

EXTRA 12/97

Fear of Refoulement

30 January 1997

TURKEYJamshid Hashemi, Iranian asylum-seeker

The Turkish Interior Ministry has decided to forcibly return Jamshid Hashemi, an Iranian recognized as a refugee by the United Nations High Commissioner for Refugees (UNHCR), to Iran, where it is feared he may face imprisonment or execution. He is currently held in the Foreigners' Bureau of Istanbul Police Headquarters.

Jamshid Hashemi had entered Turkey illegally, intending to travel to Spain to join a family member who is a refugee there. He was detained at Atatürk Airport in Istanbul on 24 December 1996 while attempting to leave for Madrid on a false passport. He was taken to the Foreigners' Bureau where he was interviewed by UNHCR which accepted him as a genuine asylum-seeker who would be at grave risk of human rights violations if returned to Iran. Several members of Jamshid Hashemi's family are reported to have been executed in Iran¹, and he himself was being sought by the authorities for distributing pamphlets produced by the Organization of Iranian People's Fedayan.

The Interior Ministry ruled on 21 January 1997 that Jamshid Hashemi should be returned to Iran because he had not registered as an asylum-seeker within five days of arrival. Since Jamshid Hashemi has no valid passport, a *laissez-passer* must first be obtained from the Iranian Consulate before he can be returned over the border. Given this, Turkish officials have told his lawyer that Jamshid Hashemi will be returned on 3 or 4 February. The UNHCR is working to have the Ministry's decision overturned by Ankara Administrative court.

BACKGROUND INFORMATION

Turkey introduced new regulations in November 1994 which require all asylum-seekers entering Turkey to submit their application to the police within five days of their arrival. After an interview with the police, the Minister of Interior decides on their cases. With regard to non-Europeans, if they receive a positive decision, they receive temporary residence in Turkey and the Ministry of Interior submits their case to UNHCR for resettlement to a third country.

If the decision is negative, they receive a deportation order from the Ministry of the Interior, which may be appealed within 15 days. If the appeal is not upheld, or there is no appeal, the asylum-seeker is deported. However, people who have failed to register within the five-day limit are at risk of immediate deportation without any assessment of the validity of their claim by the Turkish authorities. In addition, such people who have been recognized as refugees by UNHCR and accepted for resettlement in a third country are often not granted exit visas allowing them to leave Turkey. Some such people have, in fact, been arrested and deported to their country of origin. There have also been reports of individuals presenting themselves in border towns to make asylum claims who have been arbitrarily deported in violation of the regulations.

Failure to comply with procedural requirements such as the five-day rule does not justify the expulsion or forcible return of an asylum-seeker or refugee who

¹ Relatives executed are reportedly: Reza Ibrahimi, his brother, in 1981; Mahin Yahangiri, in 1981; Yafar Yahangiri, in 1988; Mohamed Yahangiri, in 1981; Allah Goli Yahangiri, in 1983; Hajer Ibrahimi, in 1988.

may be at risk of serious human rights violations in the country to which he or she is returned. Conclusion No. 15 of the Executive Committee of the UNHCR states that: *"While asylum-seekers may be required to submit their asylum request within a certain time limit, failure to do so, or the non-fulfilment of other formal requirements, should not lead to an asylum request being excluded from consideration."*

Amnesty International is also concerned that a security agreement between Iran and Turkey, which may include the reciprocal return of opposition activists present in the other country, may be leading to the forcible return of individuals who risk serious human rights violations in their own country. The President of Iran Hojatolislam Ali Akbar Hashemi Rafsanjani recently visited Ankara for talks.

In Iran, people who oppose or are suspected of opposing the government risk serious human rights violations including torture and the death penalty. Amnesty International has documented these violations over many years.

International standards require that all asylum-seekers be granted access to a full and fair procedure to assess their claims, and that no one be returned to countries where they may risk persecution.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express letters in English or your own language:

- urging that Jamshid Hashemi, an Iranian citizen recognized as a refugee by the UNHCR, not be forcibly returned to Iran;
- urging the Turkish authorities to respect their obligations under international law not to forcibly return people to countries where they may be at risk of serious human rights violations;
- pointing out that neither procedural requirements such as the five-day limit, nor the existence of security agreements should be used as a justification to violate this obligation.

APPEALS TO:

Minister of the Interior:

Mrs Meral Ak_ener
İçişleri Bakanl____
Ankara, Turkey

Telegrams: Interior Minister, Ankara, Turkey

Faxes: +90 312 428 4346

Salutation: Dear Minister

Minister of Foreign Affairs:

Mrs Tansu Çiller
Ministry of Foreign Affairs
D__i__leri Bakanl____
06100 Ankara, Turkey

Fax: +90 312 287 1581

Telegrams: Foreign Minister, Ankara, Turkey

Salutation: Dear Minister

COPIES TO:

President of the Turkish parliament:

Mr Mustafa Kalemli

TBMM Ba_kan_
TBMM
Ankara, Turkey
Fax: +90 312 420 5165

and to diplomatic representatives of Turkey accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 15 February 1997