



IPHR International
Partnership
for Human Rights

**UNITED NATIONS RECOMMENDATIONS ON FREEDOM OF OPINION AND EXPRESSION IN TAJIKISTAN
(2015-2019)
A QUESTIONNAIRE FOR HUMAN RIGHTS GROUPS AND ACTIVISTS TO ASSESS IMPLEMENTATION**



This document has been produced with financial assistance of the European Union. Its contents are the sole responsibility of the NGOs issuing it and can in no way be taken to reflect the views of the European Union.

Table of Contents

GENERAL RECOMMENDATIONS REGARDING FREEDOM OF OPINION AND EXPRESSION	6
GENERAL.....	6
COMPLIANCE OF DOMESTIC LAWS WITH RELEVANT INTERNATIONAL STANDARDS.....	7
HUMAN RIGHTS BASED SECURITY APPROACH	8
GENERAL.....	8
SPACE FOR REPLIES:.....	8
REVISION OF COUNTER-TERRORISM LEGISLATION.....	9
POLITICAL OPPONENTS	10
GENERAL.....	10
ACCOUNTABILITY	11
REVOCATION OF CONSTITUTIONAL BANNING OF PARTIES.....	13
MEDIA OUTLETS AND JOURNALISTS	14
GENERAL.....	14
PROTECTION OF JOURNALISTS.....	15
DECRIMINALIZING DEFAMATION.....	17
INDEPENDENCE OF BROADCASTING AUTHORITY	18
REGISTRATION FOR MEDIA AND JOURNALISTS	19
PROMOTE PLURALITY OF OPINIONS	20
CIVIL SOCIETY	21
GENERAL.....	21
PROTECTION OF HUMAN RIGHTS DEFENDERS	22

NGO REGISTRATION PROCEDURES	24
COOPERATION WITH HUMAN RIGHTS DEFENDERS AND CIVIL SOCIETY	25
ACCESS TO INTERNET AND TELECOMMUNICATIONS.....	27
GENERAL.....	27
REVISION OF REGULATIONS AND POLICIES.....	28
SURVEILLANCE AND INTERCEPTION OF PRIVATE COMMUNICATION.....	29
ACCESS TO INFORMATION HELD BY PUBLIC BODIES.....	30
GENERAL.....	30
NATIONAL HUMAN RIGHTS INSTITUTIONS AND MECHANISMS.....	32
STRENGTHENING OF THE OFFICE OF THE OMBUDSPERSON ON HUMAN RIGHTS.....	32
NATIONAL ACTION PLAN ON HUMAN RIGHTS	34

INTRODUCTION

WHY THIS QUESTIONNAIRE?:

This questionnaire was designed to simplify evaluation of whether Tajikistan has fully, partially or not at all implemented recommendations on the issue of freedom of opinion and expression issued to the country by United Nations (UN) human rights bodies, procedures and under the Universal Periodic Review (UPR) since 2015. Human rights groups can fill in information from their monitoring in the relevant sections of the chart below. Their information will form the basis of future shadow reports to UN institutions as well as other advocacy documents that will be prepared by the NGOs in Tajikistan.

SHORT INSTRUCTIONS FOR USE:

In the chart below you find all recommendations issued by relevant UN human rights institutions to Tajikistan since 2015 on the topic of freedom of opinion and expression. With regard to the UPR this document only includes those recommendations that were accepted by the government of Tajikistan. The recommendations are sorted by topic (refer to the table of contents) and, within these broad categories, by sub-topic. For example, under the topic “**Freedom of media and journalists**” you will find sub-headings such as “**Independence of broadcasting authority**” and “**Decriminalizing defamation**”. Under each sub-heading you find all UN recommendations relevant to the respective topic. You will also find a section featuring **indicators for implementation** under each sub-heading that will help evaluate whether the authorities have fully, partially or not at all implemented recommendations on this particular topic. Where applicable, the indicators are separated into those relating to a) **institutional change/procedures/mechanisms/strategies**, b) **legislation** and c) **practice**. In the section **Space for replies** NGOs can fill in their own information.

UN RECOMMENDATIONS AND CONCLUDING OBSERVATIONS INCLUDED IN THIS DOCUMENT

In **bold** you find how each of the following UN documents is referred to in the chart below. The documents are listed in chronological order.

- E/C.12/TJK/CO/2-3: Concluding Observations on the combined second and third periodic reports of Tajikistan, adopted on 6 March 2015, published on 25 March 2015.¹ (**CESCR**)
- A/HRC/33/49/Add.2: Report of the Special Rapporteur on the human right to safe drinking water and sanitation on his mission to Tajikistan, published 13 July 2016. ²(**SR 1**)
- A/HRC/33/11: Report of the Working Group on the Universal Periodic Review. Tajikistan, published on 14 July 2016.³ (**UPR**)
- A/HRC/33/11/Add.1: Report of the Working Group on the Universal Periodic Review. Tajikistan. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, published on 7 September 2016. ⁴(**UPR Add.**)

¹https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/TJK/CO/2-3&Lang=En

² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/151/61/PDF/G1615161.pdf?OpenElement>

³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/152/34/PDF/G1615234.pdf?OpenElement>

⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/199/83/PDF/G1619983.pdf?OpenElement>

- A/HRC/35/22/Add.2: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, published on 9 June 2017.⁵ (**SR 2**)
- CERD/C/TJK/CO/9-11: Concluding observations on the combined ninth to eleventh periodic reports of Tajikistan, adopted on 21 August 2017 and published on 19 September 2017.⁶ (**CERD**)
- CRC/C/TJK/CO/3-5: Concluding observations on the third to fifth periodic reports of Tajikistan, adopted on 29 September 2017 and published on 29 September 2017.⁷ (**CRC**)
- CAT/C/TJK/CO/3: Concluding observations on the third periodic report of Tajikistan, adopted on 14 May 2018 and published on 18 June 2018.⁸ (**CAT**)
- CEDAW/C/TJK/CO/6: Concluding observations on the sixth report of Tajikistan, adopted on 31 October 2018 and published on 14 November 2018.⁹ (**CEDAW**)
- CMW/C/TJK/CO/2: Concluding observations on the second periodic report of Tajikistan, adopted on 12 April 2019 and published on 9 May 2019.¹⁰ (**CMW**)
- CCPR/C/TJK/CO/3: Concluding observations on the third periodic report of Tajikistan, adopted on 18 July and published on 22 August 2019.¹¹ (**CCPR**)

