



## LITIGATION

# Al-Nashiri v. Romania

Last Updated: August 6, 2012

**Court:**  
European Court of Human Rights

**Country:**  
Romania

**Status:**  
Active

## Romania participated in rendition, secret detention, and ill-treatment at CIA "black-site" prison

Sometime between 6 June 2003 and 6 September 2006, Romania hosted a secret CIA prison code-named "Bright Light" in the basement of a government building in Bucharest where Abd al-Rahim Husseyn Muhammad al-Nashiri was held incommunicado and ill-treated before being rendered out of the country. Al-Nashiri continues to be held at Guantánamo Bay, where he now faces the prospect of an unfair trial by a military commission and if convicted, the death penalty.

### Facts

Abd al-Rahim Husseyn Muhammad al-Nashiri is a Saudi national who is the victim of a joint U.S.-Romanian rendition and secret detention operation. In October 2002 al-Nashiri was captured in Dubai, UAE, and secretly transferred to CIA custody. He was taken to a secret CIA prison in Afghanistan known as the "Salt Pit," and then to another "black site" prison in Bangkok, Thailand, where he was waterboarded. On or about December 5, 2002, the CIA "rendered" al-Nashiri to yet another secret prison in Poland where he was subjected to mock executions among other torture tactics. Sometime after 6 June 2003, Romania assisted the CIA in landing a secret flight that brought al-Nashiri to Bucharest. Romania permitted the CIA to hold him incommunicado in a secret prison codenamed "Bright Light", reportedly located in the basement of a Bucharest government building used as the National Registry Office for Classified Information (ORNISS). At the Bright Light facility, detainees were reportedly subjected to mistreatment including sleep deprivation, water dousing, slapping or forced to stand in painful positions. Sometime before 6 September 2006, Romania assisted the CIA in transferring al-Nashiri out of the country on another secret flight.

It was not until September 2006 that the United States government first acknowledged that the CIA had secretly detained al-Nashiri overseas, and that he had since been transferred to U.S. custody in Guantánamo Bay.

A heavily redacted transcript of a 2007 closed proceeding held in Guantánamo Bay reveals that al-Nashiri said: "From the time I was arrested five years ago, they have been torturing me. It happened during interviews. One time they tortured me one way and another time they tortured me in a different way." Al-Nashiri's own descriptions of the torture methods applied on him by the U.S. government are considered secret by the U.S. government and are blacked out in the transcript. He does, however, state: "Before I was arrested I used to be able to run about ten kilometers. Now, I cannot walk for more than ten minutes. My nerves are swollen in my body."

Al-Nashiri remains imprisoned in Guantánamo Bay. On 20 April 2011, United States military commissions prosecutors brought charges against him stating their intent to seek the death penalty in his case.

### Open Society Justice Initiative Involvement

The Justice Initiative is acting as counsel on behalf of al-Nashiri in proceedings before the European Court of Human Rights against Romania. The application was filed on August 2, 2012. (*Litigation*)

### Arguments

Romania's treatment of al-Nashiri violates a range of provisions of the European Convention on Human Rights.

**Ill-treatment and unlawful detention in Romania:** Romania enabled al-Nashiri's ill-treatment and incommunicado detention on Romanian territory, contrary to Article 3 (torture and ill-treatment) and Article 8 (physical integrity). It also violated Article 5 (liberty) by permitting his incommunicado detention there.

**Transfer out of Romanian territory:** The Romanian government assisted in al-Nashiri's transfer out of Romania, despite the real risk that he would be subjected to the death penalty, which is prohibited under Article 2 (right to life), Article 3, and Protocol 6 (abolition of the death penalty); despite the real risk of further ill-treatment in U.S. custody (Article 3); despite the real risk of further prolonged arbitrary detention (Article 5); and despite the real risk of his being subjected to a flagrantly unfair trial (Article 6, right to a fair trial).

**Failure to Conduct an Effective Investigation:** By failing to conduct a prompt and effective investigation into the secret prison and the associated violation of al-Nashiri's rights, Romania violated the duty to investigate violations of Articles 2, 3, 5, and 8, as well as his right to an effective remedy under Article 13.

**Right to Truth:** The Romanian government's refusal to acknowledge, investigate, and disclose details of al-Nashiri's detention, ill-treatment, enforced disappearance and rendition violates his and the public's right to truth under Articles 2, 3, 5, 10 and 13.


## Timeline

**29 May 2012:** Criminal complaint on behalf of al-Nashiri filed before the Romanian General Prosecutor

**2 August 2012:** Application and Request for Priority Status filed before European Court of Human Rights

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