

# **Russian Federation: human rights concerns**

Briefing paper, prior to the EU - Russia Human Rights Consultations, May 2007

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# 0. Introduction

In light of the upcoming EU – Russia Human Rights Consultations, Amnesty International would like to provide background information on three key human rights challenges currently persisting in the Russian Federation.

Firstly, this briefing paper will provide you with an overview related to the persistent impunity for human rights violations perpetrated by state officials in the North Caucasus and in the course of the second Chechen conflict.

Secondly, Amnesty International continues to be gravely concerned about the dramatic deterrioration of freedom of expression and assembly in Russia, as well as the increased pressure on civil society organisations in general and human rights organisations in particular.

Thirdly, there has been a disturbing upsurge in racist attacks and killings. The response of the Russian authorities to violent racist attacks continues to fall short of its obligations under international law.

The paper sets forth a set of recommendations for each of the three areas of concerns highlighted. Amnesty International hopes that the EU Presidency will be able to raise these three key human rights challenge during its deliberations with its Russian counterparts. In addition, this paper presents a list of individual cases which we hope you will be able to share with the Russian authorities and request information about the current status of these cases as well as intended action by the authorities pertaining these cases.

## 1. Persistent impunity for human rights violations

The Russian authorities' record on investigation, prosecution and conviction of state officials for serious violations of human rights and humanitarian law in the North Caucasus, in the course of the second Chechen conflict, falls far short of its obligations under international law. At the same time, according to Amnesty International's information, there have been hundreds of prosecutions of alleged participants in terrorist activities in the Chechen Republic, resulting in convictions. Amnesty International and other human rights organizations have gathered information indicating that many of these convictions are based on fabricated accusations and that the accused may have signed a "confession" under torture or ill-treatment. Amnesty International has interviewed several men and women from the North Caucasus, who had been detained during the last two to three years in the region. All of them told Amnesty International they had been tortured in order to extract a confession. While several of the interviewees had complained about their treatment to the authorities, Amnesty International is not aware of investigations against anyone responsible for the alleged torture of the detainees. Several of those interviewed by Amnesty International later fled the Russian Federation for fear of renewed persecution.

The organisation is aware that the Office of the Public Prosecutor has opened a large number of investigations into alleged serious human rights violations committed by state officials not only in the North Caucasus, but in other regions of the Russian Federation. However, it appears that many of these investigations of serious human rights violations are conducted wholly ineffectively and do not, as a rule, lead to the prosecution of the suspected

perpetrator. One reason for this apparent lack of will to prosecute perpetrators of human rights violations is structural: the Office of the Public Prosecutor is both responsible for the investigation and prosecution of serious crimes, and the supervision of the legality of actions of state officials. This dual role means that investigations into allegations of torture are conducted by the same Public Prosecutor's office that was responsible for leading the investigation during which the torture allegedly took place. Such investigations fail to meet the necessary requirements of independence and impartiality. The government of the Russian Federation has recently announced its intention to establish an independent body of investigation within the procuracy. It remains to be seen if such a division of responsibility will be successful in enhancing the rule of law and ending impunity.

Today, despite claims by Russian and Chechen officials that the situation in Chechnya is normalising, there continues to be reports about serious human rights violations committed in the Chechen Republic and other regions of the North Caucasus. Given the scale of the violations committed, relatively few Russian federal and Chechen law enforcement officers, security service officers and military servicemen have been prosecuted and convicted as a result of such investigations, for crimes relating to torture, extra-judicial executions, enforced disappearances, rape, and indiscriminate use of force, resulting in the loss of civilian life. Those cases which are currently before Russian courts have been ongoing for years, which adds to the perception among the population in the North Caucasus, that their rights can be violated with impunity. In this context Amnesty International would like to draw attention to the continuing failure of the authorities to bring to justice those who are responsible for any of the many cases of enforced disappearance in the North Caucasus. Currently, the organisation is aware of only one case where a state agent has been found guilty specifically for the enforced disappearance of an individual in Chechnya. The Russian NGO "Memorial" estimate that over the conflict, between 3,000 and 5,000 people have been subjected to enforced disappearance or have been abducted. The lack of effective investigation of these violations is a major obstacle to tackling impunity.

