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## **Kazakhstan/ Kyrgyzstan: Exploitation of migrant workers, protection denied to asylum seekers and refugees**

**A FIDH investigative mission to Kazakhstan and Kyrgyzstan has documented serious violations of the rights of migrant workers and refugees. FIDH is particularly concerned about the extreme vulnerability of asylum seekers and refugees in both countries, especially ethnic Uyghurs from China, Uzbeks, and Chechens, and calls upon the authorities to adopt urgent measures to increase their protection in accordance with international obligations.**

<http://www.fidh.org/Kazakhstan-Kyrgyzstan-Exploitation,6961>

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The mission, composed of Amandine Regamey, FIDH mission delegate to the International Board, Sarah McKune, Human Rights in China Law Officer, and Katherine Booth, FIDH Migrants' Rights Desk Director, met with representatives of the authorities in both countries, inter governmental organisations, NGOs, as well as migrant workers and refugees. The mission was organised with the support of the Kazakhstan International Bureau for Human Rights and Rule of Law and the Kyrgyz Committee for Human Rights.

### **Exploitation of migrant workers**

As a strong regional economic power, due to its extensive reserves of oil and gas, Kazakhstan is a major destination country for migrant workers from throughout the region, the majority from neighbouring Uzbekistan, Kyrgyzstan, China and Tajikistan. Kyrgyzstan is principally a country of departure of economic migrants.

Current migration policy in Kazakhstan severely limits opportunities for legal employment and thus increases the vulnerability of migrants. The authorities have invoked the international economic crisis to justify slashing the quota for foreign migrant workers nearly in half, and there is a worrying trend towards an explicit policy of national preference in employment. Under the quota system, individual work permits are granted to employers, rather than migrants themselves, making migrants dependent on employers and unable to seek work elsewhere when they suffer abuse.

The FIDH mission documented numerous cases of violations of the rights of migrant workers in Kazakhstan, especially those working in the agriculture and construction industries. Migrants without regular status and without contracts are particularly vulnerable to exploitation: long working hours, lack of rest days, confiscation of passports, non-payment of salaries and sale of migrant workers from one employer to another. In both Kazakhstan and Kyrgyzstan, corruption within the police, customs, and border officials places migrants at constant risk of extortion and deportation. Such violations are generally committed with complete impunity.

On the basis of the preliminary conclusions of the mission, FIDH recommends that the authorities of Kazakhstan:

- ▶ Revise the system for granting work permits to migrants so that such permits are issued to the migrants themselves instead of to employers
- ▶ Ensure the effective investigation, prosecution and punishment of employers responsible for violations of the rights of migrant workers
- ▶ Ensure the availability of urgent medical assistance to migrants
- ▶ Ensure that instructions applied by the police and local administration integrate the provisions of national laws and international conventions to which Kazakhstan is a party
- ▶ Ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

FIDH recommends that the authorities of Kazakhstan and Kyrgyzstan:

- ▶ Adopt measures to control the operation of private agents recruiting migrant workers
- ▶ Increase training and other efforts aimed at fighting corruption at all levels of the justice system, and within the police, customs, and border guards.

### **Major violations of the rights of refugees**

In both countries, the FIDH mission found the situation of asylum seekers and refugees deeply concerning. The Kazakh and Kyrgyz authorities refuse to grant refugee status to Uzbek, Uyghur and Chechen asylum seekers. They justify this refusal on the basis of non-intervention in internal affairs of neighboring countries and risks of economic

retaliation by those countries should refugees be accepted.

Uzbeks, Uyghurs and Chechens can apply for refugee status through the Office of the UN High Commissioner on Refugees (UNHCR); such status, however, does not give them access to protection, economic benefits, or the right to work in Kazakhstan or Kyrgyzstan. Moreover, there have been several documented cases of extradition of refugees and asylum seekers back to Uzbekistan, China and Russia in violation of the principle of non-refoulement, which places an absolute prohibition on sending individuals back to countries where they are at risk of torture. Although the mission did not receive reports of extraditions having taken place in recent months, FIDH is deeply concerned that refugees continue to be at risk of such decisions. Indeed, an Uzbek refugee with whom the mission met in Almaty reported having almost been extradited to Uzbekistan at the beginning of June 2009.

Authorities in both countries continue to cite their obligations under regional agreements on collaboration in the fight against terrorism or on judicial cooperation to justify extraditions (Minsk Convention on Legal Assistance and agreements concluded within the framework of the Shanghai Cooperation Organisation). According to numerous reports, security services from refugees' countries of origin operate within Kazakhstan and Kyrgyzstan, often with the permission of the authorities, to identify and track down refugees.

« These refugees, fleeing persecution in their own countries, are in a situation of extreme vulnerability, dependent on the 'goodwill' of the authorities not to deport or extradite them. Many are permanently looking over their shoulders, in constant fear of being sent back home to the risk of torture or even execution », stated Souhayr Belhassen, FIDH President.

FIDH recommends that the authorities of Kazakhstan:

- ▶ Ensure that the provisions of the forthcoming law on refugees fully conform to international law and in particular: ensure that applications for asylum are dealt with by an independent body; amend the provisions requiring refugee status to be renewed on a yearly basis; and delete the provision which refuses asylum status to members of religious organisations that are prohibited in the individual's country of origin
- ▶ Abolish the distinction between political asylum seekers and refugees, which is contrary to international law.

FIDH recommends that the authorities of Kyrgyzstan:

- ▶ Abolish the requirement that applicants for refugee status must have entered the territory legally, which contravenes the definition of refugee under international law.

FIDH calls on the authorities of both countries to:

- ▶ Ensure the full respect of the principle of non-refoulement and the absolute prohibition on torture, in accordance with the UN Convention against Torture of 1984, by refusing to deport or extradite individuals to countries where they face a risk of torture or the death penalty
- ▶ Ensure that refugees recognised by the UNHCR have access to health services and the right to work in accordance with the UN Convention on Refugees of 1951.