

TABLE OF CONTENTS

- a) Statement to Working Session 2: migration, refugees and displaced people 1
- b) Statement to Working Session 3: freedom of assembly and association 4
- c) Statement to Working Session 9: the question of the abolition of capital
punishment..... 6
- d) Written statement to Working Session 6: methods to prevent torture..... 9

Amnesty International's Statements to the 2005 OSCE Human Dimension Implementation Meeting

The Organization for Security and Co-operation in Europe (OSCE) holds annual Human Dimension Implementation Meetings to review implementation of the range of OSCE human dimension commitments in the 55 OSCE Participating States.¹ The meetings are organized by the Office for Democratic Institutions and Human Rights (ODIHR).

This document contains the statements issued by Amnesty International during the 10th Human Dimension Implementations Meeting, held from 19 to 30 September 2005, in Warsaw, Poland.

Amnesty International delivered oral statements at the following working sessions during the meeting:

- Statement to Working Session 2: humanitarian issues, including: migration, refugees and displaced people;
- Statement to Working Session 3: freedom of assembly and association;
- Statement to Working Session 9: the question of the abolition of capital punishment.

Amnesty International also delivered a written statement at the following working session:

- Statement to Working Session 6: methods to prevent torture

a) Statement to Working Session 2: migration, refugees and displaced people

Amnesty International remains concerned at failures by participating states to uphold their international obligations to protect the rights of refugees and displaced persons in their territories.

¹ The OSCE Participating States are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America and Uzbekistan.

Detention of migrants and refugees remains a prominent concern. In the **UK**, for example, the use of detention has increased and is no longer only viewed as a "last resort". Amnesty International found that many people who have sought asylum are detained at different points of the asylum process under the powers of the UK Immigration act, even though they may face a long wait until they are expelled. No prior judicial authorization is necessary, nor is there any prompt and automatic judicial oversight or review of the decision to detain. In addition there are no time limits on the detention period.

The organization is concerned that the UK authorities are using the argument that detention prevents people from absconding at the end of the asylum process as justification for detention without considering each individual case on its merits. What governs an individual being detained seems to be the availability of a bed in a detention centre rather than principles of necessity and proportionality, and Amnesty International believes that UK policy and practice inhibits the ability of detainees to challenge their detention.

Detention of asylum-seekers often occurs in grim, prison-like establishments in remote locations. Amnesty International discovered cases of detention of families, including mothers with children, at times very young ones; victims of torture and other vulnerable individuals. The organization believes detention of these people incurs a terrible human cost, inflicting untold misery on the individuals concerned and their families.

Poor conditions, falling short of international refugee and human rights standards, have been reported in **Italy's** CPTAs, or temporary stay assistance centres, where irregular migrants and asylum-seekers are detained. They are held there while awaiting removal from the country after expulsion orders have been issued against them on grounds of illegal, or attempted illegal, entry into, or illegal residence in, Italy.

The organization has received reports of people in some centres being subjected to physical assault by law enforcement officers and supervisory staff; abusive administration of sedatives; unhygienic living conditions; unsatisfactory medical care; lack of communication with the outside world. There are reports of frequent protests, escape attempts, self-harm and violence between detainees in the centres. The organization is also concerned about difficulties faced by detainees in gaining access to the legal advice necessary to challenge their detention and expulsion orders and, for those wishing to apply for asylum, difficulties in gaining access to the process, resulting in the return of people to countries where they risk serious human rights violations.

Amnesty International considers that obstacles to protection are also placed in the way of those fleeing persecution in their own country when they arrive on **Spain's** southern border. The organization has particular concerns about government provisions and practices regarding rescue at sea, reception on arrival, rights to adequate information, the provision of legal and interpretation assistance and access to fair procedures. Migration policies agreed with other states and the absence of adequate safeguards, particularly in expulsion procedures, undermine the principle of *non-refoulement*, enshrined in international law.

Furthermore Amnesty International is deeply concerned for the safety of hundreds of refugees from Uzbekistan who fled to **Kyrgyzstan** after security forces reportedly fired on thousands of mainly unarmed and peaceful demonstrators in the city of Andizhan on 12-13 May 2005. 439 refugees were airlifted out of Kyrgyzstan on 29 July by UNHCR and will be resettled in third countries; a further 11 were transferred out on 16 September. Amnesty International continues to be concerned about four refugees who remain at risk of being extradited. However, Amnesty International continues also to be seriously concerned that many hundreds of "hidden" refugees may be being denied, or prevented from exercising, their right to seek protection.

