

Abu-Umar Case: Italian Supreme Court To Rule on Fairness of CIA Agents' Trial

Report by Gian Marco Chiocci, Massimo Malpica: "Abu-Umar: CIA Ditches Trial" Il Giornale.it

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Last act in the Abu-Umar drama. The final chapter in the courtroom saga revolving around the mysterious abduction of erstwhile imam Abu-Umar on 17 February 2003 is being awaited in great, indeed enormous suspense across the Atlantic. In addition to zeroing (in terms of trust) the already complicated intelligence relations between the CIA and our secret services, the business has given rise to "political" wounds between the two governments that have still not healed, and there is no denying that tension is running very high in the States at present. Tomorrow, indeed, the fifth section of the Supreme Court, presided over by Gaetanino Zecca, will have to rule -- after a long adjournment the better to reflect precisely on the positions of the "Americans" -- on whether the CIA (and SISMI (the then Military Intelligence and Security Service)) agents have to pay for the illegal abduction, otherwise known as extraordinary rendition, of a foreign national. It will, above all, also have to rule on whether they were tried correctly, and fairly, with all the guarantees envisaged for suspects tried in absentia. Should it find to the contrary, everything will have to start again from square one, with the threat of the statute of limitations looming in February 2013, not all that unlikely a prospect, considering last July's sensational call for an annulment and retrial by Prosecutor General Oscar Cedrangolo, highlighting a failure to serve court papers on the Langley agents' defense counsel during the first trial, on which the agents were sentenced to seven years in jail, and their chief, Robert Seldon Lady, to nine years. He advanced the same plea regarding the acquittals of former SISMI Director Nicolo Pollari, his operations deputy, Marco Mancini, and three bureau chiefs, upholding the convictions of staffers Pio Pompa and Luciano Seno.

Presiding Justice Zecca had, by his own admission, been greatly impressed by the objections raised by counsel Alessia Sorgato and Matilde Sansalone concerning the fact that the Supreme Court had hitherto discussed official secrecy alone and had virtually ignored the 23 CIA agents (three are excluded on grounds of immunity), so much so that he decided not to proceed straight into the council chamber, but to defer the ruling on such a complex case for months, precisely so as to appraise the US suspects' positions.

The CIA agents' two defense attorneys had raised the question of the "manifest great unfairness" of their clients' trial, as they had all been lumped together, with no distinction drawn between their roles and conduct, thus flying in the face of the universal principle of the personal nature of criminal liability, and then convicted indiscriminately, as a group, as if "it were not important to establish what the appeal court judges deemed unimportant: 'finding out who did what'..." They had, moreover, the two attorneys emphasized, been convicted on the basis of notices irregularly served, because they had been sent out to "fugitives from justice" who -- the defense counsel and the prosecutor general argue -- were not fugitives at all, but merely resident abroad, in the United States, where they all live. The Milan GIP (judge of the preliminary investigation) had dubbed the 23 CIA agents fugitives from justice in light of a report on fruitless

searches by the DIGOS ((Italian Police) General Investigations and Special Operations Division), which had, however, sought the Americans in Italy alone, at the hotels where they had stayed two years previously in particular. This being so, all the court papers were served on their court-appointed defense attorneys. The problem, according to Sansalone (who is defending some of the abduction's alleged "planners," who were convicted with just two summary pages in the verdict), is that there was no deliberate intention of evading the law, so much so that five of her clients had left Italy even before Abu-Umar was abducted: The attorney argues, in other words, that they had not fled in the knowledge that they had committed a crime, but had simply returned home, where no one had ever attempted to contact them. Sorgato also adds something that, she says, proves the implausibility of their being fugitives from justice: "The proof that no one ever looked for them is that I unearthed one of my clients, Vincent Fardo, at his home with a mere registered letter." **The prosecutor general has called for an annulment for agent Sabrina De Sousa too, who was working at the Milan consulate at the time and was convicted of the abduction despite having played no direct part in it, claiming that her rights of defense were breached in the initial stage of the trial. Attorney Dario Bolognesi also points out, among the various investigative "anomalies," the fact that the prosecution saw De Sousa as a leading figure in the kidnap, alleging that she was dispatched from the embassy in Rome to the Milan consulate for the very purposes of planning the abduction: "We have proved that my client was transferred to Milan prior to 11 September 2001, well before the new counterterrorism laws were brought in and the 'extraordinary renditions,' to which Abu-Umar fell prey in 2003, began."**

There are funds at stake as well as honor: 1.5 million euros in damages for the imam and his wife.

(Description of Source: Milan il Giornale.it in Italian -- Website of right-of-center daily owned by the Berlusconi family; URL: <http://www.ilgiornale.it> <<http://www.ilgiornale.it/>> )