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COMMISSION DES DROITS DE L'HOMME
Soixante-deuxième session
Points 11 et 17 de l'ordre du jour provisoire

**DROITS CIVILS ET POLITIQUES
PROMOTION ET PROTECTION DES DROITS DE L'HOMME**

**Lettre datée du 10 août 2005, adressée à la Haut-Commissaire aux droits de l'homme
par la Mission permanente de l'Ouzbékistan auprès de
l'Office des Nations Unies à Genève**

J'ai l'honneur de porter à votre aimable attention les documents ci-après relatifs aux réformes et à la libéralisation du système judiciaire de la République d'Ouzbékistan:

1. Communiqué de presse relatif au décret du Président de la République d'Ouzbékistan concernant l'abolition de la peine de mort dans la République d'Ouzbékistan, qui a été signé le 1^{er} août 2005.
2. Communiqué de presse relatif au décret du Président de la République d'Ouzbékistan concernant le transfert aux tribunaux de la compétence pour délivrer les mandats d'amener, qui a été signé le 8 août 2005.

Je serais reconnaissant au Haut-Commissariat aux droits de l'homme de bien vouloir faciliter la distribution des documents susmentionnés* en tant que documents de la soixante-deuxième session de la Commission des droits de l'homme, au titre des points 11 et 17 de l'ordre du jour.

Chargé d'affaires par intérim
(Signé) Badriddin **Obidov**

* Les documents sont reproduits en annexe tels qu'ils ont été reçus, en anglais et en russe seulement.

Annex I

UZ/UN/05-156

2 August 2005

PRESS RELEASE

On 1 August 2005 President of Uzbekistan Mr. Islam Karimov signed a decree on abolition of death penalty in the Republic of Uzbekistan from 1 January 2008.

In particular, the Decree said that the death penalty will be changed to long-term or life-term imprisonment.

The document said that the Government of Uzbekistan should undertake appropriate measures on the question of abolition of death penalty and develop programme on creation of infrastructure to hold prisoners jailed for long term.

Broad explanatory work and raising awareness among the population of Uzbekistan on the importance of abolition of death penalty is also envisaged by the Decree.

Currently, two clauses – terrorism and premeditated murder in aggravating circumstances – of the Criminal Code of Uzbekistan envisage death penalty.

DECREE OF THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN

On abolition of death penalty in the Republic of Uzbekistan

The most important objective of reforming the court-legal system of the Republic of Uzbekistan is a gradual stepwise liberalization of criminal, criminal – procedural legislation, and the system of criminal punishment.

In keeping with the Law of the Republic of Uzbekistan "On introducing amendments and addenda to the Criminal, Criminal – Procedural codes and Code of the Republic of Uzbekistan on administrative accountability in connection with liberalization of criminal punishments", laws on courts, on prosecutor's office, and number of other legislative acts adopted over the last years, the classification of crimes saw their change, the list of crimes, classified as heinous, has been decreased, the alternative types of punishment for the crimes were introduced, not related to imprisonment, - the institute of

reconciliation. The number of other program measures was adopted, directed at liberalizing the system of criminal punishments.

The profound changes in penal policy and law enforcing practice are positively impacting the social – political situation, and the situation with infringement of laws in the country.

The most important direction of liberalization processes in the court – legal system, and criminal punishment, undertaken in the Republic of Uzbekistan, was the gradual narrowing of the sphere of application of death penalty. By the time of gaining independence the criminal legislation contained more than 30 articles, which have envisaged the punishment in the form of death penalty. In the Criminal Code of the Republic of Uzbekistan of 1994 the number of such articles came down to 13, in 1998 – down to 8, and in 2001 – down to 4. At the moment, following the undertaking of complex of measures in 2003 to liberalize the penal legislation, the death penalty is now applied only for the two crimes – the premeditated murder in aggravated conditions and terrorism.

