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**OSCE HUMAN DIMENSION IMPLEMENTATION MEETING
WARSAW**

28 September - 9 October 2009

**Written statement by
The World Organisation Against Torture (OMCT)**

**Under working session 4 of the agenda on “Rule of law II – Prevention of torture”
30 September 2009**

The World Organisation Against Torture (OMCT), as the largest coalition of non governmental organisations fighting against torture and other cruel, inhuman or degrading treatment or punishment, wishes to draw the attention of the Organisation for the Security and Cooperation in Europe (OSCE) to the situation of torture and other forms of ill-treatment prevailing in some OSCE Participating States.

Since the beginning of the year, OMCT has denounced cases of torture and other forms of ill-treatment, as well as cases of enforced disappearance and arbitrary and/or incommunicado detention¹, in different Participating States of the OSCE, where the information has come out².

In **Azerbaijan**, the use of torture and ill-treatment remains widespread, in particular during arrest and interrogation sessions. OMCT is further gravely concerned about reports of death in detention, as in the case of human rights defender, Mr. Novruzali Mammadov³. Mr. Mammadov was detained in poor conditions of detention and was not given appropriate medical care, although he was severely ill. In the same perspective, OMCT is concerned of the existence of a pre-trial investigation centre administered by the Ministry of National Security instead of the Ministry of Justice⁴.

Arbitrary detentions persist in Azerbaijan, as evidenced by the recent cases of Mr. Adnan Hajizade, coordinator of OL Youth Organisation and well-known video-blogger and Mr. Emin Milli (Abdullayev), chairman of Alumni Network (AN) Youth Organisation and leader of ANTV Online TV, in Baku, who remain detained since July 2009 on charges of “hooliganism” and “deliberate physical violence”, arrest and detention which seem exclusively motivated by a wish to sanction them because of their activities as independent and opposition journalists⁵. In this respect, OMCT is also concerned that the Azerbaijan Government has reportedly practically put an end to a dialogue it had engaged with the civil society as to the issue of political prisoners.

In **Kyrgyzstan**, OMCT has documented cases of torture and others ill-treatment in detention, particularly

¹ See OMCT website www.omct.org

² For further information on the situation of human rights defenders, see Written Statement by the Observatory for the Protection of Human Rights Defenders, a joint OMCT- FIDH programme.

³ See The Observatory for the Protection of Human Rights Defenders, a joint OMCT- FIDH programme, urgent appeal AZE 001 / 0808 / OBS 139 and follow-ups.

⁴ Concluding observations of the Human Rights Committee, Azerbaijan, August 2009 (CCPR/C/AZE/CO/3).

⁵ See OMCT urgent appeal AZE 140709.

in order to obtain confessions. According to the information received, none of the cases documented by OMCT was fully investigated by competent authorities. OMCT is also gravely concerned about the use of incommunicado detention by Kyrgyz law enforcement officials. OMCT reminds all OSCE Participating States that incommunicado detention or detention in secret places may facilitate the perpetration of torture and other ill-treatment and can itself constitute torture or ill-treatment.

OMCT is particularly alarmed about the human rights situation in the **Russian Federation**. OMCT has denounced several cases of extrajudicial killing, enforced disappearance, particularly in Chechnya, and incommunicado detention, which were often accompanied by acts of torture and other forms of ill-treatment. Torture and ill-treatment are commonly used on detainees and prisoners by law enforcement officials and prison authorities/ penitentiary staff, and included severe beatings, electric shocks, and being forced to stay in painful positions for prolonged periods. OMCT is also particularly preoccupied about the conditions of detention, not only in prison facilities/colonies, but also during transfer by train to detention centres. The route and destination are usually kept secret from the detainees so that it is very difficult for them to inform their families of their whereabouts. Furthermore, not only are the conditions of detention very poor but detainees are frequently denied medical attention and treatment, in certain cases having led to the death of the detainees. These conditions of detention can amount to cruel, inhuman and degrading treatment. OMCT recalls that the Government of Russia is legally bound to effectively ensure the physical and psychological integrity of all persons deprived of liberty in accordance with international and regional human rights law.

OMCT also wishes to express its deep concern about the use of arbitrary detention, including detention in psychiatric hospitals, against political activists solely aimed to sanction their activities. OMCT recalls that the United Nations Working Group on Arbitrary Detention, in its report E/CN.4/2005/6 on "issues related to psychiatric detention", stated that "*psychiatric detention shall not be used to jeopardize someone's freedom of expression nor to punish, deter or discredit him on account of his political, ideological, religious views, convictions or activity*".

OMCT has welcomed the decision by President Barak Obama to declassify and release information confirming that senior officials in the Bush Administration authorized extreme interrogation techniques, including water-boarding, on suspected terrorists in the aftermath of the 9/11 attacks. The documents released show beyond doubt that **United States** Government officials authorised torture and other forms of ill-treatment in flagrant violation of the country's unconditional commitments under international law. OMCT recalls that hundreds of detainees have moreover been denied their right to have access to the judicial guarantees essential for the protection of their basic rights, including their right not to be subjected to ill-treatment.

