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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its 101st session, 11–15 November 2024

Opinion No. 47/2024 concerning Valijon Kalonov (Uzbekistan)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.
2. In accordance with its methods of work,¹ on 15 April 2024 the Working Group transmitted to the Government of Uzbekistan a communication concerning Valijon Kalonov. The Government submitted a late response on 4 July 2024. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

* Mumba Malila did not participate in the discussion of the case.

¹ [A/HRC/36/38](#).



1. Submissions

(a) Communication from the source

4. Valijon Kalonov, born on 10 August 1969, is an Uzbek national. He is a representative of the Uyghur Freedom Movement in Uzbekistan and a social media activist. Before his arrest, his usual place of residence was in Djizak city, Uzbekistan.

(i) Context

5. The source submits that, although some laws in Uzbekistan have been amended to conform to international human rights treaty obligations, mental health laws are exploited by the authorities to persecute human rights defenders and social media activists and hold them in psychiatric institutions.

6. According to the source, there is a pattern of use of forced psychiatric treatment by the Government to silence human rights defenders in Uzbekistan. This is reportedly because forced psychiatric treatment is often administered in psychiatric institutions that are not overseen by any third party or by family members and, thus, individuals held in such institutions are vulnerable to abuse. Moreover, the source argues that evading accountability for abuse in psychiatric institutions is easier than in a traditional criminal setting, as there is an inclination to disbelieve reports of abuse from individuals who have been declared “mentally unstable”.

(ii) Arrest and detention

7. The source submits that Mr. Kalonov is a representative of the Uyghur Freedom Movement and a blogger who publishes his opinions on sociopolitical issues on his social media accounts.

8. In March 2021, the Criminal Code of Uzbekistan was amended to introduce prison sentences for crimes including insulting the President on the Internet (article 158 (3)), which carries a maximum penalty of two to five years’ imprisonment.

9. According to the source, Mr. Kalonov was arrested for the first time in April 2021, interrogated as a witness and released before 48 hours had passed. It is submitted that the State Security Service reported his arrest to the media, stating that “V.K.”, a 52-year-old resident of Djizak Province, was suspected of misrepresenting the reforms being carried out under the leadership of the President on social media, insulting the President and spreading information aimed at humiliating and discrediting the image of the Head of State.

10. On 2 August 2021, Mr. Kalonov made statements in a 25-minute video published on a social media channel run by an Uzbek journalist living abroad. In these statements, Mr. Kalonov criticized the President regarding relations with two other countries, his alleged involvement in corruption and his failure to protect Uyghurs, and called upon the President not to run in the presidential election of October 2021.

11. The source reports that, on the evening of 15 August 2021, Mr. Kalonov was arrested at his house by officers of the Investigative Department of the Djizak Province Department of Internal Affairs. The source notes that it is not known whether the authorities presented an arrest warrant or whether they informed Mr. Kalonov of the reasons for his arrest. The officers reportedly seized Mr. Kalonov’s electronic devices and took him to detention facility No. 8 of the Syr-Daria Province Department of Internal Affairs.

12. It is submitted that, on 17 August 2021, Mr. Kalonov was brought before a judge at the Djizak City Criminal Court and was charged with the following:

(a) Making, storing, distributing and displaying materials, using social media, that threaten public safety and public order, contrary to article 244 of the Criminal Code;

(b) Publicly insulting or defaming the President of Uzbekistan, using social networks and the Internet, contrary to article 158 (3) of the Criminal Code.

13. The source reports that the trial was held on 17 August 2021 in closed session and that Mr. Kalonov's family was not allowed to attend. That same day, Mr. Kalonov was sent back to detention facility No. 8 in Syr-Daria.

14. It is further submitted that, between 15 August and mid-November 2021, Mr. Kalonov was provided with a State-appointed lawyer. However, the source argues that Mr. Kalonov was, in reality, left without legal protection during the investigative period, as his State-appointed lawyer never communicated with his family, and the extent to which the lawyer participated in Mr. Kalonov's legal defence is unknown. Moreover, the source notes that Mr. Kalonov's family had limited access to his lawyer.

