Submission by Nota Bene to EU-Tajikistan Human Rights Dialogue, June 2014
The Public Fund “Nota Bene” is one of the first think tank organizations in the field of human rights and democratization in Tajikistan. The core goal of the organization is to promote human rights principles and the development of civil society.

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1. BRIEF OVERVIEW

The present report has been prepared by the Public Fund “Nota Bene”. In the preparation of the report, information provided by other Tajik NGOs has also been used.

The main section of the report contains information on the following issues:

1. Cooperation with international human rights bodies;
2. National human rights institutions, in particular the Human Rights Commissioner;
3. Elections;
4. Freedom of association and assembly;
5. Freedom of media and expression;
6. Freedom of religion and belief; and
7. Refugees’ rights.

The report briefly reviews the situation in the areas covered and provides recommendations to the authorities of Tajikistan. We hope that the information provided in the report will be useful for the Human Rights Dialogue.

2. DESCRIPTION OF HUMAN RIGHTS ISSUES

Cooperation with international human rights bodies

In April 2013, the president approved a National Action Plan for 2013-2015 for the implementation of recommendations made in the context of the Universal Periodic Review (UPR) of the UN Human Rights Council. This was the first time the Tajik authorities have adopted a human rights action plan in the form of a consolidated program of activities, with an emphasis on improving legislation and enforcement. In addition, the authorities have adopted two other human rights action plans: The National Action Plan for the implementation of the recommendations of the UN Committee on Migrant Workers (2013); and the National Action Plan for the implementation of the recommendations of the UN Committee against Torture and the Special Rapporteur on Torture (2013). The process of drafting action plans for the implementation of the recommendations of the UN Human Rights Committee, the UN Committee on the Elimination of Racial Discrimination and the UN Committee on the Elimination of Discrimination against Women is under way.

In July 2013, Tajikistan presented its second periodic report to the UN Human Rights Committee on the
implementation of the International Covenant on Civic and Political Rights (ICCPR). National civil society groups submitted a joint alternative report, highlighting pressing human rights issues in the country and presenting their recommendations. In its concluding observations adopted after the review, the Committee expressed concern regarding a number of issues in the areas covered by this submission, such as restrictions on freedom of expression, freedom of association and freedom of religion. Other issues that the Committee expressed concern about include, among others:

- The slow process of abolishing the death penalty from the Criminal Code.
- The widespread practice of torture of persons deprived of their liberty, including minors and the high number of violent deaths of persons in custody, as well the lack of effective investigations into these cases and the failure to provide compensation to relatives.
- Reports of civilian deaths and injuries during the security operation carried out in the city of Khorog in July 2012 and the failure to present any results of the investigation into these incidents.
- The lack of tenure and other guarantees of independence of judges, who the Committee concluded do not currently operate as effective checks on prosecutors, as well as reports of widespread corruption in the judiciary.
- Harassment of lawyers for carrying out their professional duties and the absence of a system of state-subsidized legal aid for persons in need facing criminal charges.

Between 23 September and 4 October 2013, representatives of the Tajik government and civil society organizations participated in the 17th OSCE Human Dimension Implementation Meeting (HDIM) in Warsaw. Key concerns expressed during the review of Tajikistan’s implementation of OSCE human dimension commitments focused on impunity for torture and ill-treatment, restrictions on freedom of expression and media, freedom of association, and freedom of religion and belief, as well as the failure to address the problem of domestic violence. Prior to the HDIM, civil society and government representatives met in July to discuss human rights concerns in the country in the area of democratic elections, freedom of media, freedom of association, human rights in the army (including the rights of military conscripts) and the provision of compensation to victims of serious human rights violations, such as torture and crimes committed during security operations.

In October 2013, the UN Committee on Elimination of Discrimination against Women (CEDAW) considered Tajikistan’s combined fourth and fifth periodic reports under the corresponding treaty.

