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**Submission to the Human Rights Council's  
Universal Periodic Review Working Group regarding the Review of  
the Republic of Lithuania**

**24 March 2016**

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**INFORMATION ABOUT THE ORGANISATIONS MAKING THIS SUBMISSION**

**REDRESS** is an international human rights NGO based in the United Kingdom with a mandate to assist torture survivors to seek justice and other forms of reparation, hold accountable the governments and individuals who perpetrate torture, and develop the means of ensuring compliance with international standards and securing remedies for victims. REDRESS was established in 1992 and has been in consultative status with the Economic and Social Council since 2011. REDRESS represents Mr. Mustafa al-Hawsawi in relation to his claims outside the United States of America arising from his torture and enforced disappearance in the CIA's Rendition, Detention and Interrogation Programme.

**Human Rights Monitoring Institute** is a Lithuanian NGO founded in 2003 with the purpose of promoting an open democratic society through the implementation of human rights and freedoms. HRMI undertakes strategic litigation, drafts alternative reports to international human rights bodies, raises human rights awareness, and advocates for greater accountability of the government.

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**I. Introduction**

1. The Redress Trust (REDRESS) and the Human Rights Monitoring Institute (HRMI) (the Organisations) make this submission as part of the Universal Periodic Review (UPR) of Lithuania, to be held in November 2016. This submission focuses on concerns regarding the lack of follow up following the country's last UPR in 2011 in relation to Lithuania's complicity in, and facilitation of, the United States of America (USA)'s Central Intelligence Agency (CIA)'s Rendition, Detention and Interrogation (RDI) Program. The submission is based primarily on the experiences of the Organisations pursuing truth, justice and accountability on behalf of Mustafa al-Hawsawi, who was allegedly detained in Lithuania during his detention in the CIA's RDI Program.<sup>1</sup>
2. Lithuania accepted a number of relevant recommendations during the previous UPR cycle, specifically to "[F]urther pursue investigations on human rights implications of counter-terrorism measures, such as secret detention programs, with a view to identifying allegations of torture or cruel, inhuman or degrading treatment of detainees"<sup>2</sup> and to "[S]trengthen its measures to ensure effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials."<sup>3</sup> Lithuania further supported a recommendation from Sweden to "[I]mplement the recommendations made by the European Committee against torture and other inhuman and degrading treatment or punishment at its visit in the country."<sup>4</sup> The Committee's report included recommendations regarding the "[A]lleged existence of secret detention facilities in

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<sup>1</sup> See for example: REDRESS and HRMI, *Request for an investigation concerning suspicion of criminal offences committed in Lithuania against Mr. Mustafa al-Hawsawi*, 13 September 2013, available at <http://www.redress.org/downloads/casework/final-lithuania--investigation-request.pdf> ('REDRESS and HRMI request for investigation'); REDRESS and HRMI, Submission to the United Nations Committee against Torture regarding the Periodic Review of Lithuania: List of Issues Prior to Reporting (LOIPR), 22 January 2016, available at <http://www.redress.org/downloads/reports/160122-loipr-lithuania.pdf>.

<sup>2</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Lithuania, 19 December 2011, UN Doc. A/HRC/19/15, para 88.43, p. 16 (Brazil).

<sup>3</sup> *Ibid*, para 88.30, p. 15 (Azerbaijan).

<sup>4</sup> *Ibid*, para 89.35, p. 18.

Lithuania.”<sup>5</sup> Lithuania noted the recommendation that it “[R]eopen investigations on secret CIA prisons and study all elements regarding Lithuanian sites.”<sup>6</sup>

3. Lithuania’s assurances notwithstanding, since 2011, no tangible progress has been made by the country in investigating allegations of torture or other cruel, inhuman or degrading treatment of detainees in the framework of the CIA’s RDI Program. To date, no one has been held accountable and no redress has been provided to rendition victims for the acts committed against them whilst in Lithuania’s jurisdiction.

