

PUBLIC

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Further Information on UA 181/07 (EUR 46/029/2007, 11 July 2007) Forcible return/Unfair trial/Torture

RUSSIAN FEDERATION

**Dilshod Umarovich Kurbanov (m)
Mukhammadsolikh Matiakubovich Abutov (m)**

According to Dilshod Kurbanov's lawyer, on 22 January the Office of the Prosecutor General has taken the decision to extradite Dilshod Kurbanov to Uzbekistan. He would be at risk of incommunicado detention, torture and unfair trial leading to a long prison term, if forcibly returned to Uzbekistan.

Both he and Mukhammadsolikh Abutov are wanted in Uzbekistan because the authorities there allege that they are members of banned Islamic organizations and planned to overthrow the country's constitutional order. Both deny these allegations, and claim they are being persecuted because of their religious beliefs.

On 31 July 2007 the Federal Migration Service (FMS) decided that it would not examine Dilshod Kurbanov's application for refugee status. The FMS grounded their decision on the provision in the Russian federal law on refugees which allows for such a refusal if the individual has another way to legalize their status in Russia. As Dilshod Kurbanov's wife is a Russian citizen, the FMS considered that he could get Russian citizenship rather than refugee status. However, Amnesty International understands that Dilshod Kurbanov cannot go through the procedure of gaining citizenship due to the criminal investigation open against him in Uzbekistan. Dilshod Kurbanov received the FMS decision only in August.

Dilshod Kurbanov has tried to appeal against this decision but it appears that the district court in Tula has failed to speedily deal with the appeal. His lawyer lodged an appeal in October. However, the court refused to lodge the appeal, saying the lawyer did not have the right to sign an appeal on his client's behalf. While the lawyer disputes this, he decided to re-submit the appeal, with Dilshod Kurbanov signing it himself. This was done on 12 November. However, the court then failed to process the appeal for a hearing and set a new deadline of 11 December. The lawyer managed to submit a third appeal on which no decision has yet been made. The Office of the Prosecutor General ruled that Dilshod Kurbanov could be extradited, despite the pending appeal. Dilshod Kurbanov's lawyer has also lodged an appeal against the extradition decision.

Meanwhile Dilshod Kurbanov remains in detention in the Novomoskovskoe -2 pre-trial detention facility. The Office of the United Nations High Commissioner for Refugees (UNHCR) is reported recently to have got access to him in detention.

In September 2007 the FMS agreed to consider Mukhammadsolikh Abutov's application for refugee status. In December 2007 the deadline for consideration of the application was extended until 12 March 2008. Under Russian law the refugee determination procedure takes precedence over the extradition procedure, so that the extradition proceedings have been put on hold until this is resolved. If he is refused refugee status and appeals to the Russian courts are unsuccessful, the extradition proceedings against him can be renewed.

Meanwhile UNHCR is reported recently to have got access to him in detention in the pre-trial detention facility in Mozhaisk. His lawyer is currently contesting the legality of his continued detention, given that a court had only sanctioned his detention until August 2007 (and the lawyer contests even the legality of that decision). Mukhammadsolikh Abutov is recently reported to have been transferred to a less crowded cell and has very recently been transferred for medical treatment, following a request by him via his lawyer in November 2007 to provide adequate medical care. Reportedly the Ombudsperson of Moscow region has

also visited him in detention. These positive steps could well have been because of the international attention on his case from Amnesty International, the UN and the Russian human rights organization Citizen's Assistance.

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

- expressing concern that the authorities have ruled to extradite Dilshod Umarovich Kurbanov to Uzbekistan, where he would be at risk of serious human rights violations, including torture;
- reminding the authorities that the Russian Federation is obliged under international law, including the UN 1951 Refugee Convention, UN Convention against Torture and the European Convention on Human Rights, to which it is a state party, not to return anyone, including Dilshod Umarovich Kurbanov and Mukhamedsolikh Matiakubovich Abutov, to a country or territory where they would be at risk of torture or other ill-treatment;
- asking the authorities to ensure that Dilshod Umarovich Kurbanov and Mukhamedsolikh Matiakubovich Abutov have access to full, fair and satisfactory refugee status determination procedures and that they have access to the UNHCR.

APPEALS TO:

103793 Moskva, Ul. Bolshaya Dimitrovka 15a, Generalnomu Prokuroru Rossiyskoy Federatsii, Yuriu Chaika, RUSSIAN FEDERATION

Fax: + 7 495 692 1725 (try during Moscow office hours, GMT+3)

Salutation: Dear Procurator General

COPIES TO:

Ombudsman on Human Rights

107084 Moskva, Ul. Miasnitskaia 47, Upolnomochnomu po pravam cheloveka Vladimiru Lukinu, RUSSIAN FEDERATION

Fax + 7 495 207 5337

E-mail: press-sl@ropnet.ru

via website: <http://ombudsman.gov.ru>

Gen. Nikolai Patrushev, Director General of the Federal Security Service of the Russian Federation

Federal Security Service of the Russian Federation

101000 Moskva, Liubianskaia pl. d.2, Generalnomu Direktoru Federalnoi Sluzhbi Besopasnosti, Nikolaiu Patrushevu, RUSSIAN FEDERATION

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If you speak Russian, via website: <http://www.fsb.ru/>

and to diplomatic representatives of RUSSIAN FEDERATION accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 13 March 2008.