


MEMORANDUM

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To Temporary Committee on the Transportation and Illegal Detention of Prisoners

From Stephen H. Oleskey
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Re **Factual Background Regarding The Illegal Abduction And Rendition By U.S. Personnel Of Nationals And Former Residents Of Bosnia And Herzegovina To Guantanamo Bay**

This memorandum sets out the factual circumstances of the unlawful abduction and rendition of the six Bosnian citizens and former residents currently detained by U.S. military authorities at Guantánamo Bay, Cuba. It is being provided to the Committee as background to the testimony of Stephen H. Oleskey, counsel to the six Bosnians, which the Committee will hear on 25 April 2006.

I. Summary

The six Bosnian citizens and former residents were abducted in January 2002 in the territory of Bosnia and Herzegovina with the awareness and complicity of Bosnian authorities. U.S. military personnel transported the six men from the airport at the military base in Tuzla, Bosnia and Herzegovina (a potential EU candidate country), to the U.S. air base at Incirlik, Turkey (an EU candidate country). The U.S. military then transported the six men to Guantánamo, where they have remained imprisoned in a high security facility without charge for well over four years.

The men's abduction happened notwithstanding a decision by the Supreme Court of the Federation of Bosnia and Herzegovina releasing the six men after a three-month investigation into allegations that the six men had plotted an attack on the U.S. Embassy—an investigation that proceeded while the men were held in custody by Bosnian officials and that failed to produce any evidence sufficient to justify their continued detention. The abduction also violated an order on provisional measures issued by the Human Rights Chamber for Bosnia and Herzegovina ("Human Rights Chamber"), a judicial entity composed of Bosnian and international jurists established under the Dayton Peace Agreement, and given the authority to make final decisions on human rights issues in Bosnia and Herzegovina, which forbade Bosnian officials from transferring the men to U.S. forces or from permitting their removal from Bosnia.

Since 2002, the Human Rights Chamber has conclusively determined that the abductions violated both Bosnian law and the European Convention on Human Rights (ECHR). The Chamber ordered the Government of Bosnia and Herzegovina to take a number of specific steps

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to assist the six, including in one case “to take all possible steps to obtain the release of the applicant and his return to Bosnia and Herzegovina.” The Government of Bosnia and Herzegovina has consistently acknowledged its duty, under Bosnian law and international law, to secure the return of its unlawfully-abducted citizens and residents.

Despite repeated statements of commitment—including statements by Prime Minister Adnan Terzić before the Parliamentary Assembly of the Council of Europe in June 2005—the Bosnian Government has, to our knowledge, taken few if any concrete actions toward obtaining the release of the six men. This lack of responsiveness is all the more deplorable given the United States’ repeated, publicly acknowledged willingness to release the majority of Guantánamo prisoners to their home countries subject to adequate undertakings from the home country regarding security.¹

Other press reports have appeared in Bosnia regarding unlawful abductions and secret interrogations by U.S. personnel present in Bosnia as part of peace-keeping operations.

The German press has recently reported that, after the six men had been in Guantánamo for over a year, German military intelligence officers visited the wife of one of the men, Ms. Anela Kobilica, posing as German journalists. Using their false identities, the German military officers obtained information from Ms. Kobilica regarding her life, her family, her husband, and her husband’s abduction and removal to Guantánamo. The report prepared by the German officers mentions the likelihood that the six men were wrongfully abducted and that their deportation to Guantánamo was dubious. The German military officers are apparently under investigation in Germany for their impersonation of journalists.

The Temporary Committee is urged to continue to investigate the participation of EU Member States, acceding and candidate countries, and potential candidate countries (especially Bosnia and Herzegovina and Turkey) in the abduction and removal to Guantánamo of Bosnian nationals and former residents. The Bosnian Government must not merely acknowledge its legal obligations in words, but actually fulfill them through concrete action by negotiating for and obtaining the release of its six citizens and former residents currently imprisoned without charge at Guantánamo. Most importantly, the European Union should make clear that the candidacy of Bosnia and Herzegovina for accession to the European Union depends on its swift, effective compliance with its legal obligations toward the six men.

¹ To our knowledge, all other European countries that have had citizens detained at Guantanamo have secured the release or transfer of their citizens through negotiation with the United States.

