

The price of silence VS. the cost of speaking out

Media freedom in Tajikistan

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ARTICLE¹⁹

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Introduction

“Journalists and media workers are crucial to helping us make informed decisions. As the world fights the COVID-19 pandemic, those decisions can make the difference between life and death [...] And we call on governments to protect media workers, and to strengthen and maintain press freedom, which is essential for a future of peace, justice and human rights for all.”

United Nations (UN) Secretary General António Guterres, 3 May 2020 (World Press Freedom Day)

“State censorship and prosecution for criticism are prohibited.”

Article 30 of the Constitution of Tajikistan

“Some issues we only dare discuss in whispers.”

Tajikistani journalist, name withheld for security reasons, IPHR interview on 14 May 2019

“Regardless of government pressure, the blocking of websites, the lack of access to information about the [COVID-19] pandemic and accusations of ‘insufficient patriotism’, many [journalists] carried out their duties honestly and did all they could to provide the society with information. Some of them, alas, were infected by the virus while carrying out their work,” *said* Umed Babakhanov, Director of the independent ASIA-Plus media holding on the eve of World Press Freedom Day this year.

The situation regarding restrictions on press freedom which was seen in the context of the COVID-19 pandemic in Tajikistan, follows a long-term trend of muzzling media freedom in the country. Media outlets have limited possibilities to provide information to the public on issues deemed “sensitive” by the authorities without risking reprisals; to contribute to an informed public debate through news reporting and analysis; and to influence political decision-making.

The stifling of media freedom in Tajikistan has been felt particularly keenly during the current COVID-19 pandemic. Throughout March and April 2020 the Tajikistani authorities repeatedly *denied* that the virus had spread to Tajikistan despite media reports and social media accounts indicating that the pandemic was already progressing rapidly across the country. The authorities refused to adopt a transparent approach and rebutted journalists’ questions - instead of welcoming media reports about the first suspected COVID-19 cases and using the media as a tool to raise awareness and slow the spread of the virus, the authorities warned the bearers of bad news that they would be “held to account”.

In its annual World Press Freedom Index, the international NGO Reporters without Borders records that Tajikistan’s position has fallen sharply since 2015 when it ranked *116th* of 180 countries: in 2019 and in 2020 it ranked *161st*. This marked deterioration is part of a broader pattern of increased authoritarianism in Tajikistan. The authorities have curtailed fundamental rights including the right to freedom of expression. Journalism, civil society and political activism have been severely affected. The authorities frequently cite concerns about national security and invoke memories of violence and turmoil during the 1992-1997 civil war to justify the increasing restrictions of fundamental freedoms.

The last few years have seen an exodus from Tajikistan of dozens of the country's most experienced journalists and editors due to government pressure in connection with their coverage of the banning of and the ensuing clampdown on the Islamic Renaissance Party of Tajikistan (IRPT), of the Presidential family's business interests and other politically sensitive subjects. Several other prominent journalists who remain in the country have been forced to give up their journalistic careers as their employers are often afraid to be associated with them. Many now have to make ends meet with odd jobs. The State Committee for National Security (SCNS) and other government agencies have employed increasingly sophisticated measures to put pressure on the remaining independent-minded journalists and media representatives who continue to work under increasingly difficult circumstances.

The authorities in Tajikistan perceive independent journalism that promotes transparency and creates space for debate as threatening their hold on power. It is believed that the colour revolutions in the former Soviet space and the Arab spring have heightened the authorities' fears that media exposure of government wrongdoings, human rights violations, crimes and corruption could fuel deep societal grievances in the country.

Journalists face severe difficulties in accessing information of public interest as public authorities frequently refuse to make it available. Journalists and media outlets, which the authorities perceive as being critical of the government are closely monitored by the SCNS and risk reprisals. These can include the withdrawal of the media outlet's licence; refusal to issue or renew accreditation to journalists working with foreign media outlets; excessive tax checks; fabricated criminal charges against journalists; and harassment and intimidation of their family members.

The distribution of journalistic materials and citizens' access to such materials are additionally restricted in many ways. Several local and foreign media websites are temporarily or permanently blocked or completely disabled. In addition, internet access in Tajikistan is costly and the majority of the population cannot afford it. Internet users have been frightened by cases of prosecutions and imprisonment of persons for "liking" and "sharing" posts that the authorities deem to be of "extremist" or "terrorist" content and by the increased ability of the authorities to monitor citizens' access to online information and communications. As a result, many are believed to refrain from accessing, reading and sharing media material for fear of reprisals.

Although the Constitution safeguards media freedom, national laws fail to provide sufficient protection to journalists and media outlets.

At the time of writing, there are concerns that media freedom will be further restricted prior to the upcoming presidential elections to prevent public debate from challenging the current president's grip on power. The elections are scheduled to take place in the second half of 2020.

This report was jointly prepared by International Partnership for Human Rights (IPHR) and Article 19. During field research in November 2019 IPHR researchers met with representatives of Dushanbe-based media and human rights NGOs, journalists and local and foreign media outlets operating in Tajikistan, intergovernmental organizations and diplomats. Several journalists and members of their families chose not to meet the researchers for fear of

reprisals. IPHR also interviewed several Tajikistani journalists in exile. Article 19 contributed information about domestic legislation pertaining to media freedom.

Most representatives of Tajikistan-based media outlets and NGOs with whom IPHR researchers spoke, requested that their names were not published in order to protect their identity. Human rights defenders supporting journalists under pressure in Tajikistan asked IPHR to withhold case information about certain individuals inside Tajikistan for security reasons, and several journalists in exile requested the organization not to include their cases for fear of reprisals against their relatives back in Tajikistan.

The current media landscape

Many independent newspapers, electronic media outlets and news agencies *such as Khafta, Nigoh, Nuri zindagi, Ozodagon, Paykon and TojNews* have had to close down over the past decade for reasons including government interference with editorial policy, other government pressure, excessive tax inspections, in addition to economic challenges.¹

The remaining privately-owned Tajikistani media outlets that aim to maintain an independent editorial policy (such as *ASIA-Plus, Avesta*, and the radio station *Vatan*) are forced to negotiate their way between legislation that limits media freedom, pressure from the SCNS and other government agencies, threats of closure, and professional ethics. *Radio Ozodi*, the Tajik language service of Radio Liberty/ Radio Free Europe (RFE/RL) and one of the most outspoken outlets, has also come under considerable pressure (see below for further information). A number of independent journalists who are based in Tajikistan work for regional online media such as *ferghana.ru*, or international groups such as *Eurasianet* or *International War and Peace Reporting (IWPR)* and are also at risk of harassment and other reprisals.

Most other media outlets are state-controlled and toe the government line. At the present time over 20 state-owned television and radio stations are the only media companies with nationwide broadcast coverage, effectively dominating the broadcast media. The *ASIA-Plus* radio station broadcasts to approximately half of the territory of Tajikistan. *Radio Ozodi* broadcasts are only accessible via the internet, meaning that it is only accessible to those who can afford the high internet costs in Tajikistan. Access is limited further by the blocking of websites.

Several media outlets covering Tajikistan were established by Tajikistani citizens living in exile in recent years. These include the Prague-based *Akhbor.com*, which is run by former RFE/RL journalist Mirzo Salimpur, and several media outlets established by the IRPT opposition leader in exile, Mukhiddinom Kabiri (the Warsaw-based *Payom.net* and radio Payom; Berlin-based *Tajinfo.org*; and the information agency *Vostoknews*, base unknown). All these websites are permanently blocked in Tajikistan and only accessible inside the country via VPN.

1 The Law “On Periodical Press and other Mass Media” (in its 2017 amendments to Article 11-1) provides that the Prosecutor General can suspend mass media outlets’ activities only through court order. However, there have been no occasions where media outlets have been closed through this process. Those media outlets, which stopped their operations in recent years, have been closed “voluntarily” by their owners, following targeted intimidation and harassment.

