptable, that dictatorial states inflict torture on individuals, the active involvement of democratic states in a comprehensive and widespread programme of torture is reprehensible from human rights, international law, ethical, and even from pragmatic security perspectives. Such 'main-streaming' of torture by democratic states has already led to an increase in the use of torture internationally, and to the encouragement of the practices of torture by dictatorial states, and to a significant increase in terrorism in response to torture and the terror of war.

These are the primary reasons for my making this submission to you as parliamentarians of the European Union, in the hope and expectation that you will take action to undo some of the most serious damage already done. The proper application of the rule of law is all that protects individuals in all states from lawlessness. I have come here to uphold the rule of law, and to ask you to enhance the rule of international law, by helping to restore the legal ground that has been lost in the specific area of torture. I work as manager of the Centre for Care of Survivors of Torture in Ireland, and have previously worked with peoples who have suffered trauma from conflict and torture in areas such as Bosnia, Zimbabwe and East Timor. I do not come here to embarrass the Irish Government or the US Government, but to help alleviate some of the suffering caused by torture, and to help re-establish the significant role that democratic states, including the US, were playing in the past towards the elimination of torture. I am neither anti-American nor anti-British. My mother was a US citizen, and I have close relatives serving with the both the American and British forces. I come from a "globalised" family and I therefore have a very deep vested interest in genuine international peace.

Revelations from torture victims³ and torture perpetrators involved in the abuse of prisoners at the behest of the United States inform us that the torture methods being used in the extraordinary rendition torture programme include: **immersion in boiling liquid,**⁴ **waterboarding, whereby prisoners believe they are being drowned, Falaqa torture, whereby prisoners are beaten on the soles of their feet to such an extent that they have difficulty walking for the rest of their life, the so-called Palestinian torture method, whereby prisoners are suspended by their arms bound behind their backs, a wide variety of sexual abuse including male and**

³ Moazam Begg, *Enemy Combatants: A British Muslim's Journey to Guantanamo and Back* (2006).

⁴ Craig Murray Uzbekistan Report.

female rape, use of dogs to terrorise prisoners, starvation, suffocation, deprivation of sleep, the threat of execution, being forced to watch the execution of others, actual painful execution, and the use of a wide variety of weapons, electricity, psychological, drugs, and other means, sometimes applied under the supervision of medical practitioners.

Since 2001, therefore, the War on Terror has been used to justify torture under the guise of using “all necessary means” to combat terrorism, by the leading member of the United Nations, the United States of America. What had been done covertly in the past is now done openly, by re-designating acts of torture as acceptable techniques for the extraction of information, just as the use of the wrack and burning at the stake were considered acceptable during the Inquisition era in so-called Christian Europe. Craig Murray has revealed that torture by burning and immersing in boiling liquid is still in use in states such as Uzbekistan. Devices such as getting state chief legal officers, or attorney generals, to issue legal opinions to the effect that illegality is legal, have corrupted the rule of national and international law. In addition, the US has contrived that those they wish to have tortured are placed outside the protection of US national and constitutional law by locating some of them in an internment camp at Guantánamo Bay in Cuba, and that its targeted enemies are placed beyond the protection of international laws and conventions, including the Geneva Conventions on War, by designating them “unlawful combatants”.⁵ This becomes possible in an international order whereby the United States and its chief allies consider themselves to be above international law, and choose to make and break international law at will. The invasion of Iraq on 20 March 2003 was the most serious example of this. The United States would like the term ‘customary international law’ to conform to whatever the latest whims of the existing US administration happen to be. During the Vietnam War it was the Domino Theory, and now it’s the abuse of pre-emptive military force, and the use of torture, provided we call it something else, such as extraordinary rendition, and provided the US Attorney General defines it as something less than torture. The rule of international law needs to be restored and all rogue states need to be brought within the rule of law, and international jurisprudence.

From a human rights point of view, the overt use of torture by the US has the effect of opening the floodgates of torture, and the damage done to the system of international law may take decades to undo. A criminal law analogy would be that, while we expect criminals to rob banks, when the police start to rob banks, there is no law, just chaos. The US-led War on Terror is now being used to justify gross violations of human rights within Russia and China, as well as the usual suspects, such as North Korea, Uzbekistan and Egypt. The United Nations appears to have, at least temporarily, abandoned its primary role as the world’s human rights watchdog, for reasons of pragmatism. This makes it all the more important that intermediate international bodies such as the Council of Europe and the European Union should do

⁵ Given that the Afghanistan and Iraq wars did not have UN Security Council approval, this places US forces engaged in these wars in a very similar category of “unlawful combatants”. If this were to become the standard international criteria, then the rules of war as applicable in international law would quickly become defunct. This is particularly so in view of the large numbers of irregular paramilitary fighters, ‘security contractors’ and mercenaries used or employed by the US in Afghanistan and Iraq. The US therefore is not just removing the protection of international law from a handful of its enemies; it is also denying such protection to its own troops and US citizens. This is already evident in the cruel fate suffered by US citizens captured in Iraq.

all in their power to restore and enhance the rule of international law in relation to such human rights abuses, until such time as the authority and credibility of the UN is restored.

I come to you therefore as an individual, pleading on behalf of very many prisoners, because they cannot speak for themselves, and some of them may literally have had their tongues cut out. I come on my own behalf, too, and on behalf of all of us, for who knows when they may come to torture you or me, or a member of our families. Of course, it is really my elected government that should be here defending human rights, but like the present US administration, the Irish Government and other European governments are violating the most basic human rights, by facilitating torture and unlawful wars. Members of the European Parliament have unique responsibilities and opportunities arising from their democratic election, independent from national governments, and the very establishment of this special committee is an important development.

I will begin by laying a partial mosaic of the international process of extraordinary rendition for torture, knowing that it will be incomplete, but hoping that others such as Craig Murray, as well as your own separate investigations, will be able to fill in the missing pieces. It is essential also that your committee should call before it the responsible ministers from each state that permitted, or failed to prevent, the transport of prisoners through their territories. This mosaic of the extraordinary rendition for torture will be partly hidden under proverbial layers of dirt, lies and bureaucratic abuse, as befits the business of torture and the vile people who perpetrate and facilitate torture.

Little did I realise in 1975 when I first read Alexander Solzhenitsyn's Gulag Archipelago that we would be witnessing a repeat of such savage behaviour, not just by brutal dictators, but, by states that profess to respect and honour the rule of law. Solzhenitsyn dedicated his book to all those who did not live to tell the story themselves. Throughout your year-long investigation into torture rendition, I urge each of you to constantly think about all those who have already died, and who are about to die, in this post-modern Gulag Archipelago called Extraordinary Rendition. The different layers of this mosaic include the global layer stretching from Guantánamo Bay to Afghanistan and beyond, a North African/Middle Eastern layer, and the micro-layer of special interest to us, the layer of complicit European states. We must also remember the sometimes overlapping, and often more serious, layers of torture perpetrated by dictatorial regimes, which are beyond the scope of this committee, except in so far as the extraordinary rendition programme is using these separate torture regimes, particularly in countries such as Uzbekistan and Egypt. I will focus more closely later on the particular Irish layer of torture complicity, and hopefully, you will get similar information from humanitarian-minded individuals and groups in each European state. There is little point in giving details of aircraft landing and taking off at Shannon Airport, unless this information is linked in with the broader network of criminal torture. What is going on is a torture Mafia, led by the world's most powerful states. I will not attempt to explain away, or give any possible justifications for this torture programme, because the UN Convention Against Torture decrees as follows:

UN Convention Against Torture

Article 2

Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

It is these particular principles of international human rights laws that are being violated most clearly by the rendition for torture programme. There is no derogation from the rules of international law on torture. Freedom from torture therefore is a "Jus Cogens principle and a non-derogable right".⁶

3. Accusation against the Irish Government.

My submission is that the state of Ireland, which is a party to the UN Convention Against Torture (UNCAT), by virtue of its ratification of that Convention and by virtue of the introduction of the Convention into Irish national law by the Irish Criminal Justice [UN Convention Against Torture] Act, 2000, has been in most serious breach both of the UNCAT and of its own Irish legislation.

Having taken 'effective legislative measures' to comply with the UNCAT, the Irish state has not only failed to take effective administrative, judicial or other measures to prevent acts of torture in territory under its jurisdiction (that is at Shannon Airport, Dublin Airport and elsewhere), but has actually taken specific administrative, judicial and other measures to facilitate acts of torture on its territory, and to facilitate the transport of prisoners to other places where they are likely to be tortured.

There are no circumstances whatsoever, other than national greed, to explain the actions of the Irish Government in these matters.

Orders from superior officers, that is, from Irish Government Ministers, and from public authorities, that is, the Dublin Airport Authority, (which is the state agency that has responsibility for Shannon Airport), and orders from the Irish police

⁶ Redress Report, *Terrorism, Counter-Terrorism and Torture: International Law in the Fight Against Terrorism* (London, The Redress Trust, 2004), p. 18.

authorities have been given to implement measures that are designed to facilitate torture.⁷

The Irish state has facilitated the return (“refouler”) of persons to other states where there are substantial grounds for believing that those persons are in danger of being subjected to torture.

The Irish state has failed to ensure that, in practice, acts of complicity in torture are treated as offences under Irish law, by failing to take any prosecutions against US Government agents, including CIA and US military personnel, or against Irish police or other Irish officials at Shannon Airport who have been complicit in the transport of prisoners for torture. Furthermore, the Irish state has taken exceptional steps to ensure that the very small number of individuals who have sought and are seeking to expose these crimes, have not only been prevented from doing so, but have been harassed, arrested and even imprisoned for taking peaceful actions to expose these crimes. Some of the photographs I will show you will demonstrate the extraordinary security measures taken to prevent lawful peaceful protests at Shannon Airport, including the use of dogs, horses, tanks, water cannon borrowed from Northern Ireland, as well as the Irish air force and naval forces. Yet, as an international security expert, I know that measures to prevent terrorist counterattacks at Shannon and Dublin are seriously and irresponsibly inadequate, given Ireland’s known complicity in the so-called War on Terror.

