

Failing to protect its own citizens: Germany and the CIA

16 March 2015

Khaled El-Masri is a German citizen. He has been subjected to a terrible injustice by Germany's ally, the USA. El-Masri was abducted by the CIA in December 2003 after a mix up over his name – these things happen, even in the secret service, it seems. He was detained for months in Afghanistan where he was subjected to abuse and torture. All of this has been well-known for some time but was explicitly confirmed by the US Senate report on CIA torture published in December 2014.

The USA have to date failed to give an apology to their victim and failed to provide adequate compensation. It thus falls to the state of which he is a citizen, i.e. Germany. But just a few days ago the German Foreign Ministry reiterated its previous dismissals of the case. "Mr El-Masri has already brought a compensation suit to US courts and it was rejected in all instances," was the response to a question from German Green Party MP Renate Künast. She had asked if the German government would assist its citizen with the enforcement of his claims.

What the Foreign Ministry says is true. El-Masri did bring his case through the US courts, right up to the Supreme Court. But the courts refused to even look into the matter. Even though the facts of the case were already known, the US judges held that the protection of state secrecy required the case to be dismissed. This doesn't much resemble rule of law procedures – sheer double standards from the mighty USA.

The German government has also been sending some mixed messages. In the last few days Germany once again rejected the possibility of honoring individual claims from Greek victims of National Socialism, stating that such matters can only be agreed upon between states. The same legal position was put forward by the Higher Regional Court in Cologne last Thursday to Afghani victims of the bombing of Kunduz under German Colonel Georg Klein. But if it is the case that individuals cannot take cases to the courts in the states that are liable, it follows that their home states must step in on their behalf. This is precisely what the German government has failed to do for Khaled El-Masri over the past eleven years and what it clearly has no intention of doing in the future. This doesn't much resemble the protection that states are supposed to offer their citizens.

Is it his ethnic heritage, is it his name, is it his less than congenial political utterances, or the suspicions of terrorism that continue to plague him, or is it just political expediency? We don't know. All we can hope for is that the rather terse response from the Foreign Ministry will not be the last word on the matter – particularly given that following criminal proceedings by state prosecution authorities in Munich there are still arrest warrants out for the CIA agents involved in El-Masri's abduction. Germany must now take the next step and call for them to be extradited from the USA. The public must also urge German authorities to honor the rights of terrorism suspects, especially when the suspicions prove to be mistaken.