



10 September 2018

Working Session 1. Democratic Institutions, including democracy at the national, regional and local levels, and democratic elections

During the past year, for the period 2017-2018 since the last Human Dimension Implementation Meeting, we can observe an intensification of crackdown on dissent in Tajikistan. The authorities have intensified their struggle against the political opposition. Political opponents are being intimidated and threatened, kidnapped and arbitrarily arrested.

August 22, 2018 on the Internet and the media there was information about the plans for the murder of the leader of the IRPT Muhiddin Kabiri. In this connection, we express special concern about the possibility of repeating the tragedy that occurred in 2015 with Umarali Kuvvatov, and call on international community to pay close attention to this message.

Elections in Tajikistan, at whatever level they take place, are accompanied by violations, fraud, including ballot stuffing, proxy voting, intimidation and threats.

Advocacy in Tajikistan remains dependent and controlled by state structures. 2015 Law on Advocacy and amendments to it are seen as an attempt to indicate who should be allowed to practice as lawyers, and to remove lawyers involved in resonant cases from the bar.

The situation of civil society in Tajikistan, in particular non-governmental organizations involved in human rights activities, continued to deteriorate in 2017-2018. The government continued to exert pressure on human rights defenders, activists, lawyers and journalists in order to force them to stop or not start dealing with certain important political issues.

The Human Rights Vision Foundation calls on the Tajik authorities to review the:

2016 discriminatory amendments to the Constitution of Tajikistan
Law "On the election of the president and parliament"
Law "On Advocacy",
Law "On Public Associations",

and abolish those provisions that are contrary to democratic principles.

To give representatives of civil society unhindered access to the nomination of their candidature for elections of all levels. To bring election procedures in full compliance with OSCE commitments and international standards for democratic elections.

To give lawyers independence and freedom in the implementation of their professional activities. To withdraw the Qualification Commission from the control of the Ministry of Justice and assign responsibility for lawyers' qualification to the Union of lawyers.

Amend the law "On public associations" to ensure the free activity of independent human rights groups with the active participation of civil society.



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Working Session 1. Democratic Institutions, including democracy at the national, regional and local levels, and democratic elections

As you know, democracy is a form of organization of political life, in which there is a free and competitive choice by the population of the path of social development, when different political and civil institutions are involved in development processes. This is the creation of an environment in which political activity is possible for all members of the political community, regardless of their political preferences. Democracy presupposes the participation of all sections of the population in the power, with working mechanisms and the possibility of social choice by the population itself. At the same time, democracy is not necessarily a change in the ruling parties, but the possibility of such a change in the democratic structure of the state should exist. In a democracy, the problem of interaction between the state and society is decided in favour of society, considering the diverse demands of citizens.

The Republic of Tajikistan, according to the Constitution of the Republic of Tajikistan, is a social state whose social life develops on the basis of political and ideological pluralism. However, de facto it is a one-party state, with an authoritarian regime, where all power is concentrated in the hands of one ruling party - the People's Democratic Party of Tajikistan (PDPT), led by incumbent President Emomali Rahmon, who has ruled the country since 1992.

President Emomali Rahmon and his supporters continue to dominate the government, and in order to strengthen the authorities continue to actively take measures to suppress pluralism. In both chambers of the country's parliament, the PDPT is currently dominant. Members of the PDPT occupy the majority of government posts. All senior government members of the incumbent President Emomali Rahmon are members of the PDPT. The president continues to expand his powers, including the appointment and dismissal of officials¹ of different levels and branches of government.

In addition to the PDPT, five pro-government parties (Agrarian Party, Democratic Party, Party of Economic Reforms, Socialist Party, Communist Party) officially registered in the country and exist only to maintain Tajikistan's image as a multi-party state, and one opposition party is the Social Democratic Party of Tajikistan (SDPT), which has no influence and political power in the country, has never participated in the presidential elections and has no representatives in the parliament. The activities of the SDPT have been minimized, more than once the meetings and press conferences organized by the SDPT have been thwarted by intruders, and the leader of the SDPT has been attacked by unknown persons.

In 2012, Tajik businessman and oppositionist Umarali Kuvvatov founded the social and political movement "Group 24". In his speeches he criticized the government of Tajikistan because of corruption in the country, nepotism, authoritarian and incorrect policies,

¹ U.S. Department of State. TAJIKISTAN 2017 HUMAN RIGHTS REPORT
<https://www.state.gov/documents/organization/277539.pdf>

persecution of dissidents, suppression of freedom of speech, spoke about the economic and political life of Tajikistan. The activities of the "Group 24" movement were recognized as extremist and banned in Tajikistan by the Supreme Court.

