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Kyrgyzstan: Profound abuse of rights continues: Prisoner of conscience Azimjan Askarov remains behind bars

The decision of the Chui Regional Court on 24 January not to release prisoner of conscience Azimjan Askarov and overturn his conviction following its review of the case represents a grave setback for human rights in Kyrgyzstan. With the UN Human Rights Committee's findings issued last year that human rights defender Azimjan Askarov should be immediately released, adequately compensated, and his conviction quashed, the justice system in Kyrgyzstan had the chance to right the wrongs committed against Azimjan Askarov. That chance has been squandered. Instead, the court ruled that Azimjan Askarov must remain behind bars and Kyrgyzstan has once again failed to comply with its international human rights obligations.

Azimjan Askarov was sentenced to life imprisonment in September 2010 following a trial that did not meet international fair trial standards. Azimjan Askarov also reported that he was tortured while in police custody. The charges against Azimjan Askarov were fabricated and politically motivated, and he is a prisoner of conscience, imprisoned solely for his human rights work.

In its findings on Azimjan Askarov's case, the UN Human Rights Committee recognized that Azimjan Askarov was tortured, that he had been arbitrarily detained, that at some points, the conditions of his detention were inhumane, and that he was denied his right to a fair trial.¹

Amnesty International calls on the Kyrgyzstani authorities to immediately and unconditionally release Azimjan Askarov.

Justice denied

Azimjan Askarov was accused of being an accomplice to the murder of a police officer during several days of violence that took place in southern Kyrgyzstan in June 2010. In fact, Azimjan Askarov, an ethnic Uzbek and Director of independent human rights organization Vozdukh ("Air"), had filmed and photographed some of the violence, killings, and arson attacks on mostly ethnic Uzbek homes and other buildings in the town of Bazar-Korgon, where he lived. In a trial conducted in September 2010 that fell far short of international law and standards, Azimjan Askarov was sentenced to life imprisonment on charges of "storage of ammunition", "accomplice to premeditated murder" and "accomplice in the killing of a law enforcement officer".

Azimjan Askarov reported that he was severely beaten in the first three days of his detention in an attempt to force him to confess to the murder of an ethnic Kyrgyz police officer. Azimjan Askarov reiterated these allegations during the review hearings at Chui Regional Court. These allegations of torture have never been effectively investigated in Kyrgyzstan. Successive appeals lodged by his lawyers in 2013 and 2014 to reinvestigate the case were rejected.

Azimjan Askarov's health has significantly deteriorated in the six and a half years that he has been in prison and he has been denied the medical care that he needs.

¹ Human Rights Committee, "Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2231/2012", CCPR/C/116/D/2231/2012, 21 April 2016.

The Human Rights Committee's Findings²

The Human Rights Committee found that Azimjan Askarov's rights under the International Covenant on Civil and Political Rights had been violated under four different articles of the Covenant.

The Human Rights Committee recognized that Azimjan Askarov was tortured, in violation of Article 7 of the ICCPR, which states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The Committee also found that the Kyrgyzstani authorities had failed in their duty to promptly, impartially and effectively investigate Azimjan Askarov's allegations that he had been tortured.

The Committee also upheld Azimjan Askarov's complaint that he had been arbitrarily detained from 15 June until 16 June 2010, during which time his family were unable to locate him and before he was formally arrested, in violation of Article 9.³

Azimjan Askarov was also held under inhumane conditions of detention, according to the Committee's findings, in violation of Article 10.⁴ This includes the ongoing denial of access to proper medical treatment for the serious medical conditions from which he suffers.

Finally, the Committee found that Azimjan Askarov had been denied his right to a fair trial, in violation of Article 14 of the Covenant.⁵

The Committee noted Kyrgyzstan's obligations to immediately release Azimjan Askarov, to grant him an adequate compensation, and to quash his conviction. The Committee also stressed Kyrgyzstan's obligation to take steps to prevent similar violations occurring in the future.

