

## **The absence of free and independent mass media and the total destruction of freedom of speech in Uzbekistan.**

*Report submitted by the Uzbek branch of the Centre of Extreme Journalism under the UPR procedure for the December session of the UN Council on Human Rights. The author of the report is Umida Niyazova.*

*Summary: The report refers to Articles 19 and 20 of the General Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). The report presents the current situation concerning freedom of speech, freedom of press and freedom of association in Uzbekistan. It is noted that, in violation of its constitutional and international obligations in the field of human rights, the government of Uzbekistan prevents the dissemination of any information that is critical of the government and exerts pressure on journalists and individual citizens in the community.*

*Key words: freedom of speech, the mass media, journalists.*

### **Legislation in the field of the Mass media**

1. Uzbekistan ratified the International Covenant on Civil and Political Rights in 1996. The Constitution of Uzbekistan proclaims its “dedication to human rights”, “devotion to the ideals of democracy” and “the building of a democratic and just state”, and recognises “the priority and importance of the generally recognised standards of international law”. Article 67 of the Constitution of Uzbekistan states that “The mass media are free and act in conformity with the law. They bear liability under the established procedure for the truth of information. Censorship is not permitted”.

2. According to Article 29 of the Constitution of the Republic of Uzbekistan, “everyone has the right to seek, acquire and disseminate any information”, but this right is restricted, if it is directed against the existing constitutional structure. Freedom of opinions and of expressing them can be restricted by the law for reasons of state and other secrecy.

### **The law on mass media**

3. The latest (and fourth) version of the Law of the Republic of Uzbekistan [RU] on Mass Media was adopted on 15<sup>th</sup> January 2007. The new version eliminates all references to the Constitution of the RU which had been in the previous version. The current situation is that the media bear liability not only for the truth of information, but also for objectivity (Article 5). As is known, objectivity is not a category in law, but is a subjective category, under which freedom of speech is curtailed. According to this law, “websites in generally-accessible telecommunications networks are considered media, and their formats have to be registered” (Article 4).

4. The list of grounds for charging the media with abuse of freedom of speech has been expanded. Propaganda for terrorism, extremism, separatism, fundamentalism, pornography and other reasons have been added (Article 6).

5. The rights and obligations of the founder have been increased at the expense of the rights of the editor and journalists. Now the founder is obliged to ensure compliance with the Media Law, which is likely to make him impose his own censorship (Article 14).

6. According to the Media Law, the establishment of the procedure for the registration and coverage of the media and for the functioning of foreign media in the Republic of Uzbekistan

(Articles 19, 31 and 38) are fully within the competence of the government, meaning that they are no longer regulated by the Media Law itself, but that they come within the scope of by-laws.

7. The grounds for closing down or suspending the media have been expanded, since such expressions as “for a breach of the law” and “other cases laid down by law” make it possible to suspend and stop media publications even for a breach of technical requirements, for example for not disclosing its sources (Article 24).

8. The large number of articles which cross-refer to other pieces of legislation illustrates the weakness of the Media Law and the constitutional guarantee of the freedom of self-expression is reduced to nothing. As a result, the government passes by-laws in breach of the Constitution. In fact, the Constitution does not appear to be really needed at all.

### Other laws and regulatory acts concerning the Media

9. The “Law on the principles and guarantees of freedom of information” dated 12<sup>th</sup> December 2002. Access to information is the most problematical and important question related to freedom of speech in Uzbekistan. According to this Law, “openness and visibility, general accessibility and reliability are the basic principles of freedom of information”. The law lays down the procedure

for acquiring information, according to which “a response to a request in writing must be given as soon as possible, but not later than 30 days from the date of receipt of the request, unless otherwise established by law”. The 30-day period for acquiring information is an anachronism, because information can become irrelevant or outdated in a day, sometimes in a few hours. In practice, officials do not bear any liability for refusing to supply information, and journalists rarely submit requests to obtain important information. In the event of a refusal to give out socially significant information, journalists hardly ever go to court to defend their rights, since they do not believe in the independence of the judiciary.

10. The “Law on protecting the professional activities of the journalist”, dated 24<sup>th</sup> April 1997. According to this Law, a journalist is obliged “to check the veracity of the materials prepared”, and is also required “to present objective information”, which is not justified. “Objectivity” is in the assessment category, because subjective materials must also be heard and evaluated by the public. This law creates liability for those breaching the rights of a journalist by threatening him or creating obstacles to his professional activities, but there is so far no provision for such measures in the current Criminal and Civil Codes.

### By-laws

11. Regulatory acts adopted by the executive authority “with the aim of creating a mechanism for the implementation of laws” are often in breach of the constitutional rules. The processes of registration, accreditation, licensing and so on, implemented in accordance with bylaws rather than with the standards of the Constitution and laws, is oppressive and unjust. It has become a mechanism for suppressing freedom of speech.

