

**Mandate of the Special Rapporteur on the situation of human rights in the Democratic People's  
Republic of Korea**

REFERENCE: OL  
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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea pursuant to Human Rights Council resolution 28/22.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the treaty that your Excellency's Government recently signed with the Democratic People's Republic of Korea.

According to the information received:

In November 2015, the Russian Federation and the Democratic People's Republic of Korea signed an extradition treaty, calling for mutual assistance in criminal matters.

On 2 February 2016, the Russian Federation and the Democratic People's Republic of Korea signed another treaty that calls for "transferring and readmitting individuals who have illegally left and are illegally present" on the territory of either country. Reportedly the treaty aims to reduce the number of illegal migrants coming to both countries.

The Russian Federation and the Democratic People's Republic of Korea have an established practice where the latter sends its workers to work at logging and/or construction sites in the Russian Federation. At the construction sites, the workers are reportedly subjected to severe working conditions and limitations of their basic rights, including that to freedom of movement. Some workers have reportedly fled the sites and sought asylum outside the Democratic People's Republic of Korea, including in the Russian Federation, fearing persecution for deserting official employment, including torture, should they return to the country.

It has been further reported that of 211 individuals from the Democratic People's Republic of Korea who applied for asylum in the Russian Federation between 2004 and 2014, only 2 were granted asylum. Allegedly, those individuals who applied for asylum include workers from the Democratic People's Republic of Korea.

While I do not wish to prejudge the accuracy of these allegations, I would like to express my concern that the latest treaty is much broader in scope compared to the treaty signed in November 2015, and may lead to forced repatriation to the Democratic People's Republic of Korea of individuals at risk of human rights violations, in contravention of Russia's international obligations. I fear that such a treaty could be used to repatriate workers and other individuals who legitimately attempt to seek asylum.

In this regard, I make reference to article 14 of the Universal Declaration of Human Rights, which states that "everyone has the right to seek and enjoy asylum from persecution".

I also make reference to article 3(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to which the Russian Federation acceded on 3 March 1987. The article provides that "No State Party shall ... return ("refouler") ... a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

Further, I would like to recall that the commission on inquiry on human rights in the Democratic People's Republic of Korea found that in an attempt to deter its citizens from fleeing the country, the authorities of the Democratic People's Republic of Korea subjected those who were forcibly repatriated to torture, inhumane treatment and imprisonment (A/HRC/25/CRP.1). The commission further called on countries to respect the principle of non-refoulement and abstain from forcibly repatriating any persons to the DPRK.

I would also like to bring to the attention of your Excellency's Government that the right to freedom of movement encompasses the right to leave his or her own country, as provided in article 12(2) of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Russian Federation on 16 October 1973. The Human Rights Committee has consistently stressed that any restrictions permitted under article 12(3) must not nullify the principle of liberty of movement, and are governed by the requirement of necessity provided for in article 12, paragraph 3, and by the need for consistency with the other rights recognized in the Covenant (CCPR/C/21/Rev.1/Add.9).

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. Are the facts alleged in the above summary accurate?

2. Please share the texts of both treaties: One signed in November 2015 and another signed in February 2016
3. Please provide detailed information on each treaty as well as indicate how they comply with the requirement and guarantees of freedom of movement and the principle of *non-refoulement* under article 12(2) of the ICCPR and article 3(1) of the CAT respectively.
4. Please provide information on how the asylum seekers from the Democratic People's Republic of Korea have been treated and how the standards to grant asylum is compatible with international human rights law provision, including the principle of *non-refoulement*.

I would appreciate receiving a response within 60 days. I have also been in communication with the Government of the Democratic People's Republic of Korea on the above matter.

It is my intention to publicly express my concerns in the near future as I am of the view that the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that I have been in contact with your Excellency's Government to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Marzuki Darusman  
Special Rapporteur on the situation of human rights in the Democratic People's  
Republic of Korea