Umarali Kuvvatov from the beginning of 2012 was forced to stay outside Tajikistan because of persecution by the authorities. Several times he was detained at the request of Tajikistan, including through Interpol, in the territory of the UAE and Turkey, but each time he was released because of lack of evidence from Tajikistan in the charges against him and the political nature of the persecution.

In 2013, Umarali Kuvvatov, left for Turkey, where he applied for international protection through UNHCR, he expected refugee status. March 5, 2015 Umarali Kuvvatov was killed in Istanbul with a shot in the head in front of his wife and minor children.² According to the data available in the public sources, only one of the participants in the planned murder was brought to justice.³ Neither about the shooter himself, nor about the other participants in the operation, no official information is still known.

In 2013, a well-known Tajik businessman Zaid Saidov announced his intention to create a political party "New Tajikistan". However, in the same year he was arrested and, subsequently, sentenced to 29 years in prison on trumped-up charges.

The opposition Islamic Revival Party of Tajikistan (IRPT), which was officially registered in Tajikistan in 1991 and numbered more than 45,000 members, faced special pressure from the authorities. This opposition party was not admitted to parliament in 2015, its leader was forced to leave the country, for fear of prosecution on false charges. In the same year, the Ministry of Justice of Tajikistan ordered the termination of the IRPT, and in September the party was accused of involvement in the military mutiny of the former deputy defence minister Abdukhalim Nazarzoda. The Supreme Court declared the party terrorist, and its leadership and several members were arrested and later sentenced to various terms of imprisonment.

During the past year, for the period 2017-2018 since the last ODIHR / OSCE Human Dimension Implementation Meeting, we can observe an intensification of crackdown on dissent in Tajikistan. The authorities have intensified their struggle against the political opposition, political opponents are being intimidated and threatened, kidnapped and arbitrarily arrested. Many representatives of the country's opposition were forced to flee Tajikistan because of the suppression of political freedoms. The government also continues to persecute dissidents in order to force them to return to Tajikistan. Queries are actively used through Interpol, the so-called "Red Notes", to detain these persons in the territories of other countries.

August 22, 2018 on the Internet and the media there was information about the plans for the murder of the leader of the IRPT Muhiddin Kabiri.⁴ In this connection, we express special concern about the security of the representatives of the Tajik opposition, about the possibility of repeating the tragedy that occurred in 2015 with Umarali Kuvvatov, and call on the entire world community to pay close attention to this message.

² Group 24

https://ru.wikipedia.org/wiki/%D0%93%D1%80%D1%83%D0%BF%D0%BF%D0%B0_24

³ A Murder in Istanbul

<https://www.occrp.org/ru/moneyby marriage/a-murder-in-istanbul>

⁴ I stop working in the State National Security Committee of Tajikistan and do not want to participate in the murder of Mukhiddin Kabiri

<https://www.facebook.com/makhmadali.rasulov>

<http://www.fergananews.com/news/32176>

<http://www.fergananews.com/articles/10138>

Out of the most significant changes in the legislation of the Republic of Tajikistan adopted over the past three years, the following can be singled out. In December 2015, a law was passed on awarding the title of "Leader of the Nation" to President Emomali Rahmon, and in this connection, in 2016, amendments were made to the Constitution of Tajikistan, according to which the "Leader of the Nation" has the right to be elected to the office of the President for an unlimited number of terms, he also life immunity from judicial and criminal prosecution is granted. At the same time, the national referendum, during which these and other amendments to the Constitution were allegedly approved, passed with many violations. The authorities reported on the 90 percent participation of voters, but according to media reports, the turnout was very low. During the referendum period, access to independent news sites was blocked in the country.

In early 2018, the Tajik parliament approved amendments to the law "On the election of the president and parliament" of Tajikistan, according to which, among other things, a candidate for deputies of the lower house of the Tajik parliament must necessarily live in the country for the past five years. This rule deprives the right to run for the lower house of parliament more than two million citizens of the country, who are forced to leave for work in Russia due to the high unemployment rate in Tajikistan.

One example of anecdotal elections took place in June this year in the Vanj-40 constituency. One candidate, representative of the ruling People's Democratic Party of Tajikistan, who won with 98.7 percent of the vote⁵, was nominated to the election of a deputy in the Meeting of Representatives (also known as Majlisi Namoyandagon, it is the lower house of parliament). No other political party or association has submitted its candidates for this election.

As it is known, the PDPT occupies the largest number of seats in the Majlisi Namoyandagon and fully occupies all seats in the National Meeting (known as Majlisi Milli, it is the upper house of parliament) of Tajikistan.