Information from the following national action plans is included in this document:

- Национальный план действий по выполнению рекомендаций Комитета ООН по экономическим, социальным и культурным правам на 2015-2020 годы
- Национальный план действий по выполнению рекомендаций Комитета ООН против пыток на 2019-2022 годы

⁵ https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Documents/A_HRC_35_22_Add_2_EN.docx

⁶ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/TJK/CO/9-11&Lang=En

⁷ https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/TJK/INT_CRC_COC_TJK_29110_E.pdf

⁸ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/TJK/CO/3&Lang=En

⁹ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TJK/CO/6&Lang=En

¹⁰ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CMW/C/TJK/CO/2&Lang=En

¹¹ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/TJK/CO/3&Lang=En

QUESTIONNAIRE FOR HUMAN RIGHTS GROUPS AND ACTIVISTS TO ASSESS IMPLEMENTATION OF UN RECOMMENDATIONS ON FREEDOM OF OPINION AND EXPRESSION

GENERAL RECOMMENDATIONS REGARDING FREEDOM OF OPINION AND EXPRESSION

General

UN recommendations:

- Ensure the freedom of expression, association, assembly and freedom of religion in accordance with international human rights norms (Slovakia). (**UPR**, Recommendation 118.42).
- Lift all other undue restrictions on the exercise of freedom of expression and ensure that any restrictions comply with the strict requirements of article 19 (3) of the Covenant. (**CCPR**, Recommendation 48(d)).

Indicators of implementation (practice):

- 1) Briefly give your assessment of whether the authorities have made any progress toward securing freedom of opinion and expression since 2015 or if this freedom has become more limited.

Indicators of implementation (legislation):

- 2) Have legislative amendments been made since 2015 aimed at improving freedom of opinion and expression? If so, please list the most significant ones.
- 3) According to your information, are there any bills that could negatively affect or have negatively affected freedom of the media and freedom of expression of journalists?
- 4) Has any senior government official made any public statements in recent years highlighting the importance of freedom of speech and expression, condemning the harassment of critical voices and journalists and other limitations of the freedom of opinion and expression? Provide quotes.

Space for replies:

Compliance of domestic laws with relevant international standards

UN recommendations:

- Continue the work to bringing the national legislation in line with the international commitments (Kyrgyzstan). (UPR, Recommendation 115.13).
- Continue the on-going process of the exchange of views and experiences with other countries with respect to the improvement of national legislation in the field of human rights (Cuba). (UPR, Recommendation 115.14).
- Strengthen cooperation with human rights mechanisms in order to continue to harmonize national legislation with the international standards (Morocco). (UPR, Recommendation 115.33).
- The State party should revise its laws and practices with a view to guaranteeing the full enjoyment of freedom of expression and peaceful assembly by everyone, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression (...). (CCPR, Recommendation 48).
- Repeal or otherwise amend the laws and regulations providing for the restrictions referred to above, with a view to bringing them into full compliance with the State party's obligations under the Covenant. (CCPR, Recommendation 48c).

Indicators of implementation (legislation):

- 1) Can you provide examples of legislation related to freedom of expression which do not correspond to international obligations?

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 2) Has the government presented any strategy to harmonize national legislation with the international standards?
- 3) If yes: Is there a coordinated approach?
- 4) If yes: Who is the coordinating body?
- 5) If yes: Is civil society involved and heard in this process?
- 6) Can you provide examples where individual authorities advance the harmonization of domestic legislation with the international commitments?
- 7) Can you provide examples where government bodies prevent any engagement regarding the compliance of national legislation with the State party's obligations?

Space for replies:

HUMAN RIGHTS BASED SECURITY APPROACH

General

UN Recommendations:

- The Special Rapporteur urges the Government to reconsider its approach to security and public order. Its current approach focuses on repression – repression of independent media, access to information online, the space for civil society, the capacity of democratic opposition voices, to name some leading human rights concerns. (**SR 2**, paragraph 70).

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 1) Can you briefly describe the development of the government's approach to security and public order since 2015?
- 2) Can you identify senior government officials who call for a more human rights based security approach?

Space for replies:

Revision of counter-terrorism legislation

UN Recommendations:

- The Law on Combating Terrorism should be revised in order to provide more clear and precise legal definitions of, and clarify what evidence is sufficient to prove, what would constitute “extremism” and “terrorism”, with a view to avoid arbitrary application and leaving broad discretion to those charged with their application. (**SR 2**, Recommendation 72).
- The State party should bring its current counter-terrorism and counter-extremism regulations and practices into full compliance with the Covenant, including with the requirements of article 4. Inter alia, it should clarify and narrow the broad definitions of terrorism, the public justification of terrorist and extremist activity, and extremism (including by adding a requirement of violence or advocacy of hatred), and ensure that they comply with the principles of legal certainty and predictability and with relevant international standards, and that any limitations of human rights for national security purposes ensuing from the application of such regulations serve legitimate aims, are necessary and proportionate and are subject to appropriate safeguards. The State party should also ensure that any newly adopted counter-terrorism and counter-extremism regulations fully comply with the above principles. (**CCPR**, Recommendation 24).

Indicators of implementation (legislation):

- 1) Has the Law on Terrorism been revised to bring it in full compliance with the Covenant, narrowing the broad definitions of terrorism and extremism?
- 2) If not, which parts of the legislation are not in line with Tajikistan’s international obligations?

