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RUSSIA: European Court request enough to protect Uzbek asylum seeker?

By Felix Corley, Forum 18 (<https://www.forum18.org>)

The European Court of Human Rights in Strasbourg has told the Russian government that Uzbek asylum seeker Bobirjon Tukhtamurodov "should not be expelled or otherwise involuntarily removed from Russia to Uzbekistan or another country" while his case there is considered, according to court documents seen by Forum 18 News Service. The Uzbek government has been seeking his return since 2010 to face criminal charges for participating in an unregistered Muslim community. Although he succeeded in having an extradition order overturned in 2011, his status as a temporary refugee in Russia was not extended in 2013. His challenge failed in a Moscow court in March 2014. "The European Court measures should be enough to protect Bobirjon Tukhtamurodov, as Russia usually abides by such measures," his lawyer Eleonora Davidyan told Forum 18. However, she points to cases when security service officers have abducted asylum seekers in Russia. Irina Blazheyeva of Novosibirsk Region Federal Migration Service dismisses such concerns. "This is in the realm of fantasy," she told Forum 18.

Human rights defenders and friends of Uzbek Muslim Bobirjon Tukhtamurodov have welcomed an urgent 19 March letter from the European Court of Human Rights (ECtHR) asking the Russian government "that the applicant should not be expelled or otherwise involuntarily removed from Russia to Uzbekistan or another country for the duration of the proceedings before the Court". Tukhtamurodov appealed to the Strasbourg court when Russia rejected the extension of his temporary asylum there, Forum 18 News Service notes.

"This is definitely a freedom of religion or belief case," Eleonora Davidyan, a Moscow-based lawyer who is representing Tukhtamurodov at the Strasbourg court, told Forum 18 on 14 April. "The Uzbeks want him back because of his alleged involvement in a religious group. The extradition request has not been revoked."

If returned, Tukhtamurodov fears he would be punished for exercising the right to freedom of religion or belief and would face torture. Uzbekistan has been seeking his return to face criminal charges for participating in an unregistered religious community since 2010 (see below).

"The European Court measures should be enough to protect Bobirjon Tukhtamurodov, as Russia usually abides by such measures," Davidyan told Forum 18. "I hope the Russian government does indeed protect him and that nothing unexpected will happen. It depends how much the Uzbek authorities want him back – their extradition request has not been revoked."

Kidnap risk?

Davidyan warns that some Uzbek asylum seekers have been abducted in Russia and forcibly returned to Uzbekistan. "Russia has not acknowledged any involvement, but it is hard to believe they did not allow such abductions to take place." She said she knew of two such cases among those her legal colleagues have dealt with.

Tukhtamurodov's lawyer in Novosibirsk, where he was held in detention for seven months in 2010-1, echoes these concerns. "I'm not aware of such abductions of Uzbek asylum seekers in our region, but many cases have happened elsewhere," Yuliya Zhemchugova told Forum 18 from Novosibirsk on 15 April. "I have warned him not to be too visible."

However, Irina Blazheyeva, head of the Refugee, Forced Migrants and Compatriots Department of Novosibirsk Region Federal Migration Service, rejected any suggestion that Uzbek agents might kidnap Tukhtamurodov back, as they have done with other asylum seekers. "I've never heard of such cases," she told Forum 18 from Novosibirsk on 15 April. "This is in the realm of fantasy."

Blazheyeva insisted though that physically protecting Tukhtamurodov is not within the competence of the Federal Migration Service. "This is up to the law-enforcement agencies."

In March 2011, after Novosibirsk Regional Court overturned the extradition ruling, Tukhtamurodov narrowly avoided summary deportation by FSB security service and Migration Service officials waiting outside the courtroom after the hearing.

Moscow court challenge fails

On 21 May 2013, Novosibirsk Region Federal Migration Service rejected Tukhtamurodov's request for an extension to his temporary asylum in Russia. The decision, seen by Forum 18, was signed by one of its then deputy heads Lyubov Sedneva and counter-signed by another, Lyudmila Baturina.

Tukhtamurodov challenged the rejection, but in a 10 December 2013 decision seen by Forum 18, the Citizenship Department of the Federal Migration Service in Moscow – which considers such appeals against local decisions - upheld the Novosibirsk decision.

Baturina told Forum 18 from Novosibirsk on 15 April that she could not recall the case and that Sedneva has now retired. The telephone of the Citizenship Department of the Federal Migration Service in Moscow went unanswered each time Forum 18 called the same day.

Following the December 2013 rejection, Tukhtamurodov then filed a suit against the Federal Migration Service to Moscow's Basmanny District Court. However, on 18 March 2014, Judge Galina Demidovich rejected his suit, according to the court website. As of 14 April, the decision had still not been issued in writing, Davidyan told Forum 18.

Tukhtamurodov's Moscow lawyer, Natalya Golovanchuk, lodged an interim appeal to Moscow City Court as they wait for the written 18 March decision.