12. According to the “Statute on accreditation procedure for representatives of the media in relation to state authorities” dated 23.02.2006, acquiring information from state bodies is only possible for accredited journalists and loyal local journalists from government publications. Yet the Constitution stipulates that the right to information is not just a right of journalists, but is the right of every citizen.

13. In February 2006, the Government adopted the proclamation “Fundamental rights regulating the professional activities of correspondents of the mass media from foreign states on the territory of the Republic of Uzbekistan”. As it stands now, “Professional activity of citizens of

the Republic of Uzbekistan who have not obtained accreditation with the RU Foreign Ministry as representatives of the foreign mass media is forbidden, and incurs liability in accordance with the law of the Republic of Uzbekistan”.

14. Thus, the proclamation forbids local journalists to work for foreign media if they are not accredited by the RU Foreign Ministry. In effect, the proclamation deprives journalists of the right to decide for themselves for which publication they will work. Now, to work for the foreign media, journalists need the permission of the Foreign Ministry. The Foreign Ministry takes two months to decide whether to grant accreditation to the mass media in Uzbekistan.

### The situation of the media of Uzbekistan

15. The press of Uzbekistan is under the strict supervision of the government. The National Information Agency of Uzbekistan conducts its activities under the direct control of the President’s apparatus and is obliged to disseminate official information. The Council of Ministers owns and exercises control over the three most influential weekly newspapers: Pravda Vostoka, Halk Suzi and Narodnoye Slovo. The four state channels, completely under the control of the government, dominate television. The country has no independent media of any kind, and journalists act as instruments of state propaganda. To suppress freedom of speech, the authorities use threats, psychological pressure, criminal persecution, and the monitoring of journalists and activists in society. The state newspapers and channels come out with blatant attacks and insults directed against journalists working for the foreign media. The content of material published in the press and shown on air depends on the opinion of the state officials assiduously monitoring what is being published in the media.

16. Persecution and acts of repression against journalists over the past three years have led to many of them leaving the country and others being forced to work illegally. Not one of the remaining Uzbek correspondents working for the foreign media signs material under his/her own name. The local press keeps busy praising the activities of the government. It contains no independent opinions about the economic and political situation in the country. There are no journalistic investigations. President Karimov publicly calls on journalists to work more actively to throw light on events in the country; however, his words diverge from the by-laws being passed and the actions of officials and the law enforcement bodies. In practice, neither the Constitution nor the laws passed on the mass media protect journalists against arbitrary action by officials.

17. According to studies by our organisation, and also a number of other human rights organisations - HRW, Amnesty International, RSF, the Committee to Protect Journalists and others, Uzbekistan is a country where civil and political rights, including the right to freedom of information, are severely restricted. The Organization for Security and Cooperation in Europe and “Reporters sans Frontières” have included Uzbekistan in the list of countries in which Internet censorship takes place.

### Censorship

18. In spite of the legal ban on censorship, there are officials in television, radio and newspaper editing whose duty is to implement internal censorship. Consequently, the Uzbek press contains no independent assessments of the events which have taken place in the Republic, only the official versions. Journalists are forbidden from reproaching the authorities for breaches of the law or to calling into question the success of reforms being carried out, nor can they speak of corruption, unemployment, the use of child labour, inflation, the political opposition and many other things. The censorship is at many levels - it consists of censorship by the founder and the editor, and self-censorship by the journalists themselves. Editors regularly have meetings with officials responsible for monitoring the media, in which the officials informing the editors of

current political themes that they may report on and indicating those that are sensitive for the country's leadership. The censorship strictly controls publications about the Andizhan rising in May 2005. Journalists have to keep exclusively to the government position, and only specially instructed journalists have the right to publish on this theme in the media. By maintaining total control and censorship, the government seeks to conceal the truth about the suppression of the uprising and the true number of demonstrators killed in Andizhan.

### Censorship on the Internet

19. The new law defines websites as part of the media. This means that websites come under the law which requires all local and foreign media to apply for registration with the authorities and to report to them the names of the founder, chief editor and all those on the staff. Over the last five years, the country's authorities have systematically blocked access to informative and socio-political web resources. The administrators of every Internet café have to display posters warning the public against visiting banned websites, which include political opposition or foreign websites publishing material about the Central Asian region. At the present time, users have no right of access to several hundred Internet sites. Basically, all the websites of opposition parties and movements, and also most foreign and Russian sites which publish articles throwing light on events in Uzbekistan, are blocked. The government has blocked access to Internet sites which publish articles about the murder of the journalist Alisher Saipov, an ethnic Uzbek, who lived in Osh in the Republic of Kyrgyzstan, and was renowned for his critical articles about Uzbekistan.

