

**Communication 2234/2013: *Mutabar
Tadjibayeva v Uzbekistan***

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**Submission on the implementation of the
Views**

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I. Introduction

1. The Redress Trust (REDRESS) and the International Federation of Human Rights (FIDH) (together 'the Organisations'), legal representatives of Ms Mutabar Tadjibayeva in Communication 2334/2013, submit this response to Uzbekistan's comments on the Views adopted by the Human Rights Committee (the Committee) in Communication 2234/2013: *Mutabar Tadjibayeva v Uzbekistan* (State party's Submission).

II. Procedural History

2. Ms Tadjibayeva filed her complaint with the Committee in the present case on 18 December 2012. The Committee confirmed on 5 February 2013 that it registered her complaint as Communication 2234/2013 (Communication) and that it had transferred the Communication to the government of Uzbekistan (State party).
3. On 22 November 2013, the Committee's Petition Unit forwarded to the Organisations the State party's request that the Communication be translated into Russian. On 1 April 2014, the Organisations had facilitated the translation of the Communication into Russian and the Communication was transferred to the State party, which submitted its observations on the merits of the Communication on 4 July 2014.
4. On 12 September 2014, the Organisations submitted their response to the State party's observations.
5. The Committee adopted its views on the Communication on 1 October 2015, finding that the State party has violated articles 7, 9 (1), (2) and (4), 14 (1) and (3) (b) and (e), 19, 21, 22 and 26 and article 2 (3) read in conjunction with article 7 of the International Covenant on Civil and Political Rights (ICCPR) with regard to Ms Tadjibayeva and awarded various measures of reparation (Views). The Committee requested that the State party inform the Committee within 180 days about "the measures taken to give effect to its Views."
6. The State party's Submission, dated 16 October 2016, was made in the context of the Committee's follow-up procedure to communications considered under the Optional Protocol to the Covenant. It was sent to REDRESS on 28 March 2017. The Organisations note that there was a delay of more than five months

in passing on the State party's Submission to Ms Tadjibayeva's representatives. This delay is regrettable as it further prolongs Ms Tadjibayeva's access to justice.

III. The State party's Submission¹

7. Even though the State party's Submission was made in the context of the Committee's follow up procedure, it fails to consider the implementation of the Committee's Views in the present case. Instead, the State party exclusively sets out its disagreement with the Committee's findings. This is redundant, as the Committee's findings on the merits of the case, as expressed in its Views of 1 October 2015, are final. The Committee considers that submissions in the follow-up procedure which "challenge the Committee's Views and findings on factual or legal grounds, constitute much belated submissions on the merits of the complaint."²
8. The State party requested a translation of the Communication into Russian in November 2013, which it received on 1 April 2014 precisely so as to engage in the Committee's communication procedure and to encourage it to make a submission on the merits of the case. The State party responded on the merits of Ms Tadjibayeva's complaint on 4 July 2014, using the opportunity provided for in the Committee's Rules of Procedure to set out its views on the allegations made in the complaint.
9. The Committee considered the Communication "in light of all the information made available to it by the parties" and found, on several occasions, that "the State party has not refuted these allegations."³ The Committee then found that the State party is responsible for multiple violations of the ICCPR in regards to Mrs Tadjibayeva and recommended various measures of reparation.
10. While the State party's Submission failed to comment on the implementation of the Committee's Views, its Submission did, however, demonstrate that it has yet to implement the Committee's Views, as also set out below. Ms Tadjibayeva wishes to put on record her strong disagreement with the comments in Uzbekistan's Submission, as further set out in Annex II to this Submission.

¹ An un-official translation of the State Party's Submission from Russian into English is annexed to this Submission for the Committee's convenience, see Annex I.

² See for instance, UN General Assembly, Report of the Human Rights Committee, Volume I, A/64/40 (Vol.I), 2009, para.233.

³ See for example, paras. 7.3 and 7.8 of the Committee's Views.

11. This Submission will therefore not comment further on the State party's Submission, but instead use the opportunity to draw the Committee's attention to the current status of implementation of its Views in this Communication.

IV. Failure to implement the Committee's Views

12. The Committee found that the State party has violated articles 7, 9 (1), (2) and (4), 14 (1) and (3) (b) and (e), 19, 21, 22 and 26 and article 2 (3) read in conjunction with article 7, with regard to Ms Tadjibayeva.
13. It requested that the State party provide Ms Tadjibayeva with an effective remedy, including:
 - a. Carrying out an impartial, effective and thorough investigation into the allegations of torture and ill-treatment and initiating criminal proceedings against those responsible;
 - b. Providing Ms Tadjibayeva with appropriate compensation;
 - c. Taking steps to preventing similar violations occurring in the future; and
 - d. To translate the Committee's Views into the official language, in an accessible format, and to widely disseminate them.
14. Each of these requests will be considered in turn.

IV.1. Impartial, effective and thorough investigation and prosecution

15. The Committee's findings require the State party to conduct a thorough and effective investigation into the violations committed against Ms Tadjibayeva, and to provide her with detailed results of the investigation. This must be a criminal investigation as the Committee has established that serious crimes have been committed against Ms Tadjibayeva.
16. An investigation into allegations of torture must be conducted promptly, impartially and effectively.⁴ This is recognised in the Istanbul Protocol Manual on the Effective Investigation and

⁴ Office of the High Commissioner for Human Rights, Istanbul Protocol – Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2004, (Istanbul Protocol) para.78; see also the Committee's Views in the present case, para.7.4; *Eshonov v Uzbekistan*, Human Rights Committee, UN Doc. CPR/C/99D/1225/2003, 22 July 2010, para.9.2.

Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which reflects generally recognised international standards.⁵ An investigation must therefore be commenced without delay. It must be carried out by an authority that has no institutional links with the alleged perpetrators. The investigating authority must take effective steps capable of establishing the facts and identifying the perpetrators. This includes interviewing the victims, potential witnesses and alleged perpetrators, inspecting the scene of the crime and obtaining medico-legal evidence, including psychological reports where appropriate.⁶ The Istanbul Protocol sets out minimum standards of how to document and investigate allegations of torture.⁷ This includes that complainants, and witnesses, should be provided protection against any threats or harm, and that complainants must be kept informed of the progress of investigations throughout.⁸

17. Ms Tadjibayeva has identified some of the perpetrators and institutions involved in the violations committed against her, including Mr Akram Botirov, head of the Kirguli regional police department; Mr Sayfiddin Tillaev, deputy head of the Kirguli police department; three officials of the Bektemir District Department of Internal Affairs; prison guards at the women's colony; doctors at the Tashkent oncology clinic. As far as Ms Tadjibayeva is aware, the State Party has not taken any steps to investigate the named individuals or any other members of the relevant institutions.

18. Accordingly, the State party should:

- Promptly open a criminal investigation into the violations found by the Committee and report the start of the investigation to Ms Tadjibayeva's legal representatives;
- Provide Ms Tadjibayeva's legal representatives with the name and telephone contact details of the lead investigating officer and public prosecutor managing the case;
- Provide Ms Tadjibayeva's legal representatives with bi-monthly updates as to the progress of the investigation in the case.

⁵ Ibid.

⁶ See e.g. European Court of Human Rights, *El Masri v Former Yugoslav Republic of Macedonia*, App. No. 39630/09, 13 r 2012, para. 182.

⁷ Istanbul Protocol.

⁸ Ibid; see further REDRESS, *Ending Treats and Reprisals against Victims of Torture and Related International Crimes: A Call to Action*, December 2009, available at <http://www.redress.org/downloads/publications/Victim%20Protection%20Report%20Final%2010%20Dec%2009.pdf>.

IV.2. Appropriate compensation

19. The right to compensation for torture and other human rights violations is firmly established under international law. It is recognised as an inherent part of the right to an effective remedy, such as in article 2(3) ICCPR in conjunction with article 7 ICCPR, and the right to reparation as set out in article 14 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). It also forms part of UN instruments on the right to reparation, particularly the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (UN General Assembly Resolution 60/147 of 16 December 2005) (UN Basic Principles and Guidelines) and the UN Committee Against Torture's *General Comment No.3 on the Implementation of article 14 of UNCAT by States parties* (General Comment No.3).⁹
20. Uzbekistan is a State party to the ICCPR. It is standard jurisprudence of the Committee to recognise the responsibility of States parties to provide effective remedies, including adequate compensation, for violations of the ICCPR.¹⁰ It is also standard for the Committee not to specify sums of money owed as compensation but to leave it to the parties to agree on a specific sum.¹¹ In the present case, the Committee requested that the State party provides Ms Tadjibayeva with appropriate compensation for the violations committed against her. The State party's has yet to pay any compensation to Ms Tadjibayeva.
21. International standards, such as the UN Basic Principles and Guidelines and General Comment No.3 and the jurisprudence of human rights treaty bodies, provide useful guidance as to what factors need to be taken into consideration for compensation to be considered appropriate. Compensation must be adequate, i.e. proportionate to the gravity of the violation.¹² This includes compensation for pecuniary (material) and non-pecuniary (moral) harm. Material damages encompass any costs incurred as a result

⁹ UN Committee against Torture, General Comment No.3 of the Committee against Torture, Implementation of article 14 by States parties, at http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf.

¹⁰ Ibid. and Human Rights Committee, *General Comment No. 31, The Nature of the General Legal Obligation imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), paras.15-18.

¹¹ See Human Rights Committee, Guidelines on measures of reparation under the Optional Protocol to the International Covenant on Civil and Political Rights, 30 November 2016, para. 9.

¹² See Principle 20 of the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (UN General Assembly Resolution 60/147 of 16 December 2005).

of the violation, including “costs required for legal or expert assistance, medicine and medical services, and psychological and social services”, “lost opportunities, including employment, education and social benefits” and “loss of earnings, including loss of earning potential”.¹³ Moral damages are awarded for the pain and suffering inflicted and endured by the victims of the violation.¹⁴

22. For the purposes of assessing the appropriate amount of compensation it is important to recall the facts that gave rise to the violations in the present case. Ms Tadjibayeva alleged that she “was verbally abused, degraded and humiliated by the Head and the Deputy Head of the police department, who inflicted severe physical and mental pain and suffering by kicking and beating her with a truncheon, hitting her head on the door of her cell, and by threatening to rape her.” She was gang raped causing such pain and suffering that she fell unconscious; she was subjected to a detention regime aimed at obtaining a confession from her and characterised by a wide range of abuses by the prison wardens and the prison administration over a period of more than two years and eight months; she was subjected to a forced surgery, which included her forced sterilisation.¹⁵

23. In addition to the above torture and other ill-treatment, she was discriminated against on the basis of her sex; arbitrarily detained and arrested on multiple occasions and subjected to an unfair trial that resulted in her imprisonment for over two years and eight months.

