

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Kyrgyzstan: Release prisoner of conscience Azimjan Askarov**

The Kyrgyzstani authorities should without delay release and compensate prisoner of conscience Azimjan Askarov as ruled by the UN Human Rights Committee.<sup>1</sup> The Committee also ruled that his conviction should be quashed.

Human rights defender 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.

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. Amnesty International believes that the charges against him were fabricated and politically motivated in an attempt to stop his legitimate human rights work. Azimjan Askarov is a prisoner of conscience, imprisoned solely for exercising his right to freedom of expression.

Amnesty International welcomes the statement of the Supreme Court of Kyrgyzstan made on 25 April 2016 to the effect that it will re-examine the case, in light of the UN Human Rights Committee's decision and the country's own Constitution.<sup>2</sup> In the meantime, as a prisoner of conscience and a victim of torture, Azimjan Askarov should be immediately and unconditionally released and given the urgent medical attention that he needs, in compliance with the Human Rights Committee's decision.

As required by law, Azimjan Askarov has lodged an appeal with the Supreme Court (received on 27 April 2016) asking to be released and for his case to be re-examined in light of the UN Human Rights Committee's decision, meaning that there is no obstacle to the Supreme Court proceeding with the re-examination of the case.<sup>3</sup>

#### **The Human Rights Committee's Decision**

The Human Rights Committee found that Azimjan Askarov's rights under the ICCPR had been violated under four different articles of the Covenant.<sup>4</sup>

The Human Rights Committee recognized that Azimjan Askarov is a victim of **torture**, finding that on the basis of the evidence presented to it by Azimjan Askarov's lawyers, including the findings of medical examinations undertaken by independent experts, "due weight" should be given to Azimjan Askarov's allegations that he suffered torture on a number of occasions while he was in police custody. This is in violation of Article 7 of the ICCPR, which states that "No

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<sup>1</sup> 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.

<sup>2</sup> Constitution of the Kyrgyz Republic, Article 41, point 2: "Everyone shall have the right to apply in accordance with international treaties to international human rights bodies seeking protection of violated rights and freedoms. In the event that these bodies confirm the violation of human rights and freedoms, the Kyrgyz Republic shall take measures to their restoration and/or compensation of damage". Worryingly, Presidential Advisor Busurmankul Tabaldiev has since called for the Constitution to be revised to remove this clause. See: <http://www.fergananews.com/articles/8954> (accessed 29 April 2016).

<sup>3</sup> Under Kyrgyzstani law, the Supreme Court must receive an application from the defendant before it can re-examine the case. See: <http://kloop.kg/blog/2016/04/25/srochno-verhovnyj-sud-gotov-peresmotret-delo-askarova/> (accessed 4 May 2016)

<sup>4</sup> 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.

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.<sup>5</sup>

Azimjan Askarov was also held under **inhumane conditions of detention**, according to the Committee's decision, in violation of Article 10.<sup>6</sup> The Committee found that before his conviction, Azimjan Askarov was held in a series of places of detention that were inappropriate and/or overcrowded. Since being convicted and sentenced, Azimjan Askarov has been denied 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 parts of Article 14.<sup>7</sup> In particular: his defence lawyer was physically attacked at a police station and at the prosecutor's office by relatives of the deceased police officer and police failed to intervene; the police and prosecutor refused to allow Azimjan Askarov to meet with his lawyer in private; his lawyer was unable to attend the first day of the trial as he was not notified in time; and Azimjan Askarov and his lawyer were not able to call and cross-examine witnesses for the defence.

### **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 for the thousands of victims of the serious crimes and human rights violations, 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.

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 his home town of Bazar-Korgon. In September 2010, 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", in a trial that fell short of international fair trials standards. Amnesty International believes that the charges against him were fabricated in an attempt to stop his legitimate human rights work, and that Azimjan Askarov is a prisoner of conscience.

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, and to incriminate others in connection with the violence. On 26 July 2010, the Jalal-Abad City Court upheld a decision by the Jalal-Abad Prosecutor's Office not to investigate allegations that

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<sup>5</sup> ICCPR Article 9, paragraph 1: "... No one shall be subjected to arbitrary arrest or detention..."

<sup>6</sup> 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."

<sup>7</sup> 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..."

Azimjan Askarov was subjected to torture and other ill-treatment following his detention. According to an October 2012 report by the international NGO Physicians for Human Rights (PHR), Azimjan Askarov's medical condition had markedly deteriorated during his imprisonment, including his eyesight, his nervous system, and his breathing, but he had not received the necessary medical care, which constitutes a form of ill-treatment. Appeals lodged by Azimjan Askarov's lawyer in 2013 and 2014 to reinvestigate the case were rejected.

#### **Further information**

*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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