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لجنة حقوق الإنسان
الدورة الحادية والستون
البند ١١ (أ) من جدول الأعمال

الحقوق المدنية والسياسية، بما في ذلك مسألة التعذيب والاحتجاز

مذكرة شفوية مؤرخة ٢١ آذار/مارس ٢٠٠٥ موجهة من البعثة الدائمة لأوزبكستان
لدى مكتب الأمم المتحدة في جنيف إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان

تهدى البعثة الدائمة لجمهورية أوزبكستان لدى مكتب الأمم المتحدة وسائر المنظمات الدولية في جنيف تحياتها إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان، وتتشرف بأن تحيل إليها المعلومات المرفقة* بهذه المذكرة الشفوية عن عملية التنفيذ في أوزبكستان لبرنامج (خطة عمل) تطبيق اتفاقية مناهضة التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة.

وإذ تشير البعثة الدائمة لأوزبكستان إلى المعلومات آنفة الذكر، يسرّها أن تبلغ عن جملة أمور منها القيام في إطار خطة العمل الجارية بتنفيذ ١٨ من ٢٢ توصية وضعها المقرر الخاص السابق المعني بمسألة التعذيب، ثيو فان بوفين.

وترجو البعثة الدائمة لجمهورية أوزبكستان التفضل بتعميم هذه المذكرة الشفوية والمعلومات المرفقة بها كوثيقة رسمية من وثائق الدورة الحادية والستين للجنة حقوق الإنسان في إطار البند ١١ من جدول الأعمال.

* استنسخت في المرفق كما وردت وباللغة التي قدمت بها فقط.

Annex

Information on realization of the Programme on Implementation of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Preparation and adoption of the Programme

The UN Special Rapporteur on Torture Mr. Theo van Boven visited Uzbekistan in November 2002 upon the invitation of the Government of the Republic of Uzbekistan. During the visit he had a number of official meetings with high-rank officials, representatives of civil society groups, international organizations and foreign embassies. Mr. Theo van Boven met with the President's State Adviser on Legal Issues, Prosecutor General of the Republic of Uzbekistan, Ombudsman, he had meetings at the Supreme Court, National Security Service, Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Defence, Ministry of Justice, National Centre on Human Rights.

He also visited a number of penitentiaries, met with human rights NGO representatives working in Uzbekistan. The UN Special Rapporteur met with persons themselves or relatives of those who allegedly were victims of torture and other cruel treatment.

In February 2003 as a result of his visit Mr. Theo van Boven submitted a draft report with summary of the trip to the Government of Uzbekistan for comments. In April 2003 the Report of the UN Special Rapporteur on Torture was officially disseminated as well as in Internet.

The Government of the Republic of Uzbekistan thoroughly studied all recommendations and discussed it among state bodies and civil society institutions.

Two round tables were held with participation of representatives of states bodies, non-governmental and international organizations, embassies.

The Government defined priorities in this field, studied and examined the recommendations of the UN Committee on Torture, held consultations with state bodies and NGOs about their participation in the National Programme.

On the results of joint analysis of the readiness of state bodies and NGOs to participate, the Government comprehensively elaborated the National Programme on Implementation of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which includes not only all recommendations of the UN Special Rapporteur but also recommendations of the UN Committee on Torture based on the results of examination of national reports of the Republic of Uzbekistan. In February 2004 the Cabinet of Ministers issued a special decree on creation of Interdepartmental Working Group on observance of respect of human rights by law-enforcement agencies headed by the Minister of Justice. The Group includes – the Minister of Justice, Director of the National Centre on Human Rights, Deputy Prosecutor General, Deputy Minister of Internal Affairs, Chief of Ombudsman's Secretariat, Chief of Division of the Institute of Monitoring Legislation of the Parliament, First Deputy Chairman of the Supreme Court, Chief of the Department on Human Rights of the Ministry of Justice, Chief of Investigation Department of the National Security Service, Chief of the Investigation Department of the Ministry of Internal Affairs, Chief of Division of the Department of the UN and International Political Organizations of the Ministry of Foreign Affairs, Chief of Department of the Ministry of Finance, Deputy Director of Medical Assistance of the Ministry of Healthcare, Director of Ijtimoy Fikr civil society group, First Deputy Director of Police Academy, Chief of Division of the Institute of Strategic and

Interregional Studies under the President of the Republic of Uzbekistan, expert from the Tashkent State Institute of Law.

The Prime Minister of the Republic of Uzbekistan approved the National Programme on Implementation of the UN Convention against Torture 2004-2005.