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 3) If not: Based on your own monitoring, is there any public debate at government level to engage in such a revision? (Provide quotes if possible.)

Space for replies:

POLITICAL OPPONENTS

General

UN recommendations:

- Allow peaceful opposition groups and parties to operate freely and exercise their rights to freedom of assembly, association, expression, and religion in accordance with international human rights norms (Austria). (UPR, Recommendation 118.70).
- Respect freedom of expression, assembly and association, in particular by not prosecuting people on the sole grounds of their membership of a political movement, and by implementing the recommendations of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression following his visit (France). (UPR, Recommendation 118.44).

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 1) Are any official statistics publicly available on complaints, investigations and sanctions in connection with limitations to the right to freedom of expression?
- 2) Are there any official statistics how many complaints on the right to freedom of expression were investigated by Tajikistan's Ombudsman? And to how many of those did the government effectively respond?
- 3) Are you aware of cases where the government acted swiftly and effectively on communications from the Special Rapporteur on Freedom of Expression or those that the government has not acted on effectively? Please provide examples.
- 4) Are you aware whether any senior governmental official has made public statements on the importance of freedom of expression and opinion regarding political activists and other critical voices?

Space for replies:

Accountability

UN recommendations:

- [T]ake measures to strengthen the ability of its public bodies to receive and investigate effectively claims of retaliation by officials against victims of torture, their family members, their lawyers, and journalists and human rights defenders. (**CAT**, Recommendation 22(a)).
- [U]ndertake an independent investigation into allegations that human rights lawyers Shuhrat Kudratov, Buzurgmehr Yorov and Nuriddin Mahkamov were prosecuted in retaliation for their representation of detained members of the New Tajikistan Party and the Islamic Renaissance Party of Tajikistan, and that Firuz Tabarov was arrested and prosecuted in retaliation for his father's representation of Zayd Saidov, the leader of the New Tajikistan Party. (**CAT**, Recommendation 22(b)).
- Ensure that cases of alleged intimidation or reprisals against civil society activists are duly investigated, that perpetrators are prosecuted and appropriately punished and that victims receive protection from such acts. (**CEDAW**, Recommendation 20(b)).
- The Special Rapporteur urges Tajikistan to release all political activists, lawyers or journalists allegedly detained on arbitrary grounds. (**SR 2**, Recommendation 73).

Indicators of implementation (practice):

- 1) Provide **information on all cases** you/your organization or your partner organization has closely monitored or been engaged with **of political opponents** who have been detained/imprisoned to punish them for peacefully exercising their right to freedom of expression in the period under review. (If you do not have permission to share case information, you can give a summary of the case without the person's name and other information that makes him/her identifiable).
- 2) Based on the above cases, provide a brief overview of what kinds of threats and methods of intimidation/persecution of political opponents the authorities have employed in the period under review.
- 3) Based on the above cases, provide brief statistics on:
 - how many non-fatal physical attacks were carried out in the period under review, to your knowledge?
 - how many killings?
- 4) In the cases you are aware of, have swift and efficient investigations been conducted every time a political

Space for replies:

opponents has become the victim of an attack? (Provide case example/s).

- 5) Have law enforcement officers gathered evidence in a professional manner with the goal of prosecuting all responsible parties? If not, provide examples.
- 6) Have perpetrators been prosecuted and appropriately punished (provide case example/s)? If not, provide examples.
- 7) Arbitrary detention: Based on your own monitoring, how many political activists have been detained on arbitrary ground since 2015 to punish them for peacefully exercising their right to freedom of expression? Provide case examples.
- 8) And how many have been released? And on which grounds? Provide case examples.
- 9) To your knowledge, how many legal proceedings were initiated on the lawfulness of the detention?
- 10) In how many cases did a court decide that the detention was not lawful and ordered a release?
- 11) Did the persons concerned receive any compensation?
- 12) Based on your own monitoring how many political opponents were sentenced to prison in the period under review to punish them for peacefully exercising their right to freedom of expression? Provide case examples.
- 13) Has an independent investigation been conducted into allegations that human rights lawyers Shuhrat Kudratov, Buzurgmehr Yorov and Nuriddin Mahkamov were prosecuted in retaliation for their representation of detained members of the New Tajikistan Party and the Islamic Renaissance Party of Tajikistan, and that Firuz Tabarov was arrested and prosecuted in retaliation for his father's representation of Zayd Saidov, the leader of the New Tajikistan Party?
- 14) Are there protection measures provided to political opponents or any other persons criticizing the government in response to credible threats to their physical safety?
- 15) Do the authorities (e.g. Public Prosecutor's Office, Ombudsman's Office, Supreme Court) release public

<p>statistical information or information on cases requested by you/your organization or your partner organization?</p> <p>16) Do senior state officials express condemnation of harassment and intimidation of political opponents and other critical voices?</p>	
<p>Revocation of constitutional banning of parties</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> The constitutional banning of parties established by religious groups is incompatible with international norms and should also be revoked as a step towards fostering a culture of political plurality. (SR 2, Recommendation 73). 	
<p>Indicators of implementation (legislation):</p> <p>1) Was the respective paragraph in the Constitution revoked?</p> <p>Indicators of implementation (practice):</p> <p>2) Have there been any public statements by government officials calling for repealing the banning of parties established by religious groups?</p>	<p>Space for replies:</p>

MEDIA OUTLETS AND JOURNALISTS

General

UN recommendations:

- Rescind undue restrictions on the media and access to information, including on the internet, and tolerate all forms of legitimate speech, including criticism of the government and its policies (Austria). (UPR, Recommendation 118.54).

Indicators of implementation (practice):

- 1) Give a short assessment of the development of media freedom since 2015 in Tajikistan.

Indicators of implementation (legislation):

- 2) Does national legislation promote media development in Tajikistan?