24. The Committee agreed that Ms Tadjibayeva had demonstrated that the above violations occurred, finding that the allegations of sexual abuse constitute “a form of extreme gender-based violence” and that:

- “the facts before it disclose multiple violations of the prohibition of torture and of the author’s rights under article 7 of the Covenant.”¹⁶
- “the involuntary sterilization together with the rape committed against the author, show the specific aggression against her as a woman... amounting to a violation of the author’s rights under article 26 of the Covenant.”¹⁷

13 Ibid.

14 Ibid.

15 See summary of the allegations in the Views, para. 7.2.

16 Views, para.7.4.

17 Ibid, para.7.6.

- “the facts as presented by the author amount to a violation of the author’s rights under articles 9 (1), (2), and (4), 14 (1) and (3) (b) and (e), 19 (2), 21, 22 of the Covenant.”¹⁸

25. The medical-legal reports submitted by Ms Tadjibayeva show that as a result of the above mentioned violations, she has difficulties walking and is now suffering from severe diabetes which causes significant problems to her eyesight. She is suffering from depression, memory loss and has a feeling of anxiety because of the forced surgery. The medical-legal reports also show that Ms Tadjibayeva is suffering from a post-traumatic stress disorder. As a result of the treatment inflicted upon her by the State party, Ms Tadjibayeva continues to require medical treatment and psychological counselling.

26. The fact that the authorities could commit the violations against Ms Tadjibayeva with complete impunity also meant that she was forced to leave Uzbekistan and seek refuge abroad, resulting in further economic loss and financial hardship.

27. Ms Tadjibayeva’s medical and psychological harm is well-documented in the medical –legal reports submitted as part of her complaint. She will provide the State party with relevant documentation in support of the material harm suffered once the State party indicates that it is willing to consider providing her with appropriate compensation. Factors the State party should take into account when proposing what constitutes appropriate compensation in line with the Committee’s Views, include:

- the serious nature of the violations committed;
- the severe consequences of the violations on Ms Tadjibayeva’s life, including her health situation, and the resulting costs for past, current and future medical and psychological treatment;
- the fact that Ms Tadjibayeva was forced to leave Uzbekistan and forced to start a new life abroad;
- the loss of earnings/ income.
- the damage to Ms Tadjibayeva’s reputation as a result of the State party’s persecution of Ms Tadjibayeva and her unfair trial and wrongful conviction.

IV.3. Measures of guarantees of non-repetition

28. The Committee requested the State party to take steps to “prevent similar violations occurring in the future.” The UN Basic Principles and Guidelines as well as General Comment No.3 provide for a range of measures States should take to guarantee non-

¹⁸ Ibid, para. 7.8.

repetition, including providing regular “human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.”¹⁹

29. In the present case, the violations committed against Ms Tadjibayeva were the result of institutional and legislative shortcomings and fostered by the impunity of the perpetrators. As also found by the Committee, the conduct of the State party’s authorities was characterised by discrimination against human rights defenders and against women in particular. Accordingly, the State party should:

- carry out, within a clear time frame, a comprehensive legislative review and amend existing or adopt new legislation in order to bring its national law into line with its international obligations under the ICCPR and in particular:
 - o amend its criminal legislation, including article 235 of its Criminal Code, with a view to ensuring that the definition of torture is in full compliance with article 1 of UNCAT and article 7 ICCPR as interpreted by the Committee and is applied to acts committed by all persons acting in their official capacity, outside their official capacity or in a private capacity when the acts of torture are committed at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity;
 - o reduce the existing maximum period of detention before a person suspected of an offence is brought before a judge from 72 hours to 48 hours and ensure that the date and time of arrest is that of the actual apprehension and is accurately recorded;
- conduct prompt, thorough, effective, independent and impartial investigations into all allegations of torture, ill-treatment and other serious human rights violations, ensuring that perpetrators are prosecuted and, if convicted, punished with adequate sanctions, and that victims are provided with effective redress, including comprehensive reparation;
- provide mandatory and regular training for judges, prosecutors and law enforcement officials on the strict application of legislation criminalising violence against women; on gender sensitive procedures to deal with women victims of violence;

¹⁹ See for instance, UN Basic Principles and Guidelines, principle 23.

- provide mandatory and regular training for judges, prosecutors, law enforcement and prison officials on international standards pertaining to the absolute prohibition of torture and ill-treatment; the documentation and investigation of allegations of torture and ill-treatment; safeguards against torture and ill-treatment;
- ensure that the prohibition of forced confessions and the inadmissibility of torture-tainted evidence are effectively enforced in practice by law enforcement officers and by judges;
- review all criminal convictions based on allegedly forced confessions such as in the present case, and provide effective remedy to persons who were wrongly convicted, such as Ms Tadjibayeva.
- ensure that habeas corpus provisions are strictly enforced in practice, including that the physical presence of the detainee during proceedings is secured, that access to a lawyer of the person's own choosing is respected and that the detainee has access to family;
- ensure the full independence and impartiality of the judiciary, including by guaranteeing judges' security of tenure and by ensuring that the appointment, promotion, suspension and removal of judges is compliant with the ICCPR.

IV.4. Translation and dissemination of the Committee's Views

30. The Committee also called on the State party to "translate the Committee's Views into the official language, in an accessible format, and to widely disseminate them." To the Organisations' and Ms Tadjibayeva's knowledge, the State party has neither translated, nor disseminated the Committee's Views in this case.
31. Accordingly, the State party should:
 - promptly take all necessary measures to ensure that the Committee's Views are published and widely disseminated throughout the State party, including in particular relevant authorities and institutions concerned by this Communication.