Strasbourg application

Meanwhile, Davidyan lodged an appeal for "interim measures" to the ECtHR on 17 March (Application No. 21762/14), "requesting to stop the applicant's expulsion to Uzbekistan", according to the court response seen by Forum 18. She lodged a full application on the essence of the case in early April.

On 19 March, the court response noted, the Court wrote to the Russian authorities asking that Tukhtamurodov not be removed or expelled from Russia as the case was considered in Strasbourg; that the Russian authorities "put in place an appropriate mechanism tasked with both preventative and protective functions, in order to ensure that the applicant benefits from immediate and effective protection against unlawful or irregular removal from the territory of Russia and the jurisdiction of the Russian courts"; and that the Russian authorities inform the Court "if any administrative steps are taken in respect of the applicant's detention or removal from Russia".

Blazheyeva of Novosibirsk Region Federal Migration Service said it is aware of Tukhtamurodov's ECtHR application and no expulsion will take place while the Court considers the case. "No one is expelling him," she insisted to Forum 18. "He's also been told he won't be deported, or be brought to administrative responsibility for remaining in Russia, during this period."

Uzbek criminal charges

Uzbekistan launched a crackdown in 2009 on Muslims who read the works of the late Turkish theologian Said Nursi. Dozens were sentenced, many of them to terms of imprisonment of up to 12 years. Three groups of about nine men each were sentenced in the city of Bukhara alone in 2009 and 2010, with the longest sentence being nine years' imprisonment. Seven of these were freed under amnesty in spring 2014 (see F18News 24 March 2014 http://www.forum18.org/archive.php?article_id=1941).

Bukhara Region National Security Service (NSS) secret police launched a criminal case against Tukhtamurodov on 20 April 2010. At a closed hearing at Bukhara City Court two days later, Judge J. Murodov ordered that Tukhtamurodov be held in pre-trial detention at the request of prosecutors to face charges under Uzbek Criminal Code Article 244-1, Part 3a and Article 244-2, Part 1.

Article 244-1, Paragraph 3 punishes: "Dissemination of materials containing ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent eviction, or aimed at creating panic among the population, as well as the use of religion for purposes of breach of civil concord, dissemination of calumnious and destabilising fabrications, and committing other acts aimed against the established rules of conduct in society and public order". Point a specifies "with previous planning or by a group of individuals".

Article 244-2, Part 1 punishes: "Creation, leadership or participation in religious extremist, separatist, fundamentalist or other banned organisations".

Both Articles were cited in an ultimately unsuccessful Uzbek attempt to extradite an Uzbek former imam, Khabibullo Sulaimanov, from Kyrgyzstan. Both Articles have repeatedly been used in Uzbekistan to punish those exercising the right to freedom of religion or belief (see F18News 28 January 2013 http://www.forum18.org/archive.php?article_id=1795).

Tukhtamurodov conducted "agitation and propaganda"?

The April 2010 Uzbek court decision, seen by Forum 18, notes that Investigator A. Kilichev of Bukhara Region NSS secret police had declared Tukhtamurodov a wanted man.

The decision accuses him of joining a "prior criminal conspiracy with a group of people using the cover of religion to conduct activity directed at subverting public security". It identifies the group as members of the Nur "religious extremist organisation" which, it said, was banned in Uzbekistan. (Nursi readers deny that the group exists.)

The decision names 26 other individuals, many of whom were sentenced to long prison terms in 2009-10. Among them was Tukhtamurodov's brother Botir, who received a six year prison term (see F18News 4 June 2009 http://www.forum18.org/archive.php?article_id=1306). He remains in prison.

The decision claims that Tukhtamurodov conducted "agitation and propaganda" of the group's ideas by "direct study" of Nursi's works, including his 14-volume collection of writings Risale-i Nur (Messages of Light). Tukhtamurodov also held "unofficial religious gatherings" in his Bukhara home.

In January 2009, police had detained Tukhtamurodov for ten days, accusing him of belonging to a "banned organisation", praying at work and encouraging his wife to be religious, according to his testimony to the Russian Federal Migration Service in 2010. Police beat him, including on the head and stomach. They tried to force him to give testimony against his brother and friends.

Russia tries to extradite Tukhtamurodov

In February 2010, following the 2009 arrests and trials of many of his friends, Tukhtamurodov fled to Russia. However, he was arrested in Novosibirsk in August 2010 after the Russian authorities received an extradition request from Uzbekistan. Strangely, the extradition request from the Uzbek General Prosecutor's Office to Russia's Deputy General Prosecutor Aleksandr Zvyagintsev – seen by Forum 18 – is dated 9 September 2010, but appears to have been faxed to Moscow on 23 September 2010 and is stamped as having been received in Moscow that day, more than a month after Tukhtamurodov's detention in Novosibirsk.

