

“Your travel abroad is not appropriate”:

***Propiska*, ‘exit visas’ and other relics of the Soviet era in Uzbekistan today**

INTRODUCTION

This report is based on the submission of the Uzbek-German Forum for Human Rights on behalf of an initiative group of Uzbek citizens to the 98th session of the Human Rights Committee scheduled for March 2010. It represents the results of the monitoring of how Uzbekistan implements its own laws and international commitments relating to freedom of movement and the rights for choice of residence. It reviews 27 legislative and normative acts of the legislative and executive authorities of the Republic of Uzbekistan, as well as some 60 annexes related to freedom of movement, including (see some of them in Annex 1).

This report concerns the following aspects of the right to freedom of movement and choice of residence:

- Citizens' right of movement and choice of residence within their own country;
- The right to unhindered exit from the country;
- The right of citizens to choose their place of residence outside their country;
- The right to apply for foreign citizenship.

The violation of these rights indirectly affects a number of other rights. Without the right to freely move from one's residence, an individual may, under certain circumstances, be subject to political repression and torture, may be prevented from observing their chosen religion, possessing the right to marry and to family life, be denied access to employment or education outside of the country, all of which could ultimately affect the individual's quality of life. Thus, freedom of movement is one of the most fundamental rights which, when violated, leads to increased material and moral damages to individuals and their families.

UZBEKISTAN'S INTERNATIONAL OBLIGATIONS

Uzbekistan is signatory of both the Declaration of Human Rights (signed in 1991) and the International Covenant on Civil and Political Rights (ratified in 1995). Its Constitution declares the predominance of the international laws ratified by Uzbekistan over its own laws. Thus, the norms stipulated by the Declaration and the Covenant are binding for Uzbekistan.

According to Article 13 of the Universal Declaration of Human Rights (1948), “Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.”

Article 12 of the International Covenant on Civil and Political Rights contains four principles that guarantee freedom of movement and choice of residence:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

The data we collected during the study indicate that at least the first three of these principles are systematically violated in Uzbekistan, and direct responsibility for these violations lies with the Government, its law enforcement agencies, and local authorities. These violations are at odds not only with Uzbekistan’s international obligations, but with its own Constitution, specifically Article 28 which reads: "A citizen of the Republic of Uzbekistan has the right to freedom of movement across the state, to enter the Republic of Uzbekistan and exit from it, except for in cases restricted by law.”

However, our monitoring suggests that certain categories of citizens face unjust discrimination in their right to travel and choose their place of residence.

THE INSTITUTION OF “PROPISKA”: NOTHING HAS CHANGED SINCE 1932

The institution of “*propiska*” was a creation and an integral part of the Soviet totalitarian regime. It was created on 27 December 1932, and when enacted, it established a unified passport system throughout the Soviet Union. The same law also introduced the first compulsory system of “*propiska*.” In doing so, the Stalinist regime made strides towards establishing the police state, which Uzbekistan is to this day. “*Propiska*” allows the state not only to register citizens at their places of residence, but by introducing an authorization system, places them and their movements under the strict control of the state. This system was adopted and remains in place almost unchanged by the current government in Uzbekistan since its inception.

Like the Soviet constitution of 1936, the Constitution of the Republic of Uzbekistan seems quite progressive. According to Article 28 of the Constitution, citizens of the Republic of Uzbekistan have the right to freedom of movement across the territory of the Republic, to enter and exit from it with the exception of restrictions established by the law.

The introduction of a new passport system was initiated through the adoption of *Presidential Decree N UP-1027 (23 December 1994) “On Implementation of the Statues of the passport system in the Republic of Uzbekistan.”* This decree was issued in accordance with the *Law of the Republic of Uzbekistan “On Citizenship of the Republic of Uzbekistan,”* “in order to protect the rights, freedoms, and lawful interests of citizens and to ensure public order and security.”

The “*Statutes on the passport system in the Republic of Uzbekistan*” (26 February 1999) regulate the issuance of passports and their use, “*propiska*,” “*vipiska*” (documentation for departure from a place of residence), as well as liabilities for the violation of the rules of the passport system. According to the Statutes, an Uzbek citizen’s passport is the main document certifying citizenship and the identity of its owner. In accordance with this Statute, the passport should contain a record of the place of residence and permanent residence of the passport holder, temporary residence permits, as well as information on permits for travel abroad, and visas for entry into foreign countries. The Soviet legacy with its system of “*propiska*” and totalitarian control over citizens’ movements has remained almost completely intact. Without such records in their passports, citizens are deprived of their rights to reside in a particular area or to leave the country. As a result, they lose a number of other rights: to employment, housing, medical care, education, as well as the freedom to marry and start a family, etc.

It should be noted that under Section 22 of the Statutes, a passport may be revoked by an investigating authority or by the courts only for individuals who are detained, as well as those sentenced to imprisonment or detention. Upon release from custody or after having served their sentence, the passport is returned to its owner. Section 23 of the Statutes prohibits the seizure of a passport from a citizen of the Republic of Uzbekistan with the exceptions of cases listed in paragraph 22 of the Statutes, and also prohibits the receipt or transfer of a passport as collateral or for the purposes of guarantee of other commitments.

However, in practice, there are many instances when police confiscate the passports of citizens traveling to the capital for work. Regular police sweeps targeted at capturing and seizing the passports of itinerant laborers take place in markets and *mardikor* bazaars¹ in the capital city and in the larger cities of the country. We conducted interviews with a number of itinerant laborers or *mardikor* from the provinces who came to Tashkent seeking work. In one of these interviews held at the Kuylyuk market for day-laborers in Tashkent city, a citizen – Mukhabbat Kh., born in 1967, and from Furkat district of Ferghana region, said: “I will do any work with my 15 year-old daughter, if it pays. Every day, the police check our passports for ‘*propiska*.’ If you do not pay them, they take away your passport. They name a place where you can go to pick up your passport, but you can only get it back if you pay a bribe...”

