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Uzbekistan

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1. (A) Introduction

1.1. CIVICUS: World Alliance for Citizen Participation is an international movement with members and partners in more than 100 countries worldwide. CIVICUS is an accredited NGO member of UN ECOSOC.

1.2. In this document CIVICUS: World Alliance for Citizen Participation provides information on freedoms of assembly and association in Uzbekistan under sections B, C and D:

- Under section B, CIVICUS focuses on the issues of concern in the legislation of Uzbekistan pertaining to the freedoms of assembly and association as basic rights for civil society.
- In section C, CIVICUS points out to the evidence of a systemic pressure on civil society in Uzbekistan, including mass closures and liquidation of independent NGOs and obstacles to funding.
- In section D, CIVICUS makes a number of recommendations in the areas of concerns listed.

2. (B) Normative and institutional framework for the promotion and protection of human rights

2.1. Freedom of peaceful assembly

2.1.1. The Uzbek Constitution guarantees citizens the right to hold rallies, meetings and demonstrations in accordance with legislation. These undertakings can be suspended or banned exclusively on the grounds of security. The primary legislation on the freedom of assembly is represented by the Rules of Holding Mass Events promulgated on the decision of the Cabinet of Ministers on 13 January 2003, No 15 (hereinafter “rules”).

2.1.2. The overall tone and tenor of the rules is restrictive and a large number of conditions are placed on both organisers and participants at mass events which serve to impede the freedom to assemble peacefully. A mass event is defined as an assembly, organised by legal or physical entities in the open and in closed constructions, areas, buildings and other places, for the purpose of the holding entertaining, theatrical-entertainment, concert, sport, advertising and other

entertaining programs, and also celebration of national, religious and professional events with the participation of no less than 100 people. Although rallies, meetings and demonstrations recognised by the constitution are not given specific recognition by the rules, practice suggests that they are included within the purview of the rules. Assemblies of less than 100 persons are not regulated by the rules.

2.1.3. The rules list a number of authorities from whom “permission” must be obtained to hold mass events. The rules mandate the constitution of commissions to consider applications and grant permission to hold mass rallies, comprising representatives of the territorial organs of internal affairs, of the National Security Service, Ministry for Extraordinary Situations, Ministry of Public Health and other interested institutions and organisations. The requirement to obtain “permission” from the authorities as opposed to notifying them before holding mass events is unreasonable and goes against the spirit of the constitution and the ICCPR to which Uzbekistan is a party. Furthermore, inclusion of multiple authorities including the National Secret Service in the decision making process to grant permission to hold mass events militates against the freedom of assembly.

2.1.4. Organisers of mass events are required to submit applications one month in advance before the planned date, which is unduly long and prevents holding of spontaneous assemblies comprising of 100 or more people.

2.1.5. Furthermore, organisers of mass events are required to sign an agreement on maintaining order with the authorities at least ten days prior to holding the event and also decide on the cost of the services of the territorial organs of internal affairs for the protection of social order and safety. It is unreasonable for the state to expect payment for facilitating the exercise of a constitutional right.

2.1.6. The process of organising mass events is further complicated by the requirement to establish working groups comprising organisers of the event, representatives of the Ministry of Internal Affairs and other interested departments. The working groups are empowered to cancel or postpone an event in the interests of the safety of the participants and spectators which gives wide leeway to the authorities to restrict the freedom of assembly.

2.1.7. Additionally, to keep public assemblies under constant surveillance, organisers of mass events are required to allocate a minimum of 10 seats in each sector and a seat in each row for members of the territorial organs of the internal security services and the National Security Service. This amounts to undue interference by the state on the freedom of assembly.

2.1.8. Furthermore, the rules mandate that upon the occurrence of circumstances that threaten social order and safety, the participants must end the performance on the first demand of the representatives of the organisers, the administration or the organs of internal affairs. Thus, public assemblies and performances may be summarily discontinued by the authorities upon threat to social order and safety as opposed to an actual breach. The rules do not give any leeway participants to address the threats perceived by the authorities to social order or safety and continue with the mass event but have to suspend the event immediately. This is unreasonable and unduly restrictive to the freedom of assembly.