Table on realization of clauses of the Action Plan on Implementation of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Agency	Responsible Person	Plan's Clauses
Prosecutor General's Office Ministry of Internal Affairs Supreme Court	H.Nematov A.Sharafutdinov A.Ishmetov	3.1, 19.3
Supreme Court	A.Ishmetov	4.1, 10.1, 10.2, 16.3
Ministry of Justice	I.Abdullaev, U.Gaziev	13.1-13.5, 22.4
Ministry of Internal Affairs	R.Kadirov	7.2-7.4, 8.1, 8.3, 16.1, 16.2, 19.2, 20.1
Prosecutor General's Office	H.Nematov	9.1, 12.3, 12.4
Prosecutor General's Office Ministry of Internal Affairs National Security Service Ministry of Justice	H.Nematov A.Sharafutdinov A.Nabiev I.Abdullaev, U.Gaziev	12.1
Ministry of Internal Affairs Ministry of Health Care	R.Kadirov Sh.Khoshimov	14.1, 14.2
Supreme Court Prosecutor General's Office Ministry of Internal Affairs Ministry of Justice Ministry of Health Care	A.Ishmetov H.Nematov A.Sharafutdinov U.Gaziev Sh.Khoshimov	14.3
Ministry of Internal Affairs Ministry of Health Care	R.Kadirov Sh.Khoshimov	14.4
Ombudsman Ministry of Internal Affairs	M.Usmanov R.Kadirov	15.4, 15.7
Ombudsman	M.Usmanov	18.1
"Ijtimoiy Fikr" civil society group	F.Bakaeva	5.2, 19.1
Ministry of Foreign Affairs Ministry of Internal Affairs Ministry of Justice National Center on Human Rights	D.Amanov R.Kadirov U.Gaziev A.Saidov	8.1, 21.1, 21.2
National Center on Human Rights	A.Saidov	2.2, 3.2, 3.3, 4.5, 5.1, 15.2
Ministry of Foreign Affairs	D.Amanov	22.5

The Interdepartmental Working Group regularly holds meetings.

All events are covered by Mass Media. The text of the Programme was handed out during discussions of the High Level Segment of the 60th Session of the UN Commission on Human Rights in March 2004.

Realization of the Programme and of Mr. Theo van Boven's recommendations

1.1 and "a" recommendation. In accordance with the recommendations of Mr. Theo Van Boven, all three branches of power of Uzbekistan publicly condemned torture of all kinds.

Executive power. Mr. A. Kamilov, the then State Adviser of the President of the Republic of Uzbekistan at the briefing to Diplomatic Corp and foreign journalists in March 2003 pointed out that state is going to fight against torture and other types of cruel treatment.

Coordinating Council of law-enforcement agencies of the Prosecutor General's Office of the Republic of Uzbekistan considered the issues of strict obedience of law-enforcement agencies' officers to international commitments in line with the UN Convention against Torture, discussed legitimacy maintenance during examination of claims and complaints from citizens and monitored illegitimate actions of officers in May 2004.

The Board of the Prosecutor General's Office also discussed the issue of strengthening the prosecutor control over respect to constitutional rights at the times of detention, arraignment and imprisonment.

The Board of the Ministry of Internal Affairs of Uzbekistan raised the issues of legislation concerning the bodies of internal affairs and further ways of its improvement as well as human rights on May 22, 2003. Inadmissibility of any violation of law and human rights of any form in activity of law-enforcement agencies including prohibited methods of investigation and interrogation i.e. torture were included into the Resolution of the Board. This document highlights the necessity to increase attention to claims linked with torture and illegitimate actions of law-enforcement agencies' officers. It created an additional control on their examination and consideration.

Judicial power. On December 19, 2003, the Plenary Session of the Supreme Court of the Republic of Uzbekistan adopted Resolution # 17 "On implementation by courts of laws providing suspect or accused with right to defend", which provide interpretation of "torture" in accordance with the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Moreover, the Resolution #12 dated on September 24, 2004 "On implementation of some norms of the Criminal-Procedural Code on admissibility of evidences" points out that "evidences obtained by torture are unacceptable".

Legislative power. In August 2003, the Parliament adopted amendments to the Article 235 of the Criminal Code of the Republic of Uzbekistan which stated that torture and other cruel, inhuman and degrading treatment or punishment on all phases of criminal proceedings are crimes and must be prosecuted by law".

2.1. and Recommendation "b"

Recommendation "b" says "The Government should amend its domestic penal law to include the crime of torture the definition of which should be fully consistent with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and supported by an adequate penalty".

Uzbekistan marked out a crime connected with torture as an independent type of crime in its domestic legislation.

Article 235 of the Criminal Code of the Republic of Uzbekistan “Use of torture and other forms of cruel, inhuman or degrading treatment and punishment” in a new edition is read as follows:

Use of torture and other forms of cruel, inhuman or degrading treatment and punishment i.e. illegal mental or physical coercion on a suspect, accused person, witness, victim or other participant of a criminal process, or a person serving punishment, his/her relatives by threats, hits, assaults, torture or other illegal actions, which are done by an inspector of inquiry, investigator, prosecutor or other official of a law-enforcement body, penitentiary institution in order to obtain from him/her information, confession on committing crimes, his/her unauthorized punishment for their crime, or their coercion to accomplish any action, - is punished for reformatory work up to three years or imprisonment up to three years.

The same actions done :

- a) with use of violence, which put in danger life and health, or threat of use of a such violence;
 - b) under any motivation based on grounds of national, racial, religious or social discrimination;
 - c) by a group of persons;
 - d) repeatedly;
 - e) with regard to a minor or a woman, knowing that she is pregnant, -
- is punished by imprisonment from three to five years.

The actions envisaged by the first and the second parts of this article, which cause serious physical injuries or other grave consequences are punished by imprisonment from five to eight years with disfranchisement”.

The Resolution # 17 (December 19, 2003) of the Plenary Session of the Supreme Court of Uzbekistan gives interpretation of “torture” in line with the Convention Against Torture.

