

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.hrw.org/news/2007/05/09/letter-bosnian-authorities-forced-returns-risk-torture>

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Amnesty International, the Helsinki Committee for Human Rights in Bosnia and Herzegovina and Human Rights Watch are writing to ask you to exercise your leadership to ensure that every person in Bosnia and Herzegovina subject to deportation, extradition or other removal is protected against return to countries where they would be at risk of serious human rights abuses, including torture or other cruel, inhuman or degrading treatment or punishment (refoulement).

Based on concerns expressed by individuals subject to the citizenship review process, as well as past treatment of individuals deemed to be a threat to the security of Bosnia and Herzegovina, we urge you to ensure that existing remedies function properly and provide adequate safeguards against extrajudicial transfers and refoulement. We recall the 2002 case of six men of Algerian origin handed over by the authorities in Bosnia and Herzegovina to the US military in the face of a determination by the Federation of Bosnia and Herzegovina Supreme Court that there was no basis for their detention, as well as an interim order by Human Rights Chamber of Bosnia and Herzegovina for provisional measures to prevent the deportation, expulsion or extradition of four of the men. The six men were subsequently transferred to the Guantanamo Bay detention facility. This case is documented in the June 2006 report by the Parliamentary Assembly of the Council of Europe's Special Rapporteur on Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states (AS/Jur (2006) 16 Part II).

As the European Court of Human Rights has repeatedly affirmed, any transfer to a country where the individual concerned would be at risk of torture or inhuman and degrading treatment or punishment, is a violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which Bosnia and Herzegovina became a state party on July 12, 2002.

Any procedure that puts a person at risk of deportation, extradition or other removal, including arising from the citizenship review process, should safeguard their human rights. Particularly, it is imperative to ensure that asylum procedures and existing domestic remedies in Bosnia and Herzegovina are sufficient to safeguard against the risk of torture or ill-treatment, or the application of the death penalty to individuals subject to removal.

To ensure that those subject to removal have access to an effective remedy against human rights violations, it is critically important that appeals against removal on human rights grounds have suspensive effect, in order to allow individuals to remain in Bosnia and Herzegovina while their appeal is being determined.

It is also imperative that the authorities in Bosnia and Herzegovina do not rely on diplomatic assurances to remove persons at risk of torture and other ill-treatment. Research by our organizations indicates that such assurances are an ineffective safeguard against torture and ill-treatment. Reliance upon diplomatic assurances circumvents the states obligations under the principle of non-refoulement undermining the absolute obligation not to return a person to a place where he or she is at risk of such human rights violations. That view is widely shared among international human rights experts including the UN High Commissioner for Human Rights, the UN Special Rapporteur on Torture, and the Council of Europe Commissioner for Human Rights. We urge the authorities in Bosnia and Herzegovina not to seek or rely on such assurances where persons are at risk of torture or other ill-treatment.

We urge you to take appropriate steps to safeguard the fundamental rights of every person in Bosnia and Herzegovina subject to removal, including those whose citizenship is under review.

Thank you for your attention to this important matter.

Sincerely,

Holly Cartner
Executive Director
Europe and Central Asia division

Human Rights Watch

Sran Dizdarevic
President
Helsinki Committee for Human Rights
in Bosnia and Herzegovina

Nicola Duckworth
Director
Europe and Central Asia Programme
Amnesty International

Cc: Neboja Radmanovi, Chairman of the Presidency, Bosnia and Herzegovina

Cc: Haris Silajdi, member of the Presidency, Bosnia and Herzegovina

Cc: eljko Komi, member of the Presidency, Bosnia and Herzegovina

Cc: Nikola piri, Chairman of the Council of Ministers, Bosnia and Herzegovina

Cc: Beriz Belki, Chariman of the House of Representatives, Bosnia and Herzegovina

Cc: Baria olak, Minister of Justice, Bosnia and Herzegovina

Cc: Vjekoslav Vukovi, Chairman of the State Commission for the Revision of Decisions on Naturalization of Foreign Citizens

Cc: Christian Schwarz-Schilling, High Representative, Office of the High Representative and EU Special Representative, Bosnia and Herzegovina

Cc: Fiorenzo Stolfi, Chairman of the Committee of Ministers, Council of Europe

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