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European Court rules extradition from Russia to Uzbekistan would violate prohibition on torture

Today, the European Court of Human Rights ruled that should Russia extradite the applicants in *Yuldashev v Russia* (No. 1248/09) and *Abdulzhon Isakov v Russia* (No. 14049/08) to Uzbekistan it would be in breach of Article 3 (prohibition of torture and ill-treatment) of the European Convention on Human Rights. The cases were litigated by the European Human Rights Advocacy Centre (EHRAC), based at London Metropolitan University, and the Russian NGO, Memorial HRC.

On 13 May 2005, Murod Yuldashev, an Uzbek national, participated in demonstrations in Andijan, Uzbekistan, protesting against government policies. He was subsequently sought by the Uzbek authorities in relation to the demonstrations and on 26 May 2005, fled to Russia fearing prosecution. On 31 October 2007, he was arrested in Russia and the Uzbek authorities' request for his extradition was granted on 28 April 2008. Mr Yuldashev appealed against the decision, arguing that extradition would put him at real risk of ill-treatment, but his appeals were rejected.

Abdulzhon Isakov was born in Uzbekistan. In 1989 he moved to Russia and in December 2000 he obtained a Russian passport. In June 1998, a criminal case had been opened against him in Uzbekistan and he was charged *in absentia* with various crimes including "*actively participating in the subversive activities of the extremist movement*". On 6 March 2008, Mr Isakov was arrested and detained in Russia. He subsequently learnt that his Russian passport and citizenship had been declared invalid in 2005. An extradition request from the Uzbek authorities was officially granted on 12 August 2008, and Mr Isakov's appeals against this on the grounds that he would be at risk of ill-treatment in Uzbekistan were rejected.

In both cases the European Court of Human Rights ordered that extradition be suspended until further notice under Rule 39 of the Rules of Court.

In its judgments the European Court noted that the ill-treatment of detainees remains "*a pervasive and enduring problem in Uzbekistan.*" and that given that both men had been charged with politically motivated crimes and that arrest warrants had been issued for them they would be placed in custody directly after extradition and would run a "*serious risk of ill-treatment*". The Court was not persuaded by assurances from the Uzbek authorities to the contrary. Consequently, it found that should the applicants be extradited this would give rise to a violation of Article 3 ECHR.

A violation of Article 5(1) ECHR (lawful detention) was also found in both cases as the applicants' detention was not lawful and no time-limits had been set for their detention. Mr Yuldashev was detained for almost two and a half years and Mr Isakov for more than two years. During these periods no requests for an extension of their detention were made despite Russian law fixing an initial time-limit for detention pending investigation at two months.

Both men were also subject to violations of Article 5(4) ECHR (speedy review of the legality of detention) as they were unable to obtain a judicial review of the legality of their detention despite making applications to that effect. Finally, the Court held that there had been a violation of Article 13 (right to an effective remedy) in relation to their complaint under Article 3, as the domestic courts "*failed to rigorously scrutinise the applicant's claims of the risk of ill-treatment in the event of his extradition to Uzbekistan.*"

The Court awarded Mr Yuldashev 25,000 EUR in damages and Mr Isakov 20,000 EUR.