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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on her visit to Uzbekistan

Comments by the State*

* The present document is being issued without formal editing.



Response of the Government of the Republic of Uzbekistan to the advanced version of the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism of the visit to Uzbekistan (29 November – 7 December, 2021)

1. From 29 November to 7 December 2021, at the invitation of the Government of Uzbekistan, the Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ni Aoláin (hereinafter Special Rapporteur) visited Uzbekistan. The Government of Uzbekistan welcomes the Special Rapporteur's visit despite of ongoing Covid-19 global pandemic and views this as an important step towards constructive cooperation on multiple issues.
2. During her visit to Uzbekistan, the Special Rapporteur had a number of positive meetings with H.E. President of the Republic of Uzbekistan, ministers, head of state agencies on national and regional level, representatives of judiciary system, regulatory bodies and other stakeholders that are relevant to her mandate.
3. Uzbekistan welcomes the Report from the Special Rapporteur, following her visit to Uzbekistan in 2021 and his positive assessment of the Uzbekistan's approach to build a democratic state and a just society, where the priority is the implementation of a principle: The Human interests come first. In this regards the Government also appreciates her highlighting the achievement of the significant reforms efforts in political, economic and social spheres, where the rule of law and human rights are also part of these important efforts.
4. The Uzbek Government is pleased to see the Special Rapporteur acknowledge the Uzbekistan's leadership in key areas of sustained and effective repatriation of nationals from conflict zones oversea and recognition of Uzbekistan's status as a world-leader in this field.
5. Uzbekistan is pleased that the Special Rapporteur recognizes the positive steps the Government has taken under new administration, most notably the release of thousands of prisoners previously detained in sustained violation of their right to freedom of conscience and religion, modernization of the legal system, a reduction of child and forced labour in the cotton fields, as well accession to the CRPD¹.
6. Uzbekistan thanks the Special Rapporteur for her constructive proposals and recommendations aimed at improving the legislative framework, cooperating with international organizations and resolving the situation of vulnerable Afghan citizens; modernization of prison facilities, ratification of the UN international treaties in the sphere on human rights, establishment of an independent oversight mechanism to combat terrorism.
7. Uzbekistan would like to emphasize its support for the important work Ms. Fionnuala Ni Aoláin has undertaken and to assure the Special Rapporteur of the Uzbekistan's continued support for her mandate.
8. The Uzbek Government welcomes the Special Rapporteur's an advanced report of the visit to Uzbekistan. The Government has examined the Report closely, and note that you made a number of observations, to which we respond below.

A. General context

9. The Uzbek Government agrees with the UN Global Counter-Terrorism Strategy (A/HRC/60/288) and the Special Rapporteur's conception that the terrorism poses a serious challenge to the very tenets of the rule of law, the protection of human rights and their effective implementation. Effectively combatting terrorism and ensuring respect for human rights are not competing but complementary and mutually reinforcing goals

¹ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: visit to Uzbekistan. Paragraph 6//A/HRC/49/

10. The Uzbek Government fully acknowledges and embraces its responsibility to ensure that human rights are given substantive, practical effect across all areas of public policy. In 2020 year the Uzbekistan has adopted the National Strategy for Human Rights. The Strategy helps monitor progress towards achieving National Development Goals as well as the implementing the recommendations of international human rights organizations, which include to respect, protect and fulfil human rights.

11. The Uzbek Government's commitment to protecting human rights, advancing equality and on the promotion and protection of human rights and fundamental freedoms while countering terrorism is demonstrated also in its recently adopted National Strategy of the Republic of Uzbekistan against extremism and terrorism for 2021-2026 and the "Road Map" on its realization. Our National Strategy sets out the comprehensive action we are taking to counter terrorism, encompassing protecting women's rights and strengthening their role in countering extremism and terrorism, broad involvement of civil society institutions and the media in countering extremism and terrorism; improving the legal prosecution and prosecution of extremist and terrorist acts, as well as their financing; improving the legal and regulatory framework for countering extremism and terrorism. The National Strategy also contains a section relating to prevention of the dissemination of extremist ideas among minors and young people.

12. The Uzbek Government welcomes the recognition by the Special Rapporteur that Uzbekistan and other States in the CIS region play a critical stabilizing role in Afghanistan. We appreciate for Special Rapporteur positively notes of the government's efforts in alleviating the severe humanitarian crisis in Afghanistan.

On paragraph 8

13. Under special operation "Mehr-1, 2, 3, 4 and 5" a total of 531 citizens (24 men, 121 women, 379 children and 7 foreign nationals) were repatriated from the armed conflict zones (Syria, Iraq, Afghanistan) to Uzbekistan.