Earlier, in April 2017, the candidate from the ruling PDPT, the son of the president and the newly appointed Mayor of Dushanbe, Rustam Emomali was elected a deputy of the capital's Majlis with 84.8 percent of the vote. Voter turnout for the elections then, according to official figures, was 87 percent.⁶

Elections in Tajikistan, at whatever level they take place, are accompanied by violations, fraud, including ballot stuffing, proxy voting, intimidation and threats. There is no central register of voters. Instead, each local election commission compiles its voters' lists, making the election vulnerable to fraudulent voters.

Following the results of the parliamentary elections of 2015, the OSCE / ODIHR concluded that they had passed in a limited political space. The opportunity to make free and informed choices has diminished due to the restriction of the right to run for election, freedom of expression and assembly, and access to the media.⁷

It noted that restrictive requirements for the registration of candidates led to a lack of genuine choice and real pluralism during the 2013 presidential election.⁸

⁵ Пирӯзии номзади ягонаи ҳизби ҳоким дар ҳавзаи Ванҷ-40
<https://www.ozodi.org/a/29294064.html>

⁶ Rustam Emomali was elected a deputy of the capital's Majlis
<https://news.tj/ru/news/tajikistan/power/20170403/rustam-emomali-izbran-deputatom-stolichnogo-madzhlisa>

⁷ OSCE/ODIHR, p. 1. OSCE/ODIHR: report of 2015, Executive Summary
<https://www.osce.org/odihr/elections/tajikistan/158081?download=true>

⁸ OSCE/ODIHR, p. 3. OSCE/ODIHR: report of 2013, Executive Summary
<https://www.osce.org/odihr/elections/107336?download=true>

Similarly, elections were held earlier, as well as the 2010 parliamentary elections. The election process takes place in the absence of true pluralism and fair choice, and does not meet international standards. The next presidential and parliamentary elections are scheduled for 2020.

The situation with the level of democracy in the country is exacerbated by the ever-increasing pressure on the institutions of civil society.

Advocacy, as one of the most important institutions of civil society, designed to protect the rights and freedoms of citizens and of society as a whole, and to strengthen the rule of law in the state, continues to undergo serious difficulties. The implementation of advocacy in Tajikistan has become very difficult.

The Law of the Republic of Tajikistan "On Advocacy", adopted in March 2015, was designed to radically improve the system of advocacy and resolve existing problems. However, three years have passed since the adoption of the Law, but little has been done by the state in this direction. Advocacy in Tajikistan remains dependent and controlled by state structures. So, according to this Law all lawyer formations in the country are united into a single Union of lawyers of Tajikistan. The law also obliged all lawyers to pass qualification exams and to confirm their status. At the same time, the qualification commission responsible for conducting professional examinations and issuing licenses to lawyers is not with the Tajik Bar Association, but with the Ministry of Justice, which verifies the authenticity of the documents submitted by the applicant for obtaining the status of an attorney and checking on his knowledge of the profession. Although the commission includes representatives of the bar, but the head of this Qualification Commission is the Deputy Minister of Justice. The objectivity and impartiality of this Qualification Commission remains in doubt.⁹

In addition, in November of the same year, the law was amended, which created additional obstacles for obtaining the status of a lawyer, as a result of which the number of lawyers in the country was drastically reduced. According to the data of the Bar Association, currently there are 146 law offices registered in the Ministry of Justice, 23 legal advices and 17 bar associations. The Qualification Commission for only three years passed only 701 lawyers. That is, 1 lawyer now has 13 thousand residents. The issue with lawyers in the Badakhshan Autonomous Region is especially acute. There's a population of 250 thousand accounts for only 7 lawyers, that is, 1 lawyer for 35 thousand residents. And in the highlands of Badakhshan to get from one district to another it's very hard.¹⁰

All these restrictions are seen as an attempt to indicate who should be allowed to practice as lawyers, and to remove lawyers involved in resonant cases from the bar, so that they do not criticize law enforcement agencies and the system as a whole, and frankly point to abuse of authority by the Ministry of Justice and the executive. This, in turn, violates Principle 16 of the UN Basic Principles on the Role of Lawyers, which states that "Governments should ensure that lawyers (a) can perform all their professional duties without intimidation, obstacles, harassment or unjustified interference."¹¹ Although they are not "binding" sources of international law, the Fundamental Principles are cited in international jurisprudence, including the European Court of Human Rights, and the UN Human Rights Committee has

⁹ Lawyers day without lawyers

<http://hrvf.org/ru/post.php?page=9>

¹⁰ Who lost from the reform in the Tajik bar?