The systems of “*propiska*” and mandatory registration are also governed by this Statute. A residency permit for a citizen and compulsory registration is conducted by the Internal Affairs authorities, which is a practice from the Soviet era. In Uzbekistan, the practice continues to this day. Those coming to the capital must within three days of the date of their arrival, submit all necessary documents for registration with Internal Affairs. Accordingly, these individuals must first be officially withdrawn (“*vipisat’sia*”) from their previous place of residency. Documents on the withdrawal of registration from a place of residency are issued by the Internal Affairs authorities at the place of one’s permanent residence. If a person arrives at a location to study or take up temporary employment, that person must obtain a temporary residence permit and must do so within three days of arriving on location. If the person wishes to take a permanent job, it likewise will be necessary to obtain a permanent “*propiska*”, i.e. a permit of permanent residency.

For receiving a residency or a withdrawal permit, a state duty is charged at the rates set by the Cabinet of Ministers of the Republic of Uzbekistan as well as the “*Regulations on the exercise of the passport system of the Republic of Uzbekistan*,” Decree of the Ministry of

¹ A market of “*mardikors*” who are seasonal and temporary laborers for one-time hire.

Internal Affairs of the Republic of Uzbekistan (29 March 1999). In practice, the payment is without limit. Ordinary citizens often have to pay bribes just to get documents issued without delays. From an interview with Salokhiddilom Kh. from Samarkand region, 48 years old, noted that: “For 12 years, I wasn’t registered in my own home, which I bought myself in Tashkent city, only because I was from the provinces. Only after paying bribes could I resolve the matter.”

Thus, the violation of the right of freedom of movement leads to a violation of property rights, and creates favorable conditions for the emergence of corruption among the concerned State authorities.

People have no choice but to find ways to circumvent the draconian rules for getting a permit. For instance, Abdurashid I., 49 years old says: “When I purchased an apartment in Tashkent, I didn’t buy it in my name because I didn’t have a Tashkent permit. We put it in the name of my nephew who lives in Tashkent and has a permit. In order to work in Tashkent, through friends, I paid for a permit in Kibray district, Tashkent metropolitan region [which is situated outside of Tashkent city – ed.]. When I get into the city every day from Kibray, GAI² officers stop my car often as it still has a provisional license plate. In the last year, my son married a native of the capital and we wanted to get him a permit through his wife (who is permanent resident of Tashkent city) so that after, we could get a permit through him as his parents. But after two years, he has not been able to obtain a permit to live in his wife’s home, as you need money for a ‘special commission on registration’ at Tashkent city hokimiyat (City Hall). Although by law they are obliged to register a husband in the home of his wife and parents in the home of their children in all circumstances, in practice, this matter cannot be resolved without paying bribes.” According to Abdurashid I., since the appearance of the special commission on registration, particularly in Tashkent city and the Tashkent region, the size of the bribes for registration has increased many times over, costing anywhere between USD 2,000 and 5,000.

Those who do not have and are unable to obtain a residence permit in a particular area cannot be employed in any businesses, institutions, and organizations located in that area, and according to the rules, must leave the area within seven days. In the case of failure to leave, one can be subject to deportation by the Internal Affairs authorities. These rules apply in cities with restrictions on registration and permits, particularly in Tashkent.

Under the law, homeowners should have the right to register family members and citizens of the Republic of Uzbekistan, regardless of the size of the living space. But in practice, this is impossible to achieve by lawful means. Tuichy A. from the Jizak Pedagogical Institute was invited to work at the Academy of Public Administration in Tashkent in 2007 and then enrolled in a doctoral program at the Institute of History at the Academy of Sciences of Uzbekistan. For three years, he could not settle in Tashkent to work due to his lack of a residency permit: “They wouldn’t even register me at the home of my relatives who live in Tashkent. My relatives from Tashkent city tried over the course of eight months to register me in their home in Tashkent. They were required to produce every imaginable and unimaginable document and provide information, even documents from the authorities stating that I wasn’t religious and didn’t belong to any extremist organizations. In the end, I still couldn’t register. They [at the City Hall –ed.] were probably waiting for a bribe,” Tuichy said. This particular case (quite typical for Uzbekistan) demonstrates how the violations of the rights of movement and choice of residence have important consequences on property rights, the right to work, the right to education, and so on.

² State traffic police.

Some migrants coming from the provinces to Tashkent do manage to find work and live without a residence permit, i.e. staying there illegally, from the point of view of the established passport regime. But their situation is fraught with constant risk. Local authorities regularly carry out checks and raids to apprehend persons without residency permits and registrations. Also, unwitting violators of the residency regime have to pay bribes to the police inspectors, who are mostly local policemen (“*uchastkovyi inspector militsii*”), and live “under their protection,” that is, to pay bribes on a regular basis as “dues” in exchange for a ‘peaceful’ life.

Ninety-eight percent of our surveyed citizens who arrived in the capital from the provinces responded that they were constantly required to pay bribes for the right to live and work in the capital which has the lion’s share of Uzbekistan’s jobs and financial resources. From an interview with Anvar T. from Kashkadarya, age 32, a historian by education, declared: “The four of us live in a rented apartment. A district police officer takes ten thousand soums [equivalent to 8-10 US Dollars – ed.] from each of us every month. He comes every month on a certain date.”

A similar ‘tax’ is described in interviews with two-thirds of respondents. According to our estimates there are more than a million “*mardikor*” itinerant laborers and day laborers from the provinces without registration in Tashkent. And many of them are known and watched by the local district police, from whom it is impossible to conceal one’s residency in a particular area. Khotam-aka from Kattagurgan, age 58 says: “If the passport regime was set up to prevent terrorists from coming into the country and into the capital, then such [corrupt] police, for the price of a bribe, will allow them in and provide ‘protection’ to anyone willing and ready to pay for it. After all, it isn’t written on a terrorist’s forehead what he’s up to. For money, our police would welcome terrorists at the border and bring them to the capital in their police cars with their headlights flashing.”