2.1.9. The rules also specifically require the organs of internal affairs to take to account those persons who disrupt social order and rules of behaviour established by the administration; to instruct the sport and creative collectives together with other workers of theatrical-entertainment and sport establishments on the rules of conduct in the conditions of emergency situations during mass events; and also about the inadmissibility of performances which may provoke aggressive emotions amongst spectators. These provisions amount to overkill and give license to the authorities to unduly interfere in the conduct of mass events.

2.1.10. Violations of procedures for organising or holding of assemblies, meetings or demonstrations, committed by organisers are punishable by fine ranging from 50-75 minimum monthly wages or arrest up to six months or imprisonment up to three years. Violation of regulations on holding religious assemblies, processions, and other cultic ceremonies, after infliction of administrative penalty for the same actions is punishable by fine ranging from fifty to seventy-five minimum monthly wages, or arrest up to six months, or imprisonment up to three years. Significantly, no punishments are prescribed for those who illegally impede mass events and infringe upon the freedom to assemble assembly.

2.2. Freedom of Association

2.2.1. The Constitution of Uzbekistan guarantees citizens the right to form trade unions, political parties and any other public associations, and to participate in mass movements. The constitution also guarantees that no one may infringe on the rights, freedoms and dignity of individuals constituting the minority opposition in political parties, public associations, and mass movements, as well as in representative bodies of authority. Although, interference by state bodies and officials in the activities of public associations is unconstitutional, public associations are equally prohibited from interfering in the activities of state bodies and officials. Existence of such a provision serves to restrict the possibility of offering legitimate criticism to official policies as it may be construed as illegal interference. Furthermore, creation of secret societies and associations is constitutionally prohibited. What types of organisations constitute “secret societies and associations” is not explained. Such a prohibition without prescribing any criteria constitutes an impediment to the freedom of association.

2.2.2. Registration Requirements

There is a multiplicity of laws dealing with the right to associate – the Law on Social Organisations, the Law on Non-commercial Non governmental organisations, the Law on Charity 2007 and the Law on Guarantees of Activities of Non-State Non-Profit Organisations. It is mandatory for public organisations to register as they can carry out their activities only after registration of their charters. This is an unreasonable requirement.

2.2.3. Provisions Relating to Autonomy

The Law on Social Organisations, the Law on Non-commercial Non-governmental organisations and the Law on Charities empowers state representatives to attend any event organised by these organisations. This constitutes an encroachment on the autonomy of civil society organisations.

2.2.4. Provisions Relating to Financial Autonomy

The Law on Charities contains a confusing stipulation that ‘overheads’ (which have not been defined) shall not exceed 20% of the annual financial expenses of a civil society organisation.

Furthermore, philanthropic donations can only be used for charitable purposes but not to support the organisation. It is not immediately clear what this means. Establishment costs cannot be separated from the programmatic work of an organisation.

2.2.5. A presidential Decree No. 56 was adopted in February 2004, instructing all foreign grants to be processed through two designated banks. By this Decree a special Bank Commission was created with responsibility for inspecting all grants received by local NGOs from foreign agencies. The Bank Commission demanded the submission of registration documents, project proposals, budgets and staff information. In the majority of cases the grants are not approved and, instead, returned to the donor agencies.

3. (C) Promotion and protection of human rights on the ground

3.1. Banning of peaceful assemblies

The constitution guarantees citizens the right to engage in public life by holding rallies, meetings and demonstrations. But in practice any attempt to peacefully gather to express opinions on public affairs is met with stiff official resistance and hurriedly disbursed by government troops. Participants frequently encounter intimidation, harassment as well as arrest, criminal charges and detention.

