



SPOTLIGHT: FUNDAMENTAL RIGHTS IN CENTRAL ASIA

Recent developments in Tajikistan

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This document provides an overview of recent developments concerning freedom of expression and the media; freedom of association and assembly; as well as access to justice, non-discrimination and the protection of vulnerable groups in Tajikistan. It is based on the findings of monitoring conducted by Nota Bene in August-November 2015. International Partnership for Human Rights (IPHR, Belgium) has conducted additional research and prepared the document together with Nota Bene. It is an excerpt from a joint report on developments in Kazakhstan, Tajikistan and Turkmenistan issued by Kazakhstan International Bureau for Human Rights and Rule of Law, Nota Bene, Turkmen Initiative for Human Rights and IPHR within the framework of the project “A Transnational Civil Society Coalition in Support of Fundamental Rights in Central Asia”.

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Contents

Summary	2
Developments in Tajikistan.....	3
General situation	3
Freedom of expression and the media.....	3
Freedom of association and assembly	4
Access to justice, non-discrimination and the protection of vulnerable groups	6

Summary

The Tajikistani authorities have linked two armed attacks that took place in the capital Dushanbe and a nearby city in early September 2015 to the opposition Islamic Renaissance Party of Tajikistan (IRPT), although this party has denied having anything to do with these events. In the weeks following the attacks, the self-exiled IRPT chair was accused of masterminding the attacks, over 20 party members were arrested on charges of involvement in the violence, and the IRPT was banned as an “extremist” organization. This decision, in effect, marked an end to the era of political pluralism under the peace agreement that ended the 1997 civil war and set out a power sharing deal between the authorities and the opposition. Tajikistan’s international partners responded with great concern to the measures taken against the IRPT and its representatives and emphasized that the Tajikistani authorities must comply with their international human rights obligations in the pursuit of national security.

In an alarming development, two lawyers defending the rights of arrested IRPT members were themselves arrested on charges of fraud - charges that have also previously been used against lawyers working on sensitive cases in the country. Lawyers Buzurgmehr Yorov and Nuriddin Mahkamov were arrested in September and October 2015, respectively, and currently remain in detention. Yet a third representative of the lawyer’s office where they have worked, Dilbar Dodadzhonova was arrested on fraud charges at the end of October. International NGOs and other representatives of the international community have called for an end to the pattern of arresting lawyers on charges that appear to be motivated by the professional activities of these lawyers.

Amendments to the recent Law on the Bar and the Practice of Law, which were adopted in November 2015, have reinforced concerns that this legislation is threatening the independence of the legal profession in the country. In order to practice law, all lawyers will now be required to pass a qualification exam administered by a non-independent body under the Ministry of Justice, as well as to undergo re-certification with this body every five years. Individuals with a criminal record will not be eligible to work as lawyers. While all lawyers also will be required to join a new nation-wide bar association, this association has yet to be registered by the Ministry of Justice, which has given rise to concerns that already practicing lawyers will not have much time to comply with the requirements of the new law within the deadline that expires in late March 2016.

As part of a trend of arbitrary restrictions of internet and cell phone services, new cases of blocking of news and social media sites, as well as text messaging services have been reported in recent months. As on previous occasions, providers have indicated receiving informal orders from the government’s Communications Service to implement such measures. Amendments to the legislation on counteracting terrorism adopted by the lower house of the parliament in late November 2015 grant security services new broad powers to restrict internet and phone access during anti-terrorism operations, thus creating a legal basis for a problematic practice that has already been repeatedly used.

The criticized amendments to the Law on Public Associations, which require NGOs to report information about foreign and international grants to the government prior to using them, entered into force in August 2015. However, government instructions detailing the notification procedure have yet to be adopted, as a result of which NGOs continue to operate in uncertainty with respect to how the new provisions will be implemented. Intrusive and unregulated inspections of NGOs carried out by tax and other authorities remain a matter of concern. Nota Bene remains at the threat of closure as the lawsuit brought against it by the Tax Committee is still pending in court. The Tax Committee has requested that the organization be closed down because it allegedly used gaps in the legislation when registering as a “public foundation” rather than as a “public association”.