In the light of the recent important disclosures on the question of torture and ill-treatment, and in application of the strict conditions laid down by international law, OMCT urges the United States Government to launch prompt, effective, independent and impartial investigations into the alleged torture and ill-treatment as well as other human rights violations that took place during the previous administration. The result of such investigations must not only be made public, but criminal prosecutions must moreover be brought against those suspected of having committed or otherwise participated in, or authorised, whether expressly or tacitly, torture and other cruel, inhuman or degrading treatment, and in case they are found guilty, a penalty proportionate to their crimes should be imposed. Furthermore, the victims concerned must be granted adequate redress for their suffering, including rehabilitation for physical and psychological sequel of the ill-treatment, as required by the international human rights treaties ratified by the US.

While OMCT has welcomed the inquiries carried out, in difficult circumstances, by both the Council of Europe Parliamentary Assembly and the European Parliament into the cooperation by **European States**

with the United States with regard to secret CIA flights and secret detention centres, it reiterates its call on the member States of the European Union and the Council of Europe to start prompt, effective, independent and impartial investigations into their alleged collaboration with, or toleration of, the US illegal activities within European territory and to bring criminal prosecutions against the officials suspected of having committed, or being complicit in, torture and ill-treatment or other related illegal activities. In this respect, OMCT recalls the Conclusion of the European Union Council, adopted on 29 April 2009, which confirmed “that the promotion and protection of the right not to be submitted to torture is a priority of the EU’s human rights policy” adding that “[t]o work towards the prevention and eradication of all forms of torture and ill treatment within the EU and worldwide is a strongly held policy view of all EU member states. The European Union Council further inter alia recalled “the EU’s firm position to fully comply with obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment, in the fight against terrorism, in particular the absolute prohibition of torture and cruel, inhuman and degrading treatment”.

Finally, in 2010, Kazakhstan will assume the chairmanship of the OSCE. OMCT wishes to express its deep concern about the grave human rights violations committed in this country. OMCT urges that freedom of expression and freedom of the press, as well as the guarantees of fair trial, notably the right to be assisted by an independent lawyer of one’s own choice are guaranteed.

OMCT wishes to recall to all OSCE Participating States that the prohibition of torture and ill-treatment is absolute and a peremptory norm under international law. The practice of torture and other forms of ill-treatment can never be justified under any circumstances; no political, economic, ideological or security argument, including the fight against terrorism and public emergencies threatening the life of the nation, can legitimate this practice.

OMCT recalls that OSCE Participating States are responsible before the international community for effectively outlawing torture and other cruel, inhuman or degrading treatment or punishment, for preventing their occurrence, for prosecuting and punishing those guilty of such acts and for providing reparation to the victims.

All too often simply the political will is lacking to fully investigate crimes of torture and ill-treatment and to bring perpetrators to justice. Impunity sends the wrong message to persons committing torture and ill-treatment that they are above the law. Impunity also denies the victims and their relatives the right to have the truth established, the right to see justice done and the right to reparation.

OMCT⁶ also wishes to recall that it is strongly opposed to the death penalty as an extreme form of cruel, inhuman and degrading punishment and a violation of the right to life as proclaimed in the Universal Declaration of Human Rights and other international and regional human rights instruments.

In light of all this, OMCT calls on all OSCE Participating States to:

- **comply with the commitments of the OSCE with regard to the absolute prohibition against torture and ill-treatment reflected notably in the Vienna Document (1989), the Copenhagen Document (1990) and the Istanbul Charter (1999);**
- **comply with their international legal obligations to effectively respect the right of each person not to be subjected to torture and ill-treatment in any circumstances and including the right not to be returned, extradited or otherwise transferred to a country where there is**

⁶ OMCT is a member of the World Coalition against the Death Penalty composed of 83 organisations committed to the universal abolition of capital punishment.

a risk that he or she would be subjected to torture or other ill-treatment and not to use, relay and/or admit in any proceedings information which has been or may have been obtained as a result of prohibited treatment, except in proceedings against a person suspected of having committed such treatment, as evidence that such information was obtained, as well as;

- **effectively prevent and eradicate all forms of torture and ill-treatment within their respective jurisdiction;**
- **comply with their international legal obligations not to engage in enforced disappearances, extra-judicial killings and any other grave human rights violations and to effectively prevent such illegal activities;**
- **sign, ratify and effectively implement the relevant regional and international treaties, including the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment (UNCAT) and its optional protocol as well as the International Covenant on Political and Civil Rights, if they have not already done so;**
- **fully and speedily execute the European Court of Human Rights' judgments, notably in cases of impunity as it is a key to fighting this scourge;**
- **fully implement the concluding observations and/or recommendations issued by regional and international treaty bodies concerned with torture and ill-treatment and the conditions that give rise to this unlawful practice;**
- **support the work undertaken by regional and UN experts concerned with torture and ill-treatment and the conditions that give rise to this unlawful practice;**
- **fully criminalise and define in conformity with, as a strict minimum, the definition of UNCAT the offense of torture in national law;**
- **take effective measures to prevent torture and other ill-treatment, including by ensuring that any individual arrested is promptly brought before a judge, has immediate access upon arrest to (1) a lawyer of his/her choosing, (2) an interpreter if necessary, (3) an independent medical doctor and (4) visits by the family; any arrested persons should also at all times have the right to inform third parties about the detention;**
- **carry out prompt, effective, thorough, independent and impartial investigations into alleged or suspected cases of torture and ill-treatment, the results of which must be made public, in order to bring those responsible before a competent, independent and impartial tribunal and apply penal, civil and/or administrative sanctions as provided by law;**
- **ensure that effective remedies, reparation, assistance and rehabilitation are granted to the victims or their families;**
- **take urgent measures towards the full abolition of the death penalty.**