Up to one hundred arrests or temporary detentions have been inflicted on peace activists at Shannon Airport, and about fifty prosecutions have been taken. While most of these have been dismissed, in some cases severe fines and terms of imprisonment have been imposed.

No one has been prosecuted for facilitating the crimes of torture or the unlawful killing of over 100,000 people in Iraq. No US aircraft has been searched; the Irish Government is lying when it maintains that proper investigations have been carried out into the extraordinary renditions at Shannon Airport.

4. Evidence of complicity in torture and other crimes:

All the evidence that I am presenting to you, and very much more besides, has been available to the Irish Government at all times from 2001 up to the present time. The records of the Irish Aviation Authority, Shannon Airport control tower and the Irish Meteorological Service, as well as communications and agreements within Irish government departments and agencies, and with the United States, all provide far more detailed evidence of the CIA and US military aircraft that have been landing at Shannon Airport. Under IATA international air safety regulations, passenger and cargo details for these aircraft should also be available to the Irish Government. Yet, far from collecting this evidence and acting on it to prevent Irish territory being used to facilitate torture, the Irish government has taken extraordinary steps to prevent the disclosure of extraordinary rendition for torture. It is also important to take steps to ensure that this evidence is preserved, and not destroyed.

In addition to breaching customary international law, as well as international treaties and conventions, the Irish Government has been in breach of a multitude of common law and Irish criminal law principles and statutes. It is a criminal offence under Irish law for Irish citizens or others to assist in any way in the commission of crimes such

⁷ Examples include the public statements by Irish ministers that Irish authorities will not search US aircraft passing through Shannon airport, thereby granting effective immunity to the US Government to use these facilities for the purposes of torture.

as common assault, torture, rape, or the killing of innocent people, for example, non-combatants in Iraq, whether these crimes are committed on Irish territory or outside of Irish territory. The Omagh terrorist bombing in Northern Ireland is just one case in which the Irish police have brought criminal charges against individuals in the Irish Republic who were complicit in this crime.⁸

5. Immediate danger to unacknowledged and undocumented prisoners:

One of the most serious issues, and the one of most immediate importance, that I ask you to address, is not the issue of ‘unlawful combatants’ but the issue of missing, undocumented prisoners, and prisoners denied all access to any contact outside of their secret prisons, including access by the Red Cross and Red Crescent. These prisoners are in immediate danger, and any progress towards ensuring that all prisoners everywhere are officially recorded and have regular access to the Red Cross or similar independent agencies, would be a worthwhile outcome of your investigations.

6. The International programme of extraordinary rendition for torture:

For convenience, I will quote a report by Human Rights First and an article from the Guardian that between them provide a good, up-to-date summary of the international or global torture process. Peace activists have been accused by the Irish Foreign Minister of simply regurgitating media reports of the US torture programme. In this instance, I plead guilty, but unapologetic for using all available sources of information, and I counter-accuse, j’è accuse, the Irish Government of deliberately ignoring all reports of Irish territory being used by the US Government for its torture programme.

A few quotes from the Guardian article below is indicative:

“The network has no visible infrastructure - no prison rolls, visitor rosters, staff lists or complaints procedures.”

“The floating population of ‘ghost detainees’, according to US and UK military officials, now exceeds 10,000.”

Excerpt from report by Human Rights First:

Command’s Responsibility - Detainee Deaths in U.S. Custody in Iraq and Afghanistan

Written by Hina Shamsi and edited by Deborah Pearlstein

February 2006

<http://www.humanrightsfirst.info/pdf/06221-etn-hrf-dic-rep-web.pdf>,

“Since August 2002, nearly 100 detainees have died while in the hands of U.S. officials in the global war on terror. According to the U.S. military’s own classifications, 34 of these cases are suspected or confirmed homicides; Human Rights First has identified another 11 in which the facts suggest death as a result of physical abuse or harsh conditions of detention. In close to half the deaths Human

⁸ While I am not a legal expert, I expect that similar situations exist in all European Union states with regard to obligations under criminal laws and other state law, not to commit, or facilitate, or be complicit in crimes such as assault, torture, and the murder of innocent people.

Rights First surveyed, the cause of death remains officially undetermined or unannounced. Overall, eight people in U.S. custody were tortured to death. Despite these numbers, four years since the first known death in U.S. custody, only 12 detainee deaths have resulted in punishment of any kind for any U.S. official. Of the 34 homicide cases so far identified by the military, investigators recommended criminal charges in fewer than two thirds, and charges were actually brought (based on decisions made by command) in less than half. While the CIA has been implicated in several deaths, not one CIA agent has faced a criminal charge. Crucially, among the worst cases in this list, those of detainees tortured to death, only half have resulted in punishment; the steepest sentence for anyone involved in a torture-related death: five months in jail.

Article from the Guardian:

'One huge US jail'

Afghanistan is the hub of a global network of detention centres, the frontline in America's 'war on terror', where arrest can be random and allegations of torture commonplace. Adrian Levy and Cathy Scott-Clark investigate on the ground and talk to former prisoners

Saturday March 19, 2005

<http://www.guardian.co.uk/afghanistan/story/0,1284,1440836,00.html>.

"The detention system in Afghanistan exists entirely outside international norms, but it is only part of a far larger and more sinister jail network that we are only now beginning to understand," Michael Posner, director of the US legal watchdog Human Rights First, told us.

Last November, a man from Gardez died of hypothermia in a US military jail. When his family were called to collect the body, they were given a \$100 note for the taxi ride and no explanation. In scores more cases, people have simply disappeared.

Prisoner transports crisscross the country between a proliferating network of detention facilities. In addition to the camps in Gardez, there are thought to be US holding facilities in the cities of Khost, Asadabad and Jalalabad, as well as an official US detention centre in Kandahar, where the tough regime has been nicknamed "Camp Slappy" by former prisoners. There are 20 more facilities in outlying US compounds and fire bases that complement a major "collection centre" at Bagram air force base. The CIA has one facility at Bagram and another, known as the "Salt Pit", in an abandoned brick factory north of Kabul. More than 1,500 prisoners from Afghanistan and many other countries are thought to be held in such jails, although no one knows for sure because the US military declines to comment.

What has been glimpsed in Afghanistan is a radical plan to replace Guantánamo Bay. When that detention centre was set up in January 2002, it was essentially an offshore gulag - beyond the reach of the US constitution and even the Geneva conventions. That all changed in July 2004. The US supreme court ruled that the federal court in Washington had jurisdiction to hear a case that would decide if the Cuban detentions were in violation of the US constitution, its laws or treaties.

Guantánamo was suddenly bogged down in domestic lawsuits. It had lost its practicality. So a global prison network built up over the previous three years, beyond the reach of American and European judicial process, immediately began to pick up the slack. The process became explicit last week when the Pentagon announced that half of the 540 or so inmates at Guantánamo are to be transferred to prisons in Afghanistan and Saudi Arabia.

Since September 11 2001, one of the US's chief strategies in its "war on terror" has been to imprison anyone considered a suspect on whatever grounds. To that end it commandeered foreign jails, built cellblocks at US military bases and established covert CIA facilities that can be located almost anywhere, from an apartment block to a shipping container. The network has no visible infrastructure - no prison rolls, visitor rosters, staff lists or complaints procedures. Terror suspects are being processed in Afghanistan and in dozens of facilities in Pakistan, Uzbekistan, Jordan, Egypt, Thailand, Malaysia, Indonesia and the British island of Diego Garcia in the southern Indian Ocean. Those detained are held incommunicado, without charge or trial, and frequently shuttled between jails in covert air transports, giving rise to the recently coined US military expression "ghost detainees".

We have obtained prisoner letters, declassified FBI files, legal depositions, witness statements and testimony from US and UK officials, which document the alleged methods deployed in Afghanistan - shackles, hoods, electrocution, whips, mock executions, sexual humiliation and starvation - and suggest they are practised across the network. Sir Nigel Rodley, a former UN special rapporteur on torture, said, "The more hidden detention practices there are, the more likely that all legal and moral constraints on official behaviour will be removed."

The floating population of "ghost detainees", according to US and UK military officials, now exceeds 10,000.

When the first prisoners arrived at Guantánamo Bay in January 2002, Donald Rumsfeld announced that they were all Taliban or al-Qaida fighters, and as such were designated "unlawful combatants".

From there, it was only a small moral step for the Bush administration to overlook the use of torture by regimes previously condemned by the US state department, so long as they, too, signed up to the war against terror. "Egypt, Jordan, Malaysia, Thailand, Indonesia, Pakistan, Uzbekistan and even Syria were all asked to make their detention facilities and expert interrogators available to the US," one former counterterrorism agent told us.

In the UK, a similar process began unfolding. In December 2001, the then home secretary David Blunkett withdrew Britain from its obligation under the European human rights treaty not to detain anyone without trial; on December 18, the Anti-terrorism, Crime and Security Act was passed, extending the government's powers of arrest and detention.

We were able to chart the toing and froing of the private executive jet used at Bromma partly through the observations of plane-spotters posted on the web and partly through a senior source in the Pakistan Inter Services Intelligence agency (ISI). It was a Gulfstream V Turbo, tailfin number N379P; its flight plans always

began at an airstrip in Smithfield, North Carolina, and ended in some of the world's hot spots. It was owned by Premier Executive Transport Services, incorporated in Delaware, a brass plaque company with nonexistent directors, hired by American agents to revive an old CIA tactic from the 1970s, when agency men had kidnapped South American criminals and flown them back to their own countries to face trial so that justice could be rendered. Now "rendering" was being used by the Bush administration to evade justice.

Robert Baer, a CIA case officer in the Middle East until 1997, told us how it works. "We pick up a suspect or we arrange for one of our partner countries to do it. Then the suspect is placed on civilian transport to a third country where, let's make no bones about it, they use torture. If you want a good interrogation, you send someone to Jordan. If you want them to be killed, you send them to Egypt or Syria. Either way, the US cannot be blamed as it is not doing the heavy work."