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II. The Bosnian Investigation Culminating In Release

The six Bosnian prisoners at Guantánamo are of Algerian descent but live and reside in Bosnia—four are citizens and two are long-term residents of Bosnia and Herzegovina. Five of the six—Mr. Mustafa Ait Idir, Mr. Hadž Boudella, Mr. Lakhdar Boumediene, Mr. Saber Lahmar, and Mr. Mohammed Nechle—were arrested between 18 and 21 October 2001 by order of the Supreme Court of the Federation of Bosnia and Herzegovina and placed in investigative detention. The sixth, Mr. Belkacem Bensayah, had already been arrested by order of the Municipal Court in Zenica on 8 October 2001 and was transferred to Sarajevo when his detention in Zenica ended on 16 January 2002.

It appears that the Bosnian Government acted under significant pressure from the United States. According to our information, on October 17, 2001, the chargé d'affaires at the U.S. embassy in Bosnia, Mr. Christopher Hoh, met with the then-Prime Minister of Bosnia, Mr. Alija Behman. Hoh threatened the Prime Minister that unless the Bosnian Government arrested the six men immediately on terrorism charges, the U.S. would close its embassy, withdraw all staff, and cease diplomatic relations with Bosnia. Hoh closed his demand by suggesting that, if the U.S. left, God alone could save Bosnia. Hoh left without giving the Prime Minister a chance to respond. The message was clear: unless the six men were arrested, U.S. support for stability and peace in Bosnia would come to a sudden end.

The six men were said at that time to be suspected of planning to bomb the embassies of the United States and the United Kingdom, but they have never been charged with such a crime, let alone had an opportunity to defend themselves against such a charge in court. Bosnian judicial and prosecutorial authorities conducted a major investigation over three months between October 2001 and January 2002, during which time the six were held in investigative detention. The Bosnian investigation did not turn up any evidence linking the men to any terrorist plot. For example, although it was publicly reported that Mr. Bensayah had a number of phone conversations after 11 September 2001 with a senior Al Qaeda member in Pakistan, expert analysis of Mr. Bensayah's telephone records—conducted by order of the Supreme Court—failed to find any support for this allegation.

On 17 January 2002, the Office of the Federation Prosecutor informed the Investigative Judge of the Supreme Court that there was no reason to detain the six men any further. That day, the Investigative Judge ordered that the six men were to be immediately released from detention in Sarajevo.² This decision was issued at approximately 15:00 on January 17.

² On 24 June 2004 the Federation prosecution authorities formally ended all investigations regarding the six detainees with regard to any suspicion of terrorism. Mr. Zdravko Knežević, Chief Prosecutor of the Federation of Bosnia and Herzegovina, confirmed in a

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On the same day, the Human Rights Chamber issued an order on provisional measures in a case brought by four of the Detainees (Boudella, Boumediene, Nechle, and Lahmar). The Chamber's order directed the Government of Bosnia and Herzegovina to "take all necessary steps to prevent that the applicants are taken out of Bosnia and Herzegovina by the use of force."³ Under the Dayton Peace Agreement, the Chamber's order has the force of domestic law in Bosnia.⁴ This decision was delivered to the competent authorities of the Government of Bosnia and Herzegovina at approximately 17:00 on January 17.

III. The Unlawful Abduction By Bosnian Police and Delivery to U.S. Forces

Instead of being released as ordered, the six men were taken into custody extra-legally in the evening of 17 January 2002 by police of the Federation of Bosnia and Herzegovina. These authorities handed the six men over to United States military forces stationed in Bosnia and Herzegovina in the early morning of January 18.

To our knowledge, the United States never made a formal application for extradition of these six men, as required under the law of Bosnia and Herzegovina and international law. Nor did the local authorities have any order of deportation or other legal basis to take the six men into custody. On the contrary, the orders of the Supreme Court and Human Rights Chamber required that the six men be released and that "all necessary steps" be taken to prevent the applicants' removal from Bosnia. The Bosnian authorities violated both orders.

IV. Transportation to Guantánamo From an Airport in Bosnia Via The Territory and Airspace of Other European States and Candidate Countries

The actions of Bosnian and U.S. personnel beginning on 17 January 2002, after the six men were abducted by Bosnian police from the Central Prison in Sarajevo, are not known with certainty, since both governments took and continue to take deliberate steps to obscure the facts regarding their behavior.

meeting with attorneys from this firm on 18 January 2005 that the investigations regarding suspicion of terrorist acts had been terminated. To our knowledge, the six detainees are no longer subject to any terrorism-related investigation in Bosnia.