15. In November 2021, Mr. Kalonov's family appointed a new legal counsel for him.

16. According to the source, on 23 November 2021, the court sought a psychiatric examination from the commission of experts of the Tashkent Psychiatric Clinic. According to the decision of 23 December 2021 by Djizak City Criminal Court, the commission of experts concluded that Mr. Kalonov suffered from "chronic mental illness in the form of obsessive-compulsive disorder and impairment of logical thinking". The commission considered that, at the time of the crime, Mr. Kalonov did not understand and was not fully aware of his actions. Moreover, it concluded that, at the time of its examination of him, Mr. Kalonov was not aware of the meaning of his actions, that he would be unable to testify in court and that, owing to his mental state and illness, he might pose a danger to society. It further stated that he required medical care and that he should be sent for compulsory treatment in a specialized department of a psychiatric clinic. On the basis of those grounds, the court decided that Mr. Kalonov could not be held criminally liable, released him from criminal punishment and instead referred him for compulsory treatment in a specialized department of the Samarkand Regional Neuropsychiatric Dispensary. In its decision, the court reportedly did not specify the terms and conditions of Mr. Kalonov's release; it appears that he can be held there indefinitely.

17. Mr. Kalonov's new lawyer, who had been hired by his family in November 2021, reportedly supported the court's decision to impose compulsory psychiatric treatment on Mr. Kalonov and did not submit an appeal. However, the source submits that Mr. Kalonov does not suffer from a mental illness.

18. In 2022, one year after being detained in the Samarkand Regional Neuropsychiatric Dispensary, Mr. Kalonov was reportedly transferred to Djizak Regional Psychoneurological Dispensary, where he is currently being held. According to the source, Mr. Kalonov's family can visit him without any impediment. However, since Mr. Kalonov's relatives live in a remote village and have limited financial means, it is not possible for them to visit him regularly. Their last reported visit was on 23 March 2024.

19. The source states that Mr. Kalonov has not been able to leave the Djizak Regional Psychoneurological Dispensary since being sent there by the court for compulsory psychiatric treatment. Mr. Kalonov has no right to leave the clinic, or any prospect of doing so, without a court order. Moreover, at the current time, he does not have access to a lawyer or legal counsel.

20. In July 2023, a human rights activist attempted to visit Mr. Kalonov but was reportedly not allowed to meet with him because of quarantine requirements related to the coronavirus disease (COVID-19) pandemic. The source notes that, at that time, COVID-19 was no longer a threat.

21. The source submits that Mr. Kalonov has been beaten and injected with drugs while at the Djizak Regional Psychoneurological Dispensary. These drugs have reportedly caused Mr. Kalonov to develop kidney problems and difficulties in speaking; the source raises serious concerns regarding his health.

22. According to the source, every three months, a commission consisting of several physicians at Djizak Regional Psychoneurological Dispensary issues a formal opinion on Mr. Kalonov's health condition. The opinion is sent to the court, which then decides whether to extend the period of Mr. Kalonov's detention in a psychiatric clinic. The source reports that the last known court decision to extend Mr. Kalonov's psychiatric detention was issued on 7 November 2023. In that decision, the court reportedly stated that it was considering a

petition, which had been filed by the chief doctor of the Djizak Regional Psychoneurological Dispensary, on the need to prolong the forced treatment of Mr. Kalonov.

23. The source reports that Mr. Kalonov continues to be held at the Djizak Regional Psychoneurological Dispensary.

(iii) *Legal analysis*

24. The source submits that the arrest and detention of Mr. Kalonov are arbitrary under categories II, III and V of the Working Group.

a. Category II

25. The source argues that Mr. Kalonov's arrest and detention are arbitrary under category II because he was arrested for expressing his opinions on social media.