The number of crimes, in which cases the death penalty can be applied, makes up less than one percent in criminal legislation out of total number of criminally prosecuted acts. Regardless of weight of the committed crime, the legislation bans the application of this type of penalty to those having not reached the age of puberty, women, and persons of above 60 years of age.

The penal policy of the state in the area of application the capital punishment fully meets the world tendency and gradually reflects the principles of humanism and justice, as declared by the Constitution of the Republic of Uzbekistan.

At the same time, the essence and content of the reforms carried out in the country on further democratic renewal of social and state life, modernizing the country, and the outcomes of the work on liberalizing the court – legal system condition the need to abolish the capital punishment as a type of penalty and replacing it with life, or the long term imprisonment.

In this, the reforms in this most important area must be carried out gradually, while taking into account the developing and humanizing the social relations and strengthening the democratic values in the minds of people.

The abolition of capital punishment shall call forth the broad public awareness works, and firstly, on substantiating the advancing path of our country along establishing the legal democratic state and civil society, consolidating in public perception of understanding the need to further liberalize the criminal penalty, including the abolition of capital punishment.

We need to realize the entire range of organizational and preparatory works with regard to building complexes and facilities, creating the necessary conditions to place the persons, whom the capital punishment has been altered to life, or the long term imprisonment, and training the personnel to employ them at these facilities.

The important task is to thoroughly elaborate and introduce amendments and addenda with criminal, criminal – procedural, criminal – executive

legislation, while considering thorough study of international legal acts in this area, the parallel legislation in foreign countries, known to have abolished the death penalty and retain experience in applying penalty to those, who are sentenced to life, or long term imprisonment, instead of capital punishment.

Based on universally accepted principles and norms of international law, provisions of the Constitution of the Republic of Uzbekistan, which stipulate and enshrine the right of person to life, and in order to realize specific measures to further liberalize the criminal punishment:

1. Starting January 1, 2008, the death penalty shall be abolished in the Republic of Uzbekistan, as a type of criminal punishment, and instead the punishment in the form of life, or long term imprisonment shall be introduced.

It shall be defined, that:

the penalties in the form of life, or long term imprisonment can be assigned by the Supreme Court of the Republic of Uzbekistan, Supreme Court of the Republic of Karakalpakstan, regional, Tashkent city penal courts, and Military court of the Republic of Uzbekistan;

the persons, sentenced for committed crimes for life, or long term imprisonment, serve their sentences in specialized facilities of imprisonment of special regime.

2. The Ministry of Justice, Supreme Court, Office of Prosecutor General, Ministry of Internal Affairs, and National Security Service by January 1, 2006, shall design proposals on introducing amendments and addenda with Criminal, Criminal – Procedural, and Criminal – Executive codes of the Republic of Uzbekistan, in relation with exclusion of death penalty from the system of criminal penalties, and alternating it to life, or long term imprisonment, and while having envisaged:

to define and substantiate the specific terms of imprisonment of persons, who have committed crimes, for which the application of death penalty is currently allowed;

the order of assigning punishment for such crimes, calculation of terms of imprisonment, as well as the order and conditions of serving punishment, introduced in place of death penalty.

3. The Cabinet of Ministers of the Republic of Uzbekistan in two month's time shall adopt resolution on measures of constructing and preparing for commissioning the complex of specialized facilities, needed to place the convicted, sentenced to life, or long term imprisonment, as well as on the procedure of funding these facilities, and training cadres to employ them there.

4. The Ministry of Justice, Supreme Court, Office of Prosecutor General, Ministry of Internal Affairs jointly with National Information Agency, Television and Radio Company of Uzbekistan, Uzbek Agency for Print and Information shall design and realize the complex of measures, aimed at holding broad public awareness work on abolition of death penalty.

5. The following Decree shall be introduced for discussion at the Oliy Majlis of the Republic of Uzbekistan.

6. The Prime Minister of the Republic of Uzbekistan Sh. M. Mirziyoev and State Advisor to the President of the Republic of Uzbekistan T. A. Khudaybergenov shall be appointed responsible to oversee the execution of this Decree.

