

THE EU SHOULD USE GSP+ REGIME TO COUNTER THE DETERIORATION OF HUMAN RIGHTS IN UZBEKISTAN

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Introduction

The European Union (hereinafter, EU) should more actively use the Generalized System of Preferences GSP+ to convince the leadership of Uzbekistan to respect human rights, ensure the independence of the judiciary and prevent grand corruption.

Whereas:

- GSP+ is a special mechanism to promote sustainable development and good governance, as well as economic support to developing countries;
- countries that have received the status of beneficiaries of GSP+ have the opportunity to export to the EU countries without paying tariff duties charged to non-member-states;
- countries that have been granted this status should ratify and, importantly, implement 27 key international conventions on human rights, labour rights, environmental protection and climate change, as well as good governance;

- after becoming President of the Republic of Uzbekistan, Shavkat Mirziyoyev proclaimed a course for reforms, including in the field of human rights, justice and the fight against corruption;

in April 2021, the EU, apparently deciding to support the said course of reforms declared by the Uzbek president and recognizing his first steps in improving human rights in his country, accepted Uzbekistan as the GSP+ 9th beneficiary country, which has been granted tariff-free export of its products to the EU markets.¹ By the way, in November of the same year, the United Kingdom also granted Uzbekistan a privileged status under a similar GSP regime.²

But does Uzbekistan deserve this status as a GSP+ beneficiary country?

Indeed, in his first presidential term, Mirziyoyev made some improvements in human rights by releasing several prisoners of conscience (though not rehabilitated), making progress in eliminating the mass practice of forced labor in the cotton sector, and ensuring more freedom of the press. A respective state agency was created to prevent corruption, and a public procurement law was adopted.

Unfortunately, Mirziyoyev's second presidential term has seen backsliding on human rights, freedom of speech, law enforcement accountability, and the judiciary's independence. Nor has there been significant progress in the fight against the abuse of public office and grand corruption.

Evidence of Mirziyoyev regime backsliding on human rights

In the past three years, repression against bloggers and journalists has increased dramatically, deteriorating freedom of speech. As one of the mechanisms of repression, the practice of punitive psychiatry has been revived with the apparent aim of a crackdown on dissent. Here are some notable examples that confirm this observation.

1. In September 2019, blogger Nafosat Olloshukurova, known in social networks under the pseudonym Shabnam Olloshukurova, was arrested in Urgench for covering the protests of citizens who were discontent with the abuse of power by the local government and law enforcement. First, she was detained for 10 days of administrative arrest. But after she began her hunger strike, protesting against torture and mistreatment in custody, on September 26, she was by a court decision, but without the consent of her close relatives, forcibly placed in a psychoneurological dispensary in the Khorezm region, where she was held for three months, forcibly stuffing her with medicines, about the names and purpose of which she was not even informed. She was deprived of basic care, hot water, and essential hygiene products at the dispensary. After being discharged from the dispensary, the pressure on her continued, which forced her to leave the country.³
2. In April 2021, blogger Miraziz Bazarov, who advocated for LGBT rights and exposed cases of government corruption, was attacked by five unknown persons and severely beaten, after which he was forced to get treatment in a hospital for a month. These attackers were connected with the law enforcement agency and acted in coordination with it, as evidenced by the fact that the perpetrators were never found, despite some of them openly threatening him with violence, which means that they could be easily identified. Instead of measures to protect the blogger, he was placed under house

arrest and sentenced on unsubstantiated grounds to three years of restriction of liberty. Paragraph "d", part 3 of Article 139 of the Criminal Code (libel for mercenary or other base motives) was applied to him, based on which the maximum possible punishment was chosen for him, which was done quite obviously by the order from above.⁴

3. In May of the same year, a court sentenced another blogger, Otabek Sattoriy, to 6.5 years in prison under similar articles of the Criminal Code on libel as well as extortion (paragraphs "a", "d" of part 3 of Article 139 (Libel) and paragraph "a" of part 3 of Article 165 (Extortion)), charges that Human Rights Watch and the Committee to Protect Journalists called absurd and unsubstantiated by conclusive evidence. Without a doubt, Otabek was brought to court for his coverage of corruption cases and abuses of power by the authorities in the Surkhandarya region, including the following two:⁵

- protection of farmers whose land was unlawfully extorted by the local authorities, in favor of the local cotton-textile cluster, a monopolist in the local cotton procurement district. The activity of such clusters is a separate story. Almost all of them are appointed from the above. They have a monopolist status in every agricultural district, using this position to impose purchase prices on the local farmers and, in some cases, in collusion with the local authorities, illegally expropriate their land.
- coverage of the machinations of local gas supply bodies that sold gas cylinders to the population, which turned out to be unfilled with gas. By the way, corruption in the gas supply sector is one of the main reasons for regular blackouts in household energy supply, especially in the winter. Instead of presenting to the public the causes of such problems with the gas supply, the authorities decided to punish the journalist who covered these problems with his investigations and reports.

