

## DECLARATION OF ALIJA BEHMEN

1. At the session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina on 3 September 2008 in Sarajevo, the representative of the Social Democratic Party of Bosnia and Herzegovina, Zlato and Lagumdžija said during the discussion of the so-called Algerian Group that all institutions and individuals that want to participate in implementation of the conclusions of the Parliament on this issue should provide necessary documentary evidence to the US lawyers for presentation to the Court. Having in mind the position that I held during that period, I consider it to be my obligation to provide this statement.
2. The aim of this declaration is to set forth a true account of the events occurring between October 2001 and January 2002 in Bosnia and Herzegovina involving the arrest and handover to the custody of the United States of the following six men: Lakhdar Boumediene, Belkaem Bensayah, Mohammed Nechla, Mustafa Ait Idir, Saber Lahmar and Hadj Boudella, who are commonly referred to as the "Algerian Group."
3. I want to point out particularly that I was not under any pressure or threat to provide this statement, and that I have not received any compensation or benefit of any kind for providing this declaration.
4. I was born on 25 December 1940 in Split, in the Republic of Croatia. I am a citizen of Bosnia and Herzegovina. I am a representative in the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina and professor at the University of Sarajevo. In addition, I am the vice-president of the Social Democratic Party of Bosnia and Herzegovina.
5. I graduated from and hold a Master's degree and Ph.D. in economic sciences from the University in Sarajevo. I have been a lecturer at the University in Sarajevo since 1980. In addition to my academic career, I have held managerial duties in business as well. I was the president of the Board of Directors of the Railway System of BiH and manager of the company Intersped (international freight).
6. Between March 2001 and February 2003, I served as the Prime Minister of the Federation of Bosnia and Herzegovina. During that period, the two Entities within Bosnia and Herzegovina -- known as the Federation of Bosnia and Herzegovina ("Federation") and the Republika Srpska -- had much wider authorities than is the case today. Thus, the authorities of the Federation government, and myself as the Prime Minister, included defense, that is military, intelligence affairs, customs revenue collection, indirect taxation, direct taxation (contributions from salaries, for funds of retirement insurance and health, tax on profits, etc.). Certain additional authorities were shared with the cantonal authorities including, among others, the police.
7. I deem it important to point out that, under the Dayton Peace Agreement, the international military troops stationed in Bosnia as the NATO Stabilization Force ("SFOR") were set up beyond the constitutional order of Bosnia and Herzegovina. That means that they were authorized to act autonomously in the territory of Bosnia mid

Herzegovina with the use of its military force, if they assessed that certain individuals or even institutions threatened the Dayton Peace Agreement or SFOR. Also, significant authorities in interpretation and implementation of the Peace Agreement (including even the Constitutional changes) rested with the Office of the High Representative (OHR) and in the domain of the police, with the International Police Task Force (IPTF).

8. After 11 September 2001, Bosnia and Herzegovina firmly determined to support the United States in its fight against terrorism. The horrors of the Bosnian war and its consequences were still fresh, and this led to near-unanimous public support for the fight against terrorism. At that time, there were no national institutions that could conduct activities in the fight against terrorism. Accordingly, the Council of Ministers, in coordination with international organizations, formed a Coordinating Team for the Fight against Terrorism with the goal of coordinating activities of the Entities' institutions and agencies with the institutions of the international community. The Coordinating Team's activities were, in part, designed to carry out the obligations of Bosnia and Herzegovina to implement UN Security Council Resolution 1373, dated 28 September 2001. This Resolution obligated all UN member states to exchange operational data in order to prevent terrorist activities. I instructed those on my staff who participated in the work of this Team to do so in an extremely responsible way and in accordance with the laws of Bosnia and Herzegovina, and I gave my full support to the Team's activities.
9. I was kept regularly informed by my assistants for police and intelligence matters regarding our cooperation with US agencies in the fight against terrorism generally. I was also kept regularly informed regarding the case of the Algerian Group in particular.
10. On 8 October 2001, an individual by the name of Belkacem Bensayah was arrested in Zenica. I was informed that a piece of paper with the number of a senior officer of Al Qaeda was found at his home.
11. After that, I was informed by the US Embassy that they suspected security threats to the US and UK Embassies. I took immediate action via appropriate institutions to ensure that such threats did not materialize. I suggested that, in light of our precautions, it was not necessary that the Embassies be closed. I was concerned that closing the Embassies would only encourage possible terrorists, and I believed it was damaging to the reputation of Bosnia and Herzegovina if it were perceived that Bosnia and Herzegovina could not guarantee the security of friendly diplomatic representatives, who had been present despite huge danger -- even during the war in besieged and devastated Sarajevo. Nonetheless, the US and UK Embassies were closed down on 17 October 2001.
12. On the day of closure of the US and UK Embassies. I had a meeting with representatives of the U.S. Embassy, led by Deputy U.S. Ambassador and Charge d'Affaires. Mr. Christopher Hoh. I believe that Mr. Hoh's assistants for security issues and my first assistants for police and intelligence matters were also present. During the meeting, she representatives of the U.S. Embassy insisted on the arrest of additional suspects because of the threats against the aforementioned embassies. The representatives of the U.S. Embassy especially emphasized that they had reasons for justified suspicions regarding the members of the so-called Algerian Group as possible perpetrators of these threats.