The Minister of Internal Affairs of the Republic of Uzbekistan on December, 18, 2003 issued the Instruction №334 with the announcement of the purposes and essence of introduction of the given article in the Criminal Code, and also the instruction on obligatory studying of the given norm and establishment of the special separate order of the account and control of complaints and claims of citizens on such facts.

2.2. All events, amendments to the legislation concerning the Programme are widely covered by Mass Media.

The articles with condemnation of torture of any kind regularly appear in Life and Law, Voice of Uzbekistan, People’s Word, The Truth of East newspapers and Democratization and Human Rights, Law, Public Sciences of Uzbekistan, The Lawyer journals.

Law amendments are published in News of Oliy Majlis (Parliament) of the Republic of Uzbekistan.

Mass Media constantly explain rights of citizens in dealing with law-enforcement officers.

2.3. "Guidance on drafting reports on tortures" by Kamiy Giffare (Centre on Human Rights, Essex University, UK, 2000) was translated into Uzbek and published with assistance of the British Embassy in Tashkent in January 2004.

This Brochure has been distributed among officials of law-enforcement agencies and non-governmental organizations.

During the session of Interdepartmental Working Group on observance of human rights by law-enforcement agencies on June 12, 2004, the results of work on translation and publishing of the Brochure "Guidance on drafting reports on tortures" and its distribution among officials of law-enforcement agencies were considered.

3.1. In accordance with new requirements, the Ministry of Internal Affairs regularly examine the practice of detaining of suspects by law-enforcement agencies as stated in the Article 225, and use of the right to appeal the measures of suppression according to the article 241 of the Criminal Procedure Code of the Republic of Uzbekistan.

On the meeting of Board of Prosecutor General's Office held on 20 May, 2004, the results of examination of suspects detention practice by law-enforcement agencies according to the article 225 and use of the right to appeal the measures of suppression according to the article 241 of the Criminal Procedure Code were discussed.

The corresponding resolutions concerning these issues are adopted by the Board of Prosecutor General's Office and Coordinating Council of law-enforcement agencies.

3.2. Recommendation "c". The round table on "Right for Fair Trial and Introduction of "Habeas Corpus" was held on 20-21 October 2003 in Tashkent. It was organized by American Bar Association, OSCE ODIHR, UNDP and National Human Rights Centre of the Republic of Uzbekistan. Steven Taman, American professor on criminal procedure, attended the round table.

The session of Interdepartmental Working Group on monitoring the observance of human rights (24 August 2004) discussed results of the round table on implementation of "Habeas Corpus" in accordance with national legislation of foreign states and international practices, and it decided:

1) To note that the Ministry of Internal Affairs, together with the National Human Rights Centre, with support of the American Bar Association, held the round table discussions with participation of foreign experts on implementation of "Habeas Corpus" in light of national legislation of foreign states and international practice.

2) To note that all requirements on this item of the Plan on realization of the Convention against torture are implemented. The Brochure on international agreements on human rights is translated and, in the nearest future, will be published and distributed among law-enforcement agencies.

In accordance with the recommendation "c" of Mr. Theo van Boven, on 28 January 2005 the President of the Republic of Uzbekistan Islam Karimov, during the joint session of Oliy Majlis Legislative Chamber and Senate of the Republic of Uzbekistan, proposed to pass the authority to issue warrant on detention, arrest as well as other procedural measures to the courts, as it is practiced in democratic states.

Giving that the President's statement is the legislative initiative, the drafting of the Law on implementation of "Habeas Corpus" institution has been started.

4.3. The Program on improvement of material, technical and financial support to courts, judges and court clerks has been developed and approved by the Department on Execution of Courts Decisions, Courts Material and Technical Support.

Implementation of the Program is regularly evaluated by the Interdepartmental Working Group on monitoring the Action Plan. Thus, all courts are fully equipped with computers and transport. New court buildings have been put into operation, construction of new buildings and renovations are continued in the Republic of Karakalpakstan, Tashkent, Ferghana, Syrdarya and others.

4.5. Scientific Workshop on Relations between judicial and extrajudicial protection of human rights: international practice” took place on 10 September 2004.

Resolution “On cooperation between Ombudsman and law-enforcement agencies” has been adopted as the result of the Conference. Moreover, taking into account participant’s recommendations, the Concept of cooperation between Ombudsman and law-enforcement agencies has been developed.

The event was widely covered by mass media.

5.2. “Ijtimoiy fikr” public centre undertook survey on torture and similar cruel treatment during interrogation, investigation and imprisonment among:

- 1) imprisoned individuals;
- 2) previously imprisoned persons.

6.1. and recommendation “f” In accordance with articles 256, 257, 266 of Criminal Procedure Code, it is put in practice dismissal of officials accused in use of torture.

7.1. and recommendations “g”. On 24 June 2004, based on the decision by the Collegium of the Ministry of Internal Affairs (MIA) of the Republic of Uzbekistan dated 22 May 2003, MIA issued the Order № 187 “On establishment of the Central Commission on Observing of Human Rights”. The Program of actions aimed on strengthening of lawfulness and ensuring observance of human rights within Internal Affairs Bodies has been developed and approved, and draft Concept on further development and improvement of the MIA penalty execution system for the period till 2010 has been prepared as an Annex to the Order.

Based on this Order, the mentioned Commission chaired by the Minister of Internal Affairs has been created. It has been instructed that information on work carried out on the ground is to be provided to the MIA Central Commission on a monthly basis in order to be analysed and summarized.