Amnesty International received disturbing reports that law enforcement authorities from Uzbekistan have continued to pursue refugees, who fled Uzbekistan after the events in Andizhan, on Kyrgyzstani territory, in some cases with the demonstrable co-operation of the authorities of Kyrgyzstan.

Amnesty International opposes the involuntary return of any of the refugees to Uzbekistan, because it believes they have a well-founded fear they will be tortured on return and some may even be sentenced to death after an unfair trial.

Recommendations

- Amnesty International calls on all participating states to honour their commitments under international law and refugee standards not to return any person to a country or territory where they may face serious human rights violations or place barriers in the way of international protection for those who need it;
- Amnesty International calls for all participating states to introduce a presumption against detention. Individuals whose detention is justified on the grounds of legality, necessity, and proportionality should have access to UNHCR without delay, while others should be released. Detention facilities should uphold the physical and mental integrity of detainees. Decisions to detain should always be based on a detailed assessment of the individual case;
- Amnesty International urges participating states to implement fully the 20 Guidelines adopted by the Council of Europe for the repatriation of illegal immigrants and to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
- Amnesty International calls on all participating states to ensure that legislation and procedures are in place and implemented in order to protect the fundamental human rights of asylum-seekers and migrants, in line with international human rights law and refugee law.

b) Statement to Working Session 3: freedom of assembly and association

Amnesty International's research indicates that many Participating States are failing to implement fully their commitments to protect the rights to freedom of assembly and association.

In **Belarus** the authorities have continued to clamp down on all forms of opposition, increasingly employing harassment, intimidation, excessive force, mass detentions and long-term imprisonment to quash any civil or political dissent.

The Belarusian government widely uses controversial legislation to restrict the possibilities for non-governmental organizations (NGOs), political parties, trade unions, journalists and individuals to express their peaceful opinion. For example, the use of official warnings in combination with a bureaucratic system of registration and a controversial set of guidelines has decimated the number of human rights organizations and equally stifles press freedom in Belarus. Criminal insult and slander against the President of Belarus are an increasingly used criminal charge, which can result in long-term imprisonment.

In February 2005 representatives of human rights organizations expressed to Amnesty International the fear that civil society "will be shut down", through the closure of most human rights organizations and media outlets before the end of 2005. Amnesty International is concerned that their fear is well-grounded.

Members of Zubr, a youth opposition movement in Belarus, have been subjected to arbitrary detention on many occasions for their opposition activities. In August 2005 two activists from the youth movement Kmara in Georgia were detained in Minsk because of doubts about the authenticity of their passports, and charged for allegedly swearing at a third inmate in their cell – charges which Amnesty International consider to have been fabricated.

On 26 April, the 19th anniversary of the Chernobyl nuclear reactor catastrophe, members of the Special Forces (OMON) reportedly violently disrupted peaceful actions to mark the event. More than 30 people were convicted and sentenced for participating in or organizing an unsanctioned meeting. According to reports the detainees were sentenced without legal representation or, where appropriate, access to their respective consulates.

In **Turkmenistan** independent civil society groups are unable to operate openly and independent political parties do not exist. Religious minorities are under tight state control. Civil society activists, political dissidents and members of religious minority groups, as well as their families, have been subjected to human rights violations including harassment, arbitrary detention, torture and ill-treatment, and imprisonment after unfair trials. Pressure has been put on the families of prominent activists: the brother of an ecological activist who was forced into exile after an unfair trial was made to resign his post in the military administration.

With regard to the **Russian Federation** Amnesty International has received information that NGOs attempting to monitor human rights violations in the context of the

ongoing armed conflict in Chechnya have been subjected to apparent campaigns of harassment and prosecution coordinated by the Russian authorities. In the case of the Russian-Chechen Friendship Society the campaign has extended to include a criminal investigation into alleged articles published by the organization, checks by the tax authorities and moves by the Ministry of Justice to close the organization. There have been a number of cases of torture and ill-treatment, "disappearances" and alleged extrajudicial executions of members of the Society in the North Caucasus, and at least one staff member has been the subject of threatening leaflets.