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1. CCPR/C/TJK/2 Second periodic report of the Republic of Tajikistan on the implementation of the International Covenant on Civil and Political Rights
2. See joint NGO report on Tajikistan’s implementation of the International Covenant on Civil and Political Rights in Tajikistan (2013), http://www2.ohchr.org/English/bodies/hrc/docs/NGOs/NGOsCoalition_Tajikistan_En.pdf
4. Statements of government representatives regarding Tajikistan’s progress on the implementation of OSCE commitments in the area of human rights, as well as concerns and recommendations of civil society organizations are available at http://www.osce.org/hdim_2013
An alternative NGO report was submitted on behalf of the NGO Coalition "From de-jure Equality Towards de-facto Equality". Among others, the civil society organizations raised concern about issues such as: Domestic violence; legal illiteracy among women, especially in rural areas; an increasing number of early, polygamous and unregistered marriages; exploitation of women; and the underrepresentation of women in political and public life.

A new law on preventing domestic violence was adopted in March 2013. However, effective mechanisms and resources for its implementation are lacking. The law also has significant shortcomings. In particular, it did not criminalize domestic violence nor provide for a well-developed mechanism of protection orders for victims, both of which undermine efforts to prosecute this type of violence. While NGO legal aid centres receive a large number of complaints from women abused by their relatives (in most cases by their husbands or mothers-in-law), few victims of domestic violence file complaints with the police. There is a lack of trained law enforcement officials to work with victims of domestic violence, as a result of which victims often do not receive adequate assistance when turning to police. They face, for example, reluctance to receive and consider complaints, late referral to medical examinations etc. Crisis centres for victims of domestic violence existing in the country are run by NGOs.

In its concluding observations, CEDAW expressed concerned about the underrepresentation of women in the public sector, the high level of girls dropping out of schools, the persistence of adverse cultural norms, practices and traditions that contribute to violence against women, the practice of child marriage and de facto polygamy, and the disadvantaged and unequal status of women in many areas.

**National human rights institutions**

On 14 May 2014, the lower house of Tajikistan’s parliament (Majlis Namoyandagon) confirmed the re-appointment of Zarif Alizoda as the country’s Human Rights Commissioner (HRC). He has held this position since it was first established in 2009.

The law grants the HRC quite extensive authority in the area of human rights promotion and protection. However, civil society representatives have expressed concern that the current mandate-holder has not used these powers effectively e.g. with respect to responding to gross human rights violations and conducting investigations in such cases.

In 2012, the HRC underwent an accreditation process by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and was granted “B” status with several significant recommendations for improvement. These recommendations primarily concerned the independence of the HRC in terms of its mandate, functions and budget, as well as the selection of the Commissioner and the accessibility of the HRC staff.

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5 Available at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CoalitionOfNGOs_Tajikistan_SubShort_PSWG_CEDAW56.pdf

6 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=812&Lang=en
In September 2013, the EU Delegation in Tajikistan organized an EU-Tajikistan civil society seminar on “Cooperation of National Human Rights Institutions and Civil Society,” which focused in particular on the activities of the office of the HRC and its cooperation with civil society. The seminar was attended by both Tajik and European civil society participants, including human rights defenders, academics, legal experts and representatives of media organizations. At the end of the seminar, the participants adopted detailed recommendations on how to improve the work of the HRC.

In the recent period, Nota Bene and other NGOs that form part of the Tajik NGO Coalition against Torture have been involved in cooperation with the HRC on the establishment of a Monitoring Group, as a preliminary step towards setting up a National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture (Optional Protocol). The purpose of this Monitoring Group is to visit and monitor places of incarceration, pre-trial detention centers, temporary detention facilities and other places in which persons are forcibly held.

From February to May 2013 discussions took place between the Coalition against Torture and the HRC regarding the composition of the Monitoring Group. The Coalition on Torture maintained that the activities of the Monitoring Group should comply with the Principles relating to the status of national human rights institutions for the promotion and protection of human rights (Paris Principles) and the Optional Protocol, and that the composition of the Monitoring Group should ensure its independence and impartiality. The Coalition argued against including representatives of government authorities, and lobbied for an agreed protocol for the Monitoring Group setting out the scope of its activities. This document was approved by the HRC in December 2013 and the Monitoring Group started its work in February 2014. In some instances, however, the administration of detention facilities have denied access to NGO representatives belonging to the Monitoring Group, even though the relevant government agencies have been informed about the establishment of the group and its powers.

**Recommendations:**

- As regards the HRC, see the recommendations made by the participants in the 2013 EU-Tajikistan Civil Society Seminar.
- The authorities should ensure that members of the new Monitoring Group for places of detention can carry out their mandate without hindrance in all cases.