The Agiza and Al-Zery cases were not the first in which the Gulfstream was used. On October 23 2001, at 2.40am at Karachi airport, it picked up Jamil Qasim Saeed Mohammed, a Yemeni microbiologist who had been arrested by Pakistan's ISI and was wanted in connection with the USS Cole attack. On January 10 2002, the jet was used again, taking off from Halim airport in Jakarta with a hooded and shackled Mohammed Saeed Iqbal Madni on board, an Egyptian accused of being an accomplice of British shoe bomber Richard Reid. Madni was flown to Cairo where, according to the Human Rights Centre for the Assistance of Prisoners, he died during interrogation.

Since then, the jet has been used at least 72 times, including a flight in June 2002 when it landed in Morocco to pick up German national Mohammed Zamar, who was "rendered" to Syria, his country of origin, before disappearing.

It was in December 2001 that the US began to commandeer foreign jails so that its own interrogators could work on prisoners within them. Among the first were Haripur and Kohat, no-frills prisons in the lawless North West Frontier Province of Pakistan which now hold nearly as many detainees as Guantánamo.

(End of Guardian article.)

7. Europe's role in rendition for torture:

The attached list of articles from plausible sources in the international media was compiled by Dr. Coilín Oscar ÓhAiseadha, DCH, who has been assisting me in documenting the programme of extraordinary rendition for torture. It lists at least thirty-one European states that have been involved directly or indirectly in this torture process. It would be easier to list those that have not been involved – or, at least, whose involvement has not yet been documented. This comprehensive and well-researched report is nevertheless incomplete but it provides a very good summary of the involvement of European and other states in the programme of extraordinary rendition for torture. This research lists a further fourteen non-European states with direct involvement in the torture process.

See attached report entitled: **Countries involved in extraordinary renditions 181205**⁹

8. The wars in Afghanistan and Iraq.

It is fully appreciated that the question of the legality of the wars in Afghanistan and Iraq are beyond the remit of this EU Parliamentary committee. However, it is important to consider the programme of rendition for torture within the context of these two wars, which were waged without the approval of the UN Security Council, and in the case of the Iraq war, in spite of the expressed disapproval of the UN Secretary General, Kofi Annan. It is clear, therefore, that these wars were and are in contravention of customary international laws, regardless of any purported justifications, such as weapons of mass destruction, that the US and its complicit allies might put forward. It has been these gross breaches of international law that have enabled and facilitated the introduction of the programme of extraordinary rendition for torture. The wars in Afghanistan and Iraq have provided a large proportion of the prisoners that have been rendered for torture by the US extraordinary rendition process.

In addition, the way very many of these prisoners have been treated by the forces of the US and of its allies contravenes the Geneva Convention on the treatment of prisoners, and other international laws and conventions. The killing of large numbers of captured prisoners in Afghanistan, by US military and paramilitary allies, and by US forces, including bombardment by US military aircraft, was also in most serious contravention of international laws. Ireland and most other European states have been complicit in the unlawful torture and killing of very many people in Afghanistan, Iraq and other places, not only through the process known as extraordinary rendition for torture, but also through their direct participation and facilitation of these unlawful wars, resulting in the killing of tens of thousands of non-combatants. These two wars are inextricably linked to the programme of extraordinary rendition for torture.

9. Special role of neutral states:

A small number of European states profess to be neutral states under international law, and claim special privileges and have duties in accordance with this neutral status. By virtue of this neutral status, they claim to give special priority to the rule of international law and to issues of global justice. These states are Switzerland, Austria, Finland, Sweden and Ireland. Some of these, especially Switzerland and Austria, have taken stringent steps to ensure that their own governments honour these principles of neutrality and that other states respect them. Others, especially Ireland, have behaved in gross breach of international laws of neutrality and the principles of international justice, by actively participating in the Iraq War and in the programme of extraordinary rendition for torture. (See attached Irish High Court Judgement, *Horgan v Ireland et al.*)

10. Ireland's role in rendition for torture

That Ireland has been, and continues to be, in breach of its obligations under international laws of neutrality is confirmed by the juxtaposition of repeated public

⁹ Research compiled by Dr. Coilín Oscar ÓhAiseadha, DCH.

statements by Irish Government ministers, including our prime minister Bertie Ahern, that Ireland is a neutral state, and by a High Court ruling by Judge Kearns on 28 April 2003 that found as follows:

The court is prepared to hold therefore that there is an identifiable rule of customary law in relation to the status of neutrality whereunder a neutral state may not permit the movement of large numbers of troops or munitions of one belligerent State through its territory en route to a theatre of war with another.¹⁰

This refers to the large-scale use of Shannon Airport by the US military for the purposes of moving its troops to and from its war in Iraq. Not only has this movement of US through Shannon Airport continued, but it has increased to such an extent that the almost all US troops going to and from Iraq and Afghanistan are now passing through Shannon Airport, not only with the approval of the Irish Government, but on the express invitation of the Irish Government. A summary of the numbers of US troops that have passed through Shannon Airport over the past four years is as follows:

Year	Numbers of Armed US Troops Passing through Shannon
2002	73,000
2003	125,000
2004	158,000
2005	330,000
Total:	686,000 armed US troops

(Additional US troops passing through Shannon during the 2006 to date bring this number in excess of 800,000 soldiers).

These figures relate to troops in chartered civilian transport aircraft, and do not include additional US troops that passed through Irish airspace without landing, or troops that may have been on separate military aircraft. In addition, a vast amount of military equipment and munitions of war have passed through Shannon, on both US military aircraft and separate, chartered cargo aircraft.

11. Attachments to this report:

Please refer also to the detailed attachment list at the end of this report. Of particular importance are the flight logs in attachments 37 to 44. These flight logs should be combined with flight logs from other sources, including the Amnesty International report, **Below the Radar**, in attachment 47.

Accompanying this report also, as attachment 48, is a **CD of photographs taken by Edward Horgan at Shannon Airport** of US aircraft and troops transiting through Shannon, and of peaceful protests at Shannon Airport.

This is relevant to the issue of rendition for torture, first, in so far as these two unlawful wars were the primary source of the prisoners for the programme of rendition for torture, and, secondly, because the US military use of Shannon Airport provided cover for the covert use of Shannon Airport by the CIA and other US government agents to transport prisoners for nefarious purposes, including their unlawful detention and their torture. The unlawfulness of the detention of these

¹⁰ The High Court, 2003 No. 3739p, Between Edward Horgan Plaintiff and An Taoiseach, The Minister For Foreign Affairs, The Minister For Transport, The Government Of Ireland, Ireland And The Attorney General, Defendants. Judgment of Mr. Justice Kearns delivered the 28th day of April, 2003.

prisoners arises from the fact that both of these wars were unlawful under current international law in the first place, regardless of the fact that the manner in which these prisoners were treated, including their torture, was unlawful under any circumstances.

So that this report will contain my complete submission, I am attaching also my **original submissions to your committee**, and information I have previously forwarded to you, including a copy of the **Submission to the Irish Oireachtas Joint Committee on Foreign Affairs** by four peace activists including myself, and also copies of my further **submission to the Irish Human Rights Commission**, and the **submission to the Irish Inspector of Prisons**, and **submission to the Council of Europe**.

I attach a copy of the COE Request for Information, and a copy of the Irish Government's reply to this COE request. This Irish Government Reply is important because it purports to answer all of the substantial questions raised by the Council of Europe, yet falsely states or implies that no persons are held in Ireland in unacknowledged circumstances. It cites reports by the Irish Inspector of Prisons to back up this assertion. It is in response to this fraudulent Irish Government reply to the COE that I enclose a copy of my interim submission to the Irish Human Rights Commission, and my separate submission to the Mr Justice Killen, Irish Inspector of Prisons, for your information. While all these separate investigations by the COE, the European Parliament and the Irish Human Rights Commission are to be welcomed, I wish to express my ongoing concern that these particular enquiries will, of necessity, be both prolonged and bureaucratic, and will not therefore address the immediate urgent needs of those many prisoners who are being tortured at present and are in immediate danger of unlawful execution.

Additionally, I am very concerned that separate investigations that are, or have been, carried out by other European governments are also intended and designed to cover up any complicity in torture by those governments, rather than to expose any wrongdoing. Examples include the enquiry by the Polish Government, which was conducted in secret and concluded without issuing any public report. Any investigations carried out by the Irish Government so far have been designed and have had the effect of covering up all wrongdoing by the Irish Government and its agents in facilitating the transport of prisoners for torture through Shannon Airport.

12. The evidence of torture aircraft at Shannon:

Irish Government ministers have publicly stated that peace activists have failed to produce any evidence that Shannon Airport has been used for extraordinary rendition for torture, and that we have simply been regurgitating media reports. I do place considerable emphasis on media reports of the torture programme; this is necessary because of the consistent failures of the Irish and other European governments to initiate any real investigations into the complicity of Irish and other European governments with this torture programme. Also, I note that the ministers in making such statements are deliberately striving to blur the distinction between prima facie evidence and conclusive proof. Minister of Justice Michael McDowell, in particular, having practised as a barrister since 1974, cannot pretend ignorance of this vital distinction. Peace activists, including

the writer of this report, have used the Internet extensively, particularly the Independent Media Centre at www.indymedia.ie, In this instance, I plead guilty, but unapologetic for using all available sources of information, and I counter-accuse the Irish Government of deliberately ignoring all reports of Irish territory being used by the US Government for its torture programme.

A few quotes from the Guardian article below is indicative: to publish reports on US military use and CIA misuse of Shannon Airport, and many of the other Irish media reports on US misuse of Shannon Airport are based on these Indymedia reports, or information supplied to the media by peace-activists, or information received from freedom of information, and Irish parliamentary enquiries. These Indymedia reports are therefore are a very important source of information because I, and other peace-activists, have been using them as a means of recording and publicising what has been happening at Shannon. The Indymedia reports that I have attached are just a small sample of those that have been published, and other additional reports can still be accessed on this media (www.indymedia.ie).

