

Mandates of the Special Rapporteur on the independence of judges and lawyers; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

Ref.: AL UZB 3/2024
(Please use this reference in your reply)

16 August 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 53/12, 51/8, 53/4, 52/9, 50/17 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning reports of internet shutdowns, harassment of activists, imprisonment of protestors and civil society members, and failure to investigate and hold accountable perpetrators of serious human rights violations, in the aftermath of the violent crackdown of protests in the Karakalpakstan region of the Republic of Uzbekistan in July of 2022.

Special Procedure mandate holders had already expressed concerns about the case of Daulet Tazhimuratov in their communication UZB 2/2023, dated 2 August 2023. We thank you for the reply sent on 24 January 2024, however concerns persist.

According to the information received:

The Republic of Karakalpakstan is an autonomous region in the northwest of Uzbekistan that enjoys autonomy under the terms of the Constitution.

July 2022 Unrest in Karakalpakstan

On 1 July 2022, large-scale protests broke out in the city of Nukus, the capital of Karakalpakstan, after the Government of Uzbekistan proposed amending the Uzbekistan constitution to remove aspects of Karakalpakstan's legal autonomy.

Reporting suggests that the protests were peaceful and focused on demonstrating public opposition to the proposed constitutional amendments, as well as the detention of a prominent local lawyer and journalist, Daulet Tazhimuratov. Despite the peaceful nature of the protests, the police of Uzbekistan and law enforcement agencies allegedly used lethal and excessive force, including small arms and grenades, to disperse and suppress the protests. The Uzbek authorities publicly claimed that protesters had engaged in aggressive actions towards the military.

On 2 July 2022, the President of Uzbekistan, Shavkat Mirziyoyev, reportedly visited the city of Nukus in an attempt to ease tensions. However, by 3 July 2022, reports emerged indicating that at least 18 protestors had been killed.

On 3 July 2022, the Uzbek authorities implemented a state of emergency and enforced a curfew in Karakalpakstan, which remained in force until 21 July.

On 4 July 2022, reports suggested that the Uzbek authorities began restricting communication through internet shutdowns and restricted mobile services in Nukus days prior to the protests, making it hard for the witnesses to share information on the protest crackdown.

By 5 July 2022, the Uzbek authorities reportedly arrested and detained more than 500 people. According to the information received, some protestors were subjected to ill-treatment during their detention, including torture and denial of access to lawyers and communications to their family members.

On 15 July 2022, the Senate and the Legislative Chamber of the Oliy Majlis of Uzbekistan established a joint commission to investigate the July unrest. The Investigative Commission consists of 14 people, including deputies and senators of the Oliy Majlis, experts and scholars, governmental officials, and representatives of non-governmental organizations. The Investigative Commission is led by the Uzbek human rights Ombudsperson. To date, the Investigative Commission has not released its findings.

On 18 July 2022, the press secretary of the Prosecutor General's Office of Uzbekistan, announced that 21 people died and 274 required medical attention. However, reports suggest that the actual number of casualties is higher.

The Trials of Karakalpak Protestors

In the aftermath of the crackdown, several activists and protestors were reportedly prosecuted for their involvement in the Karakalpakstan protests. The first trial began in November 2022 in Bukhara, Uzbekistan, and involved twenty-two defendants (referred to as "Group 22") who were accused of organizing the protests.

With respect to the charges against Group 22 members, each defendant was charged with one or more of the following crimes under the national criminal code: Conspiracy to seize power or overthrow the constitutional order (Criminal Code article 159(4)), Embezzlement (Criminal Code article 243), Organization or participation in mass riots (Criminal Code article 244-1(3)), Production or dissemination of materials threatening to public security (Criminal Code article 244-1(3)), and Illegal seizure of firearms and ammunition (Criminal Code article 247(3)(a)).

The charges of overthrowing the constitutional order, organizing mass riots, and producing materials threatening public security are directly connected to the organization of the July 2022 protests. The information suggests that merely organizing and participating in protests against the proposed constitutional changes constituted violations of these criminal provisions. The charge regarding the illegal seizure of firearms pertains to allegations that

certain protesters disarmed government security forces who were actively using their weapons during the government's effort to suppress the protests by force. It is alleged that the defendants did not personally seize the firearms but rather incited others to do so in their attempt to overthrow the government and instigate an illegal riot.