14. In order to restore the repatriates returned within the framework of the "Mehr" programs and their social adaptation, the Government of Uzbekistan has adopted normative legal acts, created Republican and territorial interdepartmental commissions from among representatives of local authorities, law enforcement agencies, ministries for Support of mahalla and family, Health, Public education, Justice, Employment and Labor relations. The main task of these commissions is defined as the implementation of rehabilitation and social adaptation measures for repatriated women and children, their employment, psychological assistance, preventive impact, placement of children in kindergartens and schools, etc.

B. National Legal Frameworks on Countering Terrorism and Countering Violent Extremism

On paragraph 21

15. A Working group on improving the criminal and criminal procedure legislation of the Republic of Uzbekistan in accordance with international standards has been established under the Prosecutor General's Office, which today continues to work on finalizing the draft Criminal Code of the Republic of Uzbekistan in a new edition.

1. Scope of "Extremism" offences

16. The Uzbek Government regards global fighting against terrorism and violent extremism must be based on respect for human rights and the rule of law.

17. The Law «On Counteracting Extremism» introduced the concept of «extremism», which means the expression of extreme forms of action aimed at destabilizing the socio-political situation, forcibly changing the constitutional order of the Republic of Uzbekistan, forcible seizure of power and appropriation of its powers, Incitement to national, racial, ethnic or religious hatred.

18. Although there is no single, internationally recognized definition of the concept of «extremism», the most clear definition of the concept of «extremism» was given in the Shanghai Convention «On Combating Terrorism, Separatism and Extremism» (Shanghai, June 15, 2001). According to the said Convention, «extremism» is any act aimed at forcibly seizing power or holding power, as well as at forcibly changing the constitutional order of the State, as well as violent attacks on public safety, including the organization of or participation in illegal armed groups for the above-mentioned purposes. Uzbekistan, as a member of the Shanghai Organization, has incorporated this definition into national legislation.

19. The Law of the Republic of Uzbekistan «On Counteracting Extremism» also defines the concept of "extraterritorial activity» as an activity for planning, organizing, preparing or carrying out actions aimed at:

- Violent alteration of the foundations of the constitutional order and violation of the territorial integrity and sovereignty of the Republic of Uzbekistan (Criminal Code, art.159);
- Seizure or appropriation of power; (Criminal Code, art.159);
- Establishment of or participation in illegal armed groups (Criminal Code, art.242);
- The commission of terrorist activities (Criminal Code, art. 155);
- Incitement to national, racial, ethnic or religious hatred linked to violence or public incitement to violence (arts. 156 and 244 of the Criminal Code);
- The production, storage, distribution or display of materials that threaten public safety and public order, as well as the production, storage, distribution or display of items or symbols of extremist organizations (Criminal Code, art.244¹);
- Mass disorder motivated by political, ideological, racial, national, ethnic or religious hatred or enmity towards a social group (arts. 156 and 244 of the Criminal Code);
- Public calls for the above-mentioned actions (Criminal Code, art..244¹).

20. Thus, all components of extremist activity are criminalized by the Criminal Code and the provisions of the relevant articles of the Criminal Code allow the law enforcer to specify all acts committed with extremist motives.

2. Scope of terrorism offences

On paragraph 25

21. The Criminal Code of the Republic of Uzbekistan, as amended in 1994 and subsequent editions, provides for criminal liability for public insult or slander against the President of the Republic of Uzbekistan, as well as using the press or other mass media (Article 158). The sanction for the commission of this crime was established in the form of correctional labor for up to three years or arrest for up to six months or imprisonment for up to five years.

22. Taking into account the development of social networks and the Internet, the increase in the spread of fake news on the Internet, the publication of information insulting government officials, and also taking into account that the definition of "mass media" according to article 1 of the Law "On Mass Media" does not include social networks and the Internet, the need for appropriate amendments to the current version of the Criminal Code of the Republic of Uzbekistan has emerged.

23. Thus, in accordance with the Law of the Republic of Uzbekistan "On Amendments and Additions to certain Legislative Acts of the Republic of Uzbekistan" dated March 30, 2021 No. LRU-679, additions were made to some articles of the Criminal Code of the Republic of Uzbekistan, approved by the Law of the Republic of Uzbekistan dated September 22, 1994.

24. The third part of Article 158 "Encroachments on the President of the Republic of Uzbekistan" after the words "information" was supplemented with the words "telecommunications networks or the world information network Internet". Thus, this norm

extended the responsibility for public insult or slander against the President of Uzbekistan not only through the use of the press or other mass media, but also to cases involving the use of telecommunications networks or the worldwide Internet information network. At the same time, the sanction of this article remained unchanged.