Space for replies:

Protection of journalists

UN recommendations:

- Respect freedom of the media and ensure the safety of journalists (France). (**UPR**, Recommendation 118.53).
- Take the necessary measures so as to ensure that journalists and human rights defenders can do their work independently and without fear of reprisals from the authorities, be they of financial, legal or of another nature (Belgium). (**UPR**, Recommendation 118.65).
- The Special Rapporteur urges Tajikistan to release all political activists, lawyers or journalists allegedly detained on arbitrary grounds. (**SR 2**, Recommendation 73).
- The alleged harassment of journalists must be investigated and strongly condemned by State officials. Without protection from violence and harassment of judicial authorities it is impossible for journalists to perform their central role in providing public access to information in the country. (**SR 2**, Recommendation 78).
- [T]ake measures to strengthen the ability of its public bodies to receive and investigate effectively claims of retaliation by officials against victims of torture, their family members, their lawyers, and journalists and human rights defenders. (**CAT**, Recommendation 22(a)).
- Ensure that cases of alleged intimidation or reprisals against civil society activists are duly investigated, that perpetrators are prosecuted and appropriately punished and that victims receive protection from such acts. (**CEDAW**, Recommendation 20(b)).
- Ensure the effective protection of independent journalists and media workers against any form of intimidation and refrain from using civil and criminal provisions, including the provisions on extremism, as well as other regulations, as a tool to suppress critical reporting on matters of public interest. (**CCPR**, Recommendation 48(g)).

Indicators of implementation (legislation):

- 1) Does the State have laws and policies to protect the safety of journalists? Please list them.

Indicators of implementation (practice):

- 2) Does the Article 162 in the Criminal Code of Tajikistan work in practice to protect journalists from attack or interference with their activities?
- 3) Provide information on all cases you/your organization or your partner organization has closely monitored or been engaged with of journalists who have been detained/imprisoned to punish them for peacefully exercising their right to freedom of expression in the period under review. (If you do not have permission to share case information, you can give a

Space for replies:

summary of the case without the person's name and other information that makes him/her identifiable).

- 4) Based on the above cases, provide a brief overview of what kinds of threats and methods of intimidation/persecution of journalists the authorities have employed in the period under review.
- 5) Based on the above cases, provide brief statistics on:
 - how many non-fatal physical attacks were carried out in the period under review, to your knowledge?
 - how many killings?
- 6) In the cases you are aware of, have swift and efficient investigations been conducted every time a journalist has become the victim of an attack? (Provide case example/s).
- 7) Have law enforcement officers gathered evidence in a professional manner with the goal of prosecuting all responsible parties? If not, provide examples.
- 8) Have perpetrators been prosecuted and appropriately punished (provide case example/s)? If not, provide examples.
- 9) Arbitrary detention: Based on your own monitoring, how many journalists have been detained on arbitrary ground since 2015 to punish them for peacefully exercising their right to freedom of expression? Provide case examples.
- 10) And how many have been released? And on which grounds? Provide case examples.
- 11) To your knowledge, how many legal proceedings were initiated on the lawfulness of the detention?
- 12) In how many cases did a court decide that the detention was not lawful and ordered a release?
- 13) Did the persons concerned receive any compensation?
- 14) Based on your own monitoring how many journalists were sentenced to prison in the period under review to punish them for peacefully exercising their right to freedom of expression? Provide case examples.
- 15) Are there any official statistics about number and types of threats to journalists?

<p>16) Are there protection measures provided to journalists in response to credible threats to their physical safety?</p> <p>17) Do senior state officials express condemnation of harassment and intimidation of journalists?</p> <p>18) Do government authorities and law enforcement send out clear messages that attacks against journalists will not be tolerated?</p> <p>19) Do state officials express publicly the high importance of the work of independent journalists?</p> <p>20) In your opinion, what is the reason that journalists are leaving the country?</p>	
<p>Decriminalizing defamation</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> • Decriminalize defamation (Lithuania). (UPR, Recommendation 118.60). • The Special Rapporteur calls upon Tajikistan to align its national law to international standards by fully decriminalizing defamation and repealing Articles 137, 137 (1) and 330 of the Criminal Code. Judicial procedures defining the scope of the application of civil defamation cases and the fines to be paid must also be carefully revised. (SR 2, Recommendation 75). • Consider decriminalizing insulting or libelling the President/leader of the nation and insulting other State officials). (CCPR, Recommendation 48(a)). 	
<p>Indicators of implementation (legislation):</p> <ol style="list-style-type: none"> 1) Are Articles 137, 137(1) and 330 of the Criminal Code repealed? 2) If not: are you aware of any initiative or debate on this issue? 3) What other laws, regulations and articles of the criminal and administrative codes negatively affect freedom of the media and freedom of expression of journalists? 4) Does domestic legislation include the concept of “public person”? If not, are you aware of any draft legislation or discussions to introduce this concept to domestic legislation? 	<p>Space for replies:</p>

<p>Indicators of implementation (practice):</p> <ol style="list-style-type: none"> 5) Are there any official statistics of judicial actions on alleged libel by media associations/journalists investigated and resulting in fines or other sanctions? 6) If not, can you give case examples based on your own monitoring? 	
<p>Independence of broadcasting authority</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> • Take all measures necessary to ensure the independence of the broadcasting and licensing authority. (CCPR, Recommendation 48(f)). 	
<p>Indicators of implementation (legislation):</p> <ol style="list-style-type: none"> 1) Does the Law of the Republic of Tajikistan "On Television and Radio" comply with the transition to digital broadcasting? 2) Does domestic legislation reflect all commitments made in the agreement with ITU¹²? <p>Indicators of implementation (institutional change/procedures/mechanisms/strategies):</p> <ol style="list-style-type: none"> 3) Which authority issues a license for television and radio in Tajikistan? Is this authority independent? 4) What additional license does a television and radio company need in Tajikistan and for how long? 5) Are independent broadcasters included in the first multiplex? If not, under what conditions will they be included? 6) Do state television companies get a license? 7) Assess the practice of obtaining a license. Is the process of applying for a license transparent and for how long is a license issued? 	<p>Space for replies:</p>