Developments in Tajikistan

General situation

On 4 September 2015, **two armed attacks took place** in Tajikistan: one on a police station in the city of Vakhdat east of the capital and another one on a military depot in Dushanbe. As a result of these attacks, 9 police officers were killed. According to the [Ministry of Internal Affairs](#), the attacks were organized by a "terrorist group" led by General and former Deputy Defense Minister Abduhalim Nazarzoda, who was subsequently killed in the course of a special security operation launched in response to the attacks. The Ministry [claimed](#) that Nazarzoda was a member of the opposition Islamic Renaissance Party of Tajikistan (IRPT) and had received "direct instructions" and acted "under the leadership" of IRPT's Chair Mukhiddin Kabiri, who resides abroad. Kabiri categorically [denied](#) that he or his party had anything to do with the attacks. The IRPT also [refuted](#) the claims that the general was a member of this party, pointing out that national legislation prohibits army officials from belonging to political parties.

However, the Tajikistani authorities continued to assert that the IRPT was linked to the armed attacks and in the following weeks, **over 20 IRPT members were arrested on accusation of involvement in the attacks and the IRPT was banned as a "terrorist" and "extremist" organization**. Two lawyers defending the rights of arrested IRPT members were arrested on fraud charges. The UN, the EU, the United States and other **international actors responded with concern** to the measures taken against the IRPT and its representatives, and called on the Tajikistani authorities to uphold the rule of law and comply with their international human rights obligations. (See more about these developments in the section on "Freedom of association and assembly", as well "Access to justice" below).

A brief presented by the World Bank in mid-November 2015 [highlighted](#) the **current economic slowdown** in Tajikistan, a major reason for which is the **decrease in remittances from labour migrants** in Russia due to weakening of the ruble and the [steady decline](#) of the number of Tajikistani labour migrants working there. According to the World Bank's [country manager](#), "Remittances are the second largest source of household income in Tajikistan, so this sharp decline in remittances is limiting household consumption and is putting the sustainability of recent gains in poverty reduction at risk". At the same time, the weakening of the national currency somoni in relation for foreign currencies has resulted in increasing prices on imported foodstuff and other products.

Freedom of expression and the media

Blocking of websites and SMS services

As previously reported, arbitrary blocking of websites and restrictions on text messaging services are a regular occurrence in Tajikistan. The government's Communications Service has consistently denied responsibility for such incidents, although internet and cell phone providers have reported receiving informal orders from it.

According to media reports, internet providers [received](#) an unofficial order to **block access to Facebook and YouTube** at the end of August 2015 and were only [instructed](#) to restore access to these resources about a month later. In a development that was believed to be related to the launch of the special security operation following the armed attacks in Dushanbe and a nearby city, cell phone providers [disabled](#) **text messaging services** for their clients for several days in early September 2015.

When the Tajik version of the *Ozodagon* news site became [unavailable](#) to users at the beginning of October 2015, the representatives of the site sent a letter to the Communications Service inquiring about the reasons for this. In response, the head of the service, Beg Sabur [stated](#) that online resources may only be officially blocked on the basis of a decision by the Supreme Court. According to him, in other cases, with which his service “has nothing to do” sites are blocked as a result of maintenance work, the replacement of equipment, interruptions in electricity supply and similar reasons. He promised that the Communications Service, within its powers, would help ensure that access to *Ozodagon* is restored. In mid-November, *Ozodagon* [reported](#) that the Russian version of its site had been blocked. In late November, both versions of the site were available again.

The Finnish-Swedish **TeliaSonera telecommunication company**, which holds a controlling stake in the Tcell provider in Tajikistan, **has publicly acknowledged that it has blocked dozens of websites at the request of the authorities of the country**. In accordance with a recent company policy to inform about developments with a potentially serious impact on freedom of expression in countries where it operates, the company has [published](#) updates on its website listing requests received to block websites in Tajikistan since October 2014. In September this year, TeliaSonera announced plans to exit the Central Asian market, including Tajikistan.

According to the head of the Association of Internet Providers in Tajikistan, the repeated occurrence of blocking of websites has resulted in that a **growing number of internet users** in the country are [resorting to proxy servers](#) to access online resources that are otherwise unavailable. He believes that as many as 50% of all internet users may be using such services.

New legislation

Amendments to legislation on counteracting terrorism adopted by the parliament’s lower house on 25 November 2015 [grant](#) the **State Committee for National Security powers to block access to internet and cell phone services** during the period of anti-terrorism operations. The Committee will have powers to initiate such measures not only in the areas where anti-terrorism operations are carried out, but also **on the whole territory of the country** when deemed necessary. These amendments will serve to create a legal basis for a practice that has already been used during anti-terrorism operations on a number of occasions. Amendments to legislation on the state of emergency adopted in 2014 already grant authorities broad powers to restrict internet and cell phone services in emergency situations.

