

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: AL G/SO 214 (56-23) G/SO 214 (3-3-16) G/SO 214 (53-24)  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 14/11, 17/2, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the situation of **Mr. [REDACTED]**, born in 1979, holder of Alien Registration No. [REDACTED] issued by the Republic of Korea.

According to the information received:

Mr. [REDACTED] first visited the Republic of Korea in 2002 with a valid industrial trainee visa. He sustained an injury due to an altercation with a co-worker and thus quit his job and remained in the Republic of Korea illegally until 2008. In August 2008, he returned to Uzbekistan and after renewing his passport under his wife's surname, who is a valid Korean student visa holder, on 10 October 2008, he arrived in the Republic of Korea as a dependent.

It is alleged that Mr. [REDACTED] fled to the Republic of Korea in 2008 to escape religious persecution in his home country. Reportedly, as soon Mr. [REDACTED] fled the country in 2008, the police visited his family in Uzbekistan on multiple occasions and inquired about his attendance of mosque services and questioned about his wife's Islamic dress code. Soon after leaving Uzbekistan, Mr. [REDACTED] learned that the National Security Service agents had been collecting information

about him, showing his picture to those who may be acquainted with him and demanding that they provide information.

It is reported that, one of Mr. ██████'s close friend was arrested at his home by the agents from the National Security Service upon his return to Uzbekistan in 2010 from the Republic of Korea where he was studying for his master's degree. It is alleged that he was arrested for being a devoted practicing Muslim. The friend had reportedly warned Mr. ██████ through his family not to return to Uzbekistan and that if he did, he would be detained.

Reportedly, on 7 February 2012, in unknown circumstances, Mr. ██████ was arrested by the officials from the Seoul Immigration Office on the basis of alleged illegal entry and stay in the country and was taken to Seoul Immigration Office where he remained detained for four days before he was transferred to the Hwasung Foreigner Detention Center. Mr. ██████ sustained a broken finger as a result of being allegedly pushed against the wall by the Seoul immigration officer. He was nevertheless transferred to the Hwasung Foreigner Detention Center and was not given proper medical treatment. It is alleged that Mr. ██████ was not allowed to file an asylum seeker application by the officials from the Seoul Immigration Office when he wished to do so until after the representatives of United Nations High Commissioner for Refugees (UNHCR) intervened. It is further reported Mr. ██████'s wife who resides in the Republic of Korea received numerous threats as she was trying to apply for refugee status on behalf of her husband.

On 15 February 2012, Mr. ██████ was allowed to submit an asylum seeker application to the UNHCR.

On 21 March 2012, Mr. ██████ was notified of the rejection of his application for refugee status by the Seoul Immigration Office who then took him, by force, to the Incheon airport and put him on a 10:00 p.m. flight to Uzbekistan with a travel document obtained from the Embassy of Uzbekistan. It was not until the morning of 22 March 2012 that his wife received a call from the Hwasung Foreigner Detention Center and discovered that Mr. ██████ was deported to Uzbekistan.

It is reported that Mr. ██████ was not given a chance to appeal to the Minister of Justice which he was entitled to within 14 days after the notification of the decision on the status of his refugee application. Furthermore, the refugee status determination interview was reportedly poorly conducted: the assigned translator who was an Uzbek lawyer was reportedly not fluent in Korean and had difficulty communicating with the immigration officers conducting the interview. It is alleged that Mr. ██████ was forced to sign under the interview transcript which was written in Korean.

It is further reported that at the Incheon Airport in the Republic of Korea Mr. ██████ was met by two Uzbek guards who escorted him to the plane and accompanied him during the flight. It is claimed that Mr. ██████ arrived in Tashkent Airport in Uzbekistan at early hours of 22 March 2012. His mother, who was in the airport, was unable to meet him and later learned from the local police that her son had been taken to the National Security Service by the so-called secret police. To date, the fate and whereabouts of Mr. ██████ remains unknown.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. ██████. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would further like to draw your Excellency's Government's attention to article 3 of the CAT, which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement". Furthermore, paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly urges 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".

Furthermore, paragraph 6d of Human Rights Council Resolution 8/8 urges 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 and; the Council recognizes in this respect 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.

We would further like to draw your Excellency's Government's attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated that "Intimidation and coercion, as described in article 1 of the CAT, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture."

We would also like to draw your Excellency's Government's attention to article 4 of the CAT which requires States Parties to ensure that all acts of torture are offences under its criminal law and to make the offences punishable by appropriate penalties. In this regard I would also like to draw your attention to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires States Parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 3 of Resolution 2005/39 of the Commission on Human Rights which, "Stresses in particular that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture".

We would like to recall article 4 of the Convention relating to the Status of Refugees "The Contracting State shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children." Art. 33 provides that "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."

Moreover, we would like to emphasize that paragraph 8 of the General Assembly resolution 65/211 recognizes with concern the situation of persons in vulnerable situations, including [...] refugees, asylum-seekers and internally displaced persons [...], as regards their ability to freely exercise their right to freedom of religion or belief.

Furthermore, with regard to the evaluation of Mr. ██████████'s refugee application and his subsequent deportation, we would like to remind your Excellency's Government

of Principle 2 of the Basic Principles on the Role of Lawyers, according to which “Governments shall ensure the efficient procedures and responsive mechanisms for effective and equal access to lawyers.” We are concerned that Mr. ██████ did not benefit from effective access to a lawyer and legal assistance as he had not been allowed to appeal the denial of his refugee status determination and had been forced to sign an interview transcript in Korean without an adequate translation.

We urge your Excellency’s Government to ensure the accountability of any person guilty of the alleged violations. We also request that your Government adopts effective measures to prevent the recurrence of these acts.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged in the Republic of Korea by or on behalf of Mr. ██████?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information concerning the legal grounds for the alleged cooperation of the authorities of the Republic of Korea with Uzbek authorities in relation to Mr. ██████ and his subsequent arrest and detention, in Uzbekistan and how these measures are compatible with international obligations of the Republic of Korea as stipulated in the International Covenant on Civil and Political Rights and the Convention against Torture.
5. Please provide information whether Mr. ██████ had effective access to a lawyer and legal assistance in order to allow him to appeal the denial of his refugee status decision and whether he had access to adequate translation in doing so.
6. Please provide details on whether any risk assessment before Mr. ██████ deportation from the Republic of Korea to Uzbekistan was carried out by the authorities to ascertain whether he would be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Finally, we would like to inform your Excellency's Government that we have addressed a communication of the same contents to Her Excellency Ms. Goulmira Karimova, Ambassador Extraordinary and Plenipotentiary, Permanent Representative, Permanent Mission of the Republic of Uzbekistan to the United Nations Office and other international organizations in Geneva.

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

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading  
treatment or punishment