



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Additional follow-up information provided by Uzbekistan on  
the implementation of the concluding observations of the  
Committee against Torture (CAT/C/UZB/CO/3)\***

[7 January 2010]

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## Information on implementation of the conclusions and recommendations of the Committee against Torture (CAT/C/UZB/CO/3)

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## **I. Introduction**

1. Uzbekistan has a consistent and systematic policy of complying with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In November 2007, the Committee against Torture considered Uzbekistan's third periodic report (CAT/C/UZB/3), which provided comprehensive information on implementation of all the Convention's provisions.

2. A national plan of action comprising more than 60 measures designed to improve legislation and law enforcement practice to prevent torture was developed and adopted in 2008 in implementation of the Committee's conclusions and recommendations following consideration of the report. The plan is now being implemented, with broad participation from State bodies, the courts and law enforcement bodies, and civil society organizations, and that work is regularly monitored by the interdepartmental working group to monitor the observance of human rights by law enforcement agencies, headed by the Minister of Justice. The action taken is given wide coverage in the media.

3. The present information on implementation of the National Plan of Action has been drawn up in accordance with paragraph 29 of the Committee's conclusions and recommendations.

## **II. Information on implementation of the individual conclusions and recommendations of the Committee against Torture (CAT/C/UZB/CO/3)**

### **A. Information on paragraph 6 (a), (b), (c) and (d) of the conclusions and recommendations**

4. In line with the Committee's recommendations, all three branches of power in Uzbekistan have publicly condemned torture of all kinds. Information on the public condemnation by the Government of all kinds of torture and on measures to combat torture has been submitted several times to Geneva and New York in the form of official United Nations documents, beginning in 2003. Moreover, the inadmissibility of the use of torture in any of its forms by the legislative, executive or judicial authorities, has been confirmed by the following actions:

- Incorporation in article 26 of the Constitution of a provision to the effect that no one may be subjected to torture or violence or to any other form of cruel or degrading treatment
- Uzbekistan's accession in 1995 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Criminalization of the use of torture in article 235 of the Criminal Code
- Introduction of procedures for the involvement of the chambers of the Oliy Majlis in monitoring the application of the Convention against Torture
- Application of the principle of the inadmissibility of evidence obtained by torture through the adoption by the Plenum of the Supreme Court on 24 September 2004 of a decision on certain questions concerning application of the law of criminal procedure on the admissibility of evidence, which provides that evidence obtained by a person conducting an initial inquiry, an investigator, a procurator or a judge

who, for whatever reason, deviates from strict observance of and compliance with the rules of law, shall be deemed inadmissible

- Conduct of a review of sentences based on evidence obtained by means of torture, in accordance with Decision No. 17, adopted by the Plenum of the Supreme Court on 19 December 2003, on the application by the courts of laws guaranteeing the right of defence for suspects and defendants and Decision No. 12 of 24 September 2004 on certain questions concerning the application of the law of criminal procedure on the admissibility of evidence
- Adoption by the Supreme Court on 14 June 2008 of a decision on judicial practice in considering cases relating to the use of torture and other cruel, inhuman or degrading treatment or types of punishment, which noted that the court must respond by adopting specific rulings in respect of officers of the law enforcement agencies who have permitted unlawful acts
- Ministry of Internal Affairs Instruction No. 334 of 18 December 2003 on timely response to reports from citizens relating to the use of torture in the internal affairs system, which introduced a single procedure for registering complaints and petitions concerning the use of torture; a separate record is kept on every complaint concerning the use of illegal methods of inquiry and investigation, which are subjected to a special verification procedure
- The investigation of instances of torture, particularly in cases involving the death of detained or arrested persons, or that are a matter of public notoriety, with the involvement of representatives of the general public and civil society bodies and, in certain cases, foreign experts
- The adoption and implementation of the National Plan of Action to implement the Committee's concluding observations and recommendations following consideration of Uzbekistan's third report
- The adoption and implementation of the National Plan of Action to implement the recommendations of the Human Rights Committee following consideration of the universal periodic review of Uzbekistan (A/HRC/10/83)

5. The inadmissibility of torture is also one of the chief concerns of the chambers of Parliament. On 15 February and 14 March 2008, the Senate's Committee on Foreign Policy Matters held special meetings on the outcome of the consideration by the Committee against Torture of Uzbekistan's third periodic report on the application of the Convention. On 19 June 2009, the Committee on International Affairs and Interparliamentary Relations of the Oliy Majlis held an enlarged session on compliance with the provisions of the Convention against Torture by the law enforcement agencies in Navoi province.

