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Turkmenistan: Andrei Zatoka sentenced in unfair trial

On 29 October 2009, the city court of Dashoguz imposed a five-year prison sentence on Andrei Zatoka, a well-known environmentalist and civil society activist in Turkmenistan, for the intentional infliction of medium injuries. According to the Turkmen Initiative for Human Rights and other sources the trial fell short of international standards of fair trial. Amnesty International considers him to be a prisoner of conscience.

On 20 October 2009, Andrei Zatoka was detained in Dashoguz. According to his lawyer, Andrei Zatoka was purchasing groceries at the city market at approximately 12.20 pm when suddenly an unknown man approached him and attacked him with his fists. Reportedly, Andrei Zatoka first tried to keep him at a distance, and when he realized that the attack had been staged, called for the police. Two police officers standing nearby brought both men to the nearest police station. According to the non-governmental organization Turkmen Initiative of Human Rights, about an hour later, at 15.00 pm, a medical report was available about the other man's injuries and the latter was released. Although Andrei Zatoka was punched during the incident at the market, no medical examination was carried out on him. Andrei Zatoka was subsequently transported to the detention centre of the Ministry of Interior's city department where he was told that he would be arrested for the period of 15 days for "hooliganism".

In the evening he was informed that he would remain in custody, as he was suspected of inflicting injuries of "medium severity" to the man in the market. This was reportedly corroborated by the medical report and two witnesses. According to the sources of the Turkmen Initiative of Human Rights "the vendors and customers in the market who have seen the incident, were not summoned as witnesses" by the police. Amnesty International learnt on 23 October that Andrei Zatoka had been charged with "intentional infliction of medium injuries" (Article 108, part 2 of the Criminal Code of Turkmenistan), punishable by imprisonment for up to five years.

Andrei Zatoka's wife, Evgenija Zatoka, attended the court hearing and reported in an open letter published by the International Socio-Ecological Union that the medical expertise on the alleged victim originated from May 2009 and hence the documented injuries could not have stemmed from the incident on 20 October. During his trial his defence lawyer questioned whether it was of a recent injury and whether the x-ray was of the alleged victim's arm, but his defence motion for a new medical examination by a trauma specialist and the summoning of witnesses present at the market at the beginning of the incident were rejected by the judge without reasoning. International observers were not able to monitor the trial because they could not obtain the mandatory travel permission for Dashoguz given the trial date was set with only a few days' notice, including public holidays on 27 and 28 October for Independence Day.

The few days which had passed between arrest and trial indicate a serious lack of thorough and impartial investigation. In his plea Andrei Zatoka's lawyer stated: "The investigation was concluded within two days (22 and 23 October). On October 24 the case was closed and at 17.20 pm, Andrei Zatoka was handed the indictment. The case was turned over to the city court at 17.40 pm and the hearing was immediately scheduled for October 29 in the city court. The unusual speed gives the impression that the case bears a patently made-to-order character."

On 27 October 2009, Amnesty International published an Urgent Action (AI Index: EUR 61/006/2009) on behalf of Andrei Zatoka, urging the authorities to ensure that he is protected from any form of torture and ill-treatment, and that he is allowed regular access to a lawyer of his own choosing as well as any medical treatment he may require.

Amnesty International considers that Andrei Zatoka's conviction was based on an investigation, which was neither effective nor thorough, and an unfair trial and believes that he was targeted because of his peaceful work as an environmental activist. Amnesty International therefore considers Andrei Zatoka to be a prisoner of conscience, solely detained for his human rights activities, and calls on the authorities to immediately and unconditionally release him.

Furthermore, Amnesty International calls on President Gurbanguly Berdimukhamedov to live up to his earlier promises of human rights reforms by swiftly releasing prisoners of conscience, ensuring fair trials, ending enforced disappearances, putting an end to torture or other ill-treatment, and lifting restrictions on freedom of expression of journalists, civil society activists, and on freedom of religion.

Background

Andrei Zatoka moved with his family to Turkmenistan from the Russian Federation in 1982, and worked at Kaplankyr National Park until 1992. He is a member of the Council of the International Socio-Ecological Union, an umbrella organization of over 340 environmental groups, mainly from the countries of the former Soviet Union. In Turkmenistan he co-chaired an environmental group, the Dashoguz Ecological Club, which opened in December 1992 but was closed down in 2003 as part of the government's clampdown on non-governmental organizations (NGOs).

Andrei Zatoka had previously been detained in December 2006 by local police at the airport of Dashoguz for an alleged breach of public order. It was unclear what gave rise to this accusation. Andrei Zatoka had been preparing to fly to the capital, Ashgabat, and then on to Moscow the following day, to meet with members of the International Socio-Ecological Union and to spend his holidays with his family in Russia. Subsequently he faced four charges, including unlawful acquisition or possession of weapons or explosives, and unlawful circulation of potent or poisonous substances. Amnesty International and many other international human rights organizations had expressed its concerns at allegations that he was targeted to punish him for his peaceful work as an environmental activist (see AI Index: EUR 61/001/2007).

In January 2007, Dashoguz City Court convicted Andrei Zatoka and handed down a suspended sentence of three years' imprisonment. The suspended sentence was lifted as a result of the September/October 2007 presidential pardon that included some 9,000 prisoners. However, as of June 2008 Andrei Zatoka remained barred from leaving the country. As he holds dual citizenship (Turkmen and Russian) and his children live in Russia, he has not been able to see them and other relatives in Russia for over two years. He wrote several complaint letters to the Ministry of National Security and the Migration Service inquiring on what grounds he was prohibited to leave the country. However, to date he has not received any reasons.

In a letter, which Andrei Zatoka left with acquaintances "in case of my arrest, disappearance or other unlucky incident", dated from June 2008, Andrei Zatoka wrote that he had felt he was under surveillance by the security services for many months and that he feared that the authorities might "prepare an organized provocation series or criminal investigations" against him.

Environmental activists have been among activists frequently subjected to interrogation and other harassment by the authorities. In some cases they have been tortured or ill-treated, arbitrarily detained or imprisoned. Human rights defenders, journalists, lawyers and others continue to face intimidation and even prosecution when they critically raise their voices against human rights violations in Turkmenistan. On numerous occasions, Amnesty International has called on the Turkmen authorities to take concrete measures to respect the right to freedom of expression, association and assembly and to ensure fair trial safeguards. Such rights are enshrined in international law, notably the International Covenant on Civil and Political Rights to which Turkmenistan is a state party.

Amnesty International reports:

Turkmenistan: no effective human rights reform, AI Index: EUR 61/004/2008

Individuals continue to be at risk of violations in Turkmenistan, AI Index EUR 61/001/2009

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