

RETURN TO TORTURE

EXTRADITION, FORCIBLE RETURNS AND REMOVALS TO CENTRAL ASIA

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Cover photo: A pre-trial detention centre in Kyrgyzstan, one of several institutions that people are returned to in Central Asia.
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GLOSSARY

CIS	Commonwealth of Independent States: the Former Soviet Republics of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.
SCO	Shanghai Cooperation Organisation
Security Forces	Used in this report to refer to all law enforcement forces under the control of the Ministry of the Internal Affairs, and the National Security services.
UNHCR	The United Nations High Commissioner for Refugees (“UNHCR”) is mandated by the United Nations General Assembly to provide international protection to refugees and other persons within its mandate and for seeking permanent solutions to the problem of refugees by assisting governments and to supervise the application of treaties relating to refugees, pursuant to its 1950 statute. ¹ UNHCR's supervisory responsibility is also reflected, inter alia; in Article 35 of the 1951 Convention relating to the Status of Refugees and Article II of its 1967 Protocol.
The Refugee Convention	UN 1951 Convention relating to the Status of Refugees and its 1967 Protocol
UNHCR mandate refugee status	Mandate refugees are those recognized by UNHCR as entitled to international protection pursuant to its mandate. In carrying out refugee status determination (RSD) UNHCR considers whether the individual concerned falls within the criteria for inclusion set out in the refugee definition of the 1951 Convention; and, if this is not the case, whether he/she meets the criteria of the broader refugee definition under UNHCR's mandate.
MIA	Ministry of Internal Affairs
FMS	Federal Migration Service of the Russian Federation.
ECtHR	The European Court of Human Rights is an international court set up in 1959. It rules on individual or state applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. Since 1998 it has sat as a full-time court and individuals can apply to it directly. The court delivers binding judgements to states. The State parties also undertake to abide by decisions of the Court and to undertake general measures to prevent similar violations happening in the future.
ECHR	European Convention on Human Rights and Fundamental Freedoms
Rule 39 interim measure	European Court of Human Rights indicates interim measures under Rule 39 of the Rules of the Court. In cases of extradition or deportation, the Court can instruct the state concerned to stay the removal of an individual pending the ECtHR's proceedings to avoid irreparable

damage.

CAT	UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CPC	Criminal Procedural Code
ICCPR	International Covenant on Civil and Political Rights
<i>Non-refoulement</i>	The principle of <i>non-refoulement</i> forbids the forcible transfer (refoulement) of people to any country or territory, or any other place, where they face a real risk of serious human rights violations or abuses (e.g. torture or other ill-treatment, extrajudicial execution or enforced disappearance). The <i>non-refoulement</i> principle is the cornerstone of international refugee law. In addition, the principle of <i>non-refoulement</i> is well established in international human rights law. It is explicitly codified in some human rights treaties and other human rights instruments. Further, domestic and international courts and human rights bodies and experts have consistently found that certain fundamental human rights entail, implicitly, an obligation not to transfer people when there are substantial grounds for believing that they face a real risk of violations of those rights in the event of their deportation, expulsion, extradition, handover, return, surrender, transfer or other removal from the state's jurisdiction. In those circumstances, human rights law enjoins the removal of the individuals concerned from the relevant State's jurisdiction. The principle dictates that, irrespective of all other considerations, states are not absolved from responsibility "for all and any foreseeable consequences" suffered by an individual following removal from their jurisdiction. States have also been found liable in cases of indirect refoulement – also known as chain refoulement – as well as constructive refoulement. Amnesty International considers that the principle of <i>non-refoulement</i> , set out in Article 33 of the 1951 UN Convention relating to the Status of Refugees (UN Refugee Convention) and numerous other international instruments, is part of customary international law and as such applicable to all states, regardless of whether they are parties to relevant treaties.
International protection	Measures by states or UNHCR and others to ensure and safeguard, in accordance with international law and standards, the human rights and security of asylum-seekers and refugees or others who cannot obtain legal protection from their country of origin or habitual residence. Such measures include in particular ensuring respect for the principle of <i>non-refoulement</i> and access to fair asylum procedures.
Extradition	The surrender of an alleged criminal usually under the provisions of a treaty or statute by state to another having jurisdiction to try the charge.
Central Asia	In this report, this term refers to the former-Soviet states of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

SIZO	Pre-trial detention facility
IVS	Temporary detention facility under the jurisdiction of the Ministry of Internal Affairs
Sixth Department MIA	Department for the Fight against Organised Crime of the MIA of Tajikistan

1. INTRODUCTION

"I was detained [...] near Universitet metro station [in Moscow] at nine or 10 in the evening...a car blocked the path... I ran away. A man in plain clothes ran after me. I didn't stop. One or two shots rang out... they grabbed me. I asked to ring my lawyer. I was beaten, laughed at, hit with a truncheon. Then a big car drew up. I was forced into the car... There were four-five people in the car... I wasn't allowed to look up. They started to beat me. They said 'We'll kill you'. They put a gun to my head and said that if I didn't agree to return to my country they would kill me. I agreed [to return to my country]. The person asking the questions was a Tajikistani.

"They held me that night and the next day in the car. Then they took me in a smaller car with a [Russian] government number plate that I could not see properly to [the] airport, directly to the plane. Then I was handed over to the Tajikistani [officials]. I didn't see a ticket. I was taken onto the plane at about midnight. At four in the morning I arrived in Khujand airport, [Tajikistan]. [Tajikistani] [o]fficials [...] beat me. I don't know what they beat me with because they put a hat on my head and I could not see. They interrogated me without a lawyer. I have committed no crime."

Extract from a letter by 27-year-old Tajikistani asylum-seeker Savriddin Dzhurayev, sent from prison in Tajikistan to his lawyers in Moscow, Russia, after he was abducted from a street in Moscow on 31 October 2011.

In the name of national security, member states of the Commonwealth of Independent States (CIS) are increasingly co-operating in returning people to Central Asian countries where they are at real risk of torture or other ill-treatment. Despite being signatories to international human rights agreements which clearly set out their obligations not to return anyone to a country where they would be at risk of torture², CIS states are prioritising³ regional co-operation and mutual assistance agreements⁴ designed to ensure national and regional security and combat terrorism. Such regional agreements contain very limited human rights provisions and safeguards.

This situation is exacerbated by the historical ties between CIS states which, until 1991, formed the Union of Soviet Socialist Republics (USSR). Many older government employees working within the Ministries of Internal Affairs, Border Guard Services and state security agencies will have worked or trained in Russia or other former Soviet states: they share a language, a political culture and lasting operational ties. These connections play out today in cases where security services of one CIS state collude with those in another to ensure the swift return of individuals whose extradition is sought, with no regard for judicial process.

This report gives numerous examples of such collusion: cases where individuals are returned through extradition requests which are processed as formalities despite being based on obviously fabricated or unreliable evidence; cases where the authorities of requested states neglect to check the substance of extradition requests with due diligence and fail to assess the risk of torture that an individual would face on return; cases where the authorities blithely rely on diplomatic assurances from requesting countries that a person will not be tortured or

otherwise ill-treated on return; cases where security forces carry out joint interrogations on the territory of other CIS countries; and, most egregiously, cases in which they collude in the abduction and forced return of individuals to the countries in which they are wanted for questioning.

Those people most at risk of return to torture in Central Asia include those who are members or suspected members of banned Islamic groups or Islamist parties or people suspected of having committed terrorism-related offences; individuals linked or perceived to be linked to political opposition, including individuals suspected of providing financial support to the opposition; and those suspected of membership of banned or unregistered religious organizations. The groups particularly targeted by the authorities across the region include the Islamic Movement of Uzbekistan (IMU), the Islamic Jihad Union (IJU), Hizb-ut-Tahrir⁵, and supporters and followers of Salafism, Wahhabism, Taabli Jamaat, and the Turkish theologian Said Nursi.⁶ Others at risk include people who are suspected or accused of involvement in violent incidents as well as human rights activists, journalists, lawyers, political foes and government critics, business people and former – often high-profile – members of the government and security forces.

In the last two years the authorities in **Kazakhstan**, the **Russian Federation (Russia)** and **Ukraine** have stepped up efforts to forcibly return members or suspected members of certain groups to **Tajikistan** and **Uzbekistan** notwithstanding the fact that they would face a real risk of torture and other ill-treatment in these countries.

In cases where interventions by international bodies, including the European Court of Human Rights, have sought to prevent extraditions from proceeding, CIS states have sometimes resorted to more extreme measures to ensure the return of an individual to Central Asia: abductions. Incidents of abductions and attempted abductions of asylum-seekers, refugees or other nationals of Central Asian countries by Central Asian security services operating freely on one another's territory and in Russia and Ukraine, have continued unabated over the last few years, and are occurring with such regularity that they amount to a region wide extraordinary renditions programme. They have been described by the European Court of Human Rights as “an absolute negation of the rule of law”.

This strategy is being employed with increasing frequency by CIS countries, signalling an alarming trend whereby governments openly violate fundamental human rights protections with impunity and justify such abuses by invoking threats to national security.

Although Amnesty International does not oppose individuals being returned to face judicial proceedings, it does oppose all cases of return where a person would be at real risk of torture or other ill-treatment. The global ban on torture and other cruel, inhuman or degrading treatment requires governments to take positive steps to prohibit it, prevent it from happening, prosecute those responsible, and provide effective redress to victims. In addition to directly forbidding states to use torture or other ill-treatment, the ban prohibits governments from expelling, returning, extraditing or otherwise transferring a person to another country where there are substantial grounds for believing that he or she would be at real risk of being subjected to torture or other ill-treatment. This dimension of the torture ban, the *non-refoulement* obligation, is a primary tool of torture prevention – and it is under assault around the globe.⁷

Any government that agrees to deport, extradite or otherwise remove any person to a country or territory where there is a real risk that they would face torture or other ill-treatment is acting unlawfully. Under international human rights law, all individuals, be they refugees, asylum-seekers, criminal suspects or people suspected or accused of acts of terrorism, have a right to be protected from return to a country where they would be at a real risk of torture or other ill-treatment.

These alarming trends are occurring in plain sight of the international community. Rulings by the European Court of Human Rights prohibiting the return of wanted individuals are being blatantly circumvented; however the international community is turning a blind eye. The Committee of Ministers of the Council of Europe has failed to hold Russia and Ukraine to account for ignoring the European Court of Human Rights' interim injunctions, while the UNHCR has, in certain cases, been reluctant to draw attention to states routinely privileging security concerns over their core human rights obligations in Central Asia.

If governments, inter-governmental and international organizations continue to prioritize co-operation on regional security over respecting and protecting human rights, increasing numbers of people will be put at risk of torture and ill-treatment in Central Asia. It is imperative that extradition requests from Central Asian states are scrupulously examined before making a decision to return anyone, and that there are fair and effective avenues of appeal open to persons who wish to challenge extradition. In short, the decision to return wanted individuals must reside with courts prepared to uphold human rights standards – and not dependent on the convenience and good relations of security services and their political paymasters.

2. TORTURE AND OTHER ILL-TREATMENT IN CENTRAL ASIAN STATES

“I understand that the Russian Supreme Court, in accordance with the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters ... ruled to extradite me to the Republic of Tajikistan. But here in Tajikistan my constitutional and civil rights were violated, I was subjected to endless torture, psychological pressure and beastly sexual violence by law enforcement officials...”

Extract from a letter to the Russian General Prosecutor's Office by Muhammad Akhadov, Tajikistani national who was extradited in September 2008 from Russia to Tajikistan.

Amnesty International has closely monitored the human rights situation in the Central Asian states of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan since they became independent states on the break-up of the Soviet Union in 1991. In all five Central Asian states there is overwhelming evidence of pervasive torture and other ill-treatment of detainees by both regular police and security services. Over the past two decades thousands of people across the region have alleged that they have been arbitrarily detained and tortured or ill-treated in custody in order to extract a forced confession or money from relatives. In this period, piecemeal reforms have been introduced in most Central Asia countries with the aim of strengthening the accountability of law enforcement agencies and improving the protection available in the criminal justice system. Nowhere, however, have they had any significant success in eliminating the practices of torture and other ill-treatment that are often used in relation to people suspected of ordinary crimes, and routinely used in relation to political

opponents and individuals suspected of involvement in extremism and terrorism-related activities or in banned religious groups.

Across the region, endemic corruption in law enforcement bodies and the judiciary contributes to a climate of impunity in the region, leading in turn to a lack of public confidence in the criminal justice system. Victims of abuses rarely lodge complaints as they are well aware that they are unlikely to obtain justice, or get compensation. Many are unwilling to testify against members of the security forces for fear of reprisals against themselves or their relatives and associates.

In all five republics, detainees are often tortured and ill-treated while being held incommunicado for initial interrogations. Those detained in closed detention facilities run by National Security Services. On charges related to national security or “religious extremism” are at particular risk of torture and other ill-treatment.

Information based on confessions extracted under torture and other ill-treatment is also routinely admitted as evidence in court. Although the presumption of innocence is enshrined in law, it is violated on a regular basis, particularly in the context of cases relating to issues of national security or of extremism and terrorism. Prejudicial statements by high ranking officials are commonly made in government-controlled media outlets against individual suspects before the start of trials. Across the region, the judiciary offers little protection when torture allegations are raised in court and rarely resists the expressed will of the executive.⁸

It is against this backdrop that the authorities of all five of these countries continue to request – and count on securing – the extradition of wanted individuals. Across the region, these regularly include political opponents, government critics and wealthy individuals out of favour with the regimes.⁹

In Tajikistan and Uzbekistan, and to a lesser degree in Kazakhstan and Kyrgyzstan, the authorities frequently seek the extradition from neighbouring countries and Russia and Ukraine of suspected members of banned Islamic movements or Islamist parties. Such parties include the IMU, IJU, Nurchilar and Hizb-ut-Tahrir.¹⁰ Individuals suspected of involvement in the May 2005 Andizhan unrest in Uzbekistan¹¹ or the June 2010 violence in the south of Kyrgyzstan¹² is also sought for extradition. Individuals falling into these categories are particularly at risk of torture and ill-treatment, but Amnesty International is also concerned that people extradited or forcibly returned in connection with ordinary crimes face a real risk of torture and other ill-treatment in Central Asian states.¹³

Indeed, the extremely high likelihood of returnees to Central Asian Republics being subjected to torture and other ill-treatment is reflected in the many judgements by the European Court of Human Rights prohibiting returns on these grounds. In the last few years alone, the European Court of Human Rights has issued several such rulings expressly concluding that returnees, particularly those in the categories identified above, would face a real risk of torture if returned to Kazakhstan¹⁴, Kyrgyzstan¹⁵, Tajikistan¹⁶, Turkmenistan¹⁷, and Uzbekistan¹⁸.

3. INTERNATIONAL HUMAN RIGHTS LAW VS. REGIONAL SECURITY AGREEMENTS

“It’s because of the close mutual co-operation between Uzbekistan and Kyrgyzstan.”

The Human Rights Ombudsperson of Kyrgyzstan explaining why Kyrgyzstan plans to extradite Habibullo Sulaimanov to Uzbekistan in an interview with Forum 18 on 28 January 2013.

The Ombudsperson acknowledged that **“extraditing Sulaimanov back to Uzbekistan would violate our international human rights obligations and harm Kyrgyzstan's image around the world”**.

3.1 THE ABSOLUTE PROHIBITION ON RETURN TO A REAL RISK OF TORTURE OR OTHER ILL-TREATMENT

“The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct... Thus, whenever [...] an individual would face a real risk of being subjected to [torture or other ill-treatment] if removed to another State [...], the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration.”

European Court of Human Rights, *Chahal v. UK*, 15/11/1996 paragraphs 79-80

Torture and other cruel, inhuman or degrading treatment (ill-treatment) are absolutely prohibited under international law. This is a rule of general international law that applies to all states irrespective of their specific treaty obligations. It is also set out in numerous international treaties such as the ICCPR, and the Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment (CAT), to which **Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan** as well as **Russia and Ukraine** are party.

The prohibition on torture is absolute: it may never be subject to limitation or suspended, even during times of war, threat of war, internal political instability or states of emergency. No exceptional circumstances of any kind, including any threats of acts of terrorism or violent crime, may be invoked as justification of torture or other ill-treatment. States have an obligation not only to ensure that their own agents do not commit acts of torture or other ill-treatment, but also to protect everyone within their jurisdiction from such acts committed by third parties. States are accordingly prohibited from sending any person against their will to another country where there is a real risk that they will be subjected to torture or other ill-treatment. This is explicitly set out in the CAT which states in Article 3 that “No State Party shall expel, return (*‘refouler’*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”, and goes on to stipulate the responsibility of requested states to carefully assess the risk of torture in individual cases: “For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights [Emphasis added]”.

The European Court of Human Rights has repeatedly held that Article 3 of the Convention, which prohibits torture or other inhuman or degrading treatment, entails an absolute *non-refoulement* prohibition. Accordingly, the Court has consistently found that Article 3 prohibits the expulsion, extradition, surrender, transfer or other removal from the State’s jurisdiction of any individual where there are substantial grounds for believing they face a real risk of violations of Article 3¹⁹ in the country to which removal is contemplated. In the seminal case of *Chahal v. UK* the Court ruled that states must carefully assess the risk that someone would face if they are sent to the country in question; that the individual concerned cannot be deported if there is a real risk of torture or other ill-treatment; and underlined that no exemptions from this prohibition can be made on the grounds of national security.

With regard to refugees and asylum-seekers, the principle of *non-refoulement* is explicitly set out in Article 33 of the 1951 UN Convention relating to the Status of Refugees, as well as in other international refugee law instruments.²⁰ Article 33(1) states that “[n]o Contracting State shall expel or return (*‘refouler’*) a refugee in any manner whatsoever to the frontiers of 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.” All asylum-seekers are presumptively entitled to be considered as refugees, unless and until, following assessment of their claim through a fair and effective status determination procedure, they are found not to be eligible for international protection. Therefore asylum-seekers are also entitled to benefit from the principle of *non-refoulement* and must not be returned or expelled pending full completion of refugee status determination procedures, including appeals.

Article 1F of the 1951 Refugee Convention provides for exclusion from protection under the Convention in the case of any person where there are serious reasons to consider that the person has committed crimes under international law,²¹ and in Article 33(2) qualifies the prohibition on *refoulement* stated in Article 33(1).²² However, as noted above, under other

provisions of international law, states are prohibited from sending individuals to countries where they face a real risk of torture or other ill treatment; this prohibition is absolute and permits no exclusions, limitations, conditions or qualification for any reason. Therefore, someone who has forfeited protection under the Geneva Refugee Convention would still be protected, under other provisions of international law, from forcible return in circumstances where upon return s/he would face a real risk of torture or other ill-treatment.

3.2 REGIONAL SECURITY CO-OPERATION AGREEMENTS

“The Minsk Convention on Legal Assistance in civil and criminal matters of 1993, other agreements between CIS (Commonwealth of Independent States) countries and the Shanghai Co-operation Agreement offer general language about protection against abuse, but they operate more meaningfully as international co-operation in law enforcement. The result is that international law prohibitions on return/refoulement to places where a person may be subjected to torture or cruel, inhuman or degrading treatment are not guaranteed in fact.”

The UN Special Rapporteur on torture raised concerns about this following his visit to Tajikistan in May 2012.²³

The absolute nature of the prohibition on returning people to a place where they are at real risk of torture or other ill-treatment overrides any extradition obligations, or the terms of any other co-operation agreements between states.²⁴ The practice, in so far as Central Asia is concerned, has been very much the reverse, however. Central Asian states and neighbouring countries such as Russia and China are instead prioritizing adherence to regional co-operation and mutual assistance agreements, such as the Shanghai Co-operation Agreements and the Minsk Convention, which emphasize national and regional security and combating terrorism and which have no or very limited provisions safeguarding the human rights of individuals facing extradition.

3.2.1 SHANGHAI CO-OPERATION AGREEMENTS

The Shanghai Co-operation Organization (SCO) is an international body set up in 2001, which groups China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The Secretariat of the SCO was formally established in Beijing in January 2004 and a regional “Anti-Terror Centre” was officially opened in Tashkent, Uzbekistan, in June 2004.²⁵

The 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism, to which all six states are party, calls upon SCO member states to take measures against “terrorism, separatism and extremism”, including co-operation in the apprehension of individuals wanted on anti state and terrorism charges and in their extradition to their country of origin. The 2005 Concept of Co-operation of SCO Member States, enshrines the principle of “mutual recognition” according to which member states automatically recognize acts of “terrorism, separatism or extremism” reported to have been committed or planned – even if not actually carried out – in one state as such acts even if they may not qualify as such under the member state’s own legislation.²⁶

In the 2005 Declaration of Heads of SCO Member States in Astana, Kazakhstan, participating states committed to denying asylum to all individuals accused or suspected of “terrorism, extremism or separatism”.²⁷ This is of particular concern to Amnesty International, as it effectively denies access to refugee-determination procedures – and

consequently the right to seek and enjoy asylum from persecution – to any individual who is accused or merely suspected of acts of “terrorism, extremism or separatism” in one of the SCO member states, in a way that is not consistent with the Refugee Convention. The Declaration, like most formal SCO documents and agreements, makes no reference to the international obligations of its member states, including the principle of *non-refoulement* enshrined in the 1951 Refugee Convention and the absolute prohibition of torture or other ill-treatment.²⁸

These agreements that have been concluded within the framework of the SCO have made the extradition of refugees to member states significantly easier as states prioritize these agreements over international human rights and refugee obligations. According to human rights defenders from the Komitet Grazhdanskoe Sodeistvie (KGS) or Civil Assistance Committee in Russia “there has been a sharp increase in extraditions of refugees to the countries [of the CIS] of which they are citizens, since the SCO was set up.”²⁹

Co-operation between the police and security services of SCO member states has similarly increased, especially in the apprehension and detention of individuals wanted on criminal charges in a member state. This has been facilitated by shared registers of individuals wanted for membership of banned organizations or suspected of membership of banned organizations and for prosecution on other criminal grounds. These registers are kept and updated by the SCO Regional Anti-Terror Centre in Tashkent, Uzbekistan. The information on individuals which is entered and kept on these registers is secret and not open to public scrutiny. It is shared only by the security forces and prosecution offices of the SCO member states. It is therefore very difficult to check and challenge the veracity of the personal data and criminal charges brought against individuals.