25. Thus, the norm that establishes responsibility for insulting the head of state from the press or other mass media, telecommunications networks or the worldwide Internet information network does not prohibit expressing one's opinion about the current government or the political activities of an official.

On paragraph 30

26. Uzbekistan stood ready to cooperate constructively with the Special Rapporteur on improving national legislation on terrorism and extremism in accordance with international standards.

3. Countering Terrorism Financing and Human Rights

On paragraph 35

27. The level of risk of using NGOs for terrorist financing does not always have to correspond to the level of terrorist threat. Terrorists and terrorist organizations, including those stationed in combat zones, can use NGOs in other regions of the world where the threat level of terrorism is low for their own purposes, including financing terrorism by collecting funds from the population, sympathizers, etc. (See key conclusion 2 of the FATF Report Risk of Illegal Use of Non-profit Organizations for Terrorist Purposes June 2014).

28. The following forms of NGOs are provided for in the Republic of Uzbekistan: public associations, public foundations, institutions, consumer cooperatives, associations (unions), religious organizations, etc. During the mutual evaluation of the national anti-money laundering and terrorist financing system in 2010, the risks of terrorist financing in the NGO sector were not assessed and a unified approach to the regulation of NGOs was applied.

29. In 2019, a National Risk Assessment of the Legalization of proceeds from criminal activity and the financing of terrorism was carried out, during which the risks of using NGOs for terrorist financing were also studied, and in 2020, the Ministry of Justice conducted a risk assessment in the NGO sector. According to the results of the risk assessment, public foundations and religious organizations were recognized as falling under the definition of NGOs specified in FATF Recommendation 8 and most at risk of being used for terrorist financing. Accordingly, the application of risk reduction measures has been determined in relation to public funds and religious organizations.

C. Law on Freedom of Conscience and Religious Associations

On paragraph 39

30. The Law "On Freedom of Conscience and Religious Organizations" was adopted on July 5, 2021. The draft law took into account the proposals of international experts (OSCE ODIHR, the Venice Commission of the Council of Europe, the US Commission on International Religious Freedom, Birgham Young University), the general public and representatives of religious denominations. The Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan received more than 700 proposals, 500 of which were from representatives of the clergy. In total, 11 discussions of the project were held with the participation of foreign experts and representatives of religious denominations.

1. Justice system, Courts and Due Process

On paragraph 44, 45

31. The Decree of the President of the Republic of Uzbekistan "On measures to further strengthen guarantees for the protection of human rights and freedoms" dated August 10, 2021 defines the main directions for further improvement of judicial investigative activities,

providing for the introduction of effective mechanisms for preventing the commission of acts related to the use of torture and other cruel, inhuman or degrading treatment and punishment, as well as strengthening responsibility for such acts in judicial investigative activities.

32. The Decree of the President of the Republic of Uzbekistan "On additional measures to improve the system for detecting and preventing cases of torture" (No. PD-5163 dated June 26, 2021) defines priority tasks for the creation of effective legal mechanisms for early prevention of torture, prompt and objective consideration of related appeals, regular monitoring visits to places of detention of persons with limited freedom of movement.

33. On the basis of the expert group under the Ombudsman, a public group has been established to identify and prevent cases of torture, which includes experts from the National Center for Human Rights, medical workers, representatives of non-governmental non-profit organizations, mass media, civil society activists, taking into account their professional qualifications and practical knowledge for monitoring visits, as well as ensuring gender equality.

34. Over the past five years, 1,343 persons convicted of terrorist and extremist activities have been released under the act of pardon, who frankly admitted their guilt, repented of what they had done, as well as in connection with the appeal for pardon. Also, during the specified period, 3,563 persons convicted of terrorism and extremism who did not recognize the crimes committed by them were released from prison due to illnesses, the end of their term and on parole.

On paragraph 47

35. For 10 months of 2021, 1 person was acquitted under Article 155 of the Criminal Code (Terrorism), for the period of 2020, 2 persons were acquitted under article 244-2 of the Criminal Code (Creation, leadership, participation in religious extremist, separatist, fundamentalist or other prohibited organizations), for 10 months of 2021, 5 persons were acquitted, which confirms the fact of an unbiased fair consideration of cases of terrorism and extremism on an equal basis with other types of crimes.