6. A meeting of the board of the Office of the Procurator-General held on 26 December 2008 considered issues related to improving procuratorial oversight of respect for individual rights and freedoms during criminal proceedings, and adopted measures to strengthen procuratorial oversight to ensure strict compliance with legal requirements during the detention, arrest and criminal prosecution of individuals. All the shortcomings and unlawful acts permitted by some representatives of the inquiry and investigation agencies in conducting proceedings were thus condemned, and the board decided on measures to suppress them. The issue of torture and other cruel, inhuman or degrading treatment or punishment is constantly considered at meetings of the Coordinating Council of Law Enforcement Authorities under the Office of the Procurator-General.

7. At its extraordinary session on 14 November 2008, the board of the Ministry of Internal Affairs discussed the status of legality in the internal affairs agencies and ways of improving it, and human rights. The inadmissibility of any violation of law or derogation of

human rights in any form in the activities of law enforcement agencies, including the use of prohibited methods of investigation and interrogation (i.e., torture), was included in the decision adopted. The decision highlighted the need to pay more attention to claims linked with torture and illegal actions by officers of the law enforcement agencies, and also created additional controls over their activities.

8. In December 2008, a Ministry of Internal Affairs order confirming the Ministry's plan of basic measures to ensure application of the National Plan of Action to implement the Committee's concluding observations and recommendations was circulated to all the Ministry's units. The order states that all the Ministry's services and units in the regions must submit a monthly report to the Office for the Protection of Human Rights and Legal Support on measures taken to prevent torture.

9. Under article 120 of the Constitution, the procuratorial authorities discharge their functions independently of any organs of State, public associations or their officials, and are subject solely to the law. Under article 5 of the Procurator's Office Act, the main principles of the organization and activities of the procuratorial bodies are unity, centralization, legality, independence and transparency. Any interference in their work is prohibited. Influence of any kind on a procurator aimed at an illegal decision being taken or obstruction of the procurator's work, infringement of his or her integrity, disclosure without the procurator's or investigator's permission of data from the inquiry and pretrial investigation, or non-compliance with the requirements of the procurator is punishable by law.

10. In accordance with legislation, the procuratorial bodies consider applications and complaints from citizens and legal entities, and take action to restore any violated rights and protect legal interests. The procurator receives individual members of the public and representatives of legal entities. The procurator has the right, where necessary, to delegate to appropriate State administrative, monitoring and oversight authorities or to officials of enterprises, institutions and organizations the task of verifying proposals, reports and complaints received and to require a written report on the results of such verification, together with all the materials used.

11. On the basis of the outcome of the consideration of the applications and complaints from citizens and legal entities, the procurator takes a decision, which may be taken on appeal to a procurator at a higher level. Further, the Human Rights Commissioner of the Oliy Majlis (Ombudsman) investigates communications reporting the use of torture and unlawful treatment. It should be noted that the Uzbek ombudsman model conforms fully with the Principles relating to the Status of National Institutions (the Paris Principles) and is independent under the Constitution. The Ombudsman's powers to protect human rights are expressed in the special Human Rights Commissioner (Ombudsman) Act of 24 August 2009 (new wording).

12. The Ombudsman is independent in the discharge of his or her functions and autonomous of State bodies and officials, and submits annual reports to both chambers of Parliament. A system of local Ombudsman's representatives has been set up to ensure accessibility for the population of all Uzbekistan's regions. When considering complaints and making inquiries on his or her own initiative into infringements of citizens' rights, freedoms and legitimate interests, the Ombudsman has the right to:

- (a) Apply to organizations and officials for their cooperation in conducting inquiries into matters requiring clarification;
- (b) Invite representatives of organizations and officials to conduct inquiries into matters requiring clarification;
- (c) Be free to visit organizations and officials; request and receive documents, materials and other information from organizations and officials;

- (d) Receive explanations from officials;
- (e) Commission organizations and specialists to formulate conclusions on matters requiring clarification;
- (f) Participate in checks carried out by organizations and officials on issues related to human rights, freedoms and interests;
- (g) Hold meetings and interviews with a detainee or person in custody;
- (h) Apply to the relevant bodies to file suits against persons who have been found to have violated human rights and freedoms.

13. Censorship of correspondence from convicted persons to the Ombudsman is prohibited by legislation, and the conditions are created for detainees, arrested and convicted persons to meet and talk with the Ombudsman. Moreover, in conducting investigations into complaints, the Ombudsman has the right to visit a penal institution without any special permission.

14. The National Plan of Action to implement the recommendations of the Human Rights Committee following its consideration of Uzbekistan's universal periodic review includes the introduction of the post of Ombudsman for convicted persons in penal institutions. Relevant proposals are currently being drafted and legislation is being formulated.

