



# Briefing ahead of EU – Uzbekistan Human Rights Dialogue

March 2022

## Introduction

Despite an ambitious reform programme, in President Shavkat Mirziyoyev's Uzbekistan, judicial independence continues to be routinely undermined by the executive branch of power; the government continues to refute credible reports of torture and ill-treatment; past abuses have not been addressed; local human rights defenders, independent journalists and bloggers and others who voice criticism of the government continue to be at risk of reprisals; consensual homosexual adult sex is an offence in Uzbekistan's Criminal Code; and domestic violence remains a matter of grave concern.

Below are short summaries of our key concerns and recommendations regarding violations of the rights to freedoms of association and expression, torture, criminalization of homosexuality and discrimination of LGBT+ individuals, and domestic violence.

## Freedom of association: registration of independent NGOs virtually impossible

The operating space for civil society remains seriously restricted in Uzbekistan, despite some reform steps taken by the authorities. Although the government publicly claims that there are over 10 000 NGOs now operating in Uzbekistan, closer examination reveals that the majority are in fact government-organised non-governmental organisations (GONGOs). As a result, independent civil society initiatives, and in particular those which focus on human rights, usually struggle to obtain official registration. The process of registering new NGOs remains fraught with difficulties, and several independent NGOs have repeatedly been denied registration on grounds that appear to be politically motivated.



## HUMAN RIGHTS HOUSE'S FAILED ATTEMPTS TO REGISTER WITH THE MINISTRY OF JUSTICE

Human Rights House, a human rights NGO founded by Agzam Turgunov, human rights defender and former political prisoner, has had nine<sup>1</sup> applications for registration rejected since February 2019. The rejections have all been based on unsubstantiated or unclear grounds and the Ministry of Justice has continuously found new objections after the applicants have diligently addressed the alleged technical mistakes raised.

The latest refusal to grant registration to the organisation, which was issued by the Ministry of Justice on 26 July 2021, prompted Turgunov and his co-founders to file a lawsuit against the Ministry. However, the Tashkent court to which the lawsuit was submitted in September 2021 refused to review it “on formal grounds”.

A new request for registration was submitted to the Ministry of Justice in November, taking into account previous comments and with payment of the increased registration fee. However, the request was again refused in connection with a Presidential resolution stating that branches of NGOs in the regions will be legal entities whereas the Human Rights House Charter still stated that regional branches were not legal entities.

Human Rights House submitted a new registration request in November 2021 and is currently revising core documents.

### Recommendation to the Uzbekistani authorities:

- Swiftly register the independent civil society group Human Rights House and all other peaceful civil society groups seeking registration in Uzbekistan.

## Freedom of expression: bloggers targeted

The climate for free speech remains restrictive both on- and offline in Uzbekistan and in 2021 and 2022 several bloggers and others critical of the authorities have been targeted and sentenced to terms of imprisonment for “slander” and on fabricated charges involving allegations of extortion.

In accordance with amendments to the Law on Informatization adopted in March 2021, the dissemination of “false” information, as well as defamation and insult, including through online channels, are punishable under the current Criminal Code. While slander and insult can no longer result in imprisonment, the separate crime of “insulting the President” is punishable by up to five years in prison, and the dissemination of “false” information about COVID-19 and other infectious diseases carries a penalty of up to three years in prison.

The practice of blocking websites and social media platforms such as Twitter and TikTok continues. What is more, ahead of the presidential elections in October 2021, growing intimidation and harassment of journalists and bloggers was reported. Blogging on corruption and other issues sensitive to people in power remains a dangerous activity in Uzbekistan and outspoken bloggers have been targeted for prosecution in several recent cases.

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<sup>1</sup> <https://rus.ozodlik.org/a/31301144.html>

## THE CASE OF THE BLOGGER MIRAZIZ BAZAROV

In January 2022, a Tashkent court sentenced Miraziz Bazarov to three years of restricted freedom on charges of “slander”, believed to be aimed at punishing him for peacefully exercising his right to freedom of expression and opinion in relation to remarks he made about the poor-quality education he received at school.<sup>2</sup> He is serving his sentence at home with strict limitations on his contact with the outside world. According to Bazarov’s lawyer Sergey Mayorov, the conditions of Bazarov’s sentence include the prohibition to leave his house between 8pm and the early morning, to work in his profession as a psychologist and to use the internet.

As an active and well-known blogger, Bazarov repeatedly criticised the authorities, including for the lack of transparency and public control over the government’s use of COVID-19 related loans. He also openly called for the decriminalization of same-sex relations and made critical remarks about the education system. Prior to facing investigation for “slander”, in March 2021, Bazarov was physically attacked by masked men as he was walking in Tashkent, sustaining injuries for which he required a month-long hospital treatment. The police opened an investigation into the attack, but there are concerns about its impartiality and effectiveness.