In 2003 the National Security Service (NSS) sent to all its divisions an instruction with indication that in case of violation of citizens rights by the NSS personnel not only guilty officers but also their supervisors would be punished.

7.2. The MIA representatives are regular participants of conferences and round tables organized by the National Human Right Centre of the Republic of Uzbekistan, Ombudsman, UNDP, OSCE and other international organizations.

In December 2003, the MIA representative participated in the International Workshop on “Fight Against Torture” held in Almaty with financial support of the UK Foreign Office and in cooperation with the International Bar Association.

In July 2003, 10 officials from the Main Directorate of Execution of Penalties (MDEP) of the MIA went through Improving Effectiveness of Central Asian Penitentiary Bodies special training at the Summer School organized by the OSCE.

In the framework of realization of the Plan on implementation of the recommendations of the UN Committee Against Torture, the OSCE Centre in Tashkent along with the MDEP is executing the Project aimed at increasing the level of legal literacy among penitentiaries personnel and inmates, and their familiarization with the basic international standards in the field of human rights. Within the Project, the MDEP established its own Training Centre to re-train and improve skills of the penalty execution personnel.

In August 2003, in the framework of a training program proposed by the OSCE Centre in Tashkent for penitentiary system personnel 3 regional seminars on human rights and international standards on treatment of inmates were conducted in Tashkent, Navoi and Karshi.

Seven officials from the penalty execution system with assistance of experts from the Helsinki Human Rights Foundation underwent “train – the – trainers” program on human rights in Poland in October 2003.

Another seven officials from Uzbekistan MIA penalty execution agencies participated in the Summer School on human rights organized by the Pavlodar Law College, Committee on Penalty Execution System, Ministry of Justice of the Republic of Kazakhstan in May 2003.

Uzbekistan with support of Konrad Adenauer Foundation hosted regional seminars on Liberalization of the System of Penalty Execution in 2004.

The UNDP along with Freedom House and US Embassy in Tashkent assisted in running the working tour to Slovenia (from 23 October to 2 November 2004) with participation of five Government officials (from the MIA, NSS and Prosecutor’s Office) and four human rights activists. The aim was to share experience in introduction of human rights standards into the work of law-enforcement agencies as well as to establish contacts between them which allow to consider creation of the Permanent Commission authorized to monitor human right violations and cases of death in detention and custody. After these joint events a number of discussions on different human rights issues and concrete cases among the appropriate authorities, human rights activists and representatives of donor community were conducted under auspices of Freedom House.

In 2004, the MIA officially requested the UNDP to train mid-level officers for monitoring of human rights, observing the situation and drafting documentation. Twenty officials participated in the training.

Three small grants were allocated to implement human rights joint initiatives of the Government and NGOs. One of the projects is a joint project developed by the Jizak Department of Internal Affairs and NGO “Istiqboli Avlod” aimed at creation of the Legal Training Centre for officers of law-enforcement agencies to provide consultations and educate on human rights. 120 MIA officers from Jizzak province have passed training on human rights and related issues until now.

The MIA officials visited the United States, Turkey, Japan, United Arab Emirates, Bahrain, Austria and other countries to study international experience in observance of human rights by law-enforcement agencies.

7.3. and recommendations "i", "e". The Ministry of Internal Affairs along with Uzbekistan Bar Association developed and put into practice the Regulation for the Main Investigation Department "On order of ensuring protection of the rights of detained, suspected and accused individuals during preliminary investigation and interrogation" aimed at providing full and qualitative legal protection of their rights and liberties. The Regulation put control over behaviour of and professional conduct of law-enforcement officials in order to prevent their illegitimate actions towards detained, suspected and accused.

The implementation of efforts to control activities of law enforcement officials in order to prevent torture and other cruel treatment enabled to develop the Instruction for Prosecutors on the implementation of Article 243 of the Criminal Procedure Code of the Republic of Uzbekistan. According to this instruction prosecutors personally examine suspected or accused persons about the treatment exercised on them during the investigation. Therefore nowadays the interrogation of suspected or accused minors and women on criminal cases is carried out personally by the Prosecutor.

The centralized registration of applications and complaints of this kind, their periodic summarizing and taking duly administrative decisions are envisaged.

Another very important mechanism to examine the citizens' complaints is Ombudsman who will act on the basis of the Law "On Authorized Person for human rights of Oliy Majlis (Ombudsman)" in a new edition starting from 2005. The new Law gives all legal grounds for carrying out independent investigations over facts of torture and other abuses by official authorities. According to Article 10 of the Law, Ombudsman examines complaints about actions or negligence of authorities or officials, which violate rights, freedoms and interests of citizens, and also has the right to initiate its own investigations.

Adoption of the new Law "On Ombudsman" guaranteeing independent investigations, testifies that this institution purposefully introduced into the criminal-procedural practice of Uzbekistan. The Government and its law enforcement agencies are ready to cooperate in carrying out independent investigations of complaints and other appeals on torture that received a negative public and international resonance.

The order of carrying out so-called "independent investigation" on facts of death of suspected and accused persons is developed. In particular, it allows to include authoritative public figures, human rights activists and relatives of the dead into the process of investigation on the abovementioned facts by respective authorities. In our opinion, it will also provide impartiality and legitimacy of the results of examination.