Some exiled journalists claim that the Dushanbe-based media outlet *Orien.info* and the Moscow-based news agency *Hamsinf* were set up by the Tajikistani secret services and that they carry out trolling campaigns to publicly discredit civil society activists. In 2019, for example, they published degrading information about two activists who collected signatures for a petition against internet price rises.

Intergovernmental human rights institutions express concern

Tajikistan is a party to the International Covenant on Civil and Political Rights (ICCPR) and has thus committed itself to guarantee the right to freedom of expression (Article 19) including the freedom to seek, receive and impart information orally, in writing or in print or through any other media of his or her choice.

International human rights observers have raised serious concerns about the sharp decline in media freedom in Tajikistan in recent years.

Following the UN Universal Periodic Review (UPR) on 6 May 2016, the UN Working Group *issued* recommendations to Tajikistan to improve its human rights record. As reflected in the report, several member states called on Tajikistan to guarantee the right to freedom of expression, protect journalists and bloggers from undue interference and stop the arbitrary blocking of internet content.

In reply to the UPR recommendations the government denied that media freedom was limited, stating that the *“safety of all persons, including journalists, is guaranteed in Tajikistan”* and that access to internet sites and social media platforms was not subject to arbitrary restrictions.

In the June 2017 *report* on his mission to Tajikistan in March 2016, David Kaye, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, urged the government to *“reconsider its approach to security and public order. Its current approach focuses on repression of the independent media, access to information online, space for civil society, and the capacity of democratic opposition to voice opinions [...] Tajikistan has entered a phase in which law and policy are working against fundamental freedoms and thus creating major and growing pockets of fear and alienation”*. In an *official communication* to the UN Human Rights Council the authorities of Tajikistan *reacted strongly* to the findings of David Kaye’s report, claimed they were “biased and one-sided”, raised doubts about his “impartiality and objectivity” and accused him of covering issues beyond his mandate.

Following a visit to Tajikistan in May 2018, UN Assistant Secretary-General for Human Rights Andrew Gilmour *called* on the government of Tajikistan to take steps to ensure that human rights defenders, journalists, lawyers and others can carry out their work without hindrance, unnecessary administrative checks and fear of prosecution.

Harlem Désir, the OSCE Media Freedom Representative, has issued several statements and twitter messages in recent years intervening on behalf of individual journalists, urging the authorities to reinstate access to online media resources and to grant accreditation.

Following its most recent review of Tajikistan's compliance with the ICCPR in July 2019 the UN Human Rights Committee *expressed* continued concern about restrictions on the freedom of expression in law and in practice including criminal penalties for insulting or libel of the President/ the Leader of the Nation and other government officials. It also deplored state-control over the media; periodical blocking of media, social media and search platforms; and obstacles to exercising the right of access to information held by public bodies. It further raised concern about harassment, intimidation and prosecutions on allegedly fabricated charges of independent journalists and media workers, and issued a list of recommendations to the authorities in August 2019 to address and remedy the violations. Many of these recommendations are included in the chapter "Recommendations to the authorities of Tajikistan" at the end of this document.

All UN recommendations issued to Tajikistan in recent years can be found in the publication *United Nations recommendations on freedom of opinion and expression in Tajikistan (2015-2019 - a questionnaire for human rights groups and activists to assess implementation* that was published jointly by the NGO Coalition against Torture and Impunity in Tajikistan and IPHR in 2020.



Authorities limit journalists' access to information

“The [International] Covenant [on Civil and Political Rights] embraces a right whereby the media may receive information on the basis of which it can carry out its function.”

UN Human Rights Committee, General Comment No. 34, para 13

In Tajikistan journalists and media outlets known for critical reporting frequently encounter obstacles to conducting their work independently and professionally and many report that gaining access to information of public interest is a key problem. This is all the more problematic in the face of the current coronavirus pandemic.

Up until 30 April 2020, the Tajikistani authorities insisted that the coronavirus had not spread to the territory of the country. They adopted a range of preventive measures and made available general information about the virus, but citizens had pressing unanswered questions as reports mounted on social media platforms and by media outlets including *ASIA-Plus*, *Radio Ozodi*, *Sputnik Tadjikistana* and *Akhbor.com* about a spike in deaths in different parts of the country resulting from, as authorities claimed, pneumonia, tuberculosis and typhoid fever. On 18 April, Jamshed Shohidon, the Deputy Health Minister, *claimed* the spike in pneumonia cases was caused by the exceptionally rainy weather conditions. Reliable local sources *recorded* the first cases of patients exhibiting symptoms consistent with COVID-19 as having occurred in the middle of March; the first death likely to be linked to the virus was recorded for early April and there were credible *reports* that several medical personnel had died by the end of April. Medical doctors reported that officials of the Ministry of Health and Social Protection of the Population (Ministry of Health) put pressure on them not to refer cases for testing to the Dushanbe-based laboratory – the only one in the country equipped to test for coronavirus. They also stated that CT scans of many of their patients showed that their lungs looked different from the lungs of patients with ordinary pneumonia.

When independent media outlets tried to obtain information and clarification from the authorities, they hit a wall.²

In a *letter* to Sirojiddin Muhriddin, the Foreign Minister of Tajikistan, dated 30 March 2020, RFE/RL-President Jamie Fly, deplored attempts by the Tajikistani authorities to interfere with the coverage of the coronavirus situation of *Radio Ozodi*, its Tajik Service. “Officials with the Health Ministry, the Anti-Epidemic Commission, and your own ministry have refused to speak with Ozodi correspondents [...] and have excluded them from press briefings.”

The protection for access to information under Article 30 of the Constitution is weak and not consistent with international standards. It does not explicitly refer to the right to information and provides only that restrictions on access to “State Secrets” be “determined by law”, rather than comply with the principle of legality. It also does not contain a reference to requirements of legitimate aim, necessity or proportionality.

2 For further information refer to the IPHR statement *Tajikistan: Transparency key to building public trust on COVID-19*, dated 3 April 2020 (<https://www.iphronline.org/tajikistan-transparency-key-to-building-public-trust-on-covid-19.html>).

The State Secrets Act includes overly broad provisions for restricting the right to information, for example, on information regarding the state budget and “the health and personal life of the President of the Republic of Tajikistan and his family members.” At the same time, Article 21 of this law lists issues that should not be classified - such as information about the epidemiological situation and human rights violations.

Article 23 of the Law on Print-Media and Other Mass Media stipulates that government agencies are obligated to swiftly provide information on issues of urgent public significance. Government agencies are also required to respond to critical or analytical journalistic materials pertaining to their remit within specific time frames. Should the agency need more time to respond, it has to notify the media outlet/ journalist within three days and specify when the information will be provided (Article 24). In practice authorities often do not adhere to these time frames.

Article 23, part 5 of the Law on Print-Media and Other Mass Media stipulates that representatives of mass media have the right to lodge a complaint when government agencies fail to provide information. However, no official information is available on whether any government representatives have faced sanctions for not providing information. Civil society activists told IPHR that journalists usually refrain from lodging complaints and that no administrative or criminal case has been opened to punish the failure to respond to a request for information by the media.

In recent years, government officials and representatives of governmental press centres have often refused to comment or provide information to journalists about government policy and action and have referred them to the press conferences conducted by various government agencies twice a year. In other cases, they asked journalists to put their questions in writing, but only responded weeks later or not at all.

A journalist working for *Radio Ozodi* in Dushanbe told IPHR in November 2019: *“We are committed to balanced reporting and we try to present different perspectives on political, human rights and other issues. But when we ask representatives of the Prosecutor’s Office, the law enforcement agencies or other government agencies to comment or provide information, they often hang up immediately or they say ‘I’m busy’ or ‘call later’, and the next time we call the phone is switched off.”*

When asked for information on issues of public interest such as the state budget or general construction plans of cities and towns across Tajikistan, government officials often claim that the information in question is classified.