In addition, the lack of a functioning forensics institute in Chechnya has hampered work to identify bodies in the 52 mass graves recorded in the republic. Individual bodies are sent to Mozdok in North Ossetia for identification, but the forensic facility in Mozdok does not have the resources to undertake a large scale exhumation and identification process.

Given the widespread human rights violations in Chechnya, Amnesty International believes that those in charge of the disinterment and investigation of these grave sites must operate with the clear mandate of investigating human rights violations, including enforced disappearances, torture and extra-judicial executions, that have taken place during the two Chechen conflicts.

Many of those individuals who turn to the European Court of Human Rights in order to find justice for those human rights violations they have been subjected to, continue to face harassment and persecution in reported attempts to encourage them to withdraw their complaints. In this context it is also very important to note that Russia is yet to fully implement those decisions of the European Court of Human Rights finding serious human rights violations in the context of the conflict in Chechnya.

## Amnesty International calls on the EU to:

- urge the Russian authorities to take all necessary measures to immediately end human rights violations by law enforcement officials, especially in the North Caucasus;
- urge the Russian government to carry out investigations of the recognized mass graves fully and impartially, and in line with UN guidelines on the disinterment and analysis of skeletal remains, as set out in the Minnesota Protocol. Meanwhile the sites must be

protected from any interference. Adequate resources should be made available to ensure that this work can be started without further delay; and

 urge the Russian government to fully cooperate with the European Court of Human Rights, including ensuring criminal investigations are effective and end in prosecutions and convictions of those reasonably suspected or named in the European Court decisions as being responsible for violations such as enforced disappearances, extra-judicial executions, and indiscriminate use of force.

# 2. Freedom of expression, assembly and pressure on NGOs

Human rights defenders are subjected to administrative harassment and face other pressures, including anonymous death threats. The new legal provisions and regulations brought into law in April 2006 governing NGOs have impeded the work of Russian and foreign NGOs. It appears the Russian authorities have attempted on several occasions to use the new provisions in order to interfere in the lawful work of human rights organizations and other civil society activists. The closure of the Russian-Chechen Friendship Society in January 2007 has been widely publicised; it appears that in this case both the new law on NGOs as well as amendments to the law on extremism have been used to clamp down on an independent human rights organisation and to silence dissent. Other organizations have been affected by various restrictions and actions undertaken by the authorities, which may have been attempts to hamper the ability of these NGOs to continue their work independently. Such restrictions range from being fined for holding an allegedly "unsanctioned meeting" in a public place with members of a foreign NGO to having to divert human resources to additional administrative tasks, thereby being unable to undertake activities which are at the core of the work of human rights NGOs.

Not only does the law on NGOs give increased power of scrutiny to the authorities about the activities of NGOs, it also allows arbitrariness in its implementation due to the lack of precise legal definitions of some aspects of the law.

Negative statements made by government officials and in the media over the last years have added to a climate of mistrust towards all NGOs, which have been presented either as foreign spies, supporters of terrorism or simply as oriented against Russian interest. To Amnesty International's knowledge none of these allegations have been substantiated to date.

As a consequence, several human rights NGOs have expressed concern that previously good contacts with the authorities have soured, simply due to the political climate in which law enforcement officials do not wish to be seen as co-operating with NGOs, even on non-controversial issues such as the promotion of respect for human rights, and tolerance.

Civil society activists, including those who are promoting the rights of ethnic or religious minorities are repeatedly under pressure from local or regional authorities. Members of the Muslim community have told Amnesty International about repeated checks on those attending mosques regularly and about various acts of intimidation and harassment by the law enforcement agencies against those who dress according to religious rules

In the Republic of Mari El Amnesty International has learned about the clamp-down on organizations promoting Mari culture and language. Two activists, including a pagan priest, have been found guilty of inciting racial hatred or slander, while others have been physically attacked under circumstances which may suggest political motives behind the attack.

Amnesty International is concerned as well about attempts to intimidate human rights lawyers especially those acting on behalf of former YUKOS owner Mikhail Khodorkovsky, who have raised concern about the numerous alleged procedural violations during the judicial process.

There is less space for peaceful exercise of the right to freedom of expression and assembly. Journalists are intimidated and in some cases attacked, killed or forced into exile. In particular, journalists reporting from the North Caucasus, including Chechnya have received threats and have been warned by individuals working for the law enforcement agencies not to write critically about the situation in the region.

