

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

20 September 2011
AI Index: EUR 60/005/2011

Tajikistan: Defendants standing trial on extremism charges allegedly tortured in pre-trial detention

On 16 September, Ilhom Ismonov, one of 53 defendants standing trial in the pre-trial detention facility (SIZO) No. 2 in the city of Khujand for alleged membership of the Islamic Movement of Uzbekistan (IMU), told the judge about pressure put on him by officials to retract his earlier allegations of torture and ill-treatment. He did not dare speak about this before fearing retaliation from law enforcement agencies. Journalists were unable to monitor the trial which is being presided over by a judge of Sughd Regional Court as they were told it was being held in camera to prevent secret information from becoming public.

Since the trial commenced on 11 July other defendants have also told the judge that they were tortured and ill-treated in pre-trial detention to extract confessions and information incriminating others. One man reportedly told the judge that he was raped by law enforcement officers. Many of Ilhom Ismonov's co-defendants are accused of the 3 September 2010 explosion at the Department for the Fight against Organized Crime of the Ministry of Internal Affairs (Sixth Department) in Khujand, which resulted in several deaths and injuries to over two dozen people.

Under international human rights law, information and confessions obtained from the defendants under torture or threats of torture and outside the presence of their lawyers must not be used as evidence in court except as evidence against the alleged perpetrators. Allegations of torture, other ill-treatment and threats of torture must be investigated thoroughly, impartially and independently.

The case of Ilhom Ismonov

In November 2010, Ilhom Ismonov was reportedly tortured by police at the Sixth Department in Khujand, including by having electric shocks and hot and cold water poured over his body. Ilhom Ismonov's wife briefly saw her husband on 6 November. She told Amnesty International that she saw signs of electric shocks and that he had several cuts on his neck. Before she was able to bend down and take a closer look at his legs, officers stopped the meeting and escorted her out.

Ilhom Ismonov's lawyer was able to see him for the first time at the remand hearing on 12 November, nine days after he had been deprived of his liberty. Although the young man told the judge at the remand hearing that he was tortured and offered to show him evidence of torture on his body, the judge did not address the allegations and told the lawyer to take them up with the police investigator.

Starting on 6 November Ilhom Ismonov's wife submitted complaints to a wide range of officials and urged them to conduct a forensic medical examination. His lawyer sent similar requests starting on 9 or 10 November. On 15 November Amnesty International issued an Urgent Action on his case calling on the authorities to conduct a prompt, thorough and independent investigation.¹

The medical examination was conducted with a significant delay and the forensic expert concluded on 27 November that "no physical injury was found on Ismonov's body". In letters sent to Ilhom Ismonov's wife and lawyer in December, the Prosecutor of Sughd Region said no torture had taken place but did not explain how his office had reached that conclusion. In July 2011 Amnesty International sent a letter to the Prosecutor of Sughd Region requesting such an explanation. A letter from the Regional Prosecutor to the organization received on 12 September 2011 gave no reply to this question.

¹ UA: 238/10, Index: EUR 60/002/2010. A follow-up was issued on 25 November (Index: EUR 60/003/2010).

On 16 September 2011 Ilhom Ismonov's lawyer gave the judge a letter her client had written stating that in December 2010 he had briefly been taken to the State Committee on National Security (SCNS) in Khujand and then returned to SIZO No. 2. At the SCNS a man, who introduced himself as a prosecutor, reportedly threatened him in the presence of the investigator and possibly others that unless he signed a document stating that no torture was applied to him at the Sixth Department he would face similar treatment again. "I signed as I feared for my life", he wrote. He added that on 26 January 2011, when he was taken to the town of Isfara for investigative activities, law enforcement officers beat him at the local police station.

Ilhom Ismonov is charged with "organization of a criminal group" (Article 187 of the Criminal Code). According to the indictment, he joined the IMU while he was in Moscow in 2010. When he wanted to return to Tajikistan in September, Ismon Azimov, another man accused of IMU membership by the Tajikistani authorities, reportedly asked Ilhom Ismonov to pass on two mobile phones and a video disk to other IMU members in Tajikistan in order to improve communication within the organization. According to the indictment, Ismon Azimov also instructed Ilhom Ismonov to obtain information about an officer of the Sixth Department in the town of Isfara. On 18 October Ilhom Ismonov allegedly handed over the mobile phones and disk to a man whom the authorities regard as another IMU member.

Reportedly, Ilhom Ismonov signed false confessions without the presence of his lawyer following torture at the Sixth Department in November and threats of torture at the SCNS in December. However, he told his lawyer that he is not an IMU member and that he passed on the items Ismon Azimov gave him simply as a favour without any criminal intent.