The re-examination of the case

While the authorities did not implement the UN Human Rights Committee's findings and immediately release Azimjan Askarov, the country's Supreme Court accepted to review his case. International and domestic observers, from human rights organizations as well as from diplomatic missions, attended the Supreme Court hearing in July 2016, some at the direct invitation of the Kyrgyzstani authorities. They hoped the Court would set a precedent by fully complying with the UN Committee's findings. However, the Supreme Court did not rule to release Azimjan Askarov, instead ordering the case to be referred to the Chui Regional Court for re-examination.

The hearings began on 4 October. The hearings were not held at Chui Regional Court but in a court room inside a detention centre. Azimjan Askarov took part in the hearings, and was escorted to the court room under heavy police guard and seated in a cage with iron bars. His defence team asked for him to be released or at least allowed to sit with his lawyers. The court refused both requests and only agreed that the defence team's bench could be moved next to the cage, so that his defence team could consult directly with Azimjan Askarov. The defence lawyers were allowed to question prosecution witnesses in detail and to call their own

² The UN Human Rights Committee was established pursuant to the International Covenant on Civil and Political Rights (ICCPR) to which Kyrgyzstan is a state party.

³ ICCPR Article 9, paragraph 1: "... No one shall be subjected to arbitrary arrest or detention..."

⁴ ICCPR Article 10, paragraph 1: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

⁵ ICCPR Article 14, Paragraph 3: "In the determination of any criminal charge against them, everyone shall be entitled to the following minimum guarantees, in full equality: ... (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing [and] (e) To examine, or have examined, the witnesses against him and to obtain attendance and examination of witnesses on his behalf under the same conditions as witnesses against him..."

witnesses. Access to the court room was generally not problematic, and trial monitors were able to attend.

Background

Four days of violence between ethnic Kyrgyz and ethnic Uzbeks in southern Kyrgyzstan in June 2010 left hundreds dead, thousands injured, and hundreds of thousands displaced. To date, the authorities in Kyrgyzstan have failed in their duty to fairly and effectively investigate the violence and its aftermath, and provide justice and reparations to the thousands of victims of the serious crimes and human rights violations that took place, including crimes against humanity.

While serious crimes were committed by members of both ethnic groups, the majority of the damage, injuries and deaths were suffered by ethnic Uzbeks. The latter has since been confirmed on numerous occasions by officially released figures. Nevertheless, in the period immediately following the June 2010 violence and in the six years since, ethnic Uzbeks have been disproportionately targeted for detention and prosecution in connection with the violence, and have also faced discrimination and violent attacks on the basis of their ethnicity that have not been properly investigated and prosecuted.

Further information

Kyrgyzstan: International Fair Trial Standards and Security Must Be Ensured at the Forthcoming Review of the Case of Prisoner of Conscience Azimjan Askarov (Index: EUR 58/4409/2016), <https://www.amnesty.org/en/documents/eur58/4409/2016/en/>

Kyrgyzstan: Supreme Court leaves 65-year-old Prisoner of Conscience languishing in jail, <https://www.amnesty.org/en/latest/news/2016/07/kyrgyzstan-supreme-court-leaves-prisoner-of-conscience-languishing-in-jail/>

Kyrgyzstan: Release Prisoner of Conscience Azimjan Askarov (Index: EUR 58/3960/2016), <https://www.amnesty.org/en/documents/eur58/3960/2016/en/>

Kyrgyzstan: Five Years On: Justice Still Denied (Index: EUR 58/1846/2015) <https://www.amnesty.org/en/documents/eur58/1846/2015/en/>

Will there ever be justice? Kyrgyzstan's failure to investigate June 2010 violence and its aftermath (Index: EUR58/001/2013) <https://www.amnesty.org/en/documents/eur58/001/2013/en/>

Kyrgyzstan: Dereliction of Duty (Index: EUR58/001/2012) <https://www.amnesty.org/en/documents/eur58/001/2012/en/>

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