Bans on demonstrations are not always legitimate or proportionate restrictions of freedom of assembly. Peaceful protesters have been detained despite informing the authorities of their intention to demonstrate as required in law; journalists monitoring demonstrations have also been detained. Participants at the recent marches of dissent felt that the official response had been grossly disproportionate. Reportedly, 20 000 police officers were deployed in order to prevent the march of dissent in Nizhnii Novgorod on 24 March 2007.

In view of the upcoming elections new regulations are being discussed, which may make demonstrations in major cities such as Moscow nearly impossible due to broad restrictions, such as prohibiting demonstrations in front of historical monuments.

# Amnesty International asks the EU to

- impress on the Russian government the need to protect and promote human rights, including the right to freedom of expression, freedom of assembly and freedom of association;
- urge the Russian government to amend the law on NGOs in order to allow civil society organizations to be able to continue their valuable work;
- urge the Russian authorities to refrain from disproportionate and punitive measures of restriction of activities of NGOs and civil society activists;
- urge the Russian government to fully and thoroughly investigate the killing of Anna Politkovskaya as well as the killings of other journalists. The EU should also closely follow the investigations of attacks on civil society activists, such as the attack on Galina Kozlova and her husband Victor Kozlov.

# 3. Racism

The response of the Russian authorities to violent racist attacks continues to fall short of its obligations under international law. There still appears to be no comprehensive federal programme to combat racist and xenophobic ideas and ideologies. New amendments to the law on extremism seem to be used inconsistently in tackling crimes based on racist and extremist views. There has been a noticeable rise in the number of prosecutions and convictions of race hate crimes reported in the Russian media, which is to be welcomed. There is also a growing number of initiatives from non-governmental organizations and civil society activists in order to increase inter-ethnic tolerance and to combat racist attitudes. At the same time the figures for racially motivated crimes remain high, there are nearly daily reports of attacks on non-Russians and people from an ethnic minority background, many of which reportedly have a racist context. SOVA, the Russian non-governmental informational-analytical organisation found that in 2006, 54 people died in Russia as a result of crimes based on racism and xenophobia. The centre concluded that such crimes are on the rise in Russia.

Anti-racism campaigners continue to face threats because of their work while the authorities often seem to be reluctant to investigate death threats. There have been a number of attacks on young anti-fascists, of which at least one was fatal. Lawyers and relatives of the victims are concerned that these attacks are considered as acts of hooliganism under Russian criminal law and evidence pointing towards a more severe nature of the crime has been ignored.

Amnesty International is concerned that ineffective investigations by the police and prosecutor's office may be hampering the ability of the public prosecutor's office to ensure convictions for such attacks which match the gravity and nature of the crime. Therefore the authorities should address the deficiencies in the investigation and prosecution of racist attacks, including through the development of clear guidelines and training for police, prosecutors and judges who deal with such cases.

Amnesty International research shows that while anyone, including ethnic Russians, can be a victim of human rights violations at the hands of the police, ethnic minorities, in particular from the North Caucasus and Central Asia, and migrant workers can be particularly vulnerable to violations such as extortion, arbitrary arrest, and torture and ill-treatment. Document checks on members of the above mentioned ethnic groups, in order to establish their legal status, as so-called "counter-terrorist" measures or for the purposes of extortion by police are a daily occurrence in Moscow and St. Petersburg. Following from this, migrant workers who are in the Russian Federation without adequate documents are especially vulnerable by their uncertain legal status, and in consequence suffer a lack of access to means of redress, or can be threatened with deportation should they pursue a complaint. In addition, Amnesty International has researched several cases of deportation of migrants and refugees from the Russian Federation despite them having had the right to remain in the country.

Russian registration rules continue to be used as a means of discrimination against nonethnic Russians. Registration at the place of permanent residency may be denied to members of certain ethnic groups, such as Roma or Chechen in an arbitrary way. The lack of such registration has serious consequences for the individuals' ability to enjoy his or her economic, social and cultural rights, such as access to free medical care and education.

In addition, the organisation is concerned that recent new laws on migrant workers have been accompanied by official statements which sweepingly accused migrants and non-Russians of violations of Russian laws and thereby may add to a widespread climate of hostility towards migrants.