## **II. Lithuania’s complicity in the CIA’s RDI Program**

4. Lithuania’s complicity in the CIA’s RDI Program has been a subject in the public domain since at least 2009 when media reported that Lithuania was the third European country which had been identified previously as providing the CIA with secret detention facilities or black sites for so-called High Value Detainees (HVDs).<sup>7</sup>
5. Following such reports, the Lithuanian Parliamentary Committee on National Security and Defence (Seimas CNSD) conducted an inquiry into Lithuania’s involvement in the CIA’s secret detention program. Relying on the basis of state secrecy the data collected during the Seimas CNSD inquiry has not been made public. However, the 22 December 2009 public summary of this inquiry confirmed that the Lithuanian authorities had agreed to a request from the CIA and authorised the construction and equipment of two facilities in Lithuania suitable for holding detainees.<sup>8</sup>

## **III. Failure to open a prompt, impartial and thorough investigation into Lithuania’s complicity in the CIA RDI Program**

6. Since Lithuania’s last UPR in 2011, substantial additional information has become public providing further detailed evidence regarding the operation of the RDI Program and further implicating Lithuania in its operation. This new information includes reports and relevant resolutions adopted by the European Parliament in 2012, 2013 and 2015<sup>9</sup> as well

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<sup>5</sup> Council of Europe, Report to the Lithuanian Government on the visit to Lithuania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 18 June 2010, 19 May 2011, ‘Alleged existence of secret detention facilities in Lithuania’, paras 64-74 and recommendations, p. 40.

<sup>6</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Lithuania, 19 December 2011, UN Doc. A/HRC/19/15, para 90.18, p. 21.

<sup>7</sup> Matthew Cole, “Officials: Lithuania Hosted Secret CIA Prison to get ‘Our Ear’”, ABC News, 20 August 2009, at <http://abcnews.go.com/Blotter/story?id=8373807>. See also Dick Marty, “Time for Europe to come clean once and for all over secret detentions”, 21 August 2009, at [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=4859&L=2](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=4859&L=2).

<sup>8</sup> See Seimas (of the Republic of Lithuania), “Findings of the Parliamentary Investigation by the Seimas Committee on National Security and Defence Concerning the Alleged Transportation and confinement of persons detained by the Central Intelligence Agency of the United States of America in the territory of the Republic of Lithuania”, 22 December 2009, at [http://www3.lrs.lt/pls/inter/w5\\_show?p\\_r=6143&p\\_d=100241&p\\_k=2](http://www3.lrs.lt/pls/inter/w5_show?p_r=6143&p_d=100241&p_k=2), (‘Seimas Report’), p. 7.

<sup>9</sup> See for example, European Parliament, Committee on Civil Liberties, Justice and Home Affairs, “Report on alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report”, 2 August 2012, at <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A7-2012-266&language=EN>; European Parliament, “Resolution on alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report”, 2012/2033(INI), 11 September 2012, at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0309+0+DOC+XML+V0//EN>; European Parliament, “Resolution on alleged transportation and illegal detention of prisoners in European countries by the CIA”, 2013/2702 (RSP), 10 October 2013, at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0418&language=EN&ring=P7-RC-2013-0378>; European Parliament, “Resolution on the US Senate report on the use of torture by the CIA, 2014/2997 (RSP), 11 February 2015, at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0031+0+DOC+XML+V0//EN&language=EN>.

as NGO Reports.<sup>10</sup> In December 2014, the US Senate Select Committee on Intelligence released an Executive Summary of its Study of the Central Intelligence Agency's Detention and Interrogation Program (the SSCI Summary).<sup>11</sup>

7. While the SSCI Summary does not identify by name the countries in which the CIA's detention sites were located, analysis of flight data and publicly available information regarding Lithuania's facilitation of the CIA's RDI Program indicates that the CIA black site referenced in the SSCI Summary as DETENTION SITE VIOLET was located in Lithuania.<sup>12</sup> The SSCI Summary suggests that Lithuania was involved in the RDI Program from as early as 2003 and identifies that DETENTION SITE VIOLET opened in 2005<sup>13</sup> and that it closed in 2006 due to difficulties in accessing emergency medical care for detainees held in VIOLET.<sup>14</sup>
8. This substantial new evidence notwithstanding, Lithuanian authorities have yet to initiate a comprehensive investigation into Lithuania's complicity in the CIA's RDI program. As outlined below, the few investigative efforts carried out to date are insufficient and have not contributed to clarifying the extent of Lithuania's involvement in the program, have not led to accountability of any individuals involved and have failed to provide redress to victims.