The following incident illustrates how the authorities tightly control the provision of information by government officials.

On 10 April 2019, **Muhammad Ulughodjaev**, the head of the Press Service of the SCNS Border Guards was arrested by SNCS officials. Several days later SCNS officers searched his home and allegedly found information on his computer indicating that he had revealed state secrets to a foreign organization. Shortly after the arrest, head of the SCNS Saymumin Yatimov reportedly sent a communication to all government agencies warning that *“Press secretaries no longer have the right to provide any information whatsoever to journalists without approval of their superiors”*. On 14 August 2019 Ulughodjaev was found guilty of “treason” (Article 305, part 2 of the Criminal Code) in a closed trial and sentenced to 15 years’ imprisonment.

Non-governmental experts are also often reluctant to give journalists interviews on topics concerning government policy for fear that anything perceived by the authorities as disagreeing with official positions could lead to reprisals.

The frequent failure of government authorities to respond to requests for information in a sufficiently detailed and timely manner complicates the work of journalists and media covering issues of public interest, and has negative and far-reaching implications for transparency, accountability and democratic participation.



From left to right, top to bottom: Khayrullo Mirsaidov, Buzurgmehr Yorov, Avazmad Gurbatov, and Daler Sharipov. Photo credits: ©frontlinedefenders; ©lawyers for lawyers; @AGurbati twitter account; @IPHR

Independent media outlets and journalists targeted

“The interference of government agencies (...) in the creative activities of TV and Radio Companies, state censorship and persecution for criticism are prohibited.”

Article 6 of the Law on TV and Radio broadcasting

“It has become much harder for us to write the way we did at the beginning of the 2000s. If you write like that now, then there might be problems.”

Umed Babahanov, Founder and Chief Editor of ASIA-Plus, January 2020

The situation regarding freedom of the media began to deteriorate significantly in 2015, which was a turning point for many privately-owned media outlets and independent journalists. During the parliamentary elections in March 2015, when the IRPT was ousted from parliament, the authorities prevented journalists from accessing polling stations and they severely limited the airtime given to the IRPT and other opposition politicians during the election campaign.³ Journalists who reported on the banning of the IRPT after the Supreme Court ruled it was a terrorist organization in September 2015, and about the arrests and trials of its members and their families, were often falsely labelled by the authorities as IRPT-supporters. Many journalists were forced into exile and several media outlets had to close down. (For further information refer to the chapter “Journalists forced into exile”).

In the years before the IRPT was banned, government officials had predominantly used the legal system to put pressure on critical journalists and independent media outlets by bringing defamation lawsuits against them which not infrequently resulted in them having to pay large amounts of compensation for allegedly slandering government officials.

Since 2015, the authorities have continued to stifle free media using an array of measures including the denial of licencing or accreditation of media outlets critical of the authorities and increasingly sophisticated methods of pressure on such outlets and their contributors by the SCNS and other government agencies. These methods are described below in more detail with case examples. Local NGO sources told IPHR that journalists frequently turn to them for legal advice, but are often afraid of drawing further attention to their situation for fear of reprisals.

In recent months, the Tajikistani authorities have reacted aggressively to media reporting about COVID-19. On 24 April 2020, a little less than a week before the first officially confirmed cases were announced, the Ministry of Health criticized journalists for reporting cases of death with COVID-19 like symptoms. It blamed them for “escalating the situation, which leads

3 OSCE/ODIHR stated about these elections “the election campaign took place in a controlled environment, amid arrests of opposition politicians, candidates and election officials. Possibilities for parties and candidates to hold meetings, distribute materials, and access media, were restricted by the legal framework as well as decision of local government bodies and election commissions. The distinction between the ruling PDPT and the state was often blurred, contrary to OSCE commitments. The OSCE/ODIHR EOM received credible reports of harassment and obstruction of opposition parties, as well as pressure on voters”.

to conflicts and distrust in the Government and the Ministry”, according to a *statement* posted on the Ministry’s website. It concluded that *“any media outlet, private individual or reporter who publishes incorrect and false information about the coronavirus will be brought to account.”*

Even after the authorities announced the first officially confirmed infections of coronavirus on 30 April, they continued to blame the media for “spreading panic” among the population because of its COVID-19 reporting.

According to the government news agency *Khovar.tj*, on 7 May 2020, the press centre of the Prosecutor General’s Office warned that *“legal measures will be taken against anybody who sows panic in the country”*. Reportedly, the Office added that rumours about an increased number of deaths associated with COVID-19, price increases on the markets in the country, the lack of necessities and the closure of major interregional roads are not truthful.

The number of officially confirmed deaths has been consistently lower than civil society estimates. A *website* registered abroad that records cases of deaths suspected to be associated with COVID-19 has been *blocked* in Tajikistan since 11 May, just a few days after it was launched. The website list is based on information submitted by internet users who are, among others, required to provide their personal details as well as information confirming that the deceased was likely to have been infected with the virus, such as the typical symptoms or if burials had been conducted by medical personnel instead of relatives.

For surveillance purposes the World Health Organization (WHO) defines a death due to COVID-19 as *“a death resulting from a clinically compatible illness, in a probable or confirmed COVID-19 case, unless there is a clear alternative cause of death that cannot be related to COVID disease.”*⁴ The civil society website attempts to record cases covered by this definition.

On 10 June, at a hearing of the Lower House of Parliament, deputies voted to adopt changes to the Administrative Code which would punish journalists, bloggers, civil activists and others who distribute “inaccurate” and “untruthful” information through the press or social networks about the COVID-19 pandemic with fines from 580 TJS (approx. 50 EUR) for individuals to 11 600 TJS (roughly 1000 EUR) for legal bodies. The draft legislation was also approved by the higher parliamentary body on 26 June and now awaits the President’s signature.

Civil society activists and journalists in Tajikistan are concerned that in practice, and without an expert commission, the only information which would be considered accurate and truthful would be information and statistics provided by the government. If the proposed legislation is adopted, people wishing to share their experiences of COVID-19 on social media networks or journalists who quote from these experiences would have to obtain an official certificate confirming the individual’s diagnosis, or risk facing persecution for distributing false information. Numerous Tajikistani civil society groups, media outlets and journalists *called* on the President and the Head of the Upper Chamber of Parliament not to sign or adopt the amendments.

4 International Guidelines for Certification and Classification (Coding) of COVID-19 as Cause of Death, Based on ICD. International Statistical Classification of Diseases, 16 April 2020: https://www.who.int/classifications/icd/Guidelines_Cause_of_Death_COVID-19.pdf?ua=1

The draft legislation could also have serious implications for social network users who participate in sharing unofficial information about those who die with or from COVID-19.

The authorities in Tajikistan perceive independent journalism that promotes transparency and creates space for potentially controversial debate as a threat to their hold on power. Fear of exacerbating deep societal grievances, exposure of government wrongdoings, corruption or crime or lack of expertise, and the experience of the colour revolutions in the former Soviet space and the Arab spring have led to an increasingly authoritarian response with negative implications for media outlets, journalists and bloggers.

“When a journalist writes something critical about a government policy the authorities think he is being critical of the entire government. They see him as a traitor even if, in fact, he is a journalist who goes about his work as a professional and does not pursue any ideological agenda at all!”, an activist working for a media freedom NGO told IPHR in November 2019.

The dire financial situation in which most independent media outlets now find themselves and the low salaries for journalists have contributed to the challenges facing independent media and have further weakened the journalistic profession. Commercial companies typically prefer to place their advertising in government media fearing reprisals such as increased tax inspections if they are seen to cooperate with media outlets known to be publishing information that is in any way critical of the authorities.

According to the media experts and journalists in Tajikistan and in exile whom IPHR interviewed for this report, it has become virtually impossible to conduct journalistic investigations and publish articles on issues, which the authorities perceive to be “sensitive” without endangering one’s own safety or that of family members.

“Prophylactic conversations” and other pressure by government agencies

“I feel under constant invisible control. I worry about my children, my family, about my reputation, especially as a woman.”

