

6 February 2013

KYRGYZSTAN: Imam still faces extradition to Uzbek torture

By Felix Corley, Forum 18

The legal appeal by former imam Khabibullo Sulaimanov against his extradition from Kyrgyzstan back to Uzbekistan resumes on 12 February, Forum 18 News Service has learned. Officials failed to produce Sulaimanov for the first hearing yesterday (5 February). His lawyer argued in court that if Sulaimanov is returned to Uzbekistan, he is likely to face torture. However, Kyrgyzstan's General Prosecutor's Office, which wants to send him back, insisted to Forum 18 – against overwhelming documented evidence – that "the risk or basis to believe that torture would be used against Sulaimanov does not exist". Sulaimanov's wife, Albina Karankina, calls for the proposed extradition of her husband to Uzbekistan to be halted. "We also want him to be freed from the Investigation Prison", she told Forum 18. Human rights defenders continue to condemn the possible extradition, but the General Prosecutor's Office denied to Forum 18 that it had received an appeal letter on the case from Human Rights Watch. The letter in English and in Russian was submitted to the General Prosecutor's Office in hard copy on 1 February, and signed confirmation of receipt was given. Apart from one five minute visit, the Office of the UN High Commissioner for Refugees has not been allowed access to Sulaimanov, and family members have been refused visits.

The appeal by former imam Khabibullo Sulaimanov against his extradition from Kyrgyzstan back to Uzbekistan resumes at the City Court in the capital Bishkek on the morning of 12 February, Forum 18 News Service has learned. Officials failed to produce Sulaimanov for the first hearing of the appeal yesterday (5 February). His lawyer argued in court that if his client is returned to Uzbekistan, he is likely to face torture. However, Almanbet Abdramanov of Kyrgyzstan's General Prosecutor's Office, which wants to send him back, insisted to Forum 18 on 6 February that "the risk or basis to believe that torture would be used against Sulaimanov does not exist".

Torture in Uzbekistan continues to be "routine", as the United Nations (UN) Committee Against Torture put it, with cases frequently being reported by victims to Forum 18. For good reason, victims (including children) of Uzbekistan's widespread use of torture normally choose not to complain or make their suffering public for fear of state reprisals (see F18News 14 August 2012 http://www.forum18.org/Archive.php?article_id=1732).

A senior official of Kyrgyzstan's Presidential Administration told Forum 18 that they were informed about Sulaimanov's case. But the official declined to comment on the record, insisting that this might compromise an independent judicial consideration of his case.

The Centre in Bishkek of the Organisation for Security and Co-operation in Europe (OSCE) told Forum 18 on 5 February that it is following Sulaimanov's case and will monitor the next appeal hearing at Bishkek City Court on 12 February.

Sulaimanov's wife, Albina Karankina, calls for the proposed extradition of her husband to Uzbekistan to be halted. "We also want him to be freed from the Investigation Prison, and perhaps to be put under house arrest while the case is resolved," she told Forum 18 from Bishkek on 6 February.

Sulaimanov "is alive"

Since his arrest by Kyrgyzstan's National Security Committee (NSC) secret police at his home in Bishkek on 6 October 2012, Sulaimanov has been held at the NSC Investigation Prison in the city.

Since Sulaimanov's imprisonment, only his lawyer Toktogul Abdyev has been able to visit him regularly. The only exception was a five-minute visit by representatives of the UN High Commissioner for Refugees (UNHCR) on 9 January 2013, not long enough for them to conduct a full asylum interview. Family members have been refused visits (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

Reached on 6 February – four months to the day since Sulaimanov's detention – the man who answered the NSC secret police Investigation Prison telephone – who identified himself as the "supervisor" – would only say that Sulaimanov "is alive" and that his health "is OK".

Pressure in Uzbekistan

The 56-year-old Sulaimanov was imam of two mosques in Uzbekistan in the 1990s. But he and his family came under increasing pressure from Uzbekistan's police and National Security Service (NSS) secret police, apparently because of his refusal to accept total state control. He and his immediate family finally fled Uzbekistan for Kyrgyzstan in 2001. However, the Uzbek authorities are seeking his return to face criminal trial on charges carrying a maximum 15 year term of imprisonment.