7.4. The Law "On detention of suspects and accused individuals" is drafted in the Republic of Uzbekistan. This document provides the legal status of these individuals, their rights and responsibilities, the order and conditions in preliminary detention places, the order of the organization of the public control on observance of guarantees of the rights and liberties of the persons under the custody.

8.1 and 8.3. and the recommendation "h". The Main Directorate on Execution of Penalties (MDEP) of the Ministry of Internal Affairs of the Republic of Uzbekistan ensures an unimpeded.

Moreover, the Ministry of Justice developed and registered the Instruction "On the order of visits of diplomats, representatives of international and domestic NGOs, local and foreign journalists to the penitentiaries".

The given Instruction is published in the Collection of the legislation of the Republic of Uzbekistan – the bulletin of the Ministry of Justice. The MDEP distributed the Instruction among international and domestic NGOs.

The Government is developing the system of access to penitentiary institutions for representatives of civil society groups. In this regard, the MDEP elaborated a new standard agreement on access of NGOs to the places of detention.

Uzbekistan established cooperation with the OSCE that for the last few years has organized special trainings on monitoring and drafting of reports on human rights.

In 2002-2004 experts of the OSCE/ODIHR had visited a number of penitentiary establishments in Tashkent City as well as Tashkent, Samarkand, Bukhara, Navoi, Khorezm and Kashkadarya provinces.

On the basis of the Agreement between the Government of Uzbekistan and the International Committee of Red Cross “On humanitarian activity in places of detention” the ICRC representatives conducted 4 visits to penitentiaries in 2001, 5 – in 2002, 33 – in 2003, over 50 – in 2004.

With the assistance of the MDEP of the Ministry of Internal Affairs of the Republic of Uzbekistan, representatives of the ICRC had private conversations with 893 prisoners discussing the conditions in prison and whether they have been subjected to torture and other kind of cruel or degrading treatment. The MDEP officially declared its readiness and intention to establish and develop constant dialogue, organize meetings and take other measures to monitor human rights practices in prisons.

In 2003, the OSCE experts visited 6 prisons and other penitentiaries, the representative of "Prison Reform International" (PRI) (baroness V.Stern - 2 prisons) and the head of "Freedom House" Office in Tashkent (1 prison). Prisons and other penitentiaries were repeatedly visited by the EU experts, diplomatic representatives of the United States, France, Germany, Great Britain, Italy, the Netherlands, Russia, Iran, and other countries, journalists of "Reuters", "France Press", "Associated Press", "BBC" and others.

On June 15, 2004, head of the “Freedom House” Office in Tashkent Ms. M.Sever and adviser of the US Ambassador to Uzbekistan on socio- economic and political issues Ms. S.Kurran visited prison located in Zhaslyk, the Republic of Karakalpakstan.

In October, 2004, independent expert of the UN Human Rights Commission Mr. L.Guseinov visited a number of prisons and penitentiaries.

The main purpose was to have the visitors get acquainted with the human rights practices and living conditions in prisons as well as to reveal any cases of torture or other kinds of inhuman and degrading treatment.

9.1. and recommendation "i".

The implementation of efforts to control activities of law enforcement officials in order to prevent torture and other cruel treatment enabled to develop the Instruction for Prosecutors on the implementation of Article 243 of the Criminal Procedure Code of the Republic of Uzbekistan. According to this instruction prosecutors personally examine suspected or accused persons about the treatment exercised on them during the investigation. Therefore nowadays the interrogation of suspected or accused minors and women on criminal cases is carried out personally by the Prosecutor.

It goes in line with the recommendation "i" of the UN Special Rapporteur.

10.1. and recommendation "j". The Plenary Session of the Supreme Court examined the enforcement of the Articles 85 and 95 of the Criminal Procedure Code of Uzbekistan, according to which evidences received through unauthorized methods of investigation are considered as unacceptable.

On December 19, 2003, the Plenary Session of the Supreme Court of the Republic of Uzbekistan adopted Resolution # 17 "On implementation by courts of laws providing suspect or accused with right to defend". Article 19 states that the evidence received through torture, coercion, deceit or any other cruel or humiliating treatment and unlawful measures cannot be used in bringing charges against a person.

The same requirement is stipulated in article 3 of the Decision of Plenum of the Supreme Court of Republic Uzbekistan №12 of September 24, 2004 "On some issues of application of norms of the criminal laws on inadmissibility of evidences".

The recommendation "i" of the UN Special Rapporteur points that "judges must always ask persons delivered from the Ministry of Internal Affairs' or NSS' custody as to how they have been treated, pay special attention to their condition, and, if needed, to request their physical examination, even though there are no complaint from detainees.

Article 19 of the Decision of the Supreme Court of Republic Uzbekistan №17 of 2003 also stipulates that "Investigator, inspector, public prosecutor, court (judge) must always ask persons delivered from custodies, as to how they have been treated during questioning and investigation as well as to inquire about their detention conditions. On each facts of torture or other illegal methods of inquiry, there must be conducted careful investigation, including physical examination". Officials found involved in using any illegal ways of investigation, including torture and other cruel or humiliating treatment become subject to remedial or criminal prosecution.