A media worker whose name is withheld for security reasons, IPHR interview November 2019

Officials of the SCNS, prosecutor’s offices and other government agencies use various methods to exert pressure on representatives of media outlets and individual journalists in order to get them to be cooperative or to silence critical voices. Several representatives of media outlets and journalists told IPHR that they had experienced pressure from government agencies, particularly the SCNS and prosecutor’s offices. Such pressure included unsanctioned searches of their apartments, hacking of a journalist’s email account, or so-called “prophylactic conversations”. Reportedly, during such conversations officials typically urge representatives of media outlets and journalists to follow a pro-government editorial policy, to refrain from covering certain issues, or to publish materials drafted by the authorities. Warnings to media outlets typically include that the failure to comply would lead to revoking their licence and extraordinary tax checks.

Journalists have reported receiving the following types of threats from government agents:

- that they will subject the journalist's relatives to harassment and intimidation;
- to ruin the individual's reputation and discredit him or her in the eyes of their family;
- to open a case against the journalist for "insulting a public official" (Article 330 of the Criminal Code) or "publicly insulting or defaming the President of Tajikistan" (Article 137);
- to open a case against the journalist on charges of terrorism, bribery, tax evasion or other financial crimes;
- to label the journalist as a "traitor" and "enemy of the people" in state-run media;
- to subject the journalist to cybermobbing on social media engineered by the SCNS;
- to include the individual in the national database of "extremists".

Former RFE/RL journalist Mirzo Salimpur, who has run the media site *Akhbor.com* from Prague since the end of 2016, told IPHR on 15 April 2020 that SCNS agents had contacted him and some of his correspondents in 2017/2018, urging them not to publish certain materials and asking them to issue materials produced by the authorities instead. The news outlet frequently reports about corruption among senior officials and limitations and problems of government policies.

"Since the late summer 2019 we have experienced harsh pressure. They summoned my relatives and my younger brother was dismissed from work in order to try to influence our editorial policy. Beginning in October [2019] the SCNS and the Department for the Fight against Organized Crime of the Interior Ministry summoned over 20 people whom they suspected of contributing to Akhbor.com-reporting from Dushanbe, Khujand and Pendjikent." Reportedly, the officials confiscated computers and phones to check in which way they had cooperated with *Akhbor.com*, alleged that *Akhbor.com* received financial support from political opposition forces and urged the individuals to cooperate with the authorities. Mirzo Salimpur told Radio Ozodi on 9 April 2020: *"During the 3.5 years' that the site Akhbor has been active we haven't received a single kopeek from opposition parties or leaders of opposition groups. Our site is funded by international foundations who support freedom of expression."*

Lawyers and media NGOs recommend journalists not to meet government officials when they receive an informal summons but to insist on an official invitation in writing which states the grounds for the meeting and in what capacity the person is summoned, i.e. as a witness or suspect. *"Our experience shows that if you insist on an official invitation, they [SCNS officials] don't invite the journalist because they don't have a real reason for a summons. It's important to insist on the correct procedure and lodge official complaints against SCNS intimidation. Then you eventually get rid of the problem"*, a representative of a Tajikistani human rights group told IPHR in November 2019. Another civil society activist said: *"Journalists often don't believe that the law will work. And it takes a lot of time to go the official way, time that journalists often don't have. Usually journalists only come to us when they're already in big trouble and then it can be too late."* Several journalists told IPHR they were afraid that complaining could anger the authorities even more.

According to a reliable civil society source whose identity has been withheld for security reasons, the SCNS collects compromising information about journalists, which agents bring up during “prophylactic conversations”. *“When prosecutors ‘invite’ you for a conversation their tone is usually more polite, but when you leave you have the feeling that they have a whole case prepared against you and are ready to charge you,”* a journalist told IPHR on condition of anonymity.

An independent journalist told IPHR in November 2019: *“When I started a new job in another media outlet, an SCNS officer called and told me to come for a chat. I had to sit in his car. He asked what I thought about the President and his politics. He knew many things about my life and my family, like which school my children attend, and made me understand that if I go beyond the limits of what they find legitimate to write, they might do something to me and my family.”*

It appears that in many cases government agents are successful in putting pressure on media outlets and journalists and convincing them to stay away from issues considered to be too “sensitive” by the authorities. If a person does not comply, the SCNS launches a campaign of intimidation through social media, and harasses and intimidates relatives until the journalist cooperates or leaves the profession and/ or the country. The authors of this report are aware of cases when officials threatened journalists’ relatives with dismissal from their work places or the closure of their business and where there were allegations of physical abuse against family members.

Government agencies appear to have succeeded in sowing mistrust and dividing the journalistic community. A journalist who spoke to IPHR in November 2019 on condition of anonymity explained, *“Many say: There’s a mole in every editorial office. We used to talk in the kitchen in the past, but we don’t trust anyone anymore. If something happens to a journalist the others won’t show solidarity, he can only count on his closest friends”.*

“Sensitive” topics and self-censorship

“We know that if we overstep the limits and cover politically sensitive topics or publish compromising material about senior officials, that’s similar to death. We’re not Kamikadze, we have families, and we have to be careful.”

Journalist whose name is withheld for security reasons, IPHR interview in November 2019

“We understand that the authorities have all measures at their disposal to silence us. Many readers are unhappy about self-censorship, but we have to be careful to survive the time of the elections in 2020.”

Representative of an independent media outlet, name withheld for security reasons, IPHR interview in November 2019

“Paragraph 3 [of the ICCPR, i.e. legitimate restrictions to the right to freedom of expression, added by IPHR] may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.”

UN Human Rights Committee, General Comment No. 34, para. 23

Self-censorship is common amongst those independent media outlets and journalists who work from Tajikistan, often as a response to pressure from SCNS officials and other government agencies relating to the content of reporting. Many journalists interviewed by IPHR deeply regretted this development, pointing out that it went counter to the very core of their understanding of their role as a journalist.

Media experts and journalists interviewed by IPHR identified the following topics as particularly sensitive and risky to cover in Tajikistan today, stating that they or their colleagues have received warnings or experienced reprisals in relation to their work on them:

- Criticism of President Rahmon and his family members (particularly his eldest son, Chairman of the National Assembly of Tajikistan and Mayor of Dushanbe Rustami Emomali, and his eldest daughter and Head of the Executive apparatus of the President, Ozoda Rahmon) or criticism of the cult of personality surrounding the President.
- The President's and his family's business or tax affairs, recruitment policies, allegations of nepotism.
- Criticism of privileges enjoyed by the ruling elite.
- Criticism of the activities of the Head of the SCNS Saymumin Yatimov, Minister of Internal Affairs Ramazon Rahimzoda and the General Prosecutor Yusuf Rahmon.
- Allegations of corruption in government structures.
- Reports about certain human rights violations, particularly in relation to IRPT members and their families, those charged with terrorism or extremism offences.
- The fate of imprisoned IRPT members and their relatives and information about activities of the Tajikistani political opposition abroad.
- Information concerning state initiated trolling.
- Defections to ISIS from state law enforcement bodies.
- Criticism of the Rogun Hydroelectric Power Station, a major government project.
- Discrimination against certain ethnic groups (ie. Pamiris).
- Tensions in Tajik-Uzbek relations.
- Support from the Russian and Uzbekistani armies in establishing President Rahmon's power base, the "Popular Front".
- The role of the UN and the OSCE in establishing peace at the end of the civil war in Tajikistan.

Many other issues are also potentially risky for journalists to cover. Journalists who continue to write about human rights violations such as torture, violations in relation to conscription in the army, access to information, the right to assembly and the right to freedom of belief often check their drafts with lawyers to ensure that they give the authorities no pretext to sue them. Some journalists publish materials under pseudonyms to protect themselves and their relatives from reprisals.

