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Migration;  
Energy security;  
The way forward.

**Statement of the Committee to Save the Refugees,  
Facing Extradition from Kazakhstan to Uzbekistan**

**Statement by the Initiative Group of Refugees in Sweden,  
Mr. Ahmad IYSO**

19 October 2010

Between 9 and 11 June 2010 in Almaty, the Kazakh security forces detained 45 refugees and asylum seekers, and dozens of others have been harassed on the pretext of identifying persons who illegally in Kazakhstan.

Later it became known that the reason for the detention of refugees was the announcement on them as fugitives "involved in banned organizations" by Uzbek security forces- whose persecutions they were trying to protect themselves in Kazakhstan by filing an application in the UNHCR office in Almaty.

Today, only in Almaty total number of refugees and asylum seekers who have applied with their families to the Committee is more than 200 people. These refugees were forced to leave Uzbekistan because of persecutions based on their religious beliefs. Among them are those who for several years awaiting resettlement in third countries.

At present, the Prosecutor General of Kazakhstan has decided to extradite 29 people. It is confirmed by his decision from 8 September for the extradition of a UN mandate refugee Khurshid Kamilov, citizen of Kyrgyzstan, to Uzbekistan.

Kazakhstan disregarded cases when a refugee handed over to Uzbekistan was killed. For example, in 2007, law enforcement agencies of Uzbekistan wanted a Kyrgyz resident Nozim Mamadaliev. By decision of the prosecutor's office in Fergana, Uzbekistan, Mr. Mamadaliev was arrested and detained in remand prison of the Police Department of Fergana city. A few days later he died. There were clearly visible signs of torture in his body. In another case, in November 2005, Kazakhstan handed over 10 refugees to Uzbekistan. They were then tortured and sentenced up to 20 years in prison.

## **Arrests of UN mandate refugees.**

The most regrettable aspect of this case is that among those detained were refugees who actually had the certificate of the refugee status by mandate of UNHCR. Most of these refugees were interviewed in the embassies of several Western countries and even some of them were informed about their future place of residence.

Till now, according to statistics, the Department of the Committee on Migration of Almaty city has refused to grant asylum to three hundred refugees from the Central Asian countries, including even those whom previously UNHCR has granted refugee status. Given that refugees have often valid reasons for asking the international protection without identity documents, this category of refugees cannot go to Kazakh court now. They also have become hostages of the new immigration rules and at any time could be extradited to Uzbekistan.

## **Cancellation of the UN mandated refugee status.**

The UNHCR's decisions, to cancel its earlier decisions on granting refugee status for 17 persons, are regrettable. Violations of human rights in UNHCR's actions came into light during examination of Note on the Cancellation of Refugee Status<sup>1</sup>. In particular:

*43 (ii) A refugee whose status may be cancelled should be informed of the nature of the proceedings and of the evidence in support of cancellation. He or she should be given an opportunity to make submissions and present evidence to rebut any allegations of fraud or other misconduct, or to refute any other ground for cancellation claimed by the authority to apply to him or her.*

UNHCR has not yet been informed refugees, why and on what grounds their refugee statuses were cancelled. In addition, consultants and interpreters were not provided either. The refugees did not receive a real opportunity to appeal or to review of the UNHCR's decision to cancel refugee statuses.

*(iii) The assistance of an interpreter should be provided, if required.*

*(iv) The assistance of counsel should be permitted.*

*(vi) The right to appeal or seek review of decisions whereby refugee status is cancelled is essential.*

Deprived of the status detained refugees still do not know on what basis their status has been cancelled. They do not know how they could appeal against a decision by UNHCR if they did not receive it. We learned from the lawyer that the UNHCR is limited their

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<sup>1</sup> Note on the Cancellation of Refugee Status, 2004 YBK5 OOH  
<http://www.unhcr.org/refworld/docid/41a5dfd94.html>

framework of duties so they have to deal only with the appeal against the decision of the Department of the Committee on Migration of Almaty city. It is surprising: why lawyers hired by the UNHCR are not involved in appeal against the decision of the same organization?

It should be emphasized that the detained refugees learned about the cancellation of the UN mandate refugee status not from the UNHCR office in Almaty, but from the statement of Mr. Tashkenbai Aubakirov, a senior assistant prosecutor of Almaty. On 13 September he stated that on 31 August the UNHCR office in Almaty annulled its decision on refugee status to most of the detained refugees.