# Amnesty International calls on the EU to:

- Urge the Russian authorities, at federal and regional level, to continue to speak out against racism and intolerance;
- Welcome the increase in prosecutions and convictions for racially-motivated attacks, but
  urge the authorities to address any deficiencies in the investigation and prosecution of
  racist attacks, including through the development of clear guidelines and training for
  police, procurators and judges who deal with such cases; and ensure that such attacks
  are not classed as "hooliganism"; and
- Urge the Russian authorities to make tackling racism and intolerance a federal-level priority, including among state officials, introducing a comprehensive government Plan of Action.

# ANNEX INDIVIDUAL CASES

## Relating to the North Caucasus

#### Enforced disappearance of Artur Akhmatkhanov

Artur Akhmatkhanov worked for the non-governmental organisation Russian-Chechen Friendship Society when he was detained on 2 April 2003 in Chechnya near his house in Shali, by men who appeared to be members of the Russian federal forces, and subsequently "disappeared". According to the Office of the Prosecutor General, a criminal investigation was opened into the reported arbitrary detention under Article 126 of the Russian Criminal Code, which found that unknown armed, masked men wearing camouflage uniform had abducted Artur Akhmatkhanov on 2 April 2003 and taken him away to an unknown destination. However the criminal investigation was suspended on 10 July 2004, due to the failure to identify suspects in the case. Since then the case has been opened again but according to Amnesty International's information has been halted.

#### Enforced disappearance of Bashir Mutsolgov

Bashir Mutsolgov from Karabulak in Ingushetia was last seen in the afternoon of 18 December 2003 as he was forced into a car by several men in camouflage uniforms in outside of his family home. A witness tried to get the Ingush traffic police to stop the car, in which Bashir Mutsolgov was taken away as well as another car, which was also involved in the incident. However, both cars reportedly had a special permit to travel and the police did not attempt to stop them. His family has since heard from contacts in the Federal Security Service (FSB) that he was taken to the headquarters of the Ingush department of the FSB in Magas, where he was reportedly kept until the next day. From there he may have been transferred to the Russian military base at Khankala in the Chechen Republic, but his fate and whereabouts remain unknown. The criminal investigation into Bashir Mutsolgov's enforced disappearance has been halted at the moment for lack of identification of suspects. After Bashir Mutsolgov disappeared in Ingushetia in December 2003, his brother Magomed set up the NGO Mashr ("peace" in Ingush) in order to highlight the plight of victims of enforced disappearance and their families in the Republic. In October 2006, he together with other human rights activists organised a vigil for murdered journalist Anna Politkovskaya in Nazran, Ingushetia, which was dispersed violently by police and men in civilian clothes. Magomed Mutsolgov was fined for violations of procedure of organising a picket. According to him and to local human rights lawyers, he had followed the law.

#### "Disappearance" of Bulat Chilaev and Aslan Israilov

Bulat Chilaev, a driver for the Russian non-governmental human rights and humanitarian organisation Komitet Grazhdanskoe Sodeistvie (Civic Assistance Committee), and Aslan Israilov were arbitrarily detained on 9 April 2006 in Chechnya by security forces personnel and have subsequently disappeared. The office of the Sunzhenskii District public prosecutor opened a criminal investigation, which, according to Memorial, has ground to a halt.

When Amnesty International spoke to colleagues of Bulat Chilaev in June, they were told that about 10 people witnessed the detention of Bulat Chilaev and Aslan Israilov, of whom at least three had also given a statement to the public prosecutor's office. These statements had included details on the registration numbers of the cars, and had also referred to a military identity tag, with the number 142733, found next to where the two men had been dragged out of the car. When the head of Grazhdanskoe Sodeistvie met with the then President of Chechnya, Alu Alkhanov, and the Chechen Procurator in May 2006 to discuss enforced disappearances and abductions in Chechnya, the Chechen Procurator reportedly stated that his office had so far been unable to question the owner of the identity tag, giving the reason, according to the NGO report, that since the owner was a member of the Ministry

of Defence battalion Zapad (West) he had many duties to perform – in other words, he was too busy to be questioned. Nevertheless, according to an official letter from the military prosecutor's office to the head of Grazhdanskoe Sodeistvie in June 2006, the owner of the identity tag was subsequently questioned and stated that it was possible he had lost the tag at about 10am on 9 April at the crossroads with the Kavkaz highway, in the Suzhenskii district of Chechnya. He stated that he only noticed it was missing on returning to his battalion's base, and filed a report. Bulat Chilaev and Aslan Israilov had been arbitrarily detained at the same crossroads at about 1pm. At the moment the investigation is open, but no further information has been made available to relatives and colleagues of the two men.

