UZBEKISTAN
FOLLOW-UP TO THE CONCLUDING OBSERVATIONS

Extract from the Report of the Special Rapporteur on Follow-up to Concluding Observations as the 106th Session (October 2012) - CCPR/C/106/2:

Uzbekistan
COB: CCPR/C/UZB/CO/3, adopted on 24 March 2010
Follow-up paragraphs:
8, 11, 14, 24
First reply:
Date information due: 24 March 2011. Date information received: 30 January 2012
Paragraph 8:
The State party should conduct a fully independent investigation and ensure that those responsible for the killings of persons in the Andijon events are prosecuted and, if found guilty, punished, and that victims and their relatives are given full compensation. The State party should review its regulations governing the use of firearms by the authorities, in order to ensure their full compliance with the provisions of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).
Summary of State party’s reply:
The Andijon events led to the following actions:
• Investigation by an objective and impartial investigation group led by qualified staff of the country’s judicial services.
• Establishment of an independent parliamentary commission.
• Formation of a working group composed of high-level representatives of the diplomatic corps to monitor events.
• Discussion of the matter during meetings between a group of experts of Uzbekistan and a delegation of European Union experts in December 2006 and April 2007. The latter were informed of the results of the investigation and received answers to their questions. They unanimously concluded that the Andijon events were due to a serious terrorist attack against Uzbekistan.
• Consideration by the country’s courts of six criminal cases involving 39 internal affairs officials and members of the military. They were found guilty of complicity and negligence in the performance of their duties, were sentenced to terms of deprivation of liberty and to punitive deduction of earnings, and were assigned to a disciplinary unit.
Evaluation:
The State party describes the actions taken to investigate the Andijon events and the decisions taken with regard to 39 internal affairs officers and members of the military. Nevertheless, no new actions have been taken since consideration of the State party by the Committee in March 2010.

No information has been provided on the amendment of the regulations governing the use of firearms by the authorities. The recommendation has therefore not been implemented.

Paragraph 11:

The State party should:

(a) Make sure that an inquiry is conducted by an independent body in each case of alleged torture;

(b) Strengthen its measures to put an end to torture and other forms of ill-treatment, initiate judicial proceedings for and investigate each case and prosecute and punish all offenders, in order to combat impunity;

(c) Compensate the victims of torture and ill-treatment;

(d) Consider introducing audiovisual recording of interrogations in all police stations and places of detention;

(e) Ensure that the specialized medical-psychological examination of alleged cases of ill-treatment is carried out in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);

(f) Review all criminal cases based on allegedly forced confessions and use of torture and ill-treatment and verify whether these allegations were properly addressed.

Summary of State party’s reply:

Subparagraph (a): The Further Training Centre for Lawyers has courses including modules for judges and lawyers on judgements in cases involving torture. Other courses are frequently offered on the same topic.

Subparagraph (b): Under article 329 of the Criminal Procedure Code, complaints concerning unlawful actions committed by law enforcement officers, including torture, must be registered and resolved without delay. The legality of motives and the validity of grounds for bringing a criminal case must be verified within 10 days. Representatives of the Human Rights Commissioner of the Oliy Majlis (Ombudsman) and the National Centre for Human Rights take part in the investigations.

The investigation of complaints concerning the use of unlawful methods by members of the law enforcement agencies is the responsibility of the special internal security units (special staff inspection units), which are attached to the Ministry of the Interior. These units are independent, since they are not subordinate to anti-crime agencies and services.
An interdepartmental working group set up in 2004 is tasked with monitoring the observance of human rights by law enforcement agencies.

Under an order by the Procurator-General, the prosecution services are obliged to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Prosecutors verify the legality of the detention of prisoners held in police cells and the conditions of detention in remand units. In the event of unlawful actions, appropriate measures are taken. The prosecution services keep a database of cases where unlawful treatment or punishment has been used.

The Supreme Court is planning to conduct a review of judicial practice in order to identify acts of torture and of evidence obtained through physical or psychological coercion and to compensate victims of torture for harm suffered during the period 2011–2012.

Altogether 2,374 complaints were lodged during the first nine months of 2011, compared to 2,283 in the first nine months of 2010. Some 130 of these cases involved the use of torture or other cruel, inhuman or degrading treatment. Nine criminal cases were brought against law enforcement officials under article 235 of the Criminal Code.

