

Italian court convicts US agents in CIA rendition case

Stefan Steinberg**6 November 2009**

In a landmark decision with global political repercussions an Italian court has convicted in absentia a total of 23 American agents for their role in the 2003 kidnapping of an Italian citizen, Abu Omar, by the US Central Intelligence Agency.

The verdict is the first ever world-wide relating to the CIA's extraordinary rendition programme for abducting those who are targeted in Washington's "war on terror." The main prosecutor, Armando Spataro, who spent five years assembling evidence for his case, is Italy's chief prosecutor for terrorist offences.

The court in Milan handed down sentences of five years in jail for 21 CIA operatives and a US Air Force officer and a sentence of eight years in prison for the main organiser of the kidnapping, the former Milan CIA station chief Robert Lady. Another three US citizens, including Lady's superior, Jeff Castelli, who was then head of the CIA in Italy, were acquitted on the basis that they enjoyed diplomatic immunity.

All of those convicted are now regarded as fugitives under Italian law. Spataro indicated that he may call for the Italian government to issue an international arrest order for those convicted. The Berlusconi government has rejected such requests in the past.

Italian agents were also indicted in the case, but the Milan court's presiding judge, Oscar Magi, ruled that neither the former head of Italy's military intelligence service, SISMI (Servizio per le Informazioni e la Sicurezza Militare), Nicolo Pollari, nor his deputy could be convicted because the evidence against them was subject to official secrecy restrictions. Two other Italian intelligence officials convicted of complicity in the abduction were each given three-year prison terms.

The court also ruled that the convicted parties must pay a total of €1 million (\$1.5 million) in damages to Abu Omar and €500,000 to his wife.

The case of Abu Omar is a particularly brutal example of the notorious CIA practice of extraordinary rendition. Instead of being charged and brought before a court, individuals allegedly suspected of having ties to terrorism have been kidnapped and transferred to secret prisons, "black sites," in countries allied to the US. In these prisons, they are subjected to years of torture and abuse and then can simply be disposed of at will. Those European countries where such renditions have taken place have not only tolerated such activities, but have been complicit

in the operations.

The practice of renditions was first authorised in 1986 by then US president, Ronald Reagan. It was developed in the 1990s under the Clinton administration and was extended by President George W. Bush as part of his "war on terror" following the 9/11 attacks in 2001.

According to a 2007 report by the European Parliament, as of two years ago, the CIA had conducted more than 1,000 rendition flights over Europe since 2001.

Such was the case in the abduction of Abu Omar in Milan. The Imam was kidnapped in broad daylight on February 17, 2003, as he walked the streets of Milan, where he lived. He was transported in a minibus to the US Air Force base at Aviano, where he was flown to the German-US base at Ramstein and finally on to Cairo.

In Egypt, attempts were evidently made to enlist his cooperation with promises that he would be returned immediately to Italy. When he turned down the offer, he was thrown in prison, subjected to a variety of inhuman abuses and repeatedly tortured.

In April 2004, after over a year in prison, he was temporarily released by the Egyptian authorities and was briefly able to make contact with friends and family before being re-arrested a short time later. Omar was finally released without charges on February 11, 2007. He later related that he had been reduced to a "human wreck" by the torture he had undergone in the Cairo jail.

The repressive regime of Hosni Mubarak in Egypt refused to allow Omar to leave the country to attend the trial in Milan.

A highly political trial

The trial of those involved in the rendition of Abu Omar commenced in January 2007. It was a politically charged proceeding from the start, with the lead prosecutor, Armando Spataro, facing a series of major obstacles.

Not only did the CIA refuse to cooperate with the court in any way, Spataro also faced concerted opposition and obstruction

tactics from Italian state authorities and all of the three Italian governments involved in the case. Following the kidnapping of Omar, the government, at the time headed by Silvio Berlusconi, refused to provide any cooperation with the prosecution.

Defence lawyers have claimed that Berlusconi secretly gave his approval for the abduction, via the SISMI. However, no record has been produced of his doing so.

The successor “centre-left” government led by Romano Prodi, also declared that crucial information detailing the collaboration between the CIA and the SISMI was a state secret and could not be made available. Successive Italian governments also refused or ignored the prosecutors’ extradition requests to the US for the 26 Americans.

In order to collect his evidence, Spataro ordered police to tap operatives’ telephones and seize documents from intelligence service archives. In March of this year, however, the Italian Constitutional Court, at the behest of the Berlusconi government, once again ruled that much of the evidence gathered by the prosecution was protected by Italy’s secrecy laws and could not be used in court.

This evidence included recorded phone calls and the testimony of several witnesses, including the former SISMI boss Gianfranco Battelli. Battelli had said that Jeff Castelli, the then-CIA station chief in Rome, had asked him in a conversation to cooperate with the kidnapping of terror suspects.

In fact, the Italian intelligence community turned the tables on the prosecutor, and Spataro himself was put under the microscope by state authorities. In the course of conducting his enquiries, he was placed under surveillance by the Italian secret service, his communications were monitored and there were even investigations into whether he had betrayed state secrets.

In a comment obviously directed at the latest attempts by Prime Minister Berlusconi to influence court decisions and deride the work of the judiciary, Spataro declared prior to the verdict, “This trial will also show whether the political powers-that-be in Italy today are in a position to influence independent investigations—and whether a public prosecutor is still allowed to prosecute a criminal act as such.”

The political nature of the trial was also acknowledged by the team of defence attorneys, whose main line of defence for the accused was that they were merely “following orders.”

Arianna Barbazza, the lawyer appointed by the court to defend CIA station chief Robert Lady, called for an acquittal for him and 11 other US agents arguing, “If they are convicted, then people will have been convicted who were simply following orders.” She told *Spiegel - Online*, “In this sense, this trial is therefore a political trial.”

Following the court’s decision, Spataro expressed his satisfaction with the verdict, even if it was unlikely that any of the US agents would actually ever go to prison. He also used the judgment to throw down the gauntlet to the Obama government in Washington, declaring that he now hopes that in

the US, “members of Barack Obama’s government will take this ruling as an opportunity to investigate and make public what happened in relation to the secret CIA abductions.”

The CIA refused to comment on the convictions, while the State Department said it was “disappointed” by the court decision. A spokesman for the Pentagon described the ruling as illegal, claiming that the Italian courts lacked jurisdiction over the convicted Air Force officer, based on the terms of the US-Italian status of forces agreement.

There is no doubt that Lady and his CIA cohorts were indeed “following orders”—the main line of defence used by Nazi war criminals at the Nuremberg trials to excuse their abominable crimes. While the claim to be “only following orders” certainly does not relieve the criminal of his crime, it does point to the fact that the involvement of other higher figures in the military-intelligence and political apparatus constitute even greater crimes.

Among those who should face trial in connection with extraordinary renditions and torture are Bush, former Vice President Cheney, ex-national security advisor Condoleezza Rice, former CIA Director George Tenet and others who orchestrated these and other crimes from the White House.

The Obama administration has made it clear that it has no interest in bringing to justice either those who carried out torture and other gross abuses of human rights, or its predecessors in the White House who gave the orders. Its Justice Department has gone into court, invoking the same “state secrets” privilege as it did under Bush to quash a US court challenge to rendition.

It is not only complicit in the crimes of the Bush administration. While prior to his inauguration Obama had promised to end rendition, administration officials acknowledged as recently as last August that the criminal practice is continuing.



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