The General Prosecutor's Office in Moscow ruled in November 2010 that he should be extradited to Uzbekistan. Such rulings do not usually give any reasons for their decision. His lawyer challenged the ruling through the courts, succeeding in having the extradition order overturned by Novosibirsk Regional Court in March 2011. He was only freed after the court overturned the order and narrowly avoided being seized and summarily deported.

Finally on 26 May 2011, the Supreme Court upheld the lower court's decision to cancel the order to extradite him back to Uzbekistan (see F18News 14 October 2011 http://www.forum18.org/archive.php?article_id=1625). The court website lists the extradition case as being under Russian Criminal Code Article 280, Part 1, which punishes "calling for extremist activity" with a maximum punishment of four years' imprisonment. This is recognition that Russian prosecutors regarded the Uzbek criminal charges as equivalent to this Article of the Russian Criminal Code.

In September 2010, while Tukhtamurodov was in detention in a Novosibirsk prison, he applied to the Federal Migration Service for asylum, which refused to consider his request for some months. It only began considering it in December 2010, Yelena Ryabinina, Head of the Right to Asylum Programme of the Moscow-based Human Rights Institute, complained to Forum 18 that same month (see F18News 4 February 2011 http://www.forum18.org/archive.php?article_id=1536).

Why the asylum rejection?

On 9 March 2011, Novosibirsk Region Federal Migration Service rejected Tukhtamurodov's asylum application "as he did not meet the criteria of a refugee". However, on 2 June 2011 it granted him temporary refugee status, which is given for one year at a time, "on humanitarian grounds". On 31 May 2012 this status was extended for a further year, before a further extension application was rejected in May 2013.

The May 2013 rejection notes that "information is in hand that he is a member of the religious extremist organisation Nurdzhular which, according to a Russian Supreme Court decision of 10 April 2008, was recognised as extremist and its activity banned on the territory of Russia". The rejection decision here cites information from Novosibirsk Region FSB security service of 28 February 2011.

The rejection decision also points out that as a result of this Supreme Court ruling, the Collective Security Treaty Organisation (CSTO) – which joins Russia and five other former Soviet republics – recognised Nurdzhular as "terrorist and extremist" in its updated 9 December 2010 list.

Russian readers of Nursi's works deny that Nurdzhular exists (see Forum 18's Russia "Extremism" religious freedom survey http://www.forum18.org/Archive.php?article_id=1724).

(Also among the 47 organisations on the 2010 CSTO list is the Jehovah's Witness community in Taganrog, which was declared "extremist" in 2009 – see F18News 8 December 2009 http://www.forum18.org/archive.php?article_id=1385.)

FSB surveillance?

Information from the FSB appears to have played a role in the Federal Migration Service decision to reject Tukhtamurodov's 2013 attempt to renew temporary asylum. The Novosibirsk Region Federal Migration Service rejection also cites a 21 May 2013 Novosibirsk Region FSB security service report that claims that it "has information obstructing the remaining of Uzbek citizen B. B. Tukhtamurodov, born 9 July 1975, on Russian territory". The FSB report was dated the same day as the Migration service rejection of the application.

The December 2013 Federal Migration Service rejection of Tukhtamurodov's appeal also cites this Novosibirsk Region FSB report, as well as a 12 November 2013 Russian Federation FSB report, without revealing the content of either.

The duty officer at the Novosibirsk Region FSB security service – who would not give his name – declined to put Forum 18 through on 15 April to any officer who could discuss what it had said about Tukhtamurodov. The duty officer also said the documents they had written would not be made available to Forum 18. "We don't give out such materials."

Davidyan in Moscow and Tukhtamurodov's Novosibirsk lawyer Zhemchugova complain that these FSB security service documents have not been made available to him or those representing him. "No one has seen them," she told Forum 18. "The information in them is unverified." She said that this formed part of the complaint to Moscow's Basmany District Court.

The FSB security service and other state agencies have for some years been conducting hidden surveillance of Muslim readers of Nursi's works, as well as of Jehovah's Witnesses (see eg. F18News 27 July 2010 http://www.forum18.org/Archive.php?article_id=1470).

Internal government documents have revealed that both Nursi readers and Jehovah's Witnesses have been targeted in ways that suggest that their believers and communities are closely watched by the police and FSB security service – from both within and outside their communities (see F18News 12 August 2010 http://www.forum18.org/Archive.php?article_id=1478). (END)

For more background, see Forum 18's surveys of the general state of freedom of religion or belief in Russia at http://www.forum18.org/Archive.php?article_id=1722, and of the dramatic decline in religious freedom related to Russia's Extremism Law at http://www.forum18.org/Archive.php?article_id=1724.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <http://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.ucoz.ru> Old Believer website, about continuing denial of equality to Russia's religious minorities, is at F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

More reports on freedom of thought, conscience and belief in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>.

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.

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