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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. 62/2024 concerning Dauletmurat Tazhimuratov (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 24 July 2024 the Working Group transmitted to the Government of Uzbekistan a communication concerning Dauletmurat Tazhimuratov. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group considers that deprivation of liberty is 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

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

¹ [A/HRC/36/38](#).



or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

1. Submissions

(a) Communication from the source

4. Dauletmurat Tazhimuratov is a citizen of Uzbekistan born on 27 March 1979. He is a lawyer, journalist and human rights defender and usually resides in the city of Nukus, Karakalpakstan.

(i) Context

5. The source notes that Karakalpakstan is an autonomous republic within Uzbekistan, positioned around the diminishing Aral Sea. Its population consists mainly of individuals of Karakalpak, Uzbek and Kazakh ethnicity. The Karakalpaks, an ethnic group native to Karakalpakstan, share close ties with the Kazakhs and other Turkic peoples but have a distinct history and culture and have reportedly faced near-constant discrimination by the authorities of Uzbekistan.

6. The source further mentions that allegedly, under the guise of concerns about separatism, the Uzbek authorities have contributed to a decline in the Karakalpak language and Karakalpak cultural practices. The source recalls that the Committee on the Elimination of Racial Discrimination has expressed concern over the absence of comprehensive anti-discrimination legislation in Uzbekistan.² The source asserts that discrimination against Karakalpakstan and Karakalpaks was reportedly exemplified by the Government's crackdown on protesters following the proposed constitutional amendments in the summer of 2022. The police reportedly used excessive and lethal force, including firearms and grenades, against protesters in Nukus and nearby areas. Hundreds of protesters, including Mr. Tazhimuratov, were allegedly arbitrarily arrested, and many faced incommunicado detention, torture and other abuses.

(ii) Arrest and detention

7. The source reports that on 1 July 2022, Mr. Tazhimuratov gave a speech in front of a mosque in Nukus stating his opposition to the proposed amendment to the Constitution proposed by the Government of Uzbekistan which would strip Karakalpakstan of its autonomous status. Protests broke out that day in Karakalpakstan, where the authorities reportedly used excessive and lethal force to disperse the protesters, killing 20 and injuring nearly 300 persons.

8. According to the source, on 1 July 2022 Mr. Tazhimuratov's home was broken into by armed and masked individuals who took him to the police department in Nukus, Karakalpakstan. He was not presented with any warrants, nor was he informed about the reason for his arrest. At the police station, Mr. Tazhimuratov had a bag placed over his head and was then transported to the Ministry of External Affairs, where he reportedly was beaten and had a stun gun used on him.

9. After the beating, officials reportedly took Mr. Tazhimuratov to speak to the growing crowd at the request of the leader of the Joqarǵı Keńesi (Supreme Council), Karakalpakstan's legislature, in an attempt to stop the protests. However, the protests continued even after his speech. He was released the same evening and went into hiding.

10. The source submits that on 4 July 2022, officials uncovered Mr. Tazhimuratov's whereabouts and arrested him again. It has been reported that officials from the Ministry of Internal Affairs tied Mr. Tazhimuratov's hands behind his back, placed a bag over his head and beat him. Reportedly, Mr. Tazhimuratov was not informed of the reason for his arrest and was not presented with an arrest warrant.

11. According to the source, Mr. Tazhimuratov was forced onto a helicopter which transported him to Urgench, located approximately 160 kilometres away, without

² See [CERD/C/UZB/CO/10-12](#).

explanation of his arrest or charges. He was forced to lie on the floor of the helicopter while officials walked over him, stomping on his head at one point. In Urgench, he was transferred to a detention facility run by the State Security Service.

12. The source submits that on 5 July 2022, Mr. Tazhimuratov appeared before a judge, who presented him with charges of conspiracy to seize power or overthrow the constitutional order, under article 159 (4) of the Criminal Code, and ordered him to immediately be placed in pretrial detention. It has been reported that additional charges under article 167, part 3 (embezzlement on a large scale), article 243 (legalization of proceeds from criminal activities), article 244, part 3 (organization of mass riots) and article 244-1 (manufacture, storage, distribution or display of materials threatening public security) were added later, although the source asserts that it is not clear exactly when or by which court these were added.

13. The source reports that Mr. Tazhimuratov was kept at the State Security Service pretrial detention centre in Urgench until he was transferred to a centre in Bukhara two weeks before his trial, which commenced in November 2022. It reports that in total, Mr. Tazhimuratov remained in pretrial detention for more than four months. Reportedly, while in pretrial detention, Mr. Tazhimuratov's head was shaved, and he was subjected to harassment and intimidation from other detainees on the instructions of officials. In addition, the prosecutor and other officials allegedly pressured other detainees to testify against Mr. Tazhimuratov during their criminal investigations.