26. The source recalls that category II detentions, as defined by the Working Group, occur when Governments detain groups or individuals for exercising rights enshrined in the Universal Declaration of Human Rights and the Covenant. The source asserts that Uzbekistan acceded to the Covenant in 1995 and is therefore bound by its provisions, including with regard to the present case.

27. The source further recalls that article 19 (2) of the Covenant, on freedom of expression, grants the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other form of media. This freedom extends to the protection of political discourse, commentary on public affairs and discussions on human rights. The source asserts that Mr. Kalonov was arrested, detained and sentenced for having exercised his rights in that regard.

28. It is noted that, although restrictions on the above-mentioned rights are permitted, as codified in article 19 (3) of the Covenant, when justified by a closed list of compelling national interests, those interests may never be invoked as a justification for the muzzling of any advocacy of multiparty democracy. The source recalls that the same high level of protection applies to journalists, lawyers and human rights defenders, who are generally understood to be anyone who, individually or with others, acts to promote or protect human rights, regardless of their profession or other status.

29. According to the source, Mr. Kalonov was arrested and detained solely for being critical of the Government, resulting in a chilling effect not only on Mr. Kalonov, who remains in detention, but also on other members of civil society at large whose criticism is silenced due to the fear of similar retaliation on the part of the authorities.

30. The source recalls that the Working Group has previously stated, in its deliberation No. 7 on issues related to psychiatric detention, that detention is manifestly arbitrary if a person is deprived of liberty on the pretext of alleged "mental disability", where it is obvious that the person has been detained on account of his or her political, ideological or religious views, opinions, convictions or activities.² It notes that psychiatric detention must not be used to jeopardize someone's freedom of expression nor to punish, deter or discredit an individual on account of his or her political, ideological or religious views, convictions or activities.³

31. Moreover, the source notes that, according to the Working Group, in its deliberation No. 8 on deprivation of liberty linked to/resulting from the use of the Internet, the application of any measure of detention against Internet users, taken in the framework of criminal investigation, proceedings, conviction or by an administrative authority, undoubtedly amounts to a restriction on the exercise of freedom of expression. Unless it complies with the conditions prescribed by international law, such restriction by the authorities is arbitrary and hence unlawful.⁴ A vague and general reference to the interests of national security or public order, without being properly explained and documented, is not enough to argue that the

² E/CN.4/2005/6, para. 54 (b).

³ Ibid., para. 58 (g).

⁴ E/CN.4/2006/7, para. 39.

restrictions on the freedom of expression by way of deprivation of liberty were necessary.⁵ The source submits that, more generally, the public authorities' interference with the individual's privacy – including the freedom to communicate among themselves via the Internet – under the unsubstantiated pretext that the intrusion was necessary to protect public order or the community is not acceptable.⁶

32. The source further recalls that the Working Group has stated that freedom of expression constitutes one of the basic conditions of the development of every individual. Subject to the restrictions which may be imposed on it on the basis of article 19 (3) of the Covenant, the right to freedom of expression is not only applicable to information and ideas that are favourably received or regarded as inoffensive, or as a matter of indifference, but also to those that offend or disturb the State or any sector of the population.⁷

33. The source contends that, notwithstanding the deprivation of liberty of Internet users justified by the legitimate interest to protect national security or public order under article 19 (3) of the Covenant, such deprivation of liberty may become arbitrary when the non-observance of the norms relating to a fair trial, as protected under the relevant international instruments, is grave.⁸

34. In the present case, Mr. Kalonov reportedly used his right to freedom of expression to express his political opinion on the Internet. He recorded a video in which he criticized the President with regard to specific issues, namely relations with two other countries, his alleged involvement in corruption and his failure to protect the Uyghurs. He also called upon the President not to run in the presidential elections of October 2021. The source argues that the accusations of insulting the President and of distributing and displaying materials that threaten public safety and public order relate solely to the expression of Mr. Kalonov's opinion, which any public authority should tolerate.

35. It is highlighted that the right to freedom of expression protects the right to "uninhibited" debate concerning government institutions and is essential to the proper functioning of a democratic society. According to the source, the alleged widespread practice of retaliation against Uzbek human rights defenders through their arrest, detention and torture conflicts with the Government's international obligations.

