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## OSCE Human Dimension Implementation Meeting

### Human Rights in Uzbekistan after Karimov

September 2016

President Karimov's sudden death in September brought to an end his 27-year long rule which was marked by profound disregard for fundamental rights and freedoms, the brutal crushing of dissent and a justice system where torture and arbitrary detentions were the norm.

Prior to Presidential elections scheduled for 4 December 2016, the Acting President of Uzbekistan Shavkat Mirziyoyev has announced six priority areas for the country, but human rights are not amongst them.

It is therefore of utmost importance that Uzbekistan's international partners ensure that human rights are included as a key priority in all bilateral and multilateral meetings with the post-Karimov leadership.

International Partnership for Human Rights, International Federation for Human Rights, Amnesty International, Human Rights Watch, Action by Christians for the Abolition of Torture, the Cotton Campaign global coalition and the International Human Rights Organization Fiery Hearts Club draw the attention of the authorities of Uzbekistan and OSCE participating States to a number of concerns about serious and ongoing human rights abuses in this Central Asian country.

#### Freedom of expression and criminal prosecution of activists

The right to freedom of expression continues to be curtailed with human rights activists, independent journalists and government critics being harassed by government authorities and subjected to surveillance, arbitrary arrests and detentions, torture and ill-treatment, and prosecutions in retaliation for their work.

Numerous activists, journalists and dissidents who have been imprisoned following unfair trials serve their sentences in prison conditions which amount to cruel, inhuman and degrading treatment. They include, to name but a few: Nuraddin Dzhumaniyazov, Fakhridin Tillaev, Azam Farmonov, Ganikhon Mamatkhanov,

Muhammad Bekzhanov and Yusuf Ruzimurodov and former UN employee Erkin Musaev.

There are very few independent human rights NGOs working openly in Uzbekistan where it is virtually impossible for them to obtain legal status and restrictive government regulations hamper the implementation of their activities.

Human rights activists working on monitoring the cotton harvest and former correspondents of the independent online media service "Uznews.net" have come under pressure from the authorities and have been refused permission to leave Uzbekistan. Uzbekistan still requires exit visas for citizens to travel abroad, and authorities often withhold these visas as a tool to punish those perceived as critical. Those banned from traveling abroad in recent years include activists Shukhrat Rustamov, Sergei Naumov, Saida Kurbanova, Elena Urlaeva, and Uktam Pardaev. In January 2016, activist Uktam Pardaev was convicted of fraud, insult and bribe-taking and given a suspended sentence in retaliation for his work monitoring the cotton harvest.

Human rights defenders who have fled Uzbekistan face ongoing pressure and intimidation from the Uzbekistani authorities because of their work - Uzbekistani activists living in Georgia, France, the USA and Norway have reported receiving threats of reprisals against their relatives living in Uzbekistan.

### **Severe restrictions on religious freedoms**

Ostensibly in order to prevent extremism, the Uzbekistani authorities have significantly tightened control on the independent practice of Islam, facilitated by restrictive legislation on religion which outlawed most forms of public or independent worship, regulated religious clothing, and placed mosques under de facto control of the state. In the name of national security and counter terrorism the authorities have arbitrarily imprisoned thousands of Muslims and key independent religious leaders who practiced their religion outside strict state control over the last two decades.

In recent years, the authorities have become increasingly suspicious of labour migrants returning from abroad who may have had access to information on Islam which is censored or banned in Uzbekistan, resulting in an increased number of arrests and prosecutions for "extremism". The authorities claimed that migrant workers were targeted in Russia for recruitment by the Islamic Movement of Uzbekistan, the Islamic State armed group or other groups characterized as extremist.

On 25 April 2016 President Karimov signed legislation introducing amendments to the Criminal Code which provide harsher penalties for those found guilty of participation, financing or supporting the activities of banned religious organizations or distributing banned literature, including through social media networks. However, details of which groups and literature are banned in Uzbekistan are not publicly available, leading to a situation of arbitrary law enforcement which can be open to

political manipulation and used to silence those who criticise the authorities.

### **Prison conditions amounting to cruel, inhuman and degrading treatment or punishment**

Based on our collective research our organizations have concluded that conditions in prisons are often so substandard that they amount to cruel, inhuman and degrading treatment or punishment. There are numerous credible reports of severe overcrowding in cells in prisons and pre-trial detention centres, and consistent reports about appalling conditions in some prisons with inadequate drinking water, food, medication, sanitation and ventilation.

### **Lack of independent international monitoring access**

Uzbekistan has no independent monitoring mechanism for places of detention and the authorities have refused to open their country to effective and independent international human rights scrutiny. Currently, there are 14 pending requests for country visits by the Special Procedures of the Human Rights Council, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Due to government-imposed restrictions, no independent NGO or other monitoring body - domestic or international - carries out any form of regular, unannounced and unsupervised prison monitoring. In April 2013, the International Committee of the Red Cross (ICRC) terminated all visits to detainees in Uzbekistan due to restrictions on their standard working procedures. According to the ICRC, those visits were “pointless”. Foreign diplomats, while granted access to some detention facilities, are usually accompanied by prison or law enforcement officials during their visits. The same applies to human rights defenders who were allowed some visits to prisoners in 2014 and 2016 but were accompanied by prison officials and were not allowed to speak to prisoners confidentially.

