

Tajikistan: well-known human rights NGO liquidated by court order

In another blow to civil society in Tajikistan, the Independent Center for Human Rights Protection (ICHRP) has been liquidated by court order on spurious and unsubstantiated grounds. International Partnership for Human Rights (IPHR) and the World Organisation against Torture (OMCT) consider the accusations levelled against ICHRP this harsh to justify measure to be contrived and far-fetched and to have been clearly aimed at silencing the NGO because of its human rights work. The forced closure of ICHRP is contrary to Tajikistan's international human rights obligations and at odds with its bid to join the EU's Generalised Scheme of Preferences (GSP+) trade regime, which requires compliance with core international human rights treaty obligations, including those protecting the right to freedom of association.¹ We call on the Tajikistani authorities to immediately reverse the decision to liquidate ICHRP and to allow the organisation to carry out its important human rights work unhindered.

According to Asadullo Hakimzoda, Deputy Minister of Justice, the Somoni District Court in Dushanbe ruled to liquidate ICHRP on 26 January 2023, in response to a claim from the Ministry of Justice.² On 14 December 2022, after conducting an inspection of the organisation, the Ministry of Justice accused ICHRP of several alleged violations of its statutes and national law. Hakimzoda explained that during the inspection a number of deficiencies had been identified in the Centre's activities, in particular, the organisation was accused of late submission of financial reporting notices. *According to media reports*, the absence of branches and representative offices of the Centre in the regions of Tajikistan was considered one of the violations.

According to Tajikistan's Ministry of Justice, some 500 NGOs were liquidated in the country in 2022. This is 3,5 times more than the year before, when 138 NGOs were closed down.

IPHR and OMCT believe that that none of the allegations presented so far provided sufficient grounds to justify the closure of the NGO, and that the decision to liquidate the organisation was a retaliatory measure as ICHRP has been a thorn in the side of the authorities because of its independent, critical and efficient human rights work. In recent years, ICHRP has mainly worked on issues which the authorities perceive as sensitive, such as housing rights, and the provision of legal assistance to victims of forced evictions and other vulnerable groups such as journalists and victims of torture.

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- 1 More specifically, GSP+ status requires the implementation of 27 international covenants concerning human rights, good governance, and sustainable development, including the International Covenant on Civil and Political Rights, article 22 of which protects the right to freedom of association. respect for and protection of human rights defenders that promote and directly participate in the implementation of human rights in the country.
 - 2 Asadullo Hakimzoda, Deputy Minister of Justice, announced this at a press conference on 16 February 2023, <https://fergana.media/news/129243/>.

The court decision to close ICHRP comes against the background of a seriously deteriorating environment for civil society organisations and activists in Tajikistan. In particular NGOs, activists and lawyers working on human rights have been subjected to threats and intimidation by the authorities aimed at making them drop or refrain from taking up politically sensitive issues or cases. New reporting obligations have been introduced for NGOs, in particular with respect to their funding and many groups have been subjected to intrusive inspections of their activities by the Tax Committee, national security services, the Ministry of Justice and various other state bodies. In addition to being time-consuming and stressful for the targeted organisations, such inspections have often resulted in warnings and sanctions because of alleged violations of the law, and some other NGOs have also been liquidated, similar to ICHRP. (See below for more information on the civic space situation).

Background

ICHRP'S WORK AND ACHIEVEMENTS

The Public Organisation ICHRP was established and registered at the Ministry of Justice in 2010 and re-registered in 2015. It was one of the few NGOs where citizens could apply for free legal aid. The organisation primarily worked on issues related to combating torture and impunity; legal protection of media representatives; and the right to adequate housing by providing individual victims of forced eviction with legal aid.

ICHRP's achievements include:

- Contributions to the process of drafting the revised Housing Code of Tajikistan, adopted in 2022, and the preparation of eight normative legal acts to it;
- Establishment of the Central Asian Network on the Right to Adequate Housing;
- Provision of legal advice and assistance to over 3000 persons (including media representatives, activists, victims of torture and their relatives, homeless people, victims of forced evictions, young people etc.)
- Preparation of two individual complaints to the UN Human Rights Committee which were accepted and supported (in the cases of Boboev Ismonboy and Bobokalonov Khurshed);
- Helping over 1,000 victims of forced evictions to access shelter (houses/villages);
- Co-authoring shadow reports to the UN Committee against Torture, the UN Human Rights Committee, the UN Committee on the Rights of the Child, as well as communications to the UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment and the UN Special Rapporteur on the Right to Adequate Housing.

ICHRP's staff consisted mainly of lawyers and legal and human rights experts. The organisation was a member of Tajikistan's NGO Coalition against Torture and Impunity, and also coordinated the activities of the Coalition's Media group. In 2017 the organisation received an award for "Special contribution to the promotion of human rights" from the Bureau of Human Rights and Rule of Law with support from the U.S. Embassy in Dushanbe.

