

March 11, 2025

President Volodymyr Zelenskyy
11 Bankova Street
01220, Kyiv
Ukraine

Re: North Korean prisoners of war (POWs) wishing to go to South Korea

Dear President Zelenskyy

In your people's valiant struggle for democracy and freedom, we urge Ukraine to respect the free will of North Korean prisoners of war (POWs) to go to South Korea. This will not only be the right thing to do for Ukraine, but it may also help Ukraine's war efforts in the long term by inducing more North Korean soldiers to surrender or defect.

On 11 January 2025, you announced that two North Korean soldiers were captured alive in Kursk, offering the most concrete proof yet of the North Korean military intervention despite Russia and North Korea's denial. Russia continues to be dependent on North Korea's military assistance, exploiting its soldiers, "who grew up in a complete information vacuum, utterly unaware of Ukraine, and who are being used by Russia solely to prolong and escalate this war".

North Korea is indeed a totalitarian state and the gravity, scale and nature of North Korea's systematic, widespread and gross human rights violations reveal "a state that does not have any parallel in the contemporary world" according to the UN Commission of Inquiry on Human Rights in the DPRK.

Parties to armed conflict may conclude agreements with a view to the repatriation of prisoners of war who have undergone a long period of captivity under article 109 of the Geneva Convention relative to the Treatment of Prisoners of War. But the Geneva Convention was drafted in a humanitarian spirit and under the premise that the country of origin would protect, not persecute, its own POWs. This is not the case with North Korea, which is more likely to mete out draconian punishment to the soldiers who surrender and their families as traitors.

The International Committee of the Red Cross (ICRC)'s commentary states that "Where the repatriation of a prisoner of war would be manifestly contrary to the general principles of international law for the protection of the human being, the Detaining Power may, so to speak, grant him asylum". In practice, the ICRC delegates interview the POWs individually to make sure that they are being repatriated of their own free will.

While not directly applicable to the North Korean combatants in an international armed conflict, article 45 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War provides that civilians shall not be "transferred to a country where they may have reason to fear persecution for their political opinions or religious beliefs" and article 5 (4) of the Additional Protocol II on Victims of Non-International Armed Conflicts stipulates that "If it is decided to release persons deprived of their liberty, necessary measures to ensure their safety shall be taken by those so deciding".

In this regard, the 1953 Korean War armistice agreement established an important precedent by providing that only the POWs "who insist[ed] on repatriation to the side to which they belonged at the time of capture" will be repatriated. This allowed countless Koreans and Chinese who were forced to serve in the Communist forces to avoid forcible repatriation and to settle in South Korea and Taiwan.

Therefore, we ask Ukraine to respect the principle of non-*refoulement* by not returning captured North Korean soldiers to Russia or North Korea against their will and to allow North Korean POWs who wish to go to South Korea, where they will be accepted and treated as South Korean citizens, to do so.

We welcome your statement that: "For those North Korean soldiers who do not wish to return, there may be other options available. In particular, those who express a desire to bring peace closer by spreading the truth about this war in Korean will be given that opportunity".

We propose that North Korean POWs who express the wish to go to South Korea are speedily sent to South Korea and that North Korean soldiers are informed about this through means such as leaflets to induce surrender. During the Korean War (1950-1953), the UN forces dropped about 2.5 billion leaflets in the North while the Communist forces dropped about 300 million leaflets in the South.

Kim Jung Un too is concerned that the news of death of North Korean soldiers, who are in many cases the only sons, will create a stir among their parents as well as North Korean society. Worse yet from his perspective, if hundreds of North Korean soldiers are captured alive and sent to South Korea, creating unwelcome family links between the two Koreas, he will be forced to reconsider his military deployment.

We also note that over 34,000 North Korean escapees have settled in South Korea and thousands of them had military experience in North Korea before their defection. Many of them are willing to help in persuading North Korean soldiers to lay down their weapons and stand on the side of justice.

Thank you.

Sincerely,

Signature organizations and individuals (as of March 11, 2025)

Kim Kyu Li and Kim Hyuk (elder sister and cousin of Kim Cheol-ok who was repatriated by China to North Korea on October 9, 2023)

Kim Jeong-sam (elder brother of missionary Kim Jeong-wook who has been held in detention in North Korea since 2013)

Citizens' Alliance for North Korean Human Rights (NKHR)

Committee for Human Rights in North Korea (HRNK)

Justice For North Korea

Korean War POW Family Association

Mulmangcho

No Chain

Stepping Stones

THINK

Transitional Justice Working Group (TJWG)