12.1. and recommendation "l". Ministry of Internal Affairs together with Uzbekistan's Bar Association developed and introduced Regulations "On the order of the invitation of lawyers and their participation in a pre-investigation stage, preliminary investigation on the protection of rights and interests of suspects and detainees. Based on these Regulations, a suspect or detainee has the right to have a defence lawyer who can represent his/her client from the moment of detention (not later than first 24 hours) and meet with him/her in private.

According to the Regulations, each investigatory division has a concrete legal consultation office, working 24 hours a day, lawyers of which must always be at reach to represent the interests and rights of arrested or detained persons.

12.3. Based on a Plan of measures of the State Public Prosecutor's Office for the first half-year 2004, the Coordination Council of law enforcement bodies discussed issues of observance of the law when considering complaints and applications of citizens and wrongful actions of law-enforcement officials and supervising bodies.

Also, the Board of the State Public Prosecutor's Office discussed measures on strengthening public prosecutor's supervision of observance of constitutional rights of citizens during detention and imprisonment.

12.4. Mass Media constantly covers the right of arrested person to defence. The instructions booklet on the rights of all parties in criminal trial has been developed, which is distributed among employees of law-enforcement bodies. Such instructions are accessible to all citizens. Besides, these booklets are officially handed over to arrested or detained persons. The booklets explain their right to defence.

13.1. and recommendations "m". Within the framework of the project of the continuous juridical education, the Centre of Continuous Education of Lawyers was established. In 2004, more than 60 lawyers received 1-st technique training at the centre, and all other lawyers of Uzbekistan continues receiving training on the second technique. Since 2003 Association of lawyers together with the Ministry of Justice has been conducting training courses at the Training Centre of Lawyers.

13.3. Now the Association of lawyers and the Ministry of Justice of Republic Uzbekistan is developing a draft of the Concept of Reforming Bar, which will create basis for adopting a new law on bar, improving legislation on judicial system and the further realization of the Convention.

13.5. Mass Media constantly covers legal aid practices. The Bar Association has its own "The Lawyer" magazine published in Uzbek and Russian.

The Bar Association has its own web-site (www.advocates.uz). This web-site is a platform for the lawyer that provides any necessary information, court discussions. This activity was financed by the Holland Government under program of the Umbrella Project for human rights.

14.1 . Ministry of Health and Ministry of Internal Affairs composed training program on medico-biological issues of torture for doctors of penitentiary system.

In 2004 on the base of the Main Bureau of medico-legal examinations of the Ministry of Health of the Republic of Uzbekistan 90 doctors of the system of execution of punishments in finding the ways of revealing the residual phenomena of physical tortures or other kinds of cruel treatment took training course, and were hand with appropriate certificates. Process of the training is still in proceeding.

14.2. The recommendation "n". In April 2003, the Ministry of Internal Affairs issued a decree on rules of activity isolators of the time maintenance of law enforcement and their medical maintenance. In accordance with requirements of this order any person who is brought to isolator is subjected to pass the medical control which results are fixed and reported to officials. Similar requirements are observed investigator isolators.

14.4. With a view of improving and strengthening prison and public health services, by raising the quality of health services of the condemned persons who are under the custody, with assistance of regional representatives of INGO" International Prison Reform " is organized work for Republican coordination Council on problems of prison health services which includes experts

from the Ministry of Health, medical workers of the Ministry of Internal Affairs and representatives from NGO's. With participation of the international experts on prison health service questions the Council conferences always take place. General Secretary of International prison reform, lifelong peer of chamber of Lords of the Great Britain, Baroness Vivien Stern has visited Uzbekistan.

15.1.15.3., 15.6. and recommendation "o". The Government of Uzbekistan actively carry's out the distribution of information and teaching materials, concerning prohibition of tortures. Many official bodies, nongovernmental and international organizations are involved in this work. During the period 2002-2004, three times in a state language collection of main international documents of UN, OSCE and UNICEF were issued, about 10 thousand copies, including 5 thousand copies have been specially intended for law enforcement. Other editions were distributed between supreme educational institutions of Republic Uzbekistan, first of all juridical.

Besides in January, 2004 with the support of Embassy of the Great Britain in Tashkent in a state language the collection "Drawing a report on tortures " was issued. Many editions were established with the financial support of different foreign organizations such as, the program of development of the United Nations (UNDP/DSSP) and the Centre of OSCE in Tashkent.

The course plan of the Republican training centre for improving the qualifications of lawyers includes training programs such as: " The National Law of the Republic of Uzbekistan and the international standards in sphere of justice", "Bases of the international humanitarian law", "Legal bases of struggle against the international criminality", "The place and a role of the international standards in activity of law enforcement", " The national law of the Republic of Uzbekistan and international law for human rights". During the course the participants are informed about international standards in a sphere human rights and Convention against torture/

In November 2002, was carried out training for trainers "The International standards of human rights in a field of criminal law proceedings. Initiators were the American association of lawyers (ABA-CEELI), OSCE-ODIHR and National Centre for human rights. Many law enforcement officials like judges lawyers, prosecutor, MIA and NSS officials have participated in seminar.

The aim of this event was a preparation of the national trainers, teachers and specialists in order to make them capable to further teach students, cadets of these educational institutions and those of professional development courses. The main document, the provisions of which are taught during such trainings, was the International Covenant on Civil and Political Rights that Uzbekistan ratified in 1992. The provisions of the International Covenant on Civil and Political Rights and the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishments were in the limelight of the seminar.

