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Ukraine: No safe haven for refugees

Lema Susarov, an ethnic Chechen, and a citizen of the Russian Federation, has been detained in Kyiv remand prison awaiting extradition to the Russian Federation since July 2007. He faces overcrowded conditions, serious health problems and the constant fear of being returned to the Russian Federation where he may face human rights violations. Amnesty International calls on the government of Ukraine to ensure that Lema Susarov is immediately released so that he can be resettled in Finland.

The office of the United Nations High Commissioner for Refugees (UNHCR) has recognized Lema Susarov as a refugee, yet he is being denied asylum and a durable solution to his plight. Lema Susarov was first recognized as a refugee by the UNHCR in 2006, in Baku, Azerbaijan. According to the UNHCR, he arrived in Ukraine at the end of 2006. The Russian Federation called for his extradition on 16 February 2007, and the decision to extradite him was taken by the Prosecutor General on 27 July 2007. He has been in detention in Ukraine since 20 July 2007. On 8 August 2007, Lema Susarov applied to the State Committee for Nationalities and Religions (SCNR) for refugee status. However, at the time he applied no decisions were being taken on refugee status in Ukraine, due to a reorganization of the SCNR, and status recognition was not resumed until November 2007. The UNHCR office in Kyiv carried out an individual assessment of Lema Susarov's case, and on 22 August 2007 determined him to be a refugee in accordance with its mandate. The UNHCR subsequently submitted an application for his emergency resettlement, and on 11 October 2007, Finland recognized his refugee status and accepted him for resettlement. Lema Susarov's application for refugee status in Ukraine was rejected by the SCNR on 15 January 2008. His lawyer continues to appeal against the extradition and against the rejection of his application for refugee status. The next court hearing on his application for refugee status in Ukraine will take place on 9 June; the next hearing on his extradition will take place on 10 June.

Amnesty International believes that Lema Susarov would be at risk of grave human rights violations if he were returned to the Russian Federation. Amnesty International and other human rights organizations working in the region are concerned that many Chechen men have allegedly been tortured and ill-treated by the Russian security forces to extract "confessions". A further concern is that they have been charged with crimes such as participating in illegal armed groups or acts of terrorism, on the basis of such "confessions". There are further allegations that trials of Chechen suspects have been flawed and have relied on fabricated evidence. The Chechen Ombudsperson for Human Rights, Nurdi Nukhazhiev, reportedly stated in February 2006 that a large number of the convicted Chechens in prison in Russia had been falsely accused and that the majority of their cases should be re-examined. So far, there have been almost no investigations leading to prosecutions of law enforcement officials for torture in relation to those detained in the context of the Chechen conflict, which has created a climate of impunity in the region.

As a state party to the 1951 Convention relating to the Status of Refugees (Refugee Convention), Ukraine has an obligation not to return refugees or asylum-seekers to any country where their life or freedom would be threatened. The Refugee Convention also requires states parties to co-operate with the UNHCR. Further, 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 obligations not to return anyone to a country or territory where they would be at risk of torture or other forms of cruel, inhuman or degrading treatment or punishment. The Minsk Agreements of the Commonwealth of Independent States, to which Ukraine is also a party, further commit Ukraine to guarantee to citizens of all Commonwealth of Independent States in their territories civil, political, economic and cultural rights and liberties in accordance with generally recognized international norms on human rights, without discrimination. Amnesty International believes that the forcible return of Lema Susarov to Russia would be a breach of Ukraine's obligations under international law.

Ukraine has previously forcibly returned asylum-seekers to countries where they were at risk of human rights violations, and Amnesty International is therefore concerned that the Ukrainian authorities may extradite Lema Susarov to Russia. Most recently 11 ethnic Tamil asylum-seekers from Sri Lanka were forcibly returned to Sri Lanka on 4 and 5 March, despite the fact that all of them had applied for refugee status in Ukraine. During the night of 14-15 February 2006, 10 asylum-seekers from Uzbekistan, who had been seeking international protection in Ukraine, were forcibly returned to Uzbekistan by the Ukrainian authorities. They were returned without the right to appeal or, in one case, the right to apply for asylum. Amnesty International has received reports that some of the deported asylum-seekers were subjected to torture and ill-treatment upon return to Uzbekistan.

On 6 March Amnesty International wrote to President Viktor Yushchenko urging him to exercise his authority to ensure that Lema Susarov be released into the care of the UNHCR so that he could be resettled, but to date no response has been received.

In line with international law and standards, those who are granted refugee status must be provided with protection in Ukraine or allowed to resettle in third countries. Amnesty International reminds Ukraine of its obligations under international law not to return any persons regardless of their status, to a situation in which they would face torture or other serious human rights violations.

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