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Bosnia and Herzegovina: Halt Effort to Deport Syrian at Risk of Torture

(Sarajevo, October 17, 2008) -- Amnesty International, the Helsinki Committee for Human Rights in Bosnia and Herzegovina, and Human Rights Watch called upon authorities in Bosnia and Herzegovina today not to deport Imad Al Husein (also known as Abu Hamza al-Suri, his nom de guerre) to Syria.

The organizations say that, if deported, he faces a serious risk of torture and other ill-treatment, and that he should be freed from immigration detention immediately.

On October 6, 2008, Bosnia and Herzegovina authorities seized Al Husein in Sarajevo and placed him in the Lukavica immigration detention center, pending possible deportation to Syria. Al Husein is reportedly on a hunger strike to protest his confinement and pending deportation.

“The authorities of Bosnia and Herzegovina should act in accordance with the rule of law,” said Nicola Duckworth, Europe and Central Asia Programme Director at Amnesty International. “Any measures taken should comply with the international obligations Bosnia has taken upon itself to respect.”

The European Court of Human Rights in Strasbourg has also warned Bosnia and Herzegovina against deporting Al Husein before it has had an opportunity to consider his appeal to that body.

There is no current legal basis for detaining Al Husein. The deportation proceedings against him have been voided pending his hearing for asylum or a temporary residence permit. He is an unlikely flight risk due to his family situation and has complied with regular reporting requirements with the Bosnia and Herzegovina State Agency for Foreigners.

“Syria’s record of torture against people it considers Islamists is no secret,” said Ben Ward, Associate Director of the Europe & Central Asia Division of Human Rights Watch. “Bosnia should stop its illegal deportation proceedings against Imad Al Husein immediately and set him free.”

Bosnian authorities also should not seek diplomatic assurances from Syria about his possible treatment there in order to facilitate the deportation of Al Husein. As the United Nations special rapporteur on torture, the Council of Europe, and other international human rights bodies have acknowledged, diplomatic assurances are never an effective safeguard where there is an acknowledged risk of torture or ill-treatment.

Bosnia and Herzegovina has faced pressure in recent years from the United States and European Union to denationalize and expel individuals originally from Arab countries, on the presumption that they are a possible terrorist threat. In 2001, Bosnian authorities detained six Bosnian citizens of Algerian origin and, despite an order for their release from the Supreme Court, transferred them to U.S. authorities. The men were

sent to the U.S. detention facility at Guantánamo Bay, Cuba, where they remain without charge.

The “Algerian Six” were later exonerated by Bosnian authorities, and the country’s Human Rights Chamber found that the deportations violated the European Convention on Human Rights. The officials who are accused of having ordered the transfer are under investigation by Bosnian prosecutors for their alleged actions.

“The episode of the ‘Algerian Six,’ was a vivid example of what happens when other countries send the message to Bosnia that human rights and the rule of law can be set aside in the name of national security,” said Srdjan Dizdarević, President of the Helsinki Committee for Human Rights in Bosnia and Herzegovina. “That mistake should not be repeated now.”

Background

During the war in Bosnia and Herzegovina from 1992 to 1995, Al Husein served in the al-Mujahidin unit of the Bosnian Army, consisting mostly of foreign volunteers from Muslim countries, and he later acquired Bosnian citizenship through marriage. His naturalization was revoked without a hearing in 2001, based on unspecified “national security” grounds. Since that time, he has been contesting efforts to remove him from the country. He has not been charged with a crime or formally accused of terrorist activity.

Two days before Al Husein’s arrest, the Constitutional Court of Bosnia and Herzegovina overturned a lower court’s denial of his request for a temporary residence permit or asylum. The Constitutional Court remanded the case to a lower court (the State Court of Bosnia and Herzegovina) to determine whether removing Al Husein from the country would violate his family rights under the European Convention on Human Rights. Al Husein’s wife, a cancer patient, is a Bosnian citizen, as are their six children.

Human Rights Watch and Amnesty International have long documented the extensive use of torture by Syrian security services, including persons of Syrian origin transferred from other countries, such as the Canadian citizen Maher Arar and the German citizen Mohammed Haydar Zammar.