Parliamentary **Assembly**
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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Doc. 10746
16 November 2005

Respect of Human Rights at the Guantanamo base

Written question No 459 to the Committee of Ministers

Reply from the Committee of Ministers
adopted at the 945th meeting of the Ministers' Deputies (9 November 2005)

I. Written Question No. 459 by Mr Masson (Doc. 10334)

Mr Jean-Louis Masson draws the attention of the Committee of Ministers to the serious human rights violations committed by the United States against individuals detained totally illegally at the Guantanamo base. Those detainees include numerous nationals of Council of Europe member states. When the individuals concerned are transferred by the United States to their country of origin, it may be the case that they are subject to prosecution proceedings, which make use, either formally or for information purposes, of the intelligence and evidence extracted under torture in Guantanamo.

Mr Masson,

Asks the Committee of Ministers to indicate whether it is in line with the principles guaranteed by the European Convention on Human Rights to make explicit or implicit use, in judicial proceedings, of evidence obtained in violation of human rights, even if the said violation occurred on territory not encompassed by the Council of Europe. Given that this is an urgent matter in the United Kingdom and in France, he would appreciate a swift reply.

II. Reply by the Committee of Ministers

1. In response to Written Question No. 459, the Committee of Ministers first of all draws attention to the fact that the European Court of Human Rights, alone, is competent to interpret the provisions of the European Convention of Human Rights and to make judicial assessments of compliance of legislation or state practice with the terms thereof.

2. The Committee would refer to the reply adopted at the 941st meeting of the Ministers' Deputies on 13 October 2005 to Written Question No. 454 by the honourable parliamentarian, in which the Committee "recalls the absolute and non-derogable character of the prohibition of torture and inhuman or degrading treatment or punishment, as set out in Article 3 of the European Convention on Human Rights and in international human rights treaties adopted in the framework of the United Nations. It also refers to the 14th and 15th General Reports of the European Committee for the Prevention of Torture (CPT) which strongly emphasise the need to respect this prohibition also in the context of measures taken in the fight against terrorism. Further more, the Committee recalls that Article 15 of the United Nations Convention against Torture contains an obligation for all States Parties to ensure that "any statement made under torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made"."

3. The Committee notes that, in a statement issued on 11 October 2005, the Secretary General of the Council of Europe also recalled the absolute and non-derogable character of Article 3 of the European Convention of Human Rights.