#### Investigative efforts to date are insufficient in scope

9. Following the release of the Seimas CNSD findings, Lithuanian authorities launched a criminal investigation into abuse of office on 22 January 2010. The investigation was terminated in January 2011 citing statute of limitations and lack of evidence of criminal activities. The authorities failed to take effective measures to investigate information submitted by the human rights organisation Reprieve in September and November 2010

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<sup>10</sup> See for example, Constitution Project, *Task Force on Detainee Treatment*, 2013. Available at: <http://detaineeataskforce.org/read>; Open Society Justice Initiative, *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition*, 2013; Amnesty International, *Breaking the Conspiracy of Silence: USA's European 'Partners in Crime' Must Act after Senate Torture Report*, 2015; Reprieve, *Briefing and Dossier for the Lithuanian Prosecutor General: CIA Detention in Lithuania and the Senate Intelligence Committee Report*, 11 January 2015. See also, United Nations, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson: Framework Principles for securing the accountability of public officials for gross or systematic human rights violations committed in the context of State counter-terrorism initiatives", A/HRC/22/52, 1 March 2013, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-52\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-52_en.pdf) and *Abu Zubaydah v Lithuania*, No. 46454/11, Supplementary Submissions to the European Court of Human Rights, 17 September 2015. Available at: [http://rightsinpractice.org/Zubaydah-v-Lithuania\\_1792015.pdf](http://rightsinpractice.org/Zubaydah-v-Lithuania_1792015.pdf) ('**Abu Zubaydah v Lithuania, Supplementary Submissions**').

<sup>11</sup> Senate Select Committee on Intelligence: Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Approved December 13, 2012, Updated for Release April 3, 2014, Declassification Revisions, December 3, 2014, ('**SSCI Summary**') available at: [http://www.feinstein.senate.gov/public/index.cfm/files/serve?File\\_id=7c85429a-ec38-4bb5-968f-289799bf6d0e&SK=D500C4EBC500E1D256BA519211895909](http://www.feinstein.senate.gov/public/index.cfm/files/serve?File_id=7c85429a-ec38-4bb5-968f-289799bf6d0e&SK=D500C4EBC500E1D256BA519211895909). See also two judgments of the European Court of Human Rights (ECtHR) which

examine details in relation to the operation of the RDI Program and the treatment of so-called High Value Detainees, with brief references to Lithuania. ECtHR, *Al Nashiri v Poland*, Application no. 28761/11, 24 July 2014; ECtHR, *Husayn (Abu Zubaydah) v Poland*, Application no. 7511/13, 24 July 2014.

<sup>12</sup> See for example, Amnesty International, *Breaking the Conspiracy of Silence: USA's European 'Partners in Crime' Must Act after Senate Torture Report*, 2015 ('**Amnesty Breaking the Conspiracy of Silence**'); Reprieve, *Briefing and Dossier for the Lithuanian Prosecutor General: CIA Detention in Lithuania and the Senate Intelligence Committee Report*, 11 January 2015, para 18 ('**Reprieve Briefing and Dossier re Lithuania**'); Amnesty International, *USA Crimes and Impunity: Full Senate Committee Report on CIA Secret Detentions Must be Released and Accountability for Crimes under International Law Ensured*, April 2015 ('**Amnesty, USA Crimes and Impunity**').

<sup>13</sup> SSCI Summary, p. 143.

<sup>14</sup> SSCI Summary, p. 154.

regarding confidential allegations that Mr. Abu Zubaydah, the first individual to be detained in the CIA's RDI Program, had been held in detention in Lithuania.<sup>15</sup>

