

PUBLIC

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Incommunicado detention/fear of forcible return/fear of torture

07 July 2006

KAZAKSTAN/

UZBEKISTAN

Gabdurafikh Temirbaev (m) aged 33

Gabdurafikh Temirbaev, a refugee from Uzbekistan, is in imminent danger of forcible return to Uzbekistan, where he is at great risk of serious human rights violations, such as incommunicado detention, torture or other ill-treatment and long term imprisonment in cruel, inhuman and degrading conditions or even the death penalty after an unfair trial.

Gabdurafikh Temirbaev was detained by officers from the Kazakstan Committee for National Security (KNS) on 24 June at the house of an acquaintance in the city of Almaty, in the south of Kazakstan. He has been held incommunicado ever since. Sources believe that he is being held at KNS detention facilities in Almaty. However, the authorities have so far not confirmed his place of detention, nor granted him access to his family or a representative of the office of the United Nations High Commissioner for Refugees (UNHCR) in Kazakstan. Gabdurafikh Temirbaev was recognized as a refugee by UNHCR in June 2006 after a thorough status determination procedure. This procedure included a confirmation from Kazakstani authorities that no criminal charges or cases had been filed against him.

Gabdurafikh Temirbaev was detained by KNS officers reportedly following an extradition request received by the Kazakstani authorities from their Uzbekistani counterparts. According to some sources Gabdurafikh Temirbaev is being sought for membership of banned religious groups. His family have denied this and insist that he is a pious Muslim and not a member of a banned religious or terrorist group. Gabdurafikh Temirbaev has reportedly been in Kazakstan since 1999 when he fled persecution for his religious beliefs in Uzbekistan.

BACKGROUND INFORMATION

The Uzbekistani authorities have continued to actively – and often successfully – seek the extradition in the name of national security and the “war on terror” of suspected members of banned Islamic movements or parties, whom they accuse of participation in a number of “terrorist” acts which rocked Uzbekistan in 1999 and 2004. Most recently the authorities have been seeking the extradition of people allegedly involved in the Andizhan events in May 2005 when security forces fired indiscriminately into crowds of mostly unarmed civilian protesters while they were gathered in the centre of the city, and as they fled, killed hundreds of people, including women and children. The authorities used national security as a pretext for indiscriminately targeting members of independent Islamic congregations and followers of independent imams (Islamic leaders), which are not controlled by the government. Most of the men forcibly returned to Uzbekistan are held in incommunicado detention, thus increasing their risk of being tortured or otherwise ill-treated. Over the years Amnesty International has documented many cases of people forcibly returned or extradited to Uzbekistan who were tortured to extract “confessions”, sentenced to death after unfair trials and executed.

The organization is concerned that Kazakstan is cooperating with Uzbekistan in the name of regional security and the “war on terror” in disregard of their obligations under international law, including the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture), which prohibit the return of anyone to a country or territory where they would be at risk of serious human rights violations, including torture. Nine Uzbekistani nationals, including four registered asylum-seekers, were forcibly returned from Kazakstan to Uzbekistan on 29 November 2005 after they were detained by KNS officers four days earlier. According to reports only two of the returned men were given access to lawyers while the others were held incommunicado. On 12 April 2006 two were sentenced to six years in prison after a closed trial.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Kazak, Russian, English or your own language:

- expressing concern at reports that the Kazakstani authorities are preparing to forcibly return Gabdurafikh Temirbaev to Uzbekistan, where he will be at risk of serious human rights violations including incommunicado detention and torture;
- urging the authorities not to forcibly return him and to ensure that he has access to his family, a lawyer of his choice and representatives of UNHCR;
- urging them to ensure that he is immediately handed over to UNHCR in order that they are able to access as soon as possible a durable solution to his plight, including re-settlement to a third country;
- reminding Kazakstan that forcibly returning Gabdurafikh Temirbaev to Uzbekistan would violate its obligations as a State party to the 1951 Refugee Convention and under the international law principle of *non-refoulement* not to forcibly return anyone to a country where s/he would be at risk of serious human rights violations, including torture;
- reminding Kazakstan of its obligation under Article 3 (1) of the Convention against Torture not to expel, return or extradite a person to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture;
- urging the authorities to treat with caution extradition request from countries where there is a consistent pattern of gross, flagrant or mass violations of human rights, in accordance with Article 3(2) of the Convention against Torture.

APPEALS TO:

Minister of Foreign Affairs of the Republic of Kazakstan

Kasymzhomart Kemelovich TOKAYEV

Respublika Kazakhstan

473000 g. Astana

ul. Beybitshilik, 10

Ministerstvo inostrannykh

del Respubliki Kazakhstan

Ministru TOKAYEVU K

Fax: +7 3172 32 7667

Salutation: Dear Minister

President of the Republic of Kazakstan

473000 Astana, ul. Beybitshilik 11, Prezidentu NAZARBAEVU N.

Kazakstan

Fax: +7 3172 32 40 89

Salutation: Dear President

**Email: You also can send a letter from the President's website:
http://www.akorda.kz/page.php?page_id=185&lang=2**

Procurator General of the Republic of Kazakstan

010000, Astana, ul. Seyfullina 73 "a", Generalnomu prokuroru TUSUPBEKOVU

Kazakstan

Fax: +7 3172 21 67 20

Email: kanc@pravstat.kz / gp-rk@mail.online.kz

Salutation: Dear Procurator General

COPIES TO:

Human Rights Ombudsman of Kazakstan

4, Beibitshilik Str., Astana, Upolnomochenomu po pravam cheloveka BAIKADAMOVU B.

Kazakstan

Fax: +7 3172 32 17 67

E-mail: ombudsman@mail.kz

and to diplomatic representatives of Kazakstan accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 18 August 2006.