

URGENT ACTION

ASYLUM-SEEKER DEAD, OTHERS AT RISK OF RETURN

Lutfillah Tadjik, a 17-year-old Afghan asylum-seeker, died on 31 May following an alleged beating by a police officer from the Foreigners Directorate Returns Centre in Van, eastern Turkey. Other asylum-seekers who witnessed the assault are now at risk of being returned to Afghanistan.

On 16 May **Lutfillah Tadjik**, born on 1 January 1997, was among 21 people detained in the eastern province of Iğdır by the Aralık district gendarmerie command in Turkey for having entered Turkey irregularly. On 23 May he was transferred to the Van Returns Centre to be deported on the grounds that he was an 'irregular migrant', following an administrative decision by the Migration General Directorate of the Ministry of Interior. As he was under 18 – that is, a child in terms of international law – he declared his status as a child.

On 26 May Lutfillah Tadjik and six others (initials MR, SH, MN, AR, HA and VP) were taken to the Van Children and Youth Centre to be detained until their removal. On 27 May Lutfillah Tadjik and the other six were taken to the Van Returns Centre for age determination and a health check. During the procedures, a police officer allegedly assaulted Lutfillah Tadjik by slapping and punching him in the face, stating that Tadjik had lied about his age. Following the assault, Lutfillah Tadjik fell unconscious and was taken to Van Regional Training and Research Hospital, where he died on 31 May.

According to the lawyer following the case in Van, witness statements have been taken from the other six Afghans, (one of whom was later found to be 22 years old). They are at risk of being returned to Afghanistan, without having access to the refugee status determination procedure and before the ongoing investigation into Lutfillah Tadjik's death has been completed.

Please write immediately in Turkish or your own language:

- Calling on the authorities to conduct a prompt, thorough and independent investigation into the circumstances of Lutfillah Tadjik's ill-treatment and death;
- Urging them not to remove any witnesses to the assault from Turkey, and ensure that they receive adequate protection against any threats or intimidation;
- Urging them not to return any of the Afghan detainees, in particular those who were witnesses to the assault, pending a prompt and fair examination of their asylum claims under the terms of the Foreigners and International Protection Law No. 6458 and in line with international standards;
- Calling on them to ensure that asylum-seekers under 18 are treated in accordance with international law, in particular the principle of the best interests of the child.

PLEASE SEND APPEALS BEFORE 5 AUGUST 2014 TO:

Van Chief Prosecutor

Mehmet Kaya
Van Cumhuriyet Başsavcısı
Cumhuriyet Cad.
Hükümet Konağı
65100 VAN
Fax: +90 (0) 432 212 04 89
+90 (0) 432 215 20 07
Email: vancbs@adalet.gov.tr

Salutation: Dear Prosecutor

Minister of Interior

Mr. Efkan Ala
İçişleri Bakanlığı
Bakanlıklar
Ankara, Turkey
Fax: +90 (0) 312 418 17 95
Email: ozelkalem@icisleri.gov.tr
Salutation: Dear Minister

And copies to:

Minister of Justice
Mr. Bekir Bozdağ
Ministry of Justice
Adalet Bakanlığı
06659 Ankara, Turkey
Fax: +90 (0)312 419 33 70
Email: ozelkalem@adalet.gov.tr

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

ASYLUM-SEEKER DEAD, OTHERS AT RISK OF RETURN

ADDITIONAL INFORMATION

Turkey's first comprehensive asylum law – the Law on Foreigners and International Protection No. 6458 – came into effect on 12 April 2014, establishing the General Directorate of Migration Management (GDMM). According to the law, all procedures relating to migrants' and refugees' status determination, including Returns Centres' management, must be carried out by GDMM. However, the transfer of responsibility for refugee status determination hearings (RSDs) has not yet been implemented and these are still being carried out by the police. The vast majority of Returns Centres are run by law enforcement officers. Unaccompanied children's identification and age determination procedures continue to be carried out by police officers in police stations.

There are multiple international human rights standards at issue in the context of Turkey's detention of these under-18-year-old Afghan asylum-seekers. Article 31 of the Refugee Convention prohibits state parties from imposing penalties on refugees who have a right to enter a country for the purposes of seeking asylum, regardless of how they arrive or whether they hold valid travel or identity documents. What otherwise can be considered illegal actions (eg. entering a country without a visa) should not be treated as such if a person is seeking asylum.

Moreover, Article 37 of the UN Convention on the Rights of the Child (CRC) states that 'no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time'. CRC Article 3 also sets out the principle that in all actions concerning children, the best interests of the child shall be a primary consideration'.

Furthermore, Article 33 of the Refugee Convention prohibits the expulsion or return (refoulement) of a refugee where his or her life or freedom is threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. States that are party to the Convention must carry out a refugee status determination to ensure that no one who is in need of international protection is refouled. Article 3 of the Convention Against Torture also reiterates the principle of non-refoulement:

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.

There are concerns that returns to Afghanistan may violate the principle of non-refoulement. For instance, the United Nations Refugees Agency's 2014 country profile for Afghanistan states that the country 'faces significant humanitarian challenges, exacerbated by the security situation, economic insecurity and the limited capacity of the Government to provide access to basic services'. The agency has identified a decrease in voluntary returns, which they state 'may be associated with increased uncertainty about security in view of the 2014 elections and the withdrawal of international security forces'.

Name: Lutfillah Tadjik, MR, SH, MN, AR, HA and VP
Gender m/f: m

UA: 165/14 Index: EUR 44/013/2014 Issue Date: 24 June 2014