36. For the reasons outlined above, the source asserts that the Government has breached article 19 of the Covenant, rendering Mr. Kalonov's arrest and detention arbitrary under category II.

b. Category III

37. The source argues that Mr. Kalonov's detention is arbitrary under category III because he has been denied the right to a fair trial.

38. It is noted that the Government has severely restricted access to Mr. Kalonov and to his case files, for which reason detailed information on his trial is not available. According to the source, only Mr. Kalonov's family is permitted to visit him at the Djizak Regional Psychoneurological Dispensary, and they are not in the best position to be able to ask specific and detailed questions about the legal aspects of his case. Moreover, they live in a remote village and do not have the means and capacity to visit him regularly.

39. According to the source, the restricted access to Mr. Kalonov has been exacerbated by his lawyer's failure to advise his family in any way during the judicial proceedings, as well as the Government's refusal to allow a human rights activist to visit Mr. Kalonov in 2023, ostensibly on the ground of COVID-19.

40. The source submits that Mr. Kalonov has not been provided with adequate legal assistance, in violation of article 14 (3) (b) and (d) of the Covenant. It argues that Mr. Kalonov did not have a lawyer of his own choosing at the beginning of his detention and that neither he nor his family had sufficient funds to hire one. Moreover, it notes that human rights

⁵ Ibid., para. 43.

⁶ Ibid., para. 43.

⁷ Ibid., para. 45.

⁸ Ibid., para. 49.

lawyers in Uzbekistan can charge up to \$2,000 for cases that are deemed politically sensitive. Given that the average monthly wage in Uzbekistan is \$250, this is unaffordable for most.

41. Moreover, it is argued that the State-appointed representation that Mr. Kalonov received was limited to formal participation in investigative actions rather than defending him. According to the source, Mr. Kalonov's State-appointed lawyer never communicated with his family, and communication between Mr. Kalonov and his family was reportedly restricted during the preliminary investigation and the trial. In addition, the source submits that Mr. Kalonov did not request a new State lawyer due to the alleged lack of independence of the legal profession in Uzbekistan. The source therefore asserts that the denial of access to legal assistance in the trial stage constitutes a violation of Mr. Kalonov's rights under article 14 (3) (b) and (d) of the Covenant.

42. According to the source, Mr. Kalonov was only able to obtain legal counsel of his own choosing later on during the trial, in November 2021. However, the source asserts that Mr. Kalonov's new legal representation was not adequate. It is argued that Mr. Kalonov's lawyer did not act in his best interests, as he advised Mr. Kalonov to insist in court that he was not responsible for his words and actions and that, since the charges brought against him were serious and could result in his long-term imprisonment, treatment in a psychiatric clinic would be better for him. The source explains that the lawyer acted against Mr. Kalonov's will in agreeing to the court's decision requiring Mr. Kalonov to undergo compulsory psychiatric treatment, and that the lawyer did not appeal the decision.

43. The source further submits that, although it would be possible to appeal the court's decision to renew Mr. Kalonov's detention in a psychiatric clinic, it would require a truly independent assessment by a medical expert who was not appointed by the State authorities. That assessment would also need to be accepted by the court in order for the appeal to have any prospect of success. The source argues, however, that this would be difficult to achieve because there are no independent institutions in Uzbekistan. According to the source, the commission of experts of the Tashkent Psychiatric Clinic that conducted Mr. Kalonov's psychiatric examination in accordance with the court's request of 23 November 2021, and the commission of the Djizak Regional Psychoneurological Dispensary, which reviews Mr. Kalonov's mental health every three months, are both part of State institutions and, thus, they are not independent or adequate to conduct an impartial examination of Mr. Kalonov's mental health.

44. The source asserts that the right to a fair trial and due process in Uzbekistan is not guaranteed, particularly when the charges are politically sensitive. It is alleged that access to Mr. Kalonov has been and remains restricted by the Government and that his legal counsel did not act in his best interests or file an appeal following the court's decision. The source asserts that there has been no independent assessment of his mental state and that Mr. Kalonov does not suffer from a mental illness.