Those “violators of the passport regime” who are unable to pay bribes are forced to buy off the police by other means. Dilbar Nazarova, a mother from Kashadarya province with two children says: “Like others, I occasionally give money to policemen. But there were times when I had no money. Then, the policemen, unable to get money from me, forced me to work in their homes or at the homes of their friends doing various types of work.” Jakhongir Kh., age 34, from Kokand, recounts: “We worked on a construction site in Kukcha district. Suddenly, the local policeman came unexpectedly and began to check passports. He took our passports and said, ‘I will return them if you will be my *witnesses* and sign detention protocols.’ Apparently, he detained one guy and allegedly found narcotics in his pockets. In order to clear the case, he needed our testimony. We don’t know whether the guy was guilty or not, but we were forced to put our signatures to the protocol... And in the evening, the detained guy’s brothers came from the neighborhood *mahalla* [or community centre – ed.] to the construction site and beat us.” In these cases, the violation of freedom of movement has provided fertile grounds for forced labor and coercion to bear false testimony.

According to the website uzmetronom.com, there are regular mass round-ups of persons without permanent or temporary residence permits in Tashkent. Buses are hired by the Ministry of the Interior and usually operate on a busy motorway or in places where many people gather. These buses are loaded with people who by all appearances look like they are from the provinces. One such raid, conducted by the Yunosabad district Department of the Interior, took place on the evening of 29 October 2008³. As reported by the editors of the

³ www.uzmetronom.com, 31 October 2008,

website, the round up of residents from the provinces is carried out by police in accordance with the Presidential Decree on the passport system, the Law on citizenship, the Resolution of the Cabinet of Ministers and an internal order of the Ministry of Internal Affairs. According to the abovementioned documents, every resident of remote regions, in the event of their departure outside their region of permanent residence, must obtain a so-called “*absentee pass*” [“*vipiska*” – ed.] in the form of a stamped certificate from the *mahalla*. Upon entry into the capital, the person must register with Internal Affairs. If for some reason, the guest does not have time to do so or has forgotten to do so, the person will be brought to the district (municipal) police department to pay a fine of one minimum wage, or have to produce a bribe⁴.

THE PASSPORT REGIME AS A SYSTEM OF TOTAL CONTROL AND SURVELANCE

In accordance with the adopted ordinances and regulations in the country, in particular in the capital, a total institution of enforcing compliance with the passport regime and the registration and permit regime is in place. Pursuant to *Presidential Decree No. UP-2240 (26 February 1999)*, “*On improving the passport system of the Republic of Uzbekistan*” in February 1999, two documents were issued by the Government – *Cabinet of Ministers Resolution No. 91* “*On additional measures to improve the passport system in the Republic of Uzbekistan*,” as well as *Cabinet of Ministers Decree No. 92 (27 February 1999)* “*On regulation of the acquisition of housing by foreign nationals and persons without citizenship in the Republic of Uzbekistan and the entry for permanent residence in Tashkent city*” – which determined that a permit for permanent residence in Tashkent city for citizens of the Republic of Uzbekistan arriving from other regions of the republic, would be carried out on the basis of a reasoned opinion of the special commission for registration, as well as a notarized license for the purchase, exchange, endowment, or mortgage of housing and their subsequent state registration at Gozkomzemgeodezkadastr (the department that gives technical certifications for housing). However Gozkomzemgeodezkadastr only registers the acquisition of housing upon presentation of a dispensation by the special commission for registration. This creates a vicious cycle, which voids any already completed housing purchase (with all the material losses for the buyers) and makes it virtually impossible to register without giving bribes.

The Ministry of Internal Affairs issued *Decree No. 55 (29 March 1999)* “*On the Declaration of Presidential Decree of 26 February 1999 “On improving the passport system of the Republic of Uzbekistan,”*” which approved the many paged “*Instructions on how to implement the passport system in the Republic of Uzbekistan*” and about thirty annexes to it as national guidelines. These instructions regulate the procedure for issuing passports and their use, as well as residence permits, withdrawal permits, including liabilities for violation of the rules of the passport system. Monitoring of compliance with the system rests with the Internal Affairs authorities, along with the responsibility for temporary residence permits, which must follow the timely departure of citizens upon the expiration of their permits. Precinct inspectors exercise direct control over citizens’ observance of the rules of temporary permits and in three days, reporting on their departures or their violation of the terms of their permits to the supervising manager of the Internal Affairs authorities.

There are organizational and practical measures to ensure that the passport regime is implemented by all departments of Internal Affairs authorities, both in their daily work and through special events to check citizens’ and officials’ compliance with the rules of the passport regime. These activities include:

http://www.uzmetronom.com/2008/10/31/grazhdan_otlavlivajut_kak_brodjachikh_sobak.html.

⁴ Ibid.

- conducting passport inspections in places where people live (*mahallas*, houses, apartments, dormitories, etc.) with the purpose of identifying individuals residing without passports or with invalid passports, without permits or registration, as well as individuals who are denied permits or registration, or if the terms of their registration or permit has expired;
- inspecting compliance of officials, businesses, institutions, organizations with the rules of the passport system, upon taking on citizens for work or study;
- studying the nature, causes, and conditions conducive to the violation of the rules of the passport system and develop practical measures to remedy any shortcomings;
- conducting audits of police inspectors to ensure that the passport system is functioning in the territories to which they are assigned;
- overseeing the work of those responsible for ensuring compliance with the rules of the passport system or authorized to conduct this work;
- conducting informational campaigns among the population, including radio and television presentations, preparation of materials for publication in print, as well as holding briefing sessions with officials responsible for monitoring compliance with the rules of the passport system or authorized to conduct this work.

The chiefs of the Department of Entry, Exit, and Citizenship [УВВиГ – in Cyrillic]⁵ and City Departments of Internal Affairs [ГорУВД – in Cyrillic]⁶ directly coordinate the passport system in conjunction with other agencies including criminal affairs, investigations, traffic police and others, in order to identify individuals without passports and permits. Employees of passport bureaus, in turn, inform the relevant agencies about individuals committing offenses, established through passport checks. Thus, a total system is in place to track and monitor persons without a residence permit.

