

Thoughts by Erika Mann on the closing of Guantánamo

22 January 2009

Point 1)

The EU wants to help President Obama. "Good news, but the EU and individual Member States must be careful in not promising things they can not deliver, like in the case of taking detainees from Guantanamo", warns Erika Mann

Barack Obama announced that he will close Guantánamo and reject the "Military Commissions Act" underpinning the ongoing Guantánamo tribunals. Just a week past his election, Obama's transition team is now analysing how to follow this pledge.

Point 2)

Erika Mann has long demanded to shutdown Guantánamo. She is one of the few politicians that have personally visited the detention facility. Together with European and American colleagues, Erika Mann visited Guantánamo in May 2006.

Already in the beginning of 2004, Erika Mann had, together with 84 Members of the European Parliament and other British politicians, written an "Amicus-Curiae-letter" (friends of the court) to the American Supreme Court demanding a better treatment of the Guantánamo inmates.

Point 3)

But Erika Mann argues against Shayana Kadidal, who leads the Guantanamo Project at the New York Center for Constitutional Rights and who argues, that European Memberstates should take Prisoners from Guantanamo to trial even in case they not European Citizens - she supports a more careful approach and supports instead the arguments from the Center of American Progress (American think-tank):

Step one: Announce a timetable for closing the prison

The new president must first change the dynamic at Guantánamo by announcing a hard 18-month timetable to close the prison, and make the prison as transparent as possible for the remainder of its existence. These are meaningful actions that will signal a real change from the Bush administration's policies, while allowing appropriate time to work through all the challenges of getting the Guantánamo population down to zero.

Step two: Arrange for trials in federal or military courts

Bring a small number of detainees into the United States to stand trial in regular federal or military courts. Scrapping the flawed Military Commissions and rejecting any effort to establish National Security Courts in favor of established U.S. courts will get trials moving faster and is a major step toward restoring confidence in the legitimacy of America's actions.

Step three: Find homes for detainees who can't return to their own countries

Create a resettlement and rehabilitation program in partnership with allied countries and international organizations to find homes for detainees who can't be returned to their home countries and to smooth the reintegration of detainees into society. This program should be based on similar programs currently used by the U.S. military in Iraq and the Saudi Arabian government to assist in the transition of militants from detention to release.

Step four: Transfer detainees who will stand trial into the United States

After U.S. courts demonstrate their effectiveness and legitimacy, transfer those remaining detainees selected to stand trial into the United States. These detainees should be held at either the **U.S. Penitentiary Administrative Maximum Facility, also known as the "Supermax," at**

Florence, Colorado, or at the U.S. Military Detention Barracks at Ft. Leavenworth, Kansas, depending on whether they are slated for trial in federal or military courts.

Step five: Move detainees captured in Afghanistan back to Afghanistan

Some detainees will remain at Guantánamo who are not candidates for trial, but who were captured during military operations in Afghanistan and may represent a threat to coalition forces still fighting in that country if they are released. Transfer this group back to Afghanistan and hold them in a **NATO-controlled detention program** along with prisoners captured by coalition forces during ongoing military operations.

Point 4)

Who should be involved from the EU side?

- Council of the European Union: [EU Counter-terrorism coordinator](#)
- Council of the European Union: [Fight against terrorism - key documents](#)

Point 5)

Lawyers for the United States government acted even as the inaugural celebrations were going on to halt the Guantánamo Bay military commission trials.

Obama, in one of his first official acts, ordered a suspension of the trials, which had been adjourned in anticipation of the transition of authority from former President George Bush to his successor.

The motion filed by Obama's lawyers called for a 120-day moratorium on legal proceedings so that "the newly inaugurated president and his administration [can] review the military commissions process, generally, and the cases currently pending before military commissions, specifically."

Defense Secretary Robert Gates, a holdover from the Bush administration that initiated the controversial trials, joined in the motion. The order to halt to the tribunals was issued "in the interests of justice," according to the official request to the military judges.

Point 6)

Two interesting quotes taken from Obamas inauguration speech

"As for our common defense, **we reject as false the choice between our safety and our ideals.**

Our Founding Fathers, faced with perils we can scarcely imagine, drafted a charter to assure the rule of law and the rights of man, a charter expanded by the blood of generations. Those ideals still light the world, and we will not give them up for expedience's sake. And so to all other peoples and governments who are watching today, from the grandest capitals to the small village where my father was born: Know that America is a friend of each nation and every man, woman and child who seeks a future of peace and dignity, and that we are ready to lead once more."

"To the Muslim world, we seek a new way forward, based on mutual interest and mutual respect. To those leaders around the globe who seek to sow conflict, or blame their society's ills on the West: Know that your people will judge you on what you can build, not what you destroy. To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history; but that we will extend a hand if you are willing to unclench your fist."

Point 7)

Look back into History

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For Immediate Release

June 12, 2008

Washington, DC)- Today, House Judiciary Committee Chairman John Conyers, Jr. (D-MI) released the following statement in response to the United States Supreme Court's decision reaffirming habeas corpus at Guantanamo Bay:

The **Supreme Court** has affirmed what we've known to be true for some time: that detainees at Guantanamo Bay have a right to challenge their imprisonment in a court. It is simply not the American way to deny that right and now as the Supreme Court has ruled, it is unconstitutional. The Court was rightly outraged that some of the parties in this case had been held for six years without being given the right to challenge their detention before an impartial court. I applaud today's decision and look forward to the scales of justice being returned to their proper balance.

Additional useful material

[Download this brief](#) (pdf)

Read the full report: [How to Close Guantánamo](#)

Event: [Closing Guantánamo](#)

Problems could arise in one or more of the first five steps, and the Obama administration should be prepared for the only two choices available for any remaining detainees: create a preventive detention regime and hold them indefinitely in the United States, or release them. Choosing preventive detention would mean falling at the last hurdle. Any move to release even what is likely to be only a handful of detainees carries some genuine security threat and will be politically difficult, but it is an acceptable level of risk when measured against the significant strategic gains of the permanent closure of Guantánamo.

Rebuilding a tattered alliance By Bruce Stokes

15.01.2009 / 00:00 CET

Barack Obama, the new US president, should move quickly to improve transatlantic relations, but the EU needs to show its commitment, too.

Shoulder some of the burden Obama inherits from Bush. Take some detainees from Guantánamo, as Germany, Portugal and the UK may do. Step up aid to Afghanistan, which is already turning into Obama's foreign policy albatross. Prepare to be tougher on Iran, which would silence Washington hawks and give Obama some negotiating room with Tehran. And offer to station peacekeepers in Gaza.

European Parliament Socialist Group leader Martin Schulz today called on EU governments to assist the Obama administration by accepting inmates from the Guantanamo Bay prison.

Said Mr Schulz: "The Obama administration has started on the right foot by announcing the closure within a year of this outrageous detention camp. This sends a powerful message to the Muslim world and is a welcome step forward.

"EU governments must now play their part and support President Obama's decision by accepting inmates.