Ismon Azimov's lawyer in Russia, who is defending her client from being extradited to Tajikistan on charges of IMU involvement, told Amnesty International: "Ismon Azimov confirms having asked Ilhom Ismonov to take telephones and sim cards, but no disks, to Tajikistan. He did this for no other reason than so his relatives would be able to call him for free as he would top up the call credit from Russia. Azimov didn't give Ismonov anything that contained any illegal information and didn't give him any illegal instructions." His lawyer and the NGO Institute for Human Rights in Moscow, which had invited the lawyer to represent Ismon Azimov and has followed the case closely, maintain that he has no association with the IMU.

The case of Zafar Karimov

Zafar Karimov, one of Ilhom Ismonov's co-defendants, also told the judge that he was tortured in pre-trial detention, in the temporary detention facility of the SCNS in Khujand. He has been detained since 11 September last year, on suspicion of IMU membership and involvement in the September 2010 explosion at the Sixth Department of Sughd region.

On 23 September, shortly after he was appointed as his lawyer, Bahtier Nasrulloev started approaching the investigator to gain access to Zafar Karimov. However, he was only able to see him for the first time at a hearing at Khujand City Court on 28 October 2010 where the judge extended his pre-trial detention. "We met in the court room in the presence of SCNS officers, guards and the prosecutor and they made it impossible for us to talk to each other. I petitioned the judge in vain not to extend his pre-trial detention based on the fact that I had not been invited to any interrogations or investigative activities and I had not been given permission to meet my client", the lawyer told Amnesty International. After the remand hearing the lawyer was again not granted access to him, despite repeated attempts. He reported that he suddenly received unlimited access to his client in December 2010, after the Head of the Investigative Department of the SCNS in Sughd Region was replaced.

Reportedly, Zafar Karimov was held at the temporary detention facility of the SCNS in Sughd Region for around two months and then transferred to SIZO No. 2 in Khujand. The practice of holding detainees in facilities under the jurisdiction of their investigators and interrogators for long periods of time contradicts international laws and standards. For example, the Special Rapporteur on torture has stated: "Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pre-trial detention which, in any case, should not exceed a period of 48 hours."

Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that Tajikistan is a party to, stipulates that “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

Article 88, part 3 of the Criminal Procedure Code of Tajikistan also stipulates that “[e]vidence obtained during the inquiry and preliminary investigation by way of force, pressure, causing suffering, inhuman treatment or other illegal methods, is invalid and cannot be the basis of the accusation.”

Recommendation (e) of the General Recommendations of the United Nations Special Rapporteur on torture stipulates that “[n]o statement of confession made by a person deprived of liberty, other than one made in presence of a judge or a lawyer, should have a probative value in court, except as evidence against those who are accused of having obtained the confession by unlawful means.”

Background information

In Tajikistan law enforcement officers have in many cases been accused of torturing or beating detainees to extract money, confessions or other information incriminating the victim or others. This abuse has mostly taken place in the early stages of detention; in many cases victims are initially detained without contact with the outside world.

In 2010 the European Court of Human Rights ruled in four cases of Tajik citizens that they must not or should not have been extradited to Tajikistan citing the widespread nature of torture in the country. In 2011 the Court issued emergency measures to prevent the extradition of at least one other man to Tajikistan.

Torture practices reported in Tajikistan include the use of electric shocks; attaching plastic bottles filled with water or sand to the detainee’s genitals; rape; and burning with cigarettes. Beating with batons, truncheons and sticks, kicking and punching are also believed to be common.

Amnesty International is concerned that safeguards against torture enshrined in domestic law are not always adhered to. For example, while the new Criminal Procedure Code that came into force in April 2010 stipulates that detainees are entitled to a lawyer from the moment of their arrest, in practice lawyers are at the mercy of investigators who can deny them access for many days. During this period of incommunicado detention, the risk of torture or other ill-treatment is particularly high. The new Criminal Procedure Code also introduced remand hearings within 72 hours of a suspect’s arrest. However, they often take place with a delay and judges in many cases ignore torture allegations and the injuries presented to them in the courtroom.

There are no routine medical examinations when detainees are admitted to police stations and temporary detention facilities.

Victims rarely lodge complaints when they are abused by law enforcement officers for fear of repercussions, and impunity for abusive officers is the norm. Often relatives and lawyers are reluctant to file complaints so as not to worsen the situation for the detainee.

Prosecutor’s offices are tasked with investigating allegations of torture. Sometimes close personal and structural links between prosecutors and police undermine the impartiality of prosecutors.

Judges regularly base verdicts on evidence allegedly extracted under torture or other ill-treatment.

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