45. For the above-mentioned reasons, the source concludes that Mr. Kalonov's arrest and detention are arbitrary under category III and in violation of article 11 of the Universal Declaration of Human Rights, articles 9 and 14 of the Covenant and principles 15, 16, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

c. Category V

46. The source argues that Mr. Kalonov's deprivation of liberty is arbitrary under category V because it was based on his political opinions.

47. According to the source, Mr. Kalonov's case is one of many that reveal a lack of respect for the fundamental human rights and freedoms of those criticizing the Government and the widespread discrimination they face. It is submitted that the present case illustrates a pattern of use of forced psychiatric treatment to silence human rights defenders and activists, which constitutes a violation of the Government's international obligations under several human rights treaties, including the Covenant, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities.

48. The source contends that Mr. Kalonov's arrest and detention stem from his political opinions and his expression of views critical of the Government, as he has consistently posted critical videos and materials on his social media accounts. It is reported that, immediately after the amendment of the Criminal Code and the introduction of criminal liability for the offence of insulting the President on the Internet, Mr. Kalonov was arrested for his activities, first in April and again in August 2021.

49. The source points to a number of previous opinions by the Working Group in which it had found a violation of the right to equal protection and concluded that the detention was arbitrary in nature.⁹

50. For the above-mentioned reasons, the source concludes that Mr. Kalonov's arrest and detention are arbitrary under category V and in violation of article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant.

(b) Response from the Government

51. On 15 April 2024, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 14 June 2024, detailed information about the current situation of Mr. Kalonov. The Working Group also requested the Government to clarify the legal provisions justifying his detention, as well as its compatibility with the obligations of the Government of Uzbekistan under international human rights law, in particular with regard to the treaties ratified by the State.

52. The Government submitted its response on 4 July 2024, which was after the deadline. The Government did not request an extension of the time limit for its reply, as is provided for in the Working Group's methods of work. Consequently, the Working Group cannot accept the reply as if it had been presented within the time limit.

2. Discussion

53. In determining whether the deprivation of liberty of Mr. Kalonov is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a *prima facie* case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.¹⁰ In the present case, the Government has chosen not to challenge in a timely fashion the *prima facie* credible allegations made by the source.

54. The source has argued that the detention of Mr. Kalonov is arbitrary and falls under categories II, III and V. The Working Group will proceed to examine the submissions under each of the categories in turn.

(a) Category II

55. According to the source, Mr. Kalonov was arrested and detained solely for expressing his political opinions, particularly his criticism of the President of Uzbekistan regarding relations with other countries, alleged corruption and the failure to protect Uyghurs, which he shared in a video posted online. The source alleges that Mr. Kalonov's arrest represents an abuse of his right to freedom of expression and a misuse of psychiatric measures in order to silence dissent. In contrast, in its late response, the Government of Uzbekistan claimed that the criminal proceedings against Mr. Kalonov had been initiated because the video was aimed at destabilizing the country and discrediting its leadership and included content considered insulting to the President, as had been determined by a forensic examination. Further charges had been brought against him on the basis of additional video materials containing alleged religious fundamentalism and public insults.

⁹ See opinions No. 23/2016, No. 74/2017, No. 91/2017 and No. 31/2018.

¹⁰ A/HRC/19/57, para. 68.

56. The Working Group firstly observes that the Government effectively acknowledges that Mr. Kalonov was detained for exercising his freedom of speech, albeit while contending that this right was abused. Consequently, the fundamental facts of the case are not in significant dispute between the parties.