3.2. On 13 May 2005, gunmen attacked government buildings and broke into the Andijan city prison, taking hostages. In reaction, thousands of demonstrators gathered to air their grievances about the government. While official estimates state that 173 people were killed, it was widely reported that over 500 lost their lives. No official investigation has been made into these events. Facts on the ground clearly point to the complicity of government troops using unnecessary and tragic force against protesting citizens. No officials have been held responsible for the widespread loss of life.

3.3. Pickets and demonstrations organised by the unregistered “Human Rights Defenders’ Alliance of Uzbekistan” in the last 3 years have been constantly disbanded by the police and National Security Service troops followed by arrests and physical assaults on participants, including members of the Human Rights Defenders’ Alliance of Uzbekistan, Elena Urlaeva, Akhtam Shaimardanov, Abdillo Tojiboy Ugli, Raisa Kyzminykh, Zhanna Ignatenko, Shojonbek Fozilov. After each weekly protest, these human rights defenders have been detained from periods ranging from hours to several days. Their homes have been under constant surveillance. Random searches and administrative penalties are routinely used to harass and intimidate human rights defenders.

3.4. NANGOUz is a government founded and run national umbrella group. All NGOs are told to join NANGOUz to avoid complications, but even those that do are not protected against closure. Governance and management of NANGOUz consists of government officials and members of National Security Service. All foreign donors were directed to channel grants to the NANGOUz Fund. In three years, NANGOUz has administered four grant competitions for member NGOs. The recipients have mostly been pro-government NGOs and members of NANGOUz governing bodies. In one of the competitions two foundations led by the President’s daughter received 50 percent of the grant pool. By establishing NANGOUz, the government has sought to provide the appearance of a civil society sector, while in reality systematically silencing all independent civil society.

3.5. Mass closures of NGOs still continue with 300 confirmed closures in 2004-2007, including a network of Civil Society Support Centres, a number of professional associations, women's rights organisations and social service groups. In substitution, more pro-government NGO are being created every day with the support of government funding.

3.6. At the same time it is impossible to register an independent citizen organisation or an NGO in Uzbekistan. The number of registration rejections is difficult to monitor since this information is restricted. In 2006-2007 "Human Rights Defenders' Alliance of Uzbekistan" was repeatedly denied registration. Registration was also denied to the organisation "For Fair and Just Elections". Additionally, its members were subject to intimidation and pressure.

4. (D) Identification of achievements, best practice, challenges and constraints

4.1. CIVICUS urges the Uzbek government to permit space for legitimate dissent to official actions and policies and to uphold the freedoms of association and assembly in the spirit to the ICCPR to which Uzbekistan is a party and to its own constitution which guarantees these freedoms. In light of this, the following recommendations are made:

4.2. Regarding freedom of assembly:

- An enabling legal framework should be put in place to guarantee the freedom of assembly, including the freedom to assemble spontaneously on matters of pressing public importance
- In practice, the freedom to assemble may not be denied or impeded on vague grounds. Systemic measures to properly train and make accountable public servants charged with overseeing public assemblies including law enforcement personnel should be put in place.

4.3. Regarding freedom of association

- The requirement for mandatory registration of civil society organisations and banning of secret societies and associations should be removed.
- An enabling legal framework should be put in place, eliminating complicated registration procedures, unjustified restrictions on foreign funding and arbitrary official interference in the activities of civil society organisations.

Appendix

CIVICUS documents for further reference:

1. CIVICUS Letter: Three years after Andijan killings, civil society even more restricted. A letter to President Karimov.

<http://www.civicus.org/new/media/CIVICUSLetter-President-Karimov-13May2008.pdf>

2. CIVICUS: Statement on Mutabar Tojiboyeva and freedom of assembly

<http://www.civicus.org/new/media/Statement-Mutaba-May2008FINAL.doc>

3. CIVICUS Report: Sliding Backwards: The growth and decline of independent civil society in Uzbekistan www.civicus.org/csw/Uzbekistan.Report.FINAL.pdf