2. Accounting for Human Rights Violations in the Context of Countering Terrorism and Violent Extremism

On paragraph 49, 50

36. The events in the city of Andijan on May 12-13, 2005 were connected with the commission of terrorist acts that caused human casualties, as well as major material damage to the property of citizens and the state. During the open court hearings, the guilt of all the defendants was fully proved. The European Union sent its delegations to Uzbekistan twice in 2006 and 2007, who visited places associated with tragic events, directly interviewed their eyewitnesses, got acquainted with the materials of the investigation and the trial, and heard reports on the results of the investigation. As a result, it was concluded that the Andijan events were a serious terrorist attack. Proceeding from this, the initiation of an international investigation is considered inappropriate.

3. Prisons and places of pre-trial detention

On paragraph 51

37. Upon admission to the pre-trial detention center, suspects and accused persons undergo a medical examination for the presence of bodily injury and sanitary treatment.

38. Verification of complaints on issues of illegal methods of investigation or inquiry, referred to the competence of the internal security service, with vertical subordination to the Minister of Internal Affairs, as well as the Prosecutor General's Office.

39. For each fact of treatment, complaints about the use of physical force, rough treatment, infringement of the rights and legitimate interests of persons held in places of deprivation of liberty, a thorough internal audit is carried out, the guilty persons are brought to strict

disciplinary measures, up to their dismissal from the internal affairs bodies, the materials of official inspections are necessarily transferred to the prosecutor's office.

On paragraph 53, 54

40. The measures taken by the Government to humanize and liberalize criminal penalties have significantly affected the reduction and stabilization of the number of special agents, so over the past 3 years its number has decreased by 1.5 times.

41. In institutions for the execution of punishment, separate sleeping quarters are equipped for the accommodation of convicts with disabilities, in which all conditions are created for them (a dining room, a shower room, a barber shop, washing rooms, a toilet), and they are also provided with the necessary medicine and enhanced nutrition. These rooms are equipped with special handrails, special ramps are installed to move them.

On paragraph 55

42. Convicted persons are guaranteed freedom of conscience. They have the right to profess any religion or not to profess any.

43. At their request, ministers of religious associations registered in accordance with the established procedure are invited to persons serving a sentence of imprisonment. Convicted persons are allowed to perform religious rites, use objects of worship and religious literature. The practice of religious rites is voluntary and must not violate the internal regulations of the institution executing the punishment, as well as infringe on the rights and legitimate interests of others.

On paragraph 55

44. Starting from 2016 to the present, no convicted person in accordance with article 221 of the Criminal Code of the Republic of Uzbekistan has been extended the term of punishments imposed by the court in penal institutions.

4. Non-expulsion, refugee status, asylum or other status

On paragraph 58

45. Currently, in accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 593 dated 09/28/2020 "On measures to simplify the registration procedure for foreign citizens and stateless persons in the Republic of Uzbekistan", all conditions exist for foreign citizens, including citizens of Afghanistan, to legally reside in the Republic of Uzbekistan.

46. To date, since the adoption of the Law of the Republic of Uzbekistan "On Citizenship of the Republic of Uzbekistan" dated 13.03.2020, more than 44,500 stateless persons have been recognized as citizens of the Republic of Uzbekistan and documented with passports of a citizen of the Republic of Uzbekistan.

47. In addition, starting from 2016 to the present, on the basis of 93 Decrees of the President of the Republic of Uzbekistan, 23,015 persons have been granted citizenship of the Republic of Uzbekistan.

On paragraph 60

5. Technologies and countering terrorism and extremism

6. Reprisals and cooperation

48. Several significant changes have taken place in Uzbekistan over the past few years, simplifying the activities of civil society institutions.

49. Since 2018, 7 normative acts have been adopted providing for the improvement, development and simplification of the activities of NGOs, increasing the role of civil society institutions in the process of democratic renewal of our country.

50. The procedure has been established according to which the registration of NGO can be carried out through the web portal ngo.uz Ministry of Justice. This web resource allows you to receive a number of services in electronic form.

51. To ensure state support for the development of NGOs, to ensure the freedom of their activities, to protect their rights and legitimate interests, since March 1, 2021, an order has been created according to which

- the total amount of funds and property received in one calendar year by NGOs from foreign sources, with notification (for information) of the registering authority, increases from twenty to one hundred basic calculated values;
- the period of re-registration of NGOs, as well as the state registration of its symbols, has been reduced from one month to 15 days;
- there will be no state fee for state registration (re-registration) of symbols of public associations of persons with disabilities, veterans, senior citizens, women, children;
- a separate subdivision of an NGO is a legal entity, while the procedure for registering a separate subdivision has been canceled.

52. Along with this, the President of Uzbekistan adopted a Decree on March 4, 2021 "On approval of the concept of civil society development in 2021-2025" (No. DP-6181) and Roadmap for its implementation in 2021, as well as approved Target Indicators for the Development of Civil Society in 2021-2025.