¹² <http://search.itu.int/history/HistoryDigitalCollectionDocLibrary/4.129.43.en.100.pdf>

<p>8) Have any measures been taken to ensure the independence of the broadcasting and licensing authority? Provide examples.</p> <p>9) For what duration are licenses for broadcasters in Tajikistan usually issued? Does this correspond to the “Law on Licensing”?</p> <p>10) Did the government revise the “Law on licensing” (according to Decree No. 691), namely to revoke the licensing for the production of audiovisual products?</p> <p>11) If not: Has any government publicly offered suggestions on this matter?</p>	
<p>Registration for media and journalists</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> • Ensure that suspension of media outlets, including online media, cannot occur without judicial procedures on the basis of strict necessity and proportionality (Netherlands). (UPR, Recommendation 118.59). • Registration requirements for media groups as well as the accreditation of journalists must be completely insulated from Governmental interference. In line with international standards, Tajikistan must ensure that legislative and administrative frameworks for the regulation of the mass media are consistent with the provisions of paragraph 3 of Article 19. The criteria for the application of regulations should be reasonable and objective, clear, transparent, and non-discriminatory. (SR 2, Recommendation 76). • The Special Rapporteur also urges the Government to ensure that journalist accreditations are not arbitrarily revoked – in this regard, it also recalls that State systems of registration or licensing of journalists are incompatible with paragraph 3 of Article 19. (SR 2, Recommendation 78). 	
<p>Indicators of implementation (legislation):</p> <ol style="list-style-type: none"> 1) Has the Law on Mass Media been revised to bring it in line with the ICCPR? 2) Does the accreditation procedure comply with Article 19 of the ICCPR (3)? 3) Does Decree Number 108 of the Government of Tajikistan, dated 27 January 1995, “On the Procedure for the Accreditation of Foreign Journalists”, comply with Article 19 of the ICCPR? 	<p>Space for replies:</p>

<p>4) Why do media outlets, when registering as legal entities in accordance with the Law of the Republic of Tajikistan “On Registration of Legal Entities and Individuals”, require a conclusion from the Ministry of Culture?</p> <p>5) Is a National Security Committee certificate required when registering with the Ministry of Culture?</p> <p>6) Does Decree Number 97 of the Government of Tajikistan, dated 25 February 2017, “On the procedure for recording media” comply with the Law of the Republic of Tajikistan “On Periodical Press and Other Media”?</p> <p>Indicators of implementation (practice):</p> <p>7) How many journalists had their accreditations revoked because of their critical work in the period under review? Provide numbers and examples.</p> <p>8) How many protested these decisions, and what proportion got their accreditation restored?</p> <p>9) How many media outlets critical of the government had to close down as a result of political pressure? Provide examples of cases that you have monitored or been closely involved in.</p>	
<p>Promote plurality of opinions</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> Promote plurality of opinions in the media and ensure that the media and media workers can operate free from undue State interference. (CCPR, Recommendation 48(b)). 	
<p>Indicators of implementation (practice):</p> <p>1) Based on your own monitoring, to what extent are different political and ideological opinions represented in the media?</p> <p>2) Can you give an assessment how pluralistic Tajik media landscape looks like? Provide an overview about number of owners, media companies, independent editorial boards, channels, titles or programmes.</p>	<p>Space for replies:</p>

CIVIL SOCIETY

General

UN recommendations:

- Take measures in order to ensure that freedom of assembly and association can be exercised in line with international obligations and refrain from imposing restrictions on civil society and human rights defenders (Poland). (**UPR**, Recommendation 118.68).
- Ensure freedom of expression, of assembly and of association in accordance with its international obligations and do not interfere with civil society organizations and their activities by excessive regulations which are formulated ambiguously (Switzerland). (**UPR**, Recommendation 118.43).
- The State party should ensure that existing relevant laws, regulations and practices governing public associations and NGOs, including any such future regulations, are in full compliance with the provisions of articles 19 and 22 of the Covenant, including by ensuring that they do not lead in practice to undue control over or interference in the activities of NGOs. (**CCPR**, Recommendation 52).

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 1) What strategies and measures has the government taken to implement the above mentioned UPR recommendations (to ensure freedom of expression, of assembly and of association in accordance with its international obligations)?
- 2) Is there a coordinated approach among government agencies and who has the lead?

Indicators of implementation (practice):

- 3) Briefly describe the current development of civic space: has the environment become more enabling or disabling for civil society organizations in the period under review?
- 4) Is there a commitment among the authorities for a strengthened, vibrant and pluralistic civil society? Please provide public statements by government officials that are indicative of the government's understanding of this issue.

Space for replies:

<p>What is the understanding of the state of “civil society “and “human rights defender”? Is the term “human rights defender” used in public discourse? Do authorities positively and respectfully refer to the work of human rights defenders, stressing their important role for society?</p>	
<p>Protection of human rights defenders</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> • Take the necessary measures so as to ensure that journalists and human rights defenders can do their work independently and without fear of reprisals from the authorities, be they of financial, legal or of another nature (Belgium). (UPR, Recommendation 118.65). • Cease the harassment and persecution of human rights defenders and civil society organizations, including by ensuring that the implementing regulations for amendments to the Law on Public Associations are not used to harass NGOs through surprise inspections, onerous information requests, and other inhibiting tactics (United States of America). (UPR, Recommendation 118.66). • The Special Rapporteur urges Tajikistan to release all political activists, lawyers or journalists allegedly detained on arbitrary grounds. (SR 2, Recommendation 73). • [T]ake measures to strengthen the ability of its public bodies to receive and investigate effectively claims of retaliation by officials against victims of torture, their family members, their lawyers, and journalists and human rights defenders. (CAT, Recommendation 22(a)). • [E]nsure that women’s rights activists are able to exercise their rights to freedom of expression, assembly and association without intimidation or reprisals. (CEDAW, Recommendation 20(a)). • Ensure that cases of alleged intimidation or reprisals against civil society activists are duly investigated, that perpetrators are prosecuted and appropriately punished and that victims receive protection from such acts. (CEDAW, Recommendation 20(b)). • Effectively address complaints of police abuse by lesbian, bisexual and transgender women and intersex persons, dismantle official and non-official lists of such persons and ensure that civil society organizations working on those issues enjoy the rights to freedom of expression, assembly and association. (CEDAW, Recommendation 44(g)). • Investigate law enforcement practices to ensure that lesbian, gay, bisexual and transgender individuals are not registered and end any such practices that unduly interfere with their rights, including to privacy and to liberty and security. (CCPR, Recommendation 16(c)). 	
<p>Indicators of implementation (practice):</p> <p>1) Provide information on all cases you/your organization or your partner organization has closely monitored or been engaged with of human rights defenders/civil society</p>	<p>Space for replies:</p>

