



Date : Friday 18 June 2010

**Kazakhstan: No extradition for asylum seekers in Uzbekistan!
The UNHCR and the OSCE must remind Kazakhstan of its
obligations**

Paris, June 18, 2010 - On the eve of World Refugee Day on June 20, while the crisis in southern Kyrgyzstan has driven tens of thousands of Uzbeks from their homes, FIDH and the Kazakh International Bureau on Human Rights and the Rule of Law (KIBHR) express their deep concern regarding the situation of refugees and asylum-seekers from Uzbekistan who are seeking refuge in Kazakhstan.

<http://www.fidh.org/Kazakhstan-No-extradition-for>

FIDH - Worldwide Human Rights Movement

On June 9, 2010, in Almaty, 45 Uzbek refugees and asylum seekers, who risk to be subjected to torture and ill treatment if they return to their homes, were apprehended by the immigration police who were assisted by the criminal police and the National Security Committee (KNB). Originally presented as a police control aimed at monitoring illegal immigration, it turns out that these measures were, in fact, motivated by an extradition request made by Uzbekistan. 24 men are still under detention at the criminal police station, and risk being extradited back to Uzbekistan under the Kishinev Convention on Mutual Legal Assistance on Civil, Family and Criminal Cases. Several of the detainees have attestations issued by the United Nations High Commissioner for Refugees (UNHCR). FIDH met several of these men on a mission to Kazakhstan in June 2009. They were, at that time, waiting to find a third-party country that would be willing to receive them.

Kazakhstan, which currently holds the OSCE presidency, has signed many international conventions, including in particular the 1951 Convention Relating to the Status of Refugees and the UN Convention against Torture. Article 3 of the Convention against torture prohibits returning or extraditing a person to another state where he/she would be in danger of being subjected to torture. However, as was recently reiterated in a ruling by the European Court of Human Rights, if Kazakhstan were to extradite these refugees to Uzbekistan it would be in violation of the principle of "non-refoulement", since "there are many credible reports that torture, beatings and force are being used against suspects in criminal cases or prisoners by Uzbek security forces in order to extract confessions "(Garayev Vs Azerbaijan Application no. 53,688 / 08, June 10, 2010).

The recent arrests of asylum seekers in Kazakhstan are extremely worrisome, particularly since they are taking place in a difficult environment for refugees, which have for several months caused a great deal of concern among human rights defenders.

Indeed, since the entry into force in January 2010 of a new law on refugees, the Kazakh government requires that all refugees go before the State Commission in order to be granted refugee status - including those that already have an attestation issued by the UNHCR. Several of the refugees who were arrested had already received their convocation to appear before the Commission on June 10. Although we welcome the willingness of the Kazakh authorities to take their responsibility towards refugees, it is clear that the new procedures do not ensure compliance with international standards and guarantees of protection.

The functioning of the department in charge of asylum inspires great deal of concern because of its lack of independence, as well as the presence of representatives of the special services within the Commission. The session which was held on June 10, following this wave of arrests, confirms that there is cause for concern. Indeed, according to testimony from NGO representatives present during the session, an Uzbek refugee was asked to provide written proof that he had been tortured as well as the names of his torturers.

Moreover, the law itself is causing concern for several reasons, in particular because it provides the ability to deny asylum to a person suspected of belonging to an extremist, or terrorist organisation or to a religious group which has been banned in his/her country (article 12-5). This element is directly inspired by the provisions of the 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism. It is most likely not a coincidence that the Uzbek asylum seekers and refugees were arrested the day before the opening of a meeting in Tashkent between member countries of the Shanghai Cooperation Organisation, while at the same time there is increasing pressure against the Uzbek refugees in Russia.

The arrests are also occurring in a context of very strong limitation of UNHCR's capacity for action. Before the adoption of the new law on refugees, Uzbek asylum seeker were already not able to obtain refugee status in Kazakhstan (unlike Afghans, for example). However, the UNHCR office was able to issue them an attestation

confirming their refugee status and seek long-term solutions for them, most often by finding a third country who was willing to host them. For the most part, extraditions and expulsions were able to be avoided through joint interventions by the UNHCR and lawyers from the KIBHR.

However, today, the Kazakh authorities consider UNHCR's work as "an intervention in internal affairs" and have requested that it transfer all of its ongoing refugee cases. UNHCR is allowed to intervene as a last resort, after the request for asylum is refused by the Kazakh Department of Migration and the appeal rejected by the courts. UNHCR's offices in Almaty are under surveillance and arrests or disappearances of asylum seekers have been repeatedly reported.

Faced with this alarming situation, FIDH and KIBHR call:

The Government of Kazakhstan: - To ensure, in all circumstances, respect for the principle of "non-refoulement", the prohibition of torture, in conformity with international customary law, international legislation on refugees, and the 1984 UN Convention against Torture, by refusing to deport or extradite individuals to countries where they risk being subjected to torture, inhuman or degrading treatment or punishment;

- ▶ To recognise the attestations issued by the UNHCR and grant those who possess one the right to reside legally in Kazakhstan;
- ▶ To find an interim agreement with the UNHCR allowing it to fully exercise its mandate until the national asylum system is in full conformity with international standards; - To amend the Refugee Act so that it fully respects international norms and conventions, in particular, to remove the article (Article 12-5) which enables the denial of asylum to people suspected of belonging to religious organisations that were banned in their country of origin; - To ensure full independence of the bodies responsible for granting asylum from political power and special services to ensure a suspensive appeal of any decision of expulsion; - Ensure that all decisions regarding expulsion be suspended if a claimant requests an appeal against the rejection of his application.

UNHCR:

- ▶ To ensure the confidentiality of any refugee cases examined;
- ▶ To establish a transitional agreement with the Kazakh government enabling it to ensure its protection mandate without restriction until the asylum system of Kazakhstan is in full compliance with its obligations and international standards.

OSCE:

- ▶ To remind Kazakhstan's international obligations and the principle of "non-refoulement".

Governments of the European Union:

- ▶ To accommodate, as quickly as possible, Uzbek refugees with an attestation from the UNHCR and put an end to the deportation, under any and all circumstances, of Uzbeks already present on their territory.

Press Contacts : Karine Appy/Fabien Maitre + 33 1 43 55 14 12 / + 33 1 43 55 90 19