

Human Rights Watch

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

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Thank you for your reply to our letter of January 25, 2008, in which we expressed concern at the expulsion of Attou Mimoun on December 9, 2007 from Bosnia and Herzegovina to Algeria and for the information you provided regarding the circumstances surrounding the case. We would like to follow-up on the case by asking whether Mr. Mimoun had access to a lawyer at any point prior to his transfer. Moreover, we request information about any communication with the Algerian authorities prior to Mr. Mimoun's return and whether you are aware of what happened to Mr. Mimoun upon return (whether he was taken into custody) and his current situation in Algeria.

We also write again to seek further clarification on the existing procedural safeguards available to all persons subject to forced removal from Bosnia and Herzegovina, including on the grounds of national security. Human Rights Watch respectfully requests information on what specific safeguards are available to persons subject to forced removal, including national security suspects, to ensure adequate protection against return to persecution or to the risk of torture or cruel, inhuman or degrading treatment (nonrefoulement), as required by the 1951 Refugee Convention, UN Convention Against Torture, and the European Convention on Human Rights.

Human Rights Watch believes that at the very least the right to a judicial appeal to challenge a deportation or ministerial expulsion order with automatic suspensive effect against removal is necessary to ensure that Bosnia and Herzegovina is in compliance with its international human rights obligations. The European Court of Human Rights has made clear it is a requirement of Articles 3 and 13 of the European Convention on Human Rights, by which Bosnia and Herzegovina is bound, that a person subject to forced removal should have access to a remedy with automatic suspensive effect (See e.g. *Gebremedhin v. France*, 26 April 2007).

Moreover, we believe that the authorities in Bosnia and Herzegovina should not rely on diplomatic assurances against torture from governments in countries where such abuse is routine, to justify the removal of persons at risk of ill-treatment. Our research indicates that diplomatic assurances are inherently unreliable and thus do not provide an effective safeguard against abuse. Such unenforceable bilateral agreements negotiated at the diplomatic level circumvent states' nonrefoulement obligations, a view that 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. Most recently the European Court of Human Rights has re-iterated that where reliable sources indicate that a state resorts to or tolerates practices which are manifestly contrary to human rights protections, diplomatic assurances do not absolve a government purporting to send a person to that state of its obligation to assess whether the individual would in practice be protected against the risk of prohibited treatment (See *Saadi v. Italy*, 28 February 2008).

We also request information on the Bosnian governments' consultations with relevant intergovernmental organizations, including the Office of the High Representative (OHR) and the United Nations High Commissioner for Refugees (UNHCR), relating to Bosnia's international human rights and refugee protection obligations in cases where people are stripped of citizenship and subsequently subject to deportation, but where there is a risk of persecution, torture or other forms of ill-treatment upon return.

Given the possibility of future cases of forced removal from Bosnia and Herzegovina on the grounds of national security, including in the context of the Citizenship Review Commission process, it is vital that the safeguards put in place are sufficient to protect people from return to persecution or to the risk of torture and ill-treatment.

Thank you for your attention to this important matter.

Sincerely,

Holly Cartner
Executive Director
Europe and Central Asia Division
Human Rights Watch

Cc: Vjekoslav Vukovic, Chairman of the State Commission for the Revision of Decisions on Naturalization of Foreign Citizens
Cc: Dragan Mektic, Director of the Service for Foreigners
Cc: Nikola Spiric, Chairman of the Council of Ministers
Cc: Miroslav Lajcak, High Representative, Office of the High Representative

Possession of Extremist Material in Kyrgyzstan

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