activists who have been detained/imprisoned to punish them for peacefully exercising their right to freedom of expression in the period under review. (If you do not have permission to share case information, you can give a summary of the case without the person's name and other information that makes him/her identifiable).

- 2) Based on the above cases, provide a brief overview of what kinds of threats and methods of intimidation/persecution of human rights defenders/civil society activists the authorities have employed in the period under review.
- 3) Based on the above cases, provide brief statistics on:
 - how many non-fatal physical attacks were carried out in the period under review, to your knowledge?
 - how many killings?
- 4) In the cases you are aware of, have swift and efficient investigations been conducted every time a human rights defender/civil society activist has become the victim of an attack? (Provide case example/s).
- 5) Have law enforcement officers gathered evidence in a professional manner with the goal of prosecuting all responsible parties? If not, provide examples.
- 6) Have perpetrators been prosecuted and appropriately punished (provide case example/s)? If not, provide examples.
- 7) Arbitrary detention: Based on your own monitoring, how many human rights defenders/civil society activists have been detained on arbitrary ground since 2015 to punish them for peacefully exercising their right to freedom of expression? Provide case examples.
- 8) And how many have been released? And on which grounds? Provide case examples.
- 9) To your knowledge, how many legal proceedings were initiated on the lawfulness of the detention?
- 10) In how many cases did a court decide that the detention was not lawful and ordered a release?
- 11) Did the persons concerned receive any compensation?

- 12) Based on your own monitoring how many human rights defenders/civil society activists were sentenced to prison in the period under review to punish them for peacefully exercising their right to freedom of expression? Provide case examples.
- 13) Are there any official statistics about number and types of threats to human rights defenders/civil society activists?
- 14) Are there protection measures provided to human rights defenders/civil society activists in response to credible threats to their physical safety?
- 15) Do senior state officials express condemnation of harassment and intimidation of human rights defenders/civil society activists?
- 16) Do government authorities and law enforcement send out clear messages that attacks against human rights defenders/civil society activists will not be tolerated?
- 17) Do state officials express publicly the high importance of the work of human rights defenders/civil society activists?
- 18) Is the harassment of women human rights defenders effectively addressed?
- 19) Is the harassment of LGBTI right defenders effectively addressed?

NGO registration procedures

UN recommendations:

In this regard, the Special Rapporteur recalls that registration requirements for NGOs should be clear, simple and transparent, and designed to foster an environment conducive to the establishment of a vibrant civil society. The Special Rapporteur further underlines his concerns regarding the use of recurrent inspections of civil society organizations on administrative and fiscal grounds and the possible use of these inquiries as an intimidatory tool. **(SR 2, Recommendation 82).**

Indicators of implementation (legislation):

- 1) Which laws and regulations form the basis for NGO registration?
- 2) Do they provide clear, simple and transparent procedures?

Space for replies:

<p>Indicators of implementation (practice):</p> <p>3) Can you provide recent examples when an NGO was denied registration? What was the official justification of the denial? Based on your own monitoring, how many civil society organizations have been denied registration since 2015?</p>	
<p>Cooperation with human rights defenders and civil society</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> • The Committee recommends that the State party consult and increase its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations. (CERD, Recommendation 31). • Strengthen the mechanisms to ensure the safe and independent participation of civil society organizations in human rights discussions in the country and in their cooperation with the various United Nations mechanisms (Mexico). (UPR, Recommendation 115.89). • Strengthen cooperation with civil society organizations, in particular those working on women’s rights, and systematically involve them in the development of related legislation, policies and programmes. (CEDAW, Recommendation 20(c)). • The Special Rapporteur furthermore urges the Government, as part of its strategy to prevent violent extremism and religious radicalization, to strengthen civil society, including strengthening its cooperation with human rights defenders and civil society institutions. (SR 2, Recommendation 83). <p>The Committee recommends that the State party establish implementing mechanisms for the Youth and Youth Policy Act (2004) providing for the expression of views of children at all stages of development, implementation and evaluation of policies in all political, economic and other decision making processes both at home and in public. (CRC, Recommendation 18).</p>	
<p>Indicators of implementation (practice):</p> <ol style="list-style-type: none"> 1) Briefly assess the general cooperation between the authorities and civil society. Have you observed an improvement or a deterioration in the period under review? 2) Are there certain issues where cooperation/dialogue is possible/ not possible? 3) Are NGOs consulted on draft legislation? Are they included in working groups to draft new legislation/amendments regarding freedom of expression? Are NGO recommendations taken on board? 	<p>Space for replies:</p>

<p>Indicators of implementation (institutional change/procedures/mechanisms/strategies):</p> <ol style="list-style-type: none"> 4) Which mechanisms and strategies are in place to ensure civil society participation in human rights discussions? 5) Which mechanisms and strategies are in place to enable a safe and independent participation of civil society organization's cooperation with United Nations mechanisms (e.g. UPR)? 	
<p>Indicators of implementation (legislation):</p> <ol style="list-style-type: none"> 1) Have the Law on Public Associations and the Law on Public Meetings been brought in line with the international standards? 2) What is the government's strategy on the implementation of the respective UPR recommendations on this matter? <p>Indicators of implementation (practice):</p> <ol style="list-style-type: none"> 3) How are the amendments to the Law on Public Associations implemented? Based on your own monitoring, did it lead to a deterioration of NGO activities? 4) Provide case example/s when the declaration of international funds was used to silence critical civil society organizations. 5) Based on your own monitoring, can you provide examples of onerous information requests to NGOs? Which agency made the requests? On what grounds? What impact did the requests have for those affected? Can you identify patterns? 6) Can you provide examples of intrusive surprise inspections? By which authority have they been carried out? Which official reason was given? Are they becoming more frequent? 7) Can you provide an example where such strenuous information requests and inspections led to a noticeable chilling effect? 8) Provide case example/s of the restriction of peaceful assembly. Which articles under the current Law on Public Meetings, Demonstrations, and Rallies are mostly used? 	