In **Uzbekistan** freedom of expression, association and assembly is under threat following the events on 13 May 2005 in Andizhan. Hundreds of independent civil society activists have been targeted and harassed by the authorities. They have been subjected to physical assaults, beatings, threats, arbitrary arrests and being forcibly confined to their houses, with phone lines being cut off.

The measures taken by the government of Uzbekistan to prevent information that contradicts the official version of the events from reaching the outside world reportedly include destroying relevant records and documents. The authorities have intimidated witnesses with the aim of preventing them from speaking about their experiences. International journalists and human rights defenders have been prevented from accessing the city. Local independent journalists and human rights defenders have been harassed and detained in an effort to prevent them from reporting on the events in Andizhan. Some of them have been severely beaten by individuals or groups of people. Some of the human rights defenders have been charged, including with serious criminal offences, for exercising their right to freedom of expression, and are considered to be prisoners of conscience.

In **Turkey**, Amnesty International welcomed the circular issued last year by Interior Minister Abdulkadir Aksu which was designed to improve protection of the right to freedom of assembly. However, Amnesty International believes that further steps are needed to remove the restrictions which still exist in practice, to ensure the right to freedom of assembly is fully guaranteed. This is especially important since those who violate these restrictions peacefully may be subjected to disproportionate force by security forces responsible for policing of such demonstrations.

For instance, Amnesty International is greatly concerned by the disproportionate use of force by police officers against individuals who had gathered peacefully in Istanbul on 6 March to celebrate Women's Day. Police used truncheons and pepper gas to disperse some 500 people, which resulted in 63 individuals being detained and at least three people being reportedly hospitalized.

The government has made numerous changes to the Law on Meetings and Demonstrations in an attempt to address concerns regarding the policing of demonstrations. However, allegations of ill-treatment during demonstrations have very rarely resulted in the prosecution of law enforcement officials, and sanctions have often been limited. On the other hand, those complaining of ill-treatment are themselves frequently prosecuted for resistance to public officials or for violating the Law on Meetings and Demonstrations.

Recommendations

Amnesty International calls on the OSCE and its Participating States to:

- Insist on thorough, independent and impartial investigations into the killings, "disappearances", torture and ill-treatment of human rights defenders and activists, and for the scope, methods and findings of these investigations to be made public;
- Acknowledge the important role and valuable work of individuals, groups and associations in contributing to monitoring, reporting, preventing and ending violations of human rights and fundamental freedoms and take measures to support the legitimate work of human rights defenders and activists in those countries where they are being subjected to repressive measures.

c) Statement to Working Session 9: the question of the abolition of capital punishment

For more than a decade there has been a strong trend towards abolition of the death penalty in the OSCE region. While following the break-up of the Soviet Union all 15 independent republics retained the death penalty, nine have now abolished it and four states have moratoria in place. **Belarus, Uzbekistan** and the **US** are now the only executioners in the OSCE area.

There have been some positive developments since the last Human Dimension Implementation Meeting. The former President of **Kyrgyzstan** decreed in January 2005 that lawmakers should draft legislation by June with the aim of abolishing the death penalty. However, no date was set for abolition. President Islam Karimov decreed on 1 August 2005 that the death penalty should be abolished in **Uzbekistan** from 1 January 2008.

Amnesty International also welcomes the signature of Protocol No. 13 to the European Convention on Human Rights, banning the death penalty at all times, by 43 OSCE Participating States, and its ratification by 32.

The last executioners: Belarus, Uzbekistan, United States

Belarus is the only country in Europe that retains the death penalty. The authorities have failed to publish comprehensive statistics on death sentences and executions in the country. Amnesty International has frequently received credible allegations of torture and unfair trials from Belarus in cases involving the death penalty. Amnesty International is calling on the authorities to build on the March 2004 decision by the Constitutional Court that found that a number of articles in the current Criminal Code were inconsistent with the Constitution. The Court also found that in the current circumstances the abolition of the death penalty, or as a first step, the introduction of a moratorium, could be enacted by the head of state and by parliament. Amnesty International urges Belarus to build on this landmark ruling and swiftly

move towards abolition by at least introducing a moratorium on death sentences and executions pending a full review of the country's policy on the death penalty.

Amnesty International welcomes the expression of commitment by the authorities of **Uzbekistan** to abolish the death penalty and regards the August 2005 decree as a welcome step. However, questions of life and death cannot wait until 2008. If the authorities have already come to the conclusion that the death penalty is an inhumane form of punishment it is hard to understand why they do not take more immediate measures. The authorities should stop executing now. In addition, all pending death sentences should be commuted.