## THE CASE OF THE BLOGGER OTABEK SATTORIY

On 10 May 2021, Muzrabad District Court in the Sukhodarya region in southern Uzbekistan sentenced the blogger Otabek Sattoriy to six and a half years’ imprisonment for “extortion” (Article 165 of the Criminal Code) and “slander” (Article 139).<sup>3</sup> There are credible allegations that the case was fabricated to punish Sattoriy for peacefully exercising his right to freedom of expression. On his Telegram and YouTube channels Otabek Sattoriy had repeatedly accused representatives of local authorities of corruption.

On 20 December 2020, Otabek Sattoriy and Farhad Ismailov, correspondent for the news site ‘Effect.Uz’<sup>4</sup>, visited the local Sherabad food market to check food prices following an announcement in a government meeting by President Mirziyoyev that prices would not be inflated prior to the New Year holidays.

When Sattoriy began filming market stalls and prices with his mobile phone, he was reportedly attacked by two employees of this market, who tore his jacket and snatched his mobile phone, breaking it and deleting all the files in the process. They then kept the phone. A local policeman reportedly watched the scene but did not intervene. Sattoriy was taken into custody for 42 days allegedly for stealing and extortion. He denies the charges and there are allegations that police fabricated evidence against Sattoriy in the first couple of days after his arrest including by putting pressure on nine individuals to testify against him.

Sattoriy has appealed the sentence. The appeal hearing began on 2 March 2022 and is ongoing at the time of writing.

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2 Further information on the case: <https://www.iphronline.org/uzbekistan-miraziz-bazarov-slander.html>

3 Further information on the case: <https://www.iphronline.org/uzbekistan-opposition-bloggers-targeted.html>

4 <https://effect.uz/>

## Recommendation to the Uzbekistani authorities:

- Urgently release the blogger Miraziz Bazarov who has been targeted for peacefully exercising his right to freedom of expression.
- Raise concern at credible allegations that the charges of “extortion” and “slander” were fabricated against Otabek Sattoriy and that he was convicted to punish him for peacefully exercising his right to freedom of expression.

## Torture

There have been some positive legislative steps regarding torture and other forms of ill-treatment, such as explicitly prohibiting the use of torture to obtain confessions and their use as evidence in court; and obliging law enforcement agencies to make video recordings of investigative activities. However, these and other legal safeguards against torture are not consistently implemented.

The authors of this document are concerned that torture and ill-treatment continue to be widely used. It remains difficult to assess the scale of the problem as the court hearings on torture cases are held behind closed doors by military courts. Additionally, the authorities do not compile comprehensive statistics featuring numbers of complaints about torture and other forms of ill-treatment, investigations, prosecutions and appeals.

Many victims do not lodge complaints of torture because they were unable to document the traces of physical torture, because they were allocated a state lawyer who failed to defend their interests, or because their lawyer was not allowed to see them while in detention. Victims are afraid of lodging complaints without sufficient evidence, also due to the risk of being prosecuted for “slander”.

The lack of a timely and effective mechanism of investigation into torture allegations further exacerbates this situation and leads to distrust in the criminal justice system. The perpetrators of torture and ill-treatment enjoy virtual impunity.

Furthermore, Uzbekistan has not ratified the Optional Protocol to the Convention against Torture (OPCAT) and the country does not allow independent monitoring of detention facilities.

Those charged with “terrorism” and “extremism” as well as gay men and trans people are believed to be at a particularly high risk of torture and ill-treatment.

### **ALEXANDER TROFIMOV: TORTURE ALLEGATIONS NEED TO BE EFFECTIVELY INVESTIGATED**

In May 2021, Alexander Trofimov, a 29-year-old father of two, was arrested on suspicion of stealing money from a safe belonging to a company in Tashkent. There were credible allegations that police tortured him at Chilanzar District Police station in Tashkent.<sup>5</sup> Reportedly, he was repeatedly hit on the site of a previous skull fracture, despite begging officers not to, causing him to suffer severe pain for several days after.

Trofimov’s mother lodged complaints with government agencies about the abuse of her

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5 Refer to: <https://www.iphronline.org/torture-victim-alexander-trofimov-still-facing-criminal-charges.html>

son in custody and in June 2021, the Prosecutor General's Office informed her that it had taken the case "under control". However, the preliminary investigation, first conducted by the Prosecutor's Office of Tashkent, then handed down to a district Prosecutor's Office, has not produced any results at the time of writing.

