

On introduction of “Habeas Corpus” in Uzbekistan

With purposes of further liberalization in judicial and legal systems of Uzbekistan and gradual transferring the rights of prosecution bodies to apprehension and arrest to the Courts, and within the stipulation of the articles 19, 25 and 44 of the Constitution of Uzbekistan, the President of Uzbekistan signed the Decree N3644 dated 8th August 2005 on “On Transferring to the Courts the Rights to Issue Sanctions for Arrest”.

According to the Decree, the rights to issue sanctions for arrest of suspected or accused in committing crimes will be transferred to the Courts competence starting the 1st January 2008

The Decree of the President is confirmation of adherence to further liberalization of judicial and legal system of Uzbekistan, particularly in promoting and widening the court powers to perform justice.

The new order will allow to resolve the issues of imprisonment in open litigation with the presence of the suspect, his lawyer, public prosecutor and other parties. It will considerably strengthen legal guarantees for freedom of citizens at the stage of criminal prosecution before taking the suspects into custody.

In accordance with the Decree and in order to create legal mechanism for transferring to the Courts the rights to issue sanctions for arrests, the Ministry of Justice together with the Supreme Court, the General Prosecutor’s Office, the Ministry of Internal Affairs and National Security Service of Uzbekistan has developed the bill on amendments and additions into the Criminal Procedural Code, Laws «On Courts» and «On Public Prosecutor’s Office». The bill was sent to the Parliament of Uzbekistan for consideration.

Foreign countries experience on detention and custody was examined and considered at preparation of the bill. The bill envisages amendments into the procedure of sanctioning the arrests by the way of presenting to the Court the petition for arrest. The petition will be prepared by the investigation bodies. After approval by the Prosecutors office the petition will be submitted to the Court’s consideration. Judges in districts (cities) will personally look into the matter in participation of the Prosecutor, the accused and his defense as well as others, who are summoned to the court hearings. On results of Court’s consideration, certain decisions will be made whether to implement or deny the petition for custody. The decision of the Court may be appealed or protested by participating parties.

It is also anticipated that Judges will be bestowed with rights to consider prolongation of the term for custody. Moreover, custody measures should only be implemented in exceptional cases - when other preventive punishment measures are ineffective.

Introduction of such order of custody testifies that Uzbekistan strictly adheres to international standards in protection of human rights. This is a following stage in strengthening judicial power and its authority as a guarantor of effective protection of human rights and bringing the institution of “Habeas Corpus” into reality.