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КОАЛИЦИЯ ПРОТИВ
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HR HELSINKI FOUNDATION
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OSCE Human Dimension Implementation Meeting

Torture and ill-treatment in Central Asia (Working Session 11, Rule of Law II, 23 September 2019)

Torture and ill-treatment continue to be of widespread concern in all Central Asian countries.¹ Methods of torture which were recorded in Central Asia in 2018 and 2019 include reports of law enforcement officers pushing needles or nails under the victim's finger nails, twisting a person's arms behind their back and attaching them to their feet, applying electric shocks to fingers, the mouth, the back and male genitals, attaching heavy bottles to male genitals, slipping a gas mask over the victim's head squeezing tight the air supply, covering the victim's mouth with tape; rape and threats of rape including with regard to close family members, particularly wives; cigarette burns; forcing the victim to stand under cold water on a cold day; forcing detainees to brutalize each other; beatings with fists, truncheons and other objects; intimidation and threats of violence directed at the victim's relatives.

Each case is a tragedy in the lives of the victim and his/her loved ones.

Case example from Kazakhstan

*In May 2018 **Dilara Iskakova** was arbitrarily detained and taken to Auezov district police station in the capital Almaty where police officers reportedly burnt her with cigarettes, and inflicted blows on her fingers and under her shoulders in order to force her to confess to stealing a mobile phone.*

When she was later released she lodged a complaint with the prosecutor's office and a case was opened into the crime of "torture" (Article 146 of the Criminal Code of Kazakhstan). However, by the end of May 2018 police investigators had twice closed the case, and Dilara Iskakova had to lodge two complaints against the decisions with the courts before it was reopened.

¹ In 2019 Central Asian NGO coalitions against torture recorded 170 new cases involving allegations of torture and other forms of ill-treatment in Kazakhstan and 35 in Tajikistan. The Prosecutor General's Office in Kyrgyzstan recorded 171 allegations of torture and ill-treatment in the first half of 2019. In both Uzbekistan and in Turkmenistan human rights groups working on torture have not been able to register and due to the repressive nature of the regimes it has been impossible for activists to compile reliable nationwide statistics.



The police investigator recently decided that the perpetrators should be subjected to disciplinary, rather than criminal sanctions. The criminal case is still open, but the perpetrators have not been brought to justice.

Case example from Tajikistan

Saymurod Orzuyev, aged 30, was found dead near a river in Nurobod district in central Tajikistan on 29 April 2014, four days after he had been apprehended by traffic police and officers of Nurobod District Police. His family reported that he briefly called his sister in the evening of 25 April, but was only able to tell her -- through tears -- that he was being held at Nurobod Police station, before the phone went dead. The family were unable to see him. On 21 May 2014 Nurobod District Prosecutor's Office began examining the circumstances of Saymurod Orzuyev's death. From that time, to the time of writing the Prosecutor General's Office of Tajikistan has annulled decisions by Nurabod Prosecutor's Office to close the case on no fewer than **11 occasions, returning it** to Nurabod prosecutor's office for further checks. In 2018 lawyers of the Coalition against Torture and Impunity lodged a complaint with the court about the lack of action by the Nurobod Prosecutor, but the court did not accept the complaint. However, in August 2018 the Prosecutor General's Office opened a criminal case under Article 104, part 2 (murder) and referred it for further investigation to the Prosecutor's Office in Nurobod. Four months later Nurobod Prosecutor's Office decided to suspend the investigation stating that it had not been able to identify the perpetrator. Orzuyev's family's lawyer has repeatedly unsuccessfully requested that the case be investigated by the Prosecutor General's Office or a different prosecutor's office. On 3 May 2019 the lawyer lodged a complaint with the Prosecutor General's Office about the failure to conduct an effective investigation; no response has yet been received. For over five years, Saymurod Orzuyev's family have been denied justice and compensation in connection with his death.

For many years local and international human rights groups have drawn attention to the endemic problem of torture in Central Asia and much has been achieved. Civil society has played a vital role by supporting hundreds of victims in their struggle for justice, made policy recommendations, attempted to engage in dialogue with domestic policy makers and advocated for change in international human rights fora. It is largely thanks to these efforts that several dozen victims have attained justice and a small number of perpetrators have been punished; and that precedents have been set in Kazakhstan, Kyrgyzstan and Tajikistan when victims of torture or their families have received some compensation for moral damages. Central Asian NGOs also provide much needed rehabilitation services for victims of torture and their relatives, particularly in Kazakhstan, Kyrgyzstan and Tajikistan. Their engagement has come at a price, however. In many Central Asian countries the authorities have curtailed the space in which human rights groups can operate and their work comes at a great personal risk. For example, in April 2019 unidentified people set fire to the NGO Spektr, a member of the Coalition against Torture in Kyrgyzstan, and the following month nine individuals attempted to aggressively break up a Coalition meeting, accusing the human rights defenders of collaborating with Western countries to destabilize Kyrgyzstan. Depending on the country and the sensitivity of the topics that human rights groups cover, pressure on activists ranges from insults and death threats by non-state actors and harassment and intimidation by government agents to the risk of torture, arbitrary arrest and imprisonment.