³ *Boudellaa, Boumediene, Nechle and Lahmar v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, Human Rights Chamber for Bosnia and Herzegovina, Cases Nos. CH/02/8679, CH/02/8689, CH/02/8690, CH02/8691, Order for Provisional Measures and on the Organization of the Proceedings (Jan. 17, 2001).

⁴ See General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 6, Article XI, para. 6 (available at http://www.ohr.int/dpa/default.asp?content_id=374).

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This much is known, however. The Bosnian authorities shackled the six men, placed hoods over their faces, and transported them by police vehicle to a location where they were handed over to U.S. military personnel. As a result of court proceedings begun by this firm, the U.S. Government has recently released documents confirming that our clients were detained, by order of the Commander-in-Chief of the U.S. forces in Europe, at “Eagle Base,” the U.S. military base at Tuzla, Bosnia and Herzegovina.

The U.S. military personnel in Bosnia continued to take deliberate steps to prevent the six men from ascertaining where they were or what would happen to them. While still on Bosnian soil, the six men were kept shackled in painful positions while wearing sensory deprivation goggles, headphone-like coverings over their ears to make it impossible to hear, and face masks making it impossible to be understood and very difficult to breathe.

At some point on 18 or 19 January 2002, the six were forced to board a U.S. airplane on Bosnian soil. The six men were deliberately prevented from seeing the aircraft into which they were loaded and shackled. However, U.S. official documents confirm that the aircraft was at the military base at Tuzla.

The aircraft flew for several hours, after which the men were forced to disembark. Again, the six were neither informed nor able to discern where the aircraft stopped. Several of the men informed attorneys from this firm that it was “very cold” when they landed. They surmised from the few glimpses and sounds they could perceive that the aircraft stopped in Turkey.

During the flights, the six men were taunted, beaten, and bound in painful positions in freezing cold weather. During the stop in Turkey, U.S. personnel brought barking dogs very close to the men, who—still blindfolded and unable to assess the situation—were terrified that the dogs would attack them.

U.S. Government documents recently received in litigation suggest that two C-130 aircraft, with serial numbers UJM166301019 and UQU09Z10L019, were allocated to this operation, and that at least one of these aircraft originated at or traveled to the U.S. base at Ramstein, Germany in connection with the operation. The documents also indicate that the aircraft transporting the six men stopped at the U.S. airfield at Incirlik, Turkey.

After several hours at Incirlik, the six men were forced back into an aircraft, which may have been different from the aircraft that had transported them from Tuzla. They were joined on that flight by several other prisoners, some of whom informed our clients that they had been

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brought from Afghanistan. This aircraft transported its human cargo to Guantánamo, arriving on January 20, 2002.

The transportation to Guantánamo, and the torture and mistreatment that happened en route, occurred on the soil of a potential candidate country for accession to the European Union (Bosnia and Herzegovina) and on the territory of a candidate country (Turkey). It is highly likely that the aircraft originated in an EU Member State (Germany) and transited the airspace of one or more other Member States, acceding or candidate countries, or potential candidate countries. While the flight plan of the aircraft is not known, it should be available to the Temporary Committee through records of flights into and out of Bosnia and Herzegovina and Turkey on 18, 19 and 20 January 2002.

V. Subsequent Proceedings Declaring the Abduction and Removal Illegal

On October 11, 2002, the Human Rights Chamber held that the removal of Messrs. Boudella, Boumediene, Nechle, and Lahmar occurred in violation of the law of Bosnia and Herzegovina.⁵ The Chamber also found that the expulsion violated the ECHR. On April 4, 2003, the Human Rights Chamber issued similar decisions regarding Messrs. Bensayah and Ait Idir.⁶

⁵ *Boudellaa, Boumediene, Nechle and Lahmar v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, Human Rights Chamber for Bosnia and Herzegovina, Cases Nos. CH/02/8679, CH/02/8689, CH/02/8690, CH02/8691, Decision on Admissibility and Merits (Oct. 11, 2002) (available at <http://www.hrc.ba/database/decisions/CH02-8679%20BOUDELLAA%20et%20al.%20Admissibility%20and%20Merits%20E.pdf>) (“*Boudella et al.* Human Rights Chamber Decision”).