Subparagraph (c): The Criminal Procedure Code provides for personal rehabilitation and sets out the grounds and procedures for rehabilitation and for granting compensation for any harm suffered. In the case of unlawful arrest or remand in custody, unlawful suspension from duties in connection with being charged with a crime, or unlawful internment in a medical establishment, the person affected is entitled to compensation and to reparation for moral injury.

Subparagraph (d): In accordance with the Criminal Procedure Code, investigators make use of audio and video recordings for interrogations, witness confrontations, verification of statements taken at the crime scene, expert evaluations, identity parades and identification of important physical evidence, and crime scene inspections, among others. Consideration is currently being given to the option of equipping holding cells and isolation cells with additional audio and video monitoring equipment.

Subparagraph (e): During the period 2010–2011, 55 doctors from the prison system of the Ministry of the Interior received training in forensic aspects of determining biological signs of torture and other cruel, inhuman or degrading treatment or punishment.

Quarterly reviews are received and analysed by the services of the Ministry of the Interior and territorial authorities. Despite the measures adopted, cases do still occur. Training and media campaigns are conducted for the general population and Ministry of the Interior staff to explain existing domestic and international norms for safeguarding human rights and prohibiting torture and other ill-treatment.
The use of evidence obtained under duress is prohibited (art. 17 and art. 22, para. 2, of the Criminal Procedure Code). All evidence must be verified and evaluated (art. 112 of the Criminal Procedure Code). Jurisprudence confirms the relevant instructions issued by the Supreme Court.

If the defendant alleges that he confessed under torture or other unacceptable treatment, the court is obliged, if there are sufficient grounds, to initiate criminal proceedings (Criminal Procedure Code, art. 321). Criminal proceedings may also be opened if there is evidence that an offence has been committed (Criminal Procedure Code, art. 322).

NGO information:

Subparagraph (a): There is no independent body responsible for investigating alleged cases of torture. The interministerial working group is not representative since civil society is represented only by pro-government organizations. The investigative bodies follow procedures that are not known to the public, and they do not have sufficient human or material resources to do their work.

The Office of the Human Rights Commissioner can conduct its own investigations into cases of human rights violations and can order national bodies to take the necessary measures to prevent such violations and compensate victims. In practice, the Commissioner does not conduct investigations but merely sends a letter to the alleged perpetrator and his or her supervisor to inform them that a complaint has been received and that they should respond to it.

Subparagraphs (b) and (c): To gain access to places of detention, civil society organizations must obtain special authorization through a procedure that is not clear. Few organizations receive such authorization.

There is no system for compensating or rehabilitating torture victims. The resistance of courts and other judicial bodies to recognizing acts of torture or ill-treatment and declaring testimony and other evidence obtained by torture inadmissible is preventing the establishment of such a system. While the rehabilitation centres of each region’s or district’s administrative centres help former prisoners to find work and to deal with health and reintegration issues, they do not offer any post-torture rehabilitation.

The State party asserts that it has established several mechanisms for ensuring that complaints of torture are handled appropriately. Nevertheless, impunity for perpetrators remains as common as the practice of torture. Statistics are shown indicating that since 2004 an average of 2 per cent of complaints have resulted in trials.

Victims, their families, human rights defenders, journalists and lawyers have been subjected to threats and persecution, which makes it dangerous to disseminate information on the topic. Perpetrators of torture or ill-treatment are also sometimes amnestied.
Subparagraphs (d) and (e): There is no clear information on the audiovisual equipment available in police stations and places of detention. Interrogations are filmed only at the request of the inspector in charge of the investigation. The 2009 Act on forensic medical examinations does not allow the defence to use the results of medical-psychological examinations as evidence.

Subparagraph (f): The legal prohibition against using coercion to obtain confessions and against the use of torture and other ill-treatment is not observed in practice. Examples are given.

Evaluation:

Subparagraphs (a) and (b): [B2]: Additional actions are needed. The information provided does not guarantee the independence of the body investigating cases of torture and ill-treatment because such cases are “checked” by the special internal security units, which are attached to the Ministry of the Interior, on which staff members of the police and security services also depend. The training mentioned appears to be the only measure taken to combat impunity. There is no description of the implementation of the principles advocated in the course of the training.

Subparagraph (c): [B2]: More information is needed on the proportion of cases in which victims were compensated and on the amount of the compensation, as well as on the State party’s plans to institute compensation or rehabilitation for the psychological and social impact of torture and other cruel, inhuman or degrading treatment. The State party refers to rehabilitation measures for victims, but information is still needed on the psychological and social support they actually receive.