### The expulsion of foreign media and NGOs

20. Since the suppression of the uprising in Andizhan, over the past three years, the authorities in Uzbekistan have forcibly closed more than 200 local non-governmental organisations, and have expelled from the country more than 30 foreign non-governmental organisations and foreign media. The basis for the charges, on the whole, has been "illegal activities of employees, breach of the organisation's charter, and technical errors". The expulsion of foreign NGOs from the country followed a well-established pattern: a check by the Ministry of Justice, a standard list of breaches discovered, a liquidation order, formal court proceedings and final closure. The following missions were closed in Uzbekistan in this way: the Open Society Institute (Soros Fund), Internews Network, IREX, Freedom House, Eurasia Foundation, the American Bar Association (ABA/CEELI), ACCELS, Counterpart International, Central Asian Free Exchange (CAFE), the UNHCR, and "Partnership in Academics and Development"; also that of the Institute for War and Peace Reporting (IWPR), the local offices of Radio Liberty and the BBC, and the majority of the local NGOs.

21. In spite of the fact that the organisation, Human Rights Watch, achieved registration, the Minister of Justice refused accreditation to its representatives, thus effectively blocking the organisation's work. In May 2008, the Ministry of Justice of Uzbekistan refused accreditation to Human Rights Watch representative Igor Vorontsov on the pretext that "he does not know the mentality of the Uzbek people, therefore he cannot assess the significance and truth about the reforms carried out in the country by President Islam Karimov".

### The murder and criminal persecution of journalists

22. The wave of persecution of journalists, the pretext for which was the Andizhan events of 2005, has continued for the past three years. The police and the security services have subjected journalists to arrest, pressure, intimidation, force and bureaucratic restriction of their activities. More than 20 correspondents of foreign publications have been forced to leave the country. The handful of journalists and human rights activists remaining in the country are working in an atmosphere of total control and terror. Details of criminal persecution are in Annex 1.

## The campaign of hatred against journalists

23. In May-June 2008, the government waged a campaign to publicly discredit and intimidate journalists and human rights activists who were disseminating information that deviated from the official point of view. The state controlled media describe journalists as enemies of the people, spies, extremists and accomplices of terrorists, earning their money from their foreign bosses. Given the total control of the media by government bodies, there can be no doubt that the authorities are implicated in such campaigns (see Annex 2).

## Recommendations

- Cease persecuting journalists for their professional activities and release from imprisonment journalists and human rights activists convicted on dubious charges. (HRW list)
- Stop state censorship of the mass media and direct administrative control of their activities, and delegate matters of the regulation of the media to the judicial authorities.
- Unblock access to websites, the content of which does not contradict freedom of speech and the standards of international law.
- Grant accreditation to all international news agencies and media which were divested of accreditation during 2004-2008 on the basis of disseminating critical information about Uzbekistan.
- Remove the existing administrative restrictions on the activities of non-governmental organisations.
- Amend the laws relating to the media, in particular by adding provisions on freelance journalists and unofficial correspondents to the “Law on protection of the professional activities of the journalist” .
- Reduce the time taken to obtain information, introduce into the law an obligation on officials to explain the reasons for a refusal to supply information, and also make such officials liable for failure to provide information.
- Withdraw by-laws which contradict the country’s Constitution.
- Draw up a “List of information categories regarded as state secrets”.
- The UN Human Rights Council should send a special investigator on matters of freedom of speech and expression to Uzbekistan to study the state of affairs there and to report to the Human Rights Council.

## **Annex 1.**

On 7<sup>th</sup> May 2008, the human rights activist and journalist Solizhon Abdurakhmanov was arrested in Karakalpakstan. He was charged with possession and use of drugs. The medical examination carried out found no trace of narcotic substances in Abdurakhmanov's blood. The investigators confiscated his personal computer and audio and video disks. In the opinion of Abdurakhmanov's colleagues, the reason for his arrest was his activities as a human rights activist and journalist.

On 22<sup>nd</sup> January 2007, the human rights activist Umida Niyazova was arrested as she tried to return from Kyrgyzstan. She was charged with illegally crossing the border, smuggling and the preparation and dissemination of materials representing a threat to public order. The basis for the charge was material on the defence of human rights contained in Niyazova's computer. On 1<sup>st</sup> May, the Sergely Regional Court of Tashkent sentenced the human rights activist to seven years imprisonment. On 8<sup>th</sup> May, the Appeal Court amended the punishment to a suspended sentence: three years probation.