If no fundamental changes are introduced immediately then scores of people are likely to be sentenced to death and executed before January 2008. Uzbekistan's flawed criminal justice system provides fertile ground for miscarriages of justice and executions due to judicial error or grossly unfair trials. After his visit to the country in November and December 2002, the United Nations Special Rapporteur on torture concluded that "*torture or similar ill-treatment is systematic*" in Uzbekistan. In his February 2003 report on Uzbekistan he stated that the "*abolition of the death penalty would be a positive step towards respect for the prohibition of torture and other forms of ill-treatment*".

At least 121 people have been charged in connection with the May 2005 events in Andizhan. Amnesty International is concerned that all of them are likely to face unfair trials. The organization is particularly concerned about those who have been charged with crimes carrying the death penalty. The death penalty has played an important role in the clampdown on "religious extremism" in Uzbekistan and dozens of alleged "Islamists" have been sentenced to death and executed without being granted the rights to effective assistance of counsel and to prepare a defence.

The **US** has executed more than 36 people in 2005 and more than 981 since executions resumed in the country in 1977 after a four-year de facto moratorium imposed by the US Supreme Court. In the US the capital justice system is marked by arbitrariness, discrimination and error, and US authorities have frequently violated international standards in their pursuit of judicial killing of prisoners whose guilt remained in doubt. Since 2000, over 35 people have been released from death row after evidence emerged of their innocence of the crimes for which they were sentenced to death. On 1 March 2005 the US Supreme Court ruled that the use of the death penalty against people under the age of 18 at the time of the offence was unconstitutional. This meant that the lives of over 70 child offenders who were on death row were spared.

Moving on to full abolition

While Amnesty International welcomes that all other OSCE Participating States no longer carry out executions, the organization calls on all countries that currently have moratoria in place to fully abolish the death penalty. When becoming a member of the Council of Europe **Russia** committed itself to abolish the death penalty in 1999 at the latest. Russia has still not done so and is now the only country of all 46 Council of Europe members that is not abolitionist. **Kyrgyzstan** has had a moratorium on executions in place since 1998. However,

it continued to hand down death sentences and today at least 160 prisoners remain on death row, in a state of continued uncertainty as to their ultimate fate, a situation that Amnesty International believes amounts to cruel, inhuman and degrading treatment.

Secrecy

The secrecy which surrounds the use of the death penalty in **Belarus** and **Uzbekistan** not only hides the extent of the use of the death penalty from the public and prevents an informed public debate, but also affects the condemned persons and their families directly. It is believed that in both countries neither death row prisoners nor their lawyers or relatives are informed of the date of the execution in advance. Relatives are not given the opportunity to bury their loved ones and are not informed of the place of burial. Such treatment of relatives constitutes cruel, inhuman or degrading treatment. In **Kyrgyzstan** and **Tajikistan**, for example, the Criminal-Execution Codes still stipulate that the place of burial is not disclosed.

Prison conditions

Prison conditions on death row in many countries in the OSCE region are believed to fall far short of international standards. There are allegations that death row prisoners in **Belarus** and **Uzbekistan** are regularly beaten by prison guards. In **Belarus** death row prisoners are not entitled to any exercise in fresh air.

Deportations to executions

In recent years many governments in the region have facilitated deportations of suspects to countries where they were subsequently executed, often in unfair trials accompanied by allegations of torture.

Despite its obligations under international law, **Russia** deported people to countries where they were subsequently sentenced to death in unfair trials. **Kazakhstan** and **Kyrgyzstan** have deported ethnic Uighurs and citizens of Uzbekistan to China and Uzbekistan respectively. Many of them were subsequently sentenced to death, often in unfair trials accompanied by torture allegations.

The international legal principle of *non-refoulement* bars all states from returning individuals to a country where their lives are at risk or where they are likely to be subjected to torture. Amnesty International calls on all OSCE Participating States who have not yet done so to bring their legislation and practices of extradition and deportation into line with this legal principle and their international treaty obligations.

Conclusions

Amnesty International will continue to campaign against the use of the death penalty in the OSCE region until it is completely execution-free. We regret that the existing body of OSCE commitments is not abolitionist.

