**KYRGYZSTAN**

**Open letter of *Human Rights Without Frontiers***

**to the President of Kyrgyzstan**

7 June 2011

Dear Madam President,

We are writing to express serious concern about the criminal prosecution and conviction of Iskandar Kambirov (age 18) and Jonibek Nosirov (age 22).

The two young men are members of the Christian religious organization known as Jehovah's Witnesses. They were convicted by the Kadamjay Regional Court on May 18, 2011, and sentenced to seven years imprisonment based on the claim they possessed two DVDs of the Islamic organization Hizbut-Tahrir, contrary to Article 299.2.2(1) of the Criminal Code.

It appears that the Defendants were singled out for prosecution because they are Jehovah's Witnesses and citizens of Uzbekistan. It is noteworthy that the Defendants are Kyrgyz nationals and have valid Kyrgyz visas and registration.

We have received a copy of the decision of the trial court and the appeal from that decision filed by the Defendants in the Batken District Court. It is concerning that the trial court has disregarded the following key facts, which should instead have resulted in a verdict acquitting the Defendants of the charges:

* The Defendants are Jehovah's Witnesses. It is obvious that as members of that Christian religious organization they would have nothing to do with an extremist Islamic organization.
* The two DVDs found during the search of the Defendants' apartment on January 29, 2011, were most likely planted four days earlier on January 25, 2011. The police testified at trial that on January 25, 2011, a group of four unidentified police officers conducted a secret raid on the Defendants' apartment, without court order. On that same day, January 25, 2011, an "electricity inspection" of the Defendants' apartment also took place (the second in just two days) in which three unidentified persons searched the Defendants' apartment for alleged electricity infractions. They found none. Police officer Ruslan Omoshev who was responsible for the secret raid of the Defendants' apartment on January 25, 2011, participated in the search of the Defendants' apartment on January 29, 2011, which was made without court order.
* There was no evidence that the Defendants had ever seen the two Hizbut-Tahrir DVDs nor was there any evidence that they had ever attempted to offer the DVDs to other persons, which is a fundamental requirement of an offence under Article 299.2.2(1) of the Criminal Code.

In convicting the Defendants the trial judge also failed to give any consideration to the following procedural violations, which render the convictions unlawful:

* The two DVDs were obtained in an illegal police search and seizure of the Defendants' apartment on January 29, 2011. The police did not have a court order for their secret raid of the Defendants' apartment on January 25, 2011, or the search of the Defendants' apartment and seizure of their personal goods on January 29, 2011, in violation of the Article 30(2) of the Constitution, which requires that a search of a private dwelling and seizure of personal goods "shall be allowed only on the basis of a court order."
* The Defendants were detained in police custody from January 29 to February 5, 2011, without court order for a period of at least 144 hours, although Article 24(4) of the Constitution states that no one may be detained without court order for more than "48 hours."
* The Defendants were each repeatedly interrogated by the police from January 29 to February 4, 2011, without having their lawyer present in violation of Article 24(5) of the Constitution.

We respectfully request that this serious matter be given consideration by your office.

Yours truly,

Willy Fautre,

Director, Human Rights Without Frontiers