In November 2009, in its observations on the Russian Federation’s sixth periodic report as a state party to the ICCPR, the UN Human Rights Committee expressed concern about extraditions and informal transfers within the framework of the Shanghai Convention, and called on the Russian authorities to “ensure that no individual, including persons suspected of terrorism, who are extradited or subjected to informal transfers, whether or not in the context of the [SCO] is exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment”.³⁰

3.2.2 THE MINSK CONVENTION

The 1993 CIS Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Minsk Convention)³¹, to which Kazakhstan, Russia and Ukraine³² are party, requires state parties to guarantee to citizens of all CIS states in their territories, civil, political, economic and cultural rights and liberties in accordance with generally recognized international norms on human rights, without discrimination.

However, the Minsk Convention also provides for legal assistance between member states in criminal matters, including extradition³³, and the more specific articles of the Convention relating to extradition in criminal matters take precedence over the more general and vaguely defined human rights provisions. The Minsk Convention contains no explicit prohibition on the extradition of an individual to a country where he or she will be at risk of torture or other ill-treatment. As with the Shanghai Convention on Combating Terrorism, Separatism and Extremism, these instruments do not provide for internationally recognized principles of

refugee protection, including the principle of *non-refoulement*, and the absolute prohibition of torture under international law.³⁴

3.2.3 THE CHISINAU CONVENTION

The 2002 Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases,³⁵ which has been ratified only by **Kazakhstan**, **Kyrgyzstan** and **Tajikistan** but not Russia, Ukraine or Uzbekistan, contains an explicit reference to circumstances under which a state party may decline a request for extradition.

In language similar to the Refugee Convention, Article 89(f) states that a state party may refuse to extradite individuals sought on criminal charges in their country of origin “where there are serious reasons to believe that an extradition request is related to persecution for reasons of race, gender, religion, nationality or political beliefs.” However, the Chisinau Convention makes no explicit reference to the absolute prohibition on return to torture or other ill-treatment.

3.2.4 BILATERAL AGREEMENTS

Bilateral Agreements also exist between some of these states. One that raises particular concern in the context of this report is the bilateral travel agreement³⁶ between **Russia and Uzbekistan**. Under this agreement, the two countries commit to respecting each other’s legislation when allowing a citizen of Russia or Uzbekistan through international checkpoints. The agreement has an explanatory note from the Uzbekistani Ministry of Foreign Affairs stating that Uzbekistani citizens leaving Russia to travel to a country with which Uzbekistan has a visa regime are first required to obtain an “exit permit” stamp in their passports to authorize their travel abroad. In the past this agreement has proved a particular problem for Uzbekistani refugees hoping to be resettled to a third country.

4. COLLABORATION AND COLLUSION BETWEEN AUTHORITIES IN THE CIS

The willingness of governments of CIS member states to privilege regional security co-operation over their international human rights obligations is reflected in the previous section. As the cases documented in this report consistently demonstrate, this co-operation extends in practice to a willingness to subvert due process and, when necessary, engage in criminal acts to secure the return of wanted individuals.

At the extreme end of this collusion in human rights abuses are the cases of abduction and rendition documented in section 5.2. Short of this, however, a variety of ruses and subterfuges are frequently employed to secure the return of wanted individuals to countries in which they are at real risk of being tortured and ill-treated, or to keep them in detention until their return can be arranged (see sections 5.1 and 5.3). These acts require the commission of, or complicity in, abuses by a host of officials at different levels and in different functions – including police, migration officials, prosecutors and judges – who all too frequently oblige.

The complicity of public officials in the judicial and law enforcement structures in facilitating unlawful returns is aggravated by the collaboration between the security services of CIS member states. Again, this is most evident in the cases of abduction documented below, in respect of which the authorities' protestations of innocence and ignorance lack all credibility. Indeed, it is virtually impossible for a wanted individual to disappear on release from a prison in one country and reappear shortly afterwards in prison in another, without the involvement – and close co-operation – of the secret services of both countries.

There are, moreover, numerous reports of the security services from one CIS country interrogating – and torturing – people in detention in another; clearly with the consent and co-operation of the security services of the latter.

The case of Abdusamat Fazletdinov, a 19-year old labour migrant from Namangan in Uzbekistan,³⁷ is one such example. On 9 December 2012 he committed suicide in his cell in a pre-trial detention facility in Moscow, terrified that he would be extradited to Uzbekistan where officers of the National Security Service (NSS) had threatened to torture him. The Russian human rights organisation Memorial said that on 7 December three Uzbekistani NSS officers were given access to Abdusamat Fazletdinov and four other migrant workers from Namangan arrested with him a month earlier. They interrogated the men in a basement cell and reportedly threatened to torture them, for example by pulling out their finger nails, to make them confess to belonging to and financing a banned Islamist group. They showed the men photographs of acquaintances from Namangan detained in Uzbekistan in relation to the same criminal case who bore visible marks of beatings and other ill-treatment, and told them they would spend up to 20 years in prison. Abdusamat Fazletdinov later reportedly became extremely distressed and, two days later took his own life. His mother denied he had links to any banned organizations. Just a few days later, on 20 December 2012, Uzbekistani NSS

officers reportedly paid a visit to Uzbekistani national Latif Zhalalbaev, in prison in the KP-12 colony in Kaliningrad region, Russia. Latif Zhalalbaev alleged³⁸ that they took him to the cellar, interrogated him and beat him in order to get him to provide them with information on a group of men from Namangan who allegedly were financing a “jihadist” group in Uzbekistan. The NSS officers reportedly threatened that as soon as he was released from prison he would be extradited to Uzbekistan where he would “rot in jail”. They accused Latif Zhalalbaev of being a conspirator of Abdusamat Fasletdinov and said the latter had been killed in Moscow and that Latif Zhalalbaev could expect the same fate. Latif Zhalalbaev was beaten so badly that he was unable to move unaided afterwards.

Immigration officials and law enforcement officers in Kazakhstan have also colluded with their counterparts in Uzbekistan. In May 2008 three Uzbekistani asylum-seekers were detained by Kazakhstani police officers after they left the UNHCR office in the centre of Almaty, Kazakhstan.³⁹ According to the men, they were interrogated by Kazakhstani and Uzbekistani officers together at the police station and threatened with forcible return to Uzbekistan. They were only released after the joint intervention of representatives of the office of the UNHCR and members of the Kazakhstan International Bureau of Human Rights NGO.

Amnesty International has regularly received information, including from Uzbekistani asylum seekers directly and lawyers representing them,⁴⁰ that Kazakhstani migration police have been co-operating with their Uzbekistani counterparts over the last decade and have transmitted information on asylum-seekers and refugees to the Uzbekistani authorities, including addresses and contact numbers, finger prints, and photographs. Uzbekistani authorities then exerted pressure on relatives in Uzbekistan to get the refugees to return “voluntarily”, in some cases even paying for a relative to travel to Kazakhstan to trace the refugees and persuade them to return.

The extent of the co-operation by the security services of CIS member states is not entirely surprising. Indeed, twenty years after the break up of the Soviet Union, old collegiate ties, common institutional cultures and the shared perception across the region of the threat from Islamist extremist groups have resulted in the successor institutions to the soviet KGB maintaining extremely close ties – indeed, as many of the examples in this report suggest, often still acting as one single organisation. Moreover, pressure from other governments on the authorities in CIS countries to stop this collusion is virtually absent as the US, European, and other governments foster and maintain similar forms of co-operation with security and intelligence services all over the globe – including in the CIS – as part and parcel of their own counter-terrorism efforts.⁴¹

5. RETURN TO TORTURE

The political commitment of CIS governments to regional co-operation on security and combating terrorism, their willingness to oblige each others' requests for the return of actual or perceived political foes and critics, and the extensive collusion amongst CIS security forces leads to a climate where requested returns are rarely resisted and often actively, and unlawfully, facilitated. In the majority of cases the authorities achieve this through the deliberate undermining of official extradition procedures. Between Central Asian countries this almost always suffices. However, when extraditions from Russia and Ukraine are delayed or obstructed, following injunctions by the European Court of Human Rights, these countries increasingly collude in abductions and forcible returns with their Central Asian counterparts. By doing so, they ignore vital protections enshrined in extradition treaties and agreements, undermine the authority of the European Court of Human Rights thus contributing to the erosion of human rights protections and violate the international ban on returning people to places where they will be at real risk of torture and other-ill-treatment.

5.1 FLAWED EXTRADITION PROCEEDINGS

As noted above, many CIS governments claim that it is necessary to extradite a person suspected of extremism and terrorism-related crimes in order to maintain national and regional security. While bringing persons who have committed such crimes to justice is critical, there are exceptions to extradition that recognize that fundamental human rights cannot be subordinated to national security-related goals. This is especially true for persons who are at risk of torture.

The United Nations Model Treaty on Extradition, for example, provides guidelines for states on mandatory grounds for refusal of extradition requests.⁴² Article 3 of the Model Treaty includes the following mandatory grounds for refusal of extradition: if the alleged offence is considered to be of a political nature; if the requested state has substantial grounds to believe that the extradition request is made to prosecute or punish a person for reasons of race, religion, nationality, ethnic origin, political opinions, sex or status; if the person whose extradition is requested has been or would be subjected in the requesting state to torture or other ill-treatment;⁴³ if the person has not or would not receive minimum fair trial guarantees; or if the judgement of the requesting state has been rendered *in absentia*⁴⁴. Many of the extradition requests examined in this report satisfy several, if not all, of these grounds for refusal.

5.1.1 THE FAILURE TO REJECT ILL-FOUNDED EXTRADITION REQUESTS

Amnesty International has serious concerns that the authorities in CIS states routinely fail to reject extradition requests from fellow member states although it is apparent that many such requests are based on unreliable, inconsistent or fabricated evidence. This is particularly evident in respect of extradition requests from Tajikistan and Uzbekistan for people held in Russia, Ukraine, or Kazakhstan who are accused or suspected of being members of banned Islamist organizations or Islamic movements.

Savridin Dzhurayev, for example, was accused by the Tajikistani authorities of involvement in Islamist organizations banned in Tajikistan. He fled to Russia in 2006 and was arrested in 2009 in Moscow after an extradition request by the Tajikistani authorities, on the grounds that in 1992 he had *“used the outbreak of civil war and resulting chaos in the republic to destabilize the political situation in the Republic of Tajikistan and illegally appropriating the official authority of law enforcement officers”*.⁴⁵ In 1992 Savridin Dzhurayev was seven years old (see page 27 for further details of this case). Despite this quite obvious error, the Russian General Prosecutor’s Office approved the extradition, and Savridin Dzhurayev’s appeals against this decision were unsuccessful.

Similarly, in Kazakhstan judges have repeatedly failed thoroughly to consider appeals against extradition requests from Uzbekistan and to cross-check information received from the Uzbekistani authorities against other external information available to them, as the case of Sobir Nosirov illustrates. An ethnic Uzbek, Sobir Nosirov left Uzbekistan with his family to work in Russia in early 2005. He was detained in July 2011 in Kazakhstan at the border with Russia, following an extradition request from Uzbekistan to the Kazakhstani authorities in connection with his alleged participation in the 2005 Andizhan unrest. When he appealed to court against extradition it emerged that he had been put on an international wanted list by Uzbekistan in 2003 that is two years before he left Uzbekistan for Russia, and that he was not even present in Uzbekistan during the Andizhan unrest. Despite this information coming to light during the appeal hearing, the Court did not dismiss the extradition request. Rather, the court authorized his continued detention pending the receipt of further information. Sobir Nosirov was released ultimately a year to the day after his detention,⁴⁶ on the expiry of the maximum time-limit for his detention and escorted to the Russian border.

In Russia the ability of wanted individuals to challenge their extradition is additionally hampered by the obstruction of their right to appeal decisions against them. The Russian Criminal Procedural Code states that the decision of the General Prosecutor to extradite can be challenged before a court for an assessment of whether the extradition order was made in accordance with international and domestic law.⁴⁷ Amnesty International has received reports from lawyers in Russia indicating that communications to the individual concerned from the General Prosecutor’s Office include notification about the right to appeal against the decision to extradite and refer to the relevant article of the Criminal Code, but fail to explain clearly how to appeal the decision, including that appeals must be lodged within 10 days. An additional concern is that such documents are sent only in Russian and access to interpreters is often limited, with the result that some people are not aware of their right to appeal and the need to do so within a specified time period.

On 14 June 2012, in its decree No.11⁴⁸ the Russian Supreme Court affirmed the requirement that an individual must be provided with the whole text of the extradition decision in order to ensure that his/her right to appeal is respected. The Supreme Court also ruled that the extradition decision and information regarding the right to appeal must be translated into a language understood by the individual if the person does not speak Russian. However, in the time since the decree was passed, there have been cases where these instructions have not been implemented in practice.⁴⁹

5.1.2 THE FAILURE TO EXAMINE THE RISK OF TORTURE AND OTHER ILL-TREATMENT ON RETURN

An extradition request must be refused where the requested individual would face a real risk

of torture or other ill-treatment upon their return. There are numerous examples of courts in requested countries failing to examine or give serious consideration to evidence of such risk

Ordinarily, when persons subject to an extradition request challenge the extradition on the grounds that they would be at a real risk of torture or other ill-treatment in the requesting state, they bear the burden of raising those grounds as an issue. In order to be able to do this, however, they must have an effective opportunity to challenge their extradition and, in particular, once the individual has raised an objection based on a risk of torture or other ill-treatment, the authorities must give it thorough consideration.

Non-governmental organizations and lawyers in Russia have long expressed concern that reviews of appeals against extradition requests, even in cases where there is a real risk of torture and other ill-treatment are often little more than a rubber-stamping exercise.⁵⁰

In the case of *Umirov v. Russia*, for example, the European Court of Human Rights noted in its judgement of 18 September 2012 that “[...] the court conducting judicial review in the present case stated that the allegation of a risk of ill-treatment in itself [was] not a reason for granting [the] challenge to the extradition order. In such circumstances, the [European] Court doubts that the issue of the risk of ill-treatment was subject to rigorous scrutiny in the extradition case. No fair attempt was made at the domestic level to assess the materials originating from reliable sources other than those provided by the Russian public authorities.”⁵¹

The Court went on to note that “Various international reports and the Court itself in a number of judgements [...] have pointed to the risk of ill-treatment which could arise in similar circumstances. This could not have been overlooked by the Russian authorities, who dealt with the applicant’s case in 2010 and early 2011. In other words, these circumstances “ought to have been known to the Contracting State” at the relevant time.”⁵²

Criminal legislation in Kazakhstan was amended in January 2011 to include new provisions guaranteeing the judicial review of extradition orders under Article 531 part 1 of the Kazakhstani Criminal Procedural Code (CPC), and, under Article 532 of the CPC, a prohibition of extradition to a country where an individual is facing a real risk of torture – but not other ill-treatment. Even this excessively narrow ground for challenging extradition is routinely ignored by Kazakhstan courts.

For example, Kazakhstan extradited 28 ethnic Uzbek men to Uzbekistan on 9 June 2011, notwithstanding the fact that they were at real risk of torture in Uzbekistan. Several were subsequently sentenced to long terms in prison after unfair trials. Following applications by the men to the UN Committee against Torture in May and early June 2011, the UN CAT reaffirmed its 2010 order for interim measures calling on Kazakhstan not to extradite these individuals. In June 2012 after the men were extradited, the CAT concluded that by extraditing the men Kazakhstan was in breach of Articles 3 and 22 of the Convention against torture.⁵³ The men had originally fled Uzbekistan at different times over a period of several years fearing persecution due to their religious beliefs, practices or affiliations with banned or unregistered Islamist organizations in that country. Prior to flight, several had served prison sentences on anti-state charges in Uzbekistan and reported that they had been tortured regularly while in pre-trial and post-conviction detention. They were detained in Kazakhstan

in June 2010, at the request of the Uzbekistan government. Appeals had been lodged against the decision to extradite them, but were rejected by a district court in Almaty in March 2011. Subsequent appeals against extradition were also rejected by the courts of appeal. In its decision of July 2012 the CAT found that “the State party has not provided evidence either in writing or orally refuting the complainants’ claims that their extradition proceedings did not satisfy minimum fair trial requirements (e.g. sufficient time to prepare the defence, limited access to lawyers and interpretation) and that there was no individualized risk assessment of each complainant’s personal risk of torture upon return to Uzbekistan.”⁵⁴

Human rights organizations monitoring the court proceedings prior to the extraditions reported that in some instances the individuals were given barely five minutes to present their case to the presiding judge; in many cases the judge refused to accept written evidence on torture in Uzbekistan submitted by the appellants; and the appellants complained that interpretation into Uzbek was not automatically provided and when provided was of poor quality. In one case the verdict read out by the judge related to a different appellant whose case was due to come up, strongly suggesting that the verdicts had been prepared in advance and were generic and not specific to each individual appellant.

5.1.3 THE RELIANCE ON DIPLOMATIC ASSURANCES

One way in which CIS member states have sought to circumvent their obligation to consider the risk of torture to individuals on return is through the unquestioning acceptance of diplomatic assurances from the requesting state that such treatment will not be used against those returned. The use of, and reliance on, such diplomatic assurances to secure the return of requested individuals is by no means unique to the former Soviet Union. Indeed, in recent years diplomatic assurances have increasingly been sought and relied on by western governments and courts.

Diplomatic assurances are a dangerous and unreliable mechanism that allows a sending government to circumvent the absolute prohibition on sending a person to a place where he or she risks torture or other similar ill-treatment. Simple promises from a requesting state that it will not torture or otherwise mistreat a person upon return cannot substitute for a state’s absolute obligation not to transfer a person to a place where he or she is at risk of such abuse. All states must maintain respect for the existing, legally-binding international machinery of human rights protection; diplomatic assurances allow governments to circumvent that machinery, and thus represent erosion – not an advance – in human rights protection.

Moreover, the particular dynamics of torture and other ill-treatment lead to inherent deficiencies in assurances that prevent them from effectively and reliably mitigating against such abuse. In particular, governments that practice torture and similar abuse routinely deny it; create administrative structures to support plausible deniability; develop techniques of abuse designed to avoid detection; and conceal evidence of it. Torture is usually practiced in secret, with the collusion of law enforcement and other government personnel, and often in an environment of impunity, as states, particularly where torture is widespread, routinely fail to investigate allegations of torture and bring those responsible to account. Those subject to torture and other ill-treatment are also often afraid to recount their abuse to their lawyers, family members and any person attempting to conduct post-return monitoring for fear of

reprisals against them or their families. Alongside these features of secrecy, deniability, and impunity in states where torture and other ill-treatment are practiced, is the fact that such assurances are not legally binding and lack enforcement mechanisms.

The above factors have led Amnesty International together with a wide range of international human rights organizations and independent experts⁵⁵ to oppose in principle and practice any reliance on diplomatic assurances against torture or other cruel, inhuman or degrading treatment or punishment.⁵⁶

However, even those who have not rejected such assurances outright recognize that individuals facing deportation must have access to a fair and effective judicial procedure for challenging reliance on a diplomatic assurance in their case.⁵⁷

In the last few years, the European Court of Human Rights has questioned the reliance placed on diplomatic assurances by Russia in respect of extradition requests from both Tajikistan and Uzbekistan.

CASE OF ABDURAZOK GAFOROV V. RUSSIA

In 2006, Abdurazok Gaforov was held in detention in Tajikistan on charges including membership of the banned Hizb-ut-Tahrir movement, incitement to religious and other hatred, and making public appeals to overthrow the constitutional order. He reported that over a period of three months in the basement of the security services building in Sughd region, he had been “systematically beaten up and ... tortured at least six times with electricity, to extract a confession”. He reported that in May 2006 he was taken to a construction site where he and other detainees were ordered to work and severely beaten by guards. On 24 May 2006 he was able to escape from custody, and he went into hiding before travelling to Russia.