ACCESS TO INTERNET AND TELECOMMUNICATIONS

General

UN recommendations:

- Ensure the exercise of the right to freedom of expression, including through access to Internet sites and social networks without undue restrictions (Colombia). (**UPR**, Recommendation 118.50).
- Remove undue restrictions on use of Internet and ensure that journalists can freely exercise their right to freedom of expression (Japan). (**UPR**, Recommendation 118.55).

Indicators of implementation (practice):

- 1) Have the authorities undertaken any measures to remove undue restrictions on using the internet? If so, which ones?
- 2) Or has usage of the internet become more restricted in the period under review? If so, provide details.
- 3) Are you aware of any official position, policy or strategy on this matter?

Space for replies:

Revision of Regulations and Policies

UN recommendations:

- The Special Rapporteur urges Tajikistan to revise its current regulations and policies for telecommunications and internet, paying particular attention to the recurrent allegations regarding the blocking and monitoring of communications and the blocking of websites. In particular, the Special Rapporteur calls upon Tajikistan to dismantle its Single Communications Switching Centre given the clearly disproportional and uncontrolled Governmental access to communications traffic and data enabled by the system. The Special Rapporteur also calls for the full clarification on the official positions regarding the alleged blocking of communications during moments of political relevance and the blocking of certain websites in the country. (**SR 2**, Recommendation 79).
- Private sector representatives and civil society must be consulted and included in the promotion of a new regulatory system. Ensuring a safe and reliable communication infra structure is not only an obligation in accordance to human rights norms, but also crucial requirement for sustainable social and economic development. In the same spirit, the Special Rapporteur recalls Human Rights Council resolution (A/HRC/RES/32/13) which affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, and condemns unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures. (**SR 2**, Recommendation 80).

Indicators of implementation (legislation):

- 1) Has Presidential Decree 765, which allows the government complete control over domestic communications without legal safeguards, been repealed?
- 2) If not, has any political will been expressed to repeal regulations contained in the Decree?

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 3) Does the Single Communications Switching Centre still exist?
- 4) If yes: is there any debate among government agencies on this matter and can you identify voices calling for its dismantlement?
- 5) What are the official positions regarding the blocking of communications during peaceful assemblies and the blocking of websites?

Space for replies:

<p>Indicators of implementation (practice):</p> <p>6) Based on your own monitoring, give concrete examples in the period under review, when online platforms/individual websites/social media or the internet as a whole have been arbitrary blocked. Can you identify specific events? How long did the blocking last? Why did each of the blockings in your opinion occur?</p> <p>7) Can you provide case examples where social media users have been sentenced to prison sentences for posts/repostings/likes alleged to contain terrorist content?</p>	
<p>Surveillance and interception of private communication</p> <p>UN recommendations:</p> <ul style="list-style-type: none"> The State party should ensure that: (a) all types of surveillance activities and interference with privacy, including online surveillance, interception of communications and communications data (metadata) and retrieval of data, are governed by appropriate legislation that is in full conformity with the Covenant, in particular articles 17 and 19, including with the principles of legality, proportionality and necessity, and that State practice conforms thereto; (b) surveillance and interception is conducted subject to judicial authorization and to effective and independent oversight mechanisms; and (c) the persons affected have proper access to effective remedies in cases of abuse. (CCPR, Recommendation 42). 	
<p>Indicators of implementation (legislation):</p> <p>1) Have the relevant domestic legislation, in particular the Operative and Search Activity Act, adopted in July 2017, and Presidential Decree No. 765 of November 2016 been brought in line with the ICCPR?</p> <p>2) Has the government introduced safeguards against arbitrary interference with the privacy of individuals in the period under review?</p> <p>Indicators of implementation (practice):</p> <p>3) Provide examples of individuals who are subject to surveillance and are fined, punished and even detained or imprisoned for visiting “undesirable websites” or posting “inappropriate comments” online – whereas in your opinion</p>	<p>Space for replies:</p>

they peacefully exercised their right to freedom of opinion and expression. Provide sufficient details about the accusations and the individuals' activities to determine whether the authorities have unduly limited their right to freedom of expression.

ACCESS TO INFORMATION HELD BY PUBLIC BODIES

General

UN recommendations:

- Ensure that the right of access to information held by public bodies can be effectively exercised in practice, including by addressing any practical or administrative obstacles to processing information requests and by ensuring timely responses to such requests. (CCPR, Recommendation 48(e)).
- Protect the right to information and strengthen the accountability mechanism, including through strengthening the power of the Ombudsman, as well as respecting the activities of civil society. (SR 1, Recommendation 59(k)).

Indicators of implementation (legislation):

- 1) What liability is provided for violations of the law on "Access to Information"?

Indicators of implementation (practice)

- 2) According to your own monitoring, how is the law on "Access to Information" implemented by government officials?
- 3) Can you give (a) strong case example(s) of non-disclosure of the requested information (e.g., justice records, environmental data etc.)? Please describe as detailed as possible, e.g. what type of information did the journalist ask for? What was the reaction of the official? Did the journalist file a complaint? Was the responsible person held accountable?

