

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE: AL UZB 2/2016:

11 November 2016

Dear Mr. Lapasov,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 25/2, 25/18, 25/13, and 32/19.

In this connection, we would like to bring to the attention of your Government information we have received concerning the ill-treatment and harassment of two human rights defenders, Ms. **Elena Urlaeva** and Ms. **Malohat Eshonkulova**, through arbitrary arrest and detention, beatings, death threats and confiscation of property by the police, which appear to be related to their legitimate human rights activities of monitoring incidents of forced labour in the cotton industry, and represent a criminalization of the exercise of their right to freedom of expression.

Ms. **Urlaeva** is the Head of the Human Rights Defenders Alliance of Uzbekistan and organizes public demonstrations for human rights and interacts with victims of human rights violations for monitoring purposes. In recent years, Ms. Urlaeva and Ms. **Eshonkulova** have been monitoring cases of forced labour of students in the agriculture sector. The evidence they gathered reportedly revealed a widespread and systematic state policy of compelling individuals to weed cotton fields in several regions of Uzbekistan.

Ms. Urlaeva was the subject of previous communications (UZB 5/2010, dated 28 May 2010; UZB 6/2009, dated 28 April 2009; UZB 1/2007, dated 21 January 2007; UZB 8/2006, dated 4 April 2006; and UZB 23/2005, dated 6 September 2005). We acknowledge the receipt of the replies to these communications, but reiterate our concerns considering the new information.

According to the information received:

On 6 October 2016, the National Security Service of Uzbekistan and local police arrested Ms. Urlaeva, while she was documenting the forced labour of teachers and pupils in cotton fields in the Tashkent region of Uzbekistan. The human rights defender was brought to the Buka District Department of Internal Affairs, where she was allegedly physically attacked outside the Police Department by an

individual who was in support of forced labour. She was then allegedly beaten by several police officers inside the Police Department and interrogated by police and Security Service officers for about eight hours. During her detention she was subjected to continuous physical assault, received death threats from the police, and had her belongings forcefully taken away from her. When she was released later on the same day, some but not all of her belongings were returned to her. However, there was no record made of the confiscated items. Once released, Ms. Urlaeva attempted to file a complaint against the police for the misconduct and to register the evidence of physical attacks, but this request was allegedly rejected.

On 9 October 2016, Ms. Urlaeva and Ms. Eshonkulova were monitoring, interviewing and photographing medical professionals and pupils coerced to work in cotton fields by the district authorities in the Bukhara region in Uzbekistan, when a police vehicle allegedly blocked their passage and police officers forcefully dragged them out of their vehicle and brought them into the police car. The two human rights defenders were transported to the Olot District Department of Internal Affairs, where they were interrogated for about nine hours and later on released. While arrested, they were subjected to strip searches and physical abuse, and received threats of further persecution. Their cameras and phones were seized. The police kept no records of the detention and interrogation of Ms. Urlaeva and Ms. Eshonkulova, nor of the confiscation of their belongings.

Serious concern is expressed at arbitrary arrest and ill-treatment of Ms. Urlaeva and Ms. Eshonkulova, which appear to be related to their legitimate human rights activities and represent a criminalization of the exercise of their right to freedom of expression. We further express our concern at allegations received about beatings, death threats and confiscation of property by the police against the two human rights defenders, which seem to be aimed at further silencing and intimidating them.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

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.

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 therefore 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 legal basis for the arrest and detention of Ms. Urlaeva and Ms. Eshonkulova, and explain how this is compatible with Uzbekistan's obligations under international human rights law.

3. Please provide information about the legal basis for denying any inquiry or investigation concerning serious allegations of ill-treatment and threats against the two human rights defenders by the police, and explain how the rejection of such a complaint is compatible with Uzbekistan's obligations under international human rights law.

4. Please provide information about the legal basis for the confiscation of the personal belongings of Ms. Urlaeva and Ms. Eshonkulova, and explain how this is compatible with international human rights law.

5. Please indicate what measures have been taken to ensure that human rights defenders in Uzbekistan are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment and prosecution of any sort.

We would appreciate receiving a response within 60 days.

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.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Lapasov, the assurances of our highest consideration.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

Dubravka Šimonovic  
Special Rapporteur on violence against women, its causes and consequences

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer to articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Uzbekistan on 28 September 1995, that guarantee the right not to be deprived arbitrarily of one's liberty and the right to fair proceedings before an independent and impartial tribunal.

With regard to the allegations of ill-treatment, threats and intimidation at the hands of the police, we wish to remind your Government of the absolute and non-derogable prohibition of torture and ill-treatment, as codified, inter alia, in the UDHR, ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by Uzbekistan on 28 September 1995. In this context, article 12 of the CAT requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT requires State parties to prosecute suspected perpetrators of torture. Paragraph 7b of Human Rights Council resolution 16/23 urges States to take note of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture.

We further like to refer your Government to articles 19 of the ICCPR that guarantee the rights to freedom of opinion and expression. In particular, we would like to remind your Government that any restrictions to this right to freedom of expression, which includes the right to seek, receive and impart information, shall be provided by law; may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and must conform to the strict tests of necessity and proportionality. In this regard, we reiterate the principle in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including on reporting on human rights; discussion of government policies and political debate; government activities and corruption in government; and peaceful demonstrations or political activities.

We would like to refer your 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 Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights; and
- 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.

We also wish to refer also to the Human Rights Council resolution 31/32, which in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy.

We finally wish to draw your attention General Assembly Resolution 68/181 which urges States to acknowledge publicly the important and legitimate role of women's rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them (OP7).