On 21 November 2021, the criminal charges against Trofimov were dropped, but although his lawyer has repeatedly petitioned that a case be opened under Article 235 (torture), the investigation into his allegations of torture has not made progress and the perpetrators remain at large.

## **KADYR YUSUPOV STILL IN PRISON DESPITE UN CALLS FOR HIS RELEASE**

Kadyr Yusupov, a former diplomat, was taken into detention in December 2018 after a psychotic episode; when in hospital, suffering from brain trauma and clearly confused, he reportedly said that he had been a spy for the West.<sup>6</sup> He was charged with "treason" and convicted by the Military Court of Uzbekistan to five and a half years' imprisonment in a closed trial that fell short of international fair trial standards in January 2020.

There are credible allegations that he was subjected to abuse and deplorable prison conditions and that he was repeatedly denied access to medication and treatment in relation to beatings, heart disease and mental illness.

Several UN bodies and procedures raised concern about Yusupov's case.<sup>7</sup> Most recently, in May 2021, the UN Working Group on Arbitrary Detention concluded that Yusupov's detention is arbitrary and called on the authorities of Uzbekistan to release him immediately and provide him with adequate compensation.

### **Recommendation to the Uzbekistani authorities:**

- Conduct an effective investigation into credible allegations that Alexander Trofimov was tortured at Chilanzar District Police station in May 2021 and bring the perpetrators to justice in fair proceedings.
- Swiftly release former diplomat Kadyr Yusupov, in line with the decision of the UN Working Group on Arbitrary Detention issued in May 2021.
- Set up an independent mechanism to investigate allegations of torture and ill-treatment.

## **Criminalization of homosexuality and discrimination of LGBT+**

The criminalization of consensual sexual relations between men under Article 120 of the Criminal Code of Uzbekistan<sup>6</sup>, combined with widespread societal and religious homo- and transphobia, policy influences from contemporary Russia, and anti-Western sentiment amount to a toxic mix.

<sup>6</sup> For further information see: <https://www.iphronline.org/uzbekistan-kadyr-yusupov-attacked-in-prison.html>

<sup>7</sup> E.g., the UN Special Rapporteur on torture and the UN Special Rapporteur on health in a *joint letter* in July 2019, the UN Committee against Torture in its concluding observations adopted in November 2019 and during discussions at the UN Human Rights Committee review in March 2020.

Gays, bisexual men and trans people are highly vulnerable to abuse, extortion and discrimination by both police and aggressive homophobes. Their risk of being subjected to torture, sexual violence and other forms of ill-treatment, such as forced anal exams, is particularly high in police detention and in penitentiary institutions. When in danger, they cannot rely on the police for protection.

International human rights groups advocating for the decriminalization of homosexuality hoped that Uzbekistan would remove the offence when elaborating a new Criminal Code, but the draft Criminal Code published by the Prosecutor General's Office on 22 February 2021 retains criminal punishment for consensual sex between men, leaving the wording unchanged. There is still a window of opportunity for decriminalization as the new Criminal Code has not yet been adopted.

For further information, refer to the draft report Uzbekistan: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination that is attached with this briefing.

### **Recommendation to the Uzbekistani authorities:**

- Decriminalize consensual sexual relations between men and swiftly and unconditionally release and rehabilitate all those convicted of Article 120.

## **Domestic violence**

Despite some positive steps taken by the Uzbekistani government including the adoption of the Law on Protection of Women from Oppression and Violence in 2019, violence against women continues to be a matter of grave concern across the country. Impunity is the rule for a variety of reasons. For example, authorities can only bring “ex officio” prosecutions in cases involving serious injuries; in all other cases the Criminal Procedure Code obliges victims to bring private prosecutions. In addition, some types of domestic violence such as marital rape are not included in the Criminal Code.

Deep rooted patriarchal attitudes and stereotypes about gender roles persist in Uzbekistan amongst the population, as well as amongst officials. Despite efforts by some, government representatives have failed to communicate a consistent public message of zero tolerance of domestic violence and state media has continued to perpetuate gender disparity and stereotypes which reinforce the idea that women and girls should be “controlled”. This contributes to a culture of violence and a general climate of impunity for the perpetrators of domestic violence.

### **Recommendation to the Uzbekistani authorities:**

- Amend the Criminal Code to include an article criminalizing all forms of domestic violence including psychological violence, economic and sexual violence; ensure that they specifically address the ongoing, controlling and coercive nature of domestic violence; and explicitly criminalize marital rape.
- Amend the Criminal Procedural Code to stipulate that domestic violence should, in all cases, be investigated through public prosecution instead of through private prosecution and that a victim of domestic violence is not responsible for instigating criminal proceedings.
- Set up a sufficient number of rehabilitation centres and/ or shelters across the country, equip them with well trained staff and ensure secure and sustainable funding for state-run centres as well as those run by NGOs.