10. On 13 September 2013, the Organisations filed a request with the Lithuanian Prosecutor General's Office to open an investigation into the extraordinary rendition, secret detention, torture and ill-treatment of Mr. Mustafa al-Hawsawi. Mr. al-Hawsawi is a Saudi national who faces the death penalty in a trial before a US Military Commission in Guantánamo Bay, Cuba, where he remains in detention. He has been identified as one of the HVDs who were subjected to enhanced interrogation techniques in the framework of the RDI Program.<sup>16</sup> Evidence suggests that he was rendered to, and held in, a secret detention site in Lithuania for an undisclosed period of time between 2005 and 2006 before being transferred to further incommunicado detention and ill-treatment by the CIA.<sup>17</sup> The SSCI Summary also described in detail physical and psychological harm inflicted on rendition victims, including Mr. Al-Hawsawi.<sup>18</sup>
11. On 27 September 2013, the Prosecutor General's Office denied the request to open an investigation. When an appeal court found the denial unlawful, the prosecutor in February 2014 opened a criminal inquiry - limited to "unlawful transportation of persons across the state border" (Art. 292.3 of the Criminal Code).<sup>19</sup> The limited scope of the prosecutor's investigation is inadequate in light of the range of serious violations of human rights alleged, including enforced disappearance, arbitrary deprivation of liberty and torture and ill-treatment.<sup>20</sup>
12. On 22 January 2015, following the release of the SSCI Summary and after requests made by the Organisations to take the new evidence into account - the Lithuanian Prosecutor General's Office re-opened the criminal inquiry into abuse of office, which had been closed in 2011, and combined the two investigations.<sup>21</sup> The investigation is currently ongoing and appears to be limited to "abuse of office" and "unlawful transportation of persons across the state border."<sup>22</sup>
13. The limited scope of the ongoing investigation raises concerns in relation to the adequacy of the investigation, in particular its thoroughness. Requests made on Mr. al-Hawsawi's

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<sup>15</sup> Reprieve, "Letter to Darius Valys from Clive Stafford Smith", 20 September 2011,

[http://www.reprieve.org.uk/static/downloads/2010\\_09\\_20\\_CSS\\_Letter\\_Darius\\_Valys\\_Lithuania\\_investigation.pdf](http://www.reprieve.org.uk/static/downloads/2010_09_20_CSS_Letter_Darius_Valys_Lithuania_investigation.pdf); [Letter from Clive Stafford Smith of Reprieve to Darius Valys, Prosecutor General of Lithuania \(20 September 2010\)](#); [Letter of Clive Stafford Smith, Director of Reprieve, to Darius Valys, Prosecutor General of Lithuania \(18 November 2010\)](#). See also, *Abu Zubaydah v Lithuania*, Supplementary Submissions.

<sup>16</sup> International Committee of the Red Cross (ICRC), "Report on the Treatment of Fourteen 'High Value Detainees' in CIA Custody", February 2007, (**'ICRC HVDs Report'**); SSCI Summary, p. 459.

<sup>17</sup> SSCI Summary, p. 154- 5. See also, REDRESS and HRMI request for investigation.

<sup>18</sup> See for example, SSCI Summary, pp. 49-70; 96-105; 111-115;154.

<sup>19</sup> See, Vilnius Regional Court ruling upholding appeal, 28 January 2014. Available at: <http://www.redress.org/downloads/lithuaniaregional-court-al-hawsawi6-feb-14-2.pdf>

<sup>20</sup> See for example, ICRC HVDs Report, p. 24: "The totality of the circumstances in which the fourteen were held effectively amounted to an arbitrary deprivation of liberty and enforced disappearance, in contravention of international law."; REDRESS and HRMI request for investigation; *Abu Zubaydah v Lithuania*, Supplementary Submissions.

<sup>21</sup> Human Rights Committee, Concluding observations on the third periodic report of Lithuania, Addendum, Information received from Lithuania on follow-up to the concluding observations, UN Doc. CCPR/C/LTU/CO/3/Add.2, 12 Feb 2016, para 34.

<sup>22</sup> Table of Third Round responses to Council of Europe, Article 52 Inquiry, Lithuanian response 23 October 2015, pp. 3-4, available at: <http://website-pace.net/documents/19838/2008330/AS-JUR-INF-2016-06-Table-EN.pdf/9a194df4-4c22-4ec4-b309-10c144c1dc1d>.

behalf to expand the scope of the investigation and include other criminal acts such as unlawful deprivation of liberty, torture and ill-treatment, have been ignored.<sup>23</sup>

14. The Lithuanian Government has stated, most recently in February 2016, that “[T]he scope of the pre-trial investigation may be extended if sufficient factual data is collected, other significant circumstances emerge, or other alleged criminal offences are detected in the course of the criminal proceedings.”<sup>24</sup> However, the Organisations submit that extensive factual data is already available which indicates that the scope of the investigation should include a range of additional crimes.

