



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Report on follow-up to the concluding observations of the Human Rights Committee\*

#### Addendum

### Evaluation of the information on follow-up to the concluding observations on Uzbekistan

*Concluding observations (128th session):* [CCPR/C/UZB/CO/5](#), 27 March 2020

*Follow-up paragraphs:* 5, 25 and 29

*Information received from State party:* [CCPR/C/UZB/FCO/5](#), 24 November 2022

*Committee's evaluation:* 5 [C], 25 [C] and 29 [B] [C]

### Paragraph 5: Views under the Optional Protocol

The State party should take all necessary measures to ensure the implementation of all pending Views adopted by the Committee, through appropriate and effective mechanisms, so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant, in accordance with article 2 (3) of the Covenant. The State party should also ensure that national legislation is not interpreted in a way that constitutes an obstacle to the implementation of the Views of the Committee.

#### Summary of the information received from the State party

No information was provided.

#### Committee's evaluation

[C]

The Committee regrets the absence of information on measures taken to ensure the implementation of all pending Views adopted by the Committee, through appropriate and effective mechanisms. The Committee reiterates its recommendation.

### Paragraph 25: Prohibition of torture and ill-treatment

The State party should take robust measures to eradicate torture and ill-treatment, including by:

- (a) Conducting prompt, thorough, effective, independent and impartial investigations into all allegations of torture and ill-treatment, in line with the Manual

\* Adopted by the Committee at its 140th session (4–28 March 2024).



**on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), ensuring that perpetrators are prosecuted and, if convicted, punished appropriately and that victims receive full reparation;**

**(b) Ensuring that all persons deprived of liberty have access to an independent and effective complaints mechanism to investigate allegations of torture and ill-treatment that guarantees prompt, effective and direct access to the bodies responsible for handling such complaints, including by strengthening the independence and capacity of the ombudsman to respond to such complaints;**

**(c) Guaranteeing the protection of complainants against any form of reprisal, and ensuring that any case of reprisal is investigated and that the perpetrators are prosecuted and, if convicted, are punished appropriately;**

**(d) Eliminating any obstacles, including in national legislation and in practice, that can discourage the reporting of torture and other ill-treatment.**

#### **Summary of the information received from the State party**

(a) According to data from the Ministry of Internal Affairs, in the first nine months of 2022, four cases were brought under article 235 of the Criminal Code, on the use of torture and other cruel, inhuman or degrading treatment or punishment. In 2021, there were five such cases and three persons were prosecuted. There were no criminal cases under article 235 in the first nine months of 2022. In 2021, 15 persons were convicted under that article, 3 of whom were partially deprived of their liberty and 12 were given prison sentences. In 2020, 15 persons were convicted under that article, 2 of whom were partially deprived of their liberty and 13 were given prison sentences. In 2020 and 2021, 10 and 12 persons, respectively, were recognized as victims in cases brought under that article. Compensation for the material damages caused by the crime was not awarded in the course of those proceedings.

Act No. 761 of 29 March 2022 supplemented article 991 of the Civil Code, pursuant to which the State must provide full compensation, in the manner prescribed by law, for harm caused to a citizen by, inter alia, any act of torture or other cruel, inhuman or degrading treatment or punishment, regardless of whether those at fault are officials conducting the initial inquiry or pretrial investigation or are employed by the procuratorial offices or the courts. The court may decide to make the officials who caused the harm responsible for the compensation. In 2021, one civil claim, which was partially satisfied, was brought against four respondents convicted in 2020 of crimes under articles 234, 235 and others of the Criminal Code. The respondents were ordered to pay the plaintiff compensation totalling 8,785,000 sum for material and non-material damages.

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

(c) In 2020, 2021 and the first nine months of 2022, no cases were brought under article 144, part 2, of the Criminal Code. No one convicted of a crime under article 144, part 2, of the Criminal Code is serving a sentence in a penal establishment.

(d) No information was provided.

#### **Committee's evaluation**

[C]

The Committee, while noting the figures provided on cases brought and prosecutions initiated, regrets the absence of information on measures taken to ensure that all allegations of torture and ill-treatment are investigated promptly, effectively, independently and impartially. The Committee also regrets the lack of detailed information on the sentences handed down to

perpetrators, including the duration of custodial sentences. While noting the strengthening of legislative provisions relating to compensation for victims of torture and ill-treatment, the Committee also notes that only one victim appears to have been awarded compensation during the reporting period. The Committee regrets the absence of information on other forms of reparation provided to victims, including rehabilitation. The Committee requests that the State party provide detailed information on all of the above in its next report.

While noting the figures provided, the Committee regrets the absence of information on measures taken to ensure that all persons deprived of liberty have access to an independent and effective complaints mechanism to investigate allegations of torture and ill-treatment, including measures taken to strengthen the independence and capacity of the ombudsman to respond to such complaints. The Committee reiterates its recommendation.

The Committee notes that no cases have been brought in the reporting period under article 144, part 2, of the Criminal Code concerning reprisals relating to the submission of complaints to State authorities on alleged torture and ill-treatment. It also notes that no one convicted of a crime under this provision is serving a sentence in a penal establishment. The Committee reiterates its request for information on measures taken to ensure that acts of reprisal are effectively sanctioned and requests information on the number and type of complaints submitted under article 44, part 2, of the Criminal Code, on related prosecutions and convictions, and details of sentences handed down. The Committee regrets the absence of information on measures taken to ensure protection of complainants from reprisals and reiterates its recommendation in this regard.

The Committee regrets the absence of information on measures taken to eliminate obstacles, including in national legislation and in practice, that can discourage the reporting of torture and other ill-treatment. The Committee reiterates its recommendation.