# Apparent enforced disappearance Elina Ersenoeva and her mother, Margarita Ersenoeva

Freelance journalist and humanitarian worker Elina Ersenoeva and her aunt were detained on 17 August 2006 in the centre of the capital Grozny, Chechnya, by armed, masked men and taken away in a car. While the aunt was released after a couple of hours, Elina Ersenoeva has not been seen since. Reportedly, her mother Margarita Ersenoeva learned a few days after her daughter's reported enforced disappearance that she had been married to Chechen separatist leader Shamil Basaev the year before. Margarita Ersenoeva told Amnesty International that she considered her daughter to have been a hostage of Shamil Basaev rather than his wife. Margarita Ersenoeva met with representatives of the Committee for the prevention of Torture (CPT) of the Council of Europe in September 2006. Amnesty International is concerned that she and other people who met with the representatives of the CPT were filmed by police when they entered the meeting place. On 2 October, Margarita Ersenoeva reportedly received a call on her mobile phone and was asked to come to the building of the local administration in Starye Atagi, in order to receive information about her daughter. Following that call she left the house of her relatives where she was staying at the time. She has not been seen since and it is believed that she has also been "disappeared" or abducted. The authorities in Chechnya have opened criminal investigations into the abductions but no one has yet been identified as being responsible.

#### Relating to freedom of expression and assembly

#### Murder of journalist Anna Politkovskaya

Russian journalist Anna Politkovskaya was murdered on 7 October 2006 outside the entrance to her flat in Moscow. The journalist, who had written extensively about the human right situation in Chechnya and in other regions of the Russian Federation, had received numerous threats against her life and had allegedly been poisoned in order to prevent her from reporting about the human rights crisis in the North Caucasus. Her murder is currently being investigated by the Office of the Prosecutor General of the Russian Federation. While there have been media reports that the investigators have stated suspects for her murder have been identified, no further information is currently available. Amnesty International is concerned that the investigation into Anna Politkovkaya's murder should be prompt, thorough and impartial.

#### Restrictions on freedom of association in Krasnodar Region

On 23 January 2007 members of the human rights organisation FRODO, whose members are mainly former members of the closed "school of peace" in Krasnodar, held a meeting in an art school for children, where the human rights activists together with students and other interested people from Krasnodar had organised an exhibition of children's art on the issue of interethnic tolerance. Two guests from Germany wanted to discuss a project on football for tolerance. The meeting was broken up by a group of police men, staff from the Federal Migration Service and the Federal Security Service. The participants were separated and most of them were questioned by the law enforcement officials without been given an official reason and without the presence of a lawyer. The head of the children's art school, the organisation FRODO, Vadim Karastelev were accused of holding an unsanctioned meeting and charged with violations of Article 20.2 the Administrative Code of the Russian Federation (violations of the regulations for organising and holding meetings, demonstrations and vigils) and were ordered to pay a fine. Following an appeal against his sentencing, a regional court decided to reduce the fine for Vadim Karastelev but did not clear him.

#### Attacks on Mari activists Galina Kozlova and Vladimir Kozlov

Galina Kozlova, from the Republic of Mari El in the Volga Federal District, works as a subeditor and campaigns for the protection of the Mari culture. She told Amnesty International that on 25 January 2007 she was attacked on her way home by an unknown man, who sprayed what she believes to be teargas in her face, kicked her and beat her. When she fell to the ground he dragged her along the icy street for several meters (about 50). According to Galina Kozlova, the man did not attempt to take her bag or any of her possessions. She was hospitalised and stayed in hospital for 11 days, only returning to work in March. After the attack, a police investigator came once to see her in hospital but, according to Galina Kozlova, did not seem to be very interested in what had happened to her. She said that only after the European Parliament adopted a resolution on 15 March, calling on the authorities to bring the perpetrators to justice and ensure respect for freedom of expression did the local authorities start a more thorough investigation into the attack. Galina Kozlova's husband, Vladimir Kozlov, who is also a well known activist for the Mari culture, was similarly attacked in February 2005 on his way to work. He was beaten up by one man, while two others stood guard. He reportedly lost consciousness during the attack. The men did not attempt to steal anything from him. Until now, none of the attackers have been found. Galina and Vladimir Kozlov believe that the attacks are likely to be connected to their work for the protection of Mari culture and for their criticism on current government policies. Vladimir Kozlov told Amnesty International about what he considered to be other recent attempts by the

authorities of the Republic of Mari El to hinder his campaigning, including preventing him from attending an international meeting in May 2006 with other representatives of Finno-Ugric ethnic groups, to which the Mari belong, and confiscation of his computer also in May 2006.