15. For example, the Seimas CNSD findings already in 2009 confirmed that:

- The CIA requested that the Lithuanian State Security Department (SSD) assist with the preparation of detention facilities that would house persons suspected of terrorism-related activities and two locations were prepared to receive suspects;<sup>25</sup>
- A number of planes operating in the context of the CIA rendition programme transited over Lithuanian airspace and at least five landings occurred on Lithuanian territory;<sup>26</sup>
- SSD officers actively received and escorted three aircraft associated with the Black Site programme (identified by tail numbers):
  - i. N787, which landed in Palanga, Lithuania with five passengers on 18 February 2005;
  - ii. N787WH, which landed in Vilnius, Lithuania on 6 October 2005;
  - iii. N733MA, which landed in Palanga on 25 March 2006;<sup>27</sup>
- “Conditions for such transportation [of detainees into Lithuania] did exist” and in at least one case, according to the data obtained from the State Border Guard Service, ‘passengers’ in addition to crew were aboard an aircraft that had landed in Lithuania;<sup>28</sup>
- Lithuanian border guards were prevented from inspecting some of the flights, which inhibited their ability to determine if ‘passengers’ were aboard on each of the flights.<sup>29</sup>

16. The Seimas CNSD further found that “Povilas Malakausas [Head of the SSD] could not deny the possibility of confinement in Lithuania of the persons detained by the CIA”.<sup>30</sup>

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<sup>23</sup> See for example, Application to grant victim status to Mustafa al-Hawsawi in Pre-Trial Investigation No. 01-2-00015-14, 26 August 2015. Available at: <http://www.redress.org/downloads/15.8.26.victim-status-request.eng.pdf>.

<sup>24</sup> Human Rights Committee, Concluding observations on the third periodic report of Lithuania, Addendum, Information received from Lithuania on follow-up to the concluding observations, UN Doc. CCPR/C/LTU/CO/3/Add.2, 12 Feb 2016, para 34; Table of Third Round responses to Council of Europe, Article 52 Inquiry, Lithuanian response 23 October 2015, pp. 3-4. Available at: <http://website-pace.net/documents/19838/2008330/AS-JUR-INF-2016-06-Table-EN.pdf/9a194df4-4c22-4ec4-b309-10c144c1dc1d>.

<sup>25</sup> Seimas Report, pp. 6-7.

<sup>26</sup> Seimas Report, p. 6.

<sup>27</sup> Seimas Report, pp. 4,5.

<sup>28</sup> Seimas Report, p. 6.

<sup>29</sup> Seimas Report, p. 6.

17. The SSCI Summary's specific information regarding the establishment of DETENTION SITE VIOLET and the detention of persons in the country where DETENTION SITE VIOLET was located provide further concrete factual data.<sup>31</sup> The SSCI Summary indicates that:

- The CIA obtained approval of political leadership in the country that hosted DETENTION SITE VIOLET to establish a detention facility;<sup>32</sup>
- A "holding cell" was initially established, which the CIA concluded by mid-2003 "was insufficient";<sup>33</sup>
- In light of the growing number of CIA detainees in the program the CIA "sought to build a new, expanded detention facility in the country";<sup>34</sup>
- The CIA "offered \$ [redacted] million to the [redacted] to "show appreciation" for the [redacted] support for the program";<sup>35</sup>
- DETENTION SITE VIOLET opened in early 2005;<sup>36</sup>
- In January 2006 the CIA was holding 28 detainees in its two remaining facilities, DETENTION SITE VIOLET and DETENTION SITE ORANGE;<sup>37</sup>
- During his detention at DETENTION SITE VIOLET Mustafa al-Hawsawi required emergency medical care however officers refused to admit him "to a local hospital" and "after failing to gain assistance from the Department of Defense, the CIA was forced to seek assistance from three third-party countries...";<sup>38</sup>
- DETENTION SITE VIOLET closed in 2006, the precise date redacted, due to lack of emergency medical care for detainees.<sup>39</sup>