On 24<sup>th</sup> October 2007, the journalist Alisher Saipov was shot and killed in Osh. The International Crisis Group (ICG) has published a report saying that there is convincing evidence that the murder of Alisher Saipov was carried out by the Uzbek special services as part of the preparation for the Presidential elections due in Uzbekistan in December 2007. The main reason for the murder of the journalist is said to be his closeness to the opposition democratic party Erk, the leader of which is in exile.

In March 2007, the public prosecutor charged Natalya Bushuyeva, who was working for the agency Deutsche Welle, with working without a Foreign Ministry licence and tax evasion. Feeling that a fair trial would be impossible, Bushuyeva fled abroad.

In April 2007, the government accused three Deutsche Welle correspondents, Yury Chernogayev, Sayer Rozikulov and Obid Shabanov, of engaging in professional activities without the necessary licence. On 4<sup>th</sup> July, the public prosecutor of Tashkent withdrew the charges on the grounds that they were eligible for an amnesty.

On 14<sup>th</sup> June 2007, the Samarkand court imposed a fine of 1575 US dollars on human rights activist Komilzhon Ashurov for the publication of an article on the illegality of the re-election of President Karimov for a third term. In August, court bailiffs confiscated office equipment from Ashurov's office for non-payment of the imposed fine.

On 11<sup>th</sup> October 2007, two men of the SNB (People's Security Service) attacked Sid Yanyshv, a contributor to the Institute of War and Peace Reporting (IPWR) and the independent Internet site Ferghana.ru. Yanyshv was attacked in Tashkent after returning from Chirchik, where he had reported on local protests about a shortage of bread and rising prices for flour.

On 12<sup>th</sup> September 2006, the independent journalist Dzhamshid Karimov, a nephew of President Karimov, was forcibly put into a psychiatric hospital. It is still not known on what grounds Dzhamshid Karimov was placed in the clinic or how long he will be detained there.

In October 2005, Nosir Zokir, a correspondent of Radio "Ozodlik" ("Freedom"), was sentenced to 6-months' imprisonment. The journalist was accused of insulting a member of the National Security Service over the telephone.

## **Annex 2**

On 24<sup>th</sup> May 2008, the newspaper “Andizhanskaya pravda” published an article on Pulat Akhunov, an opposition activist, who had been unable to obtain a passport for six months. According to the author of the article, Pulat Akhunov is a citizen of Sweden and automatically forfeited his Uzbek citizenship. Pulat Okhunov said that the information published in the paper was untrue; he does not have citizenship of any country other than Uzbekistan.

On 10<sup>th</sup> and 13<sup>th</sup> June, a film about the work of journalists of the Uzbek radio service Svoboda [Freedom] was shown on national television. Photographs were shown, personal biographies were read out and the private addresses of journalists, their parents and other close relatives were given on the air. The film is full of attacks on and insults of the journalists, calling them “hypocritical”, “egoistic”, “cunning” and “cowardly”. The Andizhan human rights activist Gulbakhor Turayeva, serving a suspended sentence on a politically motivated charge, criticised the work of the journalists in the programme. She later reported that under threat, she had been virtually forced to speak ill of the journalists.

The government paper “Pravda Vostoka” published a whole series of negative materials about human rights activists and journalists. In January 2007, there was an article about the human rights activist and journalist Umida Niyazova which discussed aspects of her private life in an insulting tone. On 25<sup>th</sup> May 2007, the article “In defence of the sovereignty of the Uzbek people” was published, attacking the correspondents of Ferghana.ru, the BBC, the IWPR and Radio “Ozodlik”. The IWPR journalists were called provocateurs and organisers of an information war against the government. Ferghana.ru correspondent Aleksey Volosevich, the only one who stayed on to work in Andizhan after 13<sup>th</sup> May, was called “a professional provocateur”.

On 25<sup>th</sup> May 2007, the newspaper “Mahallya” published an article (in Uzbek) entitled “Much slander, but where is the conscience?” in which it accused Radio “Ozodlik” of propagating false information about the Andizhan events. The journalists of this radio station were called “ignorant, cowardly, spiritless, blind executors of any instructions from their bosses and people of evil intent”. On 27<sup>th</sup> July, “Mahallya” again launched attacks on Radio “Ozodlik”, accusing its journalists of incompetence and slander.

On 1<sup>st</sup> June 2007, the newspaper “Hurriyat” published an article with criticism of several IWPR correspondents, including Tulkin Karayev, who had allegedly propagated deliberate misinformation about the Andizhan events for the sake of sensation and bonuses.

On 26<sup>th</sup> May 2005, a group of 70 people, including representatives of the local administration and media, turned up at the home of human rights activist Bakhtier Khamroyev. These people held a “meeting”, and accused the human rights activist of treason for transmitting information to the West, calling him an accomplice of terrorists. According to Khamroyev, he was struck several times in the chest, on the head and in his one remaining kidney.