⁶ *Bensayah v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, Human Rights Chamber for Bosnia and Herzegovina, Case No. CH/02/9499, Decision on Admissibility and Merits (April 4, 2003) (available at <http://www.hrc.ba/database/decisions/CH02-9499%20Bensayah%20Admissibility%20and%20Merits%20E.pdf>) (“*Bensayah* Human Rights Chamber Decision”); *Ait Idir v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, Human Rights Chamber for Bosnia and Herzegovina, Case No. CH/02/8961, Decision on Admissibility and Merits (April 4, 2003) (available at <http://www.hrc.ba/database/decisions/CH02-8961%20Idir%20Admissibility%20and%20Merits%20E.pdf>) (“*Ait Idir* Human Rights Chamber Decision”).

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In all three of its decisions, the Human Rights Chamber required the Government of Bosnia to take various specific actions to assist the six men, including “to use diplomatic channels in order to protect the basic rights” of the men, to provide them with “consular support,” and to “retain lawyers ... in order to take all necessary action to protect the applicants’ rights while in U.S. custody and in case of possible military, criminal or other proceedings.”⁷ In the Human Rights Chamber’s decision of April 4, 2003, regarding Mr. Ait Idir, the Chamber specifically ordered the Government of Bosnia “to take all possible steps to obtain the release of the applicant and his return to Bosnia and Herzegovina.”⁸

VI. Acknowledgement of Bosnia’s Legal Obligations by the Bosnian Government and European Organizations

The Bosnian Government has repeatedly recognized that its abduction of the six men in January 2002 and complicity in their removal from Bosnia was unlawful and must be remedied.

On November 18, 2003, the Bosnian Council of Ministers—the executive body with primary responsibility for carrying out policies and decisions in the fields of defense, intelligence, and foreign policy—determined that the Ministry of Justice should assign, as soon as possible, a person who would visit Bosnian citizens detained at Guantánamo Bay.

On April 21, 2004, the Commission for Human Rights, Immigration, Refugees and Asylum of the Parliament of Bosnia and Herzegovina formally accepted the conclusions and measures ordered by the Human Rights Chamber. The Commission requested all relevant institutions of Bosnia urgently to implement the Chamber’s decision and to initiate a procedure with the United States authorities for the return of Guantánamo detainees to their homes in Bosnia and Herzegovina. The Commission’s report was adopted by the full House of Representatives of the Parliament on May 11, 2004.

Between July 27 and 29, 2004, Mr. Amir Pilav of the Bosnian Ministry of Justice visited Guantánamo Bay and met with four of the six men. Mr. Pilav later wrote a report to the Ministry of Justice dated August 10, 2004 and, at the request of the Council of Ministers, an annex dated October 18, 2004, that contained detailed recommendations for actions to be taken with regard to the detainees. The annex was forwarded to the Council of Ministers on October 21, 2004. The cover letter to the annex, signed by Bosnian Minister of Justice Slobodan Kovac, recommended

⁷ *Boudella et al.* Human Rights Chamber Decision, paras. 330-331; *Bensayah* Human Rights Chamber Decision, paras. 217-218; *Ait Idir* Human Rights Chamber Decision, paras. 167, 170.

⁸ *Ait Idir* Human Rights Chamber Decision, para. 168.

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that the Ministry of Justice be tasked with fulfilling the proposed recommendations and appointing an official to lead implementation.

At its session on November 16, 2004, the Bosnian Council of Ministers adopted the recommendations of the Ministry of Justice as the official policy of the Government of Bosnia and Herzegovina. Recommendation 9 of the recommendations adopted by the Council of Ministers stated that it was necessary to start negotiations with the United States Government for the repatriation of the Detainees to Bosnia. On January 31, 2005, the Bosnian Minister of Justice, Mr. Kovac, issued a statement declaring that he would give full assistance within his authority for the resolution of this issue.

On February 1, 2005, the Council of Ministers unanimously approved the initiative of Prime Minister Adnan Terzić to send a formal letter to the United States Government requesting the return of the Bosnian Detainees. On March 11, 2005, the Minister of Justice confirmed that the Bosnian Government had sent such a letter to the United States Government.

On 26 April 2005, the Parliamentary Assembly of the Council of Europe passed Resolution 1433, which called on all member states of the Council of Europe, including Bosnia, to "enhance their diplomatic and consular efforts to protect the rights and ensure the release of any of their citizens, nationals or former residents currently detained at Guantánamo, whether legally obliged to do so or not."

In a Reply dated 15 June 2005, the Committee of Ministers of the Council of Europe noted the Parliamentary Assembly's resolution and expressed its "full support" of all bilateral negotiations with the United States aimed at securing the prompt release of Guantánamo prisoners.