57. The Working Group recalls that the rights to freedom of opinion and expression, as protected by article 19 of the Covenant, are indispensable conditions for the full development of the person; they are essential for any society and in fact constitute the foundation for every free and democratic society. Moreover, according to the Human Rights Committee, “given that peaceful assemblies often have expressive functions, and political speech enjoys particular protection as a form of expression, it follows that assemblies with a political message should enjoy a heightened level of accommodation and protection”.¹¹

58. The Human Rights Committee has noted that freedom of expression includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and that this right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, including political opinions.¹² The permitted restrictions to this right may relate either to respect for the rights or reputations of others or to the protection of national security, public order (*ordre public*) or public health or morals. The Committee has also stipulated that: “Restrictions are not allowed on grounds not specified in article 19 (3) of the Covenant, even if such grounds would justify restrictions to other rights protected in the Covenant. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.”¹³ Moreover, the Committee has asserted that article 19 (3) may never be invoked as a justification for the muzzling of any advocacy of multiparty democracy, democratic tenets and human rights.¹⁴ It should be noted that articles 21 and 22 of the Covenant permit restrictions on the right to freedom of association on the same three grounds.

59. In the present case, it is clear to the Working Group that the basis for the arrest and detention of Mr. Kalonov was the exercise of his right to freedom of expression. The Government has failed to explain how the criminal prosecution of Mr. Kalonov complies with international standards on freedom of opinion and expression. In that respect, the Working Group recalls that the Human Rights Committee, in its concluding observations on the fifth periodic report of Uzbekistan, stated that it remained concerned that defamation, insult of the President, insult, and dissemination of false information continued to be criminalized; was further concerned that current legislation regulating mass communication, information technologies and the use of the Internet unduly restricted freedom of expression; and also remained concerned about the ongoing imprisonment of individuals, including independent journalists, human rights defenders and bloggers, on extremism-related and other politically motivated charges for the peaceful expression of critical views.¹⁵ The Committee recommended that the State party should ensure that any restrictions on the exercise of freedom of expression, including online, comply with the strict requirements of article 19 (3) of the Covenant, guarantee the effective protection of government critics and dissidents, human rights defenders and other activists against any action that may constitute harassment, persecution or undue interference in the exercise of their right to freedom of opinion and expression, and ensure that such acts are thoroughly and independently investigated, prosecuted and sanctioned and that victims are provided with effective remedies.¹⁶

60. In the present case, following the criticism he had expressed of the Government, Mr. Kalonov was subjected to compulsory psychiatric treatment. The Working Group notes reports concerning an alleged use of “punitive psychiatry” to silence dissident voices in

¹¹ General comment No. 37 (2020), para. 32.

¹² General comment No. 34 (2011), para. 11.

¹³ *Ibid.*, para. 22.

¹⁴ *Ibid.*, para. 23.

¹⁵ [CCPR/C/UZB/CO/5](#), para. 44.

¹⁶ *Ibid.*, para. 45.

Uzbekistan.¹⁷ It recalls that, in its deliberation No. 7, the Working Group stated that psychiatric detention must not be used to jeopardize someone's freedom of expression, nor to punish, deter or discredit an individual on account of his or her political, ideological or religious views, convictions or activity.¹⁸

61. Based on the information available, and having particular regard to the context, the Working Group is of the view that the Government has failed to demonstrate that any of the permitted restrictions on freedom of expression provided for in article 19 of the Universal Declaration of Human Rights and article 19 (3) of the Covenant applied in Mr. Kalonov's case. It thus concludes that the arrest and detention of Mr. Kalonov are arbitrary and fall under category II.

(b) Category III

62. Given its finding that the deprivation of liberty of Mr. Kalonov is arbitrary under category II, the Working Group wishes to emphasize that no trial should have been held. Nevertheless, given that a trial was held and that Mr. Kalonov was convicted and subjected to compulsory psychiatric treatment, the Working Group will proceed to examine the source's submissions concerning the denial of fair trial rights.