The Uzbekistani authorities have so far refused to ratify the Optional Protocol to CAT (OPCAT), which requires states to accept a system of regular visits to all places of detention by independent “national preventive mechanisms” and by an international expert body.

### **Torture and return to torture**

Torture and other ill-treatment have long been defining features of the Uzbekistani criminal justice system. The use of torture is central to how the Uzbekistani authorities deal with dissent, combat actual or perceived threats to national security, and repress political opponents. Torture and the threat of torture are used routinely to obtain forced confessions; punish detainees, prisoners and their relatives; incriminate

others; or extort money.

Despite credible evidence of pervasive torture in the country, Uzbekistan has successfully secured the cooperation of numerous post-Soviet states, and Russia in particular, in the return – through extradition proceedings or otherwise – of numerous Uzbekistani citizens they have labelled as threats to national security. Those vulnerable to such claims include people suspected of having organized or participated in violent attacks in Uzbekistan; political opponents; members or suspected members of Islamist groups and Islamic movements banned in Uzbekistan; government critics; and wealthy individuals who have fallen out of favour with the authorities or who have assets that the authorities would like to seize. Many of these extradition requests are based on fabricated or unreliable evidence.

Moreover, Uzbekistani security forces have not hesitated to resort to abducting refugees or asylum-seekers from Russia in the rare instances where the Russian authorities have denied extradition requests or the European Court of Human Rights (the European Court) has issued an “order for interim measures” to stop extraditions to Uzbekistan. Indeed, Russian police and officers from the Russian Federal Security Service (Federalnaia Sluzhba Bezopasnosti, (FSB) have often been complicit in such abductions.

Many of those abducted or otherwise forcibly returned to Uzbekistan have reportedly been subjected to incommunicado detention and to torture and other ill-treatment to force them to confess or provide information. They have faced unfair trials that have led to long prison sentences served in cruel, inhuman and degrading conditions. Lawyers and human rights defenders have often found it very difficult to establish returnees’ whereabouts and to follow up on their treatment. In many cases security forces have pressured relatives of those returned not to seek help from the few domestic independent human rights activists in Uzbekistan or international human rights organizations, and not to complain about human rights violations.

*The whereabouts of asylum-seeker **Olim Ochilov**, who was forcibly returned from Russia to Uzbekistan in blatant disregard of interim measures by the European Court in July 2016, are currently unknown. The Uzbekistani authorities have accused him of “anti-state activities”, which puts him at a particular risk of torture and other ill-treatment, as well as unfair trial, in Uzbekistan.*

*Olim Ochilov came from Uzbekistan to Russia as a labour migrant in July 2012. Two years later, on 24 November 2014, Moscow Regional Court sentenced him to three years in prison for his alleged involvement in extremist activities in Russia. Olim Ochilov served his sentence in a prison colony in Arhangelsk Region in north-western Russia, more than 1,200 km away from Moscow. On 16 May 2016, the Russian Federal Migration Service (FMS) ordered Olim Ochilov’s deportation on the basis of a decision by the Ministry of Justice that his stay in Russia was “undesirable”. His appeal against the deportation order has gone unanswered. Olim Ochilov managed to contact refugee lawyers in Moscow from the penal colony because he feared forcible return to Uzbekistan, where he would be at real risk of torture and other ill-treatment. His lawyers appealed to the European Court and, on*

28 June 2016, the European Court issued an order for interim measures to stop Olim Ochilov being forcibly returned to Uzbekistan. On 30 June 2016, his scheduled release date, Olim Ochilov was lead out of the penal colony by Russian law enforcement officers and transferred to the airport in Arhangelsk from where he was deported to Uzbekistan via Moscow.

### **Arbitrary extension of prison sentences for those imprisoned on politically motivated grounds**

The practice of arbitrarily extending prison terms even for minor alleged infractions of prison rules under Article 221 of the Criminal Code and Article 105 of the Criminal Executive Code has led to many prisoners, especially those convicted of so-called anti-state offences, serving *de facto* indefinite sentences. Arbitrary extension of prison terms has been used in relation to imprisoned human rights defenders, journalists, political opponents and thousands of people convicted of crimes related to “religious extremism”. These extended sentences are typically handed down in unfair closed trials which violate international fair trial guarantees.

#### **For example:**

**Azam Farmonov**, a prisoner of conscience and human rights defender who was convicted in 2006 largely on the basis of coerced witness testimony, was due to be released at the end of April 2015 after serving a nine-year sentence at Jaslyk Prison. However, in May, following a blatantly unfair and closed trial without legal representation, a court extended his sentence for another five years for breaking prison rules, in particular for verbally mocking other prisoners and not wearing appropriate identification tags. He told his wife during a prison visit in July that the prison authorities had kept him in a punishment cell for 10 days in March 2015. They had handcuffed him and repeatedly tied a bag over his head to suffocate him. He was forced to listen to the screams of prisoners being tortured in adjoining cells.

