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KYRGYZSTAN: Extradition "would violate our international human rights obligations"

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

Khabibullo Sulaimanov – who led a mosque in the Uzbek capital Tashkent and is seeking asylum in Kyrgyzstan - is fighting extradition back to Uzbekistan. "If the former imam is handed back to Uzbekistan, he faces torture and conviction on fabricated charges of 'extremism'", insists Vitaly Ponomarev of Memorial, who is among human rights defenders following the case. Sulaimanov was detained by Kyrgyzstan's NSC secret police in October 2012. "I can only see him at court hearings, and we can talk together for no more than five or ten minutes," his wife Albina Karankina told Forum 18 News Service. Tursunbek Akun, Kyrgyzstan's human rights Ombudsperson told Forum 18 that "extraditing Sulaimanov back to Uzbekistan would violate our international human rights obligations. (...) I will use all my authority and influence to prevent Sulaimanov's extradition." In sharp contrast, Kanabek Uzakbayev of Kyrgyzstan's General Prosecutor's Office, asked by Forum 18 about breaking international law by sending an individual back to Uzbekistan where they might face torture, responded: "Let them [the Uzbek authorities] do it. It doesn't bother me at all." The next appeal hearing is due on 5 February in Kyrgyzstan's capital Bishkek.

Nearly four months after he was detained by Kyrgyzstan's National Security Committee (NSC) secret police in October 2012, Khabibullo Sulaimanov – who led a mosque in the Uzbek capital Tashkent in the 1990s - is fighting extradition back to his native Uzbekistan. Uzbek prosecutors are seeking to imprison him on "extremism"-related charges which carry punishment of up to 15 years' imprisonment. Sulaimanov's second appeal against extradition, due to have taken place this morning (28 January) in a court in the Kyrgyz capital Bishkek, was postponed, human rights defenders told Forum 18 News Service.

The appeal at Bishkek City Court - under Judges Zhanyl Mambetaly, Mederbek Satyev and Muslim Sultanaliyev – is now due to be heard at 9 am on 5 February. If this appeal fails, the extradition order enters into force, though it can be challenged further to Kyrgyzstan's Supreme Court.

Sulaimanov and his family fled Uzbekistan for Kyrgyzstan in 2001, after coming under increasing pressure from the Uzbek authorities for his leadership of mosques (see below). "If the former imam is handed back to Uzbekistan, he faces torture and conviction on fabricated charges of 'extremism'", insists Vitaly Ponomarev of the Moscow-based human rights group Memorial, who is among the human rights defenders closely following the case.

The former imam and his family are fighting two sets of court proceedings: one relating to Uzbekistan's extradition request, and one relating to Sulaimanov's detention without trial by Kyrgyzstan's NSC secret police. He is also attempting to gain asylum in Kyrgyzstan (see below).

Extradition "would violate our international human rights obligations"

Tursunbek Akun, Kyrgyzstan's human rights Ombudsperson told Forum 18 that "extraditing Sulaimanov back to Uzbekistan would violate our international human rights obligations and harm Kyrgyzstan's image around the world," he stated from Bishkek on 28 January. "I don't have the right to interfere in the actions of the courts and prosecutors, but I will use all my authority and influence to prevent Sulaimanov's extradition."

Akun said he had raised Sulaimanov's case with Kyrgyzstan's General Prosecutor Aida Salyanova and is awaiting a response. Asked how Kyrgyzstan could be considering sending back an individual to Uzbekistan where he might face torture, the Ombudsperson responded: "It's because of the close mutual cooperation between Uzbekistan and Kyrgyzstan."

Human rights defenders in Kyrgyzstan have condemned the threat of extradition. Sardar Bagishbekov of Voice of Freedom, for example, told Forum 18 from Bishkek that the case is a "bad precedent". He noted that Kyrgyzstan had extradited back to Uzbekistan victims of the Andijan [Andijon] massacre in 2005, which extradition was condemned at the time by the Office of the United Nations (UN) High Commissioner for Human Rights (OHCHR) (see E/CN.4/2006/119).