On 5 August 2008 Abdurazok Gaforov was arrested in Moscow as his name appeared on an international arrest warrant. On 11 September 2008, the Tajikistani Prosecutor General’s office submitted an extradition request to Russia based on Abdurazok’s alleged membership of Hizb-ut-Tahrir. On 30 December 2008 the Deputy General Prosecutor of Russia ordered his extradition to Tajikistan. Abdurazok Gaforov appealed this decision in the courts, but the appeal was dismissed. In a letter from the General Prosecutor’s office of 10 February 2009, Tajikistan provided assurances that Abdurazok Gaforov would not be subjected to torture or inhuman or degrading treatment or punishment.⁵⁸

On 20 April 2009, the Moscow City Court dismissed his claims that he would be at risk of torture if extradited to Tajikistan and said that “Tajikistan is a party to almost all international legal instruments on human rights, and has thereby reaffirmed its intention to build a secular democratic state based on the rule of law.”

Abdurazok Gaforov lodged an application with the European Court of Human Rights which issued an order for interim measures on 15 May 2009. According to the European Court judgement on Abdurazok Gaforov’s complaint,⁵⁹ the Russian authorities told the Court that “[t]he information obtained from ‘official sources’ had not confirmed that the Tajikistani authorities were persecuting their citizens on political or religious grounds or subjecting citizens under criminal prosecution to inhuman or degrading treatment,” adding that “[t]he courts also examined the information produced by various NGOs. However, their reports were not official documents and were not binding for the courts”.

The European Court, however, concluded that “*diplomatic assurances from the Tajikistani Prosecutor General’s*

office [...] are not in themselves sufficient to ensure adequate protection against the risk of ill-treatment while reliable sources have reported practices resorted to or tolerated by the authorities which are manifestly contrary to the principles of the Convention".⁶⁰

Similarly, the European Court, in its April 2008 judgement on *Ismoilov and Others v. Russia* stated that it was "not persuaded that the assurances from the Uzbekistani authorities offered a reliable guarantee against the risk of ill-treatment".⁶¹ However, in February and March 2013 the Russian Prosecutor General's office approved the extradition requests from Kyrgyzstan for the extradition of three ethnic Uzbeks: Gairatbek Saliev, Bakhtior Mamashev and Mahamadillo Kadirzhanov, relying on diplomatic assurances given by the Kyrgyzstani authorities. Amnesty International believes that these three men would be at serious risk of grave human rights violations if returned to Kyrgyzstan.⁶²

The UN Human Rights Committee has also expressed strong reservations about reliance on diplomatic assurances in such cases, stating that "the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedures may be" and urged "the utmost care" in the use of assurances with a key element being adequate judicial review before decisions on an individual's deportation are taken.⁶³ In May 2013, the UN Committee against Torture, in its Concluding Observations and Recommendations following its examination of the United Kingdom's fifth periodic report stated that "diplomatic assurances are unreliable and ineffective and should not be used as an instrument to modify the determination of the Convention".⁶⁴

In August 2011, the UN Human Rights Committee in its Concluding Observations and Recommendations on the initial report submitted by Kazakhstan under the ICCPR welcomed "the [Kazakhstani] delegation's acknowledgement that diplomatic assurances made under the Shanghai Co-operation Agreements do not release the State party from monitoring the conduct of the requesting State after the return of an individual", however, the Committee noted with concern "that the State party may be willing to rely on such diplomatic assurances to return foreign nationals to countries where torture and serious human rights violations might occur." The Committee went on to recommend that Kazakhstan "should exercise utmost care in relying on diplomatic assurances when considering the return of foreign nationals to countries where they are likely to be subjected to torture or serious human rights violations." The Committee urged Kazakhstan "to continue to monitor the treatment of such persons after their return and take appropriate action when the assurances are not fulfilled."⁶⁵

Amnesty International does not believe that post-return monitoring mechanisms, particularly in states where torture is endemic or specific groups are routinely targeted for torture, can safeguard a person against such abuse. Nothing in any post-return monitoring mechanism, no matter how rigorous, can possibly change the irreparable nature of the harm caused by torture. Further, monitoring mechanisms that are not part of an established framework with a proven track record not only in detecting cases of abuse, but also consistently bringing all perpetrators fully to justice and immediately stopping all further abuse, and in actually reducing the incidence of torture, cannot seriously be considered as having any significant preventive or deterrent effect. Thus, "post-return monitoring" of any kind simply fails to address the fundamental incompatibility of diplomatic assurances against torture and other

ill-treatment with international human rights obligations. As the Council of Europe Commissioner for Human Rights has concluded, "*it is absolutely wrong to put individuals at risk through testing such dubious assurances*".⁶⁶

In June 2012 the UN Committee against Torture, following an unprecedented oral hearing in May 2012 into a complaint lodged by 29 Uzbek men against the decision by Kazakhstan to extradite 28 of them to Uzbekistan despite their complaints of risk of torture upon return, concluded "*that the State party's extradition of the complainants to Uzbekistan was in breach of article 3 of the Convention [against torture].*" The Committee went on to comment on the procurement of diplomatic assurances as protection against torture "*[recalling] that they cannot be used as an instrument to avoid the application of the principle of non-refoulement*".⁶⁷ It gave Kazakhstan 90 days to report on any measures taken in response to the Committee's views.

In November 2012 the General Prosecutor's office informed the Committee that Kazakhstani diplomatic representatives had been able to visit 18 of the extradited men in prison between 3 and 14 August 2012, but only after they had spent more than one year in detention in Uzbekistan. The information submitted by Kazakhstan, that "*none of the visited convicts indicated to have been subjected to torture, unlawful measures of physical and moral pressure or other impermissible methods of investigation. All of them were assigned ex officio lawyers and could retain lawyers privately. None of them complained about the conditions of detention, the food or the medical care provided*", must be viewed in the light of reports of human rights organisations and relatives of the detainees that most of the men had spent most of the 14 months in incommunicado detention and that they had been tortured but were too frightened to report this to the representatives of Kazakhstan for fear of reprisals. The medical examinations requested by Kazakhstan apparently showed no signs that the men had been tortured. However, Amnesty International has long been concerned by the lack of independent medical investigations available in Uzbekistan. Criminal investigations into a further seven of the 28 extradited were still ongoing at the time of the visit and therefore Kazakhstani officials did not in fact manage to visit them although they are reportedly planning to meet them at a later stage.

In March 2013 the Kazakhstani authorities extradited Khairullo Tursunov, an imam from Tashkent, to Uzbekistan in defiance of the Committee's request not to extradite him while his complaint was being considered. The Kazakhstani Prosecutor General's office and the courts did not give proper consideration to the real risk of torture and other ill-treatment that Khairullo Tursunov would face in Uzbekistan. Upon arrival in Uzbekistan he was immediately arrested by security forces. Khairullo Tursunov is in pre-trial detention in Uzbekistan, and his family has not been allowed to see him.

5.2 RENDITIONS

"[A]ny extra-judicial transfer or extraordinary rendition, by its deliberate circumvention of due process, is an absolute negation of the rule of law and the values protected by the Convention. It therefore amounts to a violation of the most basic rights guaranteed by the Convention".

European Court of Human Rights *Abdulkhakov v Russia*, paragraph 156.

The ease with which Central Asian States are able to secure the return of requested individuals from other CIS member states have already been noted in this report. Indeed, it is unusual for such requests to be rejected as good relations and the perceived mutual interest in combating terrorism are overwhelmingly privileged over the human rights of individuals wanted for extradition. On occasion though, the otherwise smooth handover of wanted individuals can be obstructed, notably – in respect of Russia and Ukraine – by the intervention of the European Court of Human Rights. In such cases even more nefarious forms of co-operation and cynical subversions of international law are employed to secure the transfer of individuals – namely abductions, arbitrary detentions, clandestine transfers across borders, and mistreatment and unfair trials on return. In short – renditions.

Indeed, incidents of abductions and attempted abductions of asylum-seekers, refugees or other nationals of Central Asian countries⁶⁸ by Central Asian security services operating freely on one another's territory and in Russia and Ukraine, have continued unabated⁶⁹ over the last few years, and are occurring with such regularity that they amount to a region wide renditions programme.

Amnesty International is particularly concerned by the number of recent cases, described below, in which Tajikistani and Uzbekistani nationals who had applied to the European Court of Human Rights were abducted in Russia, and forcibly returned to their countries of origin. These illegal returns occurred despite the Court having issued orders for interim measures requesting that the extraditions be stayed, pending the Court's judgements on the merits of the cases and despite the temporary asylum that was granted in one of the cases in Russia.

Although the Russian authorities officially deny knowledge of these incidents, their denials ring hollow, given the number of known incidents of collusion. As the President of the European Court of Human Rights told the representative of the Russian Federation to the Court in a letter "*explanations so far provided by the Government do not clarify how applicants could, against their will, be moved across the Russian State border notwithstanding the Government's official assurances that no extradition would be effected pending examination of their cases by the Court.*"⁷⁰ The President went on to express his deep concerns over the "*possible continuation of such unacceptable incidents in cases of other applicants to whom the interim measures still apply on account of the imminent risk of violation of their rights under Articles 2 and 3 of the Convention in the countries of destination*". The letter contained a list of 25 applicants before the Court whose expulsions and extraditions were suspended under interim measures pursuant to Rule 39. At least three of the applicants on the list have been abducted since the letter was written.

In April 2013, the European Court when reviewing the application of Savriddin Dzhurayev (see below) the European Court noted the "*blatant circumvention of the domestic legal mechanisms in extradition matters*", in the Russian Federation, and went on to remind the Russian authorities that applicants in respect of whom the Court had indicated interim measures had to be granted effective protection by the State not only in law, but also in practice. The Court expressed concern that the general protection provided for by the ordinary legal framework had regularly failed, and therefore recommended that an appropriate mechanism be established to ensure that applicants benefited from immediate and effective protection against unlawful kidnapping and irregular removal from the national territory and the jurisdiction of the Russian Courts.⁷¹

SAVRIDDIN DZHURAYEV (JURAEV)

Savriddin Dzhurayev, aged 27, was accused by the Tajikistani authorities of involvement in Islamist organizations banned in Tajikistan.⁷² He fled to Russia in 2006, and in 2009 he was arrested in Moscow after an extradition request from the Tajikistani authorities based on accusations of him of destabilising the political situation when he was just seven years old.

On 17 June 2010, the extradition was approved by the General Prosecutor's Office in Russia. Savriddin Dzhurayev unsuccessfully appealed against it, and applied to the European Court of Human Rights. On 7 December 2010 the Court issued an order for interim measures requesting that the Russian authorities not extradite Savriddin Dzhurayev pending its substantive examination of the case. He was released on 20 May 2011 after 18 months in detention⁷³ and was given temporary asylum status⁷⁴ in August of that year. However, on the night of 31 October he was abducted in Moscow by unidentified people and put on a plane to Tajikistan on the night of 1 November despite the fact that he did not have a valid passport.

From prison in Tajikistan, Savriddin Dzhurayev wrote to his Russian lawyers describing how he was abducted in Moscow by four or five men in plain clothes, who bundled him into a van, beat him, put a gun to his head and threatened to kill him if he would not agree to return to Tajikistan. He said the person who spoke to him was Tajikistani. He was held for over 24 hours in the car and the next day taken directly to Domodedovo airport in Moscow. He arrived early the next morning at Khujand airport in Tajikistan where he says he was taken to the Ministry of Internal Affairs specialist Sixth department by five officials who covered his eyes so he could not see, and who then beat him and interrogated him without a lawyer, pressing him to testify against certain people, which he refused to do. After an unfair trial Savriddin Dzhurayev was sentenced to 26 years in prison on 19 April 2012. He maintains his innocence.

The Russian authorities reportedly⁷⁵ opened an investigation into Savriddin Dzhurayev's forcible return from Russia. In March 2012, they claimed that they had no information about how he left the country, and later claimed that he had illegally crossed the border into Tajikistan and "voluntarily surrendered" to Tajikistani authorities. Considering that he did not have a passport at the time, this all seems somewhat implausible. On 25 April 2013 the European Court of Human Rights ruled that the Russian authorities had been responsible for illegally returning Savriddin Dzhurayev to Tajikistan, holding in particular that he faced a real risk of torture and other ill-treatment there and that the actions of the Russian state officials had been "tainted by manifest arbitrariness and abuse of power". The Court concluded that the operation involving State agents in the case had been conducted outside the normal legal system and, by its deliberate circumvention of due process, was anathema to the rule of law.⁷⁶ In addition the Court ruled that there had been serious flaws in the investigations undertaken by the Russian authorities into the circumstances around Savriddin Dzhurayev's return to Tajikistan and that Russia should carry out a new, effective investigation. The Court additionally ruled that the fact that Savriddin Dzhurayev is outside Russia's jurisdiction does not exempt Russia from its legal obligation to protect him from risks to his life and health in Tajikistan. The Court recommended Russia take remedial measures within its competence to make reparation to Savriddin Dzhurayev, especially in view of the fact that he had been granted temporary asylum in Russia.

SUHROB KOZIYEV AND MURODZHON ABDULKHAKOV

Suhrob Koziyev⁷⁷ was arrested in Moscow on 22 November 2009 on an international arrest warrant for allegedly belonging to a banned Islamist group. He was accused of being an accomplice of Savriddin Dzhurayev, despite the fact that the men say they only met when detained in a Moscow SIZO pending extradition. His extradition

was requested on 12 April 2010 by the Tajikistani General Prosecutor and approved on 25 June 2010 by the Russian General Prosecutor. Suhrob Koziyev appealed to the European Court of Human Rights which in October 2010 ordered interim measures requesting the Russian authorities not to extradite him pending its ruling on the case. Suhrob Koziyev applied for refugee status in Russia but was refused. He was released from detention in Russia and kidnapped on 23 August 2011 in Moscow and forcibly returned to Tajikistan with an Uzbekistani citizen, Murodzhon Abdulkhakov. Sukhrob Koziyev claims he did not have a passport at the time. On 19 April 2012 Sukhrob Koziyev was convicted in Tajikistan alongside Savriddin Dzhurayev and given a 28 year prison sentence.

Murodzhon Abdulkhakov, an Uzbekistani national born in 1979 fled Uzbekistan in August 2009 fearing persecution because of his religious beliefs. After spending three months in Kazakhstan, he travelled to Kazan in Russia in November 2009. He later travelled by train to Ukraine via Moscow to find work, but was arrested upon the train's arrival in Moscow in December 2009 on the basis of an extradition request from Uzbekistan, where he was on a wanted list accused of involvement in extremist activities. His detention was prolonged several times between January to June 2011, and his appeals against these measures were dismissed by various courts in Moscow. On 9 June 2011 he was released from detention when the 18-month maximum detention period allowed under Russian law expired.

On 22 December 2009, Murodzhon Abdulkhakov applied for refugee status in Russia, on the grounds of persecution for his religious beliefs in Uzbekistan but his request was rejected. He then applied for temporary asylum to avoid return to Uzbekistan but that request was rejected in July 2011.

In May 2010 the General Prosecutor's Office ordered Murodzhon Abdulkhakov's extradition to Uzbekistan. He appealed against this through the Russian courts and also applied to the European Court of Human Rights, which ordered interim measures on 8 March 2011 requiring Russia to suspend Murodzhon Abdulkhakov's extradition pending its substantive consideration of his complaint. Despite the Court's order the Russian Supreme Court rejected his final appeal against extradition on 14 March 2011 citing diplomatic assurances from the Uzbekistani authorities that he would not be subjected to torture or other ill-treatment upon return.

On 23 August 2011, Murodzhon Abdulkhakov met Sukhrob Koziyev⁷⁸ in Moscow when they were abducted by a group of men in plain clothes in the centre of Moscow. The men were handcuffed, black plastic bags were put on their heads and they were forced into a van, where they were beaten. They were then taken straight onto one of the runways of Domodedovo airport in Moscow and escorted on to a flight to Khudzhand in northern Tajikistan. Once there Murodzhon Abdulkhakov was handed over to the Tajikistani police. He was transferred to a SIZO in Dushanbe and detained with a view to his extradition to Uzbekistan until his release in November 2011.

In its October 2012 judgement on the case, the European Court of Human Rights found that Murodzhon Abdulkhakov had been kidnapped and secretly transferred into the custody of the Tajikistani authorities, with the knowledge and either passive or active involvement of the Russian authorities.⁷⁹ The Court found that "*he now faces a risk of being extradited or repatriated to Uzbekistan*", noting that it was "*[P]articularly striking that the applicant's transfer to Tajikistan was carried out in secret and outside any legal framework capable of providing safeguards against his removal to Uzbekistan without an evaluation of the risks of his ill-treatment there*". The Court observed in this connection that "*any extra-judicial transfer or extraordinary rendition, by its deliberate circumvention of due process, is an absolute negation of the rule of law and the values protected by the Convention. It therefore amounts to a violation of the most basic rights guaranteed by the Convention*".

Individuals wanted for extradition to Central Asian states are at particular risk of abduction and forcible return after their release from detention centres in Russia.

For example, Abdurakhim Toshmatov, a 23-year-old Tajikistani national, who had been sentenced in Moscow to 12 months in prison on charges of suspected membership of Hizb-ut-Tahrir, was approached by two unidentified men in plain clothes as he was leaving the prison colony IK-4 in Tambov region on 12 September 2012. They told him they would accompany him to the airport and stay with him until his flight took off for Moscow. The men refused to identify themselves to representatives of Memorial human rights Centre who had come to meet Abdurakhim Toshmatov. Memorial representatives told the men that if there were any attempts to forcibly deport Abdurakhim Toshmatov they would appeal to international organizations immediately. Memorial representatives say that they and Abdurakhim Toshmatov were followed for some distance on leaving the prison. Abdurakhim Toshmatov's brother has reported being asked by a representative of the Meshansky Interdistrict Prosecutor's Office how Memorial knew when his brother was to be released. In November 2012, Abdurakhim Toshmatov was believed to have applied for refugee status in Russia.

In the cases of Azamatzhon Ermakov and Yusup Kasymakhunov below, the best efforts of human rights defenders and lawyers were not enough to prevent them from disappearing shortly after their release from prison in Russia. Given the well-documented record of collusion between Russian and Uzbekistani intelligence and security forces and the lack of information about their whereabouts, it was feared that they had been abducted and illegally returned to Uzbekistan. Indeed, information received subsequently in 2013, that the two men are in pre-trial detention in Uzbekistan, confirms these fears.

AZAMATZHON ERMAKOV

Uzbekistani national Azamatzhon Ermakov fled to Russia in March 2009. In November 2009 he was arrested in Nizhnii Novgorod following an extradition request from the Uzbekistani authorities. In Uzbekistan, Azamatzhon Ermakov had been charged with alleged involvement in extremist religious groups, incitement to religious and other hatred, and attempting to overthrow the constitutional order. His extradition was approved by the General Prosecutor's Office in Russia. Azamatzhon Ermakov unsuccessfully appealed against it.

In December 2009, Azamatzhon Ermakov applied for asylum to the Federal Migration Service of the Nizhnii Novgorod region; his application was rejected. On 22 September 2010, the European Court of Human rights issued an order for interim measures under Rule 39 requiring Russia to stay Azamatzhon Ermakov's extradition until his complaint was substantively considered by the Court. He was released on 13 May 2011 after 18 months in detention. However, on 1 July 2011 he was arrested again and on 7 September 2012 he was sentenced to one year and four months' imprisonment for illegal possession of weapons and ammunitions. Azamatzhon Ermakov maintains that the police planted one grenade on him which was used as evidence against him.

On 2 November 2012, Azamatzhon Ermakov's lawyer went to visit him in the detention centre in Nizhnii Novgorod but was not able to see his client. The detention centre in Nizhnii Novgorod was closed to visitors from 3-5 November for a national holiday. When he returned on 6 November he was told that Azamatzhon Ermakov had been released on 2 November. In January 2013 the Nizhenovgorod Department of the Russian Investigative Committee informed Amnesty International that in the course of their investigation into the

disappearance of Azamatzhon Ermakov they had determined that he had crossed the Russian state border on a flight from Moscow to Tashkent on 2 November 2012. There is strong circumstantial evidence to indicate that he was abducted following his release from detention and put on a plane to Uzbekistan. When Azamatzhon Ermakov was released from detention the only document in his possession was his passport.

Information received from “Uzbek Airlines” by the Nizhenovgorod Department of the Russian Investigative Committee confirms that the plane ticket for Azamatzhon Ermakov’s flight from Moscow to Tashkent was purchased in his name in Uzbekistan using a passport record card (Forma -1) with an outdated passport number.⁸⁰ This shows that the Uzbekistani authorities organized Azamatzhon Ermakov’s forced return to Uzbekistan and subsequent detention.

In addition, Interpol confirmed to the Nizhenovgorod Investigative Committee that Azamatzhon Ermakov’s name was removed from the International wanted list on 1 December 2012, in connection with him being in detention. This means that on 2 November 2012 he would still have been on the wanted list and therefore could not have left Russia of his own accord without being stopped at border control.

In May 2013 Azamatzhon Ermakov’s Russian lawyers received confirmation that he was detained in a SIZO in Uzbekistan.