Withholding press licences and accreditation

Licensing requirements for radio and TV broadcasters and accreditation of journalists working for foreign media outlets provide many opportunities for the authorities to put pressure on journalists and media outlets and discourage critical reporting.

In order to operate, privately-owned radio and TV companies require licensing from the Commission on Licensing under the State Committee on Television and Radio Licensing. The Commission does not include a representative of independent media outlets or civil society groups. The State Committee's website does not provide information about how to obtain licenses, making it difficult for applicants to follow the correct procedure.

All print-media with a print-run exceeding 100 copies are required to register with the Ministry of Justice. New registration requirements that came into force in 2017 require newspapers and journals to submit a favourable recommendation/ assessment from the SCNS when applying for registration with the Ministry of Culture concluding that they do not pose any threat to national security. Since then no new print-media has been able to register.

Although by law, the authorities are required to take a decision within 30 days, long waiting times for licences are the norm, especially for critical media outlets. When licences are issued, their terms are often unclear and contradictory, a fact which can be exploited by authorities to raise revenue and to control content.

Local sources also reported that corruption exists at every stage of the registration process, with waiting times extended indefinitely if the required "fees" are not paid.

Journalists working with foreign media outlets require accreditation from the Ministry of Foreign Affairs, which, when granted, is always temporary. Although the Regulation for the Accreditation of International Media in Tajikistan stipulates that accreditations are valid for a year unless the journalist only comes to Tajikistan for a limited assignment or to temporarily replace a colleague, accreditations issued to journalists who reside in Tajikistan and permanently work for foreign media outlets are often issued for just a few months. Domestic legislation does not contain clear criteria for the issuing of accreditation and when accreditation is denied there is no mechanism for appeal. Journalists who work without accreditation risk penalties.

In 2019, *RFE/RL* struggled to renew and obtain accreditation for 18 journalists and other employees of its Tajik service, *Radio Ozodi*, in connection with critical reporting. On 26 June 2019, the Foreign Ministry of Tajikistan denied accreditation to video journalist Barotali Nazarov. Subsequently, other employees of *Radio Ozodi* were unable to either obtain or renew accreditation. On 31 October, one day before the accreditation of nine journalists expired, seven of them had their accreditation extended, but only for three (in one case) and six months (in the other cases). On 7 November *RFE/RL*-President Jamie Fly met with President Rahmon in *Zurich*, *deplored* government harassment and intimidation and urged him to swiftly grant full accreditation to all *RFE/RL* journalists and staff. On 21 January 2020 a camera operator, two reporters and a driver were accredited, but more than half a dozen staff remain unaccredited.

According to Article 30 of the Media Law of Tajikistan, “accreditation” entails aspects of “authorization” or “permission”, which contradicts international standards. In their *expert analysis* of the 2013 amendments to the Media Law, the OSCE called for the concept of accreditation to be amended and for the law to ensure that the criteria and guarantees of accreditation are clear, including the possibility to appeal refusals to provide accreditation. These recommendations have not been acted upon.

Bringing charges against journalists and bloggers

Journalists and bloggers who write reports that are critical of government policies and officials risk criminal prosecution. Journalists told IPHR researchers that officials frequently threaten them with criminal charges if they do not comply with demands such as refraining from covering certain issues. The Criminal Code contains articles that provide public officials with excessive protection from criticism and that may be used to punish journalists for their legitimate exercise of the freedom of expression. Other articles of the Criminal Code are also used to silence critical reporting. These issues are discussed in detail below:

DEFAMATION AND INSULT

In 2012, Tajikistan’s Parliament partially decriminalised defamation with the repeal of Articles 135 (“defamation”) and 136 (“insult”) of the Criminal Code. But Articles 137 and 330, which punish “public insult or defamation of the President of Tajikistan” and “insult of a public official”, respectively, were retained. These offences are punishable by fines or imprisonment of up to five or two years, respectively. In October 2016, amendments to the Criminal Code created a new offence seeking to shield the President from criticism. Article 137, part 1 criminalises “insulting the Leader of the Nation through the media through print, online or other media”, punishable by up to five years’ imprisonment. The title of “Leader of the Nation” was conferred on President Rahmon in December 2015 and is a life-long title.

International human rights standards are clear that public officials should be prepared to tolerate more, rather than less, criticism, given the importance of allowing effective public scrutiny of government actions.

Criminal defamation and insult charges have not been brought against journalists in recent years, but others have been convicted under freedom of expression articles, for example:

The lawyer **Buzurgmehr Yorov** was detained in 2015 after working on politically-sensitive cases – he defended leaders of the banned opposition IRPT movement -- and sentenced to a total of 28 years’ imprisonment on a range of spurious charges following unfair and closed trials. The charges included articles 330 and 137, part 1 of the Criminal Code.

In August 2018 **Umar Murodov** from Muminobod district in the Southern Khatlon region was sentenced to 5.5 years’ imprisonment by Khatlon Regional Court for “publicly insulting or defaming the President of Tajikistan” (Article 136 of the Criminal Code) and “public calls for the violent overthrow of the constitutional order of Tajikistan” (Article

307). The 30-year old migrant worker had reportedly “liked” a video on the popular social media platform “Odnoklassniki” (Classmates), which called for the violent overthrow of the Government of Tajikistan and insulted the President. It is not known if Murodov is still in prison or has been released under the October 2019 Presidential amnesty when over 500 people were reportedly amnestied who had been convicted under Article 307 of the Criminal Code for “liking” social media posts.

There is also widespread concern that the Civil Code provides overbroad protection of the “honour and good name”, “dignity”, and “reputation” of both individuals and businesses, through Articles 174 and 174-1. The provisions have been applied against media organisations.

The penalties provided in the Civil Code include high amounts of compensation for “moral damages” as well as undertaking to refute the statements made. Article 174 places an unreasonable burden on the defendant to prove that the information is true, which undermines the defendant’s right to a fair hearing and has an overall chilling effect on the right to freedom of expression.

Article 171 of the Civil Code provides that if “moral damage” is inflicted on a citizen, the court can order the perpetrator to pay financial compensation. Article 172, part 3 and Article 1115, part 2 (“Compensation for moral harm”) further provide that compensation may be claimed for damage to reputation, honour and dignity, “regardless of the guilt” of the perpetrator. Allowing for penalties to be imposed against a person for sharing their opinions or ideas without establishing liability through a court of law has a significant chilling effect on expression.

Moreover, the Civil Code does not differentiate statements of fact from statements of opinion. Under international law statements of opinion have been accorded heightened protection.

INCITEMENT TO DISCORD

“If it hadn’t been for the international pressure, I would have received a 20 year prison sentence. Even with the international community behind me, when I was in pre-trial detention I constantly received threats to myself and my family. Even when I was released, I received threats when information was published about the situation in prisons. So I had no choice but to leave the country.”

Exiled journalist Khayrullo Mirsaidov, IPHR interview on 22 May 2019

The Criminal Code punishes “inciting national, racial, local or religious discord” (Article 189) by a maximum of 12 years’ imprisonment. The broad wording of Article 189 does not align with Article 20(2) of the ICCPR and is a prime example of the type of law that can be misused to illegitimately target expression of opinions, which was not intended to incite and has no risk of causing hostility, violence or discrimination.

SCNS officials informally “invited” journalist **Daler Sharipov** to the SCNS Department of Dushanbe where they detained him on suspicion of disseminating extremist materials. The same day, on 28 January 2020, officials searched his home without presenting a search warrant and confiscated his computer and books without issuing an official document listing the items that they removed. The NGOs jointly issuing this report are concerned that the 32-year old journalist, who frequently wrote about controversial issues such as human rights and religion and has criticized government policies in these areas, was targeted in retaliation for his legitimate journalistic work.