**Free and fair elections**

On 6 November 2013, presidential elections took place in Tajikistan. According to the official results announced by the Central Commission for Elections and Referenda, the incumbent President Emomali Rahmon won with 84.32% of the vote. On 7 November 2013, the election observation missions of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly and

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7 See Asia Plus article from 19 May 2014, at http://www.news.tj/ru/newspaper/article/takoi-ombudsmen-nam-ne-nuzhen
the European Parliament issued a joint Preliminary Statement of Findings and Conclusions.\(^8\) It stated that although the elections took place peacefully, the restrictive candidate-registration requirements resulted in a lack of pluralism and genuine choice.

In the run-up to the presidential elections, the government extended its control over political and public life in the country, resulting in increasing restrictions on freedom of speech, association, assembly, movement and other rights. In particular, the government stepped up its efforts against the political opposition, using among others politically motivated charges and extradition requests. In its concluding observations adopted in July 2013\(^9\), the UN Human Rights Committee expressed concern about reports of politically motivated harassment of opposition political leaders, such as the reported arbitrary detention of Zayd Saidov, the head of a new political party called New Tajikistan, and the secrecy surrounding his case before the court. In December 2013, Tajikistan’s Supreme Court sentenced Saidov, who was arrested the month after setting up the new party, to 26 years in prison on multiple charges.\(^10\)

While five candidates in addition to the incumbent president ran in the elections, the only opposition candidate, and the country’s first-ever female presidential candidate failed to collect the required number of signatures (210,000) to participate. The international observers from ODIHR, the OSCE Parliamentary Assembly and the European Parliament noted that she “faced administrative obstacles in the collection of signatures and stated that some voters would not sign in support of her candidature due to fear of government reprisals.”\(^11\)

According to the final OSCE/ODIHR election monitoring report, released in February 2014\(^12\), the campaign lacked the political debate necessary for a competitive campaign environment; authorities did not provide safeguards against the misuse of state resources; and the distinction between the state and political parties was often blurred. Despite the fact that all candidates were provided with equal time in news reports and other TV programs, the extensive positive coverage of Mr. Rahmon’s activities, particularly highlighting all his efforts during the peace building process in Tajikistan provided him with a significant advantage.

As regards Election Day, the OSCE/ODIHR election observation mission was concerned, among others, about the lack of implementation of procedures designed to safeguard against multiple voting, including proxy voting, voting without an identification document, family voting etc. The presence of representatives of the executive power, local self-governments (hukumats) and in some cases representatives of law enforcement authorities at the polling stations also raised concerns about the independence and impartiality of the polling commissions.

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\(^8\) See http://www.osce.org/odihr/elections/107943
\(^9\) Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTJK%2fCO%2f2&Lang=en
\(^10\) See http://iwpr.net/report-news/tajik-opposition-figure-gets-26-years
\(^11\) See http://www.osce.org/odihr/elections/107943
\(^12\) Available at http://www.osce.org/odihr/elections/tajikistan/106300
Based on the elections observation, the OSCE/ODIHR provided a series of recommendations to the government of Tajikistan, while also noting that previous recommendations that have not been addressed remain relevant.

After the OSCE/ODIHR report was made public, on 24 April 2014, the lower house of Tajikistan’s parliament adopted amendments to the Election Law. MPs Muhiddin Kabiri and Saidumar Husaini from the opposition Islamic Revival Party (IRP) had proposed a series of amendments, including among others abolishing the requirement for 5 years of residency in Tajikistan for presidential candidates, extending the period of nomination of candidates from 45 to 60 days before the election day, ensuring the participation of political parties in the appointment of the members of the Central Commission for Elections and Referenda (CCER) and providing representatives of political parties with signed and sealed protocols of the election results. However, only two of the amendments proposed by the IRP MPS were adopted. These amendments stipulate that the electoral deposit required by candidates should be returned if a candidate receives less than 10% of the total vote; and ballots should be filled out by pen.

Parliamentary elections are not expected until February 2015, but preparations are already underway.

**Recommendations:**

- The authorities of Tajikistan should take effective measures to implement the recommendations made by the OSCE/ODIHR following its election observation.

**Freedom of association and assembly**

Since the last EU-Tajikistan Human Rights Dialogue, no effective measures have been taken by the authorities to ensure full protection of freedom of association and assembly in accordance with international human rights standards.