Police precinct inspectors (“*uchastkovye inspektora*”) are fully responsible for the state of the passport regime in the areas to which they are assigned. They are required to monitor compliance by officials with the rules of the passport system when they take on citizens for work; to take action in cases where individuals have violated the rules of the passport system; to check on the instructions of their supervisors from the passport apparatus for those who must leave after being denied a permit or if their permit has expired, etc.. This is how the system, on paper, is designed to work, but in practice, this totalitarian system of control and tracking down individuals without a residency permit, is tainted by practices of extortion, bribery, humiliation, and forced labor.

Some of the authority of the Ministry of Internal Affairs provided for in these instructions oversteps the laws and the Constitution. For example, the inspection of private dwellings is in violation of the right to privacy and private property. Entry into a private house can only be done with the consent of the owners and tenants or with a search warrant, without exception. However, the precinct inspector often disregards this during raids.

NOTORIOUS “EXIT VISAS”: RESTRICTION ON RIGHTS TO TRAVEL ABROAD

⁵ Department of Entry, Exit, and Citizenship; this department is based at district Internal Affairs offices.

⁶ City Department of Internal Affairs.

The Resolution of the Cabinet of Ministers No. 8 (6 January 1995) “On approval of the order for traveling abroad by citizens of the Republic of Uzbekistan and the regulation on diplomatic passports” established the system for citizens of the Republic of Uzbekistan to travel abroad.

Under this procedure, a citizen of the Republic of Uzbekistan, in accordance with the laws of the Republic of Uzbekistan, has the right to freely travel abroad on private or public affairs, for permanent residence, as a tourist, for study, for work, for medical treatment, or for business. But at the same time, citizens wishing to go abroad are required to obtain a permit which is only valid for a period of two years. The permit is issued in the form of a sticker pasted into the citizenship passport of the applicant, similar to an entry visa. It is commonly called an “exit visa,” which is a term and practice inherited from the Soviet era.

Permission is needed to travel to the so-called ‘far abroad’ countries, i.e. the countries outside the Commonwealth of Independent States (CIS). To leave to go to CIS countries, authorization is not required. Some CIS countries, such as Russia and Kazakhstan, have signed an agreement with Uzbekistan that stipulates a ban for Uzbek citizens to depart from these countries to countries ‘far abroad’ (outside the CIS) if they do not have an exit visa, that is, official permission from the Uzbek authorities to travel abroad.

To obtain permission to leave (i.e. the passport sticker), an individual must undergo a long procedure. Citizens of the Republic of Uzbekistan, intending to travel to foreign countries, must go to the local Internal Affairs agencies (*OVIR* as they are called since Soviet times, currently named *УББиГ*)) in the area where they live, fill out an application form, and submit their passport. The form must be signed and stamped by the applicant and by the applicant’s employer as well. According to the established procedure, the local Internal Affairs agencies should consider the application form within 15 days after submission.

According to the order for travel abroad, several categories of citizens are restricted in their rights to travel abroad. The reasons for the restriction on travel abroad may be for the following reasons:

- a) if a person has access to information that constitutes a state secret, or in relation to this has a contractual obligation preventing him/her from going abroad – until the end of the obligation;
- b) if a criminal case has been brought against an individual – until the end of the proceedings;
- c) if the individual is in a court verdict, recognized as a particularly dangerous recidivist or on parole – until the end of the sentence or end of parole;
- d) if the individual evades obligations imposed upon him by the court – until the completion of the delivery of the obligations;
- e) if the individual has knowingly reported false information;
- f) if a civil case is brought against an individual – until the end of the proceedings;
- g) if a person is enlisted in the military and called for active duty – until the completion of active duty or until release from it in accordance with the law.

In practice, the types of individuals who are denied permission to travel abroad or whose decisions by Internal Affairs are delayed (beyond the established 15 days) extends far beyond the above listed categories recognized by law.

There are at least two categories of citizens who are targets for discrimination in terms of their rights to travel abroad. They are:

- 1) individuals who, from the point of view of the authorities, are considered to be “disloyal,” often including human rights and civil society activists, independent journalists, religious zealots, and members of religious communities.
- 2) individuals of the age of 18 and some older, upon whom the authorities have secretly placed restrictions in the last two or three years. The aforementioned legally binding ban on persons enlisted for military service is clearly discriminatory against young people. If a young man is avoiding military service, one may bring administrative or criminal charges against him. But it is unreasonable to categorically deny all young people *a priori* the right to freedom of movement. This translates as pure discrimination against a large segment of society.

In regards to the first of the two categories of citizens, examples may be drawn from activists and journalists whose rights to freedom of movement have been restricted, such as Tashpulat Yuldashev, Alisher Taksanov, Alo Khodjayev, Mutabar Tadjbaeva, Abdujalil Boimatov, Agzam Turgunov, Dilorom Iskhakov, Elena Urlayeva, Bahodir Namazov⁷ and others⁸, who at various times were denied the right to leave the country. As a rule, УВВиГ issues explanation for denials for such individuals consisting of one phrase: "travelling abroad would be inappropriate," without reference to any legal provisions. These denials are, of course, illegal and in violation of Uzbekistan's Constitutional norms and international human rights obligations and even those restrictive formal rules described above. Nevertheless, such denials have become the norm in Uzbekistan's internal policies and routine practices among agencies of Internal Affairs.

The former editor of the website tribuna.uz, Alo Khodjaev, was denied an exit visa in 2006 for the same reason - because of "inappropriateness" of his travel. When he intended to file a lawsuit to appeal the refusal, he was threatened over the phone. When he decided to appeal the refusal, regardless, his wife was hit by a car. Thus, the case didn't go to trial. In early 2009, he again applied for a visa, but the documents were returned to him without any explanation.

The Uzbek authorities use the denial of exit visas as a punishment for journalists working in exile. This explains the reason why for three years, the parents and younger brother of Shukhrat and Khurmat Babadjanovs, both journalists working in Prague at the Uzbek service of Radio Free Europe/Radio Liberty (called *Radio Ozodlik*), have received numerous formal rejections of their requests for exit visas from their local police department. The rejection letters do not refer to any laws, but contain the same vague statement that “your travel abroad at this time is not considered appropriate.” In the similar case of Sadridin Ashurov, also a journalist with the same radio station who lives in Prague, his wife and children have been unable to obtain exit visas since the beginning of 2008; no explanation has been given for their denials.