15. To ensure full and proper legal protection for detainees' and suspects' rights and freedoms, the Central Investigation Department of the Ministry of Internal Affairs, in conjunction with the Uzbek Bar Association, has drawn up and introduced regulations governing the way in which detainees', suspects' and accused persons' rights are to be upheld during preliminary inquiries and pretrial investigation, under which a suspect or accused person has the right to a defence counsel, who can represent his or her client from the moment of detention and meet with him or her in private. According to the regulations, each investigating unit has a legal consultation office in which lawyers are available 24 hours a day on first call to represent the interests and rights of detained persons. To improve the mechanisms for ensuring compliance and defence of human rights in the internal affairs agencies, on 15 December 2008, the Ministry of Internal Affairs reissued an order on the establishment of a central commission on respect for human rights, and the commission's statutes and plan of work. Similar commissions exist in all the internal affairs units in the regions. They meet systematically to discuss the results of their service's activities in terms of ensuring legality, protecting human rights and implementing the requirements of the Citizens' Applications Act. Moreover, the outcome of work in the area of defending human rights is a regular subject of discussion for the board of the Ministry of Internal Affairs. The board's decisions are circulated to all internal affairs units and their implementation is verified by the management.

16. Quarterly overviews of the work of subsections that deal with protecting human rights and legal support are sent to all the internal affairs agencies, as are records of meetings on the issue for discussion by the staff. Moreover, in 2009, the Ministry of Internal Affairs Office for the Protection of Human Rights and Legal Support developed a manual on human rights with a section on issues related to the Convention. Despite current legislation and measures taken by the Government to prevent the use of violence or other unlawful treatment of citizens by officials of the law enforcement agencies, such things do still happen. Specifically, an analysis showed that, in 2008, the Office of the Procurator-General received 2,222 complaints and communications concerning unlawful action by staff of the law enforcement agencies. That figure was 163 fewer than in 2007 (2,385). It should be noted that 1,643 (1,728 in 2007) complaints and communications concerned staff of the Ministry of Internal Affairs, 29 (42) concerned staff of the Department for

Combating Tax and Currency Crimes and Money Laundering, 195 (207) staff of the State Tax Committee, 60 (96) staff of the State Customs Committee, 7 (4) staff of the National Security Service and 104 (91) staff of the courts. Of the total number of complaints and communications received, 104 (189) were related to the use of torture, threats and other unlawful forms of treatment, 12 (29) to illegal detention, 5 (3) to incorrect use of preventive measures and 18 (12) to illegal searches and confiscations.

17. In 2008, the Ombudsman received 8 communications from citizens concerning illegal action by staff of the penal services, 268 concerning disagreement with the actions of staff of the law enforcement agencies, and 270 concerning disagreement with the investigation process. Furthermore, monitoring visits to the penal facilities in the Ministry of Internal Affairs system continue to be carried out (visits to 11 correctional colonies and remand centres in the Republic of Karakalpakstan, in Bukhara, Dzhizak, Kashkadarya, Namangan, Samarkand, Surkhandarya, Syrdarya, Fergana and Tashkent provinces and in the city of Tashkent) with the participation of foreign visitors (members of the European Parliament, judges from many countries, and staff from the German Embassy).

18. A working conference on criminal liability for the use of torture or other cruel, inhuman or degrading treatment or punishment was held on 3 March 2009 in the buildings of the Tashkent State Institute of Law. It was attended by members of Parliament, senators, and representatives of the Ombudsman, the Procurator-General's Office, the Ministry of Justice, the Ministry of Internal Affairs and other ministries and departments concerned. The conference participants, who included scientists and experts in criminal and penal enforcement law, discussed ways of further improving the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code in the context of ensuring compliance with the Convention. The materials, proposals and discussions were used to produce a compilation of the participants' articles and other contributions, the following being of particular interest: "Issues related to Criminal Liability for the Use of Torture"; "Criminal Liability for the Use of Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment"; "Torture Victims' Right to Compensation"; "Compliance with Legislation during Criminal Detection Work"; and others.

19. Uzbekistan's legislation ensures protection of the rights and freedoms of all those involved in criminal proceedings, including witnesses. In order to protect the rights of witnesses, an act on amendments and additions to certain legislative acts related to improving the institution of the legal profession came into force on 1 January 2009. As well as introducing new rules to ensure the provision of professional legal assistance for detainees and convicted persons, the act also brought into effect the institution of "counsel for the witness". This introduced amendments and additions to article 66<sup>1</sup> of the Code of Criminal Procedure that provide for the counsel for a witness to participate in the case from the time when a summons for the witness is issued, on presentation of a lawyer's certificate and warrant. The counsel for the witness may, in accordance with established procedure, uphold the rights and legal interests of his or her client and provide any necessary legal assistance. Examination of the witness or victim who has appeared with counsel takes place with the participation of the counsel. When the examination is finished, the counsel may submit complaints about violations of the rights and legal interests of the witness or victim, which shall be noted in the record of the examination.