On 21 June 2005, Bosnian Prime Minister Adnan Terzić appeared before the Parliamentary Assembly of the Council of Europe. During that session, Mr. Kevin McNamara, a British Member of the Parliamentary Assembly, pointed out the fact that six Bosnian citizens and former residents remained prisoners at Guantánamo and asked what efforts Bosnia was taking to secure their return. In response, Prime Minister Terzić acknowledged the importance of the issue and its relevance as an indicator of the progress of democracy in BiH, and stated his willingness to determine the best course to secure the eventual release of the six BiH citizens and former residents from Guantánamo, in accordance with the Parliamentary Assembly's resolution.⁹

⁹ See Report of 2005 Ordinary Session (Third Part) of Parliamentary Assembly of Council of Europe, 21 June 2005, available at <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/Records/2005-3/E/0506211000E.htm#6t>.

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On 16 September 2005, the Parliament of Bosnia adopted a resolution obligating the BiH Council of Ministers to enter into contact with the U.S. Government and resolve the issue of the six Bosnian citizens and former residents at Guantánamo as soon as possible. The resolution passed by a large majority.

On 22 January 2006, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe issued an Information Memorandum on alleged secret detentions in Council of Europe Member States. The Rapporteur, Mr. Dick Marty of Switzerland, specifically referred to the case of the six Bosnian nationals and former residents and stated his intention to follow the developments in the case within the context of his further investigations.¹⁰ This firm provided testimony to Mr. Marty's Committee on 11 April 2006.

VII. The Bosnian Government's Failure To Fulfill Its Obligations

Despite the repeated statements and resolutions promising to take action to negotiate for the return of the six men, we are aware of no concrete step taken by the Bosnian Government in the last year.

This is particularly surprising given Prime Minister Terzić's statement before the Parliamentary Assembly of the Council of Europe in June 2005, in which he acknowledged that the abduction had occurred contrary to court order and that the Assembly's Resolution 1433 of April 2005 "in relation to human rights had been of help in suggesting to the Bosnia and Herzegovina Government how best to act in the interests of its citizens."¹¹ Notwithstanding these promising statements, neither Prime Minister Terzić nor his government appears to have done anything to carry out its commitments to the Assembly or its obligations under domestic and international law.

The U.S. Government has repeatedly stated that it is willing to enter into bilateral discussions with governments whose citizens are detained at Guantanamo to arrange repatriation subject to adequate security measures. Security measures would be either minimal or unnecessary in the case of the six, who have already been investigated and acquitted by Bosnian authorities. Nonetheless, the Bosnian Government has not taken meaningful steps to begin a negotiation even on those terms.

¹⁰ See Information Memorandum II, AS/Jur (2006) 03, 22 January 2006, at para. 32.

¹¹ *Ibid.*

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VIII. Other Reports Of Abduction By U.S. Personnel In Bosnia

We have also learned of other instances of abduction of Bosnian citizens and residents by U.S. and European personnel stationed in Bosnia. Although we have not investigated these facts, we draw them to the Temporary Committee's attention as further evidence of the actions of U.S. authorities in Bosnia during the relevant time period.

An influential Bosnian news magazine, *Dani*, reported on December 16, 2005, that a secret CIA prison had existed at one time (and may still exist) in Tuzla, Bosnia. The magazine reported that, on September 25, 2001, a 23-year-old Bosnian Muslim named Nihad Karcic, who worked as waiter at the Islamic Center of the High Saudi Commission for Bosnia, was abducted in Sarajevo. Karcic stated that he was taken by three armed men who kidnapped him in broad daylight and drove him away by car.

Karcic's captors introduced themselves as Italian *carabinieri* who were members of NATO troops stationed in Bosnia. The Italians placed a hood over Karcic's head. When Karcic got out of the car, he found himself in a cage in a large hangar. There were four or five soldiers around the cage. Karcic was interrogated by an American, who spoke via translator and asked him questions regarding terrorists, explosives, and similar issues. He knew nothing about these subjects and answered accordingly.

Although it is not clear where this occurred, it likely happened at an SFOR military base in a Sarajevo suburb known as Butmir, a mixed military base where contingents from several nations are stationed. Part of the Butmir camp is a U.S. facility.

