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Information received from Uzbekistan on follow-up to the concluding observations on its fifth periodic report*

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Follow-up information relating to paragraphs 25 and 29 of the concluding observations (CCPR/C/UZB/CO/5)

Follow-up information relating to paragraph 25 (a) of the concluding observations

1. According to data from the Centre for Legal Statistics and Operational Information of the Ministry of Internal Affairs, four cases were brought under article 235 of the Criminal Code (on the use of torture and other cruel, inhuman or degrading treatment or punishment) in the first nine months of 2022 (in 2021, there were five such cases, and three persons were prosecuted).
2. In 2020, 15 persons were convicted under article 235 of the Criminal Code. Two of these persons were partially deprived of their liberty, whereas 13 were given prison sentences.
3. In 2021, 15 persons were convicted under article 235 of the Criminal Code. Three of these persons were partially deprived of their liberty, whereas 12 were given prison sentences.
4. There were no criminal cases under article 235 in the first nine months of 2022.
5. In 2020 and in 2021, 10 and 12 persons, respectively, were recognized as victims in cases brought under article 235 of the Criminal Code.
6. Compensation for the material damages caused by the crime was not awarded in the course of the article 235 proceedings.
7. Act No. 761 of 29 March 2022 supplemented article 991 of the Civil Code, pursuant to which the State must provide full compensation, in the manner prescribed by law, for the harm caused to a citizen by unjust conviction, unlawful prosecution, unlawful preventive detention, the extraction of a pledge of good conduct, or unlawful detention as an administrative penalty, as well as any act of torture or other cruel, inhuman or degrading treatment or punishment, regardless of whether those at fault are officials conducting the initial inquiry or pretrial investigation or are employed by the procuratorial offices or the courts. The court may decide to make the officials who caused the harm responsible for the compensation.
8. In 2021, one civil claim, which was partially satisfied, was brought against four respondents convicted in 2020 of crimes under article 234, article 235 and other articles of the Criminal Code; they were ordered to pay the plaintiff compensation totalling 8,785,000 sum for material and non-material damage

Follow-up information relating to paragraph 25 (b) of the concluding observations

9. In the first nine months of 2022, 67 complaints concerning the persecution, torture and inhuman treatment of persons in places of deprivation of liberty were transmitted to the agencies of the Ministry of Internal Affairs by the virtual and people's reception offices of the President of Uzbekistan (there were 23 in 2020 and 109 in 2021).
10. In the first nine months of 2022, 245 complaints of torture and ill-treatment were received from convicted prisoners serving sentences in the penal system of the Ministry of Internal Affairs (there were 195 in 2020 and 192 in 2021).

Follow-up information relating to paragraph 25 (c) of the concluding observations

11. According to data from the Centre for Legal Statistics and Operational Information of the Ministry of Internal Affairs, 11 criminal cases were opened and one person was prosecuted under article 144 of the Criminal Code (on the violation of the legislation on

complaints submitted by individuals and legal entities) in the first nine months of 2022 (in 2021, there were eight such cases, and four persons were prosecuted).

12. In accordance with article 345 of the Code of Criminal Procedure, investigators from the procuratorial services are responsible for the preliminary investigation of crimes under article 144 of the Criminal Code.

13. In 2020, 2021 and the first nine months of 2022, no cases were brought under part 2 of article 144 of the Criminal Code (on the persecution of an individual, his or her representative or family members, a legal entity, its representative or the family members of the representative of a legal entity by an official in connection with a complaint submitted to a State body, State institution or association or in connection with the opinion or criticism expressed in the complaint or in another form).

14. No one convicted of a crime under article 144, part 2, of the Criminal Code is serving a sentence in a penal establishment.

Follow-up information relating to paragraph 25 (d) of the concluding observations

15. A new article, article 95-1, pursuant to which factual evidence obtained under torture and other cruel, inhuman or degrading treatment or punishment used against persons involved in criminal proceedings or their family members is inadmissible, was included in the Code of Criminal Procedure under Act No. 470 of 4 April 2018.

16. Under this Act, article 22 of the Code of Criminal Procedure, which states that reports of the use of unlawful methods of collecting or preserving evidence must be investigated without fail and an expert medical examination must be conducted, in accordance with the procedure established by law, was amended. The foregoing is also reflected in paragraph 4 of a decision of the plenum of the Supreme Court (decision No. 24 of 24 August 2018 on issues concerning the application of the rules of criminal procedural law on the admissibility of evidence).

Follow-up information relating to paragraph 29 (b) of the concluding observations

17. On 14 May 2020, amendments were made (under Act No. 617) to the Code of Criminal Procedure with a view to strengthening guarantees of public rights and freedoms.

18. Under the amendments, video recordings are to be made of any instances in which persons are taken into custody or waive their right to counsel, as well as strip searches and seizures that persons in detention are subjected to. Exceptions may be made only where proceedings cannot be delayed; this rule does not apply to detention in the facilities of the agencies of the Ministry of Internal Affairs or other law enforcement agencies.

19. If no video recording is made of a person's being taken into custody, the person in question is taken to the facility of the agency of the Ministry or of another law enforcement agency, where he or she is read his or her procedural rights on camera. The detainee is shown the recording.