Freedom of association and assembly

The situation of NGOs

As previously [reported](#), amendments to the Law on Public Associations adopted this summer require NGOs to report information about international and foreign grants for inclusion in a special government registry prior to using these funds. While the amendments entered into force in August 2015, **the Ministry of Justice has yet to adopt instructions detailing the procedure for reporting information about grants**, as well as relevant timelines. This has **created uncertainty among NGOs** as to how the new provisions will be implemented and what is expected from them. Some NGOs have submitted freely formulated notices with information about grants received, the amount, and donor, while other NGOs have decided to wait for the government instructions before reporting information about grants. An open question is whether the requirement to report grants also will apply to branches of international NGOs that are operating in Tajikistan and are registered in accordance with the Law on

Public Associations. Some of these NGOs are themselves grant-providing organizations, which complicates the situation.

It remains of concern that existing legislation does not regulate the conduct of inspections of the activities and finances of NGOs in any detail, leaving wide discretion to tax, law enforcement and other authorities conducting such checks. While the amendments to the Law on Public Associations that entered into force in August 2015 state that a procedure for inspections “is approved” by the Ministry of Justice, the Ministry is not known to have elaborated any regulations to this end so far.

Currently **Nota Bene remains at the threat of closure**. As previously [reported](#), this summer the Tax Committee brought a lawsuit against Nota Bene, requesting that it be closed down because it allegedly took advantage of gaps in the legislation when registering as a “public foundation” rather than as a “public association” in 2009. Both of these types of NGOs are foreseen by national law, although they are regulated by different laws. While public associations are registered with the Ministry of Justice, the Tax Committee deals with the registration of public foundations. Up to now two court hearings in the case of Nota Bene have taken place at the Ismoili Somoni District Court in Dushanbe, where the Tax Committee turned after its lawsuit first was rejected by the Dushanbe Economic Court. **The Tax Committee has declined an offer by the judge in the case to settle with Nota Bene** and has continued to insist that the organization be closed down. During the first hearing, Nota Bene’s representatives requested that the Ministry of Justice be asked to provide an expert assessment with respect to the process of registering public foundations in the country. However, as representatives of the Ministry of Justice were not able to attend the scheduled hearings, the trial was postponed. Currently it is not known when the next hearing in this case will take place.

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The Islamic Renaissance Party

On 29 September 2015, the Supreme Court [ruled](#) in favour of a suit filed by the General Prosecutor’s office **to declare the Islamic Renaissance Party of Tajikistan (IRPT)**, the country’s largest opposition party, a “terrorist” and “extremist” organization and to prohibit its activities in the country. The court also banned the party’s newspaper, its website, as well as the distribution of party literature and other material.

The Supreme Court’s decision meant that Tajikistan’s largest opposition party and the only registered Islamic party in Central Asia was closed down. IRPT was a member of the United Tajik Opposition that signed the 1997 General Agreement on the Establishment of Peace and National Accord, which ended the civil war and provided for a power-sharing deal by establishing a 30% quota for the representation of opposition representatives on executive positions. IRPT was represented in the parliament until the

March 2015 parliamentary elections, where it failed to gain any seats according to the official results. During the election campaign, as well as after the elections, IRPT and its members reported being subjected to growing pressure. In August 2015, the Ministry of Justice [warned](#) the IRPT that its activities were “illegal”.

In a [press release](#) issued on 17 September 2015, the General Prosecutor’s Office **accused IRPT Chair Mukhiddin Kabiri, who resides abroad, of organizing the armed attacks** that took place at the beginning of September. It also announced that 13 IRPT members had been arrested on suspicion of involvement in the attacks. Two party deputy chairs were [arrested](#) the previous day in connection with a special law enforcement operation carried out in response to the attacks. Other IRPT members reportedly had their passports confiscated to prevent them from travelling abroad. According to a [statement](#) issued by the General Prosecutor’s Office on 6 October 2015, **a total of 23 representatives of the IRPT’s leadership had been arrested and charged with “terrorism”, “inciting racial, ethnic, regional or religious enmity” and other crimes.**

IRPT chair Kabiri has [insisted](#) that he and his party does not have anything to do with the September attacks.

