

URGENT ACTION

EUROPEAN COURT RULES ON DETAINED BELARUSIAN

On 10 December, the European Court of Human Rights ruled that Belarusian citizen Igor Koktysh, a male social activist, supporter of the Belarusian opposition and musician, should not be extradited to Belarus. The Ukrainian authorities have not yet indicated whether and when they will comply with this judgement. Igor Koktysh is a prisoner of conscience, held for the peaceful expression of his beliefs.

In October 2007, **Igor Koktysh** filed a complaint with the European Court of Human Rights to challenge his detention in Ukraine and his planned extradition to Belarus.

In its judgment, the Court ruled in favour of Igor Koktysh, and also stated that the conditions in which he is held amount to inhuman and degrading treatment. The Court referred to findings of the European Committee to Prevent Torture (CPT) and the Ukrainian Parliament Commissioner for Human Rights, who recorded that in the SIZO where Igor Koktysh is being held there are dirty cells with insufficient daylight, insufficient nutrition and an overcrowding so that detainees have to take turns in sleeping.

The judgment acknowledges that Igor Koktysh would face a serious risk of torture or ill-treatment if returned to Belarus. According to the Court, the possibility of Igor Koktysh being sentenced to death at an unfair trial in Belarus would constitute another violation of human rights. The Court stated that there is no legal basis for Igor Koktysh's detention in Ukraine and that he has been unable to challenge the lawfulness of his detention.

Igor Koktysh is currently held in a detention centre (SIZO) in the southern Ukrainian city of Simferopol. He is asthmatic and suffers from a range of other related health problems. According to his wife, he had a serious asthma attack on 28 November, and was not given any medication until his wife brought some when she visited two days later. Igor Koktysh has told his lawyer that he fears he will die in detention and that if he were to suffer a serious asthma attack the prison doctors would not be equipped to save his life.

PLEASE WRITE IMMEDIATELY in Russian, Ukrainian or your own language:

- √ Calling on the Ukrainian authorities to comply with the judgment of the European Court of Human Rights without delay and to release Igor Koktysh immediately and unconditionally;
- √ Calling on the Ukrainian authorities to ensure that Igor Koktysh receives full compensation in accordance with the judgment of the European Court of Human Rights;
- √ Urging the Ukrainian authorities to ensure that he is provided with effective and durable protection against return to any country, including Belarus, where he would be at risk of the death penalty, torture or other grave human rights violations.

PLEASE SEND APPEALS BEFORE 22 JANUARY 2010 TO:

President Viktor Yushchenko
Vul. Bankovaya 11
01220 Kyiv, Ukraine
Fax: +380 44 255 61 61
Salutation: Dear President
Yushchenko

Oleksandr Medvedko
Prosecutor General
vul. riznitska 13/15
01601 Kyiv, Ukraine
Fax: +380 44 280 2851
Salutation: Dear Prosecutor General

Minister of Foreign Affairs
Pl. Mykhalivska, 1
01018 Kyiv, Ukraine
Fax: +380 44 272 22 12
Salutation: Dear Minister

Petro Poroshenko

Also send copies to diplomatic representatives of Ukraine accredited to your country. Please check with your section office if sending appeals after the above date. This is the second update of UA 305/09 (EUR 50/003/2009). Further information:
<http://www.amnesty.org/en/library/info/EUR50/003/2009/en> and <http://www.amnesty.org/en/library/info/EUR50/006/2009/en>

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ADDITIONAL INFORMATION

Igor Koktysh, a citizen of Belarus, has been detained in Ukraine since June 2007 after Belarus requested his extradition over an accusation that he carried out a murder in Belarus in 2001. He is currently held in a detention centre (SIZO) in the southern Ukrainian city of Simferopol.

Igor Koktysh, a musician in the banned rock group Mlechny Put (Milky Way), was socially and politically active in Belarus. He was a founding member of a youth group financed by the Catholic Church, which aimed to rehabilitate young drug users. Igor Koktysh organized rock festivals to publicize the message "No to drugs and violence". At these festivals opposition flags and slogans were displayed. Igor Koktysh was also an active member of the youth opposition movement Zubr (since disbanded), and took part in a number of political campaigns. In 2000 Igor Koktysh tried to start an independent youth organization, the Informal Youth Movement, but the authorities refused to register the group.

In January 2001, he was detained in Belarus and accused of murder of a close friend's relative. A senior police officer allegedly told him that he knew he was not guilty of the crime, but that he was under pressure from his superiors. In custody he was allegedly tortured and ill-treated, including by being beaten and locked naked in a very cold cell, in order to force him to confess. Being able to prove that he was in another city when the murder took place, he was acquitted and released. This verdict was confirmed by the Supreme Court of Belarus on 1 February 2002. After Igor Koktysh had moved to Ukraine in April 2002, in an unusual move the Belarusian Prosecutor General appealed against the verdict and the case was returned to the lower court for a retrial – hence the request for extradition. On 25 June 2007, he was detained by Ukrainian police following an extradition request from Belarus for the same charges of "premeditated, aggravated murder", under Article 139 of the Criminal Code of Belarus which carries the death penalty.

In Ukraine, Igor Koktysh continued to be actively involved in supporting the Belarusian opposition candidate during the presidential election campaign in Belarus in 2006. Igor Koktysh created videos, website banners and composed songs supporting the candidate. He also created a website for the unregistered Informal Youth Movement which contained opposition leaflets and posters.

Igor Koktysh applied for refugee status in Ukraine, but his application was rejected on 23 October 2008. His lawyer has appealed against this decision.

Igor Koktysh filed a complaint to the European Court of Human Rights in October 2007 to challenge his extradition to Belarus and his detention pending extradition. In October 2007 the Court called on the government of Ukraine to not extradite him before the Court has considered the case.

The Court did so with yesterday's verdict, ruling in Igor Koktysh's favour. In addition to the abovementioned findings, the Court noted that Igor Koktysh had been acquitted for the charges on which the extradition is based by the Belarusian courts at two instances in 2001. The assurances given by the Belarusian Prosecutor General with regard to Igor Koktysh's treatment after extradition were considered to be insufficient guarantee for his protection against ill-treatment or torture. The Court also held that there was no effective or accessible remedy available to Igor Koktysh by which to complain about the conditions of his detention and that, in this regard, there had been a violation of his right to an effective remedy, according to Article 13.

A number of international human rights conventions to which Ukraine is a state party prohibit the deportation or extradition of anyone to a country where he or she may face the death penalty, torture or other ill-treatment or other grave human rights violations.

Further information on UA: 305/09 Index: EUR 50/007/2009 Issue Date: 11 December 2009