V. Conclusion

32. The Organisations note that the Committee has previously expressed its concern "about the State party's failure to implement the Views adopted by the Committee under the Optional Protocol and the lack of effective mechanisms and procedures for authors of

communications to seek, in law and in practice, the full implementation of the Committee's Views."²⁰

33. In light of the State party's ongoing failure to comply with the Committee's views, the Organisations urge the Committee to not only provide the State party with a copy of this Submission, but to pro-actively seek to achieve implementation of its Views in the present case including by:

- including the State party's Submission in its grading system and inform the State party of the grades assigned to the State party's Submission and that the State party's future actions and inactions regarding implementation of the Views will also continue to be graded until full implementation is achieved at which point the case will be closed.
- requesting the State party to develop an implementation plan which identifies with set timelines the implementation of the measures of reparation along the lines set out above, and which identifies the institution / authority in charge of implementation of the relevant measure;
- inviting the State party to explain and outline any difficulties it may encounter in the implementation of the Committee's Views, while emphasising that the Views are final.

34. The Organisations and Ms Tadjibayeva stand ready to meet with the Committee and brief the Committee in person about the status of implementation. We would similarly welcome a meeting facilitated by the Committee with the State party's representative to discuss implementation in the present case.

²⁰ Human Rights Committee, Concluding observations on the fourth periodic report of Uzbekistan, CCPR/C/UZB/CO4, 17 August 2015, para. 4.

ANNEX 1: Comments of Ms Mutabar Tadjibayeva on Uzbekistan's Submission²¹

During more than 25 years of dictatorship that reigns in Uzbekistan since the break-up of the Soviet Union, its government has refused to implement international obligations. As of today, Views on several dozen cases have been adopted by the UN Human Rights Committee and the Working Group on Arbitrary Detention. Years have passed and the UN decisions on cases of Akzam Turgunov, Dilmurod Saidov, Gaibullo Jalilov, Salijon Abdurakhmanov, Sanjar Ismailov, Hayrullo Tursunov, Kayum Ortikov, Erkin Musaev, and Bobomurod Razzakov remain unimplemented.

In all latter cases Uzbekistan was found having violated the rights enshrined in the International Covenant on Civil and Political Rights. Yet none of these decisions was brought into effect by the government. Unfortunately, these decisions have neither made Uzbekistan prevent similar violations in the future and up to date, grave human rights violations continue to be committed by the authorities.

In 2012, with the assistance of FIDH and REDRESS, I submitted a complaint against the Government of Uzbekistan to the CCPR.

In its Views adopted in July 2015, the CCPR concluded that I had presented convincing evidence of persecution, harassment, and torture perpetrated against me by the authorities of Uzbekistan.

The CCPR noted that my torture claims were never duly investigated by the authorities and called upon the government to do so without delay in order to bring those responsible to justice. Additionally, Uzbekistan was obliged to compensate me for damage suffered, translate the decision into Uzbek and raise the awareness about it within the society. Uzbekistan was given 180 days to bring the decision into effect which expired in April 2016.

The CCPR Views are final and not subject to contestation.

Yet by submitting to the CCPR its comments on the Views adopted by the CCPR on my case, the Uzbekistan's new government has chosen to continue denying gross violations it commits against its citizens.

Beside demonstrating the disrespect towards the UN, towards the principles the UN defends and towards its own international obligations, Uzbekistan has once again exposed its incompetence and bad faith. Thus, the submission includes the arguments already presented to the CCPR

²¹ Unofficial summary translation from Russian into English.

during my complaint review in 2012-2015 and assessed by the CCPR as not credible and not supported by any evidence.

It is noteworthy that the first argument put forth by the government as to paragraphs 2.1, 3.7 and 7.2 pursues that it is not possible for them to present information on the claims set forth in the latter paragraphs insofar as the documents were destroyed after 10 years in accordance with the national legislation.

With its response, the Government of Uzbekistan maintains that a crime can remain unpunished if the related documents have been destroyed.

The Government of Uzbekistan cannot avoid responsibility claiming the documents were destroyed. It has already been acknowledged by the Committee that the government bears the responsibility for violations inflicted on me and was obliged to provide me with remedy - the obligation that Uzbekistan failed to bring into effect to date.

Moreover, if the government of Uzbekistan is to open a criminal investigation into the violations found by the Committee, I stand ready to provide the authorities with all necessary copies of documents related to my case.

Importantly, the submission contains several factual mistakes.

First of all, I was not found guilty neither under the Clause b of Article 168 nor under Part 2 of Article 184, as is written on page 3 of the Submission (neither by the first instance court, nor in appeal or in Supreme Court).

Neither was I found guilty under clauses a and g of Part 3 of Article 139, nor under the Clause a of Part 3 of Article 140, Article 179, Part 1 of Article 196, Clause a of Part 2 of Article 227, and Part 3 of Article 228, as is pursued on page 8 of the submission.

The above mentioned mistakes merely demonstrate the sham nature of the cooperation of Uzbekistan with the UN mechanisms and obviously do not challenge the trumped-up character of other charges brought against me. As confirmed by the CCPR, I was denied the right to a fair trial to be able to defend my innocence. With no intention from the authorities to bring the CCPR Views into effect, violations inflicted against me remain unpunished, including the discrimination committed against me as a woman and as a human rights defender.

