

Persecution of independent lawyers in Tajikistan

This briefing was prepared by International Partnership for Human Rights for the OSCE Human Dimension Implementation Meeting in Warsaw, Poland in September 2019 and covers concerns regarding the deteriorating situation for independent lawyers in Tajikistan, and includes case examples and recommendations to the Tajikistani authorities.

The situation for independent lawyers in Tajikistan has deteriorated significantly in recent years, as the authorities employ tactics of intimidation, harassment, arbitrary arrest, threats and criminal prosecution to pressure lawyers to drop or refrain from taking up cases and issues considered to be politically sensitive. These often include cases related to allegations of torture and ill-treatment as well as those involving individuals associated with the banned Islamic Renaissance Party of Tajikistan (IRPT) or to those charged with of “terrorism” and “religious extremism”. Lawyers working on cases related to individuals associated with the political opposition, including cases involving torture allegations have in some cases been charged with national security related offences and in others with fraud. In August 2019, the United Nations (UN) Human Rights Committee raised concern about intimidation, harassment and criminal prosecutions of lawyers working on politically sensitive cases in Tajikistan and harassment of their families.¹

Since 2014, several human rights lawyers have been detained on politically motivated charges after unfair trials including **Buzurgmehr Yorov and Nuriddin Mahkamov, Dilbar Dodojonova and as well as Shukhrat Kudratov (released), Fakhriddin Zokirov (released) and Jamshed Yorov** who fled the country after release, fearing further persecution. Lawyer **Muazzamakhon Kadirova** who was acting for Yorov and Mahkamov also fled the country in 2017 after she learned that corruption charges were being prepared against her.

The late human rights lawyer Fayzinisso Vohidova was prevented from leaving Tajikistan in May 2017 after posting a public appeal to President Rahmon to cease persecution of Buzurgmehr Yorov. She died in January 2019 of pneumonia.

Legal amendments introduced to the Law on Lawyers (Advokatura) from 2015 further increased the control of the executive over the judiciary. They required both new lawyers and those already practicing law to pass new qualification exams and re-new their licenses to practice law with a Qualifying Commission, operating under the Ministry of Justice. The number of licensed lawyers dropped dramatically after the law was introduced, from 1200 in 2015 to 600 in 2017.² In August 2019 the UN Human Rights Committee stated its concern ‘about the insufficient number of lawyers currently practicing in the country (a ratio of 1:13,000) [...] attributed to the dramatic drop in their numbers following the implementation of the amendments of November 2015 to the Advokatura and Advocates’ Activities Act that introduced additional qualification criteria for entry to the legal profession and the requirement that all lawyers pass the new qualification examinations’. This reform has had a negative impact on the legal profession as those lawyers who were working on cases perceived as sensitive by the government often did not receive new practice licenses.

1 UN Human Rights Committee, Concluding Observations on the third periodic review of Tajikistan, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTJK%2fCO%2f3&Lang=en

2 Amnesty International In The Line Of Duty: Harassment, Prosecution And Imprisonment of Lawyers In Tajikistan, 2017 <https://www.amnesty.org/download/Documents/EUR6062662017ENGLISH.PDF>



Case examples:

On 28 September 2015, lawyer **Buzurgmehr Yorov** was arrested in connection with his legal representation of members of the banned opposition party IRPT. Prior to his arrest, Yorov had spoken out about the allegations of torture of one of his clients in pre-trial detention and had refused government requests to drop the case. In October 2016, after a year spent in pre-trial detention, Yorov and lawyer **Nuriddin Mahkamov** were convicted after a seriously flawed criminal investigation in a closed trial which did not meet international standards of fairness. They were convicted on charges of forgery, fraud, inciting national, racial, local or religious hostility and extremism. Yorov was sentenced to 23 years in prison, although his sentence was subsequently increased to 28 years in two further closed trials during which additional politically-motivated charges were brought against him (including for contempt of court and insult of the President after he read a poem aloud at his trial). Mahkamov was sentenced to 21 years' imprisonment. Both remain behind bars today.