In early February, the Prosecutor General’s Office issued a statement claiming that, in the past seven years, Sharipov had posted more than 200 articles and comments of “extremist nature aimed at inciting religious intolerance” on social media and that he illegally published 100 copies of a dissertation entitled “Mohammed and terrorism” that he allegedly “developed in the context of the Muslim Brotherhood movement”, which has been banned in Tajikistan as an extremist organization. The prosecutor’s closing statement in court mentioned Daler Sharipov’s dissertation, but not the 200 articles and comments of “extremist nature” that the journalist had allegedly disseminated.

When the trial started on 15 April the lawyer, witnesses and Sharipov’s parents were able to enter the courtroom, but dozens of journalists and civil society activists were denied entry. According to lawyer Abdurakhmon Sharipov (no relation), the court justified this decision by referring to recommendations of the WHO about preventing the spread of the corona virus. Other criminal and civil court hearings continued to take place without limitations and references to WHO recommendations. When the trial resumed on 16 April the only civil society observer admitted to the courtroom was Nuriddin Karshiboev, the head of the National Association of Independent Media in Tajikistan (NANSMIT). Activist Oynikhol Bobonazarova was admitted for a brief time while many others were again turned away.

In the meantime the authorities of Tajikistan continued to insist that the corona virus had thus far not reached the territory of the country and had not imposed nationwide restrictions on gatherings.

On 16 April Shohmansur District Court in Dushanbe sentenced independent journalist Daler Sharipov to one year’s imprisonment for inciting religious hatred under Article 189, part 1 of the Criminal Code. (For further information on Daler Sharipov’s case, refer to this joint NGO statement).

In another similar case which attracted international attention, **Khayrullo Mirsaidov**, blogger and former contributor to *Asia-Plus* and *Deutsche Welle* reporting and former head of the national KVN comedy team, was targeted for his reporting about corruption.

On 10 November 2017 Mirsaidov published an open letter to President Rahmon, Prosecutor General Yusuf Rahmon and the Chairman of Sughd region Abdurahmon Kodiri, accusing the newly appointed head of the Regional Office for Youth and Sports in Sughd Olim Zohidzoda of extorting a 1000 USD bribe from Mirsaidov after the KVN comedy team had received the money from state funds for their participation in a comedy competition abroad.

On 5 December 2017, Mirsaidov was summoned to the Prosecutor's Office of Sughd region and arrested upon arrival. The authorities ignored his complaint about official corruption and he was charged with embezzlement, document forgery, falsely reporting about a crime, and inciting national, racial or other hatred.

On 11 July 2018, a court in Khujand ruled to exclude the charges under Article 189 (incitement of national, racial or other hatred) against him but found him guilty of embezzlement, forging documents and false denunciation and sentenced him to 12 years in prison.

After an international outcry, on 22 August 2018 the Sughd Regional Court ruled to change his punishment and release him from detention on parole, after he had spent eight months behind bars. However, his convictions under three articles of the Criminal Code remained in force, and he was ordered to pay 80 000 Tajik Somoni (the equivalent of around 6800 EUR) in fines and contribute 20 per cent of his salary to the state budget for the next two years.

In February 2019, the Tajikistani authorities issued an arrest warrant in absentia for Mirsaidov, who had travelled to Georgia for medical treatment. The authorities added him to the Interpol red notice list for allegedly violating the terms of parole. He is currently living outside Tajikistan.

COUNTER-TERRORISM AND "EXTREMISM"

Journalists and bloggers who speak out critically about state policies or practices remain at real risk of being charged with "terrorism" and "extremism" related offences to punish them for peacefully exercising their right to freedom of expression.

In Tajikistan, several legal provisions related to restrictions on terrorism and extremism raise significant freedom of expression concerns. The broad and imprecise wording of what constitutes "terrorism", "terrorist action", "extremism", "extremist activities" and "extremist materials" grants overly wide discretion to authorities in the interpretation and application of these provisions, leading to arbitrariness. Below are several examples:

- Article 4 of the Law on Combating Terrorism (1999) includes in its definition of terrorist acts the extremely vague concept of "the dissemination of threats in any form and by any means; other actions creating a danger of loss of life; significant damage to property, or other socially dangerous consequences".
- Among the activities described as "extremist" in Article 3 of the Law on Combatting Extremism (2003) are the "promotion of exclusiveness, superiority or inferiority of citizens on the basis of their relation to religion, social, racial, national, religious or language identity"; "humiliation of national dignity"; and "undermining the safety of the Republic of Tajikistan". "Public calls" for any of the above activities, or preparation of those activities, are also classified as "extremist".
- Amendments to the Criminal Code signed into law on 14 November 2016 provide for imprisonment from five to ten years for the vaguely defined offence of public "justification" of terrorist or extremist activity (Article 179, part 3). In August 2018,

Article 179, part 3 was further revised by Law No. 1538 to strengthen sanctions for offences committed online or through the mass media. As a result, individuals can face prosecution on terrorism charges for simply “liking” or “reposting” material on social networks.

Following his mission to Tajikistan, David Kaye, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, called on Tajikistan in his mission report in June 2017 to revise the Law on Combating Terrorism, to provide more clear and precise legal definitions, and to clarify what evidence is sufficient to prove what would constitute “extremism” and “terrorism” (Recommendation 72).

In its Concluding Observations issued in August 2019, the UN Human Rights Committee also called on Tajikistan to “bring its current counter-terrorism and counter-extremism regulations and practices into full compliance with the Covenant” (Recommendation 24).

However, the authorities have failed to amend the legislation accordingly. Instead, on 2 January 2020, President Rahmon signed into law the Law on Counteracting Extremism, which contains the vague definition of extremism as “actions able to weaken the national security and defence capability of the state”. Article 17 stipulates that access to extremism propaganda on the internet or other telecommunication networks must be stopped or limited immediately.

As reported by *Radio Ozodi*, in January and February 2020 all independent and privately-owned TV and radio outlets in Tajikistan received two telegrams from the State Inspection for the Supervision Tele-Radio-Broadcasting. On 31 January, it ordered media outlets under threat of sanctions to “send the State Inspection an email every week detailing the planned broadcasting program”. On 4 February, the State Inspection urged media outlets to report about government policies. It was believed that these telegrams were sent in connection with the implementation of the recently adopted Law on Counteracting Extremism. To our knowledge, to date no media outlet has been subjected to sanctions for failing to comply with these demands.

When cases are brought against individuals or judicial persons for producing, disseminating or accessing materials of “terrorist” or “extremist” content, courts rely on expert conclusions provided by government authorities. Conclusions of independent experts are not taken into consideration.

Domestic legislation further grants broad discretion to the Prosecutor General and leaves the judiciary with limited tools with which to constrain the misuse of these laws.

Regarding counter-terrorism laws, the UN Human Rights Committee stresses in paragraph 49 of its General Comment No. 34 that “States parties should ensure that counter-terrorism measures are compatible with paragraph 3 [of the ICCPR]. Such offences as “encouragement of terrorism” and “extremist activity” as well as offences of “praising”, “glorifying”, or “justifying” terrorism, should be clearly defined so as to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression. Excessive restrictions on access to information must also be avoided. The media plays a crucial role in informing the public about acts of terrorism and its capacity to operate should not be unduly restricted. In this regard, journalists should not be penalized for carrying out their legitimate activities”.

On 31 August 2018 Ismoili Somoni District Court in Dushanbe sentenced blogger **Dzhunaydullo Khudoyorov**, from the village of Yashm in the eastern Rasht District, to five years' imprisonment for alleged connections with the banned Islamist Salafiya group. He was sentenced under Article 307 of the Criminal Code ("public calls for the violent overthrow of the Constitutional system of Tajikistan"). As Khudoyorov was being transferred to the temporary detention facility from the court he told *Radio Ozodi* that he had no connection with the Salafiya group and claimed that the charges had been fabricated against him to punish him for criticizing the head of Rasht District and other local officials in posts on social media. Khudoyorov's brother told *Radio Ozodi* that the court had not summoned any of the defence witnesses who would have been able to confirm that Dzhunaydullo was not a religious extremist. As reported by *Radio Ozodi* on 31 August 2018, the local imam in Rasht District sent letters to the President, the head of the SCNS and the Prosecutor General stating that local law enforcement officers had put pressure on him to sign a statement falsely accusing Khudoyorov of links with Salafiya. Dzhunaydullo Khudoyorov was released in October 2019 under the amnesty in honour of the 25th anniversary of the Constitution of Tajikistan.