63. The source contends that Mr. Kalonov was denied adequate legal assistance, in violation of article 14 (3) (b) and (d) of the Covenant. According to the source, Mr. Kalonov initially lacked a lawyer of his own choosing due to financial constraints. The State-appointed lawyer provided to Mr. Kalonov is alleged to have offered only minimal representation, limited to formal participation in investigative actions, without effectively defending him or maintaining communication with his family, which was also restricted during the investigation and the trial. Furthermore, Mr. Kalonov did not request a new State-appointed lawyer due to the perceived lack of independence within the legal profession in Uzbekistan. Later in the trial, in November 2021, when Mr. Kalonov secured a lawyer of his own choosing, the source claims that this representation was still inadequate. The lawyer allegedly advised Mr. Kalonov to accept compulsory psychiatric treatment rather than face serious charges and agreed to the court's decision without appeal, despite it being against Mr. Kalonov's will.

64. In its late response, the Government asserted that the right to legal representation was fully respected and that the appointed lawyer fulfilled their duties according to the law. The Government noted that Mr. Kalonov did not refuse the appointed lawyer, did not request a new lawyer and did not file any complaints about the quality of the legal assistance provided. In addition, the Government rejected the claims of inadequate defence as subjective and unsubstantiated, maintaining that the defence strategy was agreed upon by Mr. Kalonov and his lawyer and that all legal rights, including the right to appeal, were afforded to him during the proceedings. In reply, the source admitted that Mr. Kalonov observed that his lawyers had played only a minimal role in his defence, although he acknowledged that this may not imply that they failed to perform their duties. The source also raises broader concerns about the dependence of the Uzbek legal profession on the State, highlighting the lack of equal opportunities for the defence and the prosecution in such cases.

65. In view of these submissions, and given the fact that the parties agreed that Mr. Kalonov did not object to the chosen legal strategy and that the source has not explained how the alleged general problem of a lack of independence of the Uzbek Bar Association manifested in Mr. Kalonov's case, the Working Group cannot conclude that the rights guaranteed by article 14 (3) (b) and (d) of the Covenant were violated.

66. The source further argues that, while it is theoretically possible to appeal the decisions of the courts to renew Mr. Kalonov's detention in a psychiatric clinic, any such appeal would require an independent medical assessment that was not influenced by the State authorities. The source asserts that this is highly unlikely to succeed, given the lack of independent

¹⁷ See letter dated 5 April 2017 (AL UZB 1/2017), available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>. See also CAT/C/UZB/CO/5, paras. 16 and 17.

¹⁸ E/CN.4/2005/6, para. 58 (g).

institutions in Uzbekistan. The source contends, in particular, that both the commission of experts of the Tashkent Psychiatric Clinic, which conducted Mr. Kalonov's psychiatric examination at the court's request, and the commission of the Djizak Regional Psychoneurological Dispensary, which reviews his mental health every three months, are part of State institutions. As such, the source claims that they cannot provide the impartial and independent assessment necessary for a fair review of Mr. Kalonov's mental health status.

67. The Government, in its late response, did not directly address the specific concerns raised about the independence of the psychiatric institutions involved in Mr. Kalonov's case. Instead, it emphasized that all procedures, including the psychiatric evaluations, were conducted in accordance with national laws and international standards and that the decisions regarding Mr. Kalonov's compulsory treatment were based on the conclusions of duly authorized medical professionals. The Government maintained that the legal and medical processes adhered to established procedures and that Mr. Kalonov's rights were fully respected throughout the proceedings.

68. The Working Group acknowledges the concerns raised regarding the independence of the psychiatric evaluations; however, it notes that there is no indication that Mr. Kalonov or his representatives had ever attempted to request an independent psychiatric examination and were subsequently refused. In addition, there is no evidence that any privately consulted psychiatrist – if one was consulted – challenged the treatment prescribed by the State institutions. In these circumstances, the Working Group does not reach a finding that the deprivation of liberty of Mr. Kalonov falls under category III. This, however, does not alter the Working Group's previous conclusion: given its finding that Mr. Kalonov's deprivation of liberty is arbitrary under category II, the initiation of any trial against him was fundamentally unwarranted.

