

ENGLISH only

**On the results of trial  
on 15 active participants of terrorist attacks in Andijan in May 2005**

The panel of judges on criminal cases of the Supreme Court of the Republic of Uzbekistan from 20 September to 14 November in open trial considered the part of criminal case which was brought against 15 persons for perpetrating terrorist attacks and other grave crimes.

Those persons were accused for committing crimes envisaged in the following Articles of the Criminal Code of the Republic of Uzbekistan: 97 (premeditated murder with aggravated circumstances), 155 (terrorism), 159 (encroachment on constitutional order of the Republic of Uzbekistan), 242 (establishing criminal group), 244 (riots), 244-1 (producing or spreading material with the threat to public security and order), 244-2 (creation, management, participation in religious extremist, fundamentalist or other prohibited organizations), 247 (illegal seizure of arms, ammo, explosive materials and devices), 132 (elimination, destroying, violation of historic or cultural monuments) and others.

The Court pleaded the accused persons guilty on the basis of the relevant Articles of the Criminal Code of the Republic of Uzbekistan and sentenced M.Sabirov for 20 years of imprisonment, F.Khamidov – 20 years, A.Khakimov – 20 years, A.Yusupov – 14 years, H.Turapov – 16 years, A.Gaziev – 20 years, A.Ibragimov – 17 years, A.Turgunov – 16 years, M.Artikov – 17 years, L.Imankulov – 14 years, D.Burkhanov – 14 years, V.Ergashev – 14 years, G.Nadirov – 18 years, T.Khadjiev – 17 years and I.Khadjiev – 20 years.

The process and results of the court examination demonstrated that investigation and trial on this criminal case were conducted in strict compliance with procedural legislation of the Republic of Uzbekistan and universally recognized norms of international law.

More than 100 representatives of foreign and local mass media, diplomatic missions and international organizations including the UN, OSCE/ODIHR, UNHCR, SCO as well as international human rights organizations such as, for instance, Human Rights Watch, ABA CEELI.

There were no constraints from judicial authorities in observing of the trial process. Both sides (defense and prosecution) enjoyed equal conditions and opportunities for impartial and competitive participation in the court trial.

Unfortunately some human rights organizations and foreign politicians due to some political or other reasons could not objectively observe the process and called in question actions of inquiry and judicial bodies of Uzbekistan in bringing the accused to account.

In this regard, it is worth to draw attention to groundlessness of some statements on alleged violations of procedural norms in the course of investigation and court examination of this case. Particularly, they call in question open-hearted confessions of

the defendants and participation of lawyers in preliminary investigation and court hearings on this case.

There is a vivid unfamiliarity with principles and norms of the criminal and procedural legislation of the Republic of Uzbekistan as well as wittingly biased attitude towards court examination of persons accused for committing a number of grave crimes in those unfounded facts and statements.

In this context, it is noteworthy to point out that, in accordance with Article 46 of the Criminal and Procedural Code of the Republic of Uzbekistan, a defendant has a right to give any evidences about an accusation brought against him/her; nevertheless, he/she is not obliged to give evidences as well as prove his/her innocence or any other circumstances of the case. Moreover, an open-hearted confession is recognized as a circumstance mitigating punishment (Article 55, Criminal Code of Uzbekistan).

Confessions of the accused (defendants) of this case were very similar with accusations brought against them.

Allegations of reports' authors that testimonies were given by those accused "practically word for word with prosecutor's statements" are unfounded since according to the national procedural criminal law an accusation is presented on the basis of evidences gathered on the case including testimonies of accused persons. By this is explained the similarity of testimonies of those accused (defendants) with the text of produced charge.

Also doesn't conform to reality the allegation that those accused (defendants) gave confessing testimonies as a result of use of tortures towards them. In the course of preliminary and legal investigation those accused and their defenders didn't submit complaints on any physical, psychological or other kinds of pressure.

The fact that during medical examination of each accused in the framework of preliminary investigation were not identified any tracks of physical coercion on them constitutes an evidence of groundlessness of such statements.

In the course of judicial examination of the case the chairman of the court's sitting repeatedly asked the defendants questions on possible use of unauthorized methods or physical and psychical pressure towards them, to which they were steadily giving negative responses.

Regarding arguments about lack of consideration of the evidences by the court, it is worth to mention that during the preliminary investigation all circumstances which had to be proved were thoroughly, comprehensively, fully and objectively examined. As a result, cumulative evidences fully proving the fact that accused ones had committed crimes incriminated to them.

These evidences are expounded in the damning verdict copies of which were duly handled to all accused ones and lawyers, representing their interests, as well as fully examined during the trial.