14. The source reports that on 28 November 2022, Mr. Tazhimuratov's trial began before the Bukhara Regional Criminal Court. Mr. Tazhimuratov was tried along with 21 other defendants charged with crimes related to the July protests. Allegedly, the court relied primarily on evidence from State-appointed experts, who stated that Mr. Tazhimuratov had promoted "separatism". None of the experts spoke the Karakalpak language, so they were unable to assess evidence in its original language.

15. The source reports that neither Mr. Tazhimuratov nor his lawyer were able to examine the competency of the interpreters who translated the documents from the original Karakalpak language. In addition, Mr. Tazhimuratov reportedly was not permitted to call his own experts, and his request to use audio recordings of his conversation with government officials as evidence was denied because the authorities had deleted the recordings.

16. The source affirms that during the trial, Mr. Tazhimuratov was kept in a glass box in the courtroom. Furthermore, even though the trial was open to the public, the live streaming during the testimony when Mr. Tazhimuratov reported abuse in detention was turned off.

17. The source reports that on 31 January 2023, Mr. Tazhimuratov was convicted by the Bukhara Regional Criminal Court for conspiring to overthrow the constitutional order, embezzlement, legalization of proceeds from criminal activities, organizing mass riots, and manufacturing, storing or distributing materials that threaten public security. He was sentenced to 16 years in prison and ordered to pay the equivalent of US\$ 20,000 in damages.

18. The source states that on 5 June 2023, the Supreme Court of Uzbekistan upheld Mr. Tazhimuratov's conviction and sentence, but the other defendants who were convicted with him had their sentences reduced.

19. Currently, Mr. Tazhimuratov is serving his sentence at Prison Colony No. 11 in Navoi. He receives poor-quality food and medical care, with prison officials reportedly prescribing the same medicine for multiple illnesses. Reportedly, prison officials require him to express gratitude for anything he receives, including food and basic necessities.

20. According to the source, Mr. Tazhimuratov has reportedly been denied basic information, such as the time of day, newspapers, radio, television or educational material, while also being prevented from interacting with other people. He has also been asked to sing the national anthem of Uzbekistan and has been punished for refusing to do so.

21. The source reports that Mr. Tazhimuratov's lawyer has initiated a new appeal. However, it reports that the State Security Service has threatened to imprison anyone who speaks to the press regarding Mr. Tazhimuratov's imprisonment.

(iii) *Legal analysis*

22. The source argues that the arrest and detention of Mr. Tazhimuratov are arbitrary, falling under categories I, II, III and V of the Working Group.

a. Category I

Violence upon arrest and arrest without a warrant

23. According to the source, article 9 (2) of the Covenant and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment establish that an arrested person must be informed of the reason for the arrest at the time of arrest and must be promptly informed of the charges against them. In order for the arrest to have a legal basis, it is not enough for the legal basis to exist, but rather, the authorities must affirmatively invoke it at the time of arrest.³

24. The source recalls that article 9 (1) of the Covenant and principle 2 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment require detention to be carried out only in accordance with the law. Principle 4 of the Body of Principles requires detention to be ordered by or subject to the control of a judicial authority. Article 25 of the Constitution of Uzbekistan also provides that no one may be arrested except on lawful grounds. Furthermore, the source highlights the Working Group's discussion on the use of violence upon arrest in finding that an arrest violated article 9 (1) of the Covenant.⁴

25. The source alleges that Mr. Tazhimuratov was not presented with an arrest warrant, nor was he informed of the reason for his arrest, at the time of arrest on 1 July 2022. His captors never identified themselves as police officers or officials with authority to arrest him and so had no legal basis to make the arrest.⁵ When Mr. Tazhimuratov was arrested again on 4 July 2022, he was reportedly not presented with an arrest warrant or informed of the reason for his arrest at the time of arrest. He was presented before a judge who charged him and placed him in pretrial detention more than 24 hours after he had been arrested and after he had been transferred to Urgench. It was reported that he was beaten during both arrests.

26. The source submits that since officials failed to present an arrest warrant and inform Mr. Tazhimuratov of the reason for his arrest at the time of arrest for both arrests and because both arrests were violent, both arrests lacked a legal basis and were not conducted in accordance with the law.

27. Therefore, the source concludes that Mr. Tazhimuratov's arrest violates articles 3 and 9 of the Universal Declaration of Human Rights, article 9 (1) and (2) of the Covenant, principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 25 of the Constitution of Uzbekistan, rendering his arrest and detention legally baseless and arbitrary under category I.