⁷ See in the attachments a copy of the letter of refusal for Namazov.

⁸ Several of the mentioned individuals after numerous denials, in the end were granted exit visas, for example, Elena Urlayeva in 2008, Mutabar Tadjibaeva in 2009. Others, for example, Tashpulat Yuldashev, Alisher Taksanov, Abdujalil Boimatov, had to go to neighboring CIS countries and there applied to the UNHCR for status as political refugees, after which they were able to leave and receive refugee status in Europe.

The Uzbek authorities, since 2005 have refused to grant an exit visa to the well-known human rights activist Elena Uralyeva. Because of this, in 2007, she was unable to travel to Dublin, Ireland, to participate in the “Fourth Dublin Platform for Human Rights Defenders” conference organized by the International Foundation for the Protection of Human Rights Defenders “FrontLine.” Uralyeva was one of one hundred delegates invited to Dublin from various countries, and was supposed to talk about the human rights situation in Uzbekistan, where human rights defenders are persecuted, and what it means to be a human rights activist in today’s Uzbekistan. Having submitted her documents for an exit visa on 12 September 2007 to УВВиГ, Uralyeva waited in vain for visa. “According to the local legislation, I was supposed to receive a visa after 15 days, that is on 27 September,” Uralyeva writes, “however, when I came to the Mirzo-Ulugbek district УВВиГ, I was told that my documents were not yet ready and I was asked to return on 2 October 2007.” Upon her return visit to the УВВиГ, she received written notification of her denial to obtain an exit visa signed by the Chief Yudashev Z.I., which read: “Officially, the final decision on your travel abroad has not been accepted.” Three months later, Uralyeva said: “I declare that the Uzbek authorities have deliberately not granted me permission to leave in order to prevent my participation in this conference, in order to prevent the dissemination of the truth about the persecution of human rights defenders in Uzbekistan!”

In the spring of 2009, the human rights defender Ganitkhon Mamatkhanov, who had also been denied an exit visa, told the employees of the Internal Affairs agencies who had denied him the exit visa: “Only those who know state secrets and those under investigation can be denied an exit visa. I don’t know your secrets and I’ve not been charged with anything, and therefore your denial is illegal.” They responded to him: “However, we know your secrets. And the fact that you have not yet been arrested is not a result of your merits, but of our shortcomings. If you want that your refusal to be legal, then so be it!” Indeed, he was soon arrested and convicted on political grounds, most likely because he chose to remind the law enforcement agencies of his rights.

According to Forum 18 news agency, the Uzbek authorities blocked the exit of members of unregistered religious organizations, in particular, Protestants, Jehovah’s Witnesses, as well as several Muslims. Internal Affairs agencies in Uzbekistan refused to issue exit visas to member of the Protestant church Natalia Kadyrova. According to the news agency, her case is not unique⁹.

According to the Government’s own data for the first half of 2009, 49 citizens of Uzbekistan were denied permission to leave¹⁰. Their names were not disclosed. Perhaps among them was former stewardess from the national airline, “Uzbekistan Khavo Iollari” Zinaida Alexandrovna Kudryavtseva¹¹. She received a standard response “Your travel abroad is not appropriate” with the signature of head of the department of entry and exit registration from the Ministry of Internal Affairs of the Republic of Uzbekistan, B. Shorikhsiev, on 3 March 2008. Without the right to leave the country, she automatically could no longer work, as she was a stewardess on international flights. Her letters to the prosecutor’s office, to the President’s office, to the Parliament, led to vague responses about redirecting her complaints to the appropriate authorities. Quite recently, in 2009, she obtained an exit visa, but only after having suffered considerable material and moral damages as a result of her ordeal.

⁹ Forum 18, 03 March 2009, http://www.forum18.org/Archive.php?article_id=1264.

¹⁰ Responses to the additional questions of the Human Rights Committee in connection with the discussion on the **Third periodical report from Uzbekistan** on its implementation of the statutes of the International Covenant on Civil and Political Rights, CCPR/C/UZB/Q/3/Add.1, 4 December 2009, page 30.

¹¹ See a copy of the rejection letter in the Annex 2.

Often, there are delays in issuing travel permits simply out of corrupt motives because it compels the applicant to pay a bribe to expedite the process. This happens most often in the provinces where applications can be delayed by a month or more. But in Tashkent, such cases are also frequent. Often, the agencies authorized to issue permits apply particularly arbitrary measures on those individuals who live and work abroad and return home to extend their exit visas. In such cases, the employees of the УВВнГ expect to receive sizeable bribes for the timely processing of their documents. For example, one journalist originally from Uzbekistan now working in international media, admitted to us that when he returned home to extend his permit to leave and live abroad, he waited one month for a response to his application and was forced to pay a thousand of dollars to settle the matter. He otherwise risked losing his job.

Under existing rules, in the case of a denial to travel abroad, or for delays in receiving a timely response to an application, a citizen may appeal only to the higher authorities of the agency refusing the travel permit. This agency is required to respond after no later than one month. Only in the case of a negative decision from the higher authority can the applicant sue. This scheme of appeals is in contradiction with the Constitution and the legislation of the Republic of Uzbekistan which stipulates that appeals to the court for the restoration and protection of rights may not be restricted in any circumstance. In practice, the courts do not accept claims from individuals denied travel permits, if they have not yet undergone the process of appealing to the higher authorities.

Permission for leaving is issued by the УВВнГ (The Department of Exit, Entry and Citizenship) at the Internal Affairs district offices. But these departments do not make decisions themselves; they are merely a screen for security authorities. Upon receipt of an application, they slip these statements to the city or regional departments of the National Security Service (NSS), where the decisions whether to accept or deny an application are actually made. This method of decision-making has remained virtually untouched since the Soviet era, but with one nuance: during the Soviet era, the applicant's documents were sent to the Moscow headquarters of the KGB, now, these decisions are made in Tashkent. The NSS can be considered as the successor of the KGB in its methods and style of work, as the 'political police'. Since 2005, the NSS has increased its control over the УВВнГ. Since then, NSS delegated its staff to the УВВнГ to consider applications and make decisions by checking them with the 'blacklist' of dissidents and the instructions with regards to other discriminated categories of population, namely young men eligible to be called for military service or religious zealots of not traditional persuasions. This re-structuring began because the NSS more frequently denies permission for travel. Such denials have become routine. Thus it has apparently been decided to reduce the communications costs – the representatives of the NSS administer routine refusals on-site and monitor the УВВнГ suspected of taking bribes for granting exit visas without NSS permission.