SHRINKING SPACE FOR CIVIL SOCIETY

Amendments to Tajikistan's Law on Public Associations from 2015, 2019 and 2021 established new burdensome requirements for civil society organisations (CSOs), requiring public associations to notify the Ministry of Justice about grants received from foreign donors; requiring them to publish their financial information on websites; and requiring the staff members of foreign CSOs be registered with the Ministry of Foreign Affairs.

Across Tajikistan the situation of civil society organisations and activists, in particular those working on human rights issues, has seriously deteriorated in recent years. NGOs, activists and lawyers have been subjected to threats and intimidation by the authorities in order to get them to drop or refrain from taking up politically sensitive issues or cases.

Many groups have been subjected to intrusive inspections of their activities by the Tax Committee, national security services, Ministry of Justice and other state bodies. Such inspections are time-consuming and stressful for the NGOs targeted and create uncertainty for them since they do not know what the outcome will be. In some cases, the inspections have also resulted in warnings and sanctions because of alleged violations of the law, and some NGOs have been forced to close.

Besides the authorities mentioned above, public associations are inspected by several other state regulators to control their compliance with existing norms, e.g., by the labour inspection, the fire-fighting department, the environmental protection authority, the hygiene and sanitation inspection, etc. Furthermore, in the case of alleged non-compliance with any norm or standard by a public association the law permits a prosecutor's office to initiate a compliance inspection.

UN HUMAN RIGHTS BODIES ON THE FREEDOM OF ASSOCIATION

In 2018, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Voule, sharply criticised attempts by states to silence critical NGOs through restrictive legislation and confusing and burdensome bureaucratic measures³: "The other major legislative trend affecting the rights to freedom of peaceful assembly and of association is the narrowing of an enabling environment for civil society through the adoption of restrictive laws regulating civic space. Repressive legislation is used to crack down on dissent, by creating a complex legal environment with burdensome requirements relating to the functioning of civil society organizations and groups. In the name of transparency, associations are required to comply with complicated, restrictive and invasive regulations in order to operate. Such laws often contain clauses that threaten associations with deregistration, loss of legal existence or even criminal prosecution for non-compliance. This has the effect of destabilising and intimidating associations by generating confusion and increasing the administrative burden of continuing their activities, while instilling fear of action among their members."

In a 2013 report to the Human Rights Council the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, stated that "the obligation for associations to route funding through state channels; to report on all funds received from foreign sources and how these are allocated or used (...); to obtain authorization from the authorities to receive or use funds (...) all constitute human rights violations."⁴

3 A/HRC/38/34: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, published on 26 July 2018

4 A/HRC/23/39: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, published on 24 April 2013, p12.

Furthermore, the Special Rapporteur⁵ emphasized that “limitations must be proportionate to the interest to be protected and must be the least intrusive means to achieve the desired objective. In this respect, several legislations or practices unduly restrict the ability of associations to access funding since other less intrusive measures exist to mitigate the risk” and advised that “associations should be accountable to their donors, and at most, subject by the authorities to a mere notification procedure of the reception of funds and the submission of reports on their accounts and activities. The transparency and accountability argument has, in some other cases, been used to exert extensive scrutiny over the internal affairs of associations, as a way of intimidation and harassment. The Special Rapporteur warns against frequent, onerous and bureaucratic reporting requirements, which can eventually unduly obstruct the legitimate work carried out by associations. Controls need therefore to be fair, objective and non-discriminatory, and not be used as a pretext to silence critics. Composition of the supervisory body also needs to be independent from the executive power to ensure its decisions are not arbitrary. The Special Rapporteur is of the view that if an association fails to comply with its reporting obligations, such minor violation of the law should not lead to the closure of the association (...) or criminal prosecution of its representative (...); rather, the association should be requested to promptly rectify its situation. Only this approach corresponds to the spirit and the letter of freedom of association”.

We call on the Tajikistani authorities to

- Immediately reverse the dissolution of ICHRP and allow the organisation to carry out its important human rights work unhindered.
- Bring national law and law enforcement practice concerning the oversight of public associations and NGOs in line with international standards - in accordance with the guidance provided by the UN Special Rapporteur - and ensure that NGOs are not subjected to undue interference and harassment because of their work to defend human rights, support vulnerable groups of the population and promote social cohesion.
- Ensure that NGOs do not face unfounded or disproportionate penalties for alleged violations of a technical nature, and that they are not closed down on arbitrary grounds.

The international community should raise these issues with their counterparts in Tajikistan on every occasion, take concrete action to support civil society freedom there and should specifically speak out against the closure of ICHRP.

5 A/HRC/23/39: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, published on 24 April 2013, pp11.