

PUBLIC

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Detention without charge/Fear of unlawful transfer

22 January 2003

**BOSNIA-
HERZEGOVINA**

Sabahudin Fijuljanin (m), married with four children

Sabahudin FIJULJANIN has been unlawfully and arbitrarily detained by NATO-led Stabilisation Forces (SFOR) for almost three months. He has been denied unimpeded access to a lawyer, and has not been provided with access to a court. In direct violation of an order by the Bosnia-Herzegovina Human Rights Chamber, he has not been handed over to the Bosnia-Herzegovina authorities. He is also in danger of being transferred to the United States (US) authorities, who may detain him indefinitely in military custody at Guantanamo Bay, or at other undisclosed locations in the US.

On 26 October 2002, Sabahudin FIJULJANIN was taken from his home in Gornja Maoca near Brcko in Bosnia-Herzegovina, and detained at the SFOR "Eagle Base" near Tuzla. He was reportedly suspected of the illegal possession of a rocket-launcher and holding passports of several states. He has reportedly been accused of espionage by SFOR though no formal charges have been brought against him.

During his detention, Sabahudin FIJULJANIN was denied immediate access to his lawyer in violation of Article 63(2) of the Federation Code of Criminal Procedure and Principle 1 of the UN Basic Principles on the Role of Lawyers. He has subsequently only been allowed to see his lawyer on two occasions, during which their conversation was recorded and videotaped by SFOR personnel, in violation of UN Basic Principles. He was only allowed one visit from his family in December 2002, in violation of Principle 19 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

On 13 January 2003, the Bosnia-Herzegovina Human Rights Chamber ordered the Bosnia-Herzegovina State and Federation authorities to formally request that Sabahudin FIJULJANIN be placed immediately under the jurisdiction of the authorities of the Federation of Bosnia-Herzegovina [order no: CH/02/12499]. The chamber stated: "Considering that if provisional measures are not ordered, the applicant [Sabahudin FIJULJANIN] will suffer harm which cannot subsequently be remedied." The decisions of this court are binding on all authorities at all levels. However, SFOR has not handed over Sabahudin FIJULJANIN, despite repeated requests by the Bosnia-Herzegovina authorities and Amnesty International.

SFOR claim that their authority to detain persons is based on Annex 1 of the Dayton Peace Agreement. Amnesty International, however, believes that SFOR cannot detain persons without a national or international arrest warrant. Both domestic law and international standards provide that a person may only be deprived of their freedom in accordance with a procedure prescribed by law.

BACKGROUND INFORMATION

In January 2002, the Bosnia-Herzegovina authorities transferred six Algerians into US custody, after which they were subsequently transferred to Camp X-Ray in Guantanamo Bay, Cuba. This was in violation of an order by the Bosnia-Herzegovina Human Rights Chamber. They remain arbitrarily detained at Camp X-Ray, in violation of Article 9 (1) of the International Covenant on Civil and Political Rights (ICCPR) to which the US is a party.

SFOR is a peace-keeping force of 12,000 military personnel commanded by NATO, and is charged with overseeing the implementation of the military aspects of the 1995 Dayton Peace Agreement.

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

- stating that Amnesty International believes Sabahudin FIJULJANIN is being unlawfully detained by SFOR in violation of the provisions of both domestic law and international standards, which state that a person may only be deprived of their freedom in accordance with a procedure prescribed by law;
- urging that if there are reasonable grounds to suspect Sabahudin FIJULJANIN of committing a criminal offence, he should be transferred without delay to the Federation authorities, so that his detention may be determined by a court, and that he might be afforded the right, as set out in Article 5.4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Article 9 (4) of the ICCPR, to appeal against the legality of his detention;
- urging SFOR to respect the principles of the rule of law, and immediately transfer Sabahudin FIJULJANIN to the Federation authorities, as ordered by the Bosnia-Herzegovina Human Rights Chamber;
- stating that Sabahudin FIJULJANIN has been denied the rights of detainees as set out in international standards, including the right to prompt and unimpeded access to a lawyer, the right to receive visits from his family, and in particular, the right to access to a court whereby he might challenge the lawfulness of his detention;
- expressing concern that Sabahudin FIJULJANIN has been detained in violation of Annex 1 of the Dayton Peace Agreement, which does not authorize SFOR to detain people without an international or national arrest warrant.

APPEALS TO:

Lord Robertson of Port Ellen
 Secretary General
 NATO, Boulevard Leopold III
 B-1110 Bruxelles, Belgique
Fax: + 32 2 707 4666
Salutation: Dear Lord Robertson

Lieutenant General William Ward,
 Commander SFOR,
 Headquarters- Peace Stabilization force,
 Sarajevo,
 Bosnia-Herzegovina.
Fax no: + 387 33 49 5275
Salutation: Dear Lieutenant General

Brigadier General John T. von Trott,
 Commander,
 Stabilization Force,
 Multi-National Division North,
 Bosnia-Herzegovina.
Fax: + 387 35 814 283
Salutation: Dear Brigadier von Trott

COPIES TO:

Mirsad Kebo,
 Minister for Human Rights and Refugees,
 Musala 9,
 Sarajevo, Bosnia-Herzegovina.
Fax: +387 33 206 561

Paddy Ashdown,
 High Representative,
 Emerika Bluma 1,
 71000, Sarajevo,
 Bosnia-Herzegovina.
Fax: +387 33 283 501

And the Defence Minister of your country,(if your country is part of NATO)

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 5 March 2003.