The banning of the IRPT and the arrests of party members were met with concern by the international community. The Office of the UN High Commissioner for Human Rights [voiced](#) concern about “an increasing risk of human rights violations” in this context, noting that the recent measures “followed a long-running campaign of pressure, intimidation and a subsequent crackdown by the Government on the IRPT”. It called on the Tajikistani authorities to “ensure that any measures taken in the fight against ‘terrorism’ or ‘extremism’ are fully in line with international human rights law”. The EU’s European External Action Service [said](#) that the decision to ban IRPT “adds a further restriction on the freedom of political expression and on pluralism” in Tajikistan and emphasized that the government “must guarantee the fundamental freedoms of all Tajik citizens and uphold the rule of law” in the pursuit of security operations. The United States likewise [expressed](#) concern about the measures taken against the IRPT and its members after the armed attacks, emphasizing that “it is vitally important to distinguish between peaceful political opposition voices and violent extremist acts”. It urged Tajikistan’s government to “fully implement” its international commitments and obligations on freedom of expression, association and assembly and to “resolve” the cases of the arrested IRPT members “in a prompt, fair, and transparent manner”.

International human rights NGOs also criticized the measures targeting the IRPT and its members. Among others, Amnesty International [warned](#) that the **arrested IRPT members were at risk of torture and unfair trial.**

At the end of November 2015, it was reported that the Supreme Court had [handed down](#) a **first sentence in the cases of the arrested IRPT members:** Hasan Rahimov was sentenced to nine years in prison on charges of involvement in terrorist and extremist activities in a trial held behind closed doors.

In another alarming development, two lawyers defending arrested IRPT members have themselves been arrested (see more in the section on “Access to justice” below).

[Access to justice, non-discrimination and the protection of vulnerable groups](#)

Law on the Bar and the Practice of Law

As previously [reported](#), the new Law on the Bar and the Practice of Law that entered into force in March this year has been criticized for threatening the independence of the legal profession by

introducing a new qualification procedure for lawyers. In accordance with the law, those wishing to obtain the status of lawyers must pass an exam held by a qualification commission established under the Ministry of the Justice, which is headed by a representative of this Ministry and include members from it. Lawyers already working in the country when the law entered into force were given one year to pass the new qualification exam, while lawyers with more than 10 years of experience were exempt from this requirement. However, **amendments to the law** adopted by the parliament and signed into force by the president in November 2015 **abolished this exemption and require practicing lawyers to undergo re-certification with the qualification commission every five years** to show that they have improved their qualifications. Lawyers who fail to do so may be deprived of their status as lawyers.

The new amendments further introduced **additional restrictions on access to the legal profession** by broadening the grounds on which legally trained individuals are not eligible to obtain a lawyer's license. Among others, individuals who have a criminal record or who have been dismissed from judicial, law enforcement or other public authorities for "breaches of the professional oath" are not eligible. The amendments have reinforced concerns that the independence of the legal profession is being undermined in the country.

Another requirement set out by the new Law on the Bar and the Practice of Law was for a national Union of Lawyers to be established. All who have been certified as lawyers will hereafter be required to be members of this union in order to be able to carry out their work. Previously there has not been any nation-wide structure bringing together lawyers, but lawyers have worked in the framework of a number of different bar associations. Within the six-month time limit provided for by the new law, a **lawyer's congress was held in Dushanbe on 17 September 2015 to establish a national Union of Lawyers**. Members of governing bodies of this new organization were elected and an application for registration as a legal entity was submitted to the Ministry of Justice. At the beginning of December, the **application for registration was still pending** with the Ministry. In order to continue their work without interruption, already practicing lawyers need to join the new Union of Lawyers and pass the new qualification exam within one year as of the entry into force of the new Law on the Bar and the Practice of Law. As the law entered into force in March 2015, not much time is left.