Assessment of the evidences, as well as a finding one guilty or not guilty is a prerogative of the court. Therefore, any arguments about insufficiency of evidences

examining made before the court makes its verdict are premature and can be considered as pressure on the trial.

It is also inconsistent that the allegations that accusation in terrorism, in that case, could be used by the authorities as a tool of punishment of accused ones for their religious and political beliefs and visions. They demonstrate that the allegations of authors are incompatible with the nature and public danger posed by crimes committed by defendants.

The case have collected evidences, which uncover each of the defendants in committing armed attacks on military, police and other sites, followed by seizure of huge number of weapons, ammunitions and hostages, murdering law enforcement officers and peaceful civilians, destroying building of a state and personal property by burning, as well as other crimes, which are specified with a brutality and cynicism, which at no circumstances could be justified by religious dogmas or political views and beliefs.

Argument about inadequate attitude of the lawyers towards their professional duties is a purely subjective opinion of the authors. According to the Articles 46 and 50, defendants have right whether to accept a lawyer or refuse him.

Lawyers defending interests of the defendants had been selected directly by themselves. There had no been any restrictions for lawyers to meet with their defendants. There had not been noticed any facts of interference in lawyers' activity.

During the preliminary investigation and the trial defendants had not refused selected lawyer or replacing them by the other one.

### **For information**

1. Terrorism as a criminal act is determined in the Article 155 of the Criminal Code of the Republic Uzbekistan, which consists of four parts.

The first part: «Terrorism is a violence, use of force, other acts creating danger to a person or a property, or threat of their realization to compel the state body, the international organization, their officials, the physical or legal person to commit or refrain from committing any activity with a purpose to complicate the international relations, to infringe sovereignty and territorial integrity, to undermine security of the state, to provoke war, armed conflict, to destabilize the political situation, to intimidate the population, and equally the activity aimed at ensuring existence, functioning, financing of a terrorist organization, preparation and commitment of terrorist acts, direct or indirect granting or gathering of any means, resources, other services to the terrorist organizations or to persons assisting or participating in terrorist activity - are punished by imprisonment from eight to ten years.

The second part: «attempt at a life, causing a physical injury to a state either public man (figure) or a representative of the authority committed in connection with their state or public activity under the purpose to destabilize the situation or to influence on

the state bodies' decision-making process or to prevent political or other public activity - are punished by imprisonment from ten to fifteen years.

The third part: the actions, provided in the first or the second parts of the present article, which resulted:

a) death of a person;

b) other serious consequences - are punished by imprisonment from fifteen to twenty years or a death penalty.

The circumstances for liberation from a criminal liability are specified in the fourth part: « the person participated in preparation of terrorism is liberated from the criminal liability if he/she actively assisted to prevent the dire consequences and realization of the terrorists' purposes by warning of the authorities in due time or in other way and if the actions of this person does not contain other forms of a crime”.

The first part of the Article 15 of the International Covenant on Civil and Political Rights specifies that no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.

Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed.

If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

In the second part it is indicated that nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

It is impossible to compare the mentioned provisions of Uzbekistan's legislation with the norms of the international law before a court decision is made, as the article 155 of the Criminal Code of the Republic of Uzbekistan envisages an act and punishment, but the article 15 of the International Covenant regulates the principle of inevitability of criminal punishment.

2. “Akromiylar” is qualified by investigating agencies as a religious-extremist movement; the Organization can be recognized as a terrorist only by a court decision.

In accordance with the Chapters 55-1 and 56 of the Criminal Code of the Republic of Uzbekistan, every natural person or juridical person, who does not agree with a decision, has right to appeal against that decision.

3. Preliminary investigation and the court trial with respect to the persons involved into the criminal acts in the course of the Andizhan events were undertaken in the full compliance with the criminal-procedural legislation of Uzbekistan, which complies with the regulations of the International Covenant on Civil and Political rights. In particular, each of accused during the trial was immediately and in details informed in his native language about the basis and nature of the accusations against him.

Time, that was given to them to prepare themselves for the court defense, and number of the meetings with advocate were not restricted. During the trial, defendants were provided with conditions for full realization of their rights, envisaged in the criminal-procedural legislation of the Republic of Uzbekistan.

4. Advocates, who defended interests of the accused, were chosen by the defendants themselves. There were not any restrictions in meetings. There were no any complains from them on the facts of unlawful actions or the attempts to insert a pressure on them. Also, there were no any misuse of the rights of defendants.

In accordance with the Article 49 of the Criminal-Procedural Code of the Republic of Uzbekistan, advocates were granted full access to participate in the criminal case from the moment of the indictment of the accused as the suspects.