My family members have also become targets of persecution by the authorities, in particular my sister who was my legal representative during my prosecution in Uzbekistan. Due to impunity for human rights violations Uzbekistan committed in my regard and in revenge for my communication to the UN with the UN, my family members and my colleagues have

suffered from harassment and smear campaigns on the part of the authorities.

I call the CCPR to take all effective measures in its disposition in order to protect my rights not only as a victim of grave abuses under the ICCPR, but also for the purpose of protecting women and human rights defenders around the world from suffering similar violations I have endured.

ANNEX 2: Unofficial translation of the State party's Submission

Comments with regard to the Views adopted by the Human Rights Committee relating to Ms. M. Tadjibayeva

The Uzbek party does not agree with the claims cited in the Views adopted by the Human Rights Committee on the following grounds:

In regard to paragraphs 2.1, 3.7, and 7.2

It is not possible to present information on the claims set forth in these paragraphs insofar as the documents were destroyed after 10 years in accordance with the "List of Standard Administrative Documents Created as Part of the Activities of Organizations of the Republic of Uzbekistan and their Retention Periods," which was prepared in accordance with the Law of the Republic of Uzbekistan "On Archive Keeping" of 15 June 2010 and other legislative acts.

In regard to Paragraph 2.2

It is not possible to examine the author's claim that she was the victim of attacks by groups of women in connection with her picketing of the district procurator's office on 15 June 2003 and 20 August 2003 because no specific district is indicated.

In regard to paragraphs 2.3, 3.10, 5.4, and 7.2

From 2005 – 2016, M. Tadjibayeva did not approach procurator offices in Tashkent, and no pre-investigative or investigative actions were performed.

In regard to paragraphs 2.4, 2.5, 2.6, 3.1, 3.4, 3.6, 4.2, and 7.2

On 7 October 2005, the Ferghana Regional Procurator's Office opened a criminal case against M. Tadjibayeva under Paragraph b of Part 2 of Article 165 of the Criminal Code of the Republic of Uzbekistan.

The ground for opening the criminal case was that M. Tadjibayeva extorted UZS 5 million from T. Mamadaminov by threatening to organize a criminal prosecution through her acquaintances at law enforcement agencies. On 7 October 2005, she was arrested in the act as she was receiving UZS 600,000 from the latter at her home.

As this operational and investigative action was being conducted in M. Tadjibayeva's home (from 21.35 to 23.05 on 7 October 2005), she was personally present and voluntarily turned over the money illegally received from T. Mamadaminov (material evidence) to investigative workers in the presence of two witnesses and T. Mamadaminov.

A report was written on the results of this action, which was signed by officers from law enforcement agencies (3 people), the witnesses (2 people), T. Mamadaminov (the victim), and M. Tadjibayeva.

On 7 October 2005, a search of M. Tadjibayeva's house was conducted. Present were two witnesses, chair of the citizens' assembly of the Zukhro mahalla M. Daminov, and M. Tadjibayeva's daughter M. Akramova, who refused to sign the search report, in reference to which a corresponding note was entered in the report.

At 03:50 on 8 October 2005, M. Tadjibayeva was detained as a suspect following the procedure of Article 221 of the Criminal Procedural Code of the Republic of Uzbekistan.

At 05:00 on 8 October 2005, M. Tadjibayeva filed a written application addressed to the Ferghana Region procurator where she requested to invite G. Eshankhanova, N. Kamalova, R. Gafurov, A. Ergashev, M. Zhumaeva, M. Tadjibayeva (her sister), and D. Nurmatova as her defense attorneys.

On the basis of this application, on 8 October 2005 an investigator invited A. Ergashev over the phone. A. Ergashev responded that he was not an attorney but that he could arrange the participation of the attorneys G. Eshankhanova and N. Kamalova by 9 October 2005. In order to ensure M. Tadjibayeva's legal defense, attorney B. Abdullaev was provided for her. But she rejected his services for the reason that he did not have an order. A report was written on this. However, attorney B. Abdullaev did have order No. 1195 issued 8 October 2005 for participation in the preliminary investigation in M. Tadjibayeva's case. This order is in the case file.

After this, the investigator sent letters to all the attorneys whose names were listed in M. Tadjibayeva's application.

On the basis of these letters, on 8 October 2005 attorney M. Tadjibayeva (order No. 3300) participated during the first interrogation of M.

Tadjibayeva, but both she and her attorney refused to sign the minutes of the interrogation. A report was written on this.

M. Tadjibayeva's attorneys R. Gafurov, M. Tadjibayeva, and Kh. Makhbubov also participated in the preliminary investigation.

Based on the results of the investigation, M. Tadjibayeva was involved in the case as the accused under Part 3 of Article 165 and other articles of the Criminal Code of the Republic of Uzbekistan.

Thus, the investigation established that M. Tadjibayeva committed a number of crimes that found their expression in extortion, theft by appropriation or embezzlement, fraud, tax evasion and evasion of other mandatory payments, violation of trade rules and service provision rules, violation of the terms for using the soil and mineral resources or requirements for their protection, forgery by an official, illegal organization of social associations or religious organizations, preparation and forgery of documents, stamps, seals, blanks, their sale or use, vigilantism, and the preparation, storage, distribution, or display of materials containing a threat to public safety and public order.