Since December 2013, the Department on Registration of Public Organizations and Political Parties at the Ministry of Justice has engaged in some degree of consultation with local civil society organizations in Dushanbe and Khatlon region regarding the practical implementation of the 2007 Law on Public Organizations. However, civil society representatives from all parts of the country have continued raising concerns regarding excessive requirements and restrictions with respect to the registration of public associations, as well as excessive oversight powers of the Ministry of Justice and its regional departments that are laid down by relevant legislation, resulting in serious obstacles to the registration and functioning of NGOs. In addition, civil society organizations continue raising concerns about the lack of procedural safeguards that may lead to arbitrary closure of NGOs, often as a disproportionately harsh sanction for technical irregularities such as the failure to re-register an organization after the change of legal address.

In the recent period, the number of unscheduled inspections of NGOs has significantly increased, resulting in undue interference in the work of the targeted organizations. Inspections are often followed by
warnings and legal actions for alleged violations. According to the Law on Public associations (2007), the Ministry of Justice has the authority to monitor whether a nongovernmental association’s activities are consistent with its statutory purposes. According to article 34 of the Law, this body has the right to: 1) ask the governing body of the association to provide instructions, decisions, and other information relating to the activities of the association; 2) to send representatives to take part in large-scale events organized by the association; and 3) to issue the association’s governing body a warning citing specific grounds, if violations of the law or actions that are not consistent with the association’s statutory purposes are identified. If the organization is considered not to have addressed identified violations within the required period, the Ministry of Justice or prosecutors may petition to court to suspend or close it down (article 35 and 37 of the same law). A number of NGOs have been closed down by court on questionable grounds in the last few years, including the Association of Young Lawyers Amparo and the Civil Society Center.

In meetings with NGOs, the Ministry of Justice has stated that certain changes to the existing legal framework regulating the work of civil society organizations are envisaged for 2014. However, so far, no detailed information on this process has been provided. NGOs are asking the authorities to involve them in all efforts to amend existing legislation to ensure that amendments are in line with international standards. NGOs are also concerned that the current practice of inspections and lack of clarity and guidance on the legal framework may lead to institutionalizing corrupt behaviour in the registration of NGOs, inspections of their activities and evaluations of their annual reporting.

By law, the organizers of assemblies are required to notify the authorities in writing in advance (article 8 of the Law on assemblies). However, in practice, local authorities interpret this provision as meaning that approval is required and local officials reportedly refuse to grant permission to hold demonstrations in many cases.

On 28 May 2014, the lower house of the parliament discussed draft amendments to the Law on assemblies. According to these draft amendments, individuals using Molotov cocktails (also known as petrol bombs) during demonstrations and public gatherings places will be put on the same footing as individuals illegally using firearms. Under the country’s legislation, law enforcement officers have the right to use weapons against this category of individuals.

It should be noted that so-called Molotov cocktails were used by some protesters during the clashes that occurred in Khorog, the capital of the Gorno Badakhshan Autonomous Region (GBAO) on 21 May 2014, which left four persons dead and several people injured. The fatalities occurred during a police offensive against suspected criminals and ensuing clashes between security forces and local residents upset with the police action.13 To date, authorities have not provided any information regarding investigations and prosecutions of the alleged crimes committed during the July 2012 security operation in this region, which resulted in the death of 23 civilians and an unknown number of law enforcement officials.14

13 See http://www.rferl.org/content/situation-in-tajikistans-gorno-badakhshan-calms-down/25398444.html
**Recommendations**

The authorities of Tajikistan should:

- Revise the Law on associations to bring it into line with international human rights standards and ensure that NGOs are not subjected to excessive interference into their activities or suspended or closed down on unsubstantial grounds.
- Ensure that citizens can carry out peaceful assemblies after merely notifying local authorities and that any measures of force taken by law enforcement authorities when policing assemblies are strictly necessary and proportionate, in accordance with applicable international standards.
- Involve and consult with civil society in all efforts to amend legislation regulating freedom of association and assembly.

**Freedom of expression and the media**

The situation regarding freedom of expression and media remains highly worrisome and worsened further in connection with the November 2013 presidential elections. Social media sites, independent news sites and other websites continue to be regularly blocked; two local newspapers were shut down for administrative violations in the past year; and court rulings against independent media outlets and journalists continue in civil defamation cases. Media and journalists expressing critical views also face other forms of intimidation and harassment.