In May 2019, the UN Working Group on Arbitrary Detention issued its opinion, concluding that Buzurgmehr Yorov's detention is arbitrary and violates international human rights law. The Working Group called on the Tajikistani authorities to release Yorov immediately and grant him compensation, and ensure a full and independent investigation into the circumstances of his detention and take appropriate measures against those responsible for the violation of his rights.¹

His family reports that two months ago Yorov told them that additional criminal charges were being prepared against him under Article 247 of the Criminal Code (fraud), but the family has so far been unable to obtain any further information about this.

Yorov has reportedly been repeatedly subjected to torture and ill-treatment including severe beatings and periods in solitary confinement while in detention and we continue to be concerned for his health and safety.

He is currently being held in the Strict Regime Prison Colony No.1 in Dushanbe. As a former police investigator (he worked for the Oktyabrsky District police office of Dushanbe until 1997) the law stipulates (Code for Implementation of Criminal Punishment, Article 78 point 3) that he should be held in a separate detention facility for former officials and judges in order to protect him from reprisals from other prisoners. However, this is not the case and this further exposes Yorov to threats against his safety.

Before his arrest, **Shukhrat Kudratov** worked on a number of politically sensitive cases – acting as defence lawyer for opposition activist and former Minister of Energy and Industry, Zayd Saidov (who was sentenced to 26 years' imprisonment in 2013 on charges of fraud and corruption). In July 2014 Kudratov was arrested after writing a public appeal to the international community highlighting procedural violations in the prosecution of Zayd Saidov who he believed was being prosecuted in retaliation for his attempt to set up an opposition party and run in the November 2013 presidential election.³ He also gave details of ongoing harassment and threats against himself and his family as well as other lawyers defending Zayd Saidov.⁴ In January 2015 Shukhrat Kudratov was sentenced to nine years' imprisonment by Dushanbe City Court after he was found guilty of fraud and bribery (Articles 247 and 320 of the Criminal Code). He was prohibited from working as a lawyer upon completion of his prison term. The sentence was reduced on appeal by the Supreme Court. **Kudratov** was released from detention on 24 August 2018 after serving four years and one month in prison. Since his release from detention he has been forbidden from practicing law, has received regular visits from police officers and in September 2018 his passport was confiscated by the authorities after he began looking for work in Dushanbe.

3 Saidov was sentenced in 2013 to 26 years' imprisonment after he announced the creation of a new opposition party before the 2013 Presidential Elections in Tajikistan.

4 Fakhriddin Zokirov was arrested in 2014 and after being released in 2015 withdrew as defence counsel for Zaid Saidov. Lawyers Iskhok Tabarov was repeatedly threatened by the authorities to stop working on Zaid Saidov's defence team. He died of a heart attack in June 2016, after two of his sons were convicted on extremism-related charges which he believed to be politically motivated.

A recent case concerns the alleged torture and ill-treatment of lawyer **Abdulaziz Abdurahmonzoda**, and threats and harassment of his defence lawyer, the chair of the Union of Lawyers, **Saidbek Nuritdinov**.ⁱⁱ

According to Abdurahmonzoda, on 17 April 2019, officials of the Dushanbe Department of the Financial Control and Anti-Corruption Agency subjected him to torture and ill-treatment to force him to confess to attempting to bribe staff of the Varzob District Court. Abdurahmonzoda was later charged with “fraud” under Article 247 part 2.d of the Criminal Code of Tajikistan and is currently awaiting trial. Abdurahmonzoda told the Coalition against Torture and Impunity that on 9 April 2019, a resident of Varzob district, Dushanbe - Saimurod Saidov, approached him and asked him to provide legal assistance in a civil damages’ case. Abdurahmonzoda discussed fees of 5000 Tajik Somoni (approximately EUR 500) to cover his participation in all legal proceedings. On 17 April 2019, Saidov came to Abdurahmonzoda’s office with the fees. Abdurahmonzoda drew up a contract for the provision of legal assistance, and signed one of the two copies. Saidov then put a cash sum of USD 500 on Abdurahmonzoda’s desk, which Abdurahmonzoda told him to change into somoni. But Saidov left the money on the table instead and quickly left the office with the signed contract, just as some 20 to 25 people entered. They were later identified as officials of the Dushanbe Department of the Financial Control and Anti-Corruption Agency.