YUSUP KASYMAKHUNOV

Yusup Kasymakhunov came from Uzbekistan to Russia in 1995. In 2004, he was charged there with involvement in activities in Russia of the banned Islamist organization Hizb-ut-Tahrir and sentenced to seven years and four months in prison by Moscow City Court. He served the last two years of his sentence in a prison colony in Murmansk. In 2009 the Uzbekistani authorities requested the Russian authorities to re-examine extradition requests they had made in 2000 and 2004 on the grounds that Yusup Kasymakhunov had also been involved in Hizb-ut-Tahrir in Uzbekistan in the 1990s. Towards the end of his sentence, in May 2011, the Prosecutor’s office in Murmansk re-opened the extradition proceedings. However, Yusup Kasymakhunov maintains he did not join Hizb-ut-Tahrir until 1996 when he was in Russia and he renounced his membership while he was in prison. A day before his sentence would have expired; a district court in Murmansk region extended his detention on the basis of the pending extradition request. In April 2012 Yusup Kasymakhunov was informed that the Russian General Prosecutor’s office had decided to extradite him to Uzbekistan on the basis of criminal proceedings against him there. He appealed against the decision to the Murmansk Regional Court, but it upheld the General Prosecutor’s decision to extradite him. Yusup Kasymakhunov appealed this decision to the Russian Supreme Court and applied to the European Court of Human Rights. The European Court issued an order for interim measures under Rule 39 requiring the Russian authorities to suspend the extradition to Uzbekistan pending the Court’s full determination of his complaint. However, on 18 July 2012 the Russian Supreme Court upheld the decision of the Murmansk region court to extradite him.

When the maximum legal time limit for his detention expired on 10 December 2012, Yusup Kasymakhunov was released from prison in Murmansk but he remained under threat of extradition. Fearing he might be abducted, human rights defenders went to meet him at the prison and accompanied him on a flight to Moscow. There he filed a request for temporary asylum in Russia in order to prevent him from being returned to Uzbekistan where he was at real risk of torture. He then went to a village in the Moscow region where he had an offer of a place to stay. The following day, he saw that two cars were following him whenever he went into the village. While he was at home those cars were parked in the court yard of the apartment block where he had been staying. He immediately contacted his lawyers who, in turn, contacted the office of the Russian representative at the

European Court of Human Rights with a request to take all necessary steps to prevent his abduction. Fearing this eventuality, Yusup Kasymakhunov stayed indoors all of the next day.

On 14 December, from about 11pm his mobile phone could not be reached. Human rights activists working on his case immediately went to his apartment but he was not there. The door was locked and there were no visible signs of anything unusual. Only his coat and some of his personal documents were missing. The police were informed but did not start to investigate immediately.

The owner of the apartment told Yusup Kasymakhunov's lawyers on 15 December that he had called her at about 1.20 pm on 14 December, asking for some tools. She had suggested that he come to her apartment block, phoning her when he left, so that she could meet him and hand over the tools. However, he never called her. Human rights defenders discovered in January 2013 that Yusup Kasymakhunov was abducted from his apartment on 14 December, transported to Uzbekistan on a passenger plane that same day and is in a pre-trial detention facility in Uzbekistan. In March 2013 the Russian Ministry of Internal Affairs informed Amnesty International that an official investigation into the disappearance of Yusup Kasymakhunov had been opened by the Investigative Committee of Russia in December 2012. The investigation was ongoing at the time of writing.

As in Russia, NGOs working with asylum-seekers in **Ukraine** have also reported cases where their clients have disappeared under mysterious circumstances and then reappeared in their country of origin, without any information about the circumstances of those returns.

HAMIDULLO TURGUNOV

Hamidullo Turgunov, an asylum-seeker from Andizhan in Uzbekistan, was last seen in Kyiv, Ukraine, sometime around 24 December 2009. He originally travelled from Uzbekistan to Russia in the wake of a series of attacks by armed groups on government buildings and officials in the Ferghana Valley in May 2009. Following the attacks, 170 people in his village were reportedly rounded up. Many are believed to have been detained without charge or trial and some were reportedly subjected to torture or sentenced after unfair trials.

Hamidullo Turgunov applied for asylum in Ukraine in November 2009, and the Kyiv Migration Services Office rejected his application. In line with established practice his asylum-seeker identity documents were removed, but he was not issued with any replacement documents proving his status in Ukraine. He appealed against the rejection of his asylum application on 9 December 2009, but before he received a reply he disappeared. His friends became worried when he did not answer his telephone and they were alarmed when they found that his possessions were still in his flat.

On 3 January 2010, his relatives informed his friends in Kyiv that he was in prison in Tashkent, Uzbekistan. The Ukrainian authorities have not clarified whether he was forcibly returned by Ukrainian law enforcement officers or abducted by Uzbekistani security forces operating in Ukraine.

The abduction of Leonid Razvozhayev by Russian security forces in Kyiv, Ukraine, in October 2012 was not denied by the Ukrainian authorities. Indeed, this would have been difficult. Unfortunately, those same authorities declined to condemn the actions of the foreign agents, claiming – incorrectly – that the matter of the abduction was not a criminal one.

LEONID RAZVOZHAYEV

In October 2012 Leonid Razvozhayev, a Russian citizen and aide to Russian opposition MP Ilya Ponomarev, was abducted in Kyiv and returned to Russia apparently by Russian state security agents operating in Ukraine. Leonid Razvozhayev had been put on the federal wanted list in the Russian Federation in connection with a criminal case against him and other opposition politicians. It would appear that rather than request extradition, the Russian authorities chose to forcibly return Leonid Razvozhayev to the Russian Federation, by passing any judicial or administrative process such as extradition. Leonid Razvozhayev was abducted from outside the offices of the Hebrew Immigration Aid Society (HIAS), a UNHCR partner organization to which he had been referred for legal assistance and advice on asylum procedures in Ukraine. In a statement on 25 October, a spokesman of the Ministry of Internal Affairs of Ukraine, Vladimir Polishchuk, appeared to condone the actions of Russian security officials. He confirmed that Leonid Razvozhayev had been abducted “*by law enforcement officers or law enforcement officers of another state*”, and went on to state that it was not a criminal matter.

The cases included in this section do not just demonstrate the extent to which the authorities and security forces of CIS states co-operate in ways which violate fundamental human rights. They also demonstrate a profound disrespect, on the part of Russia and Ukraine for the European Court of Human Rights. It is bad enough that Russia has repeatedly declined to respect judgements of the European Court of Human Rights with respect to countless rulings relating to past human rights abuses in the North Caucasus. What is happening in the cases described in this report, however, is the flouting of European Court of Human Rights rulings through the commission of serious human rights violations – namely illegal transfers, enforced disappearances and arbitrary detentions – in order to knowingly return individuals to countries where they will be at risk of further grave violations – namely torture. The frequency with which this is now occurring represents a deep, structural challenge to the authority of the European Court of Human Rights and the integrity of the Council of Europe as a whole. The silence of other member states of the Council of Europe amounts in its own way to acquiescence.

What is particularly disheartening is the fact that the silence surrounding this issue may owe something to a sense of embarrassment, a certain sense of complicity on the part of European governments, as they know full well that these are practices that many of them, until recently at least, have been party to in the context of the US-led rendition and secret detention programmes. These programmes, which operated globally from late 2001 until roughly 2006, involved the illegal transfer, secret detention, torture and ill-treatment, and enforced disappearance of persons suspected of terrorism-related acts. But the rendition programme could not have operated without the close co-operation of numerous European allies, who willingly participated and for whom there has been little, if any, accountability. It is in this way that one violation begets another and that small cracks in the edifice of international human rights protection give way to gaping holes. Certainly, one of the casualties of US-led renditions with the complicity of European states has been greater tolerance for similar practices elsewhere in the world, including in the CIS. This must be challenged. The Council of Europe must find its voice, must regain its authority by firmly denouncing the – quite blatant – continuation of these practices in the former Soviet Union.

5.3 THE ARBITRARY EXTENSION OF DETENTION PENDING RETURN

Short of resorting to complicity in the abduction of individuals in spite of injunctions against

removal by the European Court of Human Rights, the Russian and Ukrainian authorities have also arbitrarily prolonged the detention of wanted individuals, or sought to remove them through other administrative means.

In a number of extradition cases the Russian authorities have found ways of circumventing legal limits on detention pending extradition by bringing additional, allegedly falsified charges against individuals, with the apparent intention of keeping them in detention and ensuring they are eventually extradited.

There are also cases of individuals whose extradition has been refused subsequently being charged with administrative offences relating to their irregular stay in Russia and subjected to deportation proceedings on those grounds, as a means of securing their return to the requesting country.⁸¹

AKRAM KARIMOV

In 2012 Akram Karimov, an Uzbekistani national, was detained for six months pending extradition in a SIZO (pre-trial detention centre) in Moscow. The Uzbekistani authorities sought his extradition on charges related to membership of a banned religious organisation, based on the fact that an acquaintance of his had allegedly had set up a religious organisation in Uzbekistan.

The legal time limit for Akram Karimov's detention expired on 17 September 2012. He ought to have been released on this date. However, the documents ordering his release were not given to him or his defence lawyer but instead passed to officers of the Krasnoselsky police who took him directly from the SIZO to Krasnoselsky police station, Moscow, where he was detained on the grounds that he was present in Russia "illegally". However, as he had applied for refugee status while in prison he should have been protected from any forcible return to his country of origin pending full examination of his asylum claim through the refugee status determination procedure.

Despite this, the Federal Migration Services applied for an expulsion order on the basis that Akram Karimov was illegally present in the country. On 18 September the authorities' application for administrative expulsion was heard by Meshansky regional court, where a representative of the Moscow City Prosecutor's office informed the court that the General Prosecutor's Office was reviewing the extradition case. The judge ruled that no decision could be made on Akram Karimov's administrative expulsion as a decision on his extradition case had not yet been taken.

The next day, the representative of the Moscow City Prosecutor's Office showed the court a telex from the General Prosecutor's office addressed to the Moscow City Prosecutor's office stating that a decision had been taken to refuse the extradition request on 17 September.

NGO observers believe that this telex was backdated in order to allow the court to take a decision on the case for his administrative expulsion.

Indeed, when the administrative court hearing resumed on 19 September, the Meshansky regional court ruled that Akram Karimov should be expelled. The court refused to take into account materials submitted by the defence lawyer about the real risk of torture he would face should he be returned to Uzbekistan, and the fact that he was an asylum-seeker still awaiting final determination of his claim. The court also refused to hear from a representative of the UNHCR who was invited by the defence lawyer to attend the hearing as an expert

witness. Akram Karimov appealed against the decision to expel him but on 10 October 2012 the Moscow City Court turned down his appeal and upheld the decision to expel him from Russia.

Akram Karimov lodged a complaint with the European Court of Human Rights. On 4 October, the Court ordered interim measures instructing Russia not to return him pending its substantive determination of the case.

Akram Karimov applied for refugee status in 2012 but his application was refused by the Federal Migration Service. On 17 January 2013 he attempted to lodge an appeal against this decision, as required, with an official at the detention centre, but the latter reportedly refused to accept it. After intervention by his lawyer, the same official purported to agree to send the appeal to court before the expiry of the deadline for appeals on 19 January. However, two days later on 21 January Akram Karimov's lawyer discovered that his appeal had not been sent to the court. The detention centre official denied having received the appeal, despite the fact that Akram Karimov had handed this document to her in the presence of his lawyer. After the lawyer complained to the head of the detention centre, the official was instructed to deliver the appeal to the court directly. The Court turned down the appeal, and at the time of writing, Akram Karimov's lawyer is appealing to the court of final instance. He is being held in "Severnoy" detention centre for foreigners awaiting deportation in the Moscow region. Amnesty International is concerned that he faces a real risk of torture or other ill-treatment if returned to Uzbekistan.

The case of Ismon Azimov provides further illustration of the Russian authorities' practice of using all possible means to avoid releasing people wanted in other CIS member states with a view to returning them to the requesting countries despite the real risk of them being tortured or other ill-treated there.

ISMON AZIMOV

The authorities in Tajikistan have accused Ismon Azimov⁸² of membership of the IMU⁸³, and, at the time of writing were requesting his extradition from Russia on the grounds of his alleged involvement in military training and propaganda activities for the IMU in October 2007. There are grounds to believe that the charges may be politically motivated.⁸⁴

Ismon Azimov was arrested in Russia on 3 November 2010.

After his arrest, he applied for asylum in Russia but his application was refused.

On 23 June 2011, the Russian Deputy General Prosecutor approved his extradition, against which he lodged an appeal which was refused. His second appeal was scheduled to be heard the Supreme Court on 9 November 2011, but the maximum time limit for detention provided under Russian law in connection with the extradition charges against him was due to expire on 3 November, on which date he would have had to be released from detention.

However, an administrative expulsion order was issued to Ismon Azimov on 2 November for violation of the regulations governing the presence of foreign citizens in Russia. He was then transferred to Serpukhovskiy detention centre, where persons are held pending deportation.

On 9 November 2011 the Russian Supreme Court ruled that Ismon Azimov should be extradited despite the fact that a final appeal against the decision to reject his asylum application was still pending before Moscow City Court.

In early November 2011 the European Court of Human Rights had enquired of the Russian government if Ismon Azimov's appeal against the rejection of his application for refugee status would stay a ruling on extradition.

While a response to this enquiry was pending, officials from the security forces reportedly visited Azimov at night and pressurised him to return to Tajikistan "voluntarily", and took photos of him, possibly in order to prepare a travel document as he had no passport. Ismon Azimov refused to return "voluntarily".

On 23 November 2011, the European Court of Human Rights ordered interim measures preventing his extradition pending substantive examination of his application and he remained in detention.

One year on, Ismon Azimov's defence lawyer received information that her client was due to be released from detention a year early on 2 November 2012.⁸⁵ This unexpected news alarmed Russian NGOs and Amnesty International who issued public statements expressing concerns that Ismon Azimov would be at risk of abduction and forcible return to Tajikistan upon release. In the end Ismon Azimov was not released from detention. Human rights observers believe that this decision was taken after NGOs issued public statements about the risk of Ismon Azimov being abducted.

Amnesty International remains concerned that Ismon Azimov⁸⁶ would be at a real risk of torture and other ill-treatment on return to Tajikistan. On 18 April 2013, the European Court of Human Rights held that returning Ismon Azimov to Tajikistan would breach Article 3 of the Convention.⁸⁷

In **Ukraine**, Amir Kaboulov⁸⁸ was detained pending extradition to Kazakhstan from August 2004 to February 2010. At that time there was no provision for limitations on detention pending extradition⁸⁹ in Ukrainian legislation and individuals could be held indefinitely with no clear time limits or procedures for appeal. Legislative changes in 2011 introduced an 18-month limit on detention pending extradition, which is reviewed every two months. Following these changes, the Ukrainian authorities apparently sought to comply with the request of the Kazakhstani government by other means. Ukrainian officials used a variety of tactics to ensure that Ammir Kaboulov would remain in detention with a view to ensuring his extradition at a later date. These included attempts to prosecute him for a crime allegedly committed in Uzbekistan, the use of possibly fabricated criminal charges in Ukraine and threats and intimidation.

AMIR KABOULOV

Amir Kaboulov was accused of the murder of Uli Zhumakhan in Kazakhstan in June 2003, and placed on an Interpol wanted list. He was detained in Ukraine on 23 August 2004. He remained in detention in Ukraine from that date until 26 February 2010, awaiting extradition to Kazakhstan.

He lodged a complaint with the European Court of Human Rights in November 2004 complaining that there was a risk that he would be subjected to the death penalty, torture and other ill-treatment and unfair trial if returned to Kazakhstan. He also complained that the decision to extradite him had been taken unlawfully and that he had been arbitrarily detained without proper avenues of appeal in Ukraine. On 23 November 2004, the ECtHR ordered interim measures instructing the Ukrainian government to suspend the extradition pending substantive consideration of Amir Kaboulov's application to the Court. Extradition proceedings were suspended by the General Prosecutor on 24 November 2004.

In September 2008 the ECtHR received a letter from Amir Kaboulov with a covering letter from the Director of the pre-trial detention centre stating that he wished to withdraw his application so that he could be extradited. He later told his mother and lawyer that he had been pressured by the Director of the pre-trial detention centre to write the letter, and in November he asked his lawyer to pursue his application to the ECtHR.

Finally, in May 2010, the Court ruled that Ukraine would be in breach of Article 3 if it returned Amir Kaboulov to Kazakhstan and furthermore that Ukraine had breached his right to liberty (Article 5 of the ECHR) taken in conjunction with his right to an effective remedy for violations of the Convention (Article 13 of the ECHR) in failing to provide Amir Kaboulov with an effective remedy by which to challenge his extradition or the lawfulness of his detention. Prior to this, the General Prosecutor of Ukraine had started a criminal case under Ukrainian law for the murder of Uli Zhumakhan in Kazakhstan in 2003, but on 26 February 2010 the Kyiv District Court in Kharkiv had ordered his release on bail pending extradition on the basis that a Ukrainian court had no jurisdiction over a murder carried out by a non-national in another state. However, Amir Kaboulov was detained again on 9 September 2010 when he was accused of having stolen a purse containing 127 Hryvnya (£9) from somebody in a shopping centre. On 10 September the Moskovsky district court in Kharkiv ordered that he be released on bail, but on 30 September, after the theft charge had been joined to the charge of murder he was detained again and remained in detention in Kharkiv until his death of liver disease in 2012.

6. LACK OF PROTECTION OF ASYLUM-SEEKERS AND REFUGEES AGAINST EXTRADITION

6.1 ASYLUM SEEKERS AND REFUGEES RETURNED TO TORTURE

In many extradition cases across the CIS, asylum-seekers and refugees are not afforded the full protection they are entitled to under international law and are being returned to countries where they face a real risk of persecution or other serious forms of harm, including torture and other ill-treatment.

Across the CIS, refugees and asylum-seekers are at risk of extradition to Central Asia, particularly Uzbekistan and Tajikistan,⁹⁰ in violation of states' international obligations, including under the Refugee Convention and the UN Convention against Torture.

All asylum-seekers are presumptively entitled to be considered refugees, until their claims have been assessed through fair and effective status determination procedures and they have been found not to be eligible for international protection. Therefore asylum-seekers are also entitled to benefit from the protection of the principle of *non-refoulement* and must not be returned or expelled pending full completion of refugee status determination procedures, including all appeal stages.

However in many CIS states the authorities summarily dismiss the asylum claims of people whose extradition has been requested⁹¹ or proceed, as in the case of Rustam Zokhidov, below, to extradite them while their asylum claims are still pending consideration.⁹²

RUSTAM ZOKHIDOV

Uzbekistani asylum seeker Rustam Zokhidov was detained in St. Petersburg on 21 December 2011, and forcibly returned the same day by plane to Uzbekistan. This forcible return happened despite the European Court having ordered interim measures in this case on 19 November 2010, and despite the fact that Rustam Zokhidov was still in the process of appealing the decision by the Federal Migration Service to reject his application for refugee status. The authorities later informed the European Court that St. Petersburg Federal Migration Service officials were unaware that Rule 39 measures were in place. However, Rustam Zokhidov maintains that when officials of the FMS came to his flat to detain him he showed them a certified copy of his appeal against refusal of refugee status to the appeal court (Dzerzhinsky District Court). He immediately called his lawyer, who informed the officials by phone that the European Court had instructed Russia not to remove him pending its full examination of his complaint. Nonetheless, Rustam Zokhidov was taken to St Petersburg airport and flown straight to Samarkand in Uzbekistan. On arrival in Uzbekistan he was kept in NSS detention and in April 2012 he was sentenced to eight years' imprisonment following an unfair trial. His relatives, who were not allowed into the court room and only permitted to see him briefly, report seeing bruises on his face. Pressure was reportedly put on both Rustam Zokhidov's family and his lawyers not to appeal the

court decision and his lawyers were threatened with losing their licenses. Rustam Zokhidov advised his family that their NSS officers were tapping their phones and asked them to stop contacting the lawyers who had represented him in Russia “*in order not to have any more problems*”.

On 5 February 2013, the European Court found that the Russian authorities had not carried out a thorough examination of Rustam Zokhidov’s allegations concerning the risk of his ill-treatment in Uzbekistan, in particular “*the Russian Courts’ decisions to set aside the order for his extradition was mainly based on technical reasons [...] and had not specifically addressed his detailed submissions concerning the risk of being subjected to ill-treatment in case of his removal.*”⁹³

In Ukraine in many cases asylum-seekers subject to extradition proceedings are not given the opportunity to appeal against refusals to grant them refugee status. In August 2012, the UNHCR informed Amnesty International that it was monitoring three cases of asylum-seekers detained on extradition requests from Kyrgyzstan, Uzbekistan and Russia. Two of these individuals have since been extradited to Uzbekistan and Russia.