Kyrgyzstan's General Prosecutor's Office extradition order of 13 November 2012, seen by Forum 18, approves his extradition to stand trial on charges under Uzbek Criminal Code Article 244-2, Part 1 and Article 244-1, Part 3a. These Criminal Code articles have been used to prosecute people exercising their right to freedom of religion and belief (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

The Kyrgyz Prosecutor's Office rejected the other Uzbek charges as no equivalent exists in Kyrgyz law.

The Uzbek Criminal Code articles were also used in a failed attempt by Uzbekistan to extradite Protestant Pastor Makset Djabbarbergenov from Kazakhstan. He was, like Sulaimanov, accused by Uzbekistan of being an Islamic fundamentalist and terrorist. Also like Sulaimanov, Djabbarbergenov's only "crime" was to lead religious communities without the approval of the state (see F18News 5 December 2012 http://www.forum18.org/Archive.php?article_id=1777).

In another similar case to Sulaimanov's, in June 2012 the UN Committee Against Torture found that Kazakhstan had violated the human rights of a group of Uzbek Muslims who were extradited to Uzbekistan in 2011 (see F18News 10 September 2012 http://www.forum18.org/Archive.php?article_id=1739).

5 February appeal hearing

On 6 December 2012, Bishkek's Pervomaisky District Court rejected Sulaimanov's first appeal against the extradition order. He then appealed further to Bishkek City Court.

Sulaimanov's appeal began at Bishkek City Court on 5 February, an hour late as the court waited for him to be brought from the NSC secret police prison. The hearing eventually began at approximately 10 am with no explanation as to why he had not been brought, several of those present in the courtroom told Forum 18. Although the law does not require the appellant to be present, Sulaimanov's supporters expected him to be there as court hearings are the only opportunity for them – including his wife and family - to see him (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

At the hearing - under Judges Zhanyl Mambetaly, Mederbek Satyev and Muslim Sultanaliyev – the General Prosecutor's Office was represented by Investigator Kanabek Uzakbayev of its International Legal Co-operation Department, who signed the extradition approval, together with another uniformed Prosecutor's Office official.

(Asked by Forum 18 on 25 January about breaking international law by sending an individual back to Uzbekistan where they might face torture, Uzakbayev responded: "Let them [the Uzbek authorities] do it. It doesn't bother me at all" - see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795.)

Sulaimanov's wife Karankina and the older of their two children were in court. A number of observers were also present, including officials of the UNHCR and the Bishkek Office of the UN High Commissioner for Human Rights, and the United States Embassy. Also present were human rights defenders from Bishkek-based Adilet (Justice) and Human Rights Watch.

Sulaimanov's lawyer Abdyev presented his case at the hearing, pointing out Kyrgyzstan's international obligations not to send an individual to another country where they would be at risk of torture, Mihra Rittmann, Central Asia researcher for Human Rights Watch who was present in court, told Forum 18 from Bishkek. Among the documents Abdyev presented to the court were the conclusions by then UN Special Rapporteur against Torture, Theo van Boven, following his late 2002 visit to Uzbekistan (UN reference E/CN.4/2003/68/Add.2 <http://www.unhcr.org/refworld/docid/4090ffc80.html>).

Abdyev also pointed to procedural violations in the extradition case, including the fact that the extradition order was signed not by General Prosecutor Aida Salyanova or one of her deputies, but by another official, Uzakbayev.

Uzakbayev then took the stand, Rittmann told Forum 18. The judges and lawyer Abdyev were able to question him. Uzakbayev insisted to the court that he would not have signed the extradition order without the approval of his superiors, which had been given verbally. He also insisted that Sulaimanov's right to contest the extradition order had been respected, citing as evidence the fact that he had been able to appeal against the order.

Why wasn't Sulaimanov in court?

Sulaimanov's wife Karankina said she had hoped her husband would be in court. "I haven't seen him since the 15 January hearing

that extended his detention," she told Forum 18. "We weren't told why he wasn't in court for the appeal hearing."

Uzakbayev of the General Prosecutor's Office was not at his desk each time Forum 18 called on 6 February. His superior, head of the International Legal Co-operation Department Tologon Mamyrkaliyev, insisted to Forum 18 the same day that he could not comment on why Sulaimanov was not brought to court for the appeal hearing. "Ask the court," he said.