Detention under a vague law and violation of the principle of legality

28. According to the source, article 11 (2) of the Universal Declaration of Human Rights and article 15 (1) of the Covenant establish the basis of what is known as the "principle of legality", which requires that laws be formulated with enough precision that an individual can access and understand the law and adapt their behaviour to comply. The source argues that Mr. Tazhimuratov was convicted under multiple vague and overbroad statutes and as such, there is no legal basis to justify his detention.

29. The source further argues that article 159 of the Criminal Code of Uzbekistan criminalizes public statements made to change the existing State order, to assume power, to remove a legally elected authority or to impair the integrity of the republic. The broad

³ Opinion No. 46/2018, para. 48.

⁴ Opinion No. 68/2020, para. 64.

⁵ The Working Group has found that conducting an arrest without authority to do so exceeds the legal mandate of officials; see opinion No. 25/2015, para. 27.

language of the statute captures permissible public statements intended to express a political belief.

30. The source recalls that article 159 has been identified as a tool for overly broad prosecution of “extremism”, by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism⁶ and the Special Rapporteur on freedom of religion or belief.⁷ The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism recommended that Uzbekistan review all cases brought under article 159. The source reports that article 159 threatens the peaceful exercise of freedom of expression and thought.

31. In addition, the source reiterates the findings of the Special Rapporteur on freedom of religion or belief, who stated that an estimated 5,000 to 15,000 individuals had been detained in Uzbekistan on vague charges related to religious extremism, including charges of “anti-constitutional” activity, and that many of those individuals had been targeted through the use of article 159.⁸

32. The source further recalls article 244 of the Criminal Code, which criminalizes “riots” – including both organization and participation. Article 244-1 makes the production and dissemination of materials containing “a threat to public security and public order”, including “separatism”, punishable by up to three years’ imprisonment. The source reports that both articles 244 and 244-1 use broad language that may criminalize fundamental rights, such as freedom of expression and of peaceful assembly. The Special Rapporteur on freedom of religion or belief has found that both laws have been applied too broadly and have been common tools for suppressing dissent under “extremism” charges.⁹

33. The source reiterates the observations of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, who stated that article 244-1 could “easily be misconstrued” and could criminalize “the mere fact of keeping materials considered to be radical, thereby impinging on the fundamental rights to privacy and freedom of thought”.¹⁰

34. The source claims that Mr. Tazhimuratov was convicted under three vague and overly broad legal provisions that violate the principle of legality, because citizens cannot understand them and therefore cannot conform to their requirements. The laws are used to target “extremism”, which includes an array of permissible activities and has been used to prosecute activists, journalists and dissidents based on their thoughts or belief.¹¹

35. The source concludes that through the application of the above-mentioned vague and overly broad provisions, the authorities of Uzbekistan have violated the principle of legality enshrined in article 11 (2) of the Universal Declaration of Human Rights and article 15 (1) of the Covenant, thus rendering Mr. Tazhimuratov’s arrest and detention legally baseless and arbitrary under category I.

⁶ Opinion No. 37/2020, para. 60.

⁷ Preliminary findings of the country visit to Uzbekistan by the Special Rapporteur on freedom of religion or belief, 12 October 2017, available at <https://www.ohchr.org/en/statements/2017/10/preliminary-findings-country-visit-republic-uzbekistan-special-rapporteur>.

⁸ [A/HRC/37/49/Add.2](#), para. 67.

⁹ Preliminary findings of the country visit to Uzbekistan by the Special Rapporteur on freedom of religion or belief, 12 October 2017, available at <https://www.ohchr.org/en/statements/2017/10/preliminary-findings-country-visit-republic-uzbekistan-special-rapporteur>.

¹⁰ [A/HRC/49/45/Add.1](#), para. 22.

¹¹ Preliminary findings of the country visit to Uzbekistan by the Special Rapporteur on freedom of religion or belief, 12 October 2017, available at <https://www.ohchr.org/en/statements/2017/10/preliminary-findings-country-visit-republic-uzbekistan-special-rapporteur>.

Violation of the general rule against pretrial detention

36. The source recalls article 9 (3) of the Covenant and principle 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which provide that pretrial detention should not be the general rule but an exception. A court must conduct an individualized determination to justify pretrial detention, including the consideration of restrictive means.¹² Pretrial detention must be reasonable and necessary and be based on factors such as potential flight risk, potential tampering with evidence, or recurrence of the crime, but it cannot be based on vague and expansive standards such as “public security”. Detainees are also entitled to periodic re-examination of their pretrial detention by a court or other authority to determine whether the detention is reasonable.¹³

37. The source submits that on 5 July 2022, Mr. Tazhimuratov was presented before a judge in Urgench. After a short hearing, the court placed him in pretrial detention, without a thorough individualized investigation. The court determined that he should be held in pretrial detention because his charge was classified as “a very serious offence” and reasoned that if he were released, he could destroy evidence or influence witnesses. The source adds that the court did not provide further evidence or consideration for his pretrial detention. Mr. Tazhimuratov was held in pretrial detention for four months leading up to his trial, and the court has never re-examined its decision to keep him detained, thereby violating the general rule against pretrial detention.

