

PUBLIC

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UA 10/2006 Fear of Forcible Return/Fear of Torture

KYRGYZSTAN Zhakhongir Maksudov
Odilzhon Rakhimov
Yakub Toshboev
Rasulzhon Pirmatov

Four refugees from Uzbekistan, who have been in detention in Kyrgyzstan since June 2005, are believed to be in imminent danger of being forcibly returned to Uzbekistan. Amnesty International is concerned that if returned to Uzbekistan, the men are at risk of serious human rights violations, including incommunicado detention, torture or other ill-treatment, a flagrantly unfair trial followed by either long prison sentences or even the death penalty.

Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov were part of a group of more than 500 asylum-seekers who fled the city of Andizhan in eastern Uzbekistan on 13 May after security forces fired on thousands of mainly unarmed demonstrators. The asylum-seekers sought international protection and safety in neighbouring Kyrgyzstan and were subsequently recognized by the United Nations High Commissioner for Refugees (UNHCR) and eventually the Kyrgyz authorities as refugees. However, the four men have been detained since June 2005, when they were transferred from a refugee camp at Besh Kana to a prison in Osh.

The United Nations High Commissioner for Refugees' Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers (UNHCR's Detention Guidelines) state clearly that the detention of asylum seekers is "inherently undesirable", and that "[a]s a general principle asylum-seekers should not be detained" (Guideline 2).

The Uzbekistani authorities claim that one of them had been convicted of narcotics offences and that the other three were being sought in connection with the violent death of the city prosecutor in Andizhan on 13 May, a charge they have denied. The men appealed the Bishkek City Court's 13 December decision to extradite them to Uzbekistan. On 9 January, the Supreme Court of Kyrgyzstan rejected the appeal of two of the men. However, UNHCR said in a statement also on 9 January that they had recently recognised all four men as refugees under their mandate.

There is concern that the Supreme Court, when reaching its decision, accepted "assurances" given by the Prosecutor General of Uzbekistan that the men would not be tortured if extradited to Uzbekistan. International law, however, is clear: such assurances do not release the authorities of Kyrgyzstan from their obligations under international human rights and refugee law to uphold the principle of *non-refoulement*, which prohibits the forcible return of persons to any country where they would be at risk of serious human rights violations, including torture or other ill-treatment. Amnesty International considers that any such assurances from the General Prosecutor of Uzbekistan would be insufficient to negate the risks faced by these four men. The systematic use of torture and ill-treatment and the systemic and fundamental flaws of the criminal justice system result in widespread violations of international standards for fair trial in Uzbekistan and there are significant risks faced by these four men given the context and nature of the crimes of which they are accused.

BACKGROUND INFORMATION

On 9 June 2005, the authorities in Kyrgyzstan forcibly returned four of the more than 500 refugees who fled on 13 May 2005 to Uzbekistan. Despite concerted efforts by the UN, it was not possible to establish the whereabouts of the four men. At least one of the men was reportedly severely tortured in Uzbekistan, and at least one was sentenced to 17 years in prison following an unfair trial for his alleged participation in the Andizhan events.

On 29 July 2005, the UNHCR secured the evacuation of 439 Uzbekistani refugees, who were airlifted out of Kyrgyzstan to a temporary centre in Romania. Some of these refugees have been resettled to third countries while others are awaiting resettlement in countries that have offered them permanent protection. Following the evacuation, 15 Uzbekistani asylum-seekers remained in detention in Kyrgyzstan. Of these, the authorities in Kyrgyzstan determined that 11 were refugees and, on 16 September 2005, evacuated these individuals to London, United Kingdom. They were subsequently resettled in Belgium, Finland and the Netherlands.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Russian, English, Kyrgyz or your own language, calling on the authorities of Kyrgyzstan:

- to ensure that Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov are not forcibly returned to Uzbekistan, where they would be at risk of torture and other serious human rights violations
- reminding Kyrgyzstan, which is a State Party to the Refugee Convention and the UN Convention against Torture, that to forcibly return anyone to Uzbekistan would be in contravention of the principle of *non-refoulement*, which prohibits the return in any manner whatsoever of any person to a situation where s/he would be at risk of torture or other serious human rights violations.
- to ensure that all four refugees are immediately released from detention and handed over to UNHCR in order that they are able to access as soon as possible a durable solution to their plight.

APPEALS TO: (Please note that it can be difficult getting through to fax numbers in Kyrgyzstan. If a voice answers, repeat "fax" until you hear the signal; otherwise leave your fax machine on auto-redial if possible. Fax machines may be switched off outside office hours – GMT+5)

Kurmanbek BAKIEV, President
Dom Pravitelstva, Bishkek 720003, Kyrgyzstan
Fax: +996 312 21 86 27
Email: Office@mail.gov.kg
Salutation: Dear President

Kambaraly KONGANTIEV, Prosecutor General
General Procuracy, 72 Orozbekov k., Bishkek 720632, Kyrgyzstan
Fax: +996 312 62 59 65/ 66 54 11
Email: genproc@bishkek.gov.kg
Salutation: Dear Prosecutor General

COPIES TO:

Head of the Supreme Court
Supreme Court, Bishkek 720040, ul. Orozbekova 37, Kyrgyzstan
Fax: +996 312 22 68 32
Email: scourt@bishkek.gov.kg
Salutation: Dear Head of the Supreme Court

TURSUNBAY Bakir uulu, Ombudsperson
Ombudsman's Office, Bishkek 720010, Moskovskaya Str. 194, Kyrgyzstan
Fax: +996 312 65 08 07
Email: ombudsman@hotmail.kg
Salutation: Dear Ombudsman

and to diplomatic representatives of Kyrgyzstan accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 22 February 2006.