RUSLAN SULEYMANOV

Ruslan Suleymanov, an Uzbekistani citizen, moved to Ukraine in November 2010 fearing that he would be subjected to an unfair trial and to torture and other ill-treatment. He had been a manager in a private construction company in Uzbekistan that was targeted for takeover by rival business interests in 2008. When the company refused to hand over the shares, it was raided by security services and many of the company managers, including Ruslan Suleymanov, were investigated for economic crimes. When he went to the Ministry of Interior in Chernihiv, northern Ukraine on 25 February 2011 to apply for a work permit, he was immediately detained. On 12 May 2011, the General Prosecutor’s Office confirmed his extradition to Uzbekistan to stand trial for alleged economic crimes. On 20 May 2011, Ruslan Suleymanov applied for asylum in Ukraine. His application was rejected on appeal on 2 July 2012 and by the Higher Administrative Court on 18 September 2012. On 18 May 2012, the UNHCR recognized him as a refugee under the UNHCR mandate and proceeded to seek his resettlement. However, despite the fact that he had been recognized as a refugee by the UNHCR, he was extradited to Uzbekistan on 20 September. Prior to his extradition in September the UNHCR office in Kyiv issued a press release expressing concern that he would face persecution if returned to Uzbekistan. The press release did not name him. According to his family, he was still being held in pre-trial detention in Tashkent in March 2013.

In Kazakhstan a new law on refugees came into force in on 1 January 2010, which excludes certain categories of asylum-seekers from qualifying for refugee status. These are individuals charged in their country of origin with membership of illegal, unregistered or banned political or religious parties or movements. This exclusion affects in particular observant Muslims from Uzbekistan who worship in mosques that are not under state control or are members or suspected members of Islamist parties or Islamic movements banned in Uzbekistan and who fled persecution they faced or risked on account of their religious beliefs or affiliation. As noted by the European Court of Human Rights, such individuals are particularly at risk of torture and ill-treatment. The exclusion also affects individuals of Uighur origin from the Xinjiang Autonomous Republic (XUAR) in North West China who are charged with or suspected of belonging to separatist movements or parties.

The Central Commission on the Determination of Refugee Status established by the new refugee law reviewed all cases of individuals who had previously been recognized as refugees

(or as people otherwise entitled to international protection) by UNHCR. It revoked the refugee status of those who had been recognized by UNHCR in the past, except in the case of a handful of individuals from Uzbekistan and China, most of whom were awaiting resettlement to a third country. At least 30 of those whose refugee status had been revoked have since been forcibly returned to Uzbekistan and China.

In its 2011 Concluding Observations on Kazakhstan the Human Rights Committee expressed concern *“at reports that individuals [in Kazakhstan], particularly Uzbek and Chinese nationals, who might have valid claims for asylum or refugee status have no protection under the principle of non-refoulement due to the State party’s obligations under the Minsk Convention on Legal Assistance for Persons from the Commonwealth of Independent States.”* The Committee went on to recommend that Kazakhstan *“should fully comply with the principle of non-refoulement and ensure that all persons in need of international protection receive appropriate and fair treatment at all stages, in compliance with the Covenant”*.⁹⁴

6.2 UNHCR’S ROLE IN ENSURING ACCESS TO INTERNATIONAL PROTECTION

In the 1990s, following the break-up of the Soviet Union, all members of the Commonwealth of Independent States (CIS), except **Uzbekistan**, acceded to the 1951 Refugee Convention, and proceeded at different speeds to develop and adopt relevant national refugee laws and set up asylum procedures. Most CIS countries, however, did not initially acknowledge the right of asylum-seekers from “near-abroad” (those from within the territory of the former Soviet Union), and also Uighurs⁹⁵ from the Xinjiang Uighur Autonomous Region (XUAR) in China, to seek international protection in other CIS countries.

Therefore, in the absence of functioning national state refugee status determination procedures for asylum-seekers originating from other CIS countries, UNHCR regional offices were tasked with assessing asylum-seekers’ claims and determining if they were entitled to recognition as mandate refugees and with ensuring protection of recognized refugees, in accordance with UNHCR’s mandate. Those recognized as mandate refugee were put forward for resettlement to a third country. Those individuals not so recognized found themselves without access to protection and at risk of being forcibly returned to their home countries.

As governments have gradually assumed responsibility for implementing refugee status determination procedures, including for asylum-seekers from CIS countries and XUAR, UNHCR has taken on its supervisory role under Article 35 of the Refugee Convention⁹⁶, checking on due process and raising with the responsible government authorities any concerns about violations of international obligations and breaches of internationally accepted norms. The determination as to who is a refugee under the Refugee Convention is the primary responsibility of the state party in whose territory the refugee applies for recognition of refugee status.⁹⁷ The Refugee Convention provides for co-operation between states parties and UNHCR, including in certain circumstances in respect of refugee status determination.⁹⁸

As parties to the Refugee Convention, **Kazakhstan, Russia, Ukraine** and other CIS member states with the exception of **Uzbekistan**, have an obligation to provide UNHCR with an effective opportunity to be consulted on potential extradition and deportation cases and to have access to all information that would enable it to fulfil its supervisory responsibility.

Across the region, the implementation of national laws on refugee protection and the refugee status determination processes fall far short of international standards. As a result, UNHCR offices in Ukraine and **Kyrgyzstan** for example, have continued to conduct asylum interviews with the view to determining asylum-seekers' entitlement to international protection, including on the grounds of the risks many individuals would face if returned to their home countries, in particular Russia, Uzbekistan, and XUAR in China. UNHCR offices have thus continued to recognize individuals as refugees under their mandate and to find resettlement countries for them.

However, Amnesty International is concerned that both in **Ukraine** and **Kazakhstan** UNHCR offices are not always allowed to exercise supervisory responsibility in respect of the Refugee Convention in an effective and timely manner. The lack of access afforded by some governments undermined the protection afforded to asylum seekers and refugees.

CASE OF 29 UZBEK REFUGEES AND/OR ASYLUM-SEEKERS RETURNED TO UZBEKISTAN

The 29 Uzbek refugees and/or asylum-seekers who were detained in Kazakhstan in 2010, 28 of whom were extradited to Uzbekistan in 2011, were not recognized as refugees by the Kazakhstani authorities because of security concerns, but remained at risk of torture upon return to their country of origin. Of these 29 detainees, 17 were recognized by the UNHCR office in Almaty as UNHCR mandate refugees between 2005 and March 2010. Several among them had been accepted for resettlement and were awaiting departure to a third country in 2009.

However, the coming into force of the Refugee Law in Kazakhstan on 1 January 2010 meant that all status determination procedures were handed to the relevant Kazakhstani authorities. The Kazakhstani authorities reviewed all asylum applications handled by the UNHCR office in Almaty, including those recognized as refugees by UNHCR. They revoked all of the mandate refugee statuses accorded by UNHCR, including in the cases of the 17 detained Uzbek men. The grounds for this decision were that the men belonged to Islamic movements and Islamist groups banned in Uzbekistan and that therefore they posed a security risk and were not deserving of international protection under the provisions of the Kazakhstan Refugee Law.⁹⁹

According to information available to Amnesty International, following the revocation decisions by the Kazakhstani authorities, UNHCR cancelled the refugee status that it had previously granted under its mandate to 17 of these men. With the exception of one asylum-seeker who was eventually released and received provisional refugee status under Kazakhstani law¹⁰⁰ the detainees were denied refugee status by the Central Commission on the Determination of Refugee Status and all were extradited to Uzbekistan in June 2011.

Amnesty International understands that UNHCR decided to cancel the refugee status that it had previously accorded to these 17 individuals in the light of "evidence" of which it became aware after having initially recognized them as refugees. Amnesty International further understands that some of the "evidence" presented to UNHCR concerned information provided by the Uzbekistani and Kazakhstani authorities, according to which, some of these men were suspected members of Hizb ut-Tahrir. Membership of such an outfit, per se, however, would not warrant exclusion.¹⁰¹ This is particularly the case in connection with membership of an organization such as Hizb ut-Tahrir which indeed remains lawful in countries such as the United Kingdom and the USA. Some among the 17 individuals may also have been accused of membership of the IMU and/or the IUJ – both classified as "terrorist" organizations by Kazakhstan, Uzbekistan and

internationally. Active membership of IMU or IUU might in certain circumstances give rise to exclusion considerations. However, the Uzbekistani authorities have used accusations of membership of Hizb-ut-Tahrir, IMU or IUU before, to pursue individuals who worship outside state-controlled mosques.

Further, both UNHCR and the Kazakhstani authorities knew or ought to have known that the 17 men, regardless of whether they were members of any of the above Islamist parties or groups, faced a real risk of incommunicado detention, torture and other ill-treatment and long prison sentences in cruel, inhuman and degrading conditions following unfair trials if returned to Uzbekistan.¹⁰²

In a previous written submission to the Committee against Torture in September 2011 Kazakhstan had explained that UNHCR had decided to “revoke” the refugee status it had accorded to 17 of the men after it had studied “reliable and verified information” given by the government of Kazakhstan “to the effect that the complainants’ presence in Kazakhstan constitutes a threat for the State party and could also cause irreparable harm to the security of other countries.”¹⁰³

However, in any event the Kazakhstani authorities were not absolved from their human rights obligations not to return these men in light of the above mentioned risks, irrespective of whether the individuals concerned constituted such “a threat” or not. The *non-refoulement* principle at human rights law is non-derogable.¹⁰⁴

Eventually, at least 12 of the men were sentenced to long prison terms following blatantly unfair trials upon their return to Uzbekistan. During their oral presentation at a special hearing of the UN Committee against Torture on the extradition of the men, in Geneva in June 2012, Kazakhstani representatives told the Committee that they had presented UNHCR with the SCO Agreements and the Minsk Convention and explained their obligations under these agreements to extradite the men and that UNHCR had not raised any objections.¹⁰⁵

Amnesty International is concerned that procedural safeguards in the context of the revocation/cancellation of refugee status were not upheld and that these individuals were deprived of the right to appeal the UNHCR decision to cancel their mandate refugee status. Relatives and representatives of the 17 men have stated that they were not given an opportunity to refute the “evidence” in the case. Amnesty International is not aware of the men receiving letters outlining the grounds for the UNHCR decision, nor of them having been given the opportunity to refute the evidence and or appeal against the decision. Neither, reportedly, were they given letters by UNHCR clearly stating that, notwithstanding the reasons for UNHCR’s decision, the Agency acknowledged that the individuals concerned had a well-founded fear of persecution upon return to Uzbekistan; and that the denial by the Government of Kazakhstan to grant refugee status was without prejudice to other forms of human rights protection to which they may be entitled in Kazakhstan.¹⁰⁶

ERSHIDIN ISRAIL

In the case of Ershidin Israil, a Uighur who was forcibly returned to China from Kazakhstan in May 2011, UNHCR also revoked his mandate refugee status. According to his lawyer, UNHCR confirmed that he had the possibility to appeal against the decision to revoke his refugee status, including by providing evidence to UNHCR militating against revocation and in support of his continued entitlement to refugee status. However, Amnesty International is concerned that UNHCR did not provide Ershidin Israil or his lawyer with information about the grounds on which their revocation decision was based, reportedly because of confidentiality issues. This made it impossible for Ershidin Israil to refute the arguments presented by UNHCR.

Amnesty International provided UNHCR with an earlier draft of this report for its comments. In its reply the UNHCR did not respond to Amnesty International's concern about the failure to explain the reasons for the "cancellation" of refugee status to the individuals concerned or to provide for a meaningful appeal process. In light of this, the organization remains deeply concerned that UNHCR has deprived individuals at risk of torture and ill-treatment of basic procedural guarantees to which they were entitled.

In addition, UNHCR offices have in some cases failed to underscore to the government concerned that: such individuals are still in need of international protection regardless of whether they may no longer be people of concern to UNHCR, including, in particular, that they continue to be at a real risk of torture upon return; and that the prohibition of torture is absolute under international law, and that refers also to the *non-refoulement* obligations that that prohibition entails. UNHCR therefore appears – at least in public – not to have opposed extradition or *refoulement* to torture because of security considerations, and Amnesty International is concerned that governments use this public silence as justification for their actions.

7. CONCLUSIONS AND RECOMMENDATIONS

7.1 CONCLUSION

The US led renditions programme was, at least briefly, secret. Its exposure did much to reverse it. Something less centralized, and less coordinated, but no less widespread is taking place across the former Soviet Union – and there is nothing secret about it. It has been exposed by countless European Court of Human Rights rulings, and the findings of UN mechanisms; many of its victims have been well known to the UNHCR. It is going on today, right now, right under the nose of the international community and no one is saying anything about it.

Torture is a crime under international human rights law, the prohibition of torture is a cornerstone of the international human rights framework. Flouting this key principle is a direct concern to all. CIS countries must ensure that the absolute prohibition in international law to return a person to torture is respected. And if the international human rights framework is to mean anything at all, then the international community must do more to uphold it in the face of so flagrant a challenge to its core standards.

7.2 RECOMMENDATIONS

To all CIS Member States:

- Ensure that no one within their jurisdiction is returned, by means of extradition or otherwise, to any country where they would be at risk of torture or other ill-treatment;
- Refrain from the use of and reliance on diplomatic assurances to circumvent this obligation and extradite or otherwise return persons to places where they are at risk of torture and other ill-treatment;
- Where it is proposed to return a person to any country, whether by extradition or otherwise, ensure that that person has an effective opportunity to seek a review of that decision. This review must include a full consideration of the risks they would face in the country of return. Ultimately, they must be able to appeal to the courts against a decision to return them. No one should be returned in a way which circumvents such procedures;
- Ensure that international human rights obligations are reflected in, and prevail over, bilateral and regional security and other criminal justice co-operation agreements.

To all Central Asian states:

- Ensure that all detainees, including those who have been extradited or returned from other countries, are able, from the outset of detention, to exercise their rights to contact their family or another third party, and to consult in private with a lawyer of their choice and with

an independent medical practitioner;

- Establish a system of regular, independent, unannounced and unrestricted visits of inspection to all places of detention, with the opportunity for the inspectors to speak privately with individual detainees;
- Ensure that all trials, including of people forcibly returned to Central Asian countries, comply with international law and standards relating to fair trial.

To Ukraine and the Russian Federation:

- Fully comply with all interim measures and judgements of the European Court of Human Rights in relation to cases of return and extradition.

To the European Union and EU member states:

- Adhere to the EU Guidelines on Torture, which clearly state that the eradication of torture “is a priority of the EU's human rights policy” by:
 - Raising the issue of torture during all political negotiations with Central Asian countries and visits, and not just in the course of human rights dialogues;
 - Making démarches and issuing public statements urging Central Asian countries to eradicate and introduce effective safeguards against torture and other ill-treatment;
 - Sending Embassy representatives to observe trials where there is reason to believe that defendants have been subjected to torture or ill-treatment.

To the Committee of Ministers of the Council of Europe:

- Effectively monitor the implementation of European Court of Human Rights judgements and interim measures relating to cases of return and extradition to Central Asia.

To the UNHCR:

- Whenever UNHCR is the decision-maker, including, for example, in the context of cancelling refugee status, it should ensure that it provides the individuals concerned with reasoned decisions and an opportunity to appeal against such decisions in strict compliance with basic procedural guarantees;
- Whenever UNHCR knows or ought to know that the people concerned would face a real risk of persecution or other forms of serious harm on removal, it ought to make clear to the authorities of the government concerned that human rights obligations continue to apply, even when refugee law may not.

8. APPENDIX 1: SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS ABOUT TORTURE AND OTHER ILL-TREATMENT IN KAZAKHSTAN, KYRGYZSTAN, TAJIKISTAN, TURKMENISTAN AND UZBEKISTAN

8.1 KAZAKHSTAN

In May 2009 the UN Special Rapporteur on torture issued a statement on **Kazakhstan** in which he concluded that “*the use of torture and ill-treatment certainly goes beyond isolated instances*”. In his report issued in February 2010 he reiterated that concern and concluded that “*considerable gaps between the law and reality remain*”.¹⁰⁷

Despite repeated government claims that Kazakhstan was successfully addressing the Special Rapporteur's findings, reports of torture and other ill-treatment by security forces have continued unabated.

In July 2011, the UN Human Rights Committee discussed Kazakhstan's report on implementing the International Covenant on Civil and Political Rights (ICCPR).¹⁰⁸ It regretted that Kazakhstan had not made more progress in eliminating torture and questioned the political will of the authorities to fulfill their commitments, especially in initiating effective investigations into allegations of torture or other ill-treatment. In a retrograde move the same month, the President signed a decree authorizing the transfer of the prison system from the Ministry of Justice back to the authority of the Ministry of Internal Affairs, thereby defeating years of reform efforts. Access by public monitors to prisons and pre-trial detention centres had greatly improved since their transfer to the authority of the Ministry of Justice in 2004. In contrast, access to police cells and other places of detention under the authority of the Ministry of Internal Affairs remained problematic and most allegations of torture continued to be received from these institutions.

Countering terrorism and other threats to national security continue to be invoked by the authorities in Kazakhstan as crucial to securing national and regional stability. Among those

particularly targeted by the NSS are those Islamic groups and Islamist parties, which are either unregistered or banned in Kazakhstan, religious minorities, and asylum-seekers from neighbouring countries, in particular from China and Uzbekistan. At a special oral hearing of the UN Committee against Torture (CAT) in May 2012 into the extradition of 28 Uzbek men to Uzbekistan in June 2010 the representative of Kazakhstan noted that, “[it] co-operate[d] with Uzbekistan and extradite[d] an average of 40 individuals per year in relation to criminal proceedings. Since 2007, UN High Commissioner for Refugees (UNHCR) has resettled 215 Uzbek[istani] citizens from Kazakhstan to third countries.”¹⁰⁹

Since 2011 the authorities have stepped up counter-terrorism operations targeting unregistered or banned Islamic groups and Islamist parties and organizations following an unprecedented number of bomb explosions, suspected suicide bombings and violent attacks by unidentified armed groups throughout the country. Scores of people, including security forces and civilians, were killed during these violent incidents, which the authorities described as terrorist attacks by illegal Islamist groups.

Terrorism with loss of life is the only Article in the Criminal Code which provides for the death penalty in peacetime.

ZHASULAN SULEIMENOV

In November 2009 a court in Astana convicted two cousins of terrorism and sentenced them to eight years in prison after what independent observers called a “blatantly unfair trial”.

Zhasulan Suleimenov, a paraplegic, and his younger cousin Kuat Zhobolaev both alleged in court that they had been tortured by NSS officers in order to force them to confess to having set up a terrorist cell and to having called for terrorist acts to be committed in Kazakhstan. The court did not call for an investigation of the allegations or declare the confessions as inadmissible evidence.

Zhasulan Suleimenov had been detained together with five acquaintances in Russia in January 2009 by officers of the Federal Security Service (FSB) of the Russian Federation, reportedly at the request of the Kazakhstani NSS. He had been in Russia to receive medical treatment. In February the six were extradited from Russia to Kazakhstan. Zhasulan Suleimenov was kept in incommunicado detention for three days before being transferred to the NSS pre-trial detention centre (SIZO) in Astana. The others were released without charge. While in the SIZO he was reportedly beaten on his legs and other parts of his body, handcuffed and suffocated, denied food and water and basic hygienic care. NSS officers reportedly threatened to harm his mother and his younger cousin. His relatives claimed that he was not given the specialized medical care a paraplegic requires. Kuat Zhobolaev’s family reported that he was kept in de facto incommunicado detention for two months, during which time he, too, was reportedly tortured and ill-treated.

The families of both men lodged numerous complaints to the prosecutor’s office about their allegations of incommunicado detention, torture, denial of medical care by the NSS as well as lack of access to families and independent legal advice, all of which were rejected as lacking in fact.

While in prison Zhasulan Suleimenov was diagnosed with osteomyelitis, an inflammation of the bone and bone marrow caused by infection. His relatives said that an old fracture to one of his legs became infected because of lack of proper medical care in prison. His other leg was damaged as a result of beatings in detention.

During his four years in prison, Zhasulan Suleimenov has been forced to spend more than 11 months in solitary confinement. He has been moved six times to different prisons, and beaten during each transfer, including on his paralysed legs. Medicines provided by Zhasulan Suleimenov's relatives were reportedly burned by prison guards upon his arrival at one of the prisons in September 2011.

On 16 December 2011, in the worst confrontation in the last 20 years, celebrations of the 20th anniversary of Kazakhstan's independence in the south-western oil city of Zhanaozen were marred by violent clashes between protesters and police. At least 15 people were killed and more than 100 seriously injured. The violence followed months of strikes by oil industry workers over pay and working conditions.

Following the violence, released detainees and relatives of detainees reported that scores of people, including young women, had been rounded up and held incommunicado in overcrowded cells in police custody. They claimed the detainees had been stripped naked, beaten, kicked, and doused with cold water. Journalists reported hearing screams coming from interrogation rooms in police stations. However, without access, independent monitors found it difficult to verify the allegations. At least one man was alleged to have died as a result of the torture he was subjected to in police custody. In January 2012, following an investigation into the lethal use of force by security forces, five senior security officers were charged with abuse of office in relation to the use of force in Zhanaozen, and they were sentenced to between five and seven years in prison in May. Several police officers testifying at the trial as witnesses confirmed that they had used firearms to shoot directly at protesters, however no charges were brought against them.

The main trial, of 37 protestors, all accused of organizing or taking part in the violence, started at the end of March 2012. Most of the accused retracted their confessions in court, saying they had been made under duress. Some of them gave very detailed and graphic descriptions of the torture and other ill-treatment they had suffered in detention and some identified police and security officers they said were responsible. The Prosecutor General's Office reviewed the allegations of torture at the request of the presiding judge but rejected the claims. Seven of the defendants were sentenced to prison terms of up to seven years.