38. The source concludes that by violating the general rule against pretrial detention, Uzbekistan violated article 9 (3) of the Covenant and principle 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, thus rendering his arrest and detention legally baseless and arbitrary under category I.

b. Category II

39. According to the source, deprivation of liberty is arbitrary under category II when it results from a violation of the exercise of fundamental rights and freedoms. These include the right to freedom of opinion and expression, guaranteed under article 19 of the Universal Declaration of Human Rights, article 19 (1) and (2) of the Covenant and article 29 of the Constitution of Uzbekistan; the right to freedom of assembly and association, guaranteed under article 20 (1) of the Universal Declaration of Human Rights, articles 21 and 22 (1) of the Covenant and article 33 of the Constitution of Uzbekistan; the right to take part in public affairs, guaranteed under article 21 (1) of the Universal Declaration of Human Rights, article 25 (a) of the Covenant and article 32 of the Constitution of Uzbekistan; and the right of minority cultures to enjoy their culture, guaranteed under article 7 of the Universal Declaration of Human Rights, article 27 of the Covenant and article 18 of the Constitution of Uzbekistan. The source alleges that Uzbekistan violated several norms of international human rights law relating to the aforementioned rights, such that Mr. Tazhimuratov’s deprivation of liberty is arbitrary under category II.

40. The source recalls that freedom of opinion and expression include political discourse, commentary on public affairs and discussion of human rights.¹⁴ Peaceful assembly covers assemblies while they are taking place, and associated activities such as the mobilization of resources, planning, the dissemination of information about an upcoming event, and communication between participants leading up to and during the assembly.¹⁵ Article 25 (a) of the Covenant guarantees citizens the right to take part in the conduct of public affairs and to exert influence “through public debate and dialogue” or by organizing.¹⁶

41. The source reiterates the Working Group’s findings that freedom of expression includes the right to criticize and publicly evaluate the government without fear of interference or punishment.¹⁷ The right enables political opposition groups and human rights

¹² Human Rights Committee, general comment No. 35 (2014), para. 38.

¹³ Ibid.

¹⁴ Human Rights Committee, general comment No. 34 (2011), para. 11.

¹⁵ Human Rights Committee, general comment No. 37 (2020), para. 33.

¹⁶ Human Rights Committee, general comment No. 25 (1996), para. 8.

¹⁷ Opinion No. 24/2019, para. 40.

activists to protest, criticize, and expose illegal government practices.¹⁸ The source also reiterates the Working Group's findings that detaining minority individuals who were lawfully protesting against the suppression of those rights violates their rights under article 7 of the Universal Declaration of Human Rights and article 27 of the Covenant.¹⁹

42. The source notes that article 18 of the Constitution of Uzbekistan guarantees equality before the law, explicitly prohibiting discrimination based on nationality and convictions, while article 29 of the Constitution grants freedom of expression but restricts speech directed against the constitutional order. Article 32 of the Constitution grants citizens the right to participate in public and State affairs and article 33 ensures the right to partake in demonstrations, subject only to limitations as provided by law.

43. The source recalls article 19 (3) of the Covenant, which provides that restrictions on freedom of opinion and expression must be provided by law and be necessary for respect of the rights or reputations of others, the protection of national security or of public order, or for public health or morals. Restrictions must not be used to stifle the expression of political opposition, challenges to authority, calls for democratic changes, or human rights advocacy.²⁰ In addition, articles 21 and 22 (2) of the Covenant similarly provide that restrictions on freedom of assembly and of association must be provided by law and be "necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others".

44. The source argues that Mr. Tazhimuratov's detention resulted from his exercise of his rights to freedom of opinion and expression, freedom of peaceful assembly and association, and participation in public affairs, and the right of minority cultures to enjoy their culture. It also asserts that Mr. Tazhimuratov delivered a speech against constitutional amendments that threatened the autonomy of Karakalpakstan. He encouraged participation in peaceful protests aimed at safeguarding the cultural and administrative autonomy of Karakalpakstan.

45. As a result, the source alleges that Mr. Tazhimuratov was charged and sentenced to 16 years in prison under articles 159, 244 and 244-1 of the Criminal Code, provisions that have been criticized for their use in the suppression of fundamental freedoms. The restriction of his fundamental rights does not fall into any of the narrow exceptions identified in the Covenant.