Reports indicate that the trial process was marred by numerous procedural irregularities for defendants in Group 22. Some defendants were allegedly held incommunicado for a prolonged period prior to the start of the trial, with no access to legal counsel of their choosing or communication with their families. Moreover, with the exception of two defendants, none of the Group 22 members, including their families and lawyers, received copies of the indictment against them. The two who received copies of the indictment only did so after a direct request to the government. The information suggests that the defendants were informed that they would be granted leniency if they did not request copies of official documents related to the proceedings and if they did not appeal the trial result, which disincentivized defendants from seeking information about their own cases.

On 31 January 2023, the trial court handed down various sentences to the twenty-two defendants. Most of those convicted reportedly pled guilty in exchange for clemency. The most severe sentence was imposed on one individual, who was sentenced to 16 years in prison for allegedly conspiring to overthrow the constitutional order. Additionally, fifteen other defendants were sentenced to prison terms ranging from three to eight-and-a-half years, while the six remaining defendants received noncustodial sentences with court-ordered restrictions on their liberty. Sixteen of the twenty-two individuals appealed against the decision of the trial court.

On 6 February 2023, the government opened a criminal prosecution of another thirty-nine protesters before the Bukhara Regional Court.

In March 2023, all thirty-nine defendants were convicted. Their sentences vary from 11 years in prison to release on parole. Twenty-eight of the defendants appealed.

On 5 June 2023, the Supreme Court of Uzbekistan issued its opinion on the appeals of sixteen individuals of Group 22. The Supreme Court suspended the prison terms for eight defendants, allowing them to return to their homes. Additionally, the Court reduced the sentences for six other defendants. Lastly, the Supreme Court denied the appeal by Mr. Daulet Tazhimuratov.

Mr. Tazhimuratov is currently serving his 16-year sentence in the high-security colony KIN 11 in the city of Navoi. According to information received, his health has deteriorated significantly in the past weeks, including severe weight loss, nausea and vomiting. The deterioration of the health condition of Mr. Daulet Tazhimuratov is also reportedly due to the inhumane living conditions under which he is serving his sentence, including lack of access to clean drinking water and lack of protective equipment when working in a lime factory where he is exposed to harsh chemical substances.

On 12 June 2023, the Court of Appeal ruled on the judgement of March 2023, deciding that five of the twenty-eight appellants were to be released with restrictions, sixteen received reduced sentences, and the sentences for the other seven individuals were unchanged.

While we do not wish to prejudge the accuracy of these allegations, we are concerned by reports that the proceedings against the Karakalpakstan protesters are directly related to their exercise of their freedom of expression, peaceful assembly and association, both of which are protected under international human rights law binding on Uzbekistan. We are also very concerned at the information received suggesting that the authorities attempted to discourage defendants from seeking copies of their indictment and from exercising their right to appeal, restricted their access to legal counsel of their choosing and coerced confessions in exchange for leniency.

If confirmed, these actions would violate the guarantees afforded to individuals charged with a criminal offense under article 14 of the ICCPR, which include the rights to timely and comprehensive information in a language they comprehend regarding the nature and grounds of the charges, the right to legal representation of their choice, the right against self-incrimination or coerced confessions, and the right to have their conviction and sentence reviewed by a higher tribunal in accordance with the law.

We are also concerned about the use of mass trials and how they may negatively affect the safeguards described above, which are in place to ensure due process and the right to fair trial. By not allowing cases to be considered individually, and by eroding the ability of defendants to have the necessary preparation, access to counsel of their choice, and provision of resources, mass trials weaken equality of arms and the right to fair trial of the accused.

We are further concerned by the alleged excessive use of force against protestors leading to the deaths of protestors and by the apparent failure to conduct adequate investigations into the deaths.