18. The information revealed in the SSCI Summary regarding DETENTION SITE VIOLET overlaps in important respects with public information regarding the operation of the CIA RDI Program in Lithuania, including the summary findings of the CNSD Inquiry.<sup>40</sup> Thus, following the release of the SSCI Summary, Mr. Arvydas Anušauskas, a member of the Lithuanian Parliament (Seimas) and the former head of the Seimas CNSD inquiry stated that the SSCI Summary "perhaps confirms the fact that the place of detention was in Lithuania."<sup>41</sup>

## Authorities fail to provide victims and public with access to information

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<sup>30</sup> Seimas Report, p. 8.

<sup>31</sup> SSCI Summary pp. 97-99, 143 and 154-5; See for example, Amnesty Breaking the Conspiracy of Silence; Reprieve Briefing and Dossier re Lithuania; Amnesty, USA Crimes and Impunity.

<sup>32</sup> SSCI Summary, p. 98. Pages 97- 99 of the SSCI Summary follow under the heading "The CIA Established DETENTION SITE BLACK in Country [redacted] and DETENTION SITE VIOLET in Country [redacted]." The start of the text on pages 97-98 considers the country that hosted DETENTION SITE BLACK. The section that begins "In a separate country..." thus considers the country that hosted DETENTION SITE VIOLET. See also, Reprieve Briefing and Dossier re Lithuania; Amnesty, USA Crimes and Impunity..

<sup>33</sup> SSCI Summary, p. 98.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*, p 99.

<sup>36</sup> *Ibid.*, p. 143.

<sup>37</sup> *Ibid.*, p. 156.

<sup>38</sup> *Ibid.*, p. 154.

<sup>39</sup> *Ibid.*, p. 154 and 155..

<sup>40</sup> See for example, Application to grant victim status to Mustafa al-Hawsawi in Pre-Trial Investigation No. 01-2-00015-14, 26 August 2015, available at: [http://www.redress.org/downloads/15.8.26.victim-status-request\\_eng.pdf](http://www.redress.org/downloads/15.8.26.victim-status-request_eng.pdf); Reprieve Briefing and Dossier re Lithuania; Table of Third Round responses to Council of Europe, Article 52 Inquiry, Lithuanian response 23 October 2015, pp. 3-4, available at: <http://website.pace.net/documents/19838/2008330/AS-JUR-INF-2016-06-Table-EN.pdf/9a194df4-4c22-4ec4-b309-10c144c1dc1d>.

<sup>41</sup> Lietuvos žinios, *Advokatė: JAV Senato ataskaita patvirtina, kad Lietuvoje veikė CŽV kalėjimas*, 18 September 2015, available at: <http://lzinios.lt/lzinios/Lietuva/advokate-jav-senato-ataskaita-patvirtina-kad-lietuvoje-veike-czv-kalejimas/209101>. See also, Amnesty Breaking the Conspiracy of Silence, p. 16.

19. In the ongoing criminal investigation, the authorities have not provided any meaningful information to the public which would allow an accurate assessment whether the investigation is being conducted in a way that would enable it to uncover the truth and lead to the identification and punishment of those responsible.<sup>42</sup> In addition, the prosecutor has repeatedly denied requests to grant Mr. al-Hawsawi victim status and he cannot participate in the inquiry, access the case file, be heard or enjoy other basic procedural rights. As a result, more than two years since the investigation regarding Mr. al-Hawsawi was opened, and more than one year since the initial criminal inquiry was re-opened in January 2015, it is unclear what steps, if any, the Prosecutor has undertaken to secure further evidence.
20. The Lithuanian authorities continue to rely on State secrets as a justification to withhold information concerning the investigation from the public.<sup>43</sup> There are no indications that the Prosecutor has sought testimonies from the victims, to question individuals involved in building and running the secret detention site in Lithuania, or to explore other avenues for further investigation identified in the SSCI Summary, NGO reports and the Seimas CNSD findings in 2009. For example, the Seimas CNSD findings identified that “[E]xplanations provided by individual persons in relation to the sources of financing of joint actions, amounts of monetary funds used for separate actions or accounting thereof are not consistent and therefore require further investigation.”<sup>44</sup>
21. Information in the SSCI Summary support the need for such an investigation as the Summary suggests that several million dollars were provided to the country which hosted DETENTION SITE VIOLET and that “complex mechanisms” were developed to effect the transfer.<sup>45</sup>