The application of unconstitutional practices in the issuing of permits and restrictions on traveling abroad at times can lead to more serious consequences than the simple denial of the right to freedom of movement. We know of at least two cases in which citizens, returning from long stays abroad, found themselves under criminal prosecution because of delays on their exit visa upon their arrival to their homeland.

In one case, upon her return home in 2008, a student who had graduated from a European university (whose name has been withheld at her request), had her passport confiscated from her at the Tashkent airport. She was charged with violation of the conditions of her exit visa.

The facts were that before the end of the academic term, her exit visa had expired, even though the Uzbek embassy assured her that she would be able to return home after the academic term and extend her exit visa. In her indictment, she was accused of traveling, on her way home, to another country to visit a friend. According to Prosecutor's Office's absurd version of events, she did not have the right to enter this third country without extending her exit visa. To them, it was not enough that this girl had quit the country on her own time with an exit visa. Evidently, the staff of the prosecutor's office broadly applied Article 223 of the Penal Code "illegal travel abroad or illegal entry into the Republic of Uzbekistan." The Article states: "to travel abroad, to enter the Republic of Uzbekistan or crossing the border in violation of the established order is punishable by a fine of 200 – 400 times the minimum wage or imprisonment of three to five years" (Penalties as amended by the Republic of Uzbekistan from 12.15.2006 № 3PY-70). The staff of the prosecutor's office have equated her arrival in a third country on the way home as illegal travel abroad, which carried attendant consequences for the student.

In another incident, a similar case was brought against another citizen of Uzbekistan who married an American citizen and lived with him in the U.S. for some time¹². When she decided to return to Uzbekistan to process the paperwork to give up her citizenship, they brought criminal charges against her for violating the terms of her exit visa on the basis that she did not extend her permit in time.

In the end, both women managed to avoid a dire fate at a high cost, refusing to disclose the particulars. They were not successful in expiating themselves from the charges brought against them, but were amnestied, which leaves a mark on their permanent records regardless.

WANT TO RESIDE ABROAD? GET PERMISSION FROM THE POLICE OR ELSE FACE PERSECUTION UPON RETURN HOME

The absurdity and excess of the various instructions related to Uzbek citizens abroad frequently makes those living abroad into unwitting violators of all kinds of anti-constitutional restrictions, with attendant repercussions. The right to live outside of one's country and taking the citizenship of another country is an integral human right. It should be mentioned that the legislation of Uzbekistan doesn't deny this fundamental right. However, as often is the case in Uzbekistan, bylaws (*podzakonnye akti*) have greater force than the law and the Constitution, and often these bylaws contradict the Supreme law. The distortion of the spirit and the letter of the Constitution is primarily through numerous procedural barriers and other challenges to the right to choose one's place of residence abroad.

For example, the Embassy of the Republic of Uzbekistan in the UK says that in order for citizens of Uzbekistan to exercise their right to permanently reside abroad, it is not sufficient to merely present a residency permit in the country where they live. They must also obtain permission from the "competent authorities"¹³ in Uzbekistan for permanent residence in the country, even if they left their country legally¹⁴. This requirement is a clear infringement of the right to choose one's country of residence.

¹² Her spouse, with whom we also spoke, asked that we not disclose their names, as he continues to maintain business interests in Uzbekistan and intends to apply for entry visas to Uzbekistan in the future.

¹³ By "competent authorities", or "*competentnyye organy*" the security agencies are usually meant in the Uzbekistan local context and vernacular.

¹⁴ http://www.uzbekembassy.org/e/information_for_citizens_of_uzbekistan/.

Examples of groundless denials for some citizens to leave the country are well known, just as it is known that some citizens risk getting a similar denial for permission to live abroad. As with the procedures for obtaining exit visas, the requirements for doing so breed corruption. Moreover, the procedure for obtaining consent of the “competent authorities” is so complicated and labor-intensive that it seems to invite bribery. The many documents which one must submit for approval include:

1. Notarized written consent of the parents, spouse, and immediate relatives with whom the applicant lived in Uzbekistan. In the absence of such immediate family members, it is necessary to present judicial documents or copies of death certificates, notarized copies of certificates of divorce, adoption, termination of parental rights;
2. Consent of persons from ages 14 – 18 for permanent residence abroad together with their parents or with one of their parents;
3. Applicants liable for military service from ages 17 - 27 must submit a certificate from the district department of defense for permission to leave for permanent residence abroad;
4. A copy of the applicant’s work record (*trudovaya knizhka*);
5. A certified copy of the applicant’s birth certificate (birth certificates of any children, if any);
6. If married to a citizen of the host country, the applicant must present a legal copy of the marriage certificate with translation into the Uzbek (Russian) language.

Herein:

- Obtaining a permit for permanent residency by citizens who temporarily reside in the UK, Ireland, or Iceland, is handled by the Office of Entry, Exit, and Citizenship (УВВиГ) of the Ministry of Internal Affairs of the Republic of Uzbekistan at the place of their previous residence. At the direction of the УВВиГ of the Ministry of Internal Affairs of the Republic of Uzbekistan, the Embassy may request additional documents, not specified above;
- Consideration for permits for permanent residency may take up to six months;
- In the case of denial of a permit for permanent residency, consular fees are non-refundable, and denial may be given without further explanation.

To collect the entire list of documents that applicants are required to present, practically requires that the applicant return to Uzbekistan and spend an indefinite amount of time while suspending their work in the country where they reside, depriving themselves and their families of their livelihood. In addition, the applicant risks getting a refusal without any reasonable explanation.