A verdict of the Tashkent Regional Court for Criminal Cases of 6 March 2006 found M. Tadjibayeva guilty under Paragraph a of Part 3 of Article 165, Paragraph a of Part 3 of Article 167, Paragraph a of Part 2 of Article 168, paragraph b of Part 2 of Article 184, Part 3 of Article 189, Article 197, Part 1 of Article 209, Paragraph a of Part 2 of Article 28, 209, Article 216, Paragraph b of Part 2 of Article 228, Article 229, and Paragraph b of Part 3 of Article 244-1 of the Criminal Code and on the basis of articles 59 and 61 of the Criminal Code and sentenced her to eight years deprivation of freedom.

During the preliminary investigation, staff members of procurator offices did not commit any illegal acts, including psychological pressure or physical violence, against M. Tadjibayeva. Incidents of violations of the norms of the Criminal Procedural Code have not been established.

In regard to Paragraph 2.7

M. Tadjibayeva did not file a complaint regarding the illegal acts of internal affairs officers with the Kuyi Chirchik District Procurator's Office of Tashkent Oblast in 2005-2006, and no pre-investigative or investigative actions were conducted.

In regard to paragraphs 2.8 and 3.5

Claims that M. Tadjibayeva was not allowed to meet with her defense attorneys are refuted by the fact that during judicial consideration of the criminal case against M. Tadjibayeva, her interests were represented by defense attorneys M. Tadjibayeva, D. Nurmatova, and Kh. Makhbubov. During the court trial (6 February 2006), M. Tadjibayeva filed a motion to meet with her defense attorney outside of the trial. This motion was granted by the court. No other motions to meet with defense attorneys were received from M. Tadjibayeva.

M. Tadjibayeva's claims that she was not given the opportunity to review the criminal case file can be refuted by the fact that, during the court trial (9 February 2006) M. Tadjibayeva filed a motion to further review the criminal case file, which was granted by the court.

The court session was continued at 15:00 on 10 February 2006, but M. Tadjibayeva again filed a motion for an additional review of the case file, which was also granted, with a specific timeframe set.

On 13 February 2006, the court trial continued, and M. Tadjibayeva filed a motion with the court for a third time to review the case file and make copies of it. The court granted this motion and set a deadline of 15 February 2006 for reviewing the criminal case file and making copies. It should be noted that the appropriate reports were written for each instance of review of the case file.

It must also be noted that during the court session, the presiding judge in the case noted multiple times that M. Tadjibayeva and her defense attorneys displayed disrespect to the court and public order during the court trial.

Additionally, representatives of the embassies of the Federal Republic of Germany, Switzerland, France, Great Britain, and the United States, the OSCE project coordinator in Uzbekistan, and a number of foreign media outlets participated in the court trial in the case against M. Tadjibayeva as observers.

There do not appear to be any instances of obstruction of a fair trial for M. Tadjibayeva in the criminal case file.

In regard to paragraphs 2.9 and 5.10

The claims set forth in these paragraphs are unsubstantiated. The convicted prisoner was never held in a psychiatric ward.

In accordance with Article 56 of the Correctional Code of the Republic of Uzbekistan, convicted prisoners arriving at a colony shall be placed in an admission ward for a period of no more than 15 days so that their personalities can be studied and they can adapt. The admission ward has no relation whatsoever to the medical or psychiatric wards. The adaptation plan includes: studying the personality of the convicted prisoner, reviewing the procedure and conditions for serving a sentence and the rights and obligations of the convicted prisoner, and other actions, including a medical exam.

When she was admitted to colony UYa-64/7 (Tashkent), convicted prisoner M. Tadjibayeva was placed in the admission ward and underwent a comprehensive medical exam with a clinical lab screening and biochemical analyses.

During the initial exam, the internist made a diagnosis of: "Neurasthenia. Hypotensive neurocirculatory asthenia." She received in-patient and ambulatory treatment for this illness.

At the end of the adaptation period, the convicted prisoner was sent to a unit. During this period, neither the convicted prisoner nor lawyers working on her behalf brought any complaints or statements regarding her worsening health to the colony administration.

Incidents of fights between the convicted prisoner and medical personnel or attempts to give M. Tadjibayeva unnecessary injections were not established.

In regard to Paragraph 2.10

According to Article 88 of the Correctional Code of the Republic of Uzbekistan, people sentenced to deprivation of freedom are engaged in labor with account for their age, gender, state of health, and ability to work. Labor relationships of convicted prisoners are regulated by labor laws. The length of the work day for a convicted prisoner (as for regular citizens) is set and strictly complied with in accordance with the requirements of the Labor Code of the Republic of Uzbekistan and shall not exceed 40 hours a week (i.e. with a six-day work week, a work day lasts seven hours and not "nine hours a day," as stated in the communication).

Convicted prisoner M. Tadjibayeva worked in the sewing shop of the colony's factory, where she performed work to produce sewn products seated; this work cannot be performed by "standing for seven hours." Thus, there were no violations of labor rights.

The colony administration did not establish any instances of psychological or physical pressure on M. Tadjibayeva during the time she served her sentence. Convicted prisoner M. Tadjibayeva never announced a "hunger strike." There is nothing to confirm her claims about an alleged instance of ill-treatment by members of the administration. She did not submit any complaints in this regard.

Also, "law students from Tashkent University" did not visit colony UYa-64/7 during the period described, so claims about any pressure on convicted prisoner M. Tadjibayeva are without merit.

In regard to paragraphs 2.11 and 5.12

Convicted prisoner M. Tadjibayeva was a malicious offender of the detention regime, and colony personnel had repeated discussions of a disciplinary and preventative nature with her, but she reached no positive conclusions on her own and continued to violate the detention regime. After repeated warnings, the convicted prisoner was placed in the disciplinary ward for gross violations of the detention regime for a period of 15 days (convicts are not held in the disciplinary ward for more than 15 days, and this type of disciplinary punishment is not applied successively). No violations were established to have taken place when disciplinary action was taken against M. Tadjibayeva.