20. This innovation means that the State ensures that any citizen has the right to professional assistance from the counsel of his or her choice to defend his or her rights at all stages of the criminal proceedings. Chapter 6 of the Code of Criminal Procedure, alongside its mention of the rights and responsibilities of witnesses, provides for the rights and responsibilities of other participants in the criminal proceedings, including experts, specialists, interpreters and official witnesses. In order to clarify the circumstances of the

case, those participants may be examined as witnesses, in which case they will have the same legal status as witnesses.

21. Practice shows that no criminal cases were brought for intimidation or forced examination of witnesses or other participants in criminal proceedings during the period 2008–2009. Given that the act on amendments and additions to certain legislative acts related to improving the institution of the legal profession has strengthened the legal status of the above-mentioned participants in criminal proceedings, there is currently no need to draft any proposals on the issue.

## **B. Information on paragraph 7 of the conclusions and recommendations**

22. Uzbekistan is a sovereign and independent State and enjoys supreme State authority in both domestic and foreign policy. It took the necessary steps to investigate the crimes committed in Andijan in May 2005, prosecuting and sentencing those responsible, as it informed the international community in detail during the period 2005–2007. Thus, throughout the judicial proceedings linked to the events in Andijan, not only numerous victims, civil plaintiffs and witnesses, but also more than 100 representatives of foreign and local media, diplomatic missions and such international human rights organizations as Human Rights Watch and the American Bar Association, were present as observers. During the trial, international observers had the opportunity to familiarize themselves with all the investigation materials, testimony from witnesses, victims and civil plaintiffs and all the available evidence (including audio and visual materials, findings contained in numerous expert assessments, reports of the inspection of the site where the events occurred, confiscated weapons, both those seized during the attack on military facilities and those brought in by terrorists from outside). They had the opportunity to observe virtually the entire examination of the above-mentioned evidence carried out by the court. All these judicial proceedings were held in conformity with the procedural regulations and in strict compliance with international standards and the norms of domestic law. During the trials the adversarial principle was upheld with the participation of lawyers, and by ensuring that the defence and the prosecution had identical conditions and opportunities for the impartial conduct of the proceedings. In accordance with the norms of international law, an international inquiry is carried out when the State itself requests that such an inquiry be carried out, due to the inability of the local authorities to do so or to the collapse of the State, and also if the situation that has arisen directly affects the maintenance of international peace and security. Uzbekistan has repeated this reasoning several times at all the international occasions where the consequences of the Andijan events have been discussed. An independent international inquiry into the events is not necessary. Moreover, on 27 October 2009, the European Union External Relations Council decided to completely remove the restrictive measures with regard to Uzbekistan adopted in 2005 in connection with the Andijan events.

## **C. Information on paragraph 9 of the conclusions and recommendations**

23. Uzbekistan has an internal and external system for monitoring the activities of penal correction institutions.

24. The procuratorial authorities oversee compliance with the law in places of detention and penal correction facilities. Currently, each penal correction institution has a box for applications to be sent to the Procurator's Office, which may be opened only by staff of the procuratorial authorities. Such correspondence is not subject to censorship, and the staff of the procuratorial authorities read it as soon as it is opened. The procuratorial authorities,



which monitor compliance with the law in places of detention and remand centres, decide directly on the response to be given to such applications.

25. In order to monitor conditions in detention and how people are treated in prison, Central Penal Correction Department staff conduct regular on-site inspections of Ministry facilities. The members and senators of the Oliy Majlis, the Ombudsman, the National Centre for Human Rights and non-governmental organizations also monitor detention facilities.

26. The act on amendments and additions to certain legislative acts related to improving the work of the Human Rights Commissioner of the Oliy Majlis (Ombudsman) introduced amendments to the Code of Criminal Procedure and the Penal Enforcement Code whereby censorship of correspondence between convicted persons and the Ombudsman is prohibited and the conditions are ensured for detained, arrested and convicted persons to have unrestricted meetings and interviews with the Ombudsman. Further, in conducting verification of complaints, the Ombudsman has the right to visit correctional facilities without any special permission.

27. In line with Ministry of Internal Affairs Instruction No. 334 of 18 December 2003, a single procedure has been introduced for registering complaints and applications concerning the use of torture, which undergo a special verification procedure. Verification of complaints concerning the use of torture is one of the mandatory tasks of the special units for maintaining internal security (special staff inspection units), which report to the Minister for Internal Affairs. These units are in fact independent, since combating, detecting and investigating crime are not part of their functions and they are not subordinate to the crime-fighting agencies and units.

28. The Ministry of Internal Affairs has signed cooperation agreements: with the Ombudsman on 10 December 2004; with the National Centre for Human Rights on 25 September 2008; and with the Office of the Procurator-General and the Ministry of Justice on 27 October. These provide for the implementation of joint measures to guarantee and protect the rights of accused and convicted persons, to hold meetings and interviews with detainees or persons in custody, and to jointly consider complaints and communications in order to ensure effective redress for violations of citizens' rights.