Similar restrictions apply in cases of taking the citizenship of a foreign state. In order to exercise this natural right, the procedures of the Uzbek government require the proper registration of the renunciation of citizenship, which again requires the collection of numerous documents. Often, the process just comes down to individuals paying bribes to expedite the process. For example, one family, having received Russian citizenship says:

“At first, we did everything legally, we went to a company (at Metro Hamza in Tashkent) where a woman filled out a questionnaire. Then, having stood in a queue at the local administration, we gave them our address and requested that they give us necessary documents [with permission for foreign citizenship – ed.] to begin

processing our Russian citizenship. They didn't give us this document saying that first the President of Uzbekistan had to sign the decree on withdrawal of citizenship and then we were obliged to hand over our Uzbek passports and take a passport for stateless persons. This was ostensibly the established order. We asked how long this would take and they told us that this could take as long as one and a half year [to wait the President's decree]. However, I knew other people who had received the document without big delay and I decided to find out how. Apparently, you simply had to bring up the matter to the "passporist."¹⁵ "Passportists" are middlemen – they take your money and then speak with the police. My wife and I paid USD 1,000 to the "passportist" and the next day, she brought us document with the signature of the head of the УВВиГ. It turns out that this is how our friends had done it. But they never filled out any form, having given USD 1,500 for the document. We knew that we violated the law, but we were forced to do this. In Russia, we left a deposit on a house, we had jobs waiting for us, and we couldn't wait for a year and a half. I'm certain that this all factors into their calculations as there are thousands of people like us"¹⁶.

In the case of failure to undergo the process of renunciation of Uzbek citizenship, the Government of Uzbekistan continues to consider individuals taking foreign citizenship as their own citizens. Regardless of whether they take foreign citizenship without having gone through the process of renunciation of their Uzbek citizenship, the Uzbek authorities still consider them in violation of the law on citizenship, which does not allow or recognize dual citizenship, as well as travel abroad. Should they plan to visit their homeland to meet their relatives or close ones, they can expect the following:

- They may not receive an entry visa or be admitted to the country upon arrival. This would be a violation of their right to visit their own homeland;
- They may be detained upon arrival in the country and subject to criminal prosecution for violating the regime of foreign citizenship acquisition.

Generally countries resolve this matter by recognizing dual citizenship. However, Uzbekistan continues to deny its citizens this right.

CONCLUSIONS AND RECOMMENDATIONS

Despite having adopted various international obligations, the Republic of Uzbekistan continues to systematically violate their citizens' right to freedom of movement, to travel freely, to leave and come back to their country, and to choose their country of residence.

We focused only on three aspects of this problem – the institution of residency permits and compulsory registration; the dispensation of the so-called "exit visas"; as well as the restrictions of the right to choose one's place of permanent residence abroad.

There is ample evidence of systematic violations of the constitutional rights of citizens on all three points. In and of themselves, these institutions and practices, even in the form in which they are prescribed in the existing laws, regulations, and instructions of the Government, are in contravention of Article 12 of the International Covenant on Civil and Political Rights and as well as Article 28 of the Constitution of the Republic of Uzbekistan. There are additional

¹⁵ Worker of local administration who handles passport registry, issuance of passports and residence permits.

¹⁶ Uznmetronom.com, 12 May 2009,

http://www.uzmetronom.com/2009/05/12/spasibo_chno_pishete_pravdu.html.

violations of the rights of citizens associated with deviations from regulations and instructions. These deviations are expressed, from the point of view of the existing legislation, in the groundless denials of exit visas, choice of residency, citizenship, residency permits, or undue delays in issuing such permissions. All of the numerous restrictions, as established in the law and extra-legally, as a result, lead to breaches of related rights such as the right to work, to create a family, to education, to health care, to professional development, to free labor, to protection from political persecution and torture. These restrictions further encourage corruption by civil servants and law enforcement officials, and have fostered the growth of extortion and bribery in the daily routine of their operations.

We would like to make the following recommendations to the Government of Uzbekistan to rectify this situation and meet the norms of national and international laws:

- 1) Eliminate the institute of “*propiska*”, both the permanent and temporary residency permits, as well as the compulsory registration of citizens in the local Internal Affairs offices. Bring domestic legislation, regulation, and procedural order in accordance with Article 12 of the International Covenant on Civil and Political Rights, Article 28 of Uzbekistan’s own constitution, and international best practices.
- 2) Eliminate so-called “exit visas” by introducing the registration principle of issuing travel documents. Extend the duration of such travel documents from the existing two years to up to ten years. Consider it appropriate to introduce a separate passport with ample pages for visas that would allow citizens to save time and effort on regularly updating their passports which is too often the case if they travel abroad frequently, because of the insufficient number of pages for visas in current citizenship passports.
- 3) Eliminate the requirement of obtaining a permit for permanent residence in foreign countries, and limiting it only to the obligatory notification of the Uzbek consulate in the case of receiving a residency permit in the host country.
- 4) Simplify the mechanism for renunciation of Uzbek citizenship, limiting it only to the obligatory notification of the Uzbek consulate in the case of obtaining citizenship from the host country.
- 5) Introduce the institution of dual citizenship as a most appropriate way to ensure the right to choose one’s place of residence.

Uzbek-German Forum for Human Rights

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ANNEX 1

Laws and legislative documents of the Republic of Uzbekistan relating to the rights of citizens for free movements and choice of residence:

- *The Constitution of the Republic of Uzbekistan (1982);*
- *Resolution of the Cabinet of Ministers RU No. 8 (6 January 1995) "On approval of travel abroad by citizens of the Republic of Uzbekistan and on diplomatic passports";*