M. Tadjibayeva was not refused access to the colony administration or the procurator. The colony administration conducts daily rounds of the territory and questions the convicts. One of the questions is how the personnel treat the convicts. Every week, the special procurator for supervision visits the colony and also speaks with convicts to uncover ill-treatment, violations of detention conditions, etc. Moreover, the colony has installed a box for correspondence addressed to the procurator in a visible place, and only personnel from the procurator's office may open this box.

In regard to paragraphs 2.12 and 5.15

Medical workers at the correctional colony and specialists from the Ministry of Health conducted numerous tests both for the purposes of diagnosis and the purposes of treatment: fluorography and x-rays of the

chest (there were no abnormal findings), ultrasound examinations of internal organs, electrocardiograms, irrigography (examination of the colon), and an esophagogastroduodenoscopy of the stomach and the duodenum.

For health reasons, convicted prisoner M. Tadjibayeva was registered with the following doctors: gynecologist, dentist, psychiatrist, dermatovenerologist, and internist. She received treatment in accordance with the medical indications for her existing illnesses.

Incidents where illegal actions or forced measures of a medical nature were used against convicted prisoner M. Tadjibayeva during the period of her sentence have not been established.

In regard to the necessary medical operation the convicted prisoner underwent in March 2008, which was later interpreted by M. Tadjibayeva as “forced sterilization,” the convicted prisoner was informed of the need for the upcoming surgical operation in a timely manner at healthcare facilities and outside correctional colonies. This surgical intervention could not have occurred without her consent.

After undergoing the necessary treatment and regaining a satisfactory condition in a civilian hospital, the convicted prisoner was returned to the correctional colony in April 2008. When she arrived at colony UYa-64/7, she was kept in the hospital ward for further observation. In May 2008, convicted prisoner M. Tadjibayeva was discharged from the hospital ward to her unit due to an improvement in her health.

In regard to paragraphs 3.3 and 5.14

When convicted prisoner M. Tadjibayeva arrived at the remand center and then later at the correctional colony, she underwent a complete and comprehensive examination and was observed by medical workers in accordance with standard procedures.

While serving her sentence at the colony, M. Tadjibayeva was on dispensary observation and was provided with qualified ambulatory and in-patient medical assistance at the recommendation of specialist doctors. During her time at the colony, convicted prisoner M. Tadjibayeva was examined by doctors and received the corresponding treatments:

8 July 2006 – initial examination by an internist;
7–17 July 2006 – in the admission ward;

19 July 2006, 17 August 2006, 23 August 2006, 21 September 2006, 18 October 2006, 29 October 2006, and 10 November 2006 – received ambulatory treatment;
11-25 December 2006 – in-patient treatment;
18 January 2007 and 6 February 2007 – received ambulatory treatment;
28 February 2007 and 11 March 2007 – examined by a doctor from the colony's medical service;
29 March 2007 – examined by a psychiatrist;
7 April 2007, 18 June 2007, 2 July 2007, 3 July 2007 – received ambulatory treatment;
16 May 2007 – received prophylactic vitamin therapy;
4 June 2007 – examined by a doctor;
8-20 October 2007 – in-patient treatment for a therapeutic disease;
beginning 15 November 2007 – received ambulatory treatment;
18 November – 7 December 2007 – in-patient treatment;
15 February 2008 – received ambulatory treatment with a diagnosis of arthritis (the x-ray did not show any bone destructive changes);
25 February 2008 – annual exam by a gynecologist.

In regard to Paragraph 3.9

Under a verdict of the Tashkent Regional Court for Criminal Cases of 6 March 2006, which was upheld by a ruling of the appeals instance of the same court of 30 May 2006, M. Tadjibayeva was found guilty of committing the crimes stipulated in paragraphs a and d of Part 3 of Article 139, Paragraph a of Part 3 of Article 140, Paragraph a of Part 2 of Article 168, Paragraph a of Part 3 of Article 165, Paragraph a of Part 3 of Article 167, Article 179, Part 3 of Article 184, Part 3 of Article 189, Part 1 of Article 196, Article 197, Part 1 of Article 209, Article 28 and Paragraph a of Part 2 of Article 209, Article 216, Paragraph a of Part 2 of Article 227, Paragraph b of Part 2 of Article 228, Part 3 of Article 228, Article 229, and Paragraph c of Part 3 of Article 2441 of the Criminal Code of the Republic of Uzbekistan and sentenced to eight years deprivation of freedom.

According to the court verdict, having organized and led the illegal public organization Fiery Hearts Club in Margilan, M. Tadjibayeva prepared and distributed materials containing a threat to public safety and public order beginning 17 January 2000.

Having received financial assistance in the amount of USD 5,820 from various foreign donors, M. Tadjibayeva did not use this money for its intended purposes, committed tax evasion, and did not submit a

declaration to State Tax Inspectorate authorities. Instead, she used this money to conduct the illegal activities of this organization.

Additionally, for financial gain M. Tadjibayeva gained the trust of citizens A. Abdullaev and Ch. Karabaev by presenting herself as the director of a human rights organization and promising to protect their rights and interests with law enforcement authorities. She secured their funds in the amount of UZS 100,000 and USD 900 by deceiving them and abusing their trust, and then, by means of extortion, she demanded UZS 5 million from the family of citizen T. Mamadaminov. She was detained by law enforcement personnel as she received UZS 600,000.