**New media law**

In March 2013 the president signed a new Media law (the Law on the Periodical Press and Other Media). The office of the OSCE Media Freedom Representative made a detailed analysis of this law, noting a number of improvements over the old law, but also shortcomings that need to be addressed. As noted by NGOs, a positive amendment introduced by the law is that it significantly shortened the time within which inquiries by journalists must be answered from one month to three days. In a problematic provision, the law requires media organizations both to undergo state registration as legal entities and to register with the Ministry of Culture, which constitutes dual registration. Also, while article 7 (par. 4) states that media organizations can be subdivisions of other legal entities, in which case further registration should not be necessary, article 10 (par. 1) requires all media organizations to register as independent legal entities.

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15 The report from April 2013 (in Russian) is available at http://www.osce.org/ru/fom/100831
16 See joint NGO report on Tajikistan’s implementation of the International Covenant on Civil and Political Rights in Tajikistan (2013), http://www2.ohchr.org/English/bodies/hrc/docs/NGOs/NGOsCoalition_Tajikistan_En.pdf
**Blocking of websites**

Internet censorship increased on the eve of the November 2013 presidential elections. The government’s communications service reportedly ordered internet providers to block access to over 100 internet resources, including the social networking sites Twitter, Vkontakte and Odnoklassniki. Facebook was temporarily blocked in November 2013 because its users had allegedly “insulted the government of the country and its leaders”, according to the head of the service, Beg Zuhurov.\(^{17}\)

Facebook and other social media sites have recently become a “battlefield” for critics and supporters of the government in Tajikistan.\(^{18}\) Politically and socially important events, such as the security operation in Khorog in 2012, and governance and corruption related issues are broadly discussed in various social media groups and criticism of government policies is expressed. Social networks are widely used by political opponents of the government. Recently pro-government advocates have also started using social media more actively. Not appearing under their real names, these users assault opposition groups and other users who criticize government policies, even posting fake photos to this end. This phenomenon is known as the “response factory”. There have also been several instances where human rights activists have been attacked through defamatory articles spread on Facebook.

**Harassment of journalists and media**

Journalists and media continue to face harassment for carrying out their work ranging from defamation suits and administrative cases to physical attacks and other direct violations of their rights.

Libel was de-criminalized in Tajikistan in 2012, even if insulting the president remains a criminal offense. As reported by the non-governmental National Association of Independent Media of Tajikistan (NANSMIT), the number of cases of criminal prosecution of journalists and media decreased considerably in 2013 as a result of this change. However, at the same time, there was an increase in the number of civil and administrative cases. The organization documented a total of nine civil and administrative cases and one case of criminal prosecution against journalists and media during the year.\(^{19}\)

In most cases, courts satisfy defamation suits filed by government officials or their relatives against journalists and media outlets. For example, in February 2013, the Somoni district court in Dushanbe satisfied a suit brought by Rustam Hukumova (son of the former head of Tajik Railways, Amonullo Hukumov) and ordered the newspaper ImruzNews to pay the plaintiff 50,000 Somoni (some 7.500 EUR) in moral damages.\(^{20}\) In February 2014, the Firdavsi district court of Dushanbe ruled against Asia Plus and its editor Olga Tutubalina when hearing a suit brought with the support of five state-funded bodies. They were ordered to publish a retraction and pay 30,000 Somoni (4.500 EUR) to the plaintiffs for the alleged

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\(^{17}\) See [http://ria.ru/society/20121221/915825231.html](http://ria.ru/society/20121221/915825231.html)


\(^{20}\) See [http://www.refworld.org/docid/513dd1f72d.html](http://www.refworld.org/docid/513dd1f72d.html)
moral damaged caused by an article published in the newspaper\textsuperscript{21}, which criticized a former government opponent for flattering and praising Tajikistan’s president after returning to the country on the invitation of the latter. The ruling was upheld on appeal in April 2014.