In 1999, Uzbekistani security forces tortured journalist **Muhammad Bekzhanov**, editor of the banned opposition newspaper *Erk*. They beat him with rubber truncheons, suffocated him and gave him electric shocks until he confessed to “anti-state” offences. At trial, the judge dismissed Muhammad’s allegations that he was tortured and used his ‘confession’ to sentence him to 15 years in prison. Fellow journalist **Yusuf Ruzimurodov** was sentenced alongside Muhammad Bekzhanov and is still in detention.

Muhammad was due to be released in 2012, but he was sentenced to nearly five more years for allegedly violating prison rules. His wife Nina found him at breaking point when she was allowed to visit him in 2014: “He was unrecognizable. All hope was gone from his eyes, he was just trying to survive.” Muhammad Bekzhanov has had his prison sentence extended twice for allegedly violating prison rules. He has now been in prison for the last 17 years. **He is due to be released this year.**

On 20 July 2016 Vasila Inoyatova, the head of the NGO Ezgulik (Compassion) and

journalist Abdurakhmon Tashanov visited Muhammad Bekzhanov in Zarafshan prison. Prison officials were present during the whole duration of the meeting and no confidential conversations were possible.

### **Forced labour**

While global pressure led the government to significantly reduce forced child labour in 2014, officials have increased forced labour for adults. At the current time the cotton harvest is underway in Uzbekistan and the authorities have been mobilizing healthcare and education public employees, as well as university students, farmers and business owners to fulfil their harvest quotas in September. Forced mobilization of healthcare workers undermines access to essential services.

### **Recommendations to the Uzbekistani authorities:**

#### **Respect the right to freedom of expression**

- Respect the right to freedom of expression for all persons in Uzbekistan
- Set out on a systematic and effective programme of human rights reform, seeking advice and assistance from international human rights bodies and experts. Ensure that measures to protect human rights are implemented in practice.
- Allow independent NGOs to obtain legal status and to work without interference from the authorities and invite them to take part in the elaboration and implementation of a new national human rights agenda.
- Put an end to persecution of human rights defenders, journalists and dissident voices; and immediately and unconditionally release all those who have been detained solely for peacefully exercising their rights to freedom of expression, association and assembly.

#### **Respect freedom of religion**

- Ensure that Article 13 of the Constitution of Uzbekistan which states that "Everyone has the right to profess any religion or no religion. The forced imposition of religious views is unacceptable" is respected in law and practice.
- Ensure that all trials, including those of people charged in connection with membership of banned religious organizations, scrupulously uphold international standards for a fair trial, including Uzbekistan's obligations under the International Covenant on Civil and Political Rights;

#### **Improve prison conditions**

- Establish an effective system of independent, unannounced inspection and supervision of all places of detention by competent, independent and impartial bodies with a view to preventing any cases of torture. The findings of the investigations and visits of these bodies should be published in full.

### **Ensure independent international monitoring access**

- As a matter of priority, extend invitations to the 14 UN Special Procedures representatives who have requested to visit Uzbekistan;
- Establish an effective system of independent, unannounced inspection and supervision of all places of detention by competent, independent and impartial bodies.

### **Combat torture**

- Take meaningful steps to fully address the concerns and effectively implement all the recommendations of the UN Special Rapporteur on torture, Committee Against Torture and the Human Rights Committee;
- Bring domestic law into full compliance with Uzbekistan's international obligations regarding the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment. In particular, the Uzbekistani Criminal Code and Criminal Procedure Code must be amended to define torture as established in the UN Convention against Torture and explicitly prohibit any confession extracted under torture from being admitted as evidence in criminal and other proceedings;
- Initiate prompt, impartial and comprehensive investigations of all complaints of torture or other cruel, inhuman or degrading treatment or punishment of any person subjected to any form of arrest, detention or imprisonment, as well as when there are reasonable grounds to believe that torture or other ill-treatment has occurred even if no complaint has been made.
- Ensure that all trials, including those of people forcibly returned to Uzbekistan, are conducted in proceedings that fully meet international fair trial standards, including Uzbekistan's obligations under the International Covenant on Civil and Political Rights.

### **Cease the arbitrary extension of prison sentences**

- Stop the practice of holding closed trials inside prisons and prison camps of convicted prisoners charged with allegedly breaking prison rules and conduct an impartial judicial review of all sentences of those convicted and sentenced to additional years in prison under article 221 of the Criminal Code;

### **Put an end to forced labour**

- Allow independent journalists, human rights defenders and other individuals and organizations to document and report concerns about the use of forced labour without fear of reprisals;
- Prosecute, in conformance with international standards, government officials accused of forcing citizens to pick cotton, with penalties that reflect the severity of the crime and which serve as a deterrent for future crimes.

### **Recommendations to all OSCE participating States**

- As a matter of priority urge Uzbekistan to extend invitations to the 14 UN Special Procedures representatives who have requested to visit Uzbekistan.
- Include human rights on the agenda of all bilateral and multi-lateral meetings with the government of Uzbekistan and urge the Uzbekistani authorities to bring its laws, policies, and practices into full compliance with its international human rights obligations.
- Urge Uzbekistan to include civil society in meaningful and constructive discussions on human rights reform.