

**Mandate of the Special Rapporteur on the independence of judges and lawyers**

Ref.: AL UZB 2/2022  
(Please use this reference in your reply)

25 July 2022

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolution 44/8.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning recent statements made by the newly-appointed Chairman of the Supreme Court.

According to the information received:

On 13 June 2022, at the twenty-seventh plenary session of the Senate, [REDACTED] was elected to the post of Chairman of the Supreme Court of the Republic of Uzbekistan for a period of five years, an indefinite term of office as a judge, and a corresponding resolution of the Senate was adopted.

During his speech, the newly-elected Chairman stated that he would like to reform the Supreme Judicial Council and the Supreme School of Judges, further announcing the plans to place the School under the authority of the Supreme Court.

The Supreme School of Judges is a specialised educational entity, which has demonstrated its effectiveness in providing specialised trainings for current and future judges, including in cooperation with the Office of the High Commissioner for Human Rights, while providing various human rights training-seminars. The School also created the LL.M. with human rights as one of the main subjects to be studied by the current or future judges.

Without prejudging the accuracy of this allegation, I would like to express my concern that moving the Supreme Judicial Council in full or in part (Supreme School of Judges) under the Supreme Court structure, would make it impossible for it to exercise its "general responsibilities with regard to the administration of the court system". In addition, the move may debilitate measures that have been adopted to strengthen the independence of the judiciary and the free exercise of the legal profession taken since President Mirziyoyev took office.

Furthermore, I would like to express my concern that if the intention included the alleged statements comes to pass, this reform of the Supreme Judicial Council would be against the recommendations provided by me, during my visit to Your Excellency's country. Namely: "In order to strengthen the independence of the Supreme Judicial Council and minimize the risk of political interference, in addition to the responsibilities referred to in article 6 of the Law on the Supreme Judicial Council, the Council should be entrusted with general responsibilities with regard to the administration of the court system, the preparation of the judicial budget and the allocation of budgetary resources to the various courts."

While I express these concerns, and considering that, Uzbekistan is undergoing a time of Constitutional reforms, I take advantage of this letter to remind Your Excellency's Government of my recommendation that Uzbekistan should consider including a new provision in its Constitution to recognize that in case of a conflict between sources of law; international norms and standards on human rights should take precedence over national legislative or regulatory standards. I would ask that you bring this recommendation to the attention of the pertinent authorities.

I would also like to take this opportunity to take positive note, that an amendment abolishing the death penalty is included in the draft Constitution. In addition, at the initiative of the President Mirziyoyev, over the past five years, Uzbekistan has implemented broad organizational and legal measures aimed at fundamentally reforming the judicial and legal sphere:

- The Supreme Court of the Republic of Uzbekistan and the Supreme Economic Court were merged into a single supreme body - the Supreme Court of the Republic of Uzbekistan, as well as inter-district, district (city) economic courts and a system of administrative courts.
- The Higher Judicial Council and the Higher School of Judges were created. For the first time, a five-year, then a ten-year, and subsequently an indefinite period of tenure of a judge was established.
- Work has been organized to widely involve representatives of the media in court hearings in the manner prescribed by law.
- The practice of automatic distribution of cases between judges, conducting court hearings through a special communication system, recording court hearings using audio, video, and presenting court decisions without a human factor online has been introduced.
- A videoconferencing system has been established between courts and penitentiary institutions.
- The institution of "admissibility of evidence" has been improved, which, in turn, created the basis for a comprehensive examination by the court of all the circumstances of the case, an increase in acquittals with an objective assessment of evidence.
- The institution of reconciliation in criminal proceedings has been expanded, its application has been established in all instances, a preliminary hearing in a criminal case, an institution for conciliation on admission of guilt, and mediation institutions have been introduced.
- On the basis of the "one court – one instance" principle, a three-tier judicial system was introduced in accordance with international standards and the supervisory authority was abolished.
- In the administration of justice in 2017-2021 and in the four months of 2022, criminal, administrative, civil and economic courts considered a

total of more than 4.5 million cases. Of these, about 3.8 million claims were satisfied, and acquittals were issued against 4,050 defendants.

I welcome the fact that many of the measures taken are in line with the recommendations made by this Special Rapporteur for the Independence of Judges and Lawyers, after my visit to Uzbekistan in September 2019. However, I note that several of the recommendations from my visit are yet to be implemented, particularly those that concern “Strengthening judicial independence”, “Selection and appointment of judges”, “Disciplinary proceedings”.

In connection with the above alleged 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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 indicate the measures taken to guarantee the independence of judges and magistrates in the country, in accordance with the Principles of Independence of the Judiciary, described in the annex.
3. Please provide information on the measures taken to implement the remaining recommendations I made after my visit.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Diego García-Sayán  
Special Rapporteur on the independence of judges and lawyers

## **Annex**

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

In connection with above alleged facts and concerns, the independence of the judiciary and the right to a fair trial are prescribed, *inter alia*, in the International Covenant on Civil and Political Rights (ICCPR) acceded to by Uzbekistan on 28 September 1995; and article 10 of the Universal Declaration on Human Rights.

Article 14 of the ICCPR establishes the right to fair proceedings before a competent, independent and impartial tribunal established by law. In this regard, General Comment No. 32 (2007) of the United Nations Human Rights Committee notes, in paragraph 2, “the right to equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. Article 14 of the Covenant aims at ensuring the proper administration of justice, and to this end guarantees a series of specific rights”.

The Human Rights Committee, in its General Comment has noted that “(t)he notion of a “tribunal” in article 14, paragraph 1 designates a body, regardless of its denomination, that is established by law, is independent of the executive and legislative branches of government or enjoys in specific cases judicial independence in deciding legal matters in proceedings that are judicial in nature”.

In this connection, I would like to refer Your Excellency’s Government 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, and in particular principle 1 according to which “The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary”.