The harshest sentence during the past year was handed down to journalist Mahmadyusuf Ismoilo, whose October 2013 conviction and sentence was upheld on appeal in January 2014. Ismoilov, who was initially arrested in June 2013, was sentenced to 11 years’ imprisonment on criminal charges of extortion and fraud. He denied any wrongdoing and said that the case constituted retaliation for his criticism of local authorities in his articles. Tajik journalist colleagues condemned the sentence against him.\textsuperscript{22}

Detentions and physical abuse of journalists also remain of concern. In December 2013, Abdurakhim Shukurov, a camera operator working for the Ozodagon news service was detained and allegedly beaten by law enforcement authorities outside the building of the State Committee on National Security in Dushanbe, where the trial in the case of government opponent Zayd Saidov was held. He had gathered together with other people to hear the results of the trial, which was taking place behind closed doors. He was released after two days following protests of the media community in Tajikistan and international organizations. He was fined 320 Somoni (some 50 EUR).

**Recommendations:**

The authorities of Tajikistan should:

- Ensure that legislation regulating the exercise of freedom of media and expression is consistent with international human rights standards. To this end, they should abolish the remaining criminal provisions on insult; revise relevant provisions of the Law on media and the Civil Code so as to only allow representatives of public authorities, when acting as civil case plaintiffs seeking to protect their honor, dignity and business reputation, to require refutation of false information, not non-pecuniary damage; and implement the recommendations made by the office of the OSCE Media representative and local media experts for revising the provisions of the Media law.
- Put an end to the practice of blocking websites without a court decision and ensure that social media platforms can be used for open discussion on issues of public interest.
- Condemn acts of harassment against journalists and media and ensure that such cases are promptly and thoroughly investigated and the perpetrators brought to justice.

\textsuperscript{21} The article entitled “Unintelligently about the intelligentsia” is available at http://news.tj/tj/node/146951 (posted here on 30 May 2013).

\textsuperscript{22} See http://www.rferl.mobi/a/journalist-tajikistan-sentencing/25151830.html
Freedom of religion and belief

The situation with respect to religious freedoms remains precarious in Tajikistan. In particular, in its efforts to curb the rise of radical Islam in the country, the government often applies disproportionate measures that undermine the rights and freedoms of citizens.

The Law on the Responsibility of Parents for the Upbringing of Children limits religious freedoms of individuals below 18 e.g. with respect to being members of religious organizations, attending religious services and participating in religious education. Minors may only receive religious education from state licensed religious educational institutions, while children below the age of 7 years old are denied this right altogether. In 2013, 5,494 persons were fined a total of 228,000 Somoni (some 35,000 EUR) for various administrative offenses under the Law on Parental Responsibility, such as e.g. allowing their children to participate in religious ceremonies without special permission of the Committee.

Five of a total of six madrasas (religious schools licensed by the authorities) existing in the country were suspended in July 2013 and have not re-opened since. Religious education abroad is subject to state permission.

Following a statement made by the president in 2010, according to which it is impermissible for young Tajiks to receive religious education in other countries, thousands of students have been forced to come back home to avoid prosecution for “illegal” education in Islamic countries of the Middle East. According to Abduraham Khalikov, the Chairman of the Committee on Religious Affairs and Observance of Traditions and Rituals, in 2013 more than 2705 people studying in foreign religious schools returned to Tajikistan.

The Tajik authorities enjoy excessive powers to oversee and control the activities of religious communities and several Christian and Muslim minority groups are banned. Amendments to the Code of Administrative Offenses adopted in 2012 provided for sanctions for conducting religious ceremonies in non-approved places, proselytism in educational institutions and homes, as well as “unauthorized” ties with foreign religious organizations. According to these amendments, Tajik religious organizations are not allowed to establish contact with faith groups abroad unless the Tajik authorities are informed in advance.

No written, audio or video material of religious content may be produced or distributed without permission of the Committee on Religious Affairs and Observance of Rituals and Traditions, which examines the material for consistency with the Hanafi School of Islam. The Committee confiscates materials that have not been cleared as appropriate, together with officials of the Ministry of Internal Affairs and Ministry of Culture.

