

PUBLIC

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07 October 2005

UA 266/05 Risk of forcible return / torture

AUSTRIA Muhammad 'Abd al-Rahmin Bilasi-Ashri, (m), aged 38

concerning the possible forcible return of Muhammad 'Abd al-Rahman Bilasi-Ashri is to be extradited from Austria to Egypt. If returned he would be at serious risk of torture and other serious human rights violations.

During the late 1980s and early 1990s he had been detained several times, and allegedly ill-treated, by the Egyptian authorities because of his involvement with Islamist groups such as the Muslim Brotherhood. He travelled to Austria in 1995 and applied for asylum. He was convicted *in absentia* of association with terrorist groups and sentenced to 15 years in prison.

Egypt first asked for Bilasi-Ashri to be extradited in 1998. When the Austrian courts turned down the request, the Egyptians first responded with a new extradition request based on additional criminal charges that Bilasi-Ashri should face on his return to Egypt. The Egyptian authorities wanted him extradited in order to reopen criminal proceedings based on allegations that he incited several people to commit theft and forgery of documents, while he himself was not in the country.

An initial decision to extradite him had been taken by Vienna's Higher Regional Court on 12 November 2001. Muhammad 'Abd al-Rahman Bilasi-Ashri's lawyer appealed to the European Court of Human Rights in Strasbourg against this decision, and on 16 April 2002 the European Court of Human Rights issued an interim measure to stop the extradition. Following this, the Austrian authorities stopped the extradition process and released Muhammad 'Abd al-Rahman Bilasi-Ashri from detention. As a result of this, the process at the European Court of Human Rights was discontinued.

In March 2005 the Austrian Ministry of Justice recommended the lower court re-open the extradition proceedings, instructing it to consider humanitarian grounds barring extradition, such as whether Bilasi-Ashri would be at risk of torture, when considering new facts or evidence presented. On 24 June 2005, the Austrian Regional Court of Krems decided that the extradition of Muhammad 'Abd al-Rahman Bilasi-Ashri was permissible as there were no new facts or evidence that would warrant a change in the initial decision allowing extradition if the Egyptian authorities agreed to meet certain conditions regarding his treatment after he was returned. Muhammad 'Abd al-Rahman Bilasi-Ashri's legal representative appealed against this decision.

On 13 September 2005, the Vienna Court of Appeal declared inadmissible the complaint against the decision of 24 June 2005 to extradite Muhammad 'Abd al-Rahman Bilasi-Ashri. His lawyer was informed of this on 4 October 2005.

BACKGROUND INFORMATION

In Egypt suspected members of armed Islamist opposition groups and political opponents of the government, including those returned from abroad, are frequently tortured, particularly at the State Security Intelligence (SSI) headquarters in Lazoghly Square, Cairo, but also other SSI branches, at police stations and occasionally prisons. In December 2001, the Swedish authorities forcibly returned two Egyptian asylum-seekers. The Swedish government requested and received a guarantee from the Egyptian government which reportedly stated that the two men would not be tortured or ill-treated, would receive a fair trial and would not face the death penalty. However the men were held incommunicado for over a month. The family

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of one man, Ahmed 'Agiza, alleged that he had been tortured, but the Egyptian authorities apparently failed to order any impartial investigation. (See UA 324/01, MDE 12/035/2001, 19 December 2001 and follow-ups). Ahmed 'Agiza was sentenced in an unfair trial to 25 years' imprisonment, which was reduced to 15 years by a presidential order.

The forcible return of any person to a country where they are at risk of serious human rights violations is a violation of Austria's international obligations, including the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English, German or your own language:

- urging the Austrian government to stop the extradition of Muhammad 'Abd al-Rahman Bilasi-Ashri to Egypt, where he faces the risk of serious human rights violations including torture;
- urging the Austrian authorities not to return anyone to a country where they are at risk of serious human rights violations as this would violate Austria's international obligations including its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Convention and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

APPEALS TO:

Minister of Justice
Mag. Karin Gastinger
Bundesminister für Justiz
Museumstraße 7
A-1070 Wien, Austria
Fax: +43 1 521 52 2828
Salutation: Dear Minister

COPIES TO:

President
Bundespräsident
Dr. Heinz Fischer
Prasidentschaftskanzlei
Hofburg, Bellariator, Ballhausplatz 2
A-1010 Wien, Austria
Fax: +43 1 535 6512
e-mail: heinz.fischer@hofburg.at
Salutation: Your Excellency

and to diplomatic representatives of Austria accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 18 November 2005.

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