## Forced Evictions

In March 2022, the UN CESCR noted in its Concluding Recommendations that it “regrets the reports about the expropriation of property, demolition of houses and forced eviction in light of urban development projects. It is also concerned about reports on the non-compliance with the national legal framework on property deprivation, especially the absence of prior consultation with the affected residents and lack or inadequacy of compensation and alternative housing (art.11).”

IPHR and partners have documented dozens of cases throughout Uzbekistan when homeowners were forcibly evicted from their properties - not under exceptional circumstances but for private investment and so-called embellishment projects. In many cases the private enterprises and investors involved were reportedly supported by local authorities. Often no genuine consultations were held and those at risk of eviction were not given appropriate advance notice about the timing of the eviction. IPHR and AHRCA are concerned that those at risk of eviction have no access to free legal aid. People who are forcibly evicted frequently find it difficult to challenge the decisions in courts and in practice and residents' complaints to courts about forced evictions are frequently turned down without any justification. There are cases when court hearings have reportedly been carried out without prior notice to the plaintiffs and cases where the plaintiffs were prevented from attending.

Court rulings have sometimes disregarded existing legal safeguards against forced evictions. Many people stated that they did not receive fair and adequate compensation and were unable to buy equivalent standard premises in the same area for the compensation offered. Non-material values such as children's schools and family ties were not considered. Human rights activists report that since 2020 there have been fewer evictions, but that they are ongoing. Some attribute this to legislation that came into force in 2021 - Presidential Decree no. 6243 of June 2021.

Forced evictions have often been carried out in a disrespectful and sometimes aggressive manner. They have been carried out in winter (for example, see the case of the R. sisters<sup>8</sup> and a case from Samarkand on 21 January 2020)<sup>9</sup>, at weekends (a mass eviction case from the Sebzor area in Tashkent on 29/30 September 2018<sup>10</sup>) and on special family occasions (the R. sisters; and a young family in Chimgan on 20 June 2020<sup>11</sup>). In some cases, bulldozers and workers began destroying uninhabited parts of a house in order to force out the remaining inhabitants (House at Ankhor canal/Tashkent, 3 March 2019;<sup>12</sup> an 80-year-old woman from Bukhara, 6 January 2020;<sup>13</sup> R. sisters; Samarkand, 21 January 2020; a building in Oltintepa district/Tashkent, 6 January 2020<sup>14</sup>) or while the homeowners were outside the country (80-year-old woman from Samarkand, 21 January 2020<sup>15</sup>). There have been cases when people went on hunger strike in protest at the demolitions and the lack of compensation (Andijan/18 September 2019).<sup>16</sup> During one eviction a homeowner was hospitalised and later died in

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8 <https://www.iphronline.org/wp-content/uploads/2022/02/CESCR-UZB-February-2022-in-eng.pdf>

9 <https://anhor.uz/society/21055-2/>

10 Further information on this case can be made available to you on request

11 <https://anhor.uz/society/22406-2/>

12 <https://anhor.uz/vzglyad-iznutri/uroki-snosa-doma-78/>

13 <https://anhor.uz/society/20639-2/>

14 <https://web.facebook.com/100010162867938/videos/1094531457562273/>

15 Further information on this case can be made available to you on request

16 <https://upl.uz/policy/12515-news.html>

hospital (Mavjuda Mamatkasimova, Tashkent, March 2021).<sup>17</sup> In some cases desperate, traumatised people set themselves on fire in protest at the evictions.<sup>18</sup>

For further information on forced evictions, refer to the Joint NGO submission to the United Nations Committee on Economic, Social and Cultural Rights ahead of the consideration of Uzbekistan's Third Periodic Report at the 71st session in February 2022, issued in January 2022.

### **Suggested recommendations to the Uzbekistani authorities**

- Carry out evictions only as a last resort, once all other feasible alternatives have been explored.
- Ensure the respect of procedural protections and safeguards such as conducting genuine consultation, ensuring adequate and reasonable notice, availability of alternative accommodation in a reasonable time and the provisions of legal remedies (CESCR March 2022 E/C.12/UZB/CO/3 para.43 ).
- Provide suitable and affordable alternative housing, compensation and access to legal aid.

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17 <https://web.facebook.com/groups/328799110874813/search/?q=%D0%9C%D0%B0%D0%B2%D0%B6%D1%83%D0%B4%D0%B0>

18 <https://fergana.news/articles/114487/>