We also express our concern about the fact that some protesters were allegedly subjected to severe acts of torture while in government custody. We recall that the right to life, and the right not to be subjected to torture are *jus cogens* norms, also enshrined in international customary law, from which no derogation is permitted, regardless of contexts of internal political instability or any other public emergency (Human Rights Committee, general comment no. 36, para. 2). Uzbekistan, as a State party to the ICCPR, is required to undertake all necessary measures to prevent arbitrary deprivation of life by law enforcement officials. We make further reference to paragraphs 57 and 58 of the general comment No. 36, which states, inter alia, that extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (para. 57), and that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life, and States parties must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance (para. 58).

Further, we express concern over the fact that the proceedings against the Karakalpakstan protesters seem to be directly connected with their exercise of their right to freedom of expression, peaceful assembly and association, in apparent violation of articles 19, 21 and 22 of the ICCPR, as well as about the chilling effect that these judicial proceedings and sentences are prone to have in terms of freedoms of expression and association.

Finally, we also express serious concerns about the inhumane conditions that some of the defendants are held in, as well as the deteriorating health condition of Mr. Daulet Tazhimuratov.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the current conditions of detention and the situation of Group 22 members, the thirty-nine protesters prosecuted before the Bukhara Regional Court, and more generally any individual arrested and prosecuted in relation to the protests in the Karakalpakstan region of Uzbekistan in July of 2022.
3. Please indicate the measures taken to ensure the right to a fair trial of Group 22 members. Please explain how these measures are compatible with applicable judicial guarantees under obligations to respect human rights and international law.
4. Please provide detailed information on the measures which have been taken, or which are foreseen, to ensure full and impartial, effective, thorough and independent investigations, in relation to the deaths of protestors and the extent to which these investigations complied with international standards including the Minnesota Protocol. If measures have been undertaken, please make available the results of the investigations. If no such measure has been taken, please explain how this is compatible with the international human rights obligations of Uzbekistan.
5. Please provide detailed information on the measures which have been taken, or which are foreseen, to ensure full and impartial, effective, thorough and independent investigations, independent medical examinations, and judicial or other inquiries in relation to the allegations of arbitrary arrest, torture and other cruel, inhuman or degrading treatment or punishment. If measures have been undertaken, please make available the results of the investigations. If no such measure has been taken, please explain how this is compatible with the

international human rights obligations of Uzbekistan.

6. Please provide information on the Investigative Commission led by the Uzbekistan human rights Ombudsperson, including the modalities and methodology in place to ensure it can carry out an efficient investigation and release its findings.
7. Please provide information about the conditions of detention in high-security colony KIN 11 and how these meet international standards. Please also provide information about the current health situation of Mr. Tazhimuratov and whether he has access to adequate medical care.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit a case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the independence of judges and lawyers

Ganna Yudkivska
Vice-Chair on communications of the Working Group on Arbitrary Detention

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Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In relation to the allegations set out above, we would like to refer your Excellency's Government to article 5 of the Universal Declaration of Human Rights (UDHR); and articles 1, 2 and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) which establish the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment.¹ Attached to such prohibition are obligations to take all necessary measures to prevent torture or other ill-treatment (art. 2) and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to provide remedies to victims (arts. 10 and 11 et seq).²

Additionally, article 15 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment contains an absolute prohibition on the use of statements made as a result of torture or other ill-treatment in any proceedings: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." As the prohibition against torture and other ill-treatment is absolute and non-derogable under any circumstances, it follows that the exclusionary rule must also be non-derogable under any circumstances, including in respect of national security.³

We would also like to draw the attention of Your Excellency's Government to the fundamental norms set forth in articles 6, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Uzbekistan acceded on 28 September 1995.

We recall as well that States are expected to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials... These measures include putting in place appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review and investigation of lethal incidents and other life-threatening incidents, and supplying forces responsible for crowd control with effective, less-lethal means and adequate protective equipment in order to obviate their need to resort to lethal force. All operations of law enforcement officials should comply with relevant international standards, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and law enforcement officials should undergo appropriate training designed to inculcate

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- ¹ See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/77/502): <https://documents-ddsny.un.org/doc/UNDOC/GEN/N22/610/77/PDF/N2261077.pdf?OpenElement>
 - ² See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/52/30): <https://www.ohchr.org/en/documents/thematic-reports/ahrc5230-good-practicesnational-criminalization-investigation>
 - ³ See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/25/60) https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-60_en.doc#:~:text=The%20exclusionary%20rule%20covers%20the,the%20acts%20of%20torture%20or

these standards so as to ensure, in all circumstances, the fullest respect for the right to life (Human Rights Committee, general comment 36).

