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KYRGYZSTAN: Extradition overturned, but new charges and transfer to prison close to Uzbekistan

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

The appeal in Kyrgyzstan by Uzbek former imam Khabibullo Sulaimanov against his extradition back to Uzbekistan has been upheld, Forum 18 News Service notes. The successful appeal followed his being recognised as a refugee by the Bishkek office of the United Nations High Commissioner for Refugees (UNHCR) – but he was immediately afterwards detained again and sent by the NSC secret police to a prison in Osh, very close to the border with Uzbekistan. "We had to tell the lawyer – no one had told him of the transfer," Sulaimanov's wife Albina Karankina told Forum 18. She complained that no one would tell the family why he was transferred to Osh, where he is being held and what the new accusations against him are. His lawyer Toktogul Abdyev understands that the new charges relate to an alleged illegal border crossing in 2012, but the UNHCR is "waiting for an official confirmation concerning his transfer and charges brought against him". The NSC secret police would not tell Forum 18 what new charges Sulaimanov faces. But officials confirmed that he is in the Osh Region NSC Investigation Prison.

On 1 March, a court in the Kyrgyz capital Bishkek upheld the appeal by Uzbek former imam Khabibullo Sulaimanov against his extradition back to his native Uzbekistan, Forum 18 News Service notes. He is wanted there on criminal charges which his family and human rights defenders insist were brought to punish him for leading mosques in the 1990s, before he fled Uzbekistan. However, rather than being freed, Sulaimanov was for unexplained reasons immediately transferred to a National Security Committee (NSC) secret police prison in the southern city of Osh, where he faces new Kyrgyz criminal accusations. Unlike Bishkek, Osh is extremely close to the border with Uzbekistan.

The Bishkek office of the United Nations High Commissioner for Refugees (UNHCR), which observed the latest appeal hearing, welcomed the overturning of the extradition decision. They and others feared that were Sulaimanov to undergo *refoulement* (return to "territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion"), he would be at risk of torture (see F18News 6 February 2013 http://www.forum18.org/Archive.php?article_id=1799).

"UNHCR welcomes Bishkek City Court decision of 1 March and hopes that the country will strictly follow its non-*refoulement* obligation under international refugee and human rights law," the Bishkek UNHCR office told Forum 18 on 9 March.

The UNHCR has previously pointed out to Forum 18 that Sulaimanov "is protected from *refoulement* in accordance with Article 33 of the 1951 Convention Relating to the Status of Refugees which the Kyrgyz Republic acceded to" (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

Appeal against extradition upheld

On the afternoon of 1 March, a panel of three judges at Bishkek City Court - Zhanyl Mambetaly, Mederbek Satyev and Muslim Sultanaliyev – overturned the Pervomaisky District Court decision from December 2012 and ordered that Sulaimanov's appeal against the General Prosecutor's Office extradition order be re-heard by the lower court.

On 27 February, two days before the hearing, UNHCR recognised his status as a refugee (see below). The UNHCR Refugee Certificate, seen by Forum 18, testifies to Sulaimanov's status and insists that he "should, in particular, be protected from forcible return to a country where [he] would face threats to [his] life or freedom".

Sulaimanov was not brought to the courtroom, Mihra Rittmann, Central Asia researcher for Human Rights Watch who was present in court, told Forum 18. "The representative from the Prosecutor General's office was not there, although the other prosecutorial representative was there." Observing the hearing, as in previous hearings, were representatives from the UNHCR, the Organisation for Security and Co-operation in Europe (OSCE), and a number of diplomats.

Sulaimanov's lawyer Toktogul Abdyev presented a copy of Sulaimanov's UNHCR Refugee Certificate to the court almost immediately after the hearing began, Rittmann told Forum 18. The prosecution was given an opportunity to review the certificate.

Then the court gave Sulaimanov's lawyer the floor to make his closing statement. He reiterated previous arguments and asked that Sulaimanov be released and the extradition order be found illegal.

After the prosecution made their closing statement, the court called a recess, Rittmann said. When the judges returned after approximately 15 minutes, they ruled that the December 2012 court decision be overturned.

Sulaimanov's lawyer Abdyev told Forum 18 that Bishkek City Court has still not issued its decision in writing, he told Forum 18 from Bishkek on 11 March.

Transfer to Osh secret police prison

However, despite Sulaimanov's successful challenge to the extradition order's legality and despite his status as a UNHCR-recognised refugee, his family told Forum 18 that they learnt on 2 March that he had been transferred to Osh. The southern city is a one-hour flight or a 12-hour road journey from Bishkek, and is very close to Kyrgyzstan's border with Uzbekistan.

"We had to tell the lawyer – no one had told him of the transfer," Sulaimanov's wife Albina Karankina told Forum 18 from Bishkek on 6 March. She complained that no one would tell the family why he was transferred to Osh, where he is being held and what the new accusations against him are.