## **Paragraph 29: Liberty and security of person**

**The State party should bring its legislation and practice into line with article 9 of the Covenant, in particular by ensuring that:**

- (a) Persons arrested or detained on a criminal charge are brought promptly before a judge or other officer authorized by law to exercise judicial power, within 48 hours, in order to bring their detention under judicial control;**
- (b) All fundamental legal safeguards are guaranteed in practice to all persons deprived of their liberty from the very outset of their deprivation of liberty;**
- (c) The judicial review of the detention of anyone who is deprived of his or her liberty satisfies the standards required under article 9 (4) of the Covenant, including the standards set out in the Committee's general comment No. 35 (2014) on liberty and security of person, indicating, inter alia, that a public prosecutor cannot be considered as an officer exercising judicial power under article 9 (3) of the Covenant;**
- (d) Alternative measures to detention and imprisonment are used for juvenile offenders where appropriate.**

### **Summary of the information received from the State party**

- (a) No information was provided.**
- (b) On 14 May 2020, amendments were made, under Act No. 617, to the Code of Criminal Procedure with a view to strengthening guarantees of public rights and freedoms. The amendments provide that video recordings are to be made of instances in which persons are taken into custody, waive their right to counsel and when persons in detention are subjected to strip searches and seizure of personal effects. While exceptions may be made only where proceedings cannot be delayed, this rule does not apply to detention in the facilities of the agencies of the Ministry of Internal Affairs or other law enforcement agencies. If no video recording is made of a person being taken into custody, the person is taken to the facility of the agency of the Ministry or of another law enforcement agency, where he or she is read his or her procedural rights on camera. The detainee is shown the recording. A note**

on the video recording of the proceedings, accompanied by the recording itself, is added to the record drawn up when a person is taken into custody or subjected to a search or the seizure of personal effects. If the detainee is not sufficiently fluent in the language in which the proceedings are conducted, he or she is read his or her rights before the first interrogation with the assistance of an interpreter. A note to that effect is included in the record.

The amendments also entailed revisions to the period of time by which notice had to be given of the application of coercive measures such as detention, house arrest or placement in a medical institution for an expert evaluation. Previously, for example, the official conducting the initial inquiry, the investigator, the procurator or the court had 24 hours to disclose that a given measure had been taken, whereas now, such disclosures must be made immediately. The notification that coercive measures have been taken is to be provided to an immediate family member or, in the absence of such a person, another relative or friend. Notification must also be provided to the individual's place of work or study. In the event that the measure involves a national of another State, the Ministry of Foreign Affairs is notified.

(c) In 2020, 664 decisions remanding suspects in custody were appealed against or contested before a higher court; 54 of those decisions were reversed, 9 were amended and 601 were upheld. In 2021, 1,102 such decisions were appealed against or contested before a higher court; 134 were reversed, 18 were amended and 950 were upheld. In the first nine months of 2022, 981 such decisions were appealed against or contested before a higher court; 136 were reversed, 9 were amended and 836 were upheld.

False arrest or unlawful detention is punishable under article 234 of the Criminal Code. In 2020, 17 persons were convicted under that article; in 2021, 21 persons; and in the first nine months of 2022, 3 persons. In 2020, 8 persons were recognized as victims in cases brought under that article; in 2021, 15 persons; and in the first nine months of 2022, 5 persons.

(d) From 1 January 2020 to 1 October 2022, the criminal courts heard 3,441 cases against 4,363 minors (2.8 per cent of the total number of cases heard), 3,015 of whom were given sentences. A total of 364 minors were sentenced to deprivation of liberty, while 2,651 were given non-custodial sentences. The fact that 88 per cent of all sentences involve alternatives to detention, and only 12 per cent are custodial, underscores the liberalization and humanity of the juvenile criminal justice system.

### **Committee's evaluation**

[B]: (b)

The Committee takes note of the amendments to the Code of Criminal Procedure introduced on 14 May 2020, pursuant to Act No. 617, aiming at strengthening safeguards for all persons deprived of their liberty, including the mandatory use and storage of video recording during custody proceedings, the provision of interpreters and the requirement that relatives or friends be notified immediately upon application of coercive measures such as detention. The Committee requests that the State party provide information on the implementation of these measures and of other fundamental legal safeguards in its next periodic report, including information on measures taken to ensure that all persons deprived of their liberty are able to access a lawyer of their choice.

[C]: (a), (c) and (d)

The Committee regrets the absence of information on measures taken to ensure that persons arrested or detained on a criminal charge are brought promptly before a judge or other officer authorized by law to exercise judicial power, within 48 hours, in order to bring their detention under judicial control. The Committee reiterates its recommendation.

The Committee notes the statistical information provided on judicial review of detention, including on illegal detention under article 234 of the Criminal Code. The Committee regrets the absence of information on whether the State party's framework for judicial review of detention is in conformity with article 9 of the Covenant, including the standards set out in the Committee's general comment No. 35 (2014) on liberty and security of person, indicating, *inter alia*, that a public prosecutor cannot be considered as an officer exercising judicial power under article 9 (3) of the Covenant. The Committee reiterates its recommendation.

The Committee notes the statistics provided on custodial sentences handed down to juveniles during the reporting period. The Committee regrets the lack of information provided on measures in place to ensure that alternatives to the detention of juvenile offenders are used where appropriate, in line with international standards. The Committee requests additional information on the availability and use of alternatives to detention that are appropriate to the age of the child and that take into account the desirability of promoting the child's reintegration into society.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

**Next periodic report due:** 2027 (country review in 2028, in accordance with the predictable review cycle).

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