On 30 September and 1 October, 2010 wives of detained refugees sent a request by fax, telegram and by certified mail to the United Nations High Commissioner for Refugees Antonio Guterres and the head of the Kazakhstan UNHCR office Mr. Saber Azam, in which they asked to inform: about their current status, whether they are still a UN mandate refugees or not; if their status is cancelled, on what basis it has been cancelled. However, neither the headquarters of the UNHCR in Geneva, nor its representative office in Almaty responded to the refugees' requests yet.

The above facts show contempt for the UN mandated refugees' rights, which in turn is a violation of the Universal Declaration of Human Rights and against the purpose of the UNHCR.

### **Consequences of violation the UN Charter**

After the withdrawal of refugee status by UNHCR General Prosecutor of Kazakhstan issued a decision to extradite the arrested refugees to Uzbekistan. This is confirmed by words of a senior deputy prosecutor of Almaty Mr. Tashkenbai Aubakirov. In particular, he said: "We could not take the measures in respect of the extradition arrest because they were under protection of the UNHCR, but from 1 January (2010) Law "On Refugees"<sup>2</sup> is in force in the Republic of Kazakhstan and in accordance with this law a decision will only be made by the responsible agencies of the Republic of Kazakhstan."<sup>3</sup>

UNHCR's decision on cancellation of refugee status has led the Department of the Committee on Migration of Almaty city to deny asylum, the rest of the Uzbek refugees in detention.

Today, the consequences of the cancellation of refugee status also affected the position of detained refugees' relatives. Wives and children of these refugees are automatically deprived of the status of UN mandate refugee, and now they are threatened with extradition to Uzbekistan, where use of torture is widespread and systematic, persecution and labelling relatives of prisoners of conscience as "enemies" is well documented by UN

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<sup>2</sup> Law On Refugees of the Republic of Kazakhstan from 04.12.2009 N 216-4  
<http://www.pavlodar.com/zakon/?dok=04514&ogl=all>

<sup>3</sup> Stan.TV Wives of Uzbek refugees are protesting  
<http://stan.tv/news/17382/>

bodies and international human rights organizations<sup>4</sup>. Extradition of refugees to Uzbekistan is a clear violation of their fundamental rights<sup>5</sup>.

## **The position of the official authorities of Kazakhstan**

October 5, 2010, in Warsaw, the chairman of the Migration Committee of the Republic of Kazakhstan Mr. Khabylsayat Abishev speaking at the Review Conference of the OSCE on the topic of refugees, said: "At the committee meetings (of the Republican central committee for the determination of refugee status) a senior officer at the UNHCR in Geneva Mr. A. Khybari was present. As a result, 28 of the 30 persons having the mandate refugee status determined as a members of Islamic Jihad Union, and they have been denied refugee status in Kazakhstan. Along with this, Mr. A. Khybari revoked the mandate of 17 members of the above-mentioned organization".<sup>6</sup>

The official's statement is surprising. How was the Commission able to identify 28 members of the Islamic Jihad Union among 30 UN mandate refugees? This is a very serious charge that requires hard evidence and proper trial. We should not forget principle of innocence until proven guilty. As well as the deprivation of refugee status should only be taken on an individual basis.

The representative of the Prosecutor General of Kazakhstan Mr. Andrei Kravchenko, read the position of Kazakhstan to the criticism by NGOs during the Review Conference of the OSCE in Warsaw. He tried to reassure participants that Kazakhstan has fully complied with all of its previous international commitments to respect the rights of refugees. He said that information about the involvement of these refugees to a banned organization came to them from their Uzbek colleagues, who provided them with "irrefutable evidence".

Mr. A. Kravchenko added that the Uzbek authorities accuse these people of terrorism, murders, the establishment and participation in religious extremist, separatist, fundamentalist and other banned organizations, organizing and participating in criminal organizations. The representative of Kazakhstan's Prosecutor General, in his speech tried to mislead the participants of the conference, accusing the detained refugees in set of fabricated charges which the Uzbek authorities usually use against members of independent religious groups, political opposition or dissents. The official said the Prosecutor General of Kazakhstan made a decision on extradition of detainees to Uzbekistan, after having received an answer from Uzbek authorities to request that these persons will not be subjected to torture and ill-treatment.

The Kazakh authority's confidence in false promises of the Uzbek side is logically unexplainable, while all the international institutions and human rights organizations report numerous documented cases of violation of human rights of prisoners, torture and deaths in

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<sup>4</sup> Human Rights Watch Report «Nowhere to Turn».

<http://www.hrw.org/en/reports/2007/11/05/nowhere-turn-0>

<sup>5</sup> The 1951 Refugee Convention (Article 33).

