

PUBLIC

AI Index: EUR 50/007/2008

12 June 2008

Further Information on UA 207/07 (EUR 50/003/2007, 9 August 2007) and follow-ups (EUR 50/004/2007, 4 October 2007; EUR 50/004/2008, 7 March 2008) - Forcible return/torture

UKRAINE

Lema Susarov (m), ethnic Chechen

The hearings of Lema Susarov's appeal against the Ukrainian authorities' rejection of his application for refugee status, and against the order to extradite him to the Russian federation, began on 9 and 10 June respectively. The prosecutor at the 10 June extradition hearing said that information on the risks Lema Susarov would face if sent to the Russian Federation (provided in a submission by AI Ukraine) was "not relevant," and that Lema Susarov could not be considered a refugee, because the Ukrainian authorities had rejected his application for refugee status. The next hearings will be on 23 June, with the extradition hearing in the morning and the refugee status hearing in the afternoon.

The prosecutor also claimed on 10 June that Ukraine's obligations under the Minsk Convention (which governs judicial cooperation between members of the Commonwealth of Independent States) requires Ukraine to extradite those wanted by the requesting side, where there is reason to believe that they have committed grave crimes on the territory of the government making the request. This implies that the Minsk Convention overrides Ukraine's commitments under various UN treaties, notably the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment, which expressly prohibits the return of anyone to a country where they would be at risk of torture, as Lema Susarov would be if returned to the Russian Federation. However, Ukraine's Constitution makes clear that any international treaties agreed by parliament are part of Ukraine's national legislation, and therefore supersede the Minsk Convention.

Lema Susarov has been recognized as a refugee by the UNHCR, and accepted for resettlement by Finland, but the Ukrainian authorities have refused to release him, apparently under pressure from the Russian authorities. He has been held in overcrowded conditions in the Ukrainian capital, Kyiv, awaiting extradition to the Russian Federation, since July 2007. His case has now attracted widespread publicity.

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

- asking the authorities to release Lema Susarov immediately and give him full access to the UNHCR, so that he can be resettled in Finland;
- calling on them to fulfil their obligations as a state party to the 1951 Convention relating to the Status of Refugees, which says that refugees should not be returned to any country where their life or freedom would be threatened;
- pointing out that as a party to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment, the International Covenant on Civil and Political Rights, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, Ukraine has undertaken not to return anyone to a country or territory where they would be at risk of torture or other cruel, inhuman or degrading treatment or punishment;
- reminding the authorities that according to Article 9 of the Constitution of Ukraine international treaties that are in force, and agreed to be binding by the Ukraine's parliament, are part of Ukraine's national legislation.

APPEALS TO:

Viktor Yushchenko
President of Ukraine
vul. Bankovaya 11
01220 Kyiv
Ukraine

Fax: +380 44 255 61 61

Salutation: Dear President Yushchenko

Oleksandr Medvedko
Prosecutor General
vul. Riznitska 13/15
01601 Kyiv
Ukraine

Fax: +380 44 280 2851

Salutation: Dear Prosecutor General

COPIES TO:

Oleksandr Sagan
Chair, State Committee for Nationalities and Religion
vul. Volodymyrska 9
01025 Kyiv
UKRAINE

Fax: +38 044 226 2339

and to diplomatic representatives of Ukraine accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 24 July 2008.