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Kazakhstan/ UPR: Key recommendations concerning the rights of migrant workers, refugees and asylum seekers

The following recommendations were formulated, following an investigative mission conducted by FIDH in Kazakhstan in June 2009. They were submitted to the Human Rights Council on the occasion of the Universal Periodic Review of Kazakhstan in February 2010.

For the full report of the mission, see <http://www.fidh.org/FIDH-and-KIBHR-...>

<http://www.fidh.org/Kazakhstan-UPR-Key-recommendations>

FIDH - Worldwide Human Rights Movement

I. Violations of the rights of migrant workers

As a strong regional economic power, Kazakhstan is a major destination country for migrant workers from throughout the region. Current migration policy severely limits opportunities for legal employment and thus increases the vulnerability of migrants. As a consequence of the complexity of the legal framework and the restrictive quota system, many employers fill jobs with migrants in an irregular situation. Moreover, in 2009, the government invoked the economic crisis to justify slashing the quota for migrant workers nearly in half. When migrant workers are able to obtain legal status, individual work permits are granted to employers, rather than to the migrants themselves, making them dependent on employers and unable to get work somewhere else if they suffer abuse.

Migrants without regular status are particularly exposed to exploitation (unlimited working hours, no days off, confiscation of passports, non-payment of salaries, "sale" of migrant workers from one employer to another). Corruption within the police, customs and border officials places migrants at constant risk of extortion. Such violations are generally committed with complete impunity.

FIDH therefore calls upon the participating States to the UPR interactive dialogue to recommend to the government of Kazakhstan:

- ▶ To provide work permits to be issued to migrants themselves instead of to employers;
- ▶ To ensure the effective investigation, prosecution and punishment of employers responsible for violations of the rights of migrant workers;
- ▶ To adopt measures to supervise the operation of private agents recruiting migrant workers;
- ▶ To increase training and other efforts aimed at fighting corruption at all levels of the justice system, and within the police, customs, and border guards;
- ▶ To 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;
- ▶ To ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

II. Violations of the rights of refugees and asylum seekers

For geopolitical reasons, the Kazakh authorities do not grant refugee status to Uzbek, Uyghur, Chechen and Kyrgyz asylum seekers. Such asylum seekers have to apply through the United Nations High Commissioner for Refugees (UNHCR). The newly adopted law on refugees², which entered into force in January 2010, does not comply with international law. In particular it provides that membership of a prohibited religious organization in the asylum seeker's country of origin is a ground for refusing asylum. Under the new law, refugees do not have access to permanent residence status; they are required to apply to renew refugee status on a yearly basis.

FIDH therefore calls upon the participating States to the UPR interactive dialogue to recommend to the government of Kazakhstan:

- ▶ To amend the new law on refugees so that it conforms fully to international law and in particular: to abolish the provision that allows the state to refuse asylum to people suspected of being a member of a prohibited religious organization in the asylum seeker's country of origin (art 12-5); to ensure that refugees have access to permanent residence status and that there is no requirement for refugee status to be renewed on a yearly basis (art 11-5); to specify that applications for asylum must be dealt with by an independent body (art 6).

- ▶ 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.