(c) Category V

69. Lastly, the source alleges that Mr. Kalonov's deprivation of liberty is arbitrary under category V because it was based on his political opinions. The source contends that his case exemplifies a broader pattern of discrimination against individuals who criticize the Government, particularly through the use of forced psychiatric treatment to silence human rights defenders and activists. The source asserts that Mr. Kalonov's arrest and detention were directly linked to his political opinions and his consistent criticism of the Government on social media. His arrest reportedly followed the amendment of the Criminal Code, by which criminal liability for insulting the President online was introduced, leading to his detention, first in April and again in August 2021.

70. In its late response, the Government of Uzbekistan maintains that the criminal proceedings against Mr. Kalonov were initiated not because of his political opinions but because his online activities were deemed to be destabilizing the social and political situation, discrediting the leadership and damaging to the country's image. The Government asserts that the charges were based on specific violations of the Criminal Code, including the dissemination of content containing alleged religious fundamentalism and public insults against the President. The Government denies that the actions taken against Mr. Kalonov were motivated by his political views or constituted discrimination, emphasizing that the legal proceedings adhered to national laws and international standards.

71. The Working Group recalls that when detention results from the active exercise of civil and political rights, there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination based on political or other views. It further recalls that it has already observed in previous communications concerning Uzbekistan the same pattern in the attitude of the authorities towards human rights-related activities.¹⁹ This pattern has also been confirmed by numerous international observers in their reports on Uzbekistan.

72. Noting all of the above, the Working Group finds that Mr. Kalonov is being detained discriminatorily on the basis of his political opinions and in a manner that ignores the equality of human rights, a prohibited ground of discrimination under articles 2 and 7 of the Universal

¹⁹ See opinions No. 53/2011, No. 65/2012, No. 67/2012, No. 47/2016 and No. 83/2022.

Declaration of Human Rights and articles 2 (1) and 26 of the Covenant. The Working Group considers that the facts in the present case disclose a violation under category V.

(d) Concluding remarks

73. The Working Group finds it imperative to underscore that the involuntary psychiatric treatment of individuals on the basis of their political beliefs or freedom of expression constitutes a grave violation of human rights and international law. It recalls that it has already condemned the use of psychiatric detention to jeopardize freedom of expression.²⁰ The deployment of psychiatric institutions as instruments of repression not only undermines the integrity of mental healthcare but also erodes the fundamental principles of justice and the rule of law. The shameful practice of so-called punitive psychiatry violates the sanctity of human dignity, as enshrined in international human rights instruments. The Working Group invites the Government to remain vigilant against the misuse of psychiatry as a tool of political control, ensuring that mental health interventions are guided solely by genuine medical necessity, free from any political influence or ulterior motives. In that light, Mr. Kalonov's case serves as a critical reminder of the need to safeguard the rights of individuals against arbitrary and discriminatory practices, particularly those that seek to silence dissent under the guise of medical treatment.

74. The Working Group also notes the allegations made by the source concerning the health condition of Mr. Kalonov. It takes the opportunity to remind the Government of its obligations under article 10 (1) of the Covenant, namely to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person.²¹

3. Disposition

75. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Valijon Kalonov, being in contravention of articles 2, 7 and 19 of the Universal Declaration of Human Rights and articles 2, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories II and V.

76. The Working Group requests the Government of Uzbekistan to take the steps necessary to remedy the situation of Mr. Kalonov without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

77. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Kalonov immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

78. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Kalonov and to take appropriate measures against those responsible for the violation of his rights.

79. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

4. Follow-up procedure

80. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

²⁰ Opinion No. 8/2014, para. 14. See also [E/CN.4/2005/6](#), para. 58 (g).

²¹ For example, opinions No. 46/2020, para. 64; and No. 66/2020, para. 66.

- (a) Whether Mr. Kalonov has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Kalonov;
- (c) Whether an investigation has been conducted into the violation of Mr. Kalonov's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Uzbekistan with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

81. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

82. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

83. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.²²

[Adopted on 11 November 2024]

²² See Human Rights Council resolution 51/8, paras. 6 and 9.