According to these instruments, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. Law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated. Medical assistance should be provided as soon as possible when necessary.

An important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequence. Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death. Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent (general comment 36). The failure of the State promptly to investigate does not relieve it of its duty to investigate at a later time: the duty does not cease even with the passing of significant time (Minnesota Protocol, para. 23).

Article 14 of the ICCPR provides a set of procedural guarantees that must be made available to persons charged with a criminal offence, including the right to be informed promptly and in detail in a language they understand of the nature and cause of the charge against them (paragraph 3 (a)); the right to legal counsel of their choosing (paragraph 3(d)); the right not to be compelled to testify against themselves or to confess guilt (paragraph 3 (g)); and the right to have their conviction and sentence being reviewed by a higher tribunal according to law (paragraph 5). General comment No. 32, para 31 specifies that the right to be informed of the charge “promptly” requires that information be given as soon as the person concerned is formally charged with a criminal offence under domestic law, or the individual is publicly named as such.

The Human Rights Committee also specifies in its general comment 32 the right of the accused to be tried without undue delay. This guarantee serves the purpose of preventing people from remaining in uncertainty for too long, as well as, if they are in preventive detention, to guarantee that said deprivation of liberty does not last longer than necessary in the circumstances of the case, but also that it results in the interest of justice. “What is reasonable must be evaluated in the circumstances of each case, taking into account mainly the complexity of the case, the conduct of the accused, and the way in which the administrative and judicial authorities have approached the matter. In cases where the court denies defendants bail, they must be tried as quickly as possible. This guarantee refers not only to the time interval between the formal accusation and the moment in which a process must begin but also to the time until the final ruling on appeal. All phases of the process must be held “without undue delay”, both at first instance and on appeal” (paragraph 35).

We would like to refer you to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, which establish that all governmental and other institutions must respect and conform to the independence of the judiciary (principle 1) and that judges will decide cases impartially, on the basis of the facts and in accordance with the law, “without any restriction and without undue influence, incitement, pressure, threat or interference, direct or indirect, from any sector or for any reason” (principle 2). These Basic Principles on the Independence of the Judiciary also provide that “everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures” (principle 5). Further, the principles provide that “the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.” (principle 6)

We would also like to refer His Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders (Havana, Cuba, 27 August to 7 September 1990). Principle 1 establishes that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings. Principle 7 provides that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention. Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services (principle 6).

Finally, principle 18 states that lawyers shall not be identified with their clients or their clients' cases as a result of the performance of their duties. This principle should be read in conjunction with the aforementioned principle 16(c), which requires national authorities to take all appropriate measures to ensure that lawyers are not subject to or threatened with prosecution or any other administrative, economic or disciplinary sanction for acts carried out in good faith in the exercise of their professional duties and responsibilities.

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”. Under article 19(3) of the ICCPR, any restriction on the right to freedom of expression must be: (i) provided by law; (ii) serve a legitimate purpose; and (iii) be necessary and proportional to meet the ends it seeks to serve. As such, article 19, provide protection for, inter alia, political discourse, commentary on one’s own and on public affairs, discussion on human rights, journalism, among others (Human Rights Committee, general comment no. 34, para. 11). The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. Under no circumstances can an attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, be compatible with article 19. The Committee further asserts that there is a duty of States to put in place effective

measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23).

Article 21 of the ICCPR protects the right to freedom of peaceful assembly and states that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. The Human Rights Committee previously affirmed that States “should effectively guarantee and protect the freedom of peaceful assembly and avoid restrictions that do not respond to the requirements under article 4 of the Covenant. In particular, it should refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety” (CCPR/C/THA/CO/2, para. 40).

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which provides for the right to meet or assemble peacefully;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.