While this report is partly based on information published in very many media sources, the solid evidence that the Irish Government has been quite complicit and actively supporting the US programme of extraordinary rendition for torture, has been sitting on the runways of Shannon Airport on an almost daily basis over the past five years. Meanwhile, Irish Government ministers have been doing all in their power to conceal this evidence, in direct contravention of their duties and responsibilities. I wish to state that everything I have included in these reports is based on unquestioned fact, or on considered evaluation of evidence that I regard as reliable; the evidence of my own observations at Shannon Airport, or evidence that has been compiled by others whose reliability I trust. This evidence will always be incomplete, because of the deliberate efforts by many governments, officials and agencies, to conceal important parts of the evidence. I further state that, in my considered opinion, backed up by the evidence of my own observations at Shannon Airport, that several Irish Government ministers have uttered false public statements in connection with the use of Shannon Airport by the US military, the CIA and other agents of the US Government.

13. What I have seen and photographed at Shannon Airport:

I have been monitoring events at Shannon Airport since I became aware in 2001 that this Irish international airport, in a supposedly 'neutral' state, was being used by the US military for its build-up and military intervention in the US-led war against Afghanistan. From my research work in the field of international relations, I was aware that Ireland, as a declared neutral state, had obligations under the Hague Convention on Neutrality and under customary international law to prevent troops from any belligerent state from transiting its territory. I was also aware that the US-led war against Afghanistan was contrary to the UN Charter, and did not have the approval of the UN Security Council.¹¹ I began to organise peaceful protests at Shannon Airport in 2001 and throughout 2002, in association with the Irish Peace and Neutrality Alliance, of which I am International Secretary, and in cooperation with

¹¹ I have spent the past four years as a researcher at the University of Limerick, working on a PhD thesis on the topic of United Nations reform, entitled: "The United Nations – Beyond Reform? The Collective Insecurity of the International System and the Prospects for Sustainable Global Peace and Justice."

other peace NGO's such as the Irish Anti-War Movement, AFRI, and the NGO Peace Alliance, and local peace groups in the west of Ireland.

In early January 2003, I helped to organise a peace camp at Shannon Airport, for the purpose of raising public awareness of the abuse of Irish neutrality by the US military use of Shannon, which was at that time being used for the transit of large numbers of US troops and munitions for the build-up to the invasion of Iraq. On 18 January 2003, I first became aware that suspicious aircraft, which might have been operated by secret US Government agencies, were also transiting Shannon Airport, when I noticed a Gulfstream executive jet, registration number **N379P**, being refuelled at the airport under the protection of the Garda Síochána: the Irish police force. I was accompanied by a fellow peace activist, Mr Tim Hourigan, who recorded the number of this aircraft and posted these details on the internet, on the website of the Independent Media Centre at www.indymedia.ie. When this aircraft was later discovered to have been involved in the **kidnapping of two Muslim refugees from Sweden**, the documentary crew of the Swedish TV4's current affairs programme, Kalla Fakta [Cold Facts], who were investigating this, saw the Shannon connection documented by the Independent Media Centre at www.indymedia.ie, and this gradually led to further exposures of the tangled web of the unlawful and extra-judicial programme of rendition for torture.

14. Dossier of landing logs of CIA aircraft:

I have attached a dossier of aircraft logs of CIA-controlled aircraft that have passed through Shannon Airport and other European and international airports, with the landings in Ireland highlighted. It is important to note that these logs of aircraft movements are in all cases partial and incomplete, even though some are headed "complete logs". Also, they refer only to aircraft that we now know to have been controlled by the CIA, and it is likely that this list of CIA-controlled aircraft used for transporting prisoners is also incomplete. I also have reason to believe that US military aircraft, especially C130 Hercules, have been used on many occasions to transport prisoners for torture through Shannon Airport.

Statements issued by Irish Government spokespersons and ministers have been carefully worded to mislead the public and investigators. It should be noted that *none* of the recent Irish Government statements has stated unequivocally that prisoners have *not* been transported through Shannon. Furthermore, all statements made by Irish Minister for Foreign Affairs have stated only that no prisoners have been taken from Shannon to the internment camp at Guantánamo Bay in Cuba. While this is probably technically true, it is deliberately misleading. The logs of the aircraft attached clearly show that the CIA rendition aircraft listed in these logs do not fly directly to from Shannon to Guantánamo nor from Guantánamo to Shannon, but stop over at an intervening airport in the US or Canada before proceeding to their destination at Guantánamo or Shannon. The minister's statement also avoids the matter of prisoners being transported from Guantánamo to Shannon and on to further locations. This omission may indicate that the minister is aware that prisoners have in fact been taken through Shannon Airport from Guantánamo. The contents of these statements reinforce my opinion that Irish Government ministers are aware that prisoners have been transported through Shannon Airport for the purposes of torture.

15. Meanwhile, back at the airport:

Back at Shannon Airport, the peace camp continued for about five weeks, and was very successful in raising public awareness of US misuse of Shannon Airport. The

camp was closed down after the Government sent in a large military force of armoured vehicles and used a High Court injunction against the occupants, including Edward Horgan and Tim Hourigan, to force the evacuation of the peace camp. We continued to monitor the use of Shannon Airport by the US military and CIA whenever we had the time and opportunity to do so, but were actively discouraged and harassed by the state security services. We also continued to organise peaceful demonstrations, and we also experienced undue interference by the Irish police force at these demonstrations.

When the unlawful US-led war against Iraq began on 20 March 2003, I initiated a High Court judicial challenge against the Irish Government, based on three factors: that US military misuse of Shannon Airport contravened Articles 28 and 29 of the Irish Constitution, and also contravened customary international laws on neutrality, particularly the Hague Convention V on Neutrality 1907. While the High Court ruled against me on the Constitutional issues, it found that the Irish Government was in clear breach of the international laws on neutrality by its facilitation of the US-led Iraq war through the use of Shannon Airport. The constitutional issues were partly decided by the judge in this case, on the arguably flawed basis that Irish national law is effectively superior in Irish courts to international law, and that the separation of powers in the Irish governmental and juridical systems means that the courts have virtually no powers to challenge Irish Government (or executive) decisions in matters of international relations, even when these decisions result in complicity in crimes against humanity. These issues are likely to be the subject of further legal argument in the Irish Courts in the future as discussed by Professor Gernot Biehler, in *International law in Practice: An Irish Perspective* (London: Thomson Round Hall, 2005).

As an example of the extent to which the Irish Government and the Irish judicial system has been used against Irish peace activists, I include the following details of some of my own 'interaction' with the police and security services at Shannon Airport.

16. Abuses of police powers and the judicial process at Shannon Airport

Attached are several examples of the very many complaints to the Gardaí (Irish police) concerning the abuse of Shannon Airport by US military for the prosecution of its wars in Afghanistan and Iraq, and for the purposes of the United States' programme of rendition for torture. Attached also is a file of photographs of peaceful demonstrations at Shannon Airport, and evidence of the inordinate and inappropriate reaction by the state authorities to these protests, including draconian legal actions, and the use of horses, dogs, tanks, water cannon and mass arrests of peaceful protesters, to prevent the exposure of gross wrongdoing by the Irish state and the US at Shannon Airport. I estimate that the Irish police and airport security at Shannon have arrested or detained peace activists at Shannon Airport between seventy and one hundred times, and have charged peace activists with a similar number of offences. At several of these peaceful demonstrations, police appeared to adopt a policy of arresting up to a dozen peace activists, often for very spurious reasons. One example was the arrest of Nuria and John Dunne for simply sitting on a road. On that occasion, the police knowingly caused John and Nuria Dunne's three year-old daughter to be abandoned on a busy roundabout while her parents were held in police custody for about two hours. Another example was the prosecution of a peace protester Eamonn Murphy, who was bullied by the police and by the local district judge, who publicly

called him a fool before the court. Mr Murphy was summoned to appear before the courts on thirteen occasions in relation to the same offence, and held in custody for prolonged periods. He was subsequently killed in a tragic accident. Police powers were frequently abused during peaceful protests, and it appeared to us that the judicial system as a whole was also misused, because peace activists experienced great difficulty in getting local legal representation, and experienced very biased and unjust judicial decisions in several cases, at District Court, Circuit Court and High Court levels. In three of these cases against peace activists, including one case taken against the writer of this report, I am aware that false evidence was given by Irish police officers, in apparent attempts to secure convictions in unjustified prosecutions. It should be noted that this false evidence came mainly from members of the Garda (police) Special Detective Unit rather than from uniformed Gardaí at Shannon.

**Examples of arrests and harassment of Edward Horgan at Shannon Airport:
(Other peace activists have been treated far more severely than this example.)**

- a. Summoned to appear before the President of the High Court on 5 February, 2003, due to my presence at the Shannon Airport peace camp. The High Court imposed an injunction on me and twenty-one other peace activists, preventing us from entering Shannon Airport property, on the grounds that this would constitute trespass. (I have challenged this in the meantime on the basis that Shannon Airport is a public place to which I am entitled to have access.)
- b. Brief detention by Gardaí at Shannon Airport in 19 January, 2003, during a peaceful protest, because I contravened police instructions by shaking hands with a peace activist from Iraq. There was no prosecution in this case.
- c. Arrest and detention on 24 June, 2004, while engaged in lawful peaceful protest during the visit by US President Bush to Shannon Airport. I was unlawfully arrested by Gardaí and the Irish Naval Service, and detained in police custody for over eight hours, for protesting in a boat near Shannon Airport. I was prosecuted under the Public Order Act, and for breach of an alleged ill-defined exclusion zone. When this case went to trial in January 2005, I was found not guilty of all charges. A sworn statement by a police officer in this case was clearly false, in the opinion of the three peace activists who were charged.
- d. Arrested and detained for about two hours at Shannon Airport on 4 March, 2005, for allegedly taking photographs of a US military aircraft, which I had reason to suspect might have been carrying prisoners through Shannon Airport. On this occasion, my camera and binoculars were impounded and held for about seven days, and a file on this matter was sent to the Director of Prosecutions, who decided not to bring charges. I consider that this arrest was unlawful, because I was in a public place at the time of my arrest and there were no notices or prohibitions on taking photographs in this area.
- e. Threatened with arrest on 1 December, 2005, for taking photos of US military aircraft.
- f. Threats of arrest on a number of occasions for allegedly being in breach of the High Court order issued in February 2003.
- g. On 25 April, 2005, I was prevented from buying a cup of coffee in the restaurant at Shannon Airport because there were US troops in the queue. I was assaulted and physically removed from the queue by airport security staff, assisted by Gardaí, and conspicuously escorted to my plane.