46. The source concludes that Uzbekistan has violated articles 7, 19, 20 (1) and 21 (1) of the Universal Declaration of Human Rights, articles 19 (1) and (2), 21, 22 (1), 25 (a) and 27 of the Covenant and articles 18, 29, 32 and 33 of the Constitution of Uzbekistan. Therefore, the source argues that Mr. Tazhimuratov's deprivation of liberty is arbitrary in character pursuant to category II.

c. Category III

47. The source argues that Uzbekistan has violated several norms of international human rights law relating to the right to a fair trial, such that Mr. Tazhimuratov's deprivation of liberty is arbitrary under category III.

48. The source reiterates several of the arguments previously presented in category I. These arguments pertain to the alleged use of violence during Mr. Tazhimuratov's arrest, the execution of the arrest without a warrant and the violation of the general principle against pretrial detention. The source contends that these factors collectively demonstrate infringement by Uzbekistan of Mr. Tazhimuratov's right to a fair trial.

49. The source further recalls that article 11 (1) of the Universal Declaration of Human Rights, article 14 (2) of the Covenant and principle 36 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provide for the right to be presumed innocent until proven guilty according to law. According to article 26 of the

¹⁸ Opinion No. 22/2013, para. 11.

¹⁹ Opinion 28/2018, para. 74.

²⁰ Human Rights Committee, general comment No. 34 (2011), para. 23, and general comment No. 37 (2020), para. 49.

Constitution of Uzbekistan, those accused of a crime should not be considered guilty except by the sentence of a court in conformity with the law.

50. The source highlights the Working Group's findings of violations of the right to be presumed innocent when the accused was held in pretrial detention based on an assumption of guilt and when the accused was shackled or caged during trial.

51. The source argues that throughout Mr. Tazhimuratov's trial, he was kept in a glass box, creating a perception that he may be a dangerous criminal. In addition, the source reports that Mr. Tazhimuratov was kept in pretrial detention without an individualized determination, which contributed to the presumption that he was guilty.

52. The source submits that these violations show that the authorities have violated Mr. Tazhimuratov's right to be presumed innocent, in violation of article 11 (1) of the Universal Declaration of Human Rights, article 14 (2) of the Covenant, principle 36 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 26 of the Constitution of Uzbekistan. Therefore, the source concludes that Mr. Tazhimuratov's right to a fair trial was violated, rendering his detention arbitrary under category III.

53. The source recalls that cruel, inhuman or degrading treatment is prohibited under article 5 of the Universal Declaration of Human Rights, article 7 of the Covenant and principle 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Specifically, articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment place a burden on States to prevent torture or other cruel, inhuman or degrading treatment in any territory under their jurisdiction. Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires States to investigate allegations of torture or cruel and inhuman treatment.

54. The source argues that detainees must be treated with humanity and respect for the inherent dignity of the human person, under article 10 (1) of the Covenant, principle 1 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Accused individuals must be treated in a manner that is consistent with their unconvicted status under principle 8 of the Body of Principles. Article 26 of the Constitution of Uzbekistan prohibits torture, violence and other cruel or humiliating treatment.

55. The source further recalls the Nelson Mandela Rules, which set out requirements for prison conditions and the treatment of detainees. Prison accommodation must meet all health requirements,²¹ and detainees should have nutritious and wholesome food,²² be provided with healthcare services²³ and have access to news and other publications.²⁴

56. The source submits that from the moment of his first arrest on 1 July 2022, Mr. Tazhimuratov was subjected to violence at the hands of officials. His captors placed a bag over his head and beat him, including with a stun gun, at the Ministry of Internal Affairs. Again, on 4 July 2022, he was reportedly beaten by officials, before being placed on the floor of a helicopter where he was walked over by the officials.

57. The source reports that Mr. Tazhimuratov has been denied basic and necessary medical services and that the quality of the food in prison is so poor that it has started to affect his health. He reportedly has no access to news, through newspapers, television, radio or any other source of information. The source also reports that he has no access to a library or to educational materials.

²¹ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 13.

²² Ibid., rule 22.

²³ Ibid., rules 24, 25, 26 and 27.

²⁴ Ibid., rule 63.