Pressure by the international community has led to dozens of commutations of death sentences to terms of imprisonment in several OSCE Participating States in recent years. The strong trend towards abolition in the OSCE region in recent years has created an important

momentum. Amnesty International calls on those Participating States that are committed to abolition of the death penalty to use this momentum and increase their engagement to work towards a death penalty-free zone in the OSCE region. The World Day against the death penalty on 10 October, organized by the World Coalition against the Death Penalty, provides States with an excellent opportunity to demonstrate their commitment to end the use of the death penalty.

d) Written statement to Working Session 6: methods to prevent torture

Amnesty International is concerned for the safety of all those individuals who have been detained in connection with the events in Andizhan in **Uzbekistan** on 12-13 May 2005. To date it has been impossible to determine exactly what happened on those days. Eyewitnesses have stated that on 13 May 2005 security forces fired indiscriminately into crowds of people in a central square, reportedly killing hundreds of civilians, following an armed attack on the city prison which freed hundreds of prisoners. The government has so far rejected the calls from many inter-governmental bodies and international human rights mechanisms for an independent, international investigation into the incident. It denies reports that security forces killed any civilians and claims that those who died were killed by "terrorists". As of 16 September the government had still not published the names of those killed.

Following the events of 12-13 May 2005, thousands of people have been detained and there has been a crackdown on civil society in Uzbekistan. Amnesty International's concerns are based on Uzbekistan's well-documented history of human rights violations in the name of national security. Amnesty International considers all detained individuals to be at serious risk of being subjected to torture and other ill-treatment; the use of torture to extract "confessions" is routine. Amnesty International also considers those individuals who have been charged with criminal offences to be at risk of being tried in a manner that violates international fair trial standards. The individuals who have been charged with capital offences are at great risk of suffering a violation of their right to life, as they are likely to face the death penalty following an unfair trial.

Russian federal forces and **Chechen** security forces continue to conduct targeted raids in towns and villages across Chechnya, during which serious human rights violations occur. "Disappearances" are common. Extrajudicial killings, and torture, including rape, and other ill-treatment are also reported to take place on a regular basis in a climate of impunity which sees very few perpetrators identified and brought to justice. Such violations are in breach of the obligations of the Russian Federation under international human rights and humanitarian law.

Amnesty International has also received evidence of deaths in police custody as well as credible reports of torture and ill-treatment in unofficial places of detention, sometimes

referred to as “filtration camps”, in the Chechen Republic where Chechens detained during raids are held and often tortured. Reports allege that treatment of detainees in such camps is particularly harsh, including beatings, electric shocks, and burning with cigarettes. Amnesty International is concerned by reports that the number of unofficial detention centres is growing all the time.

A variety of legal mechanisms exist in the Russian Federation to prosecute members of the armed forces for human rights violations. However, criminal investigations into such violations remain woefully inadequate, are frequently closed without a conclusion and the cases rarely ever get as far as a courtroom. Consequently, an increasing number of Chechens have decided to take their cases to the European Court of Human Rights. In doing so, they have unwittingly added a further element of risk to their lives. A number of applicants to the European Court of Human Rights have been subject to reprisals, such as harassment and threats, and in some cases applicants or their close relatives have been killed or “disappeared”.

Amnesty International has been greatly concerned about the issue of torture and ill-treatment perpetrated by members of the security forces in **Turkey** for many years. Amnesty International welcomes the recent policy change to a “zero-tolerance” approach but is concerned that in practice torture and ill-treatment continue to be widespread problems. Their repeated occurrence – despite the government’s programme – shows clearly that further measures are necessary in order to eradicate torture by state agents. The eradication of torture should be seen as the achievement of conditions in which torture and ill-treatment are extremely unlikely; they will occur, if at all, only in isolated cases; and if they do occur, the reaction from the authorities of providing access to redress and reparation will prevent the perpetrator from repeating the act.

Amnesty International is concerned that people in police custody in **Ukraine** continue to be subjected to torture and ill-treatment. The cases seen by the organization show that suspects, witnesses, those involved in any way in a police investigation and even bystanders can be targeted. Law enforcement officers routinely extract confessions and testimony from detainees through force, sometimes resorting to torture. Despite statements by the new government showing its willingness to tackle the problem, and its desire to move closer to membership of the European Union, decisive action has yet to be taken.

