

URGENT ACTION

COURT RULES IN FAVOUR OF TRADE UNIONIST

Migrants Trade Union's (MTU) President, Michel Catuira, had his appeal against attempts by Korean authorities to deport him upheld on 15 September. Seoul's Administrative Court ruled that the Korea Immigration Service's (KIS) efforts to deport him were in violation of South Korean and international human rights law. The KIS appealed this decision on 30 September and continue to deny Michel Catuira a visa.

In February, the immigration authorities cancelled Michel Catuira's work visa, and ordered him to leave South Korea by 7 March. Michel Catuira appealed this decision and applied for an extension to his visa, which was denied by the Korea Immigration Service. Michel Catuira then applied for a G-1 visa, which is typically granted to people who need to remain temporarily in the country in special circumstances but this request was also refused. Since the MTU was founded in 2005, the South Korean government has arrested and deported at least five of its leaders, indicating that the authorities are attempting to stop the MTU from conducting its legitimate union activities.

Seoul's Administrative Court noted in its ruling that the Immigration Service's motives for attempting to deport Michel Catuira may be linked to his union activities. It declared that foreign workers employed in South Korea must be afforded basic labour rights, including freedom of association and the right to collective bargaining. The Court cited international human rights instruments which South Korea is party to. This includes Article 8 of the International Covenant on Economic, Social and Cultural Rights, which provides the right of everyone to form trade unions and join a trade union of their choice.

After the ruling Michel Catuira visited the KIS and was told they were appealing the judgement, and so they continue to deny him a visa on the original grounds that he obtained his work visa by deception. Michel Catuira therefore remains without any visa and is technically still 'undocumented'.

Please write immediately in English, Korean or your own language:

- Demand that the Korean authorities ensure an extension of visa status for Michel Catuira while the appeal against the ruling of the Administrative Court takes place, and refrain from carrying out his deportation order;
- Urge them to stop practices aimed at deterring or preventing migrant workers from participating in unions;
- Urge them to remove obstacles preventing participation in the MTU, in particular through fully recognizing it as a legal union in South Korea in line with domestic and international law and standards.

PLEASE SEND APPEALS BEFORE 15 NOVEMBER 2011 TO:

Commissioner of the Korea Immigration Service

LEE Changse
Korea Immigration Service
NC Building 8th Floor
1-19 Byeolyang-dong, Gwacheon
Gyeonggi Province 427-705
Republic of Korea
Fax: +82 2 500 9127/9059
Salutation: Dear Commissioner

Minister of Justice

KWON Jae-Jin
Ministry of Justice
Building #5,
Gwacheon Government Complex,
Jungang-dong1, Gwacheon-si,
Gyeonggi-do 427-720
Republic of Korea
Fax: +82 2 503 7113
Email: webmaster@moj.go.kr
Salutation: Dear Minister

And copies to:

Minister of Employment and Labour
LEE Chae-pil
Ministry of Employment and Labour
Gwacheon Government ComplexII
47 Gwanmoon-ro, Gwacheon
Gyeonggi Province 427-718
Republic of Korea
Fax: +82 2 504 6708
Email: molab506@moel.go.kr

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date. This is the third update of UA 34/11. Further information: <http://www.amnesty.org/en/library/info/ASA25/005/2011/en>

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ADDITIONAL INFORMATION

Michel Catuira has been in South Korea since February 2006 as a documented migrant worker employed under the Employment Permit System (EPS). He was employed at a shoe factory in Seoul. He became President of the Migrants' Trade Union (MTU) in July 2009.

In July 2010, the Ministry of Employment and Labour ordered him and his employer to appear for an interview under suspicion of a false employment relationship. The Ministry did not find any prosecutable violation of labour or immigration law. However, it found that Michel Catuira's workplace, a shoe factory, had little business. As the main goal of the EPS is to provide foreign labour to companies with labour shortages, the Ministry sent a memo to Michel Catuira's employer suggesting that they file a change of workplace form for him.

In November 2010, Michel Catuira was called to appear before an investigation team of the Korea Immigration Service on "suspicion of violation of the Immigration Control Act in the course of applying for a workplace transfer and with relation to actual performance of work duties at present". The Immigration Service concluded that he was not working at the shoe factory; thus, the grounds for his work visa were "deceitful", in breach of article 89.1 of the Immigration Control Act. On 10 February, the immigration authorities cancelled his visa, and on 14 February, he was told that he had until 7 March to leave South Korea.

Amnesty International believes that this was another attempt by the South Korean authorities to crack down on the activities of the MTU and to threaten migrant workers' rights, in particular the rights to freedom of association and to form trade unions. The rights to independent association, collective bargaining and collective action are protected in the Constitution of South Korea and apply to everyone, without discrimination, including migrant workers.

Name: Michel Catuira

Gender m/f: Male

Further information on UA: 34/11 Index: ASA 25/013/2011 Issue Date: 04 October 2011