8.2 KYRGYZSTAN

Torture and other ill-treatment by security forces remain endemic in **Kyrgyzstan**. The UN Special Rapporteur on torture reported in February¹¹⁰ that incidents of torture and other ill-treatment to extract confessions "*remained widespread*". He further observed, "*that, in practice, there is no clear procedure in place prescribing the measures to be taken by courts should evidence appear to have been obtained through torture or ill-treatment. Furthermore, in practice, there appears to be no instruction to the courts with regard to implementing that rule or ordering an immediate, impartial and effective investigation if the rule is violated.*"

In its October 2012 report, the international NGO Physicians for Human Rights (PHR) noted that the extreme brutality of torture of police officers working for the Ministry of Internal Affairs they documented during fact-finding missions is "*typically observed in countries where perpetrators routinely practice torture with impunity.*"¹¹¹ Ethnic Uzbeks from the South of the country are at particular risk of torture and other ill-treatment.

In June 2010, four days of violence between ethnic Kyrgyz and ethnic Uzbeks in the southern Kyrgyzstani cities of Osh and Jalal-Abad left hundreds dead, thousands injured and hundreds of thousands forced to flee their homes. While serious crimes were committed by members of both ethnic groups, most of the damage, injuries and deaths were suffered by ethnic Uzbeks.

In May 2011 the International Commission of Inquiry into the June 2010 violence found strong evidence that crimes against humanity had been committed against ethnic Uzbeks in the city of Osh during the violence.¹¹² This conclusion was rejected by the Kyrgyzstani authorities.

Two years after the violence, human rights monitors are reporting fewer arbitrary arrests, but torture and other ill-treatment by law enforcement officers still appear routine: while people are being apprehended in the street, or on their way to detention centres, while their houses are searched, during interrogation, and in pre-charge detention facilities. Police officers appear to have continued to target ethnic Uzbeks, threatening to charge them with serious crimes, such as murder, in relation to the June 2010 violence, in order to extort money from them.

Those who have returned from seasonal work in Russia or Kazakhstan or families who have relatives working outside the country are particularly vulnerable to arbitrary detention, intimidation and extortion, since they are assumed to have ready access to money and foreign currency.

Despite the fact that serious crimes were committed by members of both ethnic groups, human rights monitors are concerned that ethnic Uzbeks continue to be disproportionately targeted for prosecution for mass disorder in connection with the June 2010 events for as long as it remains legally possible for the authorities to do so.¹¹³ Relatives are still reluctant to submit complaints to police and prosecutors about the torture and other ill-treatment of Uzbek detainees, or intimidation and extortion, for fear of reprisals.

In February 2012, the Special Rapporteur on torture expressed concern that “serious human rights violations in the context of [these] investigations have continued unabated in recent months”.

Since mid-2011, lawyers defending ethnic Uzbeks accused of participation in the June 2010 events have been threatened and physically attacked, even in the courtroom. Courts of all levels, including the Supreme Court, have routinely failed to exclude evidence obtained under torture.

USMANZHAN KHALMIRZAEV

Usmanzhan Khalmirzaev, an ethnic Uzbek Russian citizen, died on 9 August 2011, reportedly as a result of torture, two days after he was arbitrarily detained in Bazar-Korgan by plain-clothes police officers and taken to the local police station. He told his wife shortly before he died that a gas mask had been put over his face and he had been beaten. When he collapsed, one of the officers reportedly kned him in the chest two or three times until he lost consciousness. The police threatened that if he did not pay them US\$ 6,000, they would charge him with violent crimes in relation to the June 2010 violence. He was eventually released after his

family gave the officers US\$ 680. He was hospitalized the next morning and died of his injuries a day later. His wife said that he had told her that the officers were responsible for his injuries. His wife and her lawyer who were present at his autopsy reported that the forensic examination found that he had died of internal haemorrhaging. Following an official request from the Russian consulate, the prosecutor of Jalal-Abad opened a criminal case in August 2011 against four police officers with several charges, including torture. In September 2011 before the trial began, relatives of the accused threatened key witnesses for the prosecution, the family and Usmanzhan Khalmirzaev's lawyer with violence.

The trial was moved to Chui Region, 500km away, for security reasons. Nevertheless, key witnesses were threatened with violence and some changed their testimony in favour of the accused. Several felt compelled to leave the country fearing for their family's safety. In March 2012 the trial was returned to Jalal-Abad Regional Court and the presiding judge called for further investigations and released two of the accused police officers on bail. By the end of 2012, the Jalal-Abad Regional Prosecutor had not started investigations into the actions of the relatives and supporters of the accused, despite complaints by the widow of Usmanzhan Khalmirzaev and her lawyers. On 26 December 2012 Jalal-Abad Regional Court indefinitely postponed the trial after three of the defense lawyers failed to show at the scheduled hearing.

Kyrgyzstan has issued dozens of extradition requests for ethnic Uzbeks whom the authorities accuse of having organized or participated in the June 2010 violence in Osh and Jalal-Abad. Most of those sought have fled to Russia, with lesser numbers seeking refuge in Kazakhstan and Ukraine. In 2010 Russia gave temporary asylum to those ethnic Uzbeks who applied for it and refused to comply with extradition requests from Kyrgyzstan. However in May 2012 the Russian General Prosecutor's Office accepted an extradition request for an ethnic Uzbek, Mamir Nematov, only revoking its decision after the intervention of the European Court of Human Rights which instructed Russia not to extradite him.

On 16 October 2012, the European Court of Human Rights held in the case of *Makhmudzhan Ergashev v. Russia*, that, if the applicant, an ethnic Uzbek with Kyrgyzstani nationality, were to be extradited to Kyrgyzstan there would be a violation of Article 3 of the European Convention of Human Rights (prohibition of torture or other ill-treatment, including sending people to places where they would face a real risk of treatment in violation of this prohibition). This was the first time the Court issued a judgement on the risk of torture and other ill-treatment for ethnic Uzbeks threatened with return to Kyrgyzstan following the clashes between ethnic Kyrgyz and ethnic Uzbeks in June 2010.¹¹⁴

8.3 TAJIKISTAN

In **Tajikistan**, there are regular reports that people have been subjected to torture and other ill-treatment by police and security officers, often in order to "solve" crimes by obtaining confessions. Amnesty International documented many of its concerns in the report "Shattered Lives: Torture and Ill-treatment in Tajikistan" published in July 2012.¹¹⁵ After his visit to Tajikistan in May 2012 the UN Special Rapporteur on torture highlighted that "*pressure on detainees, mostly as a means to extract confessions is practised in Tajikistan in various forms, including threats, beatings (with fists and kicking but also with hard objects) and sometimes by applying electric shocks,*" and was persuaded that "*it happens often enough and in a wide variety of settings that it will take a very concerted effort to abolish it or to reduce it sharply*".¹¹⁶

In November 2012 the UN Committee against Torture noted “*numerous and consistent allegations ... of routine use of torture and ill-treatment of suspects, principally to extract confessions ... primarily during the first hours of interrogation in police custody as well as in temporary and pre-trial detention facilities run by the State Committee of National Security [SCNS] and the Department for the Fight against Organized Crime.*”

However, recent reports of torture and other ill-treatment being used in relation to children, elderly people and witnesses in criminal cases are also known to Amnesty International.

Some positive developments in reducing the incidence of torture in Tajikistan have occurred since 2010, including the April 2012 introduction of a new article in the criminal code criminalizing torture.

However, reports of incidents of torture and other ill-treatment of suspects in the early stages of detention continue, indicating that it remains a persistent problem in the country. Despite the first case of a police officer being convicted for torture in September 2012, a general climate of impunity persists, with reports of delays in forensic examinations being common, prosecutor’s offices failing to act on and not replying to individual complaints of torture or simply responding that they were unfounded without providing further explanations. In addition, in many cases people are afraid of lodging complaints about torture and other ill-treatment for fear of reprisals. Despite the Criminal Procedural Code stating that evidence obtained through torture should be excluded from court, there were no cases in the year where judges implemented exclusionary measures.

Amnesty International’s research has found that most of those extradited, or otherwise forcibly returned or removed to Tajikistan are held in incommunicado detention for several weeks after their return, thereby increasing their risk of being tortured or otherwise ill-treated. Amnesty International’s research indicates that Tajikistan has particularly requested the extradition of individuals accused or suspected of being involved in or sympathetic to banned Islamic groups or Islamist parties. Many of these extradition requests have been made by Tajikistan to Russia.¹¹⁷

In November 2012 during the examination of Tajikistan’s periodic report to the UN Committee against Torture the Committee expressed its concern at “*reports of extradition requests made by the State party of persons alleged to be members of banned Islamic groups, who, upon return to Tajikistan, are reportedly held in incommunicado detention and in solitary confinement, and subjected to torture and/or ill-treatment by law enforcement officials.*” The Special Rapporteur on torture reported hearing “*testimonies pointing to a pattern of kidnapping, reappearance, remand and forcible return to Tajikistan, incommunicado detention and solitary confinement in the buildings of the State Committee for National Security or the Sixth Department, or transfer to pre-trial detention facilities under their jurisdiction, and interrogations over the course of several months.*”¹¹⁸

The European Court of Human Rights has ruled in several cases since 2010 that Tajikistani nationals would be at a real risk of torture, and their rights under Article 3 of the European Convention on Human Rights would be violated, if extradited to Tajikistan. In the case of *Gaforov v. Russia*, for example, the court pointed out that “*evidence from a number of objective sources describes a disturbing situation in Tajikistan*” and cited international

human rights organizations as describing torture as “systemic”, “widespread” and “routine”.¹¹⁹ In April 2013, in the case of *Savriddin Dzhurayev v. Russia* the European Court referred to the “context of harassment of non-traditional religious groups by the Tajik authorities” and ruled that this had “heightened the risk of [Savriddin Dzhurayev] being subjected to ill-treatment in detention with a view to extracting confessions relating to his religious activities”.¹²⁰

Amnesty International believes that many of those people whose extradition is requested by Tajikistan are at risk of torture or other ill-treatment if returned to the country.

MUHAMMAD AKHADOV

Muhammad Akhadov was arrested in the Moscow region in Russia in 2007 and held in detention pending consideration of an extradition request from Tajikistan in connection with charges involving breaking and entering, drugs and obstruction of justice. Following a decision to extradite him by the Russian Supreme Court on 29 September 2008, on the same day officials of the Russian General Prosecutor’s Office handed him over to officials of the Tajikistani Ministry of Internal Affairs (MIA) at Vnukovo airport in Moscow, Russia. On 17 November 2010 Muhammad Akhadov sent a complaint to the Russian General Prosecutor describing how upon arrival in Dushanbe he was taken to the building of the MIA Sixth Department where: “they beat and abused me. Late at night [...] two officials stripped me naked, tied up my hands and legs. These officials subjected me to brutal sexual violence... While one of them... raped me, the other recorded the terrible process on camera.” Muhammad Akhadov reports that security officers threatened that unless he confessed in writing to the crimes they would circulate the photos of his rape throughout Tajikistan. Muhammad Akhadov reported being told by officials, that he was accused of involvement in a second crime, which was not specified in his extradition request. He alleges that police continued to torture him daily until 3 October 2008 when he was transferred to police custody in Dushanbe. There, he reported being subjected to further ill-treatment by an MIA official. Muhammad Akhadov complained to the General Prosecutor of Tajikistan and an investigation was carried out into the torture allegations. In October 2008 a criminal case was opened against two officers of the MIA Sixth Department in Tajikistan. However, these officers have reportedly left the country.

Muhammad Akhadov was sentenced to nine years in prison for unlawful intrusion.¹²¹ He wrote to the Russian General Prosecutor’s Office requesting that they investigate his complaint. To Amnesty International’s knowledge, no action has been taken by the Russian General Prosecutor’s Office.

In September 2010, the European Court also ruled on the case of *Mahmadruzi Iskandarov*, who applied to the Court after his forcible return from Russia to Tajikistan in April 2005.¹²² The Court ruled that his extradition had violated Article 3 of the European Convention, arguing that the Russian authorities had “blatantly failed to assess the risks of ill-treatment the applicant could face in Tajikistan”.

In Tajikistan, national legislation does not prohibit the extradition of individuals to a country where they are at risk of torture. Extradition issues are mainly regulated by bi-lateral agreements as well as regional instruments such as the Minsk and Chisinau Conventions and the Shanghai convention on combating terrorism, separatism and extremism.¹²³ The procedures for appealing against extradition decisions on the grounds of fear of torture or other ill-treatment are opaque.

The Prosecutor General's Office is the only body with jurisdiction over extradition-related issues.

8.4 TURKMENISTAN

Since independence in 1991 **Turkmenistan** has remained closed to international scrutiny. Despite a change of president in 2007 and some signs of a new openness in 2011 and 2012, this continues to be the case. No independent international organizations have been allowed to carry out human rights monitoring and it fails to fully co-operate with UN human rights mechanisms. In March 2012, the UN Human Rights Committee concluded that although Turkmenistan showed a “new willingness” to improve its human rights record, a wide gap between legislation and implementation in practice persists.

Amnesty International has received reports that in Turkmenistan people suspected of committing criminal offences are routinely subjected to torture and other ill-treatment. Perpetrators reportedly include police, officers of the Ministry of National Security and prison personnel. In addition, Amnesty International has received credible allegations of torture and other ill-treatment committed against human rights defenders, journalists, members of certain religious minorities, conscientious objectors, as well as those people labelled as “traitors to the motherland” in connection with the alleged assassination attempt on former President Saparmurad Niyazov in November 2002.

According to the authorities opposition supporters carried out an armed attack on the President's motorcade in the capital Ashgabat in an attempt to assassinate him and to overthrow the constitutional order. The alleged assassination attempt left the then President unharmed and led to a new wave of repression. Dozens of people were subjected to enforced disappearance, at least 59 people were convicted in unfair trials between December 2002 and January 2003, including Boris Shikhmuradov, Foreign Minister from 1995 until 2000, his brother Konstantin Shikhmuradov, and Batyr Berdyev, Foreign Minister from 2000 until 2001 and a former representative of Turkmenistan to the Organization for Security and Co-operation in Europe. They received sentences ranging from five years to life imprisonment for their alleged involvement in the assassination attempt. Many of them were labelled as “traitors to the motherland”. In most cases the charges brought included “conspiracy to violently overthrow the government and/or change the constitutional order”, “attempting to assassinate the President”, and “setting up or participating in a criminal organization”.

Boris Shikhmuradov was sentenced to 25 years' imprisonment in a closed trial on 29 December 2002. The People's Council (Khalk Maslakhaty) reportedly increased his sentence to life imprisonment the next day. His brother Konstantin Shikhmuradov was sentenced to a prison term of 17 years and Batyr Berdyev was sentenced to 25 years' imprisonment.

Reportedly, many of those accused of involvement in the alleged assassination attempt as well as their relatives were subjected to torture, other ill-treatment and psychological pressure to force them to confess to their involvement in the attack and incriminate others. Several detainees were pressurized to make public confessions or to publicly denounce their parents. Batyr Berdyev's and Boris Shikhmuradov's televised 'confessions' were broadcast on 18 and 29 December 2002 respectively and there were reports that the text of the confessions were dictated to them. Reportedly, several dozen of the defendants who were convicted in a series of closed trials were not represented by independent lawyers. Some

lawyers representing the defendants in court reportedly began their pleas with the words “*I am ashamed to defend a person like you.*”

The defendants were forced to sign a document saying they were familiar with the documentation of the criminal charges against them and the indictment, without being given the chance to study these documents. Many have reportedly also been denied appropriate medical treatment in detention.

The authorities continue to withhold information about the whereabouts of this group of prisoners; deny them all access to their families and independent bodies and refuse to respond to allegations that at least eight of them died in custody. Family members and lawyers have not been able to visit them or even learn of their fate or whereabouts.

In another case of incommunicado detention, Turkish Tyrmyev, the former Commander of Border Troops of Turkmenistan, was sentenced to ten years for abuse of power in 2002. His relatives have not heard of his whereabouts since May 2002. In March 2012, they were informed that Turkish Tyrmyev was given an additional sentence of seven years and eleven months as the date of his release approached, allegedly for a crime against a prison guard.

To Amnesty International's knowledge, none of the allegations of torture in cases in connection to the 2002 assassination attempt have been investigated to date. Impunity for torture and other ill-treatment is the norm in Turkmenistan, with complaints by victims rarely being pursued.

Torture and other ill-treatment are used to extract confessions and other incriminating information and to intimidate detainees. Methods of torture and other ill-treatment reported to Amnesty International have included: electric shocks; asphyxiation applied with a plastic bag or gas mask to which the air supply is cut; rape; forcibly administering psychotropic drugs; beating with batons, truncheons, or plastic bottles filled with water; punching; kicking; food and drink deprivation; and exposure to extreme cold.

The European Court of Human Rights has also found nationals of Turkmenistan to be at risk of torture upon return and noted the existence of numerous and consistent credible reports of torture, and other ill-treatment against criminal suspects by the Turkmenistani security authorities.¹²⁴ In 2008 the European Court ruled in *Ryabikin v. Russia* that the applicant, an ethnic Russian citizen of Turkmenistan, would, in part due to his ethnicity, be at risk of torture or ill-treatment if returned to Turkmenistan where he would face a long period of detention in poor conditions and possibly in incommunicado detention.¹²⁵

GELDIMURAT NURMUHAMMEDOV

On 5 October 2012, former Minister of Culture Geldimurat Nurmuhamedov¹²⁶ was detained and sent to a drug rehabilitation centre in Turkmenistan, where it was feared he was subjected to forced medical treatment, in apparent retaliation for his public criticism of the Turkmenistani authorities. Geldimurat Nurmuhamedov was transferred to a drug rehabilitation centre in Dashoguz following his arrest, for up to six months of medical treatment for his alleged drug addiction. Amnesty International's research has revealed no evidence that Geldimurat Nurmuhamedov has any history of drug use and believes that Geldimurat Nurmuhamedov may have been targeted for his political activities. In December 2011, in an interview with the Radio Free

Europe/Radio Liberty, he criticized the Turkmenistan government for the absence of democracy and human rights in the country and called the ruling Democratic Party of Turkmenistan an “unlawful institution”. A few days later, the construction company owned by Geldimurat Nurmammedov’s family was closed down by the authorities.

8.5 UZBEKISTAN

There has been a serious deterioration in the human rights situation in Uzbekistan since the events in Andizhan in May 2005, when security forces fired into crowds of thousands of mostly unarmed demonstrators, including women and children, as they were protesting against the government in the centre of town and while they were fleeing.

Despite repeated assertions by Uzbekistan that the practice of torture has significantly decreased, Amnesty International has continued to receive reports of widespread torture or other ill-treatment of detainees and prisoners. According to these reports, in most cases the authorities failed to conduct prompt and impartial and effective investigations into the allegations of torture and other ill-treatment. Amnesty International is also concerned that thousands of devout Muslims sentenced in Uzbekistan after unfair trials for alleged membership of banned Islamist organizations are being held in conditions which amount to cruel, inhuman or degrading treatment.

Uzbekistan’s record on torture and other ill-treatment of pre-trial detainees and prisoners has also been documented by UN bodies, including the UN Special Rapporteur on torture, who in 2003 found torture in Uzbekistan to be “*systematic*,” and the UN Committee against Torture, which after its periodic review of Uzbekistan in 2007, found that torture in places of detention in Uzbekistan is “*routine*” and occurs “*with impunity*.”

Amnesty International’s research has shown that Uzbekistan has relentlessly pursued the extradition or otherwise forcible return of hundreds of individuals it suspects of having organized or participated in a number of alleged violent terrorist acts in Uzbekistan including bomb explosions in Tashkent in 1999 and 2004; the Andizhan protests in 2005 and violent acts , including bombings and shootings by armed groups, in Tashkent and the Ferghana Valley in 2009. Uzbekistan also continues to seek the return of scores of individuals suspected of being members or sympathizers of banned Islamic groups or Islamist parties not only from its neighbours, and Russia and Ukraine but also from other countries worldwide including EU member states, Turkey, the US, Australia, Egypt, Iran, the United Arab Emirates and Malaysia.

The European Court of Human Rights has issued at least 20 judgements in the past four years prohibiting the return of individuals to Uzbekistan, especially those accused of with membership of Islamist parties or groups that are banned in the country, on the basis that they would be at risk of torture or other ill-treatment if returned. For example, on 10 June 2010 in the case *Garayev v. Azerbaijan*, The Court ruled that that the extradition of Shaig Garayev from Azerbaijan to Uzbekistan would be in violation of the European Convention on Human Rights. The court stated that “*any criminal suspect held in custody [in Uzbekistan] faces a serious risk of being subjected to torture or inhuman or degrading treatment both in order to extract a confession and as a punishment for being a criminal.*”

Amnesty International's research has found that most of those forcibly returned to Uzbekistan at the request of the Uzbekistani authorities are held in incommunicado detention, thereby increasing their risk of being tortured or otherwise ill-treated. The two cases below are typical examples of what happens to individuals accused of anti-state activities when they are returned to Uzbekistan.