## Pressure on legal team for former Yukos executives

The legal defence team of former Yukos executives Mikhail Khodorkovskii and Platon Lebedev is concerned that the public prosecutor's office is deliberately hindering their access to their clients and putting undue pressure on them in an attempt to intimidate them. In January 2007 the public prosecutor's office opened new criminal investigations against Mikhail Khodorkovskii and Platon Lebedev and decided to hold the initial stage of investigation in Chita rather than in Moscow, which would have been possible under Russian law. A Moscow court found on 20 March that the decision to hold the initial investigation in Chita was in violation of Russian law. The defence team believes that this decision was taken in order to hinder their access to the two men, requiring them to undertake the lengthy journey to Chita to visit their clients. Moreover, on 4 February 2007 a group of lawyers working for former Yukos executives Mikhail Khodorkovskii and Platon Lebedev were stopped by police officers from boarding a plane to Chita, in the Far East of Russia, where their clients are currently detained during the initial investigation into the new charges against them. The lawyers claim that they were detained by police at the airport in Moscow for nearly two hours before being able to board the flight. On their way back to Moscow one of the lawyers, Karinna Moskalenko, had to sign a statement that she had acquainted herself with some documents of the investigation but that she would not reveal any of the details of the preliminary investigation. The lawyer told Amnesty International that she signed the statement in order to be able to get on the plane to Moscow? together with her colleagues, despite wholly disagreeing with the demands of the statement and not having seen the mentioned document. Upon her arrival in Moscow she filed a complaint with the Office of the Prosecutor General against the way she had been treated by the law enforcement officials. On 16 April 2007, the Moscow City court confirmed an earlier decision by a Moscow court, which on 20 March had found a violation of Russian law and the constitutional rights of Mikhail Khodorkovsky and Platon Lebedev by the responsible organs of the Russian General Procuracy, which had ordered to hold the investigation of new accusations against Mikhail Khodorkovsky and Platon Lebedev in Chita, where they are currently detained, rather than in

## Deportation of Rustam Muminov

Moscow, where the alleged crimes have been committed.

Rustam Muminov, a citizen of Uzbekistan, had been detained in February2 2006 following an extradition request from the Uzbekistani authorities. The Russian Procurator General decided on 29 September that Rustam Muminov could not be extradited to Uzbekistan and he was released the same day from detention. However, during his period in detention, his registration in the Russian Federation had expired and following his release, the authorities refused to renew it. On 17 October he was detained again at the office of the Russian human rights organization Komitet Grazhdanskoe Sodeistvie in Moscow. The same day a court in Moscow found him guilty of violations of the Administrative Code of the Russian Federation in connection with his expired registration permit, and issued an order for his deportation. A lawyer from Grazhdanskoe Sodeistvie appealed against this order on his behalf. Rustam Muminov also appealed to the European Court of Human Rights to take interim measures to halt his deportation. Despite these two pending court decisions on 24 October Rustam Muminov was taken in handcuffs to an airport in Moscow and flown to Uzbekistan. According to the news agency Interfax, the FSB proclaimed Rustam Muminov guilty of crimes committed in Uzbekistan, which constituted a violation of the principle of presumption of innocence. A week after his deportation, the district court in Moscow found Rustam Muminov not guilty of violations of the Administrative Code. A criminal investigation into the unlawful deportation of Rustam Muminov was opened. Despite all this, the FMS

informed Grazhdanskoe Sodeistvie on 18 December that Rustam Muminov had left the country voluntarily on 24 October, not awaiting a final court decision. In March 2007, Grazhdanskoe Sodeistvie learned that Rustam Muminov had been sentenced to five and a half years imprisonment in Uzbekistan.