29. In September 2008, a department for the protection of human rights was established in the Ministry of Internal Affairs system, along with sections in the territorial departments of internal affairs, to review all cases of human rights violations by staff of the internal affairs agencies, including complaints about the use of torture.

30. Under a presidential decree of 1 May 2008 establishing a programme of action to mark the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights, national human rights institutions, with the participation of civil society organizations (NGOs, the Bar Association, the media), have carried out checks on the activities of the structural units of the Procurator-General's Office, the Ministry of Justice and the Ministry of Internal Affairs for compliance with and protection of human rights and freedoms. They highlighted shortcomings and neglect in the work of the law enforcement agencies; proposals were drawn up for ways of overcoming them, and the results are constantly monitored.

31. In accordance with the recommendations of international organizations, detention conditions in the facilities of the penal correction system have improved considerably. Since 2003, a number of measures have been carefully and systematically adopted to liberalize and improve the penal correction system. Over the past years, the Ombudsman, the Ombudsman's regional representatives, and representatives of the National Centre for Human Rights, NGOs, international and foreign organizations, diplomatic missions and the foreign media regularly visit the correctional colony in Zhaslyk.

32. It should be noted that instances of torture, particularly in cases involving the death of detained or arrested persons, or that are a matter of public notoriety, are investigated with the involvement of representatives of the general public and civil society bodies and, in certain cases, foreign experts. In 2008, nine criminal cases were brought as a result of investigations into allegations of torture and other unlawful forms of treatment by staff of the law enforcement agencies, and the persons concerned were suspended from their posts in line with the legislation in force. It should also be pointed out that, of six cases brought to court in 2008, none of the staff of the law enforcement agencies prosecuted for the use of torture or other cruel, inhuman or degrading treatment or punishment evaded legal punishment. Thus, 12 accused received long sentences, and 3 were released under an amnesty. Analysis of the figures for the period 2004–2008 shows that cases were brought to court against 45 individuals, 25 were sentenced to long periods of deprivation of liberty, and 5 were sentenced to punitive work. A further 13 persons were released under an amnesty. Specifically, on 23 July 2008, staff of the Gallyaaral District Internal Affairs Office, Dzhizak province, brought Mr. B. Ergashev and Mr. R. Safarov to the police station, beat them and caused them bodily harm. As a result of his wounds, Mr. Ergashev went to hospital, where one of his kidneys was removed. On 24 July 2008, the Gallyaaral District Procurator's Office brought criminal proceedings in this case and, as a result of the investigations, five officers of the District Internal Affairs Office were prosecuted under articles 234, paragraph 1, 235, paragraph 2, 206, paragraph 2, and 104, paragraph 2 of the Criminal Code, and the case was brought to court. The court handed down a sentence, which has come into force. Further, on 2 July 2008, the deputy head of Mirzachul District Internal Affairs Office, Mr. F. Mukhammadiev, beat Mr. Abdurashid Darbishev and Mr. Abduvokhid Darbishev; Mr. Abdurashid Darbishev died in hospital of his injuries. Criminal proceedings were brought against Mr. Mukhammadiev; he was found guilty of Mr. Abdurashid Darbishev's death and sentenced to 20 years' deprivation of liberty.

33. The Supreme Court made a synthesis of criminal cases brought and considered under article 235 of the Criminal Code, which was reviewed at a meeting of the Court's Praesidium, and the corresponding order of 14 June 2008 on court practice on hearings of cases related to the use of torture and other cruel, inhuman or degrading treatment or punishment was approved. It noted that a court must respond by adopting specific rulings in respect of staff of the law enforcement agencies who have permitted violations of the law.

34. The results of the synthesis showed that it was mainly staff of the internal affairs agencies who were prosecuted in this category of case. This confirms the need to establish specific responsibilities for staff of the internal affairs agencies, to ensure guarantees of the rights of detainees and persons held on remand or serving sentences and to step up monitoring by the social institution of the Ombudsman and the National Centre for Human Rights of the activities of the law enforcement agencies in conducting investigations and other action.

35. On 10 December 2009, a round-table discussion was held on procedure for consideration by the courts and the law enforcement agencies of communications submitted under the Citizens' Applications Act and the act dealing with appeal to the courts against acts and decisions violating civil rights and freedoms. Representatives of the Oliy Majlis, relevant ministries and departments, the law enforcement agencies, national human rights institutes, non-governmental non-profit organizations, a number of international organizations accredited in the country, and the country's media took part in the event, which was organized by the Ombudsman. The participants noted that the introduction of international standards concerning the right of appeal and to court protection in national legislation, and the procedures for considering citizens' applications in the agencies of the procuratorial, internal affairs and justice systems that have mechanisms for receiving legal aid promote the use of the courts' powers to consider appeals against acts and decisions violating civil rights and freedoms.