Islam Karimov,
President of the Republic of Uzbekistan

City of Tashkent

Annex II

UZ/UN/05-169

9 August 2005

PRESS RELEASE

**About the Decree of the President of the Republic of Uzbekistan
"On Transferring to Courts the Right to Issue Sanctions for Arrest"**

On August 8, 2005 the President of Uzbekistan signed the Decree "On Transferring to Courts the Right to Issue Sanctions for Arrest".

According to the Decree:

- the right to issue sanctions for ~~arrest~~ of persons suspected or accused of the perpetration of crimes shall be transferred to courts' jurisdiction, as of January 1st, 2008.

- taking into custody shall be carried out in exceptional cases when the application of other preventive punishment measures established by the law appears to be inefficient, and only by the decision of criminal or military court in accordance with their competence.

The new Decree of the President of Uzbekistan is a component and logic continuation of a purposeful policy on realization of stage-by-stage deep transformations in judicial-legal system.

Thus, the provision of the efficient protection of human constitutional rights and freedoms, above all the right for protection from unfounded criminal prosecution and interference in one's private life, personal immunity as well as the right for fair trial is the most important tasks.

In recent years, considerable work has been done in this direction. The specialization of courts into criminal, civil and economic ones have been legally set. This has provided the quality of court trials, strengthened the guarantees for the protection of the rights and freedoms of citizens. Appellate order has been introduced, which serves as an important guarantee for timely correction of court mistakes, barring delays in legal procedures. Cassation system has been reformed: citizens have been enabled to personally and immediately protect their rights through cassation when they disagree with a court decision. Legal mechanisms that ensure the equality of rights of the Defense and Prosecution during court hearing and the realization of the competition principle have been created.

Besides, preliminary investigation period has been legally reduced from two years to one year, while in custody — from one and a half year to nine months, and in exceptional cases - to one year. The extent of the application of this kind of preventive punishment has also been cut down.

As the evidence of the ongoing liberalization of pretrial investigation, the application of such kind of preventive punishment as taking into custody has for the past 4 years decreased by two times.

As a whole, the transfer of the right to issue sanctions for arrest to courts specified by the present Decree, will allow to considerably improve the effectiveness of the protection of the constitutional rights of citizens for freedom and personal inviolability.

This decision will be implemented on the stage-by-stage bases after the introduction of corresponding amendments and addenda to the Criminal-Procedural and Criminal-Executive Codes and other Laws of the Republic of Uzbekistan; examination of foreign experience in this area, development of the organizational-judicial and procedural mechanisms, proper training and re-training of the personnel of the judicial and law-enforcement bodies as well as other preparatory measures.

August 9, 2005

DECREE OF THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN **On Transferring to Courts the Right to Issue Sanctions for Arrest**

The provision of the efficient protection of human constitutional rights and freedoms, above all the right for protection from unfounded criminal prosecution and interference in one's private life, personal immunity as well as the right for fair trial is the most important tasks of the ongoing judicial reform in Uzbekistan.

In recent years, considerable work has been done to ensure the lawfulness in the work of law-enforcement agencies, strengthen the authority of the judicial power as of crucial guarantee for the effective protection of human rights, provision of the genuine independence of courts, strengthening their role in building democratic lawful state and strong civil society.

The specialization of courts into criminal, civil and economic ones have been legally set. This has provided the quality of court trials, strengthened the guarantees for the protection of the rights and freedoms of citizens. Appellate order has been introduced, which serves as an important guarantee for timely correction of court mistakes, barring delays in legal procedures. Cassation system has been reformed: citizens have been enabled to personally and immediately protect their rights through cassation when they disagree with a court decision. Legal mechanisms that ensure the equality of rights of the Defense and Prosecution during court hearing and the realization of the competition principle have been created.

Preliminary investigation period has been legally reduced from two years to one year while custody – from one and a half year to nine months, and in exceptional cases - to one year. The extent of the application of this kind of preventive punishment has also been cut down.

