



THE PERMANENT MISSION
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

March 7, 2018

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Felipe Gonzalez Morales
Special Rapporteur on the human rights of migrants

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Sheila B. Keetharuth
Special Rapporteur on the situation of human rights in Eritrea

Dear all:

Thank you for your letter dated December 21, 2017, requesting information regarding a statement made by the U.S. Department of Homeland Security on September 13, 2017. Please find the United States response attached.

Sincerely,

A handwritten signature in blue ink that reads "Jason Mack". The signature is fluid and cursive, with the first name "Jason" and the last name "Mack" clearly distinguishable.

Jason R. Mack
U.S. Deputy Permanent
Representative to the UN Human
Rights Council

SUBJECT: U.S. Response to special procedures regarding the expedited return of Eritrean nationals to Eritrea

Thank you for your letter dated December 21, 2017, requesting information regarding a statement made by the U.S. Department of Homeland Security on September 13, 2017, announcing visa sanctions imposed on Eritrea due to its lack of cooperation in accepting the return of its nationals from the United States. We are grateful for the work you do across the globe to promote respect for human rights, and for the opportunity to provide the below information concerning U.S. law, policy, and practice.

Approximately 700 Eritrean nationals residing in the United States are subject to final orders of removal. Due to lack of travel document issuance from the Government of Eritrea, U.S. Immigration and Customs Enforcement continues to release those Eritrean nationals into U.S. communities in accordance with U.S. law. Some of these individuals are convicted criminals, having served time for serious crimes, including violent offenses and drug convictions. Every country has an international legal obligation to accept the return of its nationals.

All foreign nationals who are placed in removal proceedings before an Immigration Court are provided a full and fair opportunity to contest removability and apply for any form of relief or protection from removal for which they may be eligible, including asylum, withholding of removal, and protection from removal under the regulations implementing the United States' obligations under the Convention Against Torture. In the course of such proceedings, individuals are afforded a number of significant procedural safeguards, including but not limited to the right to be represented by legal counsel (at no expense to the U.S. Government); the right to contest any charges of removability; and the right to present evidence and examine any evidence against them. Additionally, if an individual's application for relief or protection from removal is denied by an Immigration judge, the individual may appeal the adverse decision to the Board of Immigration Appeals (BIA) and; if the BIA appeal is unsuccessful, seek review before the U.S. Court of Appeals having jurisdiction over the case. If an individual's claims for protection from removal have been denied and he or she has exhausted all available appeals, the alien may be able to file a motion to reopen his

or her removal proceedings in certain circumstances (e.g. evidence of changed country conditions).

The United States seeks cooperation from the Eritrean government to accept the return of its nationals who have completed the process, who have not been found to qualify for relief or protection from removal, and who are subject to final orders of removal. The sanctions are designed to encourage cooperation from Eritrea on the return of Eritrean nationals subject to final orders of removal. The U.S. government does not seek to expedite the established process for determining whether an individual may be subject to a final order of removal.