#### **D. Information on paragraph 10 of the conclusions and recommendations**

36. During the pretrial investigation, in accordance with articles 46 and 48 of the Code of Criminal Procedure, suspects or accused persons are guaranteed the right to defence counsel as soon as they have been informed of the decision declaring them to be suspects or from the moment of their arrest, and to meet privately with counsel after they have been questioned. Such persons also have the right to conduct their own defence. In accordance with the law of criminal procedure, persons facing criminal prosecution are entitled to professional legal assistance. If an accused person or defendant is held in custody, the defence counsel has the right to hold private meetings with him or her; such meetings are not subject to any restrictions in number or duration (Code of Criminal Procedure, art. 53).

37. As required by the joint Ministry of Internal Affairs and Ministry of Health Order No. 248/625 of 4 December 2000 on measures to enhance medical services for persons remanded in custody and held in penal institutions, continuous efforts are being made to improve the quality of medical services. Persons remanded in custody receive consultations and treatment as necessary. The Penal Enforcement Code states that convicted persons are entitled to free professional medical treatment. In cases where there is no specialist capable of treating the illness of a convicted person in the penal institution, the penal institution provides an appropriately qualified doctor through the health authorities' air ambulance service.

38. In practice, a request from a convicted person or remand prisoner for the relevant medical specialist is considered by the director of the institution or by the supervising procurator. In accordance with the application, the convicted person is given the opportunity to consult the relevant specialist. The provision of professional medical treatment in penal institutions is governed by joint Ministry of Internal Affairs and Ministry of Health Order No. 231 of 2002, which corresponds to article 24 of the Health Protection Act.

39. Within the National Plan of Action to implement the concluding observations and recommendations of the Committee against Torture, the Ministry of Internal Affairs, together with the International Rehabilitation Council for Torture Victims, conducted an educational project to train medical staff working in penal institutions who are involved in identifying, assessing and documenting alleged cases of torture. A training seminar was held from 16 to 18 December 2008 for staff of the Central Penal Correction Department of the Ministry of Internal Affairs and forensic medical specialists from the Ministry of Health system on prevention, identification, assessment and documentation of cases of torture and other types of unlawful treatment in line with international standards and national legislation, organized by the Regional Office for Central Asia of the United Nations Office on Drugs and Crime. The seminar provided training for 15 experts from all the forensic medical institutions in the country. A total of 132 staff from the penal correction system (104 doctors and 28 mid-grade medical staff) have been taught to identify, evaluate and document cases of torture and other forms of unlawful treatment, and were instructed in ways of treating and rehabilitating victims. To raise the professional qualifications of staff and bring them in line with current requirements, the Tashkent Military Technical College and the Ministry of Internal Affairs Academy organized courses at the Teaching Centre in Almalyk to retrain and improve the qualifications of staff of the penal correction system.

40. Issues related to identifying the sequelae of torture and other cruel, inhuman or degrading treatment or punishment are included in the postgraduate teaching programme for forensic medical specialists. In 2009, the faculty of anatomical pathology and forensic medicine of Tashkent Institute of Advanced Medical Education provided specialized training on the subject for 64 forensic medical experts (five cycles of topic training). The courses included familiarization with the recommendations of the 1999 Istanbul Protocol

(Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

41. The Miranda Rule Democratic Institute, brought into legal existence by the act of 31 December 2008 on amendments and additions to certain legislative acts related to improving the institution of the legal profession, strengthened the legal status of detainees, suspects and convicted persons. The amendments and additions to the Code of Criminal Procedure include the provision that the accused person has the right to know what he or she is being accused of, to make a telephone call to or inform a counsel or close relative that and where he or she is being held, and to have and meet in private with a defence counsel, such meetings not being subject to any restrictions in number or duration; to be questioned, at the latest, within 24 hours following detention; to give testimony concerning the charges laid against him or her and any other circumstances of the case, or to refuse to give testimony, and to be informed that any testimony may be used as evidence against him or her; such persons also have the right to conduct their own defence.

42. Moreover, the law guarantees that the defence counsel may participate in a case at any stage of the proceedings, and, where the person concerned is detained, as soon as his or her right to freedom of movement is restricted. The rights of the defence counsel are significantly extended and include the right to know what the individual whose interests he or she is defending is suspected or accused of; to take part in the case on presentation of a lawyer's certificate and warrant giving authority to deal with the specific case; to acquaint him- or herself with the documents concerning the proceedings conducted with the participation of the suspect or the accused and, upon completion of the pretrial investigation, with the entire case file and to copy from these documents any information needed, to make, at his or her own cost, copies of the materials and documents or record in other form the information contained in them, using technical means; to submit complaints concerning the actions and decisions of the persons conducting the initial inquiries and other investigations, the procurator and the judge; to familiarize him- or herself with the record of the court session and make comments; and to be informed about any appeals or complaints and to enter objections against them.