4. In January 2022, the Tashkent Criminal Court sentenced another blogger, Fazilhoja Arifhojaev, to 7.5 years. In this case, paragraph "d", part 3 of Article 244-1 of the Criminal Code, was applied to him, "preparation, storage, distribution or demonstration of materials containing a threat to public security and public order by using the media, telecommunications networks, as well as the Internet". Once again, the persecution was politically motivated, out of concerns about his posts on religious topics, an area in which the Uzbek authorities, since the days of the previous president, Islam Karimov, do not tolerate views not approved by them. However, Human Rights Watch found nothing extremist or disturbing to public order in his posts. After his arrest, the blogger was subjected to torture and psychological pressure.⁶

5. On December 18, police detained elderly blogger Shahida Salomova (known in social networks under the name Shahinya Salomova), who recently began expressing her concerns over the issues of corruption and the illegal demolitions of citizens' houses by the developers who acted in conspiracy with the corrupt local authorities and judges. She was charged under Part 2 of Articles 139 and 140 of the Criminal Code of the Republic of Uzbekistan, "Slander and insult in printed form, including via the Internet". After her arrest, she was not allowed to see a lawyer hired by her family. She was held by the police for more than 48 hours, in violation of the Criminal Procedure Code, in particular Article 242, according to which detention as a preventive measure is applied only in cases of intentional crimes for which the Criminal Code provides for punishment in the form of deprivation of liberty for more than three years, while Salomova is charged that implies as a full measure imprisonment for up to 3 years. Moreover, to justify the isolation of Salomova, she was forcibly placed in a

psychiatric clinic allegedly for examination, but without the consent of her relatives, which constitutes another case of punitive psychiatry.⁷

6. A case similar to that of Miraziz Bazarov occurred with another blogger, Abdukodir Muminov, and the author of the Ko'zgu video channel. On December 25, 2022, unknown persons attacked and beat him. When he called the police, they, upon their arrival, seized a flash drive and a mobile phone from him, which contained on which there were records of his communication with the people who reported to him on corruption and other cases of public interest. These actions by the police allowed them to suspect that the attackers acted in coordination with it seriously. The police's motives, in this case, are obvious, given that in his video publications, the blogger criticized the authorities and stated his desire to create his political party. In contrast, the Mirziyoyev regime, fearing the creation of real opposition parties, tries to prevent such developments with all possible repressive measures.⁸
7. However, the most egregious case of human rights violations of recent times took place in early July this year in Karakalpakstan, where law enforcement agencies used ruthless measures to suppress mass protests, including firearms. The protests had sparked as a reaction to the preparations by the central authorities to abolish the constitutional norms, according to which Karakalpakstan has the status of a sovereign republic within Uzbekistan with the right to withdraw from it if the majority of its residents vote for it in a referendum. The protests were provoked mainly by the fact that the authorities did not conduct any preliminary explanation of these steps among the population of the autonomous republic and didn't consult with its civil society. According to official data, 21 people were killed during the events. However, according to the medical personnel who received the victims for further procedures, more than 70 people were killed due to the indiscriminate use of force by law enforcement agencies, hundreds of protesters were injured, and many more were arrested. In November of this year, the trial of the surviving protesters began, with absurd, politically motivated charges, not supported by convincing evidence, brought against them. The analysis of these charges has been presented in the publication of the Anti-Discrimination Center Memorial.⁹

Some of these cases of human rights violations are directly related to another systemic and complex issue endemic to Uzbekistan - the still-existing grand corruption. Conflicts of interest in decisions on public procurement and distribution of land for construction are still common in the country. Sometimes the cases of corruption take the form of embezzlement of public finances, as a recent case of evidence that: was revealed that only for November, the figures for Uzbek gas export to China presented by the Uzbek and Chinese authorities significantly differ from each other, \$39.6 mln vs \$114.2 mln respectively,¹⁰ that is three times, which suggests that this difference, \$74.6 mln, has been embezzled by some top-ranking officials, most likely by a group of officials. A similar picture is also observed in previous months and years of Uzbek gas exports to China.

International treaties on human rights Uzbekistan violates

As noted above, access to the tariff benefits provided by GSP+ is granted to third-world countries, provided that they not only subscribe to the key international treaties on human rights, the rule of law and anti-corruption but also implement them in practice. The list of human rights violations and corruption cases above allows us to conclude that Uzbekistan fails to meet this precondition. Below is the list of articles of the International Covenant on

Civil and Political Rights (ratified by Uzbekistan) violated by Uzbekistan, as these examples show:

PART I:

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

IN PART III:

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Article 14

(3) In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality::

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Furthermore, by failing to ensure that detainees have access to a lawyer or to provide adequate treatment and conditions in custody, the Uzbek authorities are violating the following provisions of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by General Assembly resolution 43/173 of 9 December 1988):¹¹

Principle 11

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.

Principle 17

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.
2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Principle 18

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.
2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.
3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

Conclusion

Based on the above, the EU and the UK should, at minimum, send a notice to the Uzbek leadership warning that the country will be deprived of its privileged GSP+ (in the UK, GSP) status if its violations of international treaties on human rights continue. The EU should set a deadline for Uzbekistan to comply with these requirements and then begin respective monitoring. After this period, if human rights violations persist, the EU should decide to suspend Uzbekistan's status as a GSP+ beneficiary country. The EU already applied this measure in 2020 to Cambodia for similar reasons. If this is not done, the effectiveness of GSP as an instrument of encouraging beneficiary states to respect human rights will be questioned. By its inaction, the EU and the UK would encourage Uzbekistan to violate further human rights and degrade into a state of affairs observed during the rule of Islam Karimov.

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