58. According to the source, because the officials subjected Mr. Tazhimuratov to abuse and denied basic requirements for prison accommodation, the State has violated article 5 of the Universal Declaration of Human Rights, articles 7 and 10 (1) of the Covenant, principles 1, 6 and 8 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, articles 2, 13 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, rules 1, 13, 22, 24, 25, 26, 27 and 63 of the Nelson Mandela Rules and article 26 of the Constitution of Uzbekistan. Therefore, Mr. Tazhimuratov's right to a fair trial has been violated, rendering his detention arbitrary under category III.

d. Category V

59. The source recalls that article 2 of the Universal Declaration of Human Rights and article 2 (1) of the Covenant grant all people fundamental rights and freedoms without any distinction, including on the basis of national origin or political opinion. Article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant provide for equality before the law and equal protection of the law. Article 18 of the Constitution of Uzbekistan provides for equality before the law and prohibits discrimination based on nationality or convictions.

60. The source further recalls the Working Group's finding that deprivation of liberty constitutes a breach of international law when it results from discrimination based on nationality, particularly in cases with a documented pattern of such discrimination and when other persons with similar characteristics have also been persecuted.²⁵

61. In addition, the source reiterates the jurisprudence established by the Working Group that politically motivated charges intended to suppress dissenting political views can independently constitute an arbitrary detention under category V.²⁶

62. The source also recalls that the Working Group will infer discrimination on the basis of political opinion in cases of widespread political imprisonment or historical tensions between the Government and a detainee's community.²⁷

63. The source argues that Mr. Tazhimuratov's nationality and political opinions are central to his case. Officials have allegedly disproportionately targeted Karakalpaks and opponents of the proposed constitutional amendments with mass detentions and excessive force, reflecting a broader pattern of discrimination based on nationality and political opinion. According to the source, the widespread targeting of Karakalpak political activists, including non-governmental organizations and activists living abroad, demonstrates the discrimination against Karakalpaks such as Mr. Tazhimuratov based on nationality and political opinion.

64. In addition, the source reports that Mr. Tazhimuratov was further discriminated against during his trial, where the experts who provided evidence against him were not familiar with the Karakalpak language and were therefore unable to examine the evidence in the original.

65. In conclusion, the source states that by detaining Mr. Tazhimuratov for his political opinions and national identity, the Government of Uzbekistan violated articles 2 and 7 of the Universal Declaration of Human Rights, articles 2 (1) and 26 of the Covenant and article 18 of the Constitution of Uzbekistan, rendering his detention arbitrary under category V.

(b) Response from the Government

66. On 14 July 2024, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure, requesting a reply by 23 September 2024. The Working Group regrets that the Government did not submit a reply

²⁵ A/HRC/36/37, para. 48; and opinion 28/2018, paras. 95–97.

²⁶ Opinion No. 33/2015, paras. 84 and 85.

²⁷ Opinion No. 4/2017, para. 25.

within the established time frame, nor did it seek an extension in accordance with paragraph 16 of the Working Group's methods of work.

2. Discussion

67. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

68. In determining whether Mr. Tazhimuratov's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established 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.²⁸

(a) Category I

69. As the Working Group has stated, in order for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.²⁹ This is typically done by means of an arrest warrant or arrest order, or an equivalent document.³⁰ Furthermore, article 9 (2) of the Covenant provides that every arrested individual must be informed at the time of arrest of the reasons for the arrest and be notified, as soon as possible, of any charges brought against them. Respect for these rights is essential to the exercise of the other rights set out in article 9 of the Covenant and article 9 of the Universal Declaration of Human Rights. Every individual must know the reasons for their arrest in order to be able to contest it effectively, and be brought before a court or a magistrate to be able to formulate an appeal.

70. The Working Group notes the source's unrefuted allegations that Mr. Tazhimuratov was not informed of the reasons for his arrest at the time of the arrest, in violation of article 9 (2) of the Covenant and article 9 of the Universal Declaration of Human Rights.

71. The Working Group further notes the source's submissions that Mr. Tazhimuratov's pretrial detention was not based on individual assessment of alleged risks. In this respect, the Working Group recalls that it is a well-established norm of international law that pretrial detention is to be the exception and not the rule and that it should be ordered for as short a time as possible.³¹ Article 9 (3) of the Covenant provides that it shall not be the general rule that persons awaiting trial are detained, but release may be subject to guarantees to appear for trial and at any other stage of the judicial proceedings. It follows that liberty is recognized as a principle and detention as an exception in the interests of justice. In the present case, the Working Group considers that by failing to address specific facts or to consider alternative "preventive measures", the authorities failed to properly justify Mr. Tazhimuratov's pretrial detention. In the absence of any argument to the contrary, the Working Group finds his detention to be in violation of article 9 (3) of the Covenant.

72. In view of its findings above, the Working Group considers that Mr. Tazhimuratov's detention has no legal basis, in violation of article 9 of the Covenant and articles 3 and 9 of the Universal Declaration of Human Rights. His detention is therefore arbitrary under category I.