#### **IV. Conclusion**

22. It is important to recall that without the cooperation of countries like Lithuania, the CIA’s RDI Program could not have functioned and the prolonged incommunicado detention, enforced disappearance and other forms of torture and prohibited ill-treatment which CIA detainees like Mr. al-Hawsawi were subjected to would not have been possible.
23. In this regard the European Court of Human Rights noted that the CIA rendition programme

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<sup>42</sup> Responses to international bodies and freedom of information requests to date indicate that the investigation is ongoing and identify the scope, but provide little further information, stating that “the material of the pre-trial investigation contains information, which has been recognized as the state or official secret in the procedure provided by laws, the detailed information about the progress and results of the pre-trial investigation No. 01-2-00015-14 may not be provided/made public.” See, Table of Third Round responses to Council of Europe, Article 52 Inquiry, pp. 3-4, available at: <http://website-pace.net/documents/19838/2008330/AS-JUR-INF-2016-06-Table-EN.pdf/9a194df4-4c22-4ec4-b309-10c144c1dc1d>.

<sup>43</sup> Human Rights Committee, Concluding observations on the third periodic report of Lithuania, Addendum, Information received from Lithuania on follow-up to the concluding observations, UN Doc. CCPR/C/LTU/CO/3/Add.2, 12 Feb 2016, para 34; Table of Third Round responses to Council of Europe, Article 52 Inquiry, pp. 3-4, available at: <http://website-pace.net/documents/19838/2008330/AS-JUR-INF-2016-06-Table-EN.pdf/9a194df4-4c22-4ec4-b309-10c144c1dc1d>.

<sup>44</sup> Seimas Report, p. 7

<sup>45</sup> Reprieve Briefing and Dossier re Lithuania, para 8.



“had to operate outside the jurisdiction of the US courts and in conditions securing its absolute secrecy, which required setting up, in cooperation with the host countries, overseas detention facilities... The rendition operations had therefore largely depended on cooperation, assistance an[d] active involvement of the countries which put at the USA’s disposal their airspace, airports for the landing of aircraft transporting CIA prisoners and, last but not least, premises on which the prisoners could be securely detained and interrogated.”<sup>46</sup>

24. It is of concern that despite the gravity of the allegations concerning Lithuania’s important role in the CIA’s RDI program, which were first made public seven years ago, Lithuanian authorities have failed to fulfill their obligations to conduct a thorough, independent and effective investigation, and duly inform the public of its progress and outcomes.

### **Recommendations**

- Expand the scope of the investigation to include all relevant alleged human rights violations arising from Lithuania’s collaboration in the CIA RDI Program, including enforced disappearance, arbitrary deprivation of liberty, transfer of detainees, and torture and other cruel, inhuman or degrading treatment;
- Take concrete steps to establish the truth and pursue all relevant lines of inquiry, including: pursuing additional investigations recommended in the Seimas CNSD findings; pursuing evidence identified in the SSCI Summary and relevant NGO reports; seeking clarification from rendition victims; interviewing relevant witnesses;
- Ensure that victims and/or their representatives are granted the right to full participation in ongoing and future investigations in conformity with the internationally recognized right of victims of human rights violations to effective redress;
- Provide information to the public and the victims and their legal representatives about the steps undertaken in the previous criminal investigation and ensure that ongoing investigations and public proceedings are capable of fully documenting, acknowledging, and providing remedies for violations by Lithuania of the state’s responsibilities under international human rights law in relation to rendition and secret detention on Lithuanian territory.
- Bring to justice in fair trials any individuals identified as responsible for crimes that may have occurred in connection with and within secret CIA detention centres established in Lithuania.

<sup>46</sup> ECtHR, *Al Nashiri v. Poland*, App. No. 28761/11, 24 July 2014, para 530.