Space for replies:

<p>4) To your knowledge, have any complaints been lodged in the period under review by journalists/media outlets about undue government restrictions to access information and have any of them been admitted and dealt with in the courts? Provide case details.</p> <p>5) What is the proportion of information requests by the media responded to effectively by the Government?</p> <p>6) Is the directive order from the Government – to share information only with the state-run news agency Khovar (2015), still enforced? Provide examples.</p>	
--	--

NATIONAL HUMAN RIGHTS INSTITUTIONS AND MECHANISMS

Strengthening of the Office of the Ombudsperson on Human Rights

UN recommendations:

- The Committee recommends that the State party take all the necessary measures to ensure that the Human Rights Ombudsman is an independent institution with the necessary resources to fulfil its mandate in conformity with the Paris Principles, including through implementing the recommendations made by the Sub-Committee on Accreditation of the International Coordinating Committee. The Committee particularly recommends that the State party create all the necessary conditions for the Human Rights Ombudsman to contribute effectively to the enjoyment of economic, social and cultural rights by the people of Tajikistan and to protect victims of violations of these rights. (**CESCR**, Recommendation 9).
- Continue the efforts undertaken to strengthen the role of the national human rights institutions, in particular the Government Commission for Human Rights (Morocco). (**UPR**, Recommendation 115.15).
- Take all the necessary measures to ensure that the national human rights institution is in full compliance with the Paris Principles (Portugal, Chad, Uruguay, Egypt, Niger, Poland). (**UPR**, Recommendations 115.17.-115.22).
- Continue reinforcing the mandate of the Commission on Implementation of international obligations in the field of human rights (State of Palestine). (**UPR**, Recommendation 115.23).
- Give continuity to strengthening of national human rights institutions and mechanisms to further promote and protect human rights in the country (Nepal). (**UPR**, Recommendation 115.24).
- [t]he Committee reiterates its recommendation (CERD/TJK/CO/6-8, para. 17) that the State party guarantee the independence of the Office of the Ombudsman by providing it with adequate human and financial resources to carry out its mandate, including promoting and monitoring the rights under the Convention. The Committee further encourages the State party to take the necessary measures to raise the level of the Office of the Ombudsman or to establish a national human rights institution in compliance with the Paris Principles. (**CERD**, Recommendation 24).
- The Committee recommends that the State party strengthen the office of the Human Rights Ombudsman by providing it with adequate financial and human resources to discharge its mandate effectively, independently and in compliance with the Paris Principles, in particular as it pertains to protecting women's rights and addressing complaints from women and girls in a confidential, gender-sensitive manner. (**CEDAW**, Recommendation 18).

- The Committee recommends that the State party implement the recommendations made by the Subcommittee on Accreditation of the International Coordinating Committee of National Human Rights Institutions (now known as the Global Alliance of Human Rights Institutions) and provide the Office of the Human Rights Ombudsman with adequate human, technical and financial resources for it to discharge its mandate effectively, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). (CMW, Recommendation 21).
- The State party should step up its efforts to achieve the full compliance by the Commissioner for Human Rights with the Paris Principles, including by strengthening its independence and by providing the institution with adequate financial and human resources to enable it to discharge its expanded mandate independently and effectively. (CCPR, Recommendation 10).

Indicators of implementation (legislation):

- 1) Is the independence of the Ombudsman's Office guaranteed by constitutional provisions, legislation or other internal documents (in line with Activity 4 of the 2019 Action Plan on CAT, to be implemented by the Ombudsman's Office, and in line with Activity 9 of the 2015 Action Plan on CESCR, to be implemented by the Ombudsman's Office, the Ministry of Justice, the Ministry of Foreign Affairs, the Supreme Court and the Attorney General ? If not, what limitations are envisaged?
- 2) Is the Ombudsman's Office entitled to publicize reports, statements, opinions whenever he deems necessary?
- 3) Does the Ombudsman have defined powers to investigate on its own initiative situations and cases of reported human rights violations?
- 4) Is the Ombudsman authorized to investigate the conduct of the police and the security forces throughout the national territory?

Indicators of implementation (practice):

- 5) In practice, does the Ombudsman's Office lack independence? Is the Ombudsman subject to pressure from government authorities? If so, provide details.
- 6) Is the Ombudsman's Office funded adequately and does it have sufficient human resources to ensure it can carry out its mandate? Provide details.

Space for replies:

<p>7) Is the Ombudsman’s Office subject to financial control that could affect its independence?</p> <p>8) Are members selected on the basis of proven expertise, knowledge and experience in the promotion and protection of human rights?</p>	
---	--

National Action Plan on Human Rights

UN recommendations:

- Develop and implement a National Action Plan for Human Rights to further ensure systematic and comprehensive approach for the promotion and protection of human rights, with the full engagement of the civil society (Indonesia, State of Palestine, Slovenia). (UPR, Recommendations 118.11-118.13).
- Strengthen the national capacity to implement the human rights action plans in accordance with international obligations (Sudan). (UPR, Recommendations 115.26).

Indicators of implementation (institutional change/procedures/mechanisms/strategies):

- 1) Have the authorities developed the draft “National Strategy for the Protection of Human Rights” to implement UN recommendations on human rights – particularly those on freedom of opinion and expression? What time period does the National Strategy entail? Does the Strategy include concrete measures, timelines, relevant authorities responsible for oversight and measurable standards for implementation and accountability?
- 1) If so, how do you assess the activities pertaining to freedom of opinion and expression that are included in the National Strategy?
- 2) Does the National Strategy envision a procedure that provides for monitoring of its implementation? Is information about the implementation of the National Strategy publicly accessible?
- 3) Has civil society been involved in this project?

Space for replies:

Indicators of implementation (practice):

- 5) If not: are you informed about the working progress of the Interdepartmental working group on the draft “National Strategy for the Protection of Human Rights”?
- 6) Based on your own monitoring, how do you assess the transparency of and participation in this process?