



2015 OSCE Human Dimension Implementation Meeting Working Session 8 Rule of Law: Prevention of torture (25 September 2015)¹

Kyrgyzstan's failure to provide detainees with access to basic safeguards

The human rights groups jointly issuing this statement – the coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan, Helsinki Foundation for Human Rights (Poland) and International Partnership for Human Rights (Belgium) – are concerned that in Kyrgyzstan detainees have no access to basic safeguards at the early stages of detention. Most torture cases reported to the NGO Coalition against Torture in Kyrgyzstan originate from this period when detainees are routinely held incommunicado in basements, traffic police cars or offices of police stations for several hours or sometimes even days.

International human rights law clearly states that a person is considered a detainee as soon as he or she is “depriv(ed) of liberty [...] in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority” (Article 4(2) of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, OPCAT). From the moment the detention starts, safeguards against torture and ill-treatment must be in place.

In its March 2014 Concluding Observations issued to Kyrgyzstan the United Nations Human Rights Committee expressed concern “about the lack of implementation of basic safeguards to all persons deprived of their liberty, including failure to register all detainees immediately upon apprehension; the lack of access to a lawyer of their choice; the lack of a medical examination immediately after their apprehension and the lack of access to medical assistance” (Paragraph 16).

The Criminal Procedure Code (CPC) of Kyrgyzstan considers a person to be detained when he or she is entered into a detention facility run by the Ministry of Internal Affairs (Article 95, part 1 of the CPC). It provides no information on how much time may elapse between the actual arrest and the entering of a detainee into a detention facility. The CPC does not provide detainees with basic safeguards until they have been entered into a detention facility and their detention has been recorded.²

In practice, in very many cases lawyers are not present during interrogations and often detainees see their lawyer for the first time at the remand hearing that takes place within 48 hours after the detainee is entered into the police detention facility. Detainees' relatives are not notified promptly after the arrest, and sometimes the notification takes place even later than the 12-hour-limit stipulated in the CPC.

Police also often summon people as “witnesses” or simply call them in for “a conversation”. In these cases there is no registration of the person being present in a police station, and he or she has no access to safeguards to which detainees are entitled under domestic law. Police officers reportedly often torture such individuals in order to obtain incriminating evidence or confessions that subsequently form the basis for opening criminal cases against them.

RECOMMENDATIONS

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Co-sponsors in 2015:



² A recent case example can be found on: <http://vof.kg/?p=18479> (in Russian).

We urge the authorities of Kyrgyzstan to:

- Amend domestic legislation to ensure that the definition of deprivation of liberty is in line with international human rights law, in particular that the moment of apprehension is treated as the outset of detention.
- Amend the Criminal Procedure Code of Kyrgyzstan (CPC) to ensure that it explicitly provides, from the moment a person is deprived of his or her liberty, for access to basic safeguards such as access to a lawyer of the detainee's choice, information about the detainee's rights, notification of family, and access to an independent medical doctor.