

PUBLIC

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UA 338/08

Fear of forcible return/Fear of torture or other ill-treatment

SPAIN

Murad Gasayev (m), Russian national

The Spanish authorities are preparing to extradite ethnic Chechen Murad Gasayev to the Russian Federation, where he would be at risk of an unfair trial, torture and other ill-treatment. If the extradition goes ahead, it will violate Spain's obligations under international human rights law, including the UN Convention against Torture.

Murad Gasayev fled to Spain in 2005 and claimed asylum but his claim was rejected on the basis of confidential information provided by the Spanish authorities that neither he nor his lawyer were ever given access to.

The Spanish national criminal court (*Audiencia Nacional*) approved the extradition request based on "diplomatic assurances" from the Russian public prosecutor's office that Murad Gasayev would not be sentenced to death or to life imprisonment without parole, and would be able to receive visits from the Council of Europe Committee for the Prevention of Torture (CPT) while in custody. The Spanish government must now approve the extradition in order for it to go ahead. This is the second time this year the Spanish court has approved his extradition, despite grave concerns for his safety (see UA 47/08, EUR 41/006/2008, 22 February 2008).

Murad Gasayev is wanted in the Russian Federation on suspicion of involvement in a June 2004 attack by an armed group on government buildings in the Republic of Ingushetia. He has claimed that he was detained in Ingushetia in August 2004 by five masked law enforcement officials, who took him to the central office of the Federal Security Service in Ingushetia, where he was tortured and questioned about the attack. He was not charged, and after three days of torture he was taken in a van and released in farmland outside the city.

The Russian human rights organisation *Memorial* has researched and documented the cases of several people convicted in connection with the June 2004 attack. *Memorial* has found evidence that during the investigations by the investigation unit of the Directorate of the General Procuracy in the Southern Federal District, those suspected of involvement in the attack were tortured, and were denied a fair trial. Amnesty International has interviewed several people whose statements support these findings.

Amnesty International and other human rights organizations have researched many cases over recent years where ethnic Chechen and Ingush men have been charged with and convicted of terrorism-related offences, based on "confessions" and testimony extracted under torture.

The CPT is not known to have been consulted about the "diplomatic assurances" given by the Russian public prosecutor until after the Spanish court had approved the extradition request. The CPT has repeatedly and publicly expressed grave concerns regarding torture, other ill-treatment and unlawful detention by state officials in Chechnya. The CPT has stated that investigations into cases involving allegations of ill-treatment or unlawful detention are rarely carried out in an effective manner and that the Russian authorities have failed to react adequately to the concerns it has raised.

BACKGROUND INFORMATION

Many Ingush and Chechen men have claimed that they have been tortured and otherwise ill-treated by the security forces to extract "confessions." The Chechen Ombudsperson for Human Rights, Nurdi Nukhazhiev, reported in March 2007 that his office receives many complaints about "illegal methods of investigation." So far very few investigations have led to the prosecution of law enforcement officials for torture, and this has contributed to impunity in the region.

In recent years the CPT has taken the extraordinary step of publishing its damning reports on the problem of torture in Chechnya. This is the first time that the CPT has issued a public statement of this nature three times in respect of a single country. The CPT works on the basis of confidentiality between itself and the state parties, and is only authorized to make public statements when a country "fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations." The fact the CPT has felt obliged to resort to a public statement three times, additionally releasing with it detailed excerpts of its report and the Russian authorities' comments, indicates that the CPT considers Russia is failing to effectively tackle torture in Chechnya.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Spanish, English or your own language:

- urging the authorities not to extradite Murad Gasayev to the Russian Federation, regardless of any "diplomatic assurances" from the Russian authorities, as he would be at risk of torture;
- urging the authorities not to send Murad Gasayev to any third country where he would be at risk of extradition to the Russian Federation;
- pointing out that the forcible return of Murad Gasayev to the Russian Federation would be a breach of Spain's obligations under the European Convention on Human Rights, the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

APPEALS TO:

Minister of Justice

Mariano Fernández Bermejo

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Salutation: Dear Minister

Vice President

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Salutation: Dear Vice President

and to diplomatic representatives of Spain accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 22 January 2009.