<http://www.unhcr.org/3b66c2aa10.html>

<sup>6</sup> 2010 OSCE Review Conference, Warsaw

<https://www.osce.org/item/46721.html?lc=RU>

the country's prisons. Moreover, the Uzbek authorities have closed the doors to international human rights organizations to conceal facts of human rights violations from international attention. Decision of the Kazakh authorities to extradite 29 refugees to Uzbekistan, a country where torture is widespread and systematic, can be interpreted as a Kazakhstan's non-observance of international obligations.

## **The position of the accused refugees**

On 23 September, 2010, representative of the Committee to Save the Refugees, facing extradition from Kazakhstan to Uzbekistan, human rights activist Ms. Mutabar Tajibayeva met with a senior legal adviser to the UNHCR Mr. Bart Leerschool. During the meeting he said that the UNHCR has revised its earlier decisions and the decisions for refugee status for the majority of refugees have been cancelled. But he assured that the rights of refugees are maintained. He also added that, they advised it to the Government of Kazakhstan. However in reality everything is opposite.

Detained Uzbek refugees in an interview<sup>7</sup> with Uzbek service of Radio Liberty reported that they were innocent of the charges of serious crimes brought against them by the Prosecutor General of Uzbekistan. Refugees also reported that they still cannot understand why and on what grounds their UN mandate refugee statuses are cancelled. According to the detained refugees none of the official representatives of the UNHCR has notified them about cancellation yet.

Detained refugees also reported seeing a lawyer only once and only some of them twice for 5-10 minutes. Many of the refugees do not understand the Russian language, but the request of lawyers about bringing an interpreter was refused by prison administration.

It should be noted that lawyers were provided more than three months after the detention of refugees. It was also regrettable that only two lawyers were hired by UNHCR for the protection of more than two dozen refugees. Adequately, lawyers complain about physical workload to prepare cases for transfer to the court.

## **Position of the remaining Uzbek refugees**

Uzbek refugees are exposed to unauthorized checks and oppression from law enforcement agencies of Kazakhstan. There were instances when law enforcement officers carried out sudden raids in the residences of Uzbek refugees during on daytime and night, intimidated women and children, searched the apartments without a warrant refusing to show required documents.

Uzbek refugees were in a desperate situation: after the entry into force on 1 January 2010 the Law "On refugees" all the authority of determination refugee status moved from the UNHCR to regional offices of the Committee on Migration of Kazakhstan. UNHCR officers briefed the Uzbek refugees that all applications received before 1 January 2010, will be

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<sup>7</sup> «We did not confess to the charges presented by Uzbekistan»  
<http://www.ozodlik.org/content/article/2151770.html>

considered by the UNHCR. However, the Department of the Committee on Migration of Almaty city is obliging now all UN mandate refugees to reapply for asylum on the territory of Kazakhstan; if they do not comply they are not registered in the Department of Interior Affairs.

During the renewal of a registration as required by Kazakh law, refugees face the risk to be arrested and handed over to their persecutors. If you do not renew the registration, it is treated by law enforcement agencies as an offense. Thus, the Kazakh authorities are limiting the opportunity for refugees to live in accordance with the law.

With these actions Kazakhstan, chairing OSCE in 2010, is defiantly failing to fulfil its international obligations as defined in:

- UN Convention on the Status of Refugees, 1951 (Article 33);
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (Article 3);
- International Covenant on Civil and Political Rights (Articles 7, 18, 19, 22).

**Based on the above facts, we urge:**

- *the government of the Republic of Kazakhstan:*

- to ensure non-refoulement of refugees and asylum seekers to Uzbekistan, where torture is practiced systematically;
- to recognize earlier issued UNHCR certificates, and assign their carriers the right to legally reside in Kazakhstan;
- to guarantee to provide legal assistance to refugees in the event of any decision on extradition;
- to remove obstacles in the process of filing an appeal;
- to stop the persecution of asylum seekers and their families, as well as to release the arrested asylum seekers and to guarantee their rights;
- to ensure fair and open procedure for granting refugee status;

- *OSCE:*

- in capacity of the OSCE Permanent Council to monitor compliance with the international laws regarding rights of refugees and asylum seekers in Kazakhstan;
- to remind Kazakhstan about its international obligations and the principle of non-refoulement";

- *Western governments:*

- as soon as possible to take Uzbek refugees who are certified by UNHCR for resettlement and in all circumstances to refuse extradition of the Uzbek refugees to Uzbekistan.

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