Also, as the director of Hakikat, for financial gain and by means of forgery by an official, she received a loan in the amount of UZS 8 million from a VED National Bank branch and committed theft of these funds by appropriation.

Having illegally come to possess a plot of land with a total area of 6.8 hectares of the Namuna *shirkat* [farming cooperative – Trans.], M. Tadjibayev used this plot for an extended time for personal purposes, thus violating the terms for using the soil and causing damages to this farm in an especially large amount.

M. Tadjibayeva's guilt has been thoroughly proven by the testimony of the victims A. Abdullaev, Kh. Koraboev, T. Mamadaminov, representative of civil claimant S. Abidov, witnesses M. Koraboeva, Z. Koraboev, L. Abdullaev, Kh. Ruzmatov, M. Mamadaminova, N. Usmanova, A. Daminov, M. Gapirov, M. Mirzaakhmedov, A. Urinbaev, A. Rakhimov, M. Abdullaev, A. Toshpulatov, and other evidence gathered in the case.

In accordance with a ruling of 2 June 2008 issued by the judicial panel for criminal cases of the Supreme Court of the Republic of Uzbekistan, the verdict of the Tashkent Regional Court for Criminal Cases of 6 March 2006 and the ruling of the appeals instance of this court of 30 May 2006 in relation to M. Tadjibayeva were changed. The punishment in the form of eight years' deprivation of freedom, assigned following the procedures of articles 59 and 61 of the Criminal Code of the Republic of Uzbekistan, was changed, with application of Article 72 of the Criminal Code, to a suspended sentence with a probationary period of three years.

In regard to paragraphs 5.2, 5.7, and 5.8

The allegations in relation to the alleged incidents of ill-treatment by personnel of remand centers No. 10 (Ferghana) and No. 1 (Tashkent) were checked and were not confirmed because no facts to confirm these acts were found.

Meetings between imprisoned persons and their defense attorneys, legal representatives, relatives, and other persons are provided following the procedures established by laws of the Republic of Uzbekistan on the basis of the written permission of an official or the authority where proceedings in the criminal case are being held (the administration of the remand center is not among these persons).

There was no interference or refusal to grant M. Tadjibayeva meetings with her attorney on the part of the administration of the remand center. All the packages and parcels received by the remand center and addressed to M. Tadjibayeva were given to her by the center's administration with all their contents and in a timely manner.

During her detention in the remand center, M. Tadjibayeva never once appealed to the center's doctors for medical assistance. During their daily rounds of cells and questioning, center personnel did not receive any complaints about M. Tadjibayeva's state of health.

In regard to Paragraph 5.9

Medical wards operate in all correctional facilities. The staff of these wards includes doctors qualified in different specializations, including psychiatrists.

During her detention in a correctional facility, convicted prisoner M. Tadjibayeva was examined by doctors and received the corresponding treatment as necessary.

In regard to Paragraph 5.11

M. Tadjibayeva does not specify which specific "service" she performed "standing at posts."

At correctional facilities, convicted prisoners serve a term of punishment and cannot be engaged in service. According to Article 88 of the Correctional Code of the Republic of Uzbekistan, persons sentenced to deprivation of freedom shall be engaged in labor (with account for their age, gender, state of health, and ability to work). Labor relations of

convicted prisoners are regulated by labor laws. The length of the work day for a convicted prisoner (as for regular citizens) is set and strictly complied with in accordance with the requirements of the Labor Code of the Republic of Uzbekistan and shall not exceed 40 hours a week (i.e. with a six-day work week, a work day lasts seven hours and not “nine hours a day,” as stated in the communication). Convicted prisoner M. Tadjibayeva worked in the sewing shop of the colony’s factory, where she performed work to produce sewn products seated; this work cannot be performed by “standing for seven hours.”

In regard to Paragraph 5.13

Colony UYa-64/7 is located in the center of Tashkent and is connected to the municipal water and heating systems. There were no problems with heat in rooms of the colony (including the disciplinary ward). In all the rooms of the disciplinary ward, the windows have panes, the floors are wooden and dry, and there are no breaches in the waterproofing.

On-duty personnel of disciplinary wards conduct daily rounds of the cells and the on-duty doctor examines and questions the people held there. If any abnormalities are discovered in the cells, convicted prisoners are moved from them to other cells.

During her time in the disciplinary ward, convicted prisoner M. Tadjibayeva did not file any complaints or applications.

In regard to Paragraph 5.16

Convicted prisoner M. Tadjibayeva was not denied access to the colony administration or the procurator.

The colony administration conducts daily rounds of the territory and questions convicted prisoners, including on treatment by personnel. Every week, the special procurator for supervision visits the colony and also speaks with convicts to uncover ill-treatment, violations of detention conditions, etc.

Convicted prisoners have free access to a box for correspondence addressed to the procurator’s office.

The right to open the box and collect the correspondence belongs solely to workers of the procurator’s office. The colony administration does not have the right to open it or review the correspondence addressed to workers of the procurator’s office.

No disciplinary or other punishments are applied to convicted prisoners for applying to procurator's offices or other agencies.

While serving their punishments, some convicted prisoners do not want to perform the legal requests of the colony's administration and regularly violate the detention regime. Disciplinary penalties may be imposed on them for this. By expressing their disagreement with these penalties, convicted prisoners deliberately distort information about the activities of the colony and the administration.