In Uzbekistan in the framework of realization of the Plan on implementation of the recommendations of the UN Committee Against Torture, the OSCE Centre in Tashkent along with the MDEP is executing the Project aimed at increasing the level of legal literacy among penitentiaries personnel and inmates, and their familiarization with the basic international standards in the field of human rights. Within the Project, the MDEP established its own Training Centre to re-train and improve skills of the penalty execution personnel.

International Law was introduced as a compulsory subject to the educational institutions of the law enforcement agencies (the Academy of the Ministry of Internal Affairs, the Institute of the National Security Service, the Lawyer's Professional Development Centre of the Ministry of Justice, Professional Skills Excellence Centre of the Prosecutor General's Office).

The Main Investigation Department of the Ministry of Internal Affairs submitted for consideration to its superiors the proposal to introduce a practice of examination of officers on international human rights standards during certification of their skills and promotion to new position or rank. This proposal received backing from the Ministry of Internal Affairs' top administration. In the event of a proper decision's adoption on it, this initiative will be used in respect of other law enforcement agencies of Uzbekistan.

15.2 The Ministry of Internal Affairs with a financial support of the UNDP Office in Tashkent and in collaboration with the National Centre for Human Rights of Uzbekistan and other relevant government agencies published in Uzbek a compilation of the international human rights documents ratified by Uzbekistan and pertinent to the activities of the law enforcement agencies.

15.4 The Main Investigation Department of the Ministry of Internal Affairs along with Uzbekistan Bar Association developed and put into practice the Regulation for the Main Investigation Department "On order of ensuring protection of the rights of detained, suspected and accused individuals during preliminary investigation and interrogation". These regulations were introduced in 2003. Moreover, with a purpose of further familiarizing the parties to the legal/criminal proceedings about their rights and duties, and improvement of legal literacy and awareness of the population together with the personnel of all internal affairs departments and penitentiary establishments, the information boards and posters on human rights were printed and posted up in all departments and divisions of the MIA.

In September 2004 the brochure "What should you know about your rights?" has a circulation of hundred thousand copies with assistance of the American Bar Association (ABA) and Embassy of Switzerland. This brochure is given to every individual in detention. All copies are published for the MIA, however, issuing of the similar brochure is to be done for the prosecutor's agencies and National Security Service (SNS).

15.5. The brochure - "Prison Management with Respect to Human Rights" - was published recently. Results of implementation of this clause were discussed at the meeting of Interdepartmental Working Group (November 18, 2004).

16.2. and the recommendation "p". According to this clause the Expert Group was established including representatives the Ministry of Justice, Ministry of Internal Affairs, Prosecutor General's Office and Ombudsman. The Group worked out "Concepts of the further development and improvement of system of execution of punishments of the Ministry of Internal Affairs of the Republic of Uzbekistan for 2005–2010" Project, with initiative to extract the criminal-executive system from the authority of the Ministry of Internal Affairs of Uzbekistan.

17.1. and the recommendation "q". Consideration of practice of application Articles 985-991 of the Civil Code of the Republic of Uzbekistan, providing the order of compensation for moral and material damage to persons have been exposed to the torture or other cruel treatment.

The given right is fixed in the Decision of Plenary Session of the Supreme Court of the Republic of Uzbekistan dated April 28, 2000 "On some questions of application of the legislation on compensation of moral harm".

Moreover, with purpose to improve the system of compensation or rehabilitation of victims of torture within the framework of the Plan on Implementation of the Recommendation of the UN Committee Against Torture, and due to high urgency the problem is under constant control of the Interdepartmental Working Group. In this direction there are some positive moments. In particular, according to data of the NSS the damage for the sum of 490 million (national currency of

Uzbekistan) was compensated in 2002, and reached to 850 million sum and 450 thousand US dollars in 2003.

18.1. Recommendation “r”. The new edition of the Law “On Ombudsman” was adopted in August 2004. On 30 September, 2004 this law was published in all newspapers nationwide.

Article 13 describes the rights of the Ombudsman including the right to consider the complaints.

Article 14 stipulates the right of Ombudsman “to meet and talk to arrested and detained persons”. By the same article Ombudsman is entitled to apply to the relevant agency on bringing to account the official whose actions contain the facts of infringement of human rights and liberties.

The guarantees of protection of human rights during the investigation of complaints by Ombudsman are also ensured. Thus, Article 19 states that “the complainant to the Ombudsman, and also the person appointed by the Ombudsman to collect and analyze the data and to conduct the expert evaluation, can not undergo persecution or be restricted in rights for the undertaken actions”.

For the passed time Ombudsman representatives attended all establishments of punishments execution system.

The Agreement on cooperation in the sphere of securing human rights and liberties was signed between Ombudsman and Ministry of Internal Affairs of the Republic of Uzbekistan on 10 September, 2004.

19.1., 19.2. “Ijtimoiy fikr” civil society group conducted survey among citizens of the country about the introduction of moratorium and abolishment of the capital punishment.

The results of the survey showed that the vast majority of people in Uzbekistan (78,2%) agree with the use of capital punishment for the grave crimes. People believe that death penalty is a fair retribution, that offender has to pay for the committed crime. Besides, survey showed that the vast majority of people believe that the existence of capital punishment promote the containment of increase in crime.