43. The defence counsel has the right to gather witness statements that may be used as evidence by questioning individuals who have information relating to the case and receiving written statements of their agreement; to send requests and receive references, testimonials, explanations and other documents from State and other bodies, as well as enterprises, institutions and organizations. The defence counsel's application for inclusion of the material thus gathered in the case file is subject to the compulsory approval of the persons conducting the initial inquiries and other investigations and the procurator.

44. If the suspect, accused or defendant is held on remand, the defence counsel has the right to meet with him or her in private without any restriction on the number or length of such meetings and without the permission of the State bodies and officials responsible for conducting the criminal case. The first meeting between the detainee and the defence counsel in private takes place before the first examination.

45. Court practice shows that, in 2008, there was a total of two cases of violation of the rights of participants in criminal proceedings to defence, leading to the court decisions being set aside and the cases being sent either for further investigation or for a new hearing. Thus, on 10 April 2008, Namangan municipal court sentenced Mr. S. Abdikadirov, under article 166, paragraph 3 (c), of the Criminal Code to 8 years' deprivation of liberty. Despite this, during consideration of the sentence on appeal, it was found that the right of the defendant, S. Abdikadirov, to defence during the trial was not ensured according to due process. After review of the case on appeal by the procurator of Namangan, on 20 May 2008, the Namangan province court of appeal for criminal cases quashed the previous sentence and sent the case for a new hearing.

46. Moreover, over the past year, one case related to violation of the right to defence at the stage of the pretrial investigation has been sent for further investigation. Specifically, Mr. B. Kushakov, charged by the pretrial investigative authorities with involvement in a criminal case as the accused, for the illegal cultivation of plants containing narcotic substances, and the preparation for sale of narcotic substances, under article 270, paragraphs 4.1 and 25, and article 273, paragraph 5 of the Criminal Code, was not duly provided with a defence counsel during the pretrial investigation. Ascertaining the said violation of the law permitted by the pretrial investigative authorities, Samarkand provincial court, by decision of 25 February 2008, remanded the case for further investigation.

47. In accordance with article 217 of the Code of Criminal Procedure, when a person conducting an initial inquiry, an investigator, a procurator or a judge has applied a preventive measure against a suspect, accused person or defendant in the form of detention, remand in custody or confinement in a medical institution for expert examination, he or she must inform a family member of the measure within 24 hours or, in the absence of a family member, relatives or close acquaintances, and also inform the individual's place of work or study.

48. With regard to establishing contact between detainees and their families, article 230 of the Code of Criminal Procedure stipulates that visits to detainees by relatives and other persons shall be granted by the detention centre administration only with the written authorization of the person conducting the initial inquiry or the investigator, who is in possession of the case file relating to the detention.

49. On 12 May 2009, the Ombudsman, together with the Organization for Security and Cooperation in Europe (OSCE) Project Coordinator in Uzbekistan, organized a round-table discussion on the right to defence, practice and problems, with the participation of a foreign expert. Proposals were drafted for improvements to law enforcement practice in ensuring the right to defence and preventing cases of the use of torture and other unlawful methods.

## **E. Information on paragraph 11 of the conclusions and recommendations**

50. The Central Penal Correction Department of the Ministry of Internal Affairs ensures unimpeded access to penal correction establishments for representatives of the diplomatic corps, international non-governmental organizations, local non-governmental, non-profit organizations and the mass media, both local and foreign. Moreover, a Ministry of Internal Affairs order of 1 November 2004 was approved and registered by the Ministry of Justice (No. 1425 of 20 November 2004) as an instruction governing the organization of visits to penal correction institutions by representatives of the diplomatic corps, international non-governmental organizations, local non-governmental, non-profit organizations and the mass media. The instruction was published in the bulletin of the Ministry of Justice. The Department distributed the instruction to international and local non-governmental non-profit organizations.

51. On 17 January 2001, an agreement on humanitarian activities for detained or imprisoned persons was concluded between the Government of Uzbekistan and the International Committee of the Red Cross (ICRC). The Central Penal Correction Department is working in collaboration with ICRC to implement the agreement. During the period of collaboration, ICRC representatives have received cooperation, the conditions have been created and every possibility provided to organize visits by ICRC delegates to penal correction facilities. As a result, they have visited almost all the facilities in the penal system (4 in 2001; 5 in 2002; 30 in 2003; 46 in 2004; 1 in 2007; 19 in 2008; and 3 in 2009). In 2008, groups of ICRC delegates made 19 visits to correctional colonies and remand centres in Tashkent city and Tashkent, Andijan, Bukhara and Navoi provinces, of which 10

were repeat visits. ICRC delegates have visited three penal facilities since the beginning of 2009.