Although some progress has been achieved in strengthening legislation against torture in all five countries, all too often legal safeguards are not implemented in practice and officials who fail to adhere

to them are not held to account. Kazakhstan and Kyrgyzstan have allowed public oversight over detention facilities and set up National Preventative Mechanisms (NPMs), but these are hindered by insufficient financial resources. Tajikistan has allowed limited monitoring of detention facilities through the Ombudsman's Office. In Kyrgyzstan and Tajikistan significant efforts have been made to integrate the standards of the Istanbul protocol into the work of medical doctors examining victims of torture. In August 2019 Uzbekistan closed down the high security Jaslyk prison colony that was notorious for torturing and ill-treating detainees. However, there are reports that Jaslyk will now be used as a pre-trial detention centre. Its remote location will inevitably make it difficult for defence lawyers and relatives to see detainees, which will have negative repercussions for pre-trial detention rights including safeguards against torture and other ill-treatment.

In order to put a definitive end to torture and ill-treatment the authorities in all Central Asian countries have to publicly acknowledge the true extent of the problem, publish comprehensive statistics on cases and investigations, allow independent monitors full access to detention facilities, and openly and transparently address entrenched systemic problems. The judiciary in all five countries is not independent and both in law and practice, a defendant's position is notoriously weak compared to that of the prosecution. Law enforcement and prison officials often prevent lawyers from visiting their clients and speaking with them in confidence. Victims, lawyers and human rights defenders often risk reprisals by law enforcement agencies when raising allegations of torture and are left vulnerable, with no functioning mechanisms of protection. Not one of the countries has put independent mechanisms in place to investigate allegations of torture. Conflicts of interest prevent investigations being effectively carried out (for example, when investigations are conducted by the Kyrgyzstani State Committee for National Security or prosecutors offices and employees of the Ministry of Internal Affairs in the other Central Asian countries), cause major delays and lead to cases being closed, often in spite of glaring evidence of abuse. Investigations are often shrouded in secrecy making it impossible for victims of torture and their lawyers to effectively defend their rights. Medical doctors who examine victims of torture frequently come under pressure from law enforcement agencies if they record injuries inflicted through torture and other evidence, and not one of the Central Asian countries accepts or gives due consideration to the conclusions of independent forensic medical or psychiatric experts in court. Police officers often lack the necessary training and skills to investigate crimes professionally and resort to extracting confessions and fabricating evidence under duress. Successfully combating torture also requires tackling corruption in the criminal justice system as officials frequently exploit the vulnerability of suspects and detainees for their personal gain.

Recommendations to the Central Asian authorities:

The authorities of the five Central Asian countries should pursue a policy of zero tolerance on torture. As a matter of urgency they should:

- Compile and publish comprehensive statistics disaggregated by sex, age and, where applicable, detail charges brought, complaints, investigations, prosecutions, convictions and means of redress. Ensure that not only cases are included that are instigated under the article of "torture" contained in the Criminal Code, but also cases opened under other articles that involve allegations of torture or other forms of ill-treatment.

- Ratify the Optional Protocol to the Convention against Torture and set up a National Preventive Mechanism (Tajikistan, Turkmenistan, Uzbekistan).
- Establish a functioning mechanism enabling detainees to meet with a lawyer of their choice immediately after the arrest.
- Compile and publish comprehensive statistics on cases of law enforcement agents and other officials accused of, charged with and punished for failing to implement the legal safeguards for detainees contained in the respective Criminal Code. Detail the types of punishments handed down.
- Ensure that all medical personnel responsible for examining detainees are truly independent of law enforcement agencies and the agency running the respective detention facility, and that they follow the standards of the Istanbul Protocol during examination and documentation.
- Provide the necessary legislative framework to allow for the establishment of independent forensic medical and psychiatric institutions.
- Ensure that complainants and witnesses are protected against reprisals as soon as the authorities receive the complaint/witness report and that appropriate disciplinary or, where relevant, criminal measures are imposed against perpetrators for such actions.
- Establish an effective and independent mechanism with no connection to the state body prosecuting the case against the alleged victim tasked with investigating all allegations of torture and ill-treatment.
- Conduct prompt, thorough, impartial and independent investigations into all allegations of torture and other forms of ill-treatment and bring to justice the perpetrators.

For further information on concerns, recommendations and individual cases of victims of torture in Central Asia, refer to the following documents:

- **Kazakhstan:** [Commentaries of the Kazakhstani NGOs Coalition on UPR with respect to the Implementation of Recommendations by Kazakhstan based on the Results of the Consideration of the Second Periodic Report of Kazakhstan within the Framework of the UPR](#), April 2019
- **Kyrgyzstan:** [Protection of fundamental rights in Kyrgyzstan. Briefing paper ahead of EU-Kyrgyzstan human rights dialogue](#), May 2019
- **Tajikistan:** [Joint NGO submission to the United Nations Human Rights Committee ahead of the consideration of Tajikistan's Third Periodic Report at the 126th session in July 2019](#), NGO Coalition against Torture and Impunity in Tajikistan, International Partnership for Human Rights, Helsinki Foundation for Human Rights, June 2019
- **Turkmenistan:** [Submission for the UN Universal Periodic Review \(UPR\) of Turkmenistan](#), Turkmen Initiative for Human Rights, Human Rights Watch, International Partnership for Human Rights, October 2017
- **Uzbekistan:** [Committee against Torture. Written information prior to the 66th session - adoption of the List of Issues](#), Association for Human Rights in Central Asia and International Partnership for Human Rights, January 2019