- *Resolution of the Cabinet of Ministers RU No. 91 (27 February 1999) "On additional measures to improve the passport system in the Republic of Uzbekistan";*
- *Resolution of the Cabinet of Ministers RU No. 92 (27 February 1999) "On regulation of the acquisition of housing by foreign nationals and stateless persons in the Republic of Uzbekistan and entry for permanent residence in Tashkent";*
- *Resolution of the Cabinet of Ministers RU No. 230 (27 May 1998) "On additional measures to strengthen the passport regime in the Republic of Uzbekistan";*
- *Presidential Decree No. UP-1027 (23 December 1994) "On implementation of the Statutes on the passport system in the Republic of Uzbekistan";*
- *Presidential Decree No. UP-2240 (26 February 1999) "On improving the system of passports of the Republic of Uzbekistan";*
- *"Statutes on the passport system in the Republic of Uzbekistan" (26 February 1999);*
- *"The protocol on travel abroad for citizens of the Republic of Uzbekistan" (June 1, 1995), "The list of officials for whom travel abroad requires written consent" (1 June 1995);*
- *"Instructions on the implementation of the passport system in the Republic of Uzbekistan," Decree of the Ministry of Internal Affairs, Republic of Uzbekistan dated (29 March 1999);*
- *Decree of the Ministry of Internal Affairs (29 March 1999 No. 55) "On the announcement of the Presidential Decree of 26 February 1999" On improving the passport system of the Republic of Uzbekistan";*
- *Order of the Khokim of Tashkent City (31 March 1993 No. 108-f) "On the approval of temporary Statutes on the registration of visitors staying in the city of Tashkent including citizens permanently residing outside the Republic of Uzbekistan or in the states of the Commonwealth of Independent States, or who do not have a permanent place of residence;"*
- *Decree of the President of the Republic of Uzbekistan "On measures to further improve the passport system in the Republic of Uzbekistan" (23 June 2009), and others.*

ANNEX 2


Copies of the letters received from some individuals from the Departments of Internal Affairs, as well as Department of Entry, Exit, and Registration of Citizenship.

Below is a copy of the letter Zinaida Kudryasheva received. After repeated refusals by and appeals to the higher authorities, Zinaida Kudryasheva was eventually able to obtain an exit visa. However, we question the very legitimacy and legality of the authorization mechanism for issuing exit visas.

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РЕСПУБЛИКИ УЗБЕКИСТАН

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22/23-K-68

№ / _____ /

“ 5 ” - МАЯ 2008 й.

Гражданке Кудряшовой
Зинаиде Александровна


г. Ташкент, Чиланзарский
район, квартал 8, дом 6 «б»,
квартира 24.

Ваше заявление направленное в Кабинет Министров Республики Узбекистан рассмотрено.

Сообщаем, что Ваш выезд за границу считается не целесообразным.

В связи с этим, на основании нормативных актов МВД Республики Узбекистан, по данному вопросу Вы имеете право обратиться в службу въезда-выезда и оформления гражданства органа внутренних дел по месту постоянного жительства через шесть месяцев.

/Начальник управления /

 Б.У.Шорихсиев

The following two letters refusing to issue exit visas were received by Bahodir Namazov, head of the NGO “Prisoners of Conscience” in 2007 and 2008. Only in 2009, after repeated attempts and appeals over the course of two years, Namazov was able to obtain a permit to travel to Poland. He received both letters dated 6 March 2007 and 3 May 2008 from the Department of Internal Affairs of Mirzo Ulugbek district in Tashkent city.

They contain rejections of Namazov’s requests for permits to travel abroad on the basis of the “inappropriateness” from their point of view for his going abroad.

Neither Mr. Namazov, nor Ms. Kudryasheva have access to state secrets, nor have they been charged for any crimes.



№ 27/41- 1055

2007 yil "06" 03

Тошкент шаҳар, Мирзо Улугбек тумани,
Бинокор кучаси, 6-тор куча, 2-уйда яшовчи
Намазов Баходир Таджибаевичга

Хурматли Баходир Таджибаевич.

Сизнинг Тошкент шаҳар Мирзо Улугбек тумани Ички Ишлар Бошқармаси Хорижга чиқиш, кириш ва фуқароликни расмийлаштириш бўлимига 2006 йил 15 сентябр куни топширган чет эл (Хитой Халқ Республикаси) га вақтинча чиқиш тугрисидаги ариза-анкетангиз урнатилган тартибда куриб чиқилиб, 2006 йил 28 октябр куни Сизни чет вақтинча чиқишингиз мақсадга мувофиқ эмас деб топилган.

Сиз томонидан такрорий чет элга вақтинча чиқиш тугрисидаги ариза-анкетангиз сизни чет элга вақтинча чиқишингиз мақсадга мувофиқ эмас деб топилган санадан олти ой муддат утгандан сунг урнатилган тартибда куриб чиқилиши мумкин.

Тошкент шаҳар Мирзо Улугбек тумани
ИИБ бошлиғи в/б подполковник

Б.М. Усербаяев

Respublikasi IV
TOSHKENT SHAHAR ICHKI
ISHLAR BOSH BOSHQARMASI

MIRZO ULUG'BEK TUMANI
ICHKI ISHLAR BOSHQARMASI

Toshkent sh., H.Abdullaev ko'chasi, 47-uy



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ВНУТРЕННИХ ДЕЛ г.ТАШКЕНТА

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№ 27/41- 2418

2008 yil " 03 " 05

Тошкент шаҳар, Мирзо Улугбек тумани,
Бинокор кучаси, 6-тор куча, 2-уйда яшовчи
Намазов Баходыр Таджибаевичга

Хурматли Бахадыр Таджибаевич.

Сизнинг Тошкент шаҳар Мирзо Улугбек тумани Ички Ишлар Бошқармаси Хорижга чиқиш, кириш ва фуқароликни расмийлаштириш бўлимига 2008 йил 18 март куни топширган чет эл (Хитой давлати) га вақтинча чиқиш тугрисидаги ариза-анкетангиз урнатилган тартибда куриб чиқилиб, куриб чиқиш жараёнида утказилган текширувлар натижасига кура 2008 йил 21 апрел куни Сизни чет вақтинча чиқишингиз мақсадга мувофиқ эмас деб топилган.

Сиз томонигиздан такрорий чет элга вақтинча чиқиш тугрисидаги ариза-анкетангиз сизни чет элга вақтинча чиқишингиз мақсадга мувофиқ эмас деб топилган санадан олти ой муддат утгандан сунг урнатилган тартибда куриб чиқилиши мумкин.

Тошкент шаҳар Мирзо Улугбек
туман ИИБ бошлиғи в/б

Б.М. УСЕРБАЕВ