Abdurahmonzoda reports that at least two officials then beat him severely in his office, breaking one of his teeth in the process. His injuries were recorded in a medical examination. Abdulaziz Abdurahmonzoda told the Coalition against Torture *“After they beat me, the officials forced me to write a statement, that I took the amount of USD 500 to hand over to [...] an employee of Varzob court. I was forced to do as they said under physical pressure. They dictated a statement to me and I wrote it out, signed it, and together we headed to the Varzob District Court.”*

According to Abdurahmonzoda, the officials subsequently instructed him to throw down the dollars on the table in front of a court employee so that they could obtain proof of his attempted bribery in order to incriminate court officials. The officials threatened to withdraw his licence to practice law if he refused to do as they said. Officials of the Anti-Corruption Agency initially told Abdurahmonzoda that he was a key active witness in the case against court employees - but at the end of May 2019 they brought charges against him for fraud.

Abdurahmonzoda’s defence team is comprised of 15 lawyers, including Saidbek Nuritdinov (the Chairperson of the Union of Lawyers) and the Chairperson of the Committee for the Protection of Lawyers’ Professional Rights.

Sino District Court ruled on 22 July to suspend the proceedings in Abdurahmonzoda’s case while case materials were sent to the Dushanbe Prosecutor’s office for investigation into the allegations of torture against him. However, on 5 August, Dushanbe Prosecutor’s office refused to initiate a criminal case for “torture” (Article 143.1 of the Criminal Code), on the grounds that investigators did not find concrete evidence of a crime. On 9 August 2019, Abdurahmonzoda’s legal team lodged a request with Sino District Court asking for the investigation into allegations of torture and ill-treatment to be transferred to the Prosecutor General’s Office. On 27 August, Saidbek Nuritdinov, lawyer for Abdurahmonzoda and Chairperson of the Union of Lawyers, learned that the Director of the Dushanbe Department of the Financial Control and Anti-Corruption Agency had sent letters to courts across the country asking them to provide information pertaining to any criminal and civil cases in which Nuritdinov or Abdurahmonzoda had taken part as lawyers in 2018 and 2019. We are concerned that such information could be used to fabricate charges against Nuritdinov and additional charges against Abdurahmonzoda.

On 30 August 2019, Saidbek Nuritdinov wrote to the Prosecutor General, the head of the State Security Services, the Director of the Financial Control and Anti-Corruption Agency, as well as the Ministry of Internal Affairs, asking for security measures to be put in place to protect him and his client Abdurahmonzoda after they have experienced threats and intimidation.

WE ASK THE INTERNATIONAL COMMUNITY TO URGE THE TAJIKISTANI AUTHORITIES TO:

- Comply with the recommendation of the UN Working Group on Arbitrary Detention and release Buzurgmehr Yorov immediately and unconditionally as well as all other lawyers targeted and imprisoned for carrying out their professional duties in cases the authorities consider politically sensitive.
- Undertake a full investigation into the circumstances of Yorov's and Mahkamov's detentions and the allegations of torture and ill-treatment and bring those responsible for violations of their human rights to justice.
- Promptly, thoroughly and impartially investigate all allegations of intimidation, harassment and other violations of the rights of lawyers and hold those responsible accountable.
- Ensure that lawyers are not subjected to pressure by state bodies or officials because of their work and that they can carry out their work without fear of reprisals.
- Ensure respect of the UN basic principles on the Role of Lawyers that stipulate: *"governments shall ensure that lawyers ... are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference"* (principle 16), and *"lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions"* (principle 18).

Endnotes

- i Working Group on Arbitrary Detention, Opinion No. 17/2019 concerning Buzurgmehr Yorov (Tajikistan).
- ii See the Coalition against Torture and Impunity in Tajikistan, "Саидбек Нуритдинов: «Антикоррупция оказывает давление на адвокатов», 4 September 2019, <http://notorturetj.org/news/saidbek-nuritdinov-antikorrupciya-okazyvaet-davlenie-na-advokatov>; and forthcoming statement by members of the Civic Solidarity Platform (CSP), "Lawyers under pressure in Tajikistan: Civil society concerned about recent cases of harassment and intimidation of lawyers in Dushanbe".