- h. Detained by airport security staff at Shannon Airport while about to board a flight to London on 22 December, 2005, on the allegation that I had earlier taken photos of US military aircraft from a public car park, where no prohibition on photography existed. I was searched, had my camera removed, and was held in custody for over half an hour, before being released.
- i. Physically detained and assaulted by Garda and airport security staff at Shannon Airport, and a peace banner forcibly taken from me, during a peaceful protest outside the terminal building at Shannon, on 18 March, 2006.

17. Irish Government’s fraudulent reply to Council of Europe request for information:

It has come to my attention that the Irish Government has submitted a response to the Council of Europe enquiry into the rendition of prisoners for torture. I attach the initial COE report on these matters, as well as copies of COE requests to Ireland to explain any possible involvement or knowledge of such matters by the Irish Government. I enclose also a copy the Irish Government response, entitled: “Article 52 Request in respect of Unacknowledged Deprivation of Liberty, Reply of the Government of Ireland”.

In **Para 1, Introduction**, the Irish Government states that: “The conclusion records the absolute prohibition under Irish law of the unacknowledged deprivation of liberty, and confirms that the practice within the State fully conforms to this.”

I wish to assert that the practice within the Irish State does not at all conform to the prohibition of unacknowledged deprivation of liberty within the Irish State, and that in view of the use of Shannon Airport for the rendition of prisoners, the Irish Government is here knowingly stating a falsehood.

In Para II, The Law A. Controls on officials of foreign agencies, the Irish Government asserts that: “The actions of all persons present in the territory of Ireland are governed by Irish law, including that relating to the deprivation of liberty.” While Irish law may impose some very limited controls over such matters, the practice of the Irish law enforcement agencies, especially at Shannon Airport, has been to allow foreign US agents and agencies a virtual blank cheque to engage in extra-judicial activities, including unlawful deprivation of liberty and torture, and the Irish Government has been reckless as regards its duty to investigate whether any such activity has been perpetrated. In particular, the very public statements made by both the Irish Minister for Justice and the Irish Minister for Foreign Affairs, that US military aircraft and CIA-controlled aircraft will not be searched by Irish authorities at Shannon Airport, amount to a statement by the Irish Government granting special immunity to the US Government and its agents to use Shannon Airport for the purposes of rendering prisoners for torture, or for any other unlawful purpose.

The Irish Government states that US Government technical and administrative staff engaged in ‘preinspection’ duties at Irish airports “enjoy the relevant privileges and immunities under the 1967-76 Acts in respect of acts performed in the exercise of their duties under the 1986 agreement.” No attempt is made to explain what these privileges and immunities are, and I Edward Horgan and others have witnessed US agents carrying out duties, both within and outside of Shannon Airport, that indicate that these US agents have been acting outside the remit of what is normally expected in a foreign sovereign state, and especially that of a neutral foreign state.

Of special importance is the response in **Para II, 3 a, (2) Aircraft not in flight**. “Civil aircraft used by foreign officials which land on Irish territory are not entitled to

any state immunity.” As outlined above, this has been contradicted by the recent custom and practice at Shannon Airport.

Of even more significance is **Para II, 3 b, Foreign State aircraft.**

“It is a requirement of Irish law that prior permission must be sought for a foreign military aircraft to land in Irish territory. In such circumstances, the foreign military aircraft enjoy immunity from search by Irish officials unless permission is conditional upon the waiver of this immunity. In addition, persons on board such an aircraft, who commit an offence while they are on board, enjoy immunity.”

This statement by the Irish Government gives cause for grave concern. There are now strong suspicions, grounded in evidence from other foreign airports, that, in addition to special CIA aircraft, US military aircraft, particularly C130 Hercules aircraft, have repeatedly been used for the rendition of prisoners for torture. This statement by the Irish Government that all such foreign military aircraft have immunity from search, unless such immunity is waived, and that persons who commit offences while on board such aircraft, even on Irish territory, also have immunity, is not backed up by any reference to how or where such immunity exists, or from where it arises, either in Irish or in international law. It appears to be in direct contradiction of the terms of both the international law provision in the UN Convention against Torture and the provisions of Irish legislation in the UN Convention against Torture Act 2000. The Irish Government should be asked to explain why it has granted this exceptional level of immunity to the US military, without reference to the Irish parliament or the Irish people.

In Para II, B, Safeguards to prevent unacknowledged deprivation of liberty the Irish Government simplistically quotes the protection offered under Article 40.4.1 of the Constitution: “No person shall be deprived of his personal liberty save in accordance with law.”¹² It also asserts that “Irish law provides numerous mechanisms to prevent an unlawful deprivation of liberty”. This statement runs counter to the practice at Shannon Airport whereby no attempts have been made to investigate, search or arrest any US personnel who may have been involved in very serious crimes, both on Irish territory and outside Irish jurisdiction, including crimes against humanity and torture, while on the other hand, peace activists such as Edward Horgan have been unlawfully detained at Shannon Airport for simply engaging in lawful, peaceful protests, and for attempting to collect information on the unlawful detention and torture of prisoners at the airport. It is also asserted that the power of the Irish police service to deprive a person of his or her liberty “is highly regulated”. This assertion is falsified by the experiences of Edward Horgan and others.

Para II, B, 2. refers to Ireland-US extradition agreement 2001, but does not give details of this agreement. There may also be other secret or informal agreements with the US concerning the deprivation of liberty by foreign agents in Ireland, which have not been disclosed to the Irish public, the COE or the EU. It is essential that all such formal or informal agreements should be made public in the interests of preventing torture. Of particular importance are likely to be formal and informal agreements and arrangements agreed or discussed by Irish and US Government leaders and officials particularly around the time of March 2002.

¹² Surprisingly, the Irish Department of Foreign Affairs misquotes the Constitution here by using the word “person” instead of “citizen”. This may be a deliberate attempt to suggest that the Irish constitution provides specified protection for foreign nationals as well as for Irish citizens under Article 40.

It is also stated that: “It is not lawful for the Minister or the State to consent to the transit of a prisoner through Irish territory other than in the two circumstances outlined above.” While this may be so, there are no provisions for preventing the Minister or the State from so doing, and there are significant grounds for believing that the Minister and the State have actually consented by deed or by default in the unlawful transit of prisoners through Ireland for the purposes of torture. Since the Irish state are the final arbiters of such matters within the Irish state, and are also likely offenders in these matters, it is very important that adequate investigations and follow-up be carried out by international organisations above the level of the Irish state, particularly by the EU, the COE and the UN. Not only is the letter of law, including international law, important in these matters, but the practice, enforcement and implementation of national and international laws are also essential. It is further asserted that “No minister can *lawfully* consent to the transit through Irish territory of a prisoner where he or she *knows*, or has *substantial* grounds for believing, that there is a *real risk* of prisoners being tortured or subjected to inhuman or degrading treatment (emphasis added)”. All the qualifying words that emphasised in the statement run counter to the duties and obligations on Irish Ministers to not only *not engage in acts of torture*, but also to take all necessary steps to prevent torture, not only on Irish territory but also to prevent torture taking place anywhere. These duties are very clearly contained in the UN Convention Against Torture.

In Para II, B, 4. Prevention of unlawful deprivation of liberty, it is asserted that: “An Garda Síochána are under a common law duty to detect and prevent crime.” It is clear to this observer and to many others that this common law duty has not been carried out by the Gardaí at Shannon Airport over the past four years in the matters of detection and prevention of the crimes of torture. The Air Transport Navigation Act is cited as to the detailed powers of Gardaí and airport security staff (authorised officers). However, it is not the existence of these laws and regulations that is at stake here, but their proper and lawful implementation.

The provision for habeas corpus applications under Article 40.4.2 is also cited as a safeguard to prevent the unlawful detention and torture of prisoners. However, it is not explained how a prisoner who has been bound, gagged, blindfolded and tied to the floor of an aircraft, and who has no access either to a legal representative or even to the lawful officials of the state, including the police, could avail of the right of habeas corpus, or make such an application to the Irish High Court.

Para II, B, C, Adequate response to alleged infringements:

The Government response acknowledges that “the Gardaí are empowered and obliged to investigate the crime”. In the case of alleged rendition of prisoners through Shannon Airport, it is clear that this has not occurred in any genuine way, and that the Gardaí appear to have been acting on instructions from higher authority, including directions from the Irish Government, not to fully, or with any genuine intent, carry out an investigation into the rendition of prisoners through Shannon Airport. The evidence for this comes from the experiences of peace activists, including Edward Horgan and Tim Hourigan, who have made repeated requests for specific aircraft to be searched, and for Gardaí to conduct investigations into the misuse of Shannon Airport. No such searches or investigations have occurred. The response, in the few cases where responses were given, was that those making the complaints and requests had not produced credible evidence that Shannon Airport had been used for rendition of prisoners. This spurious device attempted to shift the responsibility for investigating crime from the police to members of the public, while active steps were

simultaneously being taken to ensure that those same members of the public were denied any opportunity to carry out any investigation. This behaviour by the Gardaí also abrogated their responsibility and the responsibility of the State to prevent the most serious crime of torture.

Page 14 of the response purports to list the remedies open to any person suffering unacknowledged deprivation of liberty, including the victim's right to seek compensation in civil law, victims' rights under the Irish Constitution, rights to take action for damages for assault, and the right of access to the Criminal Injuries Compensation Tribunal. No attempt is made to explain how a prisoner being rendered for torture could possibly avail of these opportunities when the police force that is an essential part of protection these very rights, is now being used actively to prevent these rights being exercised, and actively complicit in the process known as the rendition of prisoners for torture. This complex web of deceit by states and their agents extends across several countries and creates serious pressures on those states and authorities to prevent these unfortunate prisoners ever availing of their rights of redress. As a result, there is an increased likelihood that many of the prisoners taken for torture through Irish airports, and other European airports, will be murdered while in prison to prevent any such redress, or any international retribution on the perpetrating states.