24 See http://tjk.news.tj/ru/newspaper/article/nevostrebovanny-nelegalnye-taliby-tadzhikistana
25 See joint NGO report on Tajikistan’s implementation of the International Covenant on Civil and Political Rights in Tajikistan (2013), http://www2.ohchr.org/English/bodies/hrc/docs/NGOs/NGOsCoalition_Tajikistan_En.pdf
Serious violations of the rights of individuals accused of religious terrorism as well as membership in banned organizations such as the Islamic Movement of Uzbekistan, Salafiya, Jamaat Ansarullah and Hizb ut-Tahrir continue to be reported. These violations include unlawful detention, lack of access to a lawyer and torture and ill-treatment. Judges typically do not give proper attention to allegations of torture made by defendants in court. Against this background, new Criminal Code provisions adopted by the Tajik parliament in May 2014 give rise to concern that a new pattern of violations may ensue. According to these amendments, Tajik citizens may face criminal charges for taking part in military conflicts abroad, and be sentenced to penalties similar to those in place for similar crimes in the countries where they fought. In December 2013, Tajikistan’s Supreme Court already sentenced five Tajik citizens to two years in prison for fighting on the side of anti-government forces in Syria. In other cases, individuals, in some cases associated with former opposition figures, were detained on charges of recruiting youth to fight in Syria.

**Recommendations**

The authorities of Tajikistan should:

- As called for by the UN Human Rights Committee, repeal or amend all provisions of national legislation that impose disproportionate restrictions on the right to freedom of religion as protected by article 18 of the ICCPR.
- Ensure respect for due process and fair trial rights, including the principle of presumption of innocence, in religious terrorism and extremism cases.

**The rights of refugees**

As of 1 December 2012, Tajikistan had 2,248 refugees and 2,139 asylum-seekers, most of whom are citizens of Afghanistan. Almost 90% of the refugees and asylum-seekers are ethnic Tajiks. Tajikistan recognizes most people seeking asylum and par. 9 of art. 11 of the Law on Refugees provides for refugee status for up to three years, with a requirement that refugee certification be renewed annually. As a rule, citizens of Afghanistan, who comprise most of those seeking asylum in Tajikistan, can obtain tourist visas at the Tajik embassy or consulates in Afghanistan, enter the country legally, and seek refugee status. Tajikistan’s Law on Refugees also allows them to petition for refugee status at Tajikistan’s consular offices within their country of citizenship.

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27 See http://www.rferl.org/content/tajikistan-amends-criminal-code-to-address-nationals-fighting-abroad/25392866.html
28 See http://data.worldbank.org/indicator/SM.POP.REFG
29 Republic of Tajikistan Law on Refugees dated 10 May 2002 as amended by enactment No. 590 (2010), art. 11, para. 9 and art. 12, para. 2.7.
30 Adopted 10 May 2002 with amendments under No. 590 (2010).
Tajikistan has no specially created settlements or camps for refugees; they live among the local population. However, the right of temporary residence is regulated by the government resolution No. 325 (2000), which contains a list of places where asylum-seekers and refugees are not permitted to live, including the capital Dushanbe, the country’s second-largest city Khujand, and most border areas. Foreign citizens who are not refugees are not placed under this restriction.

This resolution also creates problems for refugees married to Tajik citizens as it forces such families to live only where refugees and asylum-seekers are permitted to reside. Citizens of Tajikistan therefore also wind up having their right to choose their place of residence infringed due to marriage to refugees or asylum seekers.

During law enforcement raids to verify legal residence, refugees and asylum-seekers are often detained for several hours. These checks can be used as grounds for stripping someone of refugee status, resulting in deportation. For the first three months of 2013 alone, four cases of a refugee being stripped of this status and four cases where petitions were refused based on such violations were recorded. A failure to comply with the resolution often leads to refusals to register petitions for asylum or renew or issue documents and the deprivation of refugee status.

Furthermore refugees often complain of ill-treatment at the hands of security officials and police, although they prefer not publicize this out of fear of further persecution and deportation.

**Recommendations**

- Revoke government resolutions No. 325 and 328, which contradicts art. 12 of the ICCPR and the 1951 Refugee Convention. If it proves impossible to revoke these resolutions, they should be amended so as to provide for a transparent process for issuing temporary permission for asylum-seekers and refugees to stay in currently prohibited parts of Tajikistan if needed.
- Remove expulsion as a sanction from art. 499 of the Code of Administrative Offences as it is not in compliance with art. 33 of the 1951 Refugee Convention and art. 14 of the Law on Refugees.
- Provide free access to legal counsel for asylum seekers in detention for illegal crossing of the state border.