RUKHIDDIN FAKHRUDDINOV

Rukhiddin Fakhruddinov, a former independent imam (religious leader) of a mosque in Tashkent, was sentenced to 17 years in a strict regime prison camp in September 2006 by a court in Tashkent after a closed trial. He had been forcibly returned from Kazakhstan in November 2005 where he had been in hiding since 1998, and held incommunicado in a Tashkent prison until March 2006. His lawyer confirmed that he alleged that he had been subjected to sustained torture during his incommunicado detention in order to force him to confess to charges of terrorism, "extremism" and attempting to overthrow the constitutional order. Security officers had also intimidated his family and threatened them with violence if he did not confess to the charges. According to his father he admitted only that he had taught the Qur'an to children while he was an imam at the mosque and that he had illegally crossed the border with forged papers when he was forced to leave Uzbekistan in November 2005. The judge reportedly ignored his complaint in court that his "confession" was extracted as a result of torture and accepted it as evidence against him in the trial.

DILOROM ABDUKADIROVA

Dilorom Abdukadirova fled Uzbekistan after attending the Andizhan demonstration in May 2005, leaving her husband and children behind. She was recognized as a refugee in Australia, and she returned to Uzbekistan in January 2010 after receiving assurances from the authorities that nothing would happen to her. However, she was immediately detained for four days upon arrival at Tashkent airport. In March 2010 she was detained again and kept in a police cell for two weeks without access to a lawyer or to her family. She was eventually brought to trial in April 2010 on charges of attempting to overthrow the constitutional order as well as of illegally exiting and entering Uzbekistan in relation to her participation in the 2005 Andizhan unrest. She was sentenced to 10 years and two months' imprisonment in 30 April 2010 in an unfair trial. Family members reported that she appeared emaciated at the trial, had bruises on her face and avoided eye contact with members of her family. The family also believed that she had been forced to appear in court without her hijab, despite being a devout and practising Muslim. Her sentence was reportedly extended by eight years for allegedly deliberately breaking prison rules following a closed trial inside prison in 2012.

ENDNOTES

¹ Statute of the Office of the United Nations High Commissioner for Refugees, G.A. res. 428 (V), annex, 5 U.N. GAOR Supp. (No. 20) at 46, U.N. Doc. A/1775 (1950).

² Under international law, the prohibition on return to a real risk of torture or other ill-treatment is absolute, and as such it is subject to no limitation or derogation.

³ In April 2008 in the case of *Ismoilov and Others v. Russia* the European Court of Human Rights summarized its concerns about **Russia** prioritizing counter-terrorism operations over the human rights of individuals at risk of extradition to Uzbekistan. The judgement said that the Court was “not convinced by the Government’s argument that they had an obligation under international law to co-operate in fighting terrorism and had a duty to extradite the applicants who were accused of terrorist activities, irrespective of a threat of ill-treatment in the requesting country.”

⁴ such as the Shanghai Co-operation Agreements and the Minsk Convention.

⁵ The IMU also known as the Islamic Movement of Turkestan is an Islamist opposition group originally from Uzbekistan, which advocates the forcible overthrow of President Islam Karimov of Uzbekistan and the establishment of a caliphate or Islamic state. The IMU is classified as a terrorist group by the UN and the USA and banned in all five Central Asian republics. It now operates from bases in Northern Afghanistan and tribal areas of Waziristan in Pakistan.

The IJU, previously known as the Islamic Jihad Group, split from the IMU some time in 2002 and is also based in the tribal areas of Pakistan. It has been linked to violent attacks in Uzbekistan in 2004 as well as attempted bomb attacks in Germany in 2007. It is also classified as a terrorist group by the UN and the USA.

Hizb-ut-Tahrir (Party of Liberation) is a transnational Islamic movement with origins in the Middle East. It also aspires to establish a caliphate in Central Asia and is banned in all five Central Asian republics. It was declared a terrorist organization in Russia in 2003. In their official literature Hizb-ut-Tahrir do not advocate violence as a means of achieving their goals.

This is not an exhaustive list – please see <http://www.currenttrends.org/research/detail/radical-islamists-in-central-asia> for more information.

⁶ “Nur” (Nurchilar, Nurdzhylar) is a term which the security services of the region use to refer to followers of the 19-th century Turkish Muslim theologian Said Nursi. In Uzbekistan and Russia the movement is classified as “extremist” and in Uzbekistan several hundred followers and alleged followers have been convicted of membership of an illegal organization following unfair trials. The Taabli Jamaat or Tabligh Jama’at (Society for Spreading Faith) emerged as a peaceful Muslim missionary movement in India in 1927. Followers pledge to lead an ascetic lifestyle and to conduct missionary and charity work. It grew in Central Asia and other CIS states in the 1990s and was added to a CIS list of organizations deemed “extremist” in 2004.

Salafism or Salafiyya is an Islamic school of thought, not a unified international movement as such. Salafis generally believe in a literal interpretation of the Quran and the hadith (oral traditions attributed to the Muslim prophet Muhammed) and reject more liberal interpretations of the texts. Most CIS states see Salafis as a threat to national security.

Wahhabism is a branch of Sunni Islam practised widely in Saudi Arabia. In Central Asia, authorities use the term “Wahhabi” to refer broadly to Muslims worshipping in mosques outside the state’s control and

Islamic religious groups they do not like or suspect of being “fundamentalist” or “extremist”.

⁷ International commission of jurists: <http://ejp.icj.org/IMG/EJP-Report.pdf>.

⁸ More information on torture and other ill-treatment in Central Asia is provided in Appendix 1.

⁹ See Amnesty International Public Statement *Tajikistan urged to disclose whereabouts of suspect held incommunicado* 5 November 2012 AI Index EUR 60/010/2012 <http://www.amnesty.org/en/library/info/EUR60/010/2012/en>; Urgent Action *Uzbek man risks forcible return from Russia: Yusup Kasymakhunov* UA: 361/12 Index: EUR 46/052/2012 17 December 2012 <http://www.amnesty.org/en/library/info/EUR46/052/2012/en>; Urgent Action *Tajikistani man facing extradition and torture* UA 7/13 Index MDE 25/001/2013; UAE 11 January 2013 <http://www.amnesty.org/en/library/info/MDE25/001/2013/en>; Public Statement *Ukraine: Authorities must not return former Prime Minister to torture in Tajikistan* EUR 50/001/2013 4 March 2013 <http://www.amnesty.org/en/library/info/EUR50/001/2013/en>; Urgent Action *Uzbekistani national at risk of torture: Azamatzhon Ermakov* UA: 330/12 Index: EUR 46/009/2013 13 March 2013 <http://www.amnesty.org/en/library/info/EUR46/009/2013/en>; Amnesty International *Three men face extradition, risk torture* UA: 150/13 Index: EUR 46/017/2013 Russia Date: 10 June 2013; <http://www.amnesty.org/en/library/info/EUR46/017/2013/en>.

¹⁰ This list is not exhaustive as explained in the introduction; other Islamic movements or Islamist parties banned in Central Asia include the Salafis and Taabli Jamaat.

¹¹ On 13 May 2005, hundreds of individuals, including women and children, were killed when security forces opened fire on mostly unarmed demonstrators, gathered in the centre of Andizhan, Uzbekistan. The authorities claimed the protest was an armed uprising organized by members of banned Islamist groups inside and outside Uzbekistan. Security forces opened fire on the demonstrators at the protest and as they fled; hundreds of them, including women and children were killed. Some 500 demonstrators, including women and children and dozens of the men accused by the authorities of having organized the violent uprising, managed to escape across the border to neighbouring Kyrgyzstan from where they were evacuated by UNHCR to safety in Romania in late August 2005. In the aftermath of the events the government severely clamped down on expression and manifestation of dissent and tried to suppress independent reporting on the killings. Hundreds of demonstrators were detained and reportedly ill treated; witnesses were intimidated. Journalists and human rights defenders were harassed, beaten and detained; some were held on serious criminal charges. Following unfair trials, the majority of which were closed or secret, hundreds of people were convicted of “terrorism” offences and were sentenced to long prison terms for their alleged participation in the unrest.

¹² On 10 June, 2010 clashes between gangs of mostly Kyrgyz and Uzbek youths in Osh city in the south of Kyrgyzstan rapidly escalated. Over the next four days, large-scale arson, looting and violent attacks, including killings and sexual violence, swept through Osh and Jalal-Abad regions, disproportionately affecting Uzbek-populated areas. The violence left hundreds dead and forced hundreds of thousands to flee their homes, the majority ethnic Uzbeks. Serious human rights violations marred the efforts to restore order to the region, including widespread reports of the use of excessive force by security forces, arbitrary detentions, and torture and other ill-treatment during transfer and in custody, mostly of ethnic Uzbeks.

¹³ For example Muhammad Akhadov, who was extradited from Russia to Tajikistan in September 2008 in connection with his alleged involvement in theft and drug offences, alleges he was tortured and raped by officials of the Ministry of the Interior Department for the Fight Against Organized Crime in Dushanbe (for further information on this case please see Appendix 1).

¹⁴ *Kaboulov v. Ukraine*, The European Court of Human Rights, (Application no. 41015/04) Final judgement of 10 May, 2010, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-95771>.

¹⁵ *Makhmudzhan Ergashev v. Russia*, The European Court of Human Rights, (Application no. 49747/11), judgement of 16 October 2012, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-113719#%22itemid%22:%22001-113719%22>].

¹⁶ *Gaforov v. Russia*, The European Court of Human Rights, (Application no. 25404/09), 21 October 2010, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-101283>. The court pointed out that "evidence from a number of objective sources describes a disturbing situation in Tajikistan" and cited international human rights organizations as describing torture as "systemic", "widespread" and "routine". As of May 2013, the Court had also issued judgements in the cases of Iskandarov, Haidarov and Khodzhaev and also Asimov and Savriddin Dzhuraev.

¹⁷ *Garabayev v. Russia*, The European Court of Human Rights, (Application no 38411/02) Final judgement of 30 January 2008; <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80960>; *Ryabikin v. Russia*, The European Court of Human Rights, (Application no 8320/04) judgement of 19 June 2008; *Soldatenko v. Ukraine*, The European Court of Human Rights, (Application no 2440/07) judgement of 23 October 2008; *Kolesnik v. Russia* The European Court of Human Rights, (Application no 26876/08) judgement of 17 June 2010.

¹⁸ *Garayev v. Azerbaijan*, The European Court of Human Rights, (Application no. 53688/08) judgement of 10 June 2010, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99218>. The Court ruled that that the extradition of Shaig Garayev from Azerbaijan to Uzbekistan would be in violation of the European Convention on Human Rights. The court stated that "any criminal suspect held in custody [in Uzbekistan] faces a serious risk of being subjected to torture or inhuman or degrading treatment both in order to extract a confession and as a punishment for being a criminal." At the time of writing the European Court of Human Rights has issued 13 judgements in relation to extraditions from Russia to Uzbekistan.

¹⁹ *Chahal v. The United Kingdom*, The European Court of Human Rights, (Application number 70/1995/576/662), 15 November 1996, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58004>. The Court held that "The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct. ... Thus, whenever substantial grounds have been shown for believing that an individual would face a real risk of being subjected to [torture or other ill-treatment] if removed to another State, the responsibility of the Contracting State to safeguard him or her against such treatment is engaged in the event of expulsion. ... In these circumstances, the activities of the individual in question, however undesirable or dangerous cannot be a material consideration." (paras 79-80).

²⁰ All CIS member states, except Uzbekistan, have ratified the UN 1951 Convention relating to the Status of Refugees.

²¹ Article 1F: "The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; c) He has been guilty of acts contrary to the purposes and principles of the United Nations."

²² Article 33(2): "The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country."

²³ *End-of-mission Statement by the UN Special Rapporteur on Torture*, Juan E. Méndez Preliminary findings on his country visit to the Republic of Tajikistan 10-18 May 2012 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12166&LangID=E>.

²⁴ The UN Charter in Articles 55 and 56 obliges states to promote and respect human rights, and in Article 103 provides that “[i]n the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail”, thus establishing the primacy of the obligation to protect against refoulement over extradition agreements.

²⁵ Largely spearheaded by China, the organization has been described as a “major force” in combating “terrorism” and one of its key aims appears to be to quell the activities of Uighur nationalists in both the XUAR and Central Asia. Their shared border with China and their large native Uighur populations make Kazakhstan and Kyrgyzstan the most common first countries of ‘refuge’ for Uighurs fleeing the XUAR. Yet, they are possibly the most unsafe countries of asylum for Uighurs. In the context of its policies in the XUAR, China has made great efforts to ensure that its Central Asian neighbours co-operate in returning Uighurs who are suspected of being “separatists, terrorists or religious extremists”. This relationship has been strengthened in recent years under the auspices of the SCO.

²⁶ Concept on Co-operation between Member States of the SCO in the Fight against Terrorism, Separatism and Extremism (Section II, Part 3), Astana, 5 July 2005 (http://www.kremlin.ru/interdocs/2005/07/05/1307_type72067_90911.shtml?type=72067).

²⁷ Declaration of the Heads of State of the Shanghai Co-operation Organization (Part III), Astana, 5 July 2005 (<http://www.sectSCO.org/>).

²⁸ *Refugee Protection and Migration Dynamics in Central Asia*, Kristina Zitnanova, UNHCR Consultant, March 2011, p.57.

²⁹ *Russian society under control. Abuses in the fight against extremism and terrorism*, FIDH. http://www.fidh.org/IMG/pdf/Russian_society_under_control.pdf and Shanghai Co-operation Organization: a vehicle for human rights violations, FIDH, 3 September 2012, http://www.fidh.org/IMG/pdf/sco_report.pdf.

³⁰ UN Human Rights Committee in its Concluding Remarks and Observations on Russia’s Sixth Periodic Report as a state party to the ICCPR <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

³¹ Source text in Russian: http://www.cis.minsk.by/russian/cis_doc4.htm.

³² As the major sending countries of concern in this report.

³³ Part IV, Section 1, Article 56(1) of the Minsk Convention states: “The Contracting Parties take on an obligation, according to conditions determined by the present Convention, to extradite to each other by request persons on their territories, for bringing to criminal responsibility or for executing a verdict”.

³⁴ See also *Refugee Protection and Migration Dynamics in Central Asia*, Kristina Zitnanova, UNHCR Consultant, March 2011.

³⁵ The Chisinau (or Kishinev) Convention on Legal Aid and Legal Relations on Civil, Family and Criminal Cases was signed on 7 October 2002, and came into force on April 2004. Azerbaijan, Belarus, Kazakhstan, and Kyrgyzstan ratified it. Torsten Stein on Extradition in Max Planck Encyclopedia of Public International Law <http://www.mpepil.com/ViewPdf/epil/entries/law-9780199231690-e797.pdf?stylesheet=EPII-display-full.xsl>.

³⁶ “*On mutual trips of citizens Russia and Uzbekistan*” (O vzyaimnikh poezdkek grazhdan RF I RU” 30.11.2000.

³⁷ <http://www.memo.ru/d/141690.html>.

³⁸ <http://www.memo.ru/d/141693.html>.

³⁹ In Kazakhstan the criminal procedural code allows for individuals wanted on criminal charges in

countries that the state has agreements with to be kept in detention for up to 12 months pending extradition. Over the past two years, as a rule, detainees have been kept in detention for 12 months while the extradition requests and their appeals against these are examined by courts. They are extradited back to their country of origin or habitual residence almost exactly a year after they were originally detained despite challenges to the extradition on the basis of a real risk of torture upon extradition raised by the detainees. In only a handful of cases has an individual been released after the 12-month detention period has expired, and very rarely before, and either granted leave to remain temporarily on humanitarian grounds or to travel to a safe third country.

⁴⁰ The names are known to Amnesty International, but are not disclosed publicly for safety reasons.

⁴¹ <http://www.hrw.org/sites/default/files/reports/ct0610webwcover.pdf>
<http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/iio50710summary.pdf>.

⁴² <http://www.un.org/documents/ga/res/45/a45r116.htm>.

⁴³ However the international principle of non-refoulement means that should there be a real risk of torture or other ill-treatment, the person must not be removed under any circumstances.

⁴⁴ Please see Article 3 of Model Treaty on Extradition for full list of mandatory grounds for refusal. <http://www.un.org/documents/ga/res/45/a45r116.htm>.

⁴⁵ Decision to bring charges by Isfara prosecutor's office, Tajikistan, 7 November 2006.

⁴⁶ In Kazakhstan the criminal procedural code allows for individuals wanted on criminal charges in countries that the state has agreements with to be kept in detention for up to 12 months pending extradition. Over the past two years, as a rule, detainees have been kept in detention for 12 months while the extradition requests and their appeals against these are examined by courts. They are extradited back to their country of origin or habitual residence almost exactly a year after they were originally detained despite challenges to the extradition on the basis of a real risk of torture upon extradition raised by the detainees. In only a handful of cases has an individual been released after the 12-month detention period has expired, and very rarely before, and either granted leave to remain temporarily on humanitarian grounds or to travel to a safe third country.

⁴⁷ Russian Federation CPC 463.1 and 6.

⁴⁸ "O praktike rassmotreniya sudami voprosov svyazannikh s vydachei lits dlya ugovnogo presledovaniya ili ispolneniya prigovora a takzhe peredachei lits dlya otbyvaniya nazakaniya" A decree « On the practices of judicial review of issues of the surrender of individuals for criminal prosecution or sentencing and also for the transfer of individuals to serve a sentence».

⁴⁹ For example the case of Bakhtier Mamashev, who was given documents informing him of his deportation without a translation despite the fact that he hardly speaks any Russian. See Amnesty International UA 150/2 *Three men face extradition, risk torture* Index: 46/017/2013 10 June 2013 <http://www.amnesty.org/en/library/info/EUR46/017/2013/en>.

⁵⁰ *Russian society under control. Abuses in the fight against extremism and terrorism*, FIDH. http://www.fidh.org/IMG/pdf/Russian_society_under_control.pdf.

⁵¹ *Umirov v. Russia*, The European Court of Human Rights (Application no. 17455/11), judgement of 18 September 2012, para 120, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-113126>. In its final judgement of 11 February 2013 the Court held unanimously that the applicant's extradition to Uzbekistan would be in breach of Article 3 of the Convention.

⁵² *ibid.* para 119.

⁵³ In November 2011 the Committee decided that, by declining to comply with the Committee's request

not to extradite, Kazakhstan had breached its obligation to co-operate in good faith under Article 22 of the Convention against Torture (para 1.3 of the Committee's decision).

⁵⁴ Decision of the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (forty-eight session) concerning Communication No. 444/2010, CAT/C/48/D/444/2010, 11 July 2012 para. 13.9, p. 19, CAT-C-48-D-444-2010_en.pdf.

⁵⁵ For Further information see Amnesty International reports: "Left in the Dark: The Use of Secret Evidence in the United Kingdom", Index 45/014/2012 and "Dangerous Deals: Europe's reliance on 'diplomatic Assurances' against torture", Index 01/012/2010, 12 April 2010.

⁵⁶ The UN General Assembly which in resolution 60/148 urged states "not to expel return ("refouler"), extradite or in any other way transfer a person to another state where there are substantial grounds for believing that the person would be in danger of being subjected to torture", recognized that "diplomatic assurances, where used, do not release states from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement". Further, state parties to the Refugee Convention are obliged to perform their obligations under the Convention in good faith. It would inconsistent with the object and purpose of the treaty and contrary to the *pacta sunt servanda* rule if parties to the Convention could obtain so-called diplomatic assurances from the countries of origin or habitual residence in respect of asylum-seekers going through a refugee status determination or in respect of recognized refugees.

⁵⁷ See European Court of Human Rights, *Rustamov v Russia*, (Application no 11209/10), 3 July 2012, paragraphs 120-121; European Court of Human Rights, *Othman (Abu Qatada) v United Kingdom*, (App no 8139/09), 17 January 2012, paragraph 189(xi); Human Rights Committee Concluding Observations, for instance on the UK, UN Doc CCPR/C/GBR/CO/6 (2008), paragraph 12, Russia, UN Doc CCPR/C/RUS/CO/6 (2009), para 17 and Sweden, UN Doc CCPR/C/SWE/CO/6 (2009), paragraph 16 [in each case referring to, among other things, the need to "exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported"] and Kazakhstan, UN Doc CCPR/C/KAZ/CO/1 (2011), para 13 [adding reference to the need to "ensure that all persons in need of international protection receive appropriate and fair treatment at all stages, in compliance with the Covenant"], emphasis added. The Committee against Torture appears to take a more categorical line in opposition to assurances concerning torture, but also recognizes the importance of judicial supervision more generally. See Concluding Observations on Morocco, UN Doc CAT/C/MAR/CO/4 (2011), paragraph 9; Germany, UN Doc CAT/C/DEU/CO/5 (2011), paragraph 25.

⁵⁸ *Ibid.* para. 27 *Gaforov v Russia*, European Court of Human Rights (Application number 25404/09), judgement of 21 October 2010.

⁵⁹ *Ibid.* para.103.

⁶⁰ *Ibid.* para. 138 referring to para. 27.

⁶¹ *Ismoilov and Others v. Russia*, European Court of Human Rights (Application no. 2947/06), judgement of 24 April 2008. The Uzbekistani authorities had provided the Russian Federation with assurances of humane treatment of Ismoilov and the others.

⁶² See UA 150/2 Index EUR 46/017/2013 Three men face extradition, risk torture.