52. Under article 1 of the agreement, the ICRC delegates' visits to places of detention are purely humanitarian in nature. Under article 3, ICRC has access to all detainees and individuals who come under its specific competence at all stages of their detention. ICRC has access to all places of detention in the country (remand centres, prisons, correctional colonies, local police stations and medical facilities).

53. Under article 5 of the agreement, ICRC delegates have the right to make and repeat visits to all places of detention, without any restriction in time. Regardless of the place of detention, the length of the visit, the number of detainees and the number of ICRC delegates involved, the full visits are organized and conducted in accordance with the usual ICRC procedure and include the following:

- (a) An initial discussion with the administration of each place of detention;
- (b) A visit to all areas of the place of detention;
- (c) Private discussions with the detainees and registration of the detainees;
- (d) A final discussion with the administration of the place of detention;
- (e) Monitoring and special emergency visits (art. 6).

54. One of the basic issues subject to scrutiny during the visits is that of the treatment of prisoners. After each visit, there is a discussion between the management of the Central Penal Correction Department and the ICRC representatives on a series of issues: the activities of the penal correction facilities, the conditions and medical care for prisoners in special units, the rights and responsibilities of prisoners, dietary standards for prisoners, treatment by staff of prisoners in special units, procedure for meetings with family and lawyers, the quantity and reception procedure for food and other packages, and medicines where necessary, and the possibilities available to prisoners to maintain links with their family and friends.

55. Relations between the Central Penal Correction Department and ICRC are developing and it is proposed to expand the cooperation to train staff of the penal system in the areas of respect for human rights and how to provide care in the treatment of resistant forms of tuberculosis and HIV/AIDS.

56. There have been many visits to facilities of the penal correction system by European Union experts, diplomatic representatives from the embassies of the United States, France, Germany, the United Kingdom, Italy, the Netherlands, the Russian Federation, Iran and elsewhere, and correspondents from the Reuters, France-Presse and Associated Press news agencies and BBC radio.

57. It should also be noted that, in April 2009, to strengthen the legal guarantees for the activities of the Ombudsman, Parliament adopted an act on amendments and additions to certain legislative acts related to improving the work of the Human Rights Commissioner of the Oliy Majlis (Ombudsman). Specifically, article 216 of the Code of Criminal Procedure has been amended to give the Ombudsman the right to hold meetings and discussions with detained persons. The Penal Enforcement Code had been amended to provide for the right of the Ombudsman to visit correctional facilities without hindrance, and to prohibit censorship of correspondence from convicted persons to the Ombudsman.

## **F. Information on paragraph 14 of the conclusions and recommendations**

58. Uzbekistan's legislation does not give human rights defenders a specific legal status since any non-governmental, non-profit organization is, to a greater or lesser degree, involved with defending human rights and so most of them can be considered to be human rights defenders. Organizations such as the Committee for the Protection of the Rights of the Individual, the Centre for the Study of Human Rights and Humanitarian Law, the Independent Human Rights Organization of Uzbekistan, the Ezgulik Human Rights Society of Uzbekistan and the Institute of Democracy and Human Rights carry out their activities successfully in the country.

59. The National Association of Non-Governmental Non-Profit Organizations of Uzbekistan was established in 2005 in order to coordinate the activities of non-profit organizations; it currently has 325 members, covering all aspects of public life and working in such areas as social support and legal, women's, youth, environmental and other issues. The Non-Governmental Non-Profit Organizations Support Fund was established under the auspices of this Association.

60. A joint decision by the Kengashes (Councils) of the Legislative Chamber and Senate of the Oliy Majlis to strengthen support for non-governmental, non-profit organizations and other civil society institutions was adopted in July 2008. This is another step by the Government to develop cooperation and support for civil society institutions. The decision created: a social fund to support non-governmental, non-profit organizations and other civil society institutions, and a Parliamentary commission, including non-governmental, non-profit organizations and representatives of the Parliament. Non-governmental, non-profit organizations may receive grants and subsidies from the fund. An audit commission has been set up to monitor the use of funds from the State budget.

61. Allegations of persecution of human rights defenders have no basis. The National Association of Non-Governmental Non-Profit Organizations has received no communications from any human rights defender and does not have any information on cases of judicial persecution or deprivation of liberty. It should be noted that some of the members of the National Association of Non-Governmental Non-Profit Organizations are human rights organizations that carry on their activities unhindered.

62. The National Plan of Action to implement the concluding observations and recommendations of the Committee against Torture includes a study of international experience of the activities and legal status of human rights defenders, and the organization of a round-table discussion on the definition of "human rights defender", and the advantages and guarantees provided for their activities.