Arrests of lawyers

In the recent period, lawyers working on politically sensitive cases have been subjected to growing pressure. **The arrests of several lawyers since September this year are of serious concern.**

Lawyer **Buzurgmehr Yorov** was arrested by police in Dushanbe on 28 September 2015. At that time, he was providing legal assistance to leading IRPT members and headed a public committee set up to defend the rights of IRPT members. Shortly before his arrest, he publicly stated that one of the IRPT members he was defending allegedly had been subjected to ill-treatment in detention. In connection with Yorov's arrest, police reportedly confiscated all documents concerning the cases of arrested IRPT members in the Sipar lawyer's office where he was working, in violation of the confidentiality of communications between lawyers and their clients. The day after Yorov's arrest, the Ministry of Interior issued a [press release](#), saying that a criminal case on fraud and forgery had been opened against him. He was accused of "fraudulently appropriating a large amount of money from citizens", in particular by requesting a sum of 4000 USD from a local resident to help ensure the release of an individual charged with murder. He was also accused of using a fake certificate concerning the technical inspection of a motor vehicle. Later the Ministry of Interior [claimed](#) to have obtained information about additional cases where Yorov had promised clients to help ensure a favourable outcome in legal cases in exchange for money, without proving any assistance.

The case against Buzurgmehr Yorov **attracted considerable international attention**. The [UN Office of the High Commissioner for Human Rights](#), the [EU](#) and the [United States](#) expressed concern about his

arrest, and a number of international human rights organizations [called](#) for his release. In mid-October, the case against Yorov was [“classified”](#), meaning that no details about it may be publicly disclosed by any party with insights into it, including by his lawyer.

Shortly after this, on 22 October 2015, Yorov’s lawyer and colleague **Nuriddin Mahkamov** [was arrested](#) by police. Mahkamov, who also has been working at the Sipar lawyer’s office and provided legal assistance to one of the arrested deputy heads of the IRPT, was accused of “fraudulent activities” involving the use of a motor vehicle. In late November, Mahkamov, was [reported](#) to have launched a hunger strike to protest the lack of impartiality of the investigation against him and what he say as the obstruction by authorities of his defence.

Yet another lawyer from the Sipar lawyer’s office, **Dilbar Dodadzhonova** was arrested by officers from the government’s Anti-corruption Agency on 26 October 2015. According to a [statement](#) issued by this agency on 2 November, a criminal case on large-scale fraud has been opened against Dodadzhonova, who is accused of requesting 10 000 USD from a citizen to help ensure that a dispute concerning a plot of land was solved in his favour. This accusation is similar to that levelled against Yorov. Dodadzhonova is not known to have been involved in defending IRPT members.

Fraud charges have also previously been used against lawyers in Tajikistan. In particular, lawyer **Shukhrat Kudratov** is currently serving a five-year prison sentence on charges bribery and fraud after being convicted earlier this year. The charges against him are believed to have been motivated by his work on high-profile cases and have been widely criticized.

Issues concerning religious freedom and tolerance

As previously reported in its [2015 annual report](#), the US Commission on International Religious Freedom (USCIRF) denoted Tajikistan as a country of particular concern considered to engage in or tolerate “particularly severe violations of religious freedom”. At the beginning of November, this Commission **issued a press release [criticizing the Tajikistani government’s ongoing efforts to control religious activities](#)**, including the ban of the IRPT and the arrest of IRPT activists. It stated: “The government’s suppression of independent religious activities provides yet another example of the Tajik government using its overly broad extremism law against peaceful and independent Islamic religious activity or affiliation, a counterproductive approach that risks increasing radicalization rather than reducing it.” The USCIRF also **urged US Secretary of State John Kerry to raise religious freedom concerns when visiting Tajikistan** as part of a tour to all Central Asia countries. In remarks made after meeting with President Rakhmon in Dushanbe on 3 November, Kerry [said](#) the two had, among others, discussed how to fight against violent extremism “in a way that balances human rights, religious freedom [and] the ability of people to be able to participate politically”.

The following case **sparked a public outcry** in September 2015:

- **Umar Bobojonov**, a Tajikistani student at a university in St. Petersburg who was visiting his home city Vakhdat during the summer holidays, [died](#) in hospital on 4 September 2015 after lying in coma for a week. When walking in a local park on 28 August, Bobojonov was allegedly detained and thereafter severely beaten by police. In the morning of 29 August, he was hospitalized in a serious condition. His family insisted that he was targeted because he was wearing a beard. In response to the attention to the case, Minister of Interior Ramazon Rahimzod [ordered](#) a special investigation to be opened into it. Currently the investigation continues.

Earlier this year cases of detentions and forced shaving of bearded Muslim men by law enforcement officials were reported and appeared to form part of efforts targeted at expressions of so-called non-

traditional Islam in Tajikistan. The Ministry of Interior has denied that any official orders have been given for such measures and have stated that all complaints about unlawful actions will be investigated.