Although they did not present any evidence to us, the representatives of the U.S. Embassy left an impression that they had firm evidence for their suspicions. Also, the representatives of the U.S. Embassy made it unequivocally clear that unless the authorities of Bosnia and Herzegovina arrested the persons whom the U.S. suspected, the United States would withdraw all Embassy personnel and would stop any further US support to Bosnia and Herzegovina. I remember that Mr. Hoh told me then something like "and then let God protect Bosnia and Herzegovina."

13. I informed Mr. Lagumdžija, who was Chairman of the national Council of Ministers at the time, on the content of this meeting, and we consulted about what actions to take. We concluded that the closing of the Embassies had caused huge damage to Bosnia and Herzegovina, and that the withdrawal of personnel from the Embassy of the USA, which was the country most responsible for stopping the war would cause long-lasting negative consequences for Bosnia and Herzegovina. In addition, we believed that the United States possessed evidence justifying its suspicion against the supposed perpetrators of the threats toward the security of the Embassies.
14. Shortly after my meeting with Mr. Hoh, the Federation police arrested the remaining members of the Algerian Group. I was informed that arrests occurred peacefully and that the suspects did not try to resist or flee. The six suspects were held in pre-trial detention - five in Sarajevo, and one in Zenica - while the investigation proceeded.
15. The investigation by the Federation Prosecutor and Investigative Judge of the Federation Supreme Court, which was launched on the basis of initial information provided by the United States, lasted for three months. During that time, Federation authorities conducted searches, interviewed witnesses, conducted forensic analyses, and cooperated with the U.S. Embassy, the FBI, the European Union, and Interpol. Via my assistants I regularly received word that there was no firm evidence that linked the suspects to an act of terrorism. My assistants from the police expressed their frustration that, during the investigation, they were not provided with the recordings of allegedly intercepted communications between the suspects and senior officials of Al Qaeda outside Bosnia and Herzegovina.
16. After the investigation was completed, the Investigative Judge and Prosecutor found no firm evidence that the suspects were involved in terrorist activities, and upon personal request, they informed me about it at the headquarters of the Government of the Federation of Bosnia and Herzegovina. I remember that the Investigative Judge Mrs. Jasmika Putica, and one of the judges from the Supreme Court, Mr. Vlado Adamovic, were present at that meeting. During the whole course of investigation, and at that meeting as well, the executive authorities of Bosnia and Herzegovina, including myself as the Prime Minister, did not exercise any pressure toward the Prosecutor's Office or the Supreme Court of the Federation of Bosnia and Herzegovina. Due to the lack of evidence for the charges against these men, the investigative bodies suggested that the suspects be released from detention.
17. During the course of the investigation, some suspicions were raised regarding the way in which the six men acquired the citizenship of Bosnia and Herzegovina or residence in

Bosnia and Herzegovina. Through the lawful procedure, the relevant Federation authorities revoked their citizenship and their permits for residence in Bosnia and Herzegovina. Although these decisions were subsequently annulled by higher courts, those latter decisions happened after the men were removed from Bosnia.