On 4 March Judge Tursunbai Aybatiyev of Osh City Court approved Sulaimanov's detention for an initial two-month period in the Osh Region NSC Investigation Prison as the case is being investigated, the court chancellery told Forum 18 on 7 March.

Karankina told Forum 18 she knew nothing of this hearing until Forum 18 had told her. Neither she – nor anyone else connected with the case known to Forum 18 – has been able to get a copy of the court decision.

Sulaimanov's lawyer Abdyev told Forum 18 that although he has not been able to travel from Bishkek to Osh to collect the written decision, he has already challenged it to Osh Regional Court. He said he plans to travel to Osh on 15 March to collect the court decision and work on the case locally.

Kyal (he refused to give his last name), the Deputy Head of Osh Region NSC Investigation Prison, confirmed that they are holding Sulaimanov. "I have seen him," he told Forum 18 from Osh on 11 March. "His health is OK, he is not ill." Asked if Sulaimanov has been beaten in the prison, the Deputy Head responded: "We don't beat or torture people here. We don't touch those we arrest."

What are the new charges?

Deputy Head Kyal of the NSC secret police Investigation Prison refused to discuss the nature of the charges against Sulaimanov, or give the name of the NSC investigator.

The officer who answered the general number of the NSC secret police in Osh refused to discuss Sulaimanov's case with Forum 18 on 11 March. The officer – who would not give his name – also refused to put Forum 18 through to any other officer who might be familiar with the case.

Sulaimanov's lawyer Abdyev told Forum 18 that his client is facing accusations under Criminal Code Articles 346 ("Illegal crossing of the state border") and 350 ("Forgery, manufacture, or sale of falsified documents, government awards, stamps, seals, and forms"). Both charges apparently relate to an alleged illegal border crossing in 2012.

Article 346 has a maximum penalty for an individual who has not used violence of three years' imprisonment. Article 350 has a maximum punishment for use of forged or false documents, for example for travel, of two years' imprisonment.

Sulaimanov's lawyer Abdyev said the Investigator, whose surname is Dzhembayev, is from the NSC secret police. "I don't know why the case is in the hands of the NSC," Abdyev told Forum 18.

The UNHCR is seeking official confirmation of the latest accusations against Sulaimanov. "We have received information from Mr Sulaimanov's family that he was transferred to Osh on 2 March 2013," the UNHCR told Forum 18. "Currently we are waiting for an official confirmation concerning his transfer and charges brought against him."

UNHCR grants refugee status, Kyrgyzstan refuses to process asylum

Despite obstruction by the General Prosecutor's Office and the NSC, the UNHCR was able to conduct a brief interview with Sulaimanov in the Bishkek NSC Investigation Prison on 9 January, and a more extensive interview on 8 February (see F18News 26 February 2013 http://www.forum18.org/Archive.php?article_id=1806).

As noted above, Sulaimanov's UNHCR Refugee Certificate insists that he "should, in particular, be protected from forcible return to

a country where [he] would face threats to [his] life or freedom". The Certificate notes that Sulaimanov had entered Kyrgyzstan in 1999 at Uzgen in Osh Region.

However, Forum 18 has been unable to find out why Kyrgyzstan's Youth, Employment and Labour Ministry, which also handles asylum issues, is still refusing to process Sulaimanov's asylum application in Kyrgyzstan. The telephone of the Head of the Ministry's Refugee Department, Bazarkul Kerimbayeva, went unanswered each time Forum 18 called on 11 March.

"The refusal to process Sulaimanov's asylum application is a gross violation of his rights," his lawyer Abdyev told Forum 18. "They couldn't meet him and process the application in more than three months. They were deliberately dragging their feet."

Sulaimanov lodged his asylum application in November 2012 while he was in detention. However, the Ministry has repeatedly refused to process this. Sulaimanov's lawyer Abdyev strongly criticised this failure in a 20 February appeal to the President (see F18News 26 February 2013 http://www.forum18.org/Archive.php?article_id=1806).

Detained by NSC secret police from October 2012

The NSC secret police originally arrested Sulaimanov at the family home in Bishkek on 6 October 2012. He was held from the following day until 1 March 2013 in the Bishkek NSC Investigation Prison, where he was denied access to any visitors – including from his family - except his lawyer and the UNHCR (see F18News 26 February 2013 http://www.forum18.org/Archive.php?article_id=1806).

Sulaimanov's arrest followed an extradition request from Uzbekistan, which accused him of being a fundamentalist and a terrorist. The criminal charges facing him in Uzbekistan carry a maximum 15 years' imprisonment. In November 2012, an Investigator at Kyrgyzstan's General Prosecutor's Office approved Sulaimanov's extradition. Sulaimanov denied the charges and challenged the extradition order (see F18News 28 January 2013 http://www.forum18.org/Archive.php?article_id=1795).

Since late 2012, Sulaimanov has faced successive court hearings about both the extradition order itself, and also his detention by the NSC secret police (see F18News 26 February 2013 http://www.forum18.org/Archive.php?article_id=1806). (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.

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