

May 2005
AI Index: AMR 51/080/2005



CRUEL.
INHUMAN.
DEGRADES
US ALL.

STOP TORTURE
AND ILL-TREATMENT
IN THE 'WAR ON TERROR'

USA

Who are the Guantánamo detainees?

CASE SHEET 8

Bosnian detainee: Mustafa Ait Idir (and five others)



© US DoD

Full name: **Mustafa Ait Idir**
Nationality: **Bosnian**
Age: **35**
Family status: **Married with three young sons**
Occupation: **Reportedly worked for the humanitarian organization Igasa**

“Muhammed was four when Mustafa was taken away. But he still remembers every moment he spent with him. And every day, I keep telling him that his father is on business trip, and he will come soon. Lately I noticed that he is not that happy and excited anymore. I think that he doesn't believe me anymore.”

Wife of Mustafa Ait Idir

Background

Mustafa Ait Idir and five other men were arrested in October 2001 by the federal police in Bosnia and Herzegovina on suspicion of involvement in an alleged plot to bomb the US embassy in Sarajevo.

On 17 January 2002 the investigative judge of the Supreme Court ordered their release as there were no further grounds for their detention. The same day the Human Rights Chamber of Bosnia and

USA: Who are the Guantánamo detainees?

Herzegovina issued an interim order for provisional measures to be taken to prevent the deportation, expulsion or extradition of four of the men, following applications made to the court by the four men on 14 and 16 January 2002.

Despite these rulings, on their release the six men were immediately taken into custody by the federal police who, along with Sarajevo's cantonal police, handed them over to US forces on 18 January 2002. They were subsequently transferred to Guantánamo Bay, where they remain held.

Mustafa Ait Idir and the five others – Bensayah Belkacem, Hadj Boudellaa, Saber Lahmer, Boumediene Lakhdar and Mohamed Nechle – are all originally from Algeria. Most of them went to Bosnia and Herzegovina during the 1992-95 war to join the Bosnian Muslim side in the conflict. After the war they remained in Bosnia and Herzegovina and were granted citizenship or the right to residency. All but one of the men married local women and had varied occupations, mostly working for Islamic charities operating in Bosnia and Herzegovina.

Torture and ill-treatment allegations

“Shortly after that incident, one half of his face became paralysed. He was in pain. He could not eat normally; food and drink leaked from his non-functioning mouth. Guards teased him because of his condition.”

Extract from a lawsuit filed in US court in April 2005

Mustafa Ait Idir says that he has been tortured and ill-treated at Guantánamo. A lawsuit filed in April 2005 alleges that the following occurred during a cell search:

- his body and head were slammed into the steel bed and floor;
- guards stuffed his face into the toilet and repeatedly pressed the flush button;
- a garden hose was pushed into his mouth and the water turned on until the water came out of his mouth and nose and he couldn't breathe.

Mustafa Ait Idir also alleges that on another occasion members of an Immediate Response Force assaulted him by:

- forcing him to lie on the floor while men jumped on his back;
- throwing him onto crushed stones while a man jumped on the side of his head with his full weight;
- twisting a middle finger and thumb almost to the point of breaking, dislocating two of his knuckles.

Mustafa Ait Idir states that he was refused any immediate medical treatment for injuries sustained during these assaults. He is reported to have suffered a stroke shortly after the second incident, leaving one side of his face paralysed. Despite his request to go to hospital he did not receive medical treatment for 10 days.



Combatant Status Review Tribunal

“These are accusations that I can’t even answer. I am not able to answer them. You tell me I am from Al Qaida, but I am not an Al Qaida. I don’t have any proof to give you except ask you to catch Bin Laden and ask him if I am part of Al Qaida.”