(b) Category II

73. The source states that the detention of Mr. Tazhimuratov is arbitrary under category II since it resulted from his exercise of his rights to freedom of opinion and expression and of peaceful assembly and association, and participation in public affairs, and the right of

²⁸ [A/HRC/19/57](#), para. 68.

²⁹ Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

³⁰ Human Rights Committee, general comment No. 35 (2014), para. 23; and opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in *flagrante delicto*, the opportunity to obtain a warrant will typically not be available.

³¹ Opinions No. 8/2020, para. 54; No. 1/2020, para. 53; No. 57/2014, para. 26; No. 49/2014, para. 23; and No. 28/2014, para. 43. See also Human Rights Committee, general comment No. 35 (2014), para. 38; and [A/HRC/19/57](#), paras. 48–58.

minority cultures to enjoy their culture. According to the source, Mr. Tazhimuratov delivered a speech against constitutional amendments that threatened Karakalpakstan's autonomy, and further encouraged participation in peaceful protests aimed at safeguarding the autonomy of Karakalpakstan.

74. The Government has chosen not to contest these allegations, although it had the opportunity to do so.

75. The Working Group recalls Human Rights Committee general comment No. 34 (2011), in which the Committee states that freedom of expression includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and that that right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, including political opinions.³² The permitted restrictions to that right may relate either to respect for the rights or reputations of others, or to the protection of national security, of public order (*ordre public*) or of 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 therein. 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.³³ Article 19 (3) "may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights".³⁴ Moreover, the Human Rights Committee has mentioned, in relation to article 25 of the Covenant, that "citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression ..."³⁵

76. In the absence of any explanation from the Government, the Working Group considers that the source has demonstrated that the charges against Mr. Tazhimuratov were linked to his exercise of his political rights and freedoms – protected under article 19 of the Covenant and article 19 of the Universal Declaration of Human Rights which guarantee freedom of speech, and under article 25 of the Covenant and article 21 of the Universal Declaration of Human Rights which guarantee the right to participate in the conduct of public affairs. Consequently, the Working Group considers that his detention is arbitrary under category II.

(c) **Category III**

77. Having concluded that the detention of Mr. Tazhimuratov is arbitrary under category II, the Working Group emphasizes that no trial should have taken place. Nevertheless, as the trial took place, Mr. Tazhimuratov was convicted and handed down a long prison sentence, and his conviction was upheld by three court instances, the Working Group will proceed to examine the source's submissions concerning the denial of fair trial rights to him.

78. The Working Group firstly notes the source's allegation that during the trial, Mr. Tazhimuratov was held in a glass cabin, in violation of the presumption of innocence. The Working Group recalls the Human Rights Committee's general comment No. 32 (2007), according to which "it is a duty for all public authorities to refrain from prejudging the outcome of a trial ... Defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals",³⁶ as this may result in a violation of article 14 (1). However, glass cabins do not have the harsh appearance of metal cages, the very exposure of which to the public eye is capable of undermining the image of defendants and arousing in them feelings of humiliation, helplessness, fear, anguish and inferiority. Generally speaking, the placement of defendants behind glass partitions or in glass cabins does not in itself involve an element of humiliation

³² Human Rights Committee, general comment No. 34 (2011), para. 11.

³³ *Ibid.*, para. 22.

³⁴ *Ibid.*, para. 23.

³⁵ See the Committee's general comment No. 25 (1996), para. 8.

³⁶ See para. 30.

sufficient to reach the minimum level of severity, as is the case with metal cages.³⁷ However, if the manner and method of executing the measure subjects defendants to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, or if the glass partition reduces visibility and audibility in a way that affects participation in the proceedings and makes confidential exchanges with legal counsel impossible, that may affect the principles of equality of arms and the presumption of innocence. The Working Group notes that the source has not specified that the glass cabin was set up in a way that restricted the defendant's participation in the proceedings or imposed limitations on his communication with lawyers, and has not specified that the physical conditions in the glass cabin were poor enough to fail to meet the requirements for a fair trial. In the absence of any detailed submission in this respect, the Working Group is unable to conclude that the source has made a prima facie case of violation of article 14.

79. The Working Group further expresses its concern at the allegation of ill-treatment of Mr. Tazhimuratov, as submitted by the source and not contested by the Government. Not only do ill-treatment and torture constitute a grave violation of human rights per se in violation of articles 5 and 25 of the Universal Declaration of Human Rights and article 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as principle 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 1 of the Nelson Mandela Rules, it also seriously undermines the ability of persons to defend themselves and hinders their exercise of the right to a fair trial, especially in light of the right not to be compelled to testify against oneself or to confess guilt. The Working Group is particularly disturbed at the uncontested submissions that the allegations of ill-treatment were brought to the attention of the trial court, which apparently took no action and turned off the live stream of the trial when Mr. Tazhimuratov was testifying about the abuse he had allegedly endured while in detention.