Subparagraph (d): [B1]: More information is needed on the implementation of the principles enshrined in the Criminal Procedure Code with regard to the recording of interrogations conducted at police stations and detention centres, such as the proportion of police stations and detention centres equipped with recording devices, and the proportion of cases in which recordings are actually made.

Subparagraph (e): [C1: Recommendation not implemented: The information provided does not make it possible to evaluate the implementation of the Istanbul Protocol, in particular in connection with specialized medical and psychological examinations.

Subparagraph (f): [B1]: More information is needed on the implementation of the legal prohibition against the use of coercion, torture and ill-treatment to obtain confessions. Information should be provided on the number of complaints filed against the use of coercion, torture or ill-treatment to obtain confessions, and about the follow-up decisions adopted.

Paragraph 14:

The State party should:

(a) Amend its legislation to ensure that length of custody is fully in line with the provisions of article 9 of the Covenant;
(b) Ensure that the legislation governing judicial control of detention (habeas corpus) is fully applied throughout the country, in compliance with article 9 of the Covenant.

Summary of State party’s reply:

The prevailing legislation and the application of habeas corpus were analysed. Given that in most countries detention in custody is limited to 48 hours, and given the growing use of information technology in law enforcement, “it would be desirable to reduce the period of custody to 48 hours”.

Since 2008 the authority to order remand in custody as a preventive measure has rested not with the prosecutors but with the courts.

The results of the study of the application of habeas corpus were sent to all the Ministry of the Interior structural units and all territorial authorities with a request for proposals for legislative reform.

Evaluation:

[B2]: The recommendation has not been implemented. Additional actions are needed for the adoption of legislative reforms with regard to the duration of detention in custody and judicial oversight of detention.

Paragraph 24:

The State party should allow representatives of international organizations and NGOs to enter and work in the country and guarantee journalists and human rights defenders in Uzbekistan the right to freedom of expression in the conduct of their activities. It should also:

(a) Take immediate action to provide effective protection to journalists and human rights defenders who were subjected to assaults, threats, and intimidation due to their professional activities;

(b) Ensure the prompt, effective, and impartial investigation of threats, harassment and assaults on journalists and human rights defenders and, when appropriate, prosecute and institute proceedings against the perpetrators of such acts;

(c) Provide the Committee with detailed information on all cases of criminal prosecutions relating to threats, intimidation and assaults of journalists and human rights defenders in the State party in its next periodic report;

(d) Review the provisions on defamation and insult (arts. 139 and 140 of the Criminal Code) and ensure that they are not used to harass, intimidate or convict journalists or human rights defenders.

Summary of State party’s reply:
• In 2010 and the first nine months of 2011, no cases of threats, intimidation or attacks on journalists or human rights defenders were investigated by the Public Prosecutor, the National Security Service or the internal affairs agencies. The Ministry of Justice is not aware of cases of entry into Uzbekistan being refused to representatives of national or international organizations, or of journalists or human rights defenders being deprived of liberty, physically assaulted, harassed or intimidated.

• No criminal cases arising from threats, intimidation or attacks directed at journalists have been brought by the internal affairs agencies, the National Security Service or the Public Prosecutor, and the courts have examined no such cases.

• Under the Non-Profit Non-Governmental Organizations Act, the Ministry of Justice accredits foreign staff of international and foreign NGOs, as well as dependent members of their families.

• Particular attention is paid to ensuring the development of the media and conditions of transparency and freedom for their work. A solid legal and regulatory framework has been developed for the media in line with international norms and principles.

• The number of non-State media, which include more than 50 per cent of all television and radio channels, is growing.

• The enhancement and strengthening of press activity are priorities for the “presidential strategy for further extending democratic reforms and developing a civil society in the country”.

Evaluation:

[D1]: No information is provided on:

• Measures taken to prevent cases of harassment and threats against journalists and human rights defenders. Additional actions are needed to identify, recognize and prevent assaults, threats and acts of intimidation against journalists and human rights defenders such as those reported to the Committee.

• The review of the provisions on defamation and insult (articles 139 and 140 of the Criminal Code) and the steps taken to ensure that they are not used to harass, intimidate or convict journalists and human rights defenders.

The recommendation has therefore not been implemented.

**Recommended action:** Letter reflecting the Committee’s analysis.

**Next periodic report:** 30 March 2013
Extract from the Annex to the Report of the Special Rapporteur on Follow-up to Concluding Observations as the 106th Session (October 2012):

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