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14th June 2021

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Re: Capture and Refoulement of Selahaddin Gülen to Turkey

Dear Hon Matiang'i, Hon Omamo,

I am writing regarding the case of Selahaddin Gülen, a Turkish national and United States permanent resident who went missing under unclear circumstances on May 3, 2021 after he reported at the Directorate of Criminal Investigations head office in Nairobi as ordered by a court in October 2020. Mustafa Genç, another Turkish national who was arrested alongside Gülen who he had accompanied to the DCI headquarters, was released by Kenyan authorities on May 5, 2021.

Human Rights Watch is an independent international nongovernmental organization that conducts human rights research and advocacy in more than 100 countries, including Kenya, for over 40 years. We have monitored and investigated human rights issues in Kenya for around 30 years. Human Rights Watch is committed to producing material that is balanced and objective.

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Human Rights Watch has learned from relatives and friends that Selahaddin Gülen traveled to Nairobi from the US on October 17, 2020 on a Kenyan tourist visa to meet his fiancée, a Kenyan resident. He was initially admitted on arrival at Jomo Kenyatta International Airport, but was shortly afterwards arrested and detained at the airport by Kenyan immigration officers, who informed him of a Red Notice Alert by Interpol, Ankara, Turkey. On October 19, 2020 Kenyan authorities commenced extradition proceedings against him, but later substituted that with a deportation order. The court directed Gülen to deposit his travel documents in court and to report weekly to the DCI headquarters. It was during one of those weekly visits to the DCI headquarters on May 3, 2021 that Selahaddin disappeared. In March, a Kenyan judge issued orders barring Kenyan authorities from continuing proceedings to deport Gülen to Turkey, ordered that his passport be returned to him and that he be allowed to travel back to the US. We understand further that Gülen had applied for asylum upon his arrival in Kenya.

On May 31, the Turkish authorities announced with a photo of Gülen in handcuffs in Ankara, without revealing any details, that he had been captured by agents of Turkey's National Intelligence Organization (MIT) from a foreign country and was now in the custody of their anti-terrorism police.

Selahaddin Gülen is a nephew of US-based Sunni Muslim cleric Fethullah Gülen, who is founder of a movement which Turkey deems a terrorist organization responsible for a military coup attempt in 2016. After the group was deemed a terrorist organization, thousands of its alleged supporters in Turkey have been subject to arbitrary detention and prosecution on baseless terrorism charges, including torture, without evidence that they either participated in the 2016 attempted military coup or that they were involved in violent activities, provided logistical support for such activities or incited violence. Selahaddin Gülen, who denied any involvement in the attempted coup, had since 2015 been working as a telecommunications manager at an organization in the US as he awaited his naturalization as a US citizen. He had sought asylum in the US on the grounds that his family ties with Fethullah Gülen placed him at risk of persecution in his native country, Turkey, and his request for asylum was granted. In response to Turkey's requests to the US government for his extradition, American officials have said the evidence presented by Turkey was insufficient to stand up in court.

If this information is correct, any decision to either deport or extradite him without appropriate due process, including ignoring a Kenyan court order against his deportation, would amount to a violation of his rights and violation of the principle of non-refoulement under international and regional refugee law.

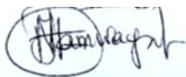
We would appreciate either your written response to the questions below or a face-to-face meeting to discuss the questions and other issues surrounding the disappearance in Kenya and eventual reappearance and detention in Turkey of Selahaddin Gülen:

1. What does the Kenyan government know about the incident that led to the disappearance of Selahaddin Gülen in Nairobi, Kenya, on May 3, 2021? What steps have Kenyan authorities taken to investigate the matter?
2. What role did the Kenyan security and other state agents play in the apparent disappearance and deportation of Selahaddin Gülen to Turkey where he faced serious risks on his life?
3. Were Kenyan authorities aware that a Kenyan judge had in March ordered a stay of the deportation proceedings against Selahaddin Gülen, pending a decision on his application for the release of his passport and permission to return to the United States where he is a permanent resident?
4. Can you provide details of the extradition agreement between Kenya and Turkey, as well as any Kenyan law that authorizes the deportation of a foreign citizen and legal resident of a third country without the orders of a Kenyan court?
5. Could you confirm whether, aside from the US asylum documents, Selahaddin Gulen had also processed and was in possession of valid documents that qualified him as an asylum seeker in Kenya at the time of deportation?

Kindly include any other information that you believe would be valuable to our understanding of this matter. You can contact me at mattheo@hrw.org; or +254 728891575 to seek any clarifications, set up a meeting and to respond to the questions above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Otsieno Namwaya', enclosed in a light blue circular stamp.

Otsieno Namwaya
East Africa Director
Human Rights Watch
Nairobi