80. The Working Group considers that the failure of the court to take action when allegations of ill-treatment and torture were brought to its attention is a violation of the right of Mr. Tazhimuratov to an independent and impartial tribunal as required by article 10 of the Universal Declaration of Human Rights and article 14 of the Covenant.

81. The source also implicitly complains about a violation of the principle of equality of arms, as none of the experts called to assess Mr. Tazhimuratov's speech spoke the Karakalpak language – the original language – and Mr. Tazhimuratov could not call witnesses and experts on his behalf. The Government did not comment on these allegations. The Working Group recalls that the Human Rights Committee has argued that the requirement of competence, independence and impartiality of a tribunal in the sense of article 14 (1) is an absolute right that is not subject to any exception.³⁸ The Committee has further observed the following:

The requirement of impartiality has two aspects. First, judges must not allow their judgment to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other. Second, the tribunal must also appear to a reasonable observer to be impartial.³⁹

82. In the present case, the source has alleged, and the Government has not rebutted the allegation, that the court refused to examine experts proposed by Mr. Tazhimuratov, and the experts proposed by the prosecution did not speak the language to understand the speech they had to assess. There is no doubt that this point was central to the allegations against Mr. Tazhimuratov. The Working Group therefore finds that the court acted in a manner that disregarded the interests of the defence, and that the court thus failed to act in an impartial manner, in breach of the principle of equality of arms and of article 14 (1) of the Covenant.

83. Given the above, the Working Group concludes that the violations of the right to a fair trial and due process are of such gravity as to give the deprivation of liberty of Mr. Tazhimuratov an arbitrary character that falls within category III.

³⁷ See, for example, European Court of Human Rights, *Yaroslav Belousov v. Russia* (applications No. 2653/13 and No. 60980/14), paras. 124 and 125, judgment of 4 October 2016.

³⁸ See the Committee's general comment No. 32 (2007), para. 19.

³⁹ *Ibid.*, para. 21.

(d) Category V

84. Finally, the source contends that Mr. Tazhimuratov's detention is arbitrary under category V, asserting that it stems from discrimination based on his ethnic origin as a Karakalpak and on his political opinions; the case reflects the broader targeting of Karakalpak political activists, including non-governmental organizations and activists residing abroad, as part of a pattern of systemic discrimination. The Government has failed to address or refute those statements. The Working Group notes with grave concern the unrefuted allegations that Karakalpaks and opponents of the proposed constitutional amendments have reportedly been subjected to mass detentions and excessive use of force, underscoring the discriminatory treatment based on nationality and political opinion.

85. The Working Group recalls that when detention results from the exercise of civil and political rights, there is a strong presumption of discrimination contrary to international law. This presumption is reinforced in Mr. Tazhimuratov's case by credible reports of harassment, physical assault and inhuman treatment during his detention, as stressed by United Nations experts who highlighted the use of excessive force during peaceful protests in Nukus, where Karakalpak protesters, including Mr. Tazhimuratov, were met with violence involving water cannons, rubber bullets, stun grenades and tear gas.⁴⁰ Noting these findings, and in the absence of any explanation from the Government, the Working Group finds that Mr. Tazhimuratov's detention was discriminatory on the grounds of his political opinions and his Karakalpak ethnicity, violating the principle of equality enshrined in articles 2 (1) and 26 of the Covenant. This alleged pattern, unchallenged by the Government, of targeting Karakalpaks for their political activism and ethnic identity reflects a broader violation of the prohibition against discrimination. The Working Group concludes that the facts of the case disclose a violation under category V.

3. Disposition

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

The deprivation of liberty of Dauletmurat Tazhimuratov, being in contravention of articles 2, 3, 5, 7, 9, 10, 19 and 21 of the Universal Declaration of Human Rights and articles 2 (1), 9, 14, 19, 25 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls under categories I, II, III and V.

87. The Working Group requests the Government of Uzbekistan to take the steps necessary to remedy the situation of Mr. Tazhimuratov 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.

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

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

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

⁴⁰ See <https://www.ohchr.org/en/press-releases/2023/11/uzbekistan-must-refrain-persecuting-defenders-minority-rights-un-experts>.

4. Follow-up procedure

91. 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:

- (a) Whether Mr. Tazhimuratov has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Tazhimuratov;
- (c) Whether an investigation has been conducted into the violation of Mr. Tazhimuratov'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.

92. 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.

93. 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.

94. 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.⁴¹

[Adopted on 11 November 2024]

⁴¹ Human Rights Council resolution 51/8, paras. 6 and 9.