Physical attacks by unidentified individuals

In its report, entitled *Attacks on journalists, bloggers and media workers in Central Asia and Azerbaijan (2017-2019)* the London-based Justice for Journalists Foundation reported a significant increase in physical attacks on journalists by unidentified individuals in 2019, compared to the previous years. The organization believes that the victims of the reported attacks were targeted to punish them for their professional activities. Independent media outlets reported six cases of journalists who were attacked and threatened with further reprisals when covering sensitive topics in 2020.

It is crucial that authorities investigate all reported attacks on journalists, including allegations that they were targeted because of their professional activities promptly, thoroughly, impartially and independently in order to bring the perpetrators to justice.

A recent example in Tajikistan is the case of *ASIA-Plus* journalist Abdullo Gurbati (also known as Avazmad Gurbatov). At around 9:20 pm on 11 May 2020 two unknown men wearing medical masks attacked Gurbati and beat him near his house as he was returning from a shop. When Gurbati started shouting the men left. He reported that he sustained injuries to his head, arms and legs and complained of backache. Gurbati immediately reported the incident to the police, but reportedly the police only began investigating the incident on 14 May due to Gurbati's persistence. On 15 May the Ministry of Internal Affairs stated on its website that a case had been opened in relation to an incident of "hooliganism", but the attackers had not yet been identified. On 15 May Gurbati's lawyer Abdurahmon Sharipov of the NGO Independent Centre for Human Rights Protection pointed out that Gurbati was at risk of further threats and attacks and called on the Ministry of Internal Affairs to provide Gurbati with protection.

Gurbati maintains that the attack is connected to his work as a journalist, and in particular to his video reports about Tajikistan's response to COVID-19. He recalled that the attackers were waiting for him and did not steal anything from him. He also reported

having received several anonymous threats by phone and on social media in the weeks prior to the attack. In April a male voice reportedly threatened him by saying: “We’ll find you and deal with you.” Many of the anonymous callers told him he was a “traitor”.

Later in May Abdullo Gurbati was again attacked. On 29 May, he drove to Khuroson district in southern Tajikistan to interview people affected by recent mudflows in the area, who were housed in a temporary camp site. In the morning, soon after he arrived, Gurbati was reportedly approached by three men, who told him to stop filming or they would beat him. When Gurbati explained that he has a right to continue his journalistic work, the men attacked him. In a statement issued on 30 May, the Interior Ministry accused Gurbati of ignoring requests by inhabitants of the camp site not to enter and film them and of planning to prepare “sensationalist materials”. However, Gurbati reported that he was beaten as soon as he got out of the car and “didn’t even have time to get to the camp site.” Gurbati lodged a complaint. Police identified the attackers and on 2 June, Khuroson District Court found three individuals guilty of petty hooliganism and fined them 580 Tajik Somoni (TJS, the equivalent of approx. 50 EUR).

On 2 June, the Coalition against Torture and Impunity and other Tajikistani civil society organizations issued a statement calling on the authorities to “thoroughly” investigate the beatings. Regarding the 29 May incident, they pointed out that the attackers should have been charged with obstruction of the legitimate professional activities of a journalist, a more serious felony.

Journalists forced into exile

According to media and NGO sources both in Tajikistan and in exile, several dozen editors and journalists were forced into exile following the 2015 banning of the IRPT and related events. Among them are former contributors to Tajikistani services of international media outlets such as the *BBC* and *Radio Ozodi* as well as Tajikistani media including *ASIA-Plus*, the *Imruz* newspaper, *Nigoh* newspaper, *Radio Muhochir*, *SMT*, *TojNews*, *TsATV* and *TVT*. While some journalists supported the banned IRPT movement, others were forced into exile for their independent reporting. Other journalists faced the choice of remaining in the country but giving up their jobs or giving in to the demands of the SCNS. As a result, Tajikistan lost many of its best journalists.

When exiled journalists continue to write about Tajikistan from abroad, their relatives back home are often subjected to intimidation by the SCNS with the aim of putting pressure on the journalists to return. According to the report *Attacks on journalists, bloggers and media workers in Central Asia and Azerbaijan (2017-2019)*, issued by the London-based Justice for Journalists Foundation in April 2020, the relatives of at least six exiled journalists were subjected to harassment and intimidation and reports of pressure against journalists in exile have increased since 2017. In 2019, the authorities included four journalists-in-exile in a *list of persons with connections to terrorism* and their relatives back home have reportedly been subjected to harassment and intimidation.

Below are just two examples of pressure on exiled journalists and media outlets that illustrate a wider pattern. Another example contained in this report is that of Khairullo Mirsaidov in the

chapter “Incitement to discord”. Several people in exile whom IPHR researchers interviewed were afraid to speak out publicly about their situation, fearing for the safety of their relatives who remain in the country.

The media outlet *Akbor.com*, which is run from Prague by journalist-in-exile Mirzo Salimpur, has been subjected to continuous pressure by the SNCS. Alleged contributors inside Tajikistan have been targeted and the website is blocked inside Tajikistan (for further information refer to the chapters “Prophylactic conversations’ and other other pressure by government agencies” and “Blocking online content and internet access”).

CASE EXAMPLE: JOURNALIST AND EDITOR ZAFAR SUFI OF THE OZAGADON MEDIA OUTLET

Zafar Sufi, journalist and editor of the newspaper and media agency Ozagadon was forced to leave Tajikistan in 2013 after reportedly refusing to comply with authorities’ demands to publish pre-prepared articles. He told IPHR in May 2019: *“For the last three years I was living in Tajikistan I wasn’t able to work properly. I was pestered all the time by representatives of the SCNS, asking me to publish this article or that article.”*

Sufi told IPHR that he continued to publish *Ozagadon* from abroad for five years, first from Kyrgyzstan and then from Russia but was finally forced to flee to Europe in early 2019 where he is currently seeking asylum. He told IPHR that the Tajikistani authorities put pressure on him to close the news agency before his family was allowed to join him. He closed *Ozodagon* in 2018.

According to Sufi, when he was running the paper from Kyrgyzstan, he encountered problems with printing houses refusing to print the newspaper, after the owners were put under pressure by the Tajikistani authorities. *“The head of the printing house I used rang me and said he had come under pressure from the authorities and couldn’t carry on printing the paper and that he had to feed his family”.*

From 2013 to 2015, while in Kyrgyzstan, Sufi registered a satellite television channel called SNT, had two television studios up and running, registered the television channel and concluded an agreement with a satellite representative in Kyrgyzstan. The channel SNT worked in test mode for 35 days. In 2015, in order to finish preparations for the launch of SNT Sufi went on a business trip. On returning he was refused entry into Kyrgyzstan and therefore moved first to Kazakhstan and then to Russia, where he subsequently encountered harassment by Tajikistani officials, including threats of forcible return to Tajikistan: *“In Moscow I was harassed by SCNS officials from Tajikistan who were operating there. These included one representative who works at the Tajikistani embassy in Moscow. He came to meet me at the end of 2018 and told me to return to Tajikistan voluntarily, close the paper and go on television saying I had been misled. I replied “I am a journalist, I will die but I won’t do that”. Next he threatened that they’d put a sack on my head and return me by force”.* According to Sufi, he was subjected to harassment after learning through friends that highly placed Tajikistani officials intended to prevent him from working in Russia.