Sulaimanov's lawyer Abdyev said that the court decides whether to invite the appellant to the hearing. "In this case they didn't invite Sulaimanov," he told Forum 18 from Bishkek on 6 February.

Judge Mambetaly's assistant, Gulzada (who did not give her surname), refused to explain to Forum 18 on 6 February why Sulaimanov was not present. "You must send a written question to the court," she insisted, refusing to discuss any other aspect of the case.

The supervisor at the NSC secret police Investigation Prison had put the phone down before Forum 18 could ask him.

The official of the NSC Press Office who answered the phone – who said his name was "not important" – said he did not know why Sulaimanov had not been brought to court.

Why no family visits?

Karankina told Forum 18 on 6 February that she had been to see Investigator Uzakbayev of the General Prosecutor's Office four times to try to gain permission to see her husband in prison. However, each time he told her only the Uzbek Investigator could give permission for such visits. "He said he had no authority to approve such visits," she told Forum 18 (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

The supervisor at the NSC Investigation Prison refused to answer Forum 18's question as to why family visits to Sulaimanov were not allowed. The NSC Press Office official had put the phone down before Forum 18 could ask him.

Karankina said she goes to the Investigation Prison each Saturday to bring clean clothes, food and soap for her husband. "We don't know if they hand the items on to my husband or not."

The lawyer Abdyev said he last saw Sulaimanov in prison in late January and his health was good. "He has no complaints about that," he told Forum 18. He said parcels brought to the prison for him are handed on.

Why no UNHCR visit?

For several months the UNHCR in Bishkek have been seeking access to Sulaimanov to conduct a full interview with him. Apart from the brief 9 January visit, access has not been granted.

Mamyrkaliyev of the General Prosecutor's Office International Legal Co-operation Department told Forum 18 that it had written to the NSC secret police at the end of January saying it had "nothing against" a UNHCR visit to Sulaimanov in the NSC Investigation Prison.

The supervisor at the NSC Investigation Prison refused to say why the planned UNHCR visit to Sulaimanov has not yet taken place.

The NSC press officer told Forum 18 that the NSC leadership is considering its response to the General Prosecutor's Office letter saying it does not oppose a UNHCR visit to Sulaimanov in prison. "Such a thing does not happen quickly," he insisted.

Why hasn't asylum claim been registered?

Sulaimanov sent a written asylum claim to the Youth, Employment and Labour Ministry, which also handles asylum issues, in November 2012. However, the Ministry has repeatedly refused to register the application on various pretexts. Among the reasons, she said, was that her Ministry needed to interview Sulaimanov personally, which needs NSC permission (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

The Head of the Refugee Department, Bazarkul Kerimbayeva, told Forum 18 on 6 February that she could not hear its questions and put the phone down. Subsequent calls went unanswered.

The NSC Press Officer had put the phone down before Forum 18 could ask whether the Youth, Employment and Labour Ministry has or does not have the right to meet Sulaimanov in prison to verify his asylum application.

Why deny appeal letter received?

Asked if the General Prosecutor's Office had responded to a letter about Sulaimanov's case from Human Rights Watch to General Prosecutor Salyanova, Abdramanov insisted to Forum 18 on 6 February that the letter had not been received.

Human Rights Watch's 1 February letter called on the General Prosecutor's Office to withdraw the extradition order against Sulaimanov, given that "torture is widespread and systematic in every part of Uzbekistan's criminal judicial system" (<http://www.hrw.org/news/2013/02/01/human-rights-watch-letter-prosecutor-general-kyrgyzstan>).

Rittmann of Human Rights Watch told Forum 18 that the letter – in English and in Russian translation – was submitted in hard copy to the General Prosecutor's Office in Bishkek on 1 February and that Human Rights Watch received signed confirmation of receipt. She added that as of the evening of 6 February in Bishkek, Human Rights Watch has received no response.

Forum 18 received no response from Abdramanov by the end of the working day in Bishkek on 6 February as to why he had denied that the General Prosecutor's Office had received Human Rights Watch's letter. (END)

For background information see Forum 18's Kyrgyzstan religious freedom surveys at <http://www.forum18.org/Analyses.php?region=30>.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=30>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Kyrgyzstan is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kyrgyzstan>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY