

## Milan Mystery: Did Italy Have Role in Kidnapping Case?

By IAN FISHER

MILAN, June 28 — At least two of the men who snatched him from the street here spoke Italian, an Egyptian terror suspect told a friend here last year. It is not proof for sure, the friend said, but it fuels a growing suspicion that Italian officials, on some level, were involved in the kidnapping.

"Italy is not a third world country," said the friend, Muhammad Reda el-Badry, 46, in an interview this week. "It is not possible in a democracy like this that Italy did not know. Otherwise it would be a betrayal."

For Italians, whose close relationship with the United States has been sorely tested in recent months, this has emerged as the central question in an extraordinarily touchy case: whether their officials, in fact, played any role in the February 2003 kidnapping of the suspect, Hassan Mustafa Osama Nasr, who was flown to Germany, then back to prison in his native Egypt, where he says he was tortured.

Last week, an Italian judge ordered the arrest of 13 officers and operatives of the Central Intelligence Agency, suspected of whisking Mr. Nasr away outside Italian law in the name of the war against terror. Perhaps surprisingly, in a nation where everything is debated loudly and at length, the reaction has been near silence: not only from the government, but from a normally aggressive opposition.

"It's something very delicate," said Luciano Vecchi, a top official with the opposition Democrats of the Left, explaining why his party has not pounced on an issue that could embarrass Prime Minister Silvio Berlusconi. "It's better to have good information."

The silence can mean many things, but at some basic level it seems a sign of confusion in a new

world: What should allies do when the United States acts outside their laws and institutions in its pursuit of terror suspects?

In Italy, this conflict is unfolding in a particularly problematic way. The nation's fiercely independent judiciary has ordered the arrest of the accused C.I.A. officers and operatives, even though Italian officials may well have condoned the kidnapping and even though Mr. Nasr, in the eyes of the Italian law enforcement authorities, posed a serious threat.

Apart from the prosecutors here, no one else seems sure how to address the issues the case presents, which range from complex questions of morality and national security to the simple fact that Italy's kidnapping law was broken.

"This isn't Algeria or the Inquisition, but a question of democratic countries that are trying to face a threat, and they don't have the adequate legal instruments to fight what's at stake," said Francesco Sidoti, a professor and intelligence expert at the University of L'Aquila.

"So they commit actions that may be condemnable from a legal point of view," he added. "But legality is one thing, and morality is another, and reasons of the state and the defense of one's country are something else again."

In legal documents, prosecutors say they had not found any involvement of the Italian government. But that raises another issue, one with utmost importance for Italian law, for internal politics and for relations with America. If Italy did not know, the kidnapping would represent a grave violation of Italian sovereignty — one that could severely strain its long and mostly friendly relations with America.

"For the first time in Italy's judicial history, a person who resided stably in our country," prosecutors alleged in the documents, "was taken

in a completely illegal action, also from the point of view of international law, from the Italian judicial authorities and forcibly removed to a third state."

But it seems no less complicated if Italian authorities did in fact know, as has been the case in other extrajudicial "renditions" of terror suspects.

If so, the case would still be criminal, in the eyes of the prosecutors, but then the defendants become not only the 13 C.I.A. officers and operatives but also possibly members of the Italian government or intelligence services.

The issue is loaded further by the fact that Italy is in the first stages of

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a general election campaign, in which Mr. Berlusconi's strong support of the United States is at issue, amid much anger here over the shooting, by an American soldier, that killed an Italian intelligence agent at an informal checkpoint in Iraq in March. The Iraq war — and the fact that Mr. Berlusconi contributed 3,000 troops to fight it — are not popular either. (The case of Mr. Nasr touches on Iraq as well; Italian authorities suspect him of trying to recruit militants to fight there.)

So far, Mr. Berlusconi's government has been completely silent — which many commentators say stands as its own kind of proof.

"Today the silence of the government seems a confirmation that Rome offered tacit political assent to the moves of Washington," La Re-

ubblica, the left-leaning Italian daily, wrote in a front-page story on Tuesday.

Several commentators have noted other hints that the C.I.A. officers and operatives felt they were acting with official blessing. They seemed to make little effort to cover their tracks: Their cellular phone calls were easily traced. Rather than immediately leaving Italy, several took a few days' vacation. They stayed ostentatiously in the best hotels in Milan, including one where breakfast alone costs 45 euros.

Other theories stop short of official Italian involvement. Mr. Sidoti said it was possible that only Italian intelligence agents on the ground were aware, and did not pass the information on.

But the view that someone in Italy knew, on any level, is not universal.

Giovanni Gasparini, a senior fellow at the International Affairs Institute, a policy research group in Rome, noted that Italian investigators had yet to uncover any such proof — and that the silence of the government indicated embarrassment rather than complicity.

"Any government cannot allow an violation of sovereignty this way," he said. "It's also true that we are allies of the United States, and we would not like to escalate the situation."

Some analysts say the case also points out a particular weakness in Italy's institutional makeup: that the judiciary is independent — and these days so hostile to Mr. Berlusconi's government — that at times it is difficult to communicate even on sensitive issues of national security.

Mr. Gasparini suggested a simpler answer about why the prosecutors brought the case.

"What about separation of powers?" he said. "They are independent, and they have to pursue people who they believe committed a crime — and a very serious one."