International human rights obligations

As Sulaimanov is likely to be tortured in Uzbekistan, return would violate the UN Convention Against Torture, ratified by Kyrgyzstan in 1997. Article 3 states:

"1. 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.

2. 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."

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

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

Return would also violate the 1951 Refugee Convention, which Kyrgyzstan ratified in 1996. Article 33, Part 1 states: "No 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."

"It doesn't bother me at all"

On 13 November 2012, Investigator Kanabek Uzakbayev of the International Legal Co-operation Department of Kyrgyzstan's General Prosecutor's Office approved Sulaimanov's extradition, according to court documents seen by Forum 18.

Uzakbayev appeared unconcerned about the possible consequences of Sulaimanov's extradition. Asked by Forum 18 on 25 January about Kyrgyzstan breaking international law, by sending an individual back to Uzbekistan where they might face torture, he responded: "Let them [the Uzbek authorities] do it. It doesn't bother me at all." Told that human rights defenders and Sulaimanov's family insist that the charges against him were fabricated, to punish him for exercising his religious freedom, Uzakbayev responded: "What should I have done? You tell me." He then put the phone down.

The head of the International Legal Co-operation Department, Tologon Mamyrkaliyev, insisted to Forum 18 the same day that it is a decision of the courts whether Sulaimanov will be extradited or not. "At the moment, the issue is being considered as to his status as a refugee."

Forum 18 was unable to reach Kyrgyzstan's Deputy Prosecutor Lyudmila Usmanova, who is said to be involved in the case. She was in meetings each time Forum 18 called on 25 and 28 January.

On 6 December 2012, Bishkek's Pervomaisky District Court rejected the appeal against the extradition order, submitted on Sulaimanov's behalf by his lawyer Toktogul Abdyev. The lawyer then submitted a further appeal to Bishkek City Court.

Extradition would separate Sulaimanov – who will be 56 on 30 January – from his wife Albina Karankina (a Russian citizen) and their two children, the younger of whom is one year old.

Arrest without family being told

The NSC secret police arrested Sulaimanov on 6 October 2012, family members say, and that for more than ten days they had no idea what had happened to him. Court documents seen by Forum 18 give the date of arrest by the NSC as 7 October. On 9 October, without his family or lawyer knowing, Bishkek's Pervomaisky District Court ruled that he should be held in the NSC secret police Investigation Prison until 16 November.

It was not until 18 October that Sulaimanov's family found out about the arrest from the NSC statement published on the NSC website and subsequently reproduced almost verbatim by much of the local media. The NSC statement said that Sulaimanov – "an active member of an international terrorist organisation" - had been detained by NSC officers "in the course of operational/investigation measures".

"The detained individual had been wanted internationally for terrorist activity and membership of the Islamic Movement of Turkestan," the statement alleged. It said he had been transferred to the NSC Investigation Prison while his extradition back to

Uzbekistan was considered.

On 15 November, at the request of NSC senior investigator A. Kochkorov, Judge Adylbek Subankulov of Pervomaisky District Court extended Sulaimanov's detention for a further month, according to the decision seen by Forum 18. The detention was extended in mid-December and again on 15 January 2013.

Kochkorov's superior, the head of the NSC Investigation Directorate Kubat Kadinov, refused absolutely to answer Forum 18's questions on 28 January as to why the NSC believes it is necessary to hold Sulaimanov in custody while the extradition case is considered. He referred Forum 18 to the NSC press office and put the phone down. The telephone went unanswered each time Forum 18 called the press office.

No visits

The 15 January hearing was the last time Sulaimanov's wife was able to see him. "I can only see him at court hearings, and we can talk together for no more than five or ten minutes," Karankina told Forum 18 from Bishkek on 28 January. "We have been refused meetings with my husband in the Investigation Prison. The NSC and Prosecutors say that permission for such visits is needed from the Uzbek investigator." She said she does not even know the name of the Uzbek investigator.

Karankina said she was able to pass on to her husband in the Investigation Prison a copy of the Koran and other books he requested, as well as clothes and food.

The duty officer at the NSC Investigation Prison, who would not give his name, refused to give Forum 18 any information on 25 January about Sulaimanov's conditions in the prison. He referred all enquiries to the NSC press office.