18. I want to emphasize especially that, on 8 January 2002, a meeting took place in my office, at the headquarters of the Federation Government, with representatives of the US Embassy and SFOR. In addition to myself and my assistant Ms. Asja Rasavac, the meeting was attended by the Deputy US Ambassador and Charge d'Affaires Christopher Hoh; General John Sylvester, the U.S. Commander of SFOR; General David Petraeus, then with SFOR; Mr. Robert Kendra, Mr. Mark Fray, and Ms. Vildana Aljovic from the US Embassy. The reason for meeting was, among other things, to inform me of a briefing that had taken place at the White House. At that briefing, the US President had been informed that there was a risk that persons arrested in Bosnia, namely the six members of the so-called "Algerian Group" may be released from detention due to lack of evidence for charges against them. After consultations among the US President, Vice President, and Defense Secretary, the order was issued that, in the event that the six men were released, SFOR should take direct action to seize the men and extradite them to their countries of origin. General Sylvester told me that he held the view that the direct involvement of SFOR in this case would be a serious mistake, and he suggested that efforts be taken so that the problem be resolved by the authorities of Bosnia and Herzegovina, without direct involvement of SFOR. Nonetheless, he informed me that he had a direct order from the top level of his command to use SFOR troops to re-arrest the six men if necessary. I forwarded the Minutes of this meeting to the Chairman of the Council of Ministers, Mr. Zlatko Lugumdzija, for information and further action.
19. It was unequivocally clear that the United States was determined to take these six men into custody and even to use force if the authorities of Bosnia and Herzegovina did not secure their transfer to SFOR troops. Such a development would have been characterized as a lack of support on Bosnia's part for the fight against terrorism and, ultimately, would have put an end to US support for further democratic development of Bosnia and Herzegovina. That would have caused unforeseeable negative consequences for Bosnia and Herzegovina.
20. On 17 January 2002, due to a lack of evidence for the accusations of terrorism, the Supreme Court ordered the suspects, the so-called Algerian Group, released from detention.
21. The operational data from the Coordinating Team and from the Police showed that civilians, friends or supporters of the Algerian Group, having learned of the decision of the Supreme Court regarding their release on 17 January 2002, formed a circle around the prison on the evening of 17 January 2002. Some of them had radio devices for communication, and some of them were even armed. A local radio station was covering live the dramatic situation around the prison, inviting citizens to prevent the hand-over of the detainees. At the same time, SFOR troops were also present around the prison, ready to act in accordance with the orders that General Sylvester had received from the United States.

22. I was informed that on 17 January 2002, the Council of Ministers unanimously accepted a Report on the Coordinating Team's activities, supported its work, and decided to hand over the members of the Algerian Group to the custody of SFOR. I am of the opinion that, by doing so, the authorities of Bosnia and Herzegovina averted certain confrontation and bloodshed between the members of SFOR and the gathered individuals who were supporting the Algerian Group.
23. The Federation Police took custody of the six men after the order on their release from detention. In the presence of appropriate representatives of the IPTF, the six individuals were handed over to SFOR troops. As far as I know, all six men were handed over to representatives of the US component of SFOR at the Butmir military base in Sarajevo. At that time we did not have information or indications that those men would be taken out of Bosnia and Herzegovina for purposes of investigation. Only later was I informed that, shortly after they were taken into custody by the US forces, these forces transported them out of Bosnia and Herzegovina to Guantanamo Bay.
24. I believe that Bosnian authorities acted properly based on the information available at the time, based on the following facts:
- As the time, the six men had no right to remain in Bosnia, as their citizenship and residence had been revoked.
  - Their homeland – Algeria - did not want to provide additional guarantees that they would not be subject to the death penalty and it did not want to accept them.
  - The USA had sent a diplomatic note stating its willingness to accept these individuals via the American component within SFOR.
  - The SFOR troops would certainly have arrested these men, with certain armed conflict and casualties, had we not turned them over.
  - We presumed that the investigation of these six men would be concluded promptly and that the evidence that could not have been shown to the authorities of Bosnia and Herzegovina would be used in that investigation.
  - Failure to comply with the US demands in this matter would have led to withdrawal of the US Embassy personnel and the end of the US support to the state of Bosnia and Herzegovina and its institutions, which would stop further democratic processes.
  - Failure to comply would have given Bosnia and Herzegovina a reputation as a haven for terrorists, which would leave it without any donor assistance from developed states or international financial institutions.

25. The Government of the Federation of Bosnia and Herzegovina sent a detailed report in the case of the Algerian Group to the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina on 6 February 2002.
26. After learning that these men were transferred to Guantanamo Bay, we hoped that they would be promptly brought before the appropriate US court and that it would be established - during a fair trial - whether they had certain elements of guilt and responsibility, or whether they should be released.
27. As far as I know, since the six men were handed over to the United States, neither the Federation Government nor the Government of Bosnia and Herzegovina has received any information or evidence connecting any of them to any terrorist activity. I was informed that in mid-2004, the Federation Prosecutor formally terminated the investigation of the possible offense of terrorism that these men were charged with.
28. This declaration of mine is given with the goal of helping in establishing the truth and justice for the six members of the Algerian Group and to shed light on the circumstances that led to their removal from Bosnia and Herzegovina.

I declare under the pains and penalties of perjury under the laws of the United States of America that the foregoing is true and correct.

Sarajevo, 6 October 2008

Alija Behmen

*I hereby certify then this is a true translation of the original document prepared in the Bosnian/Serb/Croat language."*

Sarajevo, 8 October 2008

*Jasminka Crnkić  
Certified Court Interpreter for the English language*