At one point, the interrogator lost his patience and threatened that Karcic would be "transferred to Tuzla." Tuzla is the largest city in northeastern Bosnia and home to the largest U.S. military base in Bosnia for over 10 years. During the night, his cage was covered with a blanket, and the whole cage was taken by helicopter the next morning to an undisclosed location. At this new location, Karcic was placed in solitary confinement, stripped of his clothes and interrogated. He was forced to walk on sharp stones and regularly beaten. His captors put a metal can on his head and hit the can with a baseball bat. He was kept very cold and not given adequate clothing in light of the temperature.

After seven days of imprisonment and torture, Karcic's captors acknowledged that they were mistaken. Karcic's captors gave him 500 U.S. dollars for his "inconvenience." Karcic

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stated that the captors took his fingerprints and threatened him that, if he told anyone about his mistreatment and torture on Bosnian soil, they would do it all again.¹²

The magazine reports that Karcic sought to make this matter public at the time, including attempting to hire a lawyer to represent him. A prominent criminal lawyer apparently advised him to keep silent.

We have learned of other cases with highly similar facts. For instance, a man named Sabahudin Fiuljanin was kept at a secret U.S. facility within the U.S. military base at Tuzla for three months. He has refused to talk to the Bosnian media so far.

IX. Action By German Military Intelligence Officers Against the Family of One Guantánamo Prisoner

Recently, the German media have reported that German military intelligence personnel posed as journalists in order to interview the wife of one of the six Guantánamo detainees from Bosnia. According to the reports, two German military officers interviewed Ms. Anela Kobilica, wife of Guantánamo prisoner Belkacem Bensayah, on 17 June 2003.¹³

The German officers pretended to be reporters from German media in order to gain entry to Ms. Kobilica's home and ask her questions about her husband. Ms. Kobilica showed the German "reporters" letters she had obtained from her husband and photographs of her family, and informed them of the status of efforts to bring about her husband's return.

That same day, the German officers prepared a "Supplementary Intelligence Report" that set forth in detail the conversation with Ms. Kobilica. The report concluded that, based on the interview with Ms. Kobilica, there were actual grounds to consider that the six men were unlawfully taken into custody and deported to Guantánamo on grounds that were "highly dubious." The report also states the documents viewed by the German officers "permit the suspicion, which is even heightened upon closer observation, that an injustice was done to at least some of the six." The report was apparently communicated to the German Embassy in Sarajevo for further action. It is unknown at this time what further action German authorities have taken to date in this matter.

¹² The reported facts of Karcic's abduction are similar to the United States' abduction of a German citizen, Khaled Masri. See <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/06/AR2005120600083.html>.

¹³ See, e.g., <http://www.tagesschau.de/aktuell/meldungen/0,1185,OID5072374,00.html>.

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The German officers who impersonated journalists are apparently under investigation by German military authorities for violation of applicable regulations.

X. Conclusion

The six Bosnian citizens and former residents imprisoned at Guantánamo owe their fate, in large part, to the complicity of the Bosnian Government in their abduction and its failure thereafter to take meaningful concrete steps to secure their return, despite a plethora of legal decisions, political resolutions, and public statements that such steps should and would be taken. The Prime Minister's statements before the Parliamentary Assembly of the Council of Europe on 21 June 2005 demonstrate the Bosnian Government's recognition that this case involves serious human rights violations and substantial legal obligations. Despite these promising words, the Government of Bosnia and Herzegovina appears content to leave these six men to be forgotten, without rights or effective recourse in a foreign prison.

There is likewise no question that the United States has engaged in the abduction, interrogation, and torture of citizens and residents of Bosnia and Herzegovina, a potential candidate country for accession to the European Union. These actions took place in the territory of Bosnia and Herzegovina, in the territory of Turkey, and in flights through the airspace of EU Member States and/or acceding or candidate countries and potential candidate countries. The flight trajectory of the aircraft that transported the six men from Bosnia to Guantánamo should be available to the Temporary Committee through examination of flight records from the Bosnian, Turkish and European aviation authorities for 18 January 2002 and the following days.

It is also plain that the forces of EU Member States stationed in Bosnia—notably German forces and possibly also Italian forces—have also taken a role in the abduction, investigation, and interrogation of persons in unlawful ways.

We therefore urge the Temporary Committee to continue to investigate this pressing matter and to recommend that European Union institutions take all available steps to ensure that the six men are swiftly returned to their homes and families in Bosnia. Most importantly, the European Union should make clear that the candidacy of Bosnia and Herzegovina for accession to the European Union depends on its swift compliance with its legal obligations toward its own citizens and former residents. We stand ready to assist the Temporary Committee in any way that may be useful to facilitate this result.