Exercising freedom of religion or belief in Uzbekistan

Sulaimanov came from a family of Muslim clerics, Ponomarev of Memorial notes. His father taught in the Islamic Institute in Tashkent in the Soviet era, while his brother worked in the Spiritual Administration of Muslims of Central Asia and Kazakhstan.

Sulaimanov himself was refused entry to the Islamic Institute twice in the 1970s and 1980s, despite excellent exam marks, for refusing to collaborate with the Soviet KGB secret police. He became imam of the mosque in Yangiyul near Tashkent only in 1989.

The Uzbek authorities began to put pressure on Sulaimanov from 1995, Ponomarev notes. Uzbekistan's deputy mufti demanded that he hand in his resignation if he wanted to avoid arrest. He gave no reasons.

Sulaimanov's brother Zikrullo, then working as imam of Hazret Ali Mosque in Tashkent, and his sister Fatima, who taught Islam to women, were both sacked.

The police held Sulaimanov for three days for questioning over destruction of gravestones in two local cemeteries in November 1995. A May 1996 Human Rights Watch report said Sulaimanov was one of about 30 local Muslims held for questioning. However, Human Rights Watch cited "unconfirmed eyewitness reports" that the cemeteries had in fact been destroyed by two busloads of Interior Ministry troops.

Ponomarev of Memorial stated that the attempt to use fabricated charges to prosecute Sulaimanov failed. He then worked as imam of a smaller Tashkent mosque, but was removed in 1997 allegedly because "Wahhabis" were growing in influence in the mosque. Uzbekistan has imposed complete control on all open exercise by Muslims of freedom of religion or belief (see Forum 18's Uzbekistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1862).

As Uzbek police questioning and surveillance by Uzbekistan's National Security Service (NSS) secret police intensified, Sulaimanov had to leave the family home. Family members told Forum 18 that after that, police maintained tight surveillance of the home for three days. The NSS routinely carries out covert surveillance of religious communities and their leaders (see F18News 5 September 2007 http://www.forum18.org/Archive.php?article_id=1014).

Uzbekistan routinely violates freedom of religion or belief and related human rights (see eg. <http://www.forum18.org/Archive.php?query=&religion=all&country=33>).

Sulaimanov and his immediate family finally fled Uzbekistan in 2001, settling in the Kyrgyz capital Bishkek. There he supported his family by selling building materials.

Wanted by Uzbekistan

On 16 December 1999, the Uzbek authorities approved an indictment against Sulaimanov, according to Kyrgyzstan's November 2012 Pervomaisky Court decision extending Sulaimanov's detention. The same day Uzbekistan issued a warrant for his arrest. He

was accused under Criminal Code Article 159, Part 3. This punishes "attempts to Constitutional Order of Uzbekistan", Part 3 specifying punishment of five to ten years' imprisonment for such attempts "by an organised group or in its interests".

The Kyrgyz extradition order notes that on 15 December 2006, Sulaimanov was placed on the Joint Wanted List of the Shanghai Co-operation Organisation (SCO) member states. This list, agreed in 2005 between the SCO member states, includes those suspected of "terrorist" offences. Also now included are those suspected of "separatism" and "extremism".

Kyrgyzstan's Pervomaisky Court ruling quotes the Uzbek investigator's 1999 decision that Sulaimanov "in a conspiracy with others was engaged in distributing in Tashkent and Tashkent Region leaflets of religious-extremist nature". The investigator claimed he had joined "the organised crime group" created by Juma Namangani and Tahir Yuldashev, a reference to the illegal Islamic Movement of Uzbekistan, "which pursued the aim of a violent change in the constitutional order, the seizure of power and the removal from power of the legally elected state leaders."

"He didn't get involved in any of the accusations they're claiming"

Sulaimanov's wife Karankina insists all the accusations are fabricated. "He didn't get involved in any of the accusations they're claiming," she told Forum 18. "He's a devout man."

Sulaimanov's lawyer Abdyev points out that despite the demands of Kyrgyz law, "the accusation has not been made specific, and the place and means and other specifics of the carrying out of the crimes have not been revealed".