⁶³ HRC Concluding Observations and Recommendations on the Russian Federation's Sixth Periodic Report: www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.RUS.CO.6.doc.

⁶⁴ http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.GBR.CO.R.5-%20AUV_en.doc, paragraph 18.

⁶⁵ Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Kazakhstan, para 13.,CCPR/C/KAZ/CO/1, 19 August 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/448/88/PDF/G1144888.pdf?OpenElement>.

⁶⁶ Amnesty International Dangerous Deals: Europe's reliance on "diplomatic Assurances" against torture AI Index Number EUR 01/012/2010, page 12.

⁶⁷ CAT/C/48/D/444/2010, para 13.9 and 13.10.

⁶⁸ Security Services from China are also known to be operating under cover on the territory of Kazakhstan and Amnesty International has received numerous reports of Uighur asylum-seekers being abducted by Chinese security officers.

⁶⁹ For example, Ulugbek Khaidarov, an independent journalist and human rights defender from Uzbekistan who had fled to Kazakhstan after being released from prison in November 2006, reported that members of the Uzbekistani security services had made an unsuccessful attempt to abduct him in October 2006 in Shimkent, southern Kazakhstan. In other instances, Russian officials have confirmed that Uzbekistani security forces have operated in the territory of the Russian Federation. In December 2007, for example, Russian human rights organizations received official that Uzbekistani security forces had detained an asylum-seeker in the Russian Federation and handed him over to their Russian counterparts. An interstate arrest warrant was only issued after his detention and reportedly backdated by the Uzbekistani authorities.

⁷⁰ Letter from President of the European Court of Human Rights to Russian Representative at the ECtHR 25 January 2012.

⁷¹ Press Release issued by the Registrar of the Court ECHR 132 (2013) 25.0413.

⁷² *Savridin Dzhurayev v. Russia*, European Court of Human Rights (Application no. 71386/10).

⁷³ The maximum time allowable in detention under Russian law.

⁷⁴ In Russia the law provides for three protection statuses: a) refugee status – with criteria the same as the UN Refugee Convention although very few individuals, in practice, are recognized as refugees; b) political asylum – granted by the President of the Russian Federation to applicants from countries under specific conditions. In practice, very few people are given this protection status. (ФМС России: <http://www.fms.gov.ru/about/ofstat/index.php>) c) Temporary asylum – or humanitarian status, which is given for one year and which can be extended provided the circumstances in the country of origin remain the same.

⁷⁵ http://www.bbc.co.uk/russian/international/2012/03/120308_tadjik_kidnapping_russia_strasbourg.shtml.

⁷⁶ Press Release issued by the Registrar of the Court ECHR 132 (2013) 25.0413.

⁷⁷ European Court of Human Rights case *Koziyev v. Russia*, app. No. 58221/10, Rule 39 of 08.10.2010.

⁷⁸ *Murodzhon Abdulkhakov* knew Sukhrob Koziyev from having being held in detention pending extradition in a Moscow SIZO.

⁷⁹ *Abdulkhakov v Russia*, The European Court of Human Rights (Application number 14743/11) Judgement of 2 October 2012, paragraph 156.

⁸⁰ Forma-1 is kept on file for each passport issued by the Uzbekistani authorities. It is stored in the local departments of the Ministry of Internal Affairs responsible for issuing passports.

⁸¹ In Russia, periods of detention pending extradition are set by Article 109 of the Criminal Procedural Code (CPC), which regulates the length of pre-trial detention in relation to the nature of charges brought against a detainee's under Russian law. For lesser crimes, the maximum period a person can be held in detention is six months. However, those wanted in connection with especially serious crimes can be held

in detention for a maximum of 18 months. This applies to all detainees, including those detained pending extradition. In most of the cases of concern to Amnesty International it has been possible for the requesting authorities to make the case that the charges are of a serious nature, namely that the individuals wanted for extradition have committed or are suspected of having been involved in violent anti-state or terrorist acts or are members or suspected members of religious organizations banned in the country of return or of organized criminal groups or have committed murder. In recent years, the European Court of Human Rights has issued several judgements finding violations of the prohibition on arbitrary detention where individuals were detained in Russia pending extradition for longer than the maximum period of 18 months provided by law for such cases. See *Sultanov v. Russia* (15030/09 and *Yuldashev v. Russia* 1248/09. Before 2010 in Russia, individuals awaiting extradition did not have their detention regulated by judicial review, resulting in the fact that many of them spent years in detention. For example, between 2008 and 2010 Nabi Sultanov, an Uzbekistani national, spent 22 months in detention pending extradition to Uzbekistan without any judicial review. The Court ruled that he had been subjected to unlawful and arbitrary detention, and also that there had been a violation of his right under Article 5.4 to challenge the lawfulness of his detention before a court. The Court stated that Russia's code of criminal procedure fell short of providing an avenue for judicial complaint by persons awaiting extradition, as the applicant had no criminal status under Russian law and that, as he awaited extradition he was unable to avail himself of a judicial review of the lawfulness of his detention in Russia. A series of such rulings by the Court in relation to violations of Article 5 of the ECHR led to Russia enforcing detention time limits more rigorously in cases of people detained pending extradition.

⁸² See Amnesty International Urgent Action <http://amnesty.org.ru/node/1975> July 2011.

⁸³ <http://amnesty.org.ru/node/1626>; <http://amnesty.org.ru/node/1617>; <http://amnesty.org.ru/node/1705>, <http://amnesty.org.ru/node/2056>.

⁸⁴ Ismon Azimov's family active participation in protests against the conviction of his brother, one of the leaders of the United Tajik Opposition (UTO) party during the civil war. Ismon Azimov's lawyer maintains he has no association with the IMU and describes himself as an ordinary Muslim rather than a devout religious believer. He claims he is a supporter of the political opposition movement Vatandor.

⁸⁵ Two years is the maximum term in cases of administrative detention pending deportation according to the Russian Code of Administrative Violations.

⁸⁶ See Amnesty International Urgent Action, 214/11 EUR 46/042/2012, *Tajikistani Nationals risk abduction in Russia*.

⁸⁷ [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-118605#{"itemid":\["001-118605](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-118605#{)

⁸⁸ *Kaboulov v. Ukraine*, The European Court of Human Rights, (Application no. 41015/04), 10 May, 2010.

⁸⁹ Until the criminal procedural code was changed in Ukraine in June 2011, there was no provision for detention pending extradition and those held pending extradition were held indefinitely with no clear time limits or procedures for appeal. The changes introduced an 18-month limit on detention for extradition, which is reviewed every two months.

⁹⁰ People from the North Caucasus are particularly at risk of being returned to Russia where they will be at risk of torture and ill-treatment.

⁹¹ According to Russian legislation, a person who has been recognized as a refugee or granted asylum in Russia due to persecution in a given state or a person who is awaiting a decision on a claim for refugee status in Russia cannot be extradited to the given state⁹¹ In its decree of 14 June 2012, the Russian Supreme Court reaffirmed that an asylum-seeker awaiting the outcome of an appeal against refusal of refugee status cannot be extradited.

⁹² For example, asylum seekers extradited from 2012 from Russia include: Uzbekistani Ismoildzhon Dalimov, extradited in January 2012 while his appeal against the refusal of refugee status was pending

review by the FMS; Uzbekistani Farrukh Abdumavlonov, extradited on 1 October 2012 while his appeal against refugee status was pending review by the court of first instance; Nurrdin Sultanmamytov from Kyrgyzstan, who was extradited on 17 December 2012 while his appeal against refusal of refugee status was pending review by the court of first instance; Uzbekistani Rustam Rakhmatkariev, extradited on 27 December 2012 before the end of the period for appealing refusal of refugee status; Uzbekistani Artur Shakurov who was extradited on 15 January 2013 while his appeal against refusal of refugee status was pending with the court of first instance; Kazakhstani Serik Alikeyev who was extradited on 24 February before the end of the period for appealing refusal of refugee status.

⁹³ *Zokhidov v Russia*, The European Court of Human Rights (Application number 67286/10) judgement of 5 February 2013.

⁹⁴ Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Kazakhstan, para 13.,CCPR/C/KAZ/CO/1, 19 August 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/448/88/PDF/G1144888.pdf?OpenElement>.

⁹⁵ Uighurs are a mainly Muslim ethnic minority who are concentrated primarily in the XUAR. Since the 1980s, the Uighurs have been the target of systematic and extensive human rights violations. This includes arbitrary detention and imprisonment, incommunicado detention, and serious restrictions on religious freedom as well as cultural and social rights. Chinese government policies, including those that limit use of the Uighur language, severe restrictions on freedom of religion, and a sustained influx of Han migrants into the region, are destroying customs and, together with employment discrimination, fuelling discontent and ethnic tensions. In the lead-up to the Beijing Olympics in 2008, the Chinese government initiated an aggressive campaign that has led to the arrest and arbitrary detention of thousands of Uighurs on charges of "terrorism, separatism and religious extremism". On 14 August 2008, Wang Lequan, Communist Party Secretary of the XUAR, announced a "life and death" struggle against Uighur "separatism". The situation has worsened following the attacks in the USA on 11 September 2011 as the Chinese authorities have used the context of counter-terrorism, to attempt to justify further repression to the human rights of Uighurs.

⁹⁶ Article 35(1) of the 1951 Convention states: " 1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees ... in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention."

⁹⁷ Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992, UNHCR 1979, foreword.

⁹⁸ UNHCR has supervisory responsibility in respect of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol ("the 1951 Convention"). Under the 1950 Statute of the Office of the UNHCR (annexed to UN General Assembly Resolution 428(V) of 14 December 1950), UNHCR has been entrusted with the responsibility for providing international protection to refugees and others of concern, and together with governments, for seeking permanent solutions for their problems. As set out in the Statute (§8(a)), UNHCR fulfils its mandate inter alia by, "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto." UNHCR's supervisory responsibility is also reflected in Article 35 of the 1951 Convention and Article II of the 1967 Protocol, obliging State Parties to co-operate with UNHCR in the exercise of its functions, including in particular, to facilitate UNHCR's duty of supervising the application of these instruments. The supervisory responsibility is exercised in part by the issuance of interpretative guidelines, including in (a) UNHCR's Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (1979, reissued January 1992 and December 2011) ("Handbook") and (b) UNHCR's subsequent Guidelines on International Protection.

⁹⁹ Article 12, Part 5 of the Kazakhstan Refugee Law requires refugee applications to be rejected "if there is a significant basis to suppose that the individual participates or has participated in the activity of terrorist, extremist and banned religious organisations, functioning in the country of which the individual is a citizen or in the country from which they have arrived".

¹⁰⁰ to be reviewed after 12 months.

¹⁰¹ See, e.g. Article 1F of the Refugee Convention, which reads as follows: "The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;(b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;(c) He has been guilty of acts contrary to the purposes and principles of the United Nations."

¹⁰² Indeed, UNHCR's revocation of their refugee status would be premised on the one hand on its considering that these 17 men had a continued well-founded fear of persecution, and on the other, on UNHCR deeming them undeserving of protection on exclusion grounds.

¹⁰³ CAT/C/48/D/444/2010, Communication No. 444/2010, *Abdussamatov et al. v. Kazakhstan*, 11 July 2012, <http://www2.ohchr.org/english/bodies/cat/jurisprudence.htm>.

¹⁰⁴ See, e.g. Article 3 of the Convention against Torture. For further information, see section 3.1.

¹⁰⁵ *Ibid* para 6.3.

¹⁰⁶ Further, UNHCR has repeatedly asserted its position on exclusion grounds as follows: individual responsibility for crimes within the scope of Article 1F must be assessed in light of the relevant principles, standards and criteria in international law, within an overall approach to exclusion that is in line with the object and purpose of the Refugee Convention;¹⁰⁶ in the light of this it is the humanitarian and human rights purposes of the Refugee Convention that determine the overall approach to exclusion; the exclusion clauses of Article 1 F of the 1951 Convention provide for the denial of international refugee protection to persons who would otherwise meet the criteria of the refugee definition, but who are considered undeserving of refugee status; for exclusion based on Article 1 F to operate, it must be established that the individual concerned committed the excludable acts, or that he or she participated in their commission in a manner that gives rise to individual responsibility for the acts in question, and that an individualized assessment of the facts is required in all cases; and the burden of proof to justify exclusion lies with the decision-making authority. The application of Article 1F requires findings of fact to the standard of serious reasons for considering "that an individual has committed or participated in acts covered by Article 1F in a manner which gives rise to individual responsibility". This requires clear and credible evidence. A determination proving guilt in the sense of a criminal conviction is not required. However, the standard must be sufficiently high to ensure that refugees are not erroneously excluded; UNHCR considers that the "balance of probabilities" test is too low a threshold; and that the proper application of Article 1F also requires a proportionality test, in which the seriousness of the applicant's criminal conduct is weighed against the consequences of exclusion. In the light of the foregoing considerations UNHCR has recently reasserted that "Thus, while the exclusion clauses must be applied scrupulously to protect the integrity of the institution of asylum, they must be viewed in the context of the overriding humanitarian and human rights objectives of the 1951 Convention. As an exception to a fundamental right within an international treaty intended to provide protection, they should always be interpreted in a restrictive manner. Given the possible serious consequences of exclusion, it is important to apply them with great caution and only after a full assessment of the individual circumstances of the case."

¹⁰⁷ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Kazakhstan, A/HRC/13/39/Add. 3, 16 December 2009, pp 2, 8.

¹⁰⁸ Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee Kazakhstan Human Rights Committee 102nd session Geneva, 11–29 July 2011, CCPR/C/KAZ/CO/1, 19 August 2011.

¹⁰⁹ CAT/C/48/D/444/2010, Communication No. 444/2010, *Abdussamatov et al. v. Kazakhstan*, 11 July

2012, para 9.3, p 13, http://www.un.org/ga/search/view_doc.asp?symbol=CAT/C/48/D/444/2010.

¹¹⁰ A/HRC/19/61/Add.2 – Mission to Kyrgyzstan, p.1, <http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>.

¹¹¹ <http://physiciansforhumanrights.org/library/reports/ending-impunity-forensic-medical-evaluations-in-kyrgyzstan.html>.

¹¹² Kyrgyzstan Inquiry Commission, Report of the Independent Commission of Inquiry into the Events in Southern Kyrgyzstan in June 2010, http://www.k-ic.org/images/stories/kic_report_english_final.pdf.

¹¹³ In Kyrgyzstan, the statute of limitations applicable to this crime permits prosecutions up to seven years after the offence allegedly took place.

¹¹⁴ *Makhmudzhan Ergashev v. Russia*, The European Court of Human Rights, (Application no. 49747/11), 16 October 2012.

¹¹⁵ Amnesty International AI Index EUR 60/004/2012.

¹¹⁶ *End-of-mission Statement by the UN Special Rapporteur on torture*, Juan E. Méndez Preliminary findings on his country visit to the Republic of Tajikistan 10-18 May 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12166&LangID=E>.

¹¹⁷ At a press conference on 12 July 2011 General Prosecutor of Tajikistan, Sherkhon Salimzoda, stated that his office was negotiating with Russia, Kazakhstan, China and some other countries about “co-operation on extraditions of suspects and convicted Tajik citizens on their territories”. He told journalists that in 2010 Russia had extradited around 60 suspects to Tajikistan, and about 30 in 2011.

¹¹⁸ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to the 22nd session of the Human Rights link:http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/22/53/ADD.1&Lang=S.

¹¹⁹ *Gaforov v. Russia*, The European Court of Human Rights, (Application no. 25404/09), 21 October 2010, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-101283>.

¹²⁰ Press Release issued by the Registrar of the Court ECHR 132 (2013) 25.04.13.

¹²¹ Criminal Code of the Republic of Tajikistan Article 147.1.

¹²² *Mahmadruzi Iskandarov v. Russia*, European Court of Human Rights (Application no. 17185/05) judgement of 23/09/2010.

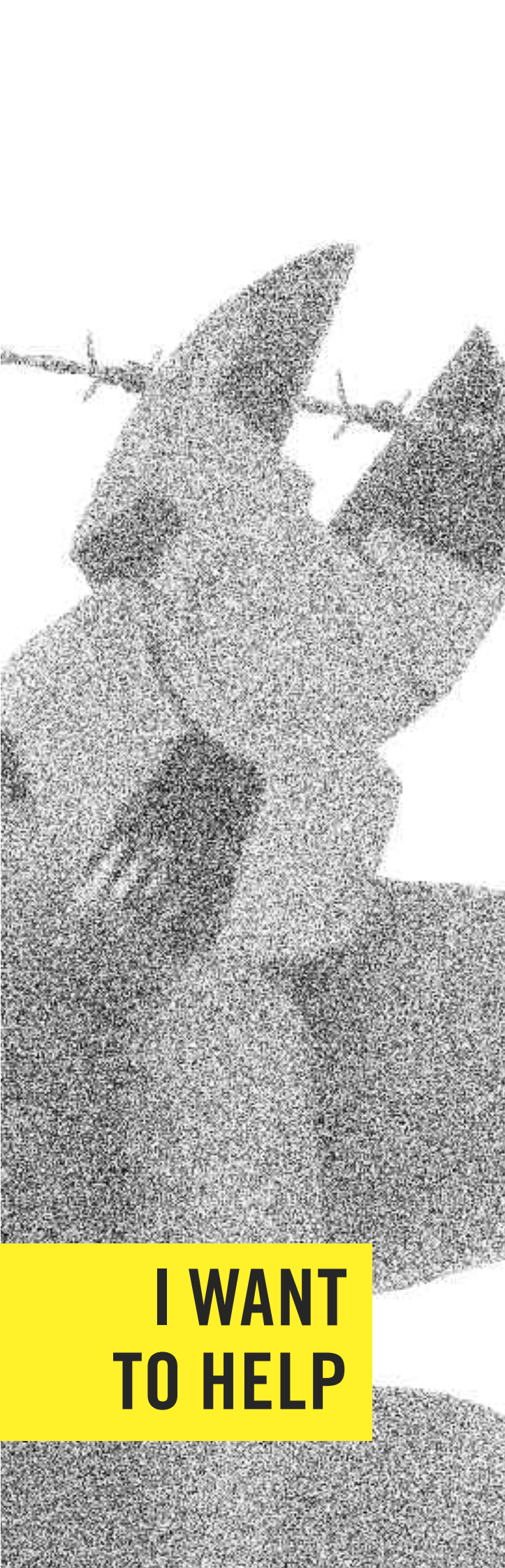
¹²³ In a letter from the Prosecutor General's office to the Tajikistani Coalition on Torture the following statistics were given: Extraditions from Tajikistan 2007 1 person to Kyrgyzstan; 2008 2 (Turkmenistan, Uzbekistan) ; 2009 – 4 (2 to Russia, 2 to Uzbekistan) ; 2011 – 5 (1 to Russia, 1 to Uzbekistan, 2 to Kyrgyzstan, 1 to Turkey) and in the first half of 2012 – 5 (1 to Russia, 1 to Uzbekistan, 2 to Kyrgyzstan, other countries – 1). The letter stated that Tajikistan extradites citizens to CIS countries on the basis of the Minsk and Chisinau conventions on legal assistance, and only when written guarantees of the non-use of torture are provided. From 2007 to 2012 the Tajikistan authorities only received one appeal against extradition on the grounds of fear for torture.

¹²⁴ *Garabayev v. Russia*, European Court of Human Rights (Application no. 38411/02) judgement of 30 January 2008; *Ryabikin v. Russia*, European Court of Human Rights (Application no. 8320/04) judgement of 19 June 2008; *Soldatenko v. Ukraine*, European Court of Human Rights (Application no. 2440/07) judgement of 23 October 2008; *Kolesnik v. Russia*, European Court of Human Rights (Application no. 26876/08) judgement of 17 June 2010.

¹²⁵ *Ryabikin v. Russia*, European Court of Human Rights (Application no. 8320/04) judgement of 19

June 2008.

¹²⁶ Amnesty International Urgent Action: 318/12 Index: EUR 61/005/2012, *Turkmenistan: Former government minister detained: Geldimurat Nurmammedov*, 26 October 2012, <http://www.amnesty.org/en/library/info/EUR61/005/2012/en>.



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RETURN TO TORTURE

EXTRADITION, FORCIBLE RETURNS AND REMOVALS TO CENTRAL ASIA

Security services in Russia, Ukraine and the Central Asian republics are colluding in the abduction, disappearance, unlawful transfer, imprisonment and torture of individuals wanted on religious, political and economic grounds. The frequency of these human rights violations amounts to a region-wide renditions programme.

This report exposes the ease with which these states are able to secure the return of individuals from other countries in the Commonwealth of Independent States (CIS) and how the perceived mutual interest of combating terrorism is being prioritized over the rights of those wanted for extradition. In cases where handovers are obstructed, for example by the intervention of the European Court of Human Rights, CIS states are subverting international law to secure the transfers.

In 2011 and 2012, CIS nationals were abducted by foreign security forces operating in Russia and Ukraine and forcibly returned to Central Asia, sometimes in direct violation of the European Court's instructions. These forced returnees are at real risk of arbitrary and incommunicado detention and torture and other ill-treatment. Those detained on charges related to national security or "religious extremism" are at particular risk of torture and other ill-treatment.

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