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Turkey: Return of asylum-seeker in violation of international law

Amnesty International is seriously concerned about the well-being of Ahmet Muhammed Ibrahim, a Syrian Kurd who on the eve of March 25 was forcibly returned to Syria by the Turkish authorities despite his claim for asylum still being examined by the United Nations High Commissioner for Refugees (UNHCR). He was handed over to the Syrian authorities who imprisoned him and Amnesty International fears that he may be subjected to serious human rights abuses in Syria. The decision of the Turkish authorities to return him to Syria, before his claim was even fully assessed by the UNHCR, represents a clear breach of Turkey's obligations under international law not to return individuals to countries where they may be at risk of serious human rights violations, including torture or other ill-treatment.

Ahmet Muhammed Ibrahim, a 21-year-old Syrian Kurd, had reportedly fled the Syrian army early in 2004 following the widespread violation of human rights perpetrated against Kurds in Qamishli, north-eastern Syria in March 2004 (see AI report *Kurds in the Syrian Arab Republic one year after the March 2004 events*, AI Index: MDE 24/002/2005). He went to Turkey where he was detained by security forces on 22 August close to the Syrian border and was remanded to prison in Diyarbakir on allegations of being a member of the Kurdish armed organization Kongra Gel (previously known as the PKK). The lawyer of Ahmet Muhammed Ibrahim has alleged a systematic violation of his client's rights while he was in detention -- including that he was tortured and ill-treated and that he was forced to sign a statement. Nevertheless, a court acquitted him of all charges on 24 March.

However, Ahmet Muhammed Ibrahim was then transferred to the Foreign Nationals' Department of Diyarbakir Police Headquarters. On 25 March he was taken to the border gate at Nusaybin where he was handed over to the Syrian authorities. He has been placed in prison in the town of Qamishli and will reportedly be imminently taken to a prison in Damascus; it is not known what he will be charged with. Amnesty International has documented a pattern of serious human rights violations against Kurds in Syria such as killings, unfair trials and arbitrary detention as well as torture and ill-treatment against detainees, and is therefore concerned for the safety of Ahmet Muhammed Ibrahim.

As Ahmet Muhammed Ibrahim had told the state prosecutor and the court in Turkey that he wished to apply for asylum, the office of the UNHCR in Turkey was in the process of assessing his asylum claim and determining whether he would qualify for refugee status under the 1951 Convention relating to the Status of Refugees (Refugee Convention) and its 1967 Protocol. The International Secretariat of Amnesty International and the Turkish section of Amnesty International intervened in his case before the deportation took place, asking the Turkish authorities not to proceed with their plans as Amnesty International was concerned that Ahmet Muhammed Ibrahim would be at risk of serious human rights violations if forcibly returned to Syria, considering the pattern of human rights abuses targeting Kurds in Syria. The lawyer of Ahmet Muhammed Ibrahim also wrote to the Turkish authorities expressing concerns regarding his possible return. In addition, the UNHCR had reportedly urged that he should not be returned to Syria until

his asylum claim had been fully assessed. However, the authorities decided not to respond to these calls, but to proceed in contravention to Turkey's obligations under international human rights and refugee law and standards.

This is unfortunately not an isolated case. Amnesty International has on many occasions expressed its concerns to the Turkish Government regarding cases where individuals have been forcibly returned to countries where they may be at risk of serious human rights violations. In 2003 the authorities returned Hojjat Zamani to Iran from Turkey where he has since been sentenced to death (see Urgent Action 318/03, AI Index: EUR 44/025/2003, 5 November 2003 and updates). In January 2002, Karim Tuzhali was executed in Iran; the Turkish authorities had returned him to Iran in 1998 despite the fact that he had been recognized as refugee by the UNHCR (see Further information on EXTRA 97/98, MDE 13/002/2002, 5 February 2002).

Background

Kurds in Syria have been subjected to serious human rights violations, as other Syrians, but as a group they also suffer from identity-based discrimination, including restrictions placed upon the use of the Kurdish language and culture. In addition, a large proportion of the Syrian Kurds are effectively stateless and, as such, they are denied the full provision of education, employment, health and other rights enjoyed by Syrian nationals, as well as being denied the right to have a nationality and passport. Amnesty International has documented serious violations of human rights in Syria including arbitrary arrest and imprisonment of people solely for the peaceful exercise of their fundamental human rights; "disappearances"; prolonged incommunicado detention; widespread use of torture and ill-treatment in detention; unfair trials; impunity for members of the security forces suspected of perpetrating human rights violations; severe restrictions on freedom of expression and freedom of association; harassment of human rights defenders; and the imposition of the death penalty.

Turkey has ratified the 1951 Convention relating to the Status of Refugees (Refugee Convention), but operates the Refugee Convention with a geographical restriction, applying the terms of the Convention only to refugees from Europe. As a consequence, non-European refugees have to seek recognition as refugees at the Turkish offices of the UNHCR. However, regardless of the scope of a state's obligations under the Refugee Convention, it must respect the principle of non-refoulement. This principle, which forbids the return of a person to a country where he or she would be at risk of serious human rights violations, is a principle of customary international law, binding on all states. The principle is to be applied without discrimination; be they asylum-seekers of European or non-European origin. The obligation of non-refoulement is further reinforced by the fact that Turkey is a party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedom. Both of these conventions prohibit refoulement and they apply without discrimination to all persons, European or non-European.

The Turkish Government should halt the expulsion of asylum-seekers who are either recognized as refugees by the UNHCR or who have filed an asylum claim with that organization and are awaiting a decision. The Government should abide scrupulously by international human rights and refugee law and standards, including the principle of *non refoulement*, and ensure that no person is returned to a country where he or she would be at risk of serious human rights abuses.