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Only in English

**Written submission of the Ukrainian Helsinki Human Rights Union
for the OSCE Human Dimension Implementation Meeting
*Working session 5: Refugees and displaced person***

RIGHT OF REPLY

(About case of refoulment of 11 Uzbek asylum seeker)

We wish to take this opportunity to comment on recent reply of the Delegation of Ukraine of case of refoulment of 11 Uzbek asylum seeker to the country of origin, which took place in February 2006.

Unfortunately after thoroughly investigated the arguments stressed by the Ukrainian Delegation in their written statement HDIM.DEL/183.06 we must indicate that above mentioned statement full of inaccurate and sometimes false information.

So, for instance it is not true that Department of Migration Service of the Crimea “took decision to decline processing of refugee status documents following careful examination of the submitted applicants”. In the reality it was only one formal interview conducted with mentioned asylum seekers, they were denied proper representation and interpreter during the interview, they were not represented neither by the lawyer nor by the executive partners of the UNHCR in the Crimea, although there were formal request for such representation.

Also there were no sufficient evidence that neither all deportees nor anyone of them have been involved in “unlawful activity”; there is no court conviction or formal accusation against this people in Ukraine.

As to the point, stressed by the honorable delegation of Ukraine that deportees voluntary rejected in written for right to appeal against rejection of their refugee claims, we would like to emphasis that during their unlawful detention in the detention center for undocumented persons of MoI in the Crimea they were denied any legal representation or counseling, taking into account most serious human rights violations they have been facing in Uzbekistan since their refoulment to the country of origin – it is extremely unlikely that such paper were signed by them voluntary and not under psychological or even physical pressure. Also there is one year period for appeal against the unlawful administrative actions which is stipulated in the Ukrainian Code of Administrative Proceeding. Should these people wanted no to use this one year term - it should have been VOLUNTARY NOT FORCIBLE deportation contrary to what has taken place in February 2006.

Following the severe criticism both from the Ukrainian human rights community and International organizations such as UNHCR, OSCE, Council of Europe, European Union honorable deputy Minister of Justice Mr. Dmytro Kotlyar did recognize that there were violations of basic human rights of the deportees. However as far as we aware none of the officials who have been directly involved in such a serious unlawful activity which lead to grave human rights violations of the deportee have been subjected of any punishment.

We would like to draw your attention to the fact that following the refoulement of the Uzbek asylum seekers Ukrainian diplomats repeatedly ensured their international counterparts that the Ukrainian Embassy in Uzbekistan will monitor the fate of the returned asylum seekers and will make efforts to ensure that they are facing a fair trial and no torture or ill-treatment.

However, there were no reports back from the Ministry of Foreign Affairs of Ukraine over these promises.

Taking into account the above-mentioned information, we would like to urge OSCE to launch a formal investigation over the case of refoulement of Uzbek asylum seekers from Ukraine contrary to Ukraine's international obligations in February 2006. We would also like OSCE to urge the Ukrainian Government to disclose all relevant information and fully cooperate with the commission.