During the survey the opinion of the population on introduction of moratorium for death penalty was also studied. In spite of the fact that introduction of the moratorium is of temporary character and aimed at moral preparation of citizens to change their attitude towards death penalty, the opinion of the public on the moratorium was still negative. Thus, more then half of the surveyed (52,6 %) were negative to introduction of moratorium on death penalty. In their opinion, moratorium on death penalty should not be introduced, because that may promote the increase in crime, especially in grave crimes rate.

Thus, as results of the survey have showed, the population of the Republic of Uzbekistan is against the abolition of death penalty in the country and introduction of moratorium.

19.3. and recommendation “s”. In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 239-33 “On measures of protection of state secrets of the Republic of Uzbekistan” dated 5th May, 1994, the information on date of the execution of death penalty and burial place of the convict is classified as the state secrets and completely confidential. This norm is also legislatively fixed in Article 140 of the Criminal Executive Code of the Republic of Uzbekistan.

At present time the Ministry of Internal Affairs in accordance with the international standards develops instruction on informing the relatives of the convicts sentenced to a death penalty.

As for today appropriate proposals of the Prosecutor General's Office, Ombudsman, Ministry of Justice of the Republic of Uzbekistan are received and summarizing by the MIA.

After completion the draft of Law will be submitted to the Parliament of the Republic of Uzbekistan.

Only two articles were kept in the Criminal Code of the Republic of Uzbekistan which envisage the death penalty - terrorism and premeditated murder under aggravating circumstances.

On the basis of the current legislation, use of death penalty is banned towards men older than 60 years, women and persons under 18 years.

It is observed that quantity of death penalty verdicts reduce annually. In comparison with 2000, the quantity of executed death sentences has decreased 9 times in 2004. For the period of 2002-2004 years death penalty towards 32 persons was replaced with imprisonment.

The issue of death penalty became a subject of constant discussion among the public and Media. For example, international "round table" on this topic with participation of the Deputy of the Bundestag of Germany Mrs. Gerty Dojbler Gmelin was held on June 1, 2004.

In January 28, 2005, the President of Uzbekistan I.Karimov at the joint session of the Senate and the Legislative Chamber of the Oliy Majlis raised the issue of death penalty abolishment from penitentiary system: "We are not talking about the moratorium on a death penalty as it is made in some countries when convict has to wait the execution of punishment for years, but its full abolishment".

20.1. and recommendation "t". Representatives of EU Embassies (Italy, France, Germany, UK and the Netherlands) in Uzbekistan twice visited the Prison N64/71 (Jaslik Village).

Moreover, in 2003 journalists from France-Press, Associated Press, Reuters, and BBC Radio visited the prison.

From 25 to 28 July 2004, the Republic Commission representing the Prosecutor General's Office, Ombudsman, Ministry of Justice, National Centre of the Republic of Uzbekistan on Human Rights and MIA assessed living conditions in prison N64/71.

The Commission recognized that the conditions of this penitentiary were up to the standards. At the same time, the meeting of the Interdepartmental Working Group decided that imprisonment conditions are further to be improved and monitored on the regular basis.

In 2004, Ms. S.Kurran, Adviser on Socio-Economic and Political Issues, US Embassy in Uzbekistan, and Ms. M.Server, Director, Freedom House in Uzbekistan, visited the prison.

In October 2004, Mr. R.Mullerson, Regional Advisor of UNHCR on Central Asia, and Deputy Director of the National Human Rights Centre of the Republic of Uzbekistan visited it.

The visitors positively assessed the activity of the prison and expressed readiness to continue and strengthen cooperation.

21.1. and recommendation “u”. During 2003-2004 the MDEP of the MIA of the Republic of Uzbekistan received from Uzbekistan MFA 18 appeals of the UN Committee on Human Rights concerning 31 people sentenced to death, whose cases are under examination of the Committee.

From the mentioned number of people, the death penalty had been executed towards 15 convicts (Sh.Andasbaev, U.Eshov, I.Babajanov, M.Ismailov, M.Mirzaev, A.Uteev, O.Ruzmetov, U.Ruzmetov, O.Makhmudov, N.Bazarov, O.Kupalov, B.Yusupov, J.Madrakhimov, I.Sunnatov, A.Karimov) before the appropriate appeals have been received.

Towards 7 imprisoned the death penalty has been replaced by different terms of imprisonment (A.Kornetov, A.Isaev, N.Karimov, E.Gugin, F.Karaev, I.Karimov, S.Alisov).

Execution of sentences towards 9 inmates (F.Nasmbulin, I.Khudaiberganov, Sh.Juraev, F.Alimov, A.Buryachek, A.Tolipkhujayev, I.Ibragimov, Sh.Baibulatov, S.Kadirov) were suspended due to examination of their petitions by the Pardon Commission under the President of the Republic of Uzbekistan.

During the mentioned period, executions of penalties towards people whose cases are being considered by the UN Human Rights Committee were suspended after the appeals were received.

In accordance with clause 21.1. of the Programme and Recommendations of the UN Special Rapporteur, the practice of State agencies reaction to temporary measures recommended by UN Human Rights Committee was introduced, namely, suspension of death penalty execution towards people, whose cases are under consideration of the UN Human Rights Committee and there is a relevant appeal from the Committee to the Government. Appropriate proposals were sent by the MDEP to the MFA of the Republic of Uzbekistan.

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