20. A note on the video recording of the proceedings, accompanied by the recording itself, is added to the record drawn up when a person is taken into custody or subjected to a search or the seizure of personal effects.

21. If the detainee is not fluent or sufficiently fluent in the language in which the proceedings are conducted, he or she is read his or her rights before the first interrogation with the assistance of an interpreter. A note to that effect is also to be included in the record.

22. The amendments also entailed revisions to the period of time by which notice had to be given of the application of coercive measures such as detention, house arrest or placement in a medical institution for an expert evaluation.

23. Previously, for example, the official conducting the initial inquiry, the investigator, the procurator or the court had 24 hours to disclose that a given measure had been taken, whereas at present such disclosures must be made immediately.

24. The notification that coercive measures have been taken is to be provided to a family member or, in the absence of such a person, other relatives or friends. Notification must also be provided to the individual's place of work or study. In the event the measure involves a national of another State, the Ministry of Foreign Affairs of Uzbekistan is notified.

Follow-up information relating to paragraph 29 (c) of the concluding observations

25. In 2020, the courts of first instance granted 10,458 applications from procurators to remand suspects in custody as a preventive measure and rejected 172 such applications.

26. In the same year, 664 decisions to remand suspects in custody or not were appealed against or contested before a higher court; 54 of those decisions were reversed, 9 were amended and 601 were upheld.

27. In 2021, the courts of first instance granted 20,388 applications from procurators to remand suspects in custody as a preventive measure and rejected 335 such applications.

28. In the same year, 1,102 decisions to remand suspects in custody or not were appealed against or contested before a higher court; 134 of those decisions were reversed, 18 were amended and 950 were upheld.

29. In the first nine months of 2022, the courts of first instance granted 17,395 applications from procurators to remand suspects in custody as a preventive measure and rejected 304.

30. In those first nine months of the year, 981 decisions to remand suspects in custody or not were appealed against or contested before a higher court; 136 of those decisions were reversed, 9 were amended and 836 were upheld.

31. False arrest or unlawful detention is punishable under article 234 of the Criminal Code.

32. In 2020, 17 persons were convicted under article 234 of the Criminal Code (on false arrest or unlawful detention), whereas 21 persons were convicted under that article in 2021 and three in the first nine months of 2022.

33. In 2020, eight persons were recognized as victims in cases brought under article 234 of the Criminal Code, whereas in 2021 and the first nine months of 2022, 15 and 5 persons, respectively, were thus recognized.

34. In 2020, in proceedings brought under article 234 of the Criminal Code, material damages totalling 11.4 million sum were recovered, and the collection of the remaining damages, totalling 17 million sum, was ordered by the court.

35. In 2021, as part of proceedings brought under article 234 of the Criminal Code, material damages in the amount of 10 million sum were recovered.

36. In the first nine months of 2022, in proceedings brought under article 234 of the Criminal Code, material damages totalling 21.4 million sum were recovered, and the collection of the remaining damages, totalling 17 million sum, was ordered by the court.

37. In addition, Act No. 761 of 29 March 2022 supplemented article 991 of the Civil Code, pursuant to which the State must provide full compensation, in the manner prescribed by law, for the harm caused to a citizen by unjust conviction, unlawful prosecution, unlawful preventive detention, the extraction of a pledge of good conduct, or unlawful detention as an administrative penalty, as well as any act of torture or other cruel, inhuman or degrading treatment or punishment, regardless of whether those at fault are officials conducting the initial inquiry or pretrial investigation or are employed by the procuratorial offices or the courts. The court may decide to make the officials who caused the harm responsible for the compensation.

38. In 2021, for example, one civil claim, which was partially satisfied, was brought against four respondents convicted in 2020 of crimes under article 234, article 235 and other articles of the Criminal Code; they were ordered to pay the plaintiff compensation totalling 8,785,000 sum for material and non-material damage

39. In the first six months of 2022, one civil claim, which was partially satisfied, was brought against three respondents convicted in 2021 of crimes under articles 206 and 234 of the Criminal Code; they were ordered to pay the plaintiff compensation totalling 48,710,305 sum for material and non-material damage

Follow-up information relating to paragraph 29 (d) of the concluding observations

40. Under article 81 of the Criminal Code, the following basic penalties may be used for persons who committed crimes when they were under the age of 18:

- (a) a financial penalty;
- (b) compulsory community service;
- (c) work of a punitive nature;
- (d) partial deprivation of liberty;
- (e) deprivation of liberty.

41. Persons who committed crimes when they were under the age of 18 may not be subjected to additional punishment.

42. From 1 January 2020 to 1 October 2022, the country's criminal courts heard 3,441 cases against 4,363 minors (2.8 per cent of the total number of cases heard), 3,015 of whom were given sentences – 364 persons were given sentences that deprived them of their liberty, while 2,651 were given non-custodial sentences.

43. Those figures, which show that 88 per cent of all sentences involve alternatives to detention, as opposed to 12 per cent that are custodial, underscore the liberalization and humanity of juvenile criminal justice system.