There is effective impunity for acts of torture and ill-treatment in Ukraine. Even when investigations are carried out they do not meet international standards of promptness, thoroughness, independence and impartiality. This results in few prosecutions of law enforcement officers, and often minimal sentences, which are not commensurate with the gravity of the offence. Many victims do not lodge complaints because they are scared of the consequences, distrustful of the procedure or unaware of the fact that their rights have been infringed. Those who do try to pursue the quest for justice may find that they are again subjected to intimidations and reprisals to dissuade them from pursuing their complaints. Victims rarely receive reparation and some victims have waited years for justice, and are still waiting.

Amnesty International is concerned at serious human rights violations in **France** against persons of foreign origin by police officers, such as unlawful killings, excessive use of force, torture or ill-treatment and racist abuse. Such violations appear to be on the increase. Most of the complaints of police ill-treatment arose out of police identity checks which degenerated into violence and resulted, on the one hand, in charges of ill-treatment against the police, countered on the other hand by charges against the complainants of insulting or resisting a public official. Many of those who brought complaints against the police had been subjected to kicks, punches or baton beatings which resulted in broken noses, damaged eyes or other injuries. Many also claimed that they were racially insulted and made to suffer degrading and undignified treatment at the hands of the police. Amnesty International has concluded that there is a pattern of effective impunity with regard to police officers in France due primarily to flaws in legislation, such as the absence of a full definition of torture in the French Penal Code, or provisions denying detainees access to lawyers from the outset of police custody. Other factors include failures in the implementation of the law, such as the failure, or reluctance, of police, prosecutors and courts to thoroughly investigate and prosecute human rights violations involving police officers. Amnesty International is also concerned about delays in judicial proceedings; a “two-speed” justice which prosecutes complaints by police officers far more quickly than complaints against police officers; and a sentencing practice in which many sentences have not been commensurate with the gravity of the crime.

Amnesty International retains a number of concerns with regard to **Albania** despite the fact that it ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture) in 1994. In particular the organization has key concerns related to weaknesses in Albanian legislation when measured against the requirements of the UN Convention against Torture and other international human rights standards. A gap continues to exist between law and practice. Amnesty International believes there is a pattern of police ill-treatment of detainees, which at times amounts to torture. Furthermore, there is a failure, in many cases, to carry out prompt, thorough and impartial investigations into complaints and to bring those responsible to justice. Finally the organization is concerned at the absence of state reparation, including fair and adequate compensation, for victims of torture and ill-treatment inflicted by police or other law enforcement officials.

Amnesty International continues to document violations of the prohibition on torture and ill-treatment in the name of the “war on terror”. Amnesty international has documented failure to establish full and impartial investigations into allegations of torture and ill-treatment of those detained in the “war on terror”, including those held in secret places of detention, in whichever country of the world these detention facilities are to be found and failure, for example on the part of the United States, to open these places to the independent scrutiny of international independent experts, despite their requests. Amnesty International has documented the “outsourcing” of torture in the “war on terror”, including the return, extradition, rendition or other transfer of people to countries where they are at risk of torture or ill-treatment, in violation of the prohibition on *refoulement* that is part of the prohibition.

Participating States, for example the UK, have entered into Memoranda of Understanding that would allow such transfers where “diplomatic assurances, are received that people will not be tortured on return. Such assurances, from States that practice torture, in secret and contrary to international law, cannot be relied upon. No State should accept diplomatic assurances as a means of circumventing its obligations not to return or transfer anyone to where they risk torture or ill-treatment. States should place on record their rejection of diplomatic assurances in such cases. The use in proceedings of information alleged to have been obtained through torture or other cruel, inhuman and degrading treatment continues to be permitted in a number of participating states, again, in violation of the international prohibition.

Recommendations:

- OSCE should remind all participating states that human dimension commitments, including those relating to the absolute prohibition of torture and other ill-treatment are not simply matters of internal affairs of the State concerned, but rather are matters of direct and legitimate concern to all OSCE Participating States and (Moscow Document, 1991);
- OSCE Participating States that have not ratified the Optional Protocol to the UN Convention against Torture should ratify it immediately. They should make sure that their Criminal Codes are amended and ensure that legislation accurately reflects, at a minimum, all elements of the definition of torture set out in Article 1 of the Convention against Torture;
- OSCE and all participating states should continue to call for a thorough, independent and impartial international investigation into the events in Andizhan.
- OSCE and all participating states should use all means at their disposal, to ensure respect for the absolute prohibition of torture and other ill-treatment , including in the context of countering terrorism