III. The question of unacknowledged deprivation of liberty.

This is the key paragraph in which the Secretary General of the COE requests of the Irish Government: "an explanation ... as to whether, in the period running from 1 January 2002 ... until the present, any public official or other person acting in an official capacity has been involved in any manner – whether by action or omission – in the unacknowledged deprivation of liberty of any individual, or transport of any individual while so deprived of their liberty, including where such deprivation of liberty may have occurred by or at the instigation of any foreign agency. Information is to be provided on whether any official investigation is under way and/or on any completed investigation."

In reply to this request, the Irish Government response contains several misleading statements and a number of statements that are likely to be knowingly false.

Perhaps an insight into the Irish Government's stance on this issue is contained in the statement that: "Officers from the Department of Foreign Affairs met on several occasions in order to formulate a process which would answer the Secretary General's questions in the most comprehensive way." It should be noted that these officers did not meet to carry out a thorough investigation into the rendition of prisoners through Shannon Airport, which has been the primary allegation repeatedly made by peace activists and human rights NGO's, including Amnesty International, against the Irish Government. These Foreign Affairs officers met "**to formulate a process which would answer**", rather than to carry out any comprehensive investigation.

It should be noted that: "In December 2005, the Secretary General of the Department of Foreign Affairs wrote to his colleagues in all relevant Departments attaching the Article 52 request, explaining its context and requesting their cooperation in preparing a comprehensive reply." Since the Irish Department of Foreign Affairs is likely to be one of the principal culprits in an Irish context in facilitating the rendition of prisoners through Shannon Airport, any investigation coordinated by this department is most likely to be designed and implemented in such a manner as to conceal rather than to

expose any evidence of prisoners being taken through Shannon by the US Government agents with the active cooperation of the Irish Government. No attempt was made by the Irish Government to conduct an independent judicial enquiry, as is frequently the practice in such serious matters in Ireland. Instead, the ‘poachers’ were designated as the ‘gamekeepers’. “The Department of Foreign Affairs chaired an interdepartmental coordinating meeting ... on 12 January in order to explain the context of the Secretary General’s request, and to reinforce the commitment to ensuring a comprehensive reply by the due date.” It should be noted once again that no mention is made here of investigating rendition for torture at Shannon. It is also very important that the Council of Europe and European Parliament enquiries into rendition for torture should request copies of all correspondences and minutes of meeting held by the Departments of Foreign Affairs, Justice, Defence and Transport, concerning these matters.

The Irish Government’s response goes on to state that: “internal investigations were set in train within the Departments concerned in order *to prepare categorical replies* to the Secretary General’s questions (emphasis added).” Please note again that the stated purpose of these investigations was not to investigate the rendition of prisoners through Shannon Airport or any unacknowledged deprivation of liberty. It may be of special significance that the “Army Director of Legal Services and the Army Director of Intelligence” were included in these consultations. It is likely to be of particular importance to ascertain why these two individuals were involved in this enquiry, whose principal purpose is likely to have been to prevent information being discovered rather than to expose the truth in these matters.

The Government’s response then gives a detailed response on their efforts to investigate whether unacknowledged detention occurred in *lawful* places of detention in Ireland, even though no complaint or even suggestion has been made by anyone in Ireland that these locations or institutions have been misused for unlawful detention. While it includes the Department of Transport in this enquiry, it appears to do so only in the context of the powers of detention of immigration authorities and airport security staff, and appears to ignore the whole area of rendition for torture, which is the prime reason for the Council of Europe’s investigation. The response also claimed that: “while customs officers and airport police officers have rights of arrest and detention, in practice their rights of detention are exercised only by An Garda Síochána.” The arresting experiences of Edward Horgan, as enumerated above, demonstrate that the above statement is untrue. The only allegations made against Irish airport authorities is that they unjustifiably arrested and/or detained peace activists on several occasions, and no allegations of torture have been associated with these complaints, and no such torture has been perpetrated by airport security staff. There was therefore no need to investigate this matter in the context of rendition for torture, except in so far as these arrests of peace activists were perpetrated for the purpose of preventing the exposure of rendition for torture at Shannon Airport.

In Para. III. A. 2. Format of enquiry.

The Irish Government’s response states that official places of detention “were then asked to investigate the possibility that unacknowledged deprivation of liberty might have occurred in those facilities”. No mention is made of any investigation into the likelihood that unacknowledged deprivation of liberty may have occurred in unacknowledged, unofficial, and unlawful places of detention, particularly on board US CIA and US military aircraft at Shannon Airport, or of whether such

investigations have been carried out by agents of the Irish Government. Edward Horgan believes that the Irish army's Intelligence Section may have carried out such investigations, that this section is aware that prisoners have been rendered for torture through Shannon Airport, and that the Garda (police) intelligence section is also so aware.

In Para III. A. 3. Result of investigation into possibility of involvement by action: The response by the Irish Government states, probably correctly, that "these investigations have confirmed that no unacknowledged deprivation of liberty has occurred in any of the State's detention facilities," because it has always been clear that in Ireland these facilities have not been used for this unlawful purpose. However, this conclusion makes no mention of unacknowledged deprivation of liberty in unacknowledged places of detention, especially US aircraft at Shannon Airport.

Para. III. B. Involvement by omission:

It is in this section that the responses of the Irish Government are exposed as inadequate and/or false.

This section begins as follows: "When the Government became aware in 2004 of allegations regarding extraordinary rendition ..." The process known as extraordinary rendition was public knowledge in Ireland and internationally long before 2004, and it is not credible that the Irish Government only became aware of it in 2004. The full extent of all correspondence between the Irish Government and the US Government should be sought by the COE and EU investigations in order to establish the truth in these matters. The response states that it was made clear to the US Government that: "permission would not be granted for the transit of an aircraft participating in an extraordinary rendition operation or for any other unlawful act." This statement is contradicted by the repeated public statements by Irish ministers for Justice and Foreign Affairs, that no US aircraft, including CIA-controlled aircraft that were widely known to be transporting or rendering prisoners for torture, would be searched at Shannon Airport. This was reinforced also by the fact that the Gardaí at Shannon Airport did not search any US aircraft, in spite of many specific requests from peace activists to do so. Hence, it is clear that Irish officials, including the Army Director of Intelligence, the Garda Commissioner, the Garda Head of Intelligence, Superintendent Kerin, Gardaí at Ennis Garda station, and other individual members of the Gardaí stationed at Shannon town and Shannon Airport have repeatedly been guilty by omission of involvement in the programme of extraordinary renditions, both directly by facilitating the rendition of prisoners for torture through Shannon Airport, by failing to search aircraft to ensure that prisoners were not being held on board, and, in the wider international context, by facilitating the refuelling and servicing of US aircraft at Shannon.

The actions of the Irish Government ministers, particularly the public statements that US aircraft would not be searched at Shannon Airport, must be judged to constitute 'involvement by action' in the process of rendition of prisoners for torture. It is also likely that other actions by Irish Government ministers constitute further acts of 'involvement by action' by the Irish Government. These actions include private assurance to the US Government and secret agreements between the Irish and US Governments, particularly the likelihood that an agreement was made in the month of March 2002, concerning US military and CIA use of Shannon airport.

In this response, members of the Irish Government have maintained that they have not been aware that Shannon Airport and Irish airspace have been used by US government agents including the CIA, for the purpose of rendition or transferring prisoners for torture. I wish to assert that this is a false statement on several counts. First, it has been public knowledge, in Ireland and internationally, and widely reported in the media for several years, that agents of the United States have been transferring prisoners to and from an internment camp at Guantánamo Bay in Cuba, and that it has been using a variety of aircraft for this purpose, including publicly identified executive type jets controlled by the CIA, as well as other aircraft, including US military C130 Hercules aircraft. I and several other peace activists in Ireland have reported these matters to the Irish police on several occasions, and have published this information on the Independent Media Centre at www.indymedia.ie, and we are aware that Irish police regularly monitor this Internet information system, because they have informed us that they do so. It is therefore a false statement on behalf of the Irish Government to state in a formal report to the Council of Europe that they were not aware that the US was using Shannon Airport and Irish airspace for the purpose of transferring prisoners for torture.

It is also false for the Irish Government to further state that it did not grant authorisation for this activity, which is unlawful under the UN Convention against Torture, as well unlawful under Irish and European Union laws. Because I am sure that the Irish Government did know that Shannon Airport and Irish airspace were being used for transferring prisoners for torture, and because it is also beyond doubt that the Irish Government granted landing rights to each and every one of these aircraft to land at Shannon Airport and/or to transit through Shannon Airport, knowing that most of these aircraft were being used for the purposes of so-called 'rendition', any statement by the Irish government that it was not so aware is clearly false.

The argument that the Irish Government, or its agents, the Irish police, airport authorities, and government officials in the Department of Foreign Affairs, Department of Transport, and the Irish Aviation Authority, were not specifically aware that on some occasions some of these aircraft were actually carrying prisoners for torture, is also most likely to be false, because it is inconceivable that none of these state officials was aware that some of these aircraft were carrying prisoners for torture.

Furthermore, the cooperation of the Irish Government with these CIA flights, by facilitating the landing, passage and refuelling of these aircraft, even if they were not actually carrying prisoners through Shannon Airport on each particular occasion, while either knowing that these aircraft were part of the rendition for torture procedures, or being reckless as regards ascertaining whether these aircraft were being used for torture or not, is a clear breach of the UN Convention Against Torture. In addition, under the UN Convention Against Torture, transporting prisoners bound, gagged and blindfolded, and probably drugged, to unknown destinations, is of itself a form of torture, and since it is most likely that prisoners were treated in this manner while at Shannon Airport, then it is also most likely that prisoners were actually tortured while at Shannon Airport, on Irish territory.

18. US assurances:

In Ireland's case, the issue of US assurances is of critical importance, and has been relied on many times by the Irish Government to excuse their failure to prevent Shannon Airport being used for facilitating torture. The full text of a report in the Irish

Times by Mark Brennock is worth citing. I have emphasised passages of particular interest in bold, and have added comments in square brackets:

**Ireland Sat, Mar 18, 06
Purpose of CIA flights discussed
Mark Brennock in Washington.**

The Government and the US administration will discuss the possibility of making public the purpose of CIA flights through Shannon in order to allay public concern that some of these involve so-called "rendition", the Taoiseach has indicated.

