



**REPRESENTATION PERMANENTE DE LA BOSNIE-HERZEGOVINE
AUPRES DU CONSEIL DE L'EUROPE**

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Dear Secretary General,

Following your letter from 21 November 2005 concerning the request of explanations in accordance of the Article 52 of the European Convention of Human Rights and Fundamental Freedoms, I have a great pleasure to convey to you the answers of the authorities of Bosnia and Herzegovina, Ministry of Justice of Bosnia and Herzegovina more precisely.

I enclose you the letter in our local language as well as an unofficial translation in English.

On this occasion I would like to express my regrets for the technical reasons that caused the delay in answering your request.

Please accept, Dear Secretary General, the assurances of my highest appreciation.

Ambassador

Borislav MARIC

**Mr Terry DAVIS
Secretary General
Council of Europe**

UNOFFICIAL TRANSLATION

Ministry of Justice of Bosnia and Herzegovina (BiH) informed us that they requested to the ministries of justice of the Entities, of the District Brcko, the Court and the Public Prosecutors Office of BiH, the information if, on the territory of BiH, there were secret detention of people and if eventually some actions have been undertaken by foreign officers of foreign agencies.

Concerning the legal acts from the legal field, the Ministry of Justice of BiH informs the following :

Article 11 of the Criminal Law of Bosnia and Herzegovina (BiH) defines that every person that commits a crime on the territory of BiH is under the criminal jurisdiction of BiH.

Article 12 of the Criminal Law of BiH regulates the use of the CL of BiH for the crimes committed outside of BiH, in that purpose in the paragraph 3. of the same article, is defined that the BiH jurisdiction is applied even on the foreigner committing a crime outside the boundaries of BiH commits, against BiH or against its citizen, a crime that is not covered by the international law, international or interstates treaties, or a crime against the national servant or the responsible person in the institutions of BiH during the terms of its work, and the crimes that harms the economy or the single market of BiH.

The paragraph 4 of the same article 12, defines that the jurisdiction of BiH is applied against the foreigner that, outside of the territory of BiH or against a foreign country or against a foreigner, commits a crime for which he/she can be charged with 5 years or more of detention, the law is applied to the foreigner that committed a crime if he/she is found on the territory of BiH or has been extradited to BiH.

The Criminal Law of BiH contains the crime "illegal deprivation of liberty" article 147. that predicts the responsibility of the persons that imprison illegally other person(s), keep him/her imprisoned or deprive him/her of the liberty of movement, and also the responsibility if those acts are done in an inhuman way or if his/her health is badly violated or if there are other heavy consequences.

The Criminal Law of BiH defines the responsibility for the torture and the other cruel, inhuman or degrading treatment with the article 190 and refers to the treatment that an national servant or an other person that, by abusing of his/her official position, inflicts to one other person physical or moral pain or other serious pain in order to obtain from him/her or the third person an information or a confession or that the person in question get inculturated or the threatening is done for other reasons based on discrimination.

The Law on Criminal procedure of Bosnia and Herzegovina, as a result of the articles 131., 132., 133., 134., 135., 136., 137., 138., and 139., regulates the determination of detention, the causes of detention, the general right of detainment, the responsibility for the determination of detention, the duration of detention during the investigation, the cancellation of the detention, the detention after the confirmation of the bill of indictment, the determination of the detention after the judgment, and the deprivation of liberty and the detention.

Article 208 of the Law on criminal procedure envisages the cancellation of the criminal procedure for the foreigners that benefit of the legal immunity in BiH and on which is applied the international law, and the article 247 of the Law on criminal procedure of BiH envisages that no one can be judged in his/her absence.

On the level of Bosnia and Herzegovina and on the Entities level law on the immunities exist from 2002, that allows to the national servants to use the immunity just in the case of the citizens responsibility during the terms of their work and the members of Parliamentary Assemblies can use the immunity even for the criminal responsibility, but only in the case of official works as members of the parliamentary Assembly, that are closely linked to their work concerning their point of views, votes or public appearance.

Following the legislation of Bosnia and Herzegovina, after the use of all regular legal means, the foreigner, for the protection of his/her human rights, can appeal to the Constitutional Court of BiH that has the jurisdiction and that decides in those cases if the procedure in question respected the Constitution of BiH, in other words the European Convention on Human Rights and Fundamental Freedoms and its Protocols, as regard if the procedure or the decision in question was contradictory to the international public law and in that way exists already the trial praxis and adopted decisions in merit.