These measures on the liberalization of the judiciary, law-enforcement practices have facilitated the efficacy and quality of pretrial investigations, administration of justice, expansion of procedural guarantees of the rights of court trial participants.

As the evidence of the ongoing liberalization of pretrial investigation, the application of such kind of preventive punishment as taking into custody has for the past 4 years decreased by two times.

The most important task of the further liberalization of the judicial system is expansion of court powers on efficiently protecting the rights of citizens during pretrial investigation stage, and, above all, the transfer from the Office of Public Prosecutor to Courts the right to issue sanctions for arrest. This measure will allow to considerably improve the effectiveness of the protection of the constitutional rights of citizens for freedom and personal inviolability. It fully conforms with the Constitution of the Republic of Uzbekistan, universally recognized principles and norms of international law, which establishes that the human rights and freedoms are indivisible and no one has any right to deprive of or limit them.

At the same time, the transfer of the right to issue sanctions for arrest to courts must be implemented gradually upon deep elaboration and introduction of certain amendments and addenda to Criminal-Procedural and Criminal-Executive Codes of the Republic of Uzbekistan and other judicial acts, examination of foreign experience in this area, development of the organizational-judicial, procedural mechanisms of administering by courts of their right of sanctioning arrests, proper training and re-training of the personnel of the judicial and law-enforcement bodies as well as other preparatory measures.

With the view of the further liberalization of the judicial-legal system, provision of the stage-by-stage and gradual transfer to the courts of the right to deliver sanctions on the application of the measures of judicial measures connected with the restriction of the constitutional rights and freedoms of the person, and in accordance with the clauses 19, 25 and 44 of the Constitution of the Republic of Uzbekistan, establishing the rights of citizens for judicial protection:

1. The right to issue sanctions for arrest of persons suspected or accused of the perpetration of crimes shall be transferred to courts' jurisdiction, as of January 1st, 2008.

Taking into custody shall be carried out in exceptional cases when the application of other preventive punishment measures established by the law appears to be inefficient, and only by the decision of criminal or military court in accordance with their competence.

2. The Ministry of Justice, the Supreme Court, the Office of Public Prosecutor, the Ministry of Internal Affairs, National Security Service of the Republic of Uzbekistan shall in three month period prepare proposals to introduce amendments and addenda to the Criminal-Procedural and Criminal-Executive Codes of the Republic of Uzbekistan, Laws of the Republic of

Uzbekistan "On courts", "On Office of Public Prosecutor" regulating the order and procedure of taking into custody, prolongating the custody, and also establishing additional guarantees for the provision of the Constitutional rights and freedoms of citizens and their inviolability at a pre-trial stage. Thus, according to paragraph 1 of this Decree, not only laws and amendments are subject to revision, but also norms and regulations stipulated in departmental legal acts.

3. The Supreme Court, Ministries of Finance, Economy, Justice, Internal Affairs, the Office of Public Prosecutor, National Security Service of the Republic of Uzbekistan and the Supreme Judge Selection and Recommendation Qualifying Commission under the President of the Republic of Uzbekistan, in view of the transfer of powers to issue sanctions for arrest, shall in two month period prepare proposals on the improvement of the system of organizational-personnel provision of courts of general jurisdiction.

4. The Ministries of Justice, Internal Affairs, the Supreme Court, the Office of Public Prosecutor, National Security Service of the Republic of Uzbekistan shall develop and realize a complex of measures on the training and retraining of judges and employees of the Office of Public Prosecutor, Investigative Divisions of the Ministry of Internal Affairs and National Security Service in connection with the introduction of the new order of taking into custody by court decision.

5. The present Decree shall be introduced for consideration to Oliy Majlis of the Republic of Uzbekistan.

6. The control over the implementation of the present Decree shall be assigned to the State Adviser of the President of Republic Uzbekistan T.Hudaybergenov.

**PRESIDENT
OF THE REPUBLIC OF UZBEKISTAN**

I.KARIMOV