After meeting President Bush in the White House yesterday, Mr Ahern said he and the president "agreed to touch base" on this "over the next couple of weeks".

He told President Bush of the concern in Ireland that flights through Shannon were carrying terrorist suspects who were being secretly detained and transported.

"I explained that while we facilitate a large number of American troops and we are happy to do that," Mr Ahern said, "there is concern about extraordinary renditions and concern about CIA flights. We have asked for the president's understanding and co-operation.

[Comment: There is no indication here of the concern of very many Irish people about US troops transiting Shannon Airport, and concerns for the over 100,000 people killed in Iraq. The statement that "we are very happy to do that" is extraordinary under the circumstances.]

"We are going to look at how we might bring more transparency to that process, if it is possible."

Asked if he was suggesting that Irish authorities might begin inspecting US aircraft at Shannon to see if they were carrying prisoners, he said other countries did not do this and he did not want to.

"But we have CIA flights that land. I'm sure they are all on totally legitimate business. We have been told and this has been repeated many times that Ireland has not been used [for rendition flights].

[Comment: Given the likelihood that many of these flights are in fact directly associated with extraordinary rendition and torture, this statement by the Irish Prime Minister is tantamount to declaring that torture is legitimate business.]

"If at times we were able to say what some of these flights were about, then it would make the position easier for us and it would make public opinion happier if people understand."

[Comment: The focus here is clearly on mollifying public opinion, with no attempt to address the reality of people being tortured, and Irish territory being used to facilitate this torture. This seems to be an invitation to the US to send in a few empty CIA planes with advance notice. These will be searched and found empty, while any aircraft carrying prisoners will remain unsearched.] (Bold feature on text added throughout.)

19. I note also that, in an interview in the Irish Sunday Business Post, February 26, 2006, two members of this committee, Mr Simon Coveney, MEP, and Mr Eoin Ryan, MEP, both from Ireland, have made public comments to reporter Paul T Colgan on

the issue of extraordinary rendition for torture. Mr Coveney is quoted as saying: “The [Irish] Government needs to get further assurances from the US that planes passing through Shannon have not been involved in rendition operations elsewhere.” Yet it is known that not only have these US planes been involved in rendition elsewhere, but they also have been involved in rendition at Shannon Airport. We know also that the US assurances already given are false. Why do we need further false assurances? Mr Coveney is very likely to be a Minister in the next Irish Government. So it is important that the present Irish Government and future Irish Governments should do far more than just look for assurances. The following are highlighted extracts from the Irish Human Rights Commission (IHRC) report on these matters, which is attached.¹³

“Article 3 of the United Nations Convention against Torture prohibits the expulsion or return (‘refoulement’) of a person to a jurisdiction where there are substantial grounds for believing that the person would be in danger of being subjected to torture. A summary of the jurisprudence in this regard is usefully provided in a recent report by the UN Special Rapporteur on Torture, Cruel, Inhuman and Degrading Treatment in August 2005 (Professor Manfred Nowak).¹⁴ **A reading of the relevant case-law strongly suggests that diplomatic assurances that individuals will not be subjected to such treatment are not, in themselves, sufficient to fulfil a state’s obligations to guard against torture or ill-treatment.** The relevant treaty monitoring body – the UN Committee against Torture – has made it plain that Article 3 of the Convention against Torture is absolute. Furthermore, the Committee has found that **“the procurement of diplomatic assurances, which moreover provided no mechanism for their enforcement, did not suffice to protect against [a] manifest risk”** [*Agiza v Sweden* [2005]].¹⁵

The UN Special Rapporteur concluded in his August 2005 Report (para 51):

It is the view of the Special Rapporteur that diplomatic assurances are unreliable and ineffective in the protection against torture and ill-treatment: such assurances are sought usually from States where the practice of torture is systematic; post-return monitoring mechanisms have proven to be no guarantee against torture; diplomatic assurances are not legally binding, therefore they carry no legal effect and no accountability if breached; and the person whom the assurances aim to protect has no recourse if the assurances are violated. States cannot resort to diplomatic assurances as a safeguard against torture and ill-treatment where there are substantial grounds for believing that a person would be in danger of being subjected to torture or ill-treatment upon return.

The weakness inherent in the practice of diplomatic assurances lies in the fact that where there is a need for such assurances, there is clearly an acknowledged risk of torture or ill-treatment. Due to the absolute nature of the prohibition on torture or inhuman or degrading treatment, formal assurances cannot suffice where a risk nonetheless remains.¹⁶

¹³ Also available at: http://www.ihrc.ie/_fileupload/banners/Shannonproposal.doc

¹⁴ A/60/316 (30 August, 2005).

¹⁵ *Id.* at para 44.

¹⁶ CommDH(2004) 13, 8 July, 2004, para 9.

The Irish Government has a clear obligation both under the United Nations Convention against Torture, the European Convention on Human Rights and under domestic law to prevent any actions on our soil which could in any way facilitate torture or ill-treatment even in another country. Thus far, **the Government has said that it has received assurances from the US authorities that they are not using planes which are landing at Shannon in connection with the transport of detainees to locations where they may be tortured or ill-treated. In the Commission's view, and in light of Ireland's international legal obligations in this field, reliance on diplomatic assurances is not sufficient to protect against the risk of torture and other forms of ill-treatment.**

(End of extract from IHRC report.)

Mr Eoin Ryan, MEP, is quoted as saying that the TDIP Committee "is unlikely to be able to question government ministers, due to the size of the task."

Paul Colgan's report goes on to state: "It had been speculated that up to four Irish ministers would have to face questions from the committee about Shannon – Minister for Justice Michael McDowell, Minister for Foreign Affairs Dermot Ahern, Minister for Defence Willie O'Dea and Minister for Transport, Martin Cullen."

Given that about 10,000 prisoners are caught up in this process of extraordinary rendition for torture, and that many of these have been tortured, and many also killed, it is very important that government ministers from EU member states be called to account for any possible failures to prevent their territories from being used to facilitate torture. This is arguably one of the most important tasks facing this TDIP Committee. At very least, the ministers for justice and foreign affairs of the implicated European states should be asked to meet this committee. If Governments and their key ministers are not asked to account for their actions and inactions in these matters, then the value of this committee's work will be seriously reduced.

18. Northern Ireland

A comment on Northern Ireland is included here, in a European Union context and in an Irish context. See **BBC report dated 5 April, 2006**, attached and available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/4878366.stm, which indicates that Belfast and Derry airports have also been used for the CIA's extraordinary rendition flights. See also Amnesty International Ireland press release, attached and at <http://www.amnesty.ie/user/content/view/full/5581>, which shows the result of a survey that found that 76% of Irish people are opposed to Shannon Airport being used for CIA torture rendition.

19. Amnesty International report dated 5 April, 2006, Below the radar: Secret flights to torture and 'disappearance', available at

<http://www.amnesty.ie/content/view/full/5611/>, and copy attached.

This latest report on extraordinary rendition is one of the most comprehensive available so far. Yet it is still very incomplete. The full picture of the extraordinary rendition programme is a very wide panoramic picture with a very considerable amount of very dense information, some of which may never be revealed. The Amnesty *Below the Radar* report and this present report that I am submitting are just some of the details that are needed to complete this mosaic of torture. I am already

becoming aware, even as I am preparing this report, that most of the figures I have quoted are likely to be an underestimation of the grim reality.

What is urgently needed by the European Parliament TDIP Committee, or some other competent and properly resourced organisation, is that research groups be set up to prepare a comprehensive database of all the information about extraordinary rendition for torture that is coming to light.

The most important part of this database should be a tracking system for each individual prisoner within the extraordinary rendition system. This should be followed up with a support, recovery, and compensation system for those prisoners who are still alive, and a support and compensation system for the relatives of those prisoners who have been murdered within the extraordinary rendition torture system. In addition, the TDIP Committee should set up a network of scanners to track CIA aircraft while in the airspace and territory of the European Union, or gain regular access to all the information provided by any such tracking systems that do exist.

20. Conclusions:

My background as a former military officer and United Nations peacekeeper, as well as my expertise and study of international relations means that I am more informed on these matters than the average citizen. This level of information carries with it a heavy responsibility to act on any such information, because I believe that innocent people are knowingly being endangered by the Irish Government, and by other European Governments. I, and many other individuals, have taken exceptional measures over a period of several years, at great inconvenience to us and to our families to expose and to investigate these events. We have been actively hindered in these tasks of investigating and reporting by the Irish authorities, especially the Gardaí (Irish police) and security staff at Shannon Airport, all of which bodies have explicit responsibilities to investigate, report and prevent torture and the abuses of international laws, and Irish criminal law, at Shannon Airport, and to prevent Irish territory from being used for such purposes.

There is also a similar responsibility on each of you, as members of the European Parliament, and particularly as members of this TDIP Committee, to act to prevent torture.

This report, combined with its attachments, especially the dossier of flight logs, provides **overwhelming prima facie evidence** that Shannon Airport has been used to facilitate the unlawful killing of over 100,000 people, and the programme of extraordinary rendition for torture that has led to the torture of hundreds of prisoners and the deaths on an unknown number of prisoners. The Government of Ireland and the Irish police have had ample opportunity to collect far more circumstantial and direct evidence that the crime of torture has been committed at Shannon Airport, and that Shannon Airport has been used to facilitate crimes of torture elsewhere, in contravention of the UN Convention against Torture and of Irish criminal law. Not only have they failed to collect this evidence, and to arrest and prosecute the individuals responsible while these individuals were at Shannon Airport, but they have used their resources to pervert the course of justice, and to prevent others from exposing these crimes.

This submission is intended to provide several pieces of the mosaic or jigsaw that this committee of the European Parliament needs to establish the culpability of several

European governments, particularly the Government of Ireland, in this torture process. The large number of prisoners who are undocumented, and whose identity and whereabouts is unknown to anyone outside of the modern Gulag, is one of the critical factors that has not been addressed so far. Hundreds of prisoners now fall into this dangerous unknown category, and their lives are at immediate risk because of this.