Mustafa Ait Idir during his hearing before a Combatant Status Review Tribunal

After the US Supreme Court ruled that federal courts could hear habeas corpus petitions from foreign nationals held in Guantánamo Bay, the authorities established Combatant Status Review Tribunals to determine if each Guantánamo detainee was an “enemy combatant” as labelled. However, on 31 January 2005, using the case of Mustafa Ait Idir to justify her decision, Federal District Judge Joyce Hens Green found that the tribunals were an inadequate vehicle for detainees to challenge their detention. The government has appealed against her ruling.

During the tribunal hearing the Recorder read out the allegation that Mustafa Ait Idir had “associated with a known al-Qa’ida operative” while living in Bosnia. When Mustafa Ait Idir requested the name of the “operative”, the tribunal’s President said that he didn’t know it. Mustafa Ait Idir replied:

“This is something the interrogators told me a long while ago. I asked the interrogators to tell me who this person was. Then I could tell you if I might have known this person, but not if this person is a terrorist. Maybe I knew this person as a friend. Maybe it was a person that

worked with me. Maybe it was a person that was on my team. But I do not know if this person is Bosnian, Indian or whatever. If you tell me the name, then I can respond and defend myself against this accusation.”

When told that he had been arrested because of his alleged involvement in a plan to bomb the US embassy in Sarajevo, Mustafa Ait Idir again asked to see the evidence against him. In the absence of such evidence he said: “... to tell me I planned to bomb, I can only tell you that I did not plan.”

Authorities in Bosnia and Herzegovina

A government delegation from Bosnia and Herzegovina visited the six men in June 2004. However, the delegates had to comply with strict conditions imposed by the US authorities. They only visited four of the men, were not able to visit the cells in which they were held, and could only question them in the presence of US authorities. On their return, the head of the delegation announced that the prisoners were being fairly treated. The delegation provided little information to the families, in one case stating that they were unable to be “specific about his condition, as he was not allowed to respond to the majority of questions they asked him”. However, the wife of one of the men was told that some of the men were in very poor health.

“If you have evidence, big or small, that I have any relationship with terrorism or if I helped any terrorists, I am prepared for any kind of punishment in any country.”

Mustafa Ait Idir

TAKE ACTION FOR MUSTAFA AIT IDIR

Write to the US authorities:

- Stating that Mustafa Ait Idir and all others held must be given full and fair trials or released;
- Calling for a full and impartial investigation into the allegations of torture and ill-treatment of Mustafa Ait Idir and other detainees in Guantánamo Bay, and for anyone found responsible to be brought to justice;
- Calling on the US government to set up a commission of inquiry into all aspects of the USA's "war on terror" detention policies and practices.

Write to the Bosnia and Herzegovina authorities:

- Calling on them to do all they can to ensure that Mustafa Ait Idir and the five others receive a full and fair trial or are released immediately;
- Reminding them that the transfer to the USA of the six men occurred despite an order for their release by the Supreme Court and provisional measures by the Human Rights Chamber of Bosnia and Herzegovina to prevent the deportation, extradition or expulsion of four of the men;
- Expressing concern that the July 2004 visit by the Bosnia and Herzegovina government delegation did not gather an accurate account of the detainees' situation and treatment;
- Seeking assurances that they are making full representations on behalf of the six men and that the families are being kept fully informed of the detainees' well-being;
- Urging them to send a second delegation to Guantánamo as soon as possible;
- Urging them to support AI's call for an independent inquiry into "war on terror" detentions.

WRITE TO:

Alberto Gonzales
Attorney General
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001, USA
Fax: + 1 202 307 6777
E-mail: AskDOJ@usdoj.gov

Slobodan Kovač
Minister of Justice
Ministar Pravde Bosne i Hercegovine
Trg Bosne i Hercegovine 1
71000 Sarajevo
Bosnia and Herzegovina
Fax: + 387 33 223 504

Borislav Paravac
Bosnia and Herzegovina Presidency
Chair
Predsjednik Predsjedništva Bosne i
Hercegovine
Maršala Tita 16
71000 Sarajevo
Bosnia and Herzegovina
Fax: + 387 33 555 620

If you want to take further action on this case, please contact your national AI office