

PUBLIC

AI Index: EUR 57/001/2005

05 July 2005

UA 181/05      Fear of forcible return

**KAZAKSTAN**      **Lutfullo Shamsuddinov (m), human rights defender**

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Human rights defender Lutfullo Shamsuddinov, a refugee who fled Uzbekistan in May, was arrested by the Kazakstani police on 4 July, at the request of the Uzbekistani authorities. He is in serious danger of being forcibly returned to Uzbekistan, where he would be at risk of incommunicado detention, torture and unfair trial leading to a long prison term or even the death penalty.

He was reportedly detained at his current home in the Kazakstani city of Almaty. His wife and two of his five children were reportedly also detained but were later released. The authorities in Uzbekistan are reportedly seeking his extradition on the grounds that he took part in the protests in Andizhan on 13 May. He has reportedly been charged with five offences, one of which, premeditated aggravated murder, carries a possible death sentence.

Lutfullo Shamsuddinov is a member of an independent NGO, the Human Rights Society of Uzbekistan, which has been monitoring human rights violations in Uzbekistan since the country became independent. He had been monitoring protests in his home city of Andizhan, which escalated on 13 May and culminated in the Uzbekistani security forces allegedly firing indiscriminately and without warning into a crowd of several thousand demonstrators, killing and wounding many people, mainly unarmed civilians (see UA 130/05, EUR 62/011/2005, 19 May 2005). The government has claimed that 176 people were killed, but unofficial sources have put the death toll much higher. International media coverage had cited an account of these events from Lutfullo Shamsuddinov and other human rights activists, providing a stark contrast to the official version. Fearing that he and his family were in danger, Lutfullo Shamsuddinov fled with them to Kazakstan shortly after 14 May. The UNHCR recognised him as a refugee shortly afterwards.

Kazakstan is obliged under international law, including the 1951 Convention relating to the Status of Refugees 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. To return a refugee would violate this principle of non-refoulement and thus Kazakstan's international obligations under human rights and refugee law. Kazakstan is therefore obliged to ensure that Lutfullo Shamsuddinov is not extradited to Uzbekistan.

## **BACKGROUND INFORMATION**

Scores of men, women and children reportedly died after the Uzbekistani security forces fired on thousands of mainly unarmed and peaceful demonstrators in the city of Andizhan, on 13 May. The Uzbekistani authorities have denied that the security forces used excessive force, and have accused members and supporters of the banned Islamic movement *Akramia* of attempting to organize a violent uprising in Andizhan with a view to turning Uzbekistan into an Islamic state. They have also linked this movement to the banned *Hizb-ut-Tahrir* opposition Islamic party, which they consider a terrorist organization. They have claimed that the "uprising" was planned abroad and that some of the organizers may now be hiding in other countries, such as Kyrgyzstan and the Russian Federation. The Office of the General Prosecutor of Uzbekistan has opened a criminal case against those alleged to have organized or participated in the 13 May events in Andizhan on charges of attempting to overthrow the constitutional order, organizing mass disturbances, terrorism and murder. The last two charges carry a possible death sentence.

Amnesty International has documented many cases of people forcibly returned to Uzbekistan at the request of the Uzbekistani authorities who have been tortured or sentenced to death and executed after unfair trials. On 9 June four refugees were forcibly returned from Kyrgyzstan. Despite concerted efforts by United Nations and other international agencies it has not been possible to establish their whereabouts since. At least one source has claimed that one of the refugees was badly tortured after he was returned to Uzbekistan.

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

- urging the authorities not to forcibly return Lutfullo Shamsuddinov to Uzbekistan, because he would be at risk of serious human rights violations including torture and the imposition of the death penalty after unfair trial;
- urging the authorities to respect their obligations under international law, including the principle of *non-refoulement*, as enshrined in the 1951 Refugee Convention, the ICCPR, and the Convention against Torture, which prohibits the return of a person to a country or territory where they would be at risk of serious human rights violations;
- urging them to fully respect the right to seek and enjoy asylum and ensure that all those seeking international protection in Kazakhstan, including those being sought for extradition by Uzbekistan, in particular Lutfullo Shamsuddinov, are provided with protection from *refoulement* in accordance with Kazakhstan's obligations under international human rights and refugee law.

**APPEALS TO:**

President of the Republic of Kazakhstan, Nursultan NAZARBAEV  
Respublika Kazakhstan, 473000 Astana, ul. Beybitshilik 11, Prezidentu NAZARBAEVU N.

**Fax:** +7 3172 32 40 89

**Salutation:** Dear President

Procurator General of the Republic of Kazakhstan Rashid TUSUPBEKOV  
Respublika Kazakhstan, 473000 Astana, ul. Seyfullina 73 "a", Generalnomu prokuroru TUSUPBEKOVU

**Fax:** +7 3172 21 67 20

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**Salutation:** Dear Procurator General

**COPIES TO:**

Human Rights Commissioner of the Republic of Kazakhstan, Bolot Baykadamov  
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Minister of Foreign Affairs of the Republic of Kazakhstan, Kasymzhomart Tokaev  
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and to diplomatic representatives of Kazakhstan accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 16 August 2005.