The solutions to this problem of extraordinary rendition for torture are complex but clear: restore and enhance international law and international/global jurisprudence, and implement stringent sanctions on all states that have perpetrated, or are complicit in, torture. A comprehensive programme for the alleviation and prevention of torture needs to be implemented immediately to restore their basic human rights to existing torture victims. This needs to be followed by an equally comprehensive programme for the prevention of torture based on the rule of international law. Since state governments are the main perpetrators of torture, it is most unlikely that state governments will be at the forefront of any programme to eliminate torture. This is why international and supra-national bodies such as the UN and the EU must play a very important role in the prevention of torture, and why civil society must also become more involved in the eradication of torture.

I urge this esteemed committee of the European Parliament to take some real action to restore and enhance the rule of international law, and to expose and prevent torture. The United States is attempting to create a Fortress America and is using torture as one of the means of achieving this. Neither Fortress America nor Fortress Europe presents a safe way forward for humanity. The people of Iraq and Afghanistan are not just our neighbours; they are an essential part of our human family. When we torture them, we are torturing our own.

Napoleon, Hitler and Stalin each tried to impose his version of a Fortress Europe, and used mass slaughter and violence to do so, and the latter two used torture on a large scale. It is vital that the European Union becomes an exemplar of the rule of law, and the basis for an interdependent and humane global community, rather than a militarised Fortress Europe. We are already seeing hundreds of asylum-seekers, very many of them torture victims, being killed each year, in failed attempts to enter Europe for sanctuary as refugees. We are all shamed by this. Human security cannot be achieved by repression, expulsion and torture. Humanity cannot be secured by creating isolated fiefdoms in the twenty-first century. Military might and repression will only give us the modern equivalent of Waterloo, Auschwitz, and the Gulag Archipelago. Extraordinary rendition for torture by the United States, and complicity with this torture programme by European states, must be ended now, so that the more widespread torture that is practiced by dictatorial regimes may be curtailed in the short term and eliminated in the longer term.

The main points relating to Ireland's complicity in Extraordinary Rendition for Torture arising from this report are:

- The Irish government has acted in direct contravention of the UN Convention Against Torture, the European Convention on Human Rights, and Irish criminal law that forbid complicity in or facilitation of torture and mass murder.

- Overwhelming *prima facie* evidence of this complicity is presented in this report including CIA aircraft flight logs. The Irish Government has had access to far more detailed evidence than is presented here.
- Afghan and Iraq Wars and the connection with rendition
 - These unlawful wars provided the ‘raw material’, that is prisoners, for the torture chambers.
 - Ireland’s role in the wars – 800,000 troops millions of tons of munitions shipped through Shannon airport and Irish airspace.
 - Evidence of CIA planes through airport collected by activists from 2003. Instrumental in uncovering the extent of these operations and bringing them to the public (and government) attention
- Government reaction
 - Harassment, intimidation, arrest of protestors and people attempting to record landings of possible CIA operated planes
 - Abuse of power, violation of civil liberties etc.
 - Not only will they not investigate but systematically preventing Irish people fulfilling their individual and their government’s obligations under UNCAT and domestic law
- Comments of Irish government report to Council of Europe
 - The Irish Government has issued a knowingly fraudulent reply to the COE on the COE’s request for information.
- Government’s acceptance of US assurances is a convenient but transparent ploy to evade its responsibilities.

List of Attachments and the significance of these attachments:

Includes significant dossier of CIA Flight logs.

1. Submission by Edward Horgan to European Parliament TDIP Committee [This refers to this present document which forms the main presentation made to the European Parliament on 20th April 2006]
2. TDIP Committee Terms of Reference document
3. Copy of Submission to Oireachtas (Irish Parliament and Senate) Joint Committee on Foreign Affairs dated 20 December 2003.
4. Full Report of meeting of Oireachtas Joint Committee on Foreign Affairs [Note: No substantive actions have been taken by this committee as a result of the revelations put before it, and the Irish Senate subsequently cancelled plans to carry out a separate investigation, following intervention by the main Government party - see Irish Times report by Jimmy Walsh attached – Move to have emergency debate on use of Shannon fails.]
Report available at:
<http://debates.oireachtas.ie/DDebate.aspx?F=FOJ20051220.xml&Node=H2#H2>,
5. Letter by Edward Horgan to Irish Human Rights Commission IHRC 20 Mar 06
6. EH letter to IHRC dated 6 Apr 06. IHRC 6. a - Press Release “Wilful blindness ... of states to ...extraordinary renditions is unacceptable” Louise Arbour, UN High Commissioner for Human Rights

7. Submission to Irish Minister for Justice [No response to this submission to date, Letter Justice Minister to Mr Colm Roddy]. 7a - Letter Edward Horgan to Superintendent John Kerin
8. Clare Co Council breach of Planning Regulations at Shannon airport
9. Submission to Irish Prison's Inspector [Acknowledgement but No response to this submission to date]
10. Council of Europe Report 22 Nov 2005
11. Council of Europe Report 22 Jan 2006 [Edward Horgan will send a copy of this full submission to EU TDIP Committee to the COE investigating committee also]
12. Irish Government Reply to Council of Europe [as discussed in main submission, the Irish Government's reply to the COE, is fraudulent and misleading]
13. UN Report into Guantánamo Bay Prison [highlights the unlawful nature of the Guantánamo prison, the human rights abuses taking place there, and the issue of prisoners 'missing' or unaccounted for at Guantánamo.
14. Hague Convention on Neutrality
15. Judgement Horgan v Ireland et al. [Ireland in clear breach of international laws and obligations of neutrality]
16. Seville Declarations by Ireland – Nice Treaty
17. UN Convention Against Torture
18. Irish Criminal Justice (UN Convention Against Torture) Act 2000
19. Countries involved in extraordinary renditions 181205 by Dr. Coilín Oscar ÓhAiseadha.
20. Guardian Report 19 March 2006, One Huge US Jail
- 20 a- UK Parliamentary Questions
- 21 New York Times report – A Growing Afghan Prison Rivals Bleak Guantánamo
- 22 Sunday Times 18 December 2005 – Terror Reborn in Falluja Ruins
- 23 Times of London, 20 November 2001 – Take No Prisoners
- 24 Iraq Body Count database
- 25 Medact report – Enduring effects of war on health in Iraq 2004
- 26 Medact report – Collateral Damage
- 27 Lancet Report – Mortality before and after the 2003 invasion of Iraq
- 28 Complaint by Tim Hourigan to Gardai and request to search US aircraft
- 29 File of complaint to Gardai at Shannon airport re US aircraft at Shannon
- 30 Newsweek Report Rendition
- 31 a – ICCL on arrest of peace activists
- 30 b- Shannon Court Report 8 Dec 2005
- 32 Media Reports, 31 a – Aljazeera 2006 31 b – Examiner 26-02-2005
- 33 a – Report by SNP on Rendition in Scotland. 33 b – Report to Angus Robertson MP re CIA Aircraft using Scotland.
- 34 Flight logs N379P [These flight logs are the most important evidence presented in this submission. It includes detailed flight logs of the following CIA Aircraft transiting Shannon and other European and non-European airports, including Guantánamo Bay. Detailed, but incomplete flight logs of the following CIA aircraft are included: N379P, N313P, N54PA, N226G, N475LL. The registration of N379P was changed to N8068V in early 2004, changed again to N44982 in January 2005 and changed again to N126CH in January 2006 in unsuccessful attempts to conceal its use as a CIA torture

plane. Most importantly, these flight logs clearly show that Shannon airport is being used a very regular basis by CIA registered aircraft up to the present time.]

- 35 Flight logs N313P
- 36 Flight logs N475LC
- 37 Danish Flight Logs
- 38 Flight Logs N54PA
- 39 Flight Logs N85VM
- 40 Flight Logs N226G. 40 a - Flight Logs N226G 2 Apr 06
- 41 Flight Logs March 06 Shannon
- 42 Indymedia reports [these reports were used by peace activists to record and publicly expose the illegal activities at Shannon airport. In the absence of and refusal of Irish police to investigate and follow up on these crimes, these media reports are an important record of events.]
- 43 Amnesty International Press Release 5 Dec 2005. 43 a- Amnesty International Survey on Rendition. 43. b – BBC report on Rendition in Northern Ireland
- 44 Amnesty – Below the Radar report 5 April 2006
- 45 CD of Photographs taken by Edward Horgan at Shannon Airport. [detailed file of almost 200 photographs taken at Shannon airport from January 2003 up to March 2006. These photos clearly indicate the misuse of Shannon airport, and the territory of a declared neutral state, the abuse of police powers at Shannon airport and the failure of the Irish Government to impose any restraints on US military and CIA use of Shannon airport.]

Some additional Extraordinary Rendition media information sources:

<http://www.cbsnews.com/stories/2005/11/02/national/main1002943.shtml>,
<http://www.cbsnews.com/stories/2005/11/04/world/main1011498.shtml>,
<http://news.bbc.co.uk/1/hi/world/europe/4461470.stm>,
<http://www.eupoliticstoday.com/news/CIA-Secret-Prisons>,
<http://www.cbsnews.com/stories/2005/12/13/world/main1121577.shtml>,
<http://www.turkishpress.com/news.asp?id=77778>
http://www.indymedia.ie/newswire.php?story_id=68866&condense_comments=false#comment102946, http://www.indymedia.ie/newswire.php?story_id=68921;
http://www.indymedia.ie/newswire.php?story_id=69038,
http://www.indymedia.ie/newswire.php?story_id=69143;
http://www.indymedia.ie/newswire.php?story_id=68589
<http://hrw.org/reports/2005/egypt0505/index.htm>, (Black Hole report by HRW May 2005), <http://www.mafhoum.com/press8/239526.pdf>,

<http://ordinarykidnap.blogspot.com/2006/01/press-reports-publishing-2005.html>

The above internet address contains detailed research into media reports on the rendition for torture programme by a researcher known as “be your own reason”, and who compiled this block of research at the request of Edward Horgan.

This research covers the period up to the end of 2005.

Additional research covering the period January to April 2006 will also be attached.