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For immediate release

European Court: Russia found responsible for inhuman and unlawful treatment of Uzbek pending extradition

Today, in the case of *Ergashev v Russia* (No. 12106/09) the European Court of Human Rights ruled that the forcible return of Mr Ergashev from Russia to Uzbekistan would lead to a real risk of torture and would therefore violate Article 3 of the European Convention on Human Rights (prohibition of torture). Further violations were found on account of his unlawful detention awaiting extradition, the inhuman and degrading conditions of his detention and statements made by the authorities which breached the presumption of innocence. The applicant was represented by the European Human Rights Advocacy Centre (EHRAC), which is based at London Metropolitan University, and the Russian NGO Memorial HRC, based in Moscow. The applicant was awarded 15,000 euros in damages.

In June 2007 Mr Ergashev moved to St Petersburg from Uzbekistan. In December 2007 the Uzbek authorities charged him in absentia with a number of crimes including membership of an extremist organisation and attempting to overthrow the State's constitutional order. An arrest warrant was issued. Mr Ergashev was arrested in St Petersburg in September 2008 and held in a detention centre. In June 2009 an extradition order was issued against him and, despite complaints over several months that his return to Uzbekistan would lead to his ill-treatment, the order was upheld by the Russian courts. The European Court granted his request for interim measures under Rule 39 in June 2010 (suspending his extradition). The extradition order became final in July 2010. During this period, Mr Ergashev appealed for temporary asylum but his appeal was rejected several times.

The Russian government relied on a statement from the Prosecutor General's Office of Uzbekistan that he would face no risk of ill-treatment. However, Mr Ergashev referred to several UN and international NGO reports which confirmed that *"the practice of torture in Uzbekistan is systematic"*. The Court found that *"no concrete evidence has been produced to demonstrate any fundamental improvement in this field in Uzbekistan in the last few years"*. The Court therefore found that Mr Ergashev's return to Uzbekistan would violate Article 3, as he would face a serious risk of being subjected to torture or inhuman or degrading treatment, and decided to continue the application of Rule 39.

A further violation of Article 3 was found by the Court in relation to the conditions of the applicant's detention, as he was *"kept for seventy-two hours in an administrative-detention police cell without food or drink or unrestricted access to a toilet"*, which was held to amount to inhuman and degrading treatment. The Court also found that, in relation to a further period of detention, having less than three metres of personal space amounted to a violation of Article 3, as it was *"sufficient to cause feelings of inferiority and frustration"*. A violation of Article 5 was found in respect of the applicant's unlawful detention between 3 March and 14 August 2009, as no detention time-limits were fixed and the Court found that the *"national system failed to protect the applicant from arbitrary detention"*.

The Russian authorities were also found to have violated Article 6(2) of the Convention (presumption of innocence) as State television channels on two occasions broadcast news reports which described Mr Ergashev as *"a terrorist from Uzbekistan"* who had been *"on the authorities' wanted list for two years"*.

On hearing of the judgment, Mr Ergashev said: "I am just happy that thanks to this judgment from the European Court, I will be able to live my life, rather than die from torture in custody in Uzbekistan. I hope that Russia will not only implement this judgment not to extradite me, but that they will also allow me to legally reside in Russia."

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