"No evidence has been produced of terrorism in Uzbekistan or any concrete evidence of participation in the activities of the Islamic Movement of Uzbekistan," Ponomarev of Memorial noted to Forum 18.

Kyrgyz prosecutors approve extradition

However, as no equivalent crime to Uzbek Criminal Code Article 159, Part 3 exists in Kyrgyzstan, the Kyrgyz General Prosecutor's Office later changed its basis for approving the extradition, Ponomarev of Memorial notes. At the request of Uzbek prosecutors, the Kyrgyz General Prosecutor's Office added accusations under Uzbek Criminal Code Article 244-1, Paragraph 3, Part a and Article 224-2 Part 1.

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

This Article was used in November 2012 to convict nine men in Tashkent Region whose only "offence" was to meet together to study the Koran and learn to pray. Their appeal – including the appeal of two prisoners of conscience sentenced to seven years in jail – was rejected in December 2012 (see F18News 20 December 2012 http://www.forum18.org/Archive.php?article_id=1785).

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

This Article was used in December 2010 to sentence 19 Muslim prisoners of conscience to between three and nine years in jail. Their "offence" was to belong to Shohidiya, an Islamic religious movement which follows the Koran but not the hadiths (see F18News 21 December 2010 http://www.forum18.org/Archive.php?article_id=1524). The Article was also used in a failed late 2012 attempt to extradite Protestant Pastor Makset Djabbarbergenov from Kazakhstan. He was, like Sulaimanov, accused by Uzbekistan of being an Islamic fundamentalist and terrorist (see F18News 5 December 2012 http://www.forum18.org/Archive.php?article_id=1777).

Under these charges, Sulaimanov faces the possibility of imprisonment for up to 15 years.

"The new version of the indictment spoke of Sulaimanov's membership of both the Islamic Movement of Uzbekistan and Hizb ut-Tahrir (https://www.forum18.org/archive.php?article_id=170)," Ponomarev noted. "The former imam categorically denies that he was ever involved in the activity of either of these organisations."

Asylum request

On 19 November 2012, while he was in the NSC secret police Investigation Prison, Sulaimanov wrote an asylum request to Kyrgyzstan's Youth, Employment and Labour Ministry, which also handles asylum issues. In the four-page hand-written request, seen by Forum 18, he states that he was persecuted in Uzbekistan because of his religious activity.

The Ministry received the asylum application on 21 November, the Head of the Refugee Department Bazarkul Kerimbayeva told Pervomaisky District Court in a 5 December 2012 letter seen by Forum 18. However, her Ministry refused to register Sulaimanov's application, at first claiming that it needed information from the NSC secret police why the former imam was being detained. The Ministry wrote to the NSC on 22 November 2012.

Kerimbayeva told the family in mid-January 2013 that the NSC had responded, but that her Ministry could still not register the asylum application until it had met Sulaimanov personally. She told the family she had written to the General Prosecutor's Office about this.

"Sulaimanov is in a special position," Kerimbayeva insisted to Forum 18 on 25 January, "because he is being held in Investigation Prison." Asked why her Ministry has repeatedly refused to register the asylum application, she said it is still trying to establish whether Sulaimanov committed any crimes since his arrival in Kyrgyzstan. She added that her Ministry needs to be sure that he had written the asylum application himself and that it had been presented by his duly authorised and notarised representative.

Kerimbayeva declined to give Forum 18 a copy of the NSC response.

UNHCR "actively seeking access"

The United Nations High Commissioner for Refugees (UNHCR) Office in Bishkek has also been seeking to interview Sulaimanov since his detention. Their only visit, on 9 January, lasted for just five minutes and was not long enough to compile a UNHCR refugee application, family members told Forum 18.

The UNHCR Office confirmed to Forum 18 on 28 January that it is in touch with Kyrgyzstan's Prosecutor-General's Office "actively seeking access to Mr. Sulaimanov in order to conduct [our] own refugee status determination procedure with him". However in line with the UNHCR's general policy, it declined to discuss details of the case "for confidentiality and individuals' protection purposes". (END)

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

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

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

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