

PUBLIC

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15 June 2006

Further Information on UA 10/06 (EUR 58/001/2006, 11 January 2006) Fear of Forcible Return/Fear of Torture

**KYRGYZSTAN Zhakhongir Maksudov (m)
Odilzhon Rakhimov (m)
Yakub Toshboev (m)
Rasulzhon Pirmatov (m)**

Four refugees from Uzbekistan, who have been in detention in Kyrgyzstan since June 2005, are believed to be in imminent danger of being forcibly returned to Uzbekistan having exhausted all available legal procedures. Amnesty International is concerned that if returned to Uzbekistan, the men are at risk of serious human rights violations, including incommunicado detention, torture and other ill-treatment, a flagrantly unfair trial followed by either long prison sentences or even the death penalty.

Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov were part of a group of more than 500 asylum-seekers who fled the city of Andizhan in eastern Uzbekistan on 13 May 2005 after security forces fired on thousands of mainly unarmed demonstrators. The asylum-seekers sought international protection and safety in neighbouring Kyrgyzstan and most were subsequently recognized by the office of the United Nations High Commissioner for Refugees (UNHCR) and eventually the Kyrgyzstani authorities as refugees.

However, following an extradition request from Uzbekistan, Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov, were transferred from a refugee camp at Besh Kana to a prison in Osh in June 2005 before their refugee status determination by UNHCR could be completed. The four men have been in detention ever since. The Uzbekistani authorities claim that one of the four had been convicted of narcotics offences and that the other three were being sought in connection with the violent death of the city prosecutor in Andizhan on 13 May 2005, a charge they have denied.

UNHCR eventually recognized all four men as refugees under their mandate, a decision contested through the courts by the Kyrgyzstan Department of Migration Services (DMS). In December 2005 the men appealed a lower court's decision to extradite them to Uzbekistan. In April and May 2006 the Supreme Court of Kyrgyzstan rejected the appeals of three of the men, Zhakhongir Maksudov, Odilzhon Rakhimov and Yakub Toshboev against the DMS's refusal to grant them refugee status. A fourth appeal by Rasulzhon Pirmatov remained pending. However, the authorities in Kyrgyzstan reportedly stated that no decision on the extradition of the men would be taken until the judicial appeal procedures into all four cases had been exhausted. On 13 June 2006 the Supreme Court finally examined the appeal of the fourth man and upheld the earlier decision by the DMS not to recognize him as a refugee. This decision and those in the other three cases cannot be appealed. The fate of the four men now rests with the government of Kyrgyzstan. According to the men's legal team a decision on whether or not to extradite the four refugees to Uzbekistan is expected to be taken by the General Prosecutor's Office in 10 days when the Supreme Court decision on Rasulzhon Pirmatov's status enters into legal force.

In a statement on 14 June 2006, UNHCR reiterated that the agency had found permanent resettlement places for all four men in different countries and urged the government of Kyrgyzstan to transfer them into the agency's care for immediate resettlement.

Kyrgyzstan is obliged under international law, including the 1951 Refugee Convention and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to uphold the principle of *non-refoulement*, which prohibits the forcible return of persons to any country where they would be at risk of serious human rights violations, including torture and other ill-treatment.

BACKGROUND INFORMATION

More than 500 Uzbekistanis fled their country and sought international protection and safety in neighbouring Kyrgyzstan, after government troops reportedly fired on demonstrators in the Uzbekistani city of Andizhan on 13 May 2005. On 9 June 2005, the authorities in Kyrgyzstan forcibly returned four refugees to Uzbekistan. Despite concerted efforts by the UN, it was not possible to establish the whereabouts of the four men. At least one of the men was reportedly severely tortured in Uzbekistan, and three were sentenced to long prison terms in November and December 2005 following unfair and closed trials for their alleged participation in the Andizhan events.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Russian, English, Kyrgyz or your own language:

- calling on the authorities to ensure that Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov are not forcibly returned to Uzbekistan, where they would be at risk of torture and other serious human rights violations;
- reminding Kyrgyzstan, which is a State Party to the Refugee Convention and the UN Convention against Torture, that to forcibly return anyone to Uzbekistan would be in contravention of the principle of *non-refoulement*, which prohibits the return in any manner whatsoever of any person to a situation where s/he would be at risk of torture or other serious human rights violations;
- calling on the authorities to ensure that all four refugees are immediately released from detention and handed over to the care of UNHCR for immediate and permanent resettlement in third countries.

APPEALS TO: (Please note that it can be difficult getting through to fax numbers in Kyrgyzstan. If a voice answers, repeat “fax” until you hear the signal; otherwise leave your fax machine on auto-redial if possible. Fax machines may be switched off outside office hours – GMT +5)

President

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Salutation: Dear President

Prosecutor General

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Salutation: Dear Prosecutor General

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and to diplomatic representatives of Kyrgyzstan accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 27 July 2006.