<https://news.tj/ru/news/tajikistan/laworder/20180525/kto-proigral-ot-refomi-v-tadzhikskoi-advokature>

¹¹ United Nations Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, from 27 August to 7 September 1990.

applied the Core Principles in fact as a continuation of article 14 of the International Covenant on Civil and Political Rights (ICCPR).¹²

The situation of civil society in Tajikistan, in particular non-governmental organizations (NGOs) involved in human rights activities and other pressing issues, continued to deteriorate in 2017-2018. The government continued to exert pressure on human rights defenders, activists, lawyers and journalists in order to force them to stop or not start dealing with certain important political issues.

Many NGO employees report threats from security services and demands for the termination of their activities. In their work they have to be cautious and avoid public criticism of the president or other high-ranking officials, refrain from discussing issues related to the banned IRPT.

In addition, amendments to the law "On Public Associations", introduced in 2015, obliged NGOs to report to the Ministry of Justice of Tajikistan on grants and funding received from foreign sources. This measure is justified by the Ministry of Justice as preventing the financing of terrorism and extremism.

The work of NGOs is also complicated by a huge administrative burden. Frequent tax inspections, inspections of the anti-corruption agency and other bodies force "disagreeable" civil society organizations to cease their activities.

In the absence of any possibility of full-fledged functioning in Tajikistan, Tajik civil activists, journalists, human rights activists, writers, lawyers, and academics are forced to create NGOs in order to assert their rights and freedoms in the territories of those countries in which they found refuge. Since the beginning of 2018, at least three new NGOs have been established by the representatives of the Tajik society in exile: The Forum of Free-thinkers in Tajikistan¹³, the People's Movement "Reforms and Development in Tajikistan"¹⁴, the Civil Committee for the Rescue of Political Hostages and Prisoners in Tajikistan¹⁵. The main objectives of their activities are the consolidation of the foundations and norms of democracy and securing the secular nature of the Tajik system, cooperation with organizations, movements and parties, research institutions for building a new democratic and developed Tajikistan, assisting in the development of Tajikistan to build a strong, sovereign state, a powerful, modern, competitive, nationally-oriented economy, new economic sectors and production, developed agriculture industries, the creation of new jobs, the enhancement of the prestige of work and opportunities for the self-realization of every citizen, the protection of the constitutional rights of children, the demand for the abolition of the secretly functioning blacklist of Tajik citizens, dissidents, political emigrants and their relatives, who are deprived of their basic civil rights without trial, no legal grounds, lifting of the ban on leaving the country of family members persecuted for political beliefs and much more.

¹² International Bar Association Institute for Human Rights. The expert report of the IBA IHR on the new Draft Law of the Republic of Tajikistan on Advocacy, September 2013.

¹³ Statement of the Forum of Freethinkers of Tajikistan

<https://ozodandishon.org/2018/02/12/%D0%B7%D0%B0%D1%8F%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D1%84%D0%BE%D1%80%D1%83%D0%BC%D0%B0-%D1%81%D0%B2%D0%BE%D0%B1%D0%BE%D0%B4%D0%BE%D0%BC%D1%8B%D1%81%D0%BB%D1%8F%D1%89%D0%B8%D1%85-%D1%82%D0%B0/>

¹⁴ Statement on the establishment of the People's Movement "Reforms and Development in Tajikistan"

<http://tajireform.org/ru/aboutussub.php?page=1&sub=1>

¹⁵ Statement of the Civil Committee for the Rescue of Political Hostages and Prisoners in Tajikistan

<https://ozodandishon.org/2018/08/13/%D0%B7%D0%B0%D1%8F%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%B3%D1%80%D0%B0%D0%B6%D0%B4%D0%B0%D0%BD%D1%81%D0%BA%D0%BE%D0%B3%D0%BE-%D0%BA%D0%BE%D0%BC%D0%B8%D1%82%D0%B5%D1%82%D0%B0-%D0%BF%D0%BE-%D1%81/>

The Human Rights Vision Foundation calls on the Tajik authorities to review the aforementioned laws and abolish those provisions that are contrary to democratic principles.

To give representatives of civil society unhindered access to the nomination of their candidature for elections of all levels. Ensure the unhindered activity of political parties without the danger of persecution and release all arbitrarily detained representatives of the political opposition. To bring election procedures in full compliance with OSCE commitments and international standards for democratic elections.

To withdraw the Qualification Commission from the control of the Ministry of Justice and assign responsibility for attorneys to attorneys at the Union. To give lawyers independence and freedom in the implementation of their professional activities.

Amend the Law "On public associations" to ensure the free activity of independent human rights groups with the active participation of civil society.

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