

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA UZB 2/2017

20 October 2017

Mr. Lapasov,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 34/18 and 34/19.

In this connection, we would like to bring to the attention of your Government information we have received concerning the arrest, detention and serious risk of torture of Mr. **Bobomurod Abdullayev**.

Mr. Abdullayev is an Uzbek journalist and sports commentator. He is also a political analyst, writing under a pseudonym. He has contributed articles for international media organisations.

Mr. Abdullayev was the subject of a previous communication (UZB 13/2004 dated 30 June 2004). We acknowledge the receipt of the replies to this communication from your Government, but are concerned about the new information which has been brought to our attention.

According to the information received:

On 27 September 2017, Mr. Abdullayev was arrested by the National Security Services (SNB) in Tashkent on the grounds of 'attempting to overthrow the constitutional order of the Republic of Uzbekistan.' His whereabouts were unknown to his family for two days. On 29 September, they found out that he was being held at the SNB pre-trial detention centre in Tashkent. On the same day, SNB officers searched Mr. Abdullayev's home for over five hours and confiscated books, a computer, memory cards and other media equipment. He has allegedly had no access to a lawyer since his arrest. Only his wife was able to visit him briefly in detention on 1 October. He has allegedly had no contact with his family since that date.

There are growing fears about the physical and mental integrity of Mr. Abdullayev given his confinement at the SNB pre-trial detention centre, where detainees are at a serious risk of torture and other forms of ill-treatment.

On 1 October 2017, in a closed hearing, the Yunusabadskiy District Criminal Court in Tashkent ordered the detention of Mr. Abdullayev, for allegedly preparing and distributing online materials in an attempt to overthrow the constitutional order of the state (Article 159 of the Criminal Code of the Republic of Uzbekistan). The Court ordered to remand Mr. Abdullayev in the SNB pre-trial detention centre.

We express concern at the arrest and alleged arbitrary detention of Mr. Abdullayev, who reportedly is being targeted for his journalistic work and critical political views. We also express concern about the alleged serious risk of torture and ill-treatment in detention, as well as lack of legal safeguards, including access to a lawyer of his choice and to his family.

We refer to article 19 of the International Covenant on Civil and Political Rights (ICCPR), that guarantees the rights to freedom of opinion and expression, to which Uzbekistan is a State party since 28 September 1995.

We also recall that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Uzbekistan is a State party since 28 September 1995, and in article 7 of the ICCPR.

We would further like to draw the attention of your Government to paragraph 27 of General Assembly Resolution 68/156 (February 2014), which, “[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Abdullayev is arbitrary or not, we would like to appeal to your Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the ICCPR.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of Mr. Abdullayev in compliance with international instruments.

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 any comment you may have on the above-mentioned allegations.
2. Please provide information on the legal basis for the arrest and detention of Mr. Abdullayev and how these measures are compatible with Uzbekistan's obligations under international human rights law, in particular with articles 9, 14 and 19 of the ICCPR.
3. Please provide information on the measures taken to protect Mr. Abdullayev from torture and ill-treatment in detention and to ensure that he has access to all legal safeguards, in accordance with Uzbekistan's obligations under international human rights law, including regular access to his family and a lawyer of his choice.

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 responsible of the alleged violations.

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

We would like to inform your Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

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