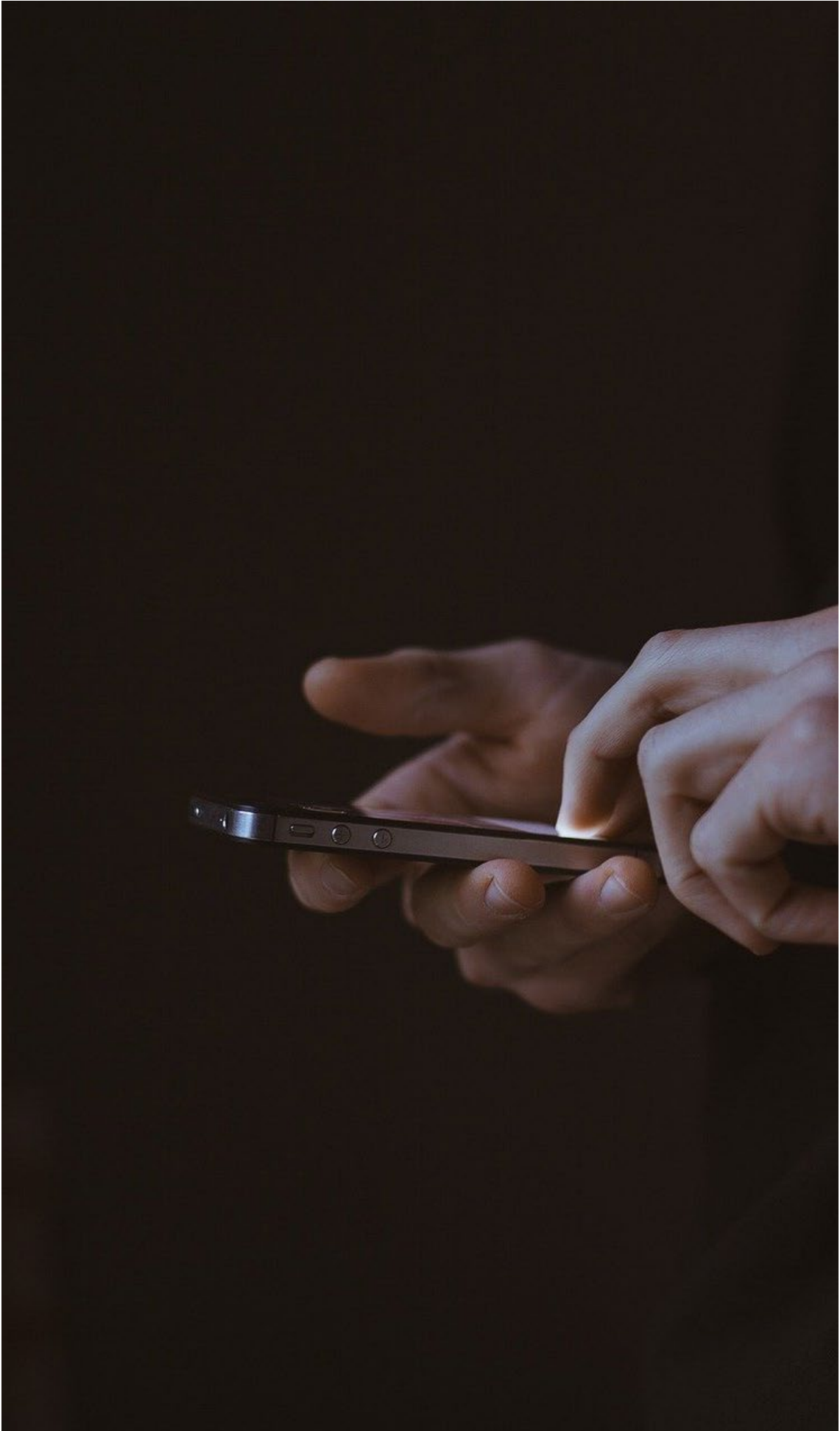
Sufi told IPHR that he then moved to the Baltics, but reports that as soon as it became known that he was no longer in Moscow, about 120 articles appeared in the Tajikistani

press, claiming that he was a traitor of the people and an enemy of the state. The stories got coverage even in the most remote regions of Tajikistan. One article reportedly accused him of being an agent for Iran and Russia at the same time. *“My family was threatened. It was dangerous for me to stay in the Baltic States as President Rahmon’s family have business interests there and so I moved to another European country”.*

On 29 March 2019, the board of the Writers’ Union of Tajikistan excluded Sufi from its membership *“because of his lack of participation in the Writers’ Union and the inconsistency of his civic stance with the civic stance of the Writers’ Union of Tajikistan.”* This is the first time that the Writers’ Union has excluded a member in relation to their “civil position”.

CASE EXAMPLE: JOURNALISTS AND EDITORS OF NIGOH NEWSPAPER AND TOJNEWS AGENCY

On 21 October 2016, the editorial office of the analytical newspaper *Nigoh* in Dushanbe was sealed by the Fire Service of the Ministry of Internal Affairs of Tajikistan. Printing houses refused to print the next issue of the newspaper. On the same day, the Ministry of Culture, the authority responsible for registration, sent a request to the Prosecutor General’s Office to liquidate *Nigoh* for allegedly insulting the President of Tajikistan and the Leader of the Nation in the newspaper. The reason for the alleged insult was a typographical error in the word president in an article published on President Rahmon’s birthday, 5 October 2016. In the same issue, the SCNS found “elements of terrorist propaganda” in an analytical article about the fate of the IRPT. Two days later, journalists were refused access to the office of the *TojNews* news agency, which belonged to the same media group as *Nigoh*. On 3 November 2016, the Prosecutor General’s Office applied to court for the liquidation of *Nigoh* and *TojNews* – by which time *Nigoh* had already ceased its activities and *TojNews* agency ceased its activities on 14 November 2016. The founder of the media holding and chair of the publication’s editors, Saimuddin Dustov, and the editor of the newspaper *Nigoh*, Faridun Rakhnvard, fled Tajikistan. Currently, seven employees of these two media outlets have been recognized as refugees in Europe and the USA.



Citizens' access to media output

"The public [...] has a [...] right to receive media output."

UN Human Rights Committee, General Comment No. 34, para 13

Independent media outlets in Tajikistan use TV and radio broadcasts, newspapers, websites, social media platforms and internet-based messaging services to reach their audience. While the distribution of newspapers is limited and independent TV broadcasters only operate in some parts of the country, the dissemination via the internet and social media is central.

According to the UN International Communications Union, 21.96 per cent of individuals were using the internet in Tajikistan in 2017. The number of internet users has increased in recent years, but Tajikistan's internet penetration rate is still one of the lowest in Central Asia. Internet costs are high and unaffordable for many. The cheapest access plans provide for very slow internet connections.

The authorities of Tajikistan have taken steps to limit and discourage citizens' access to online information that does not follow the government line. These have included attempts to hike internet prices, most recently in April 2019; blocking of websites and social media platforms; strengthening legislation to track sites visited by individual internet users; instigating criminal prosecutions for posting, liking or sharing content viewed as supporting extremist religious views through social media.

The pattern of increased control over access to information and communication gives serious cause for concern.

Blocking online content and internet access

"I appeal to the authorities to provide citizens with full and unrestricted access to the online news media, both national and international, as well as social platforms and search engines (...) There can be no freedom of expression and freedom of information without an unhindered access to the internet."

Harlem Désir, OSCE Representative on Freedom of the Media, 7 May 2019

The blocking (and in some cases disabling) of websites, social media platforms and internet messengers and the temporary blocking of internet access are part of the authorities' tool kit to put pressure on independent media outlets, bloggers and social media users and to limit the dissemination of critical reports.

In recent years the websites of news outlets *Asia-Plus* and *Radio Ozodi*, of social media and online platforms such as *Facebook*, *Viber*, *Instagram* and *Youtube* have been arbitrarily blocked on several occasions. At the time of writing the sites of *ASIA-Plus*, *Avesto* and *Radio Ozodi* were fully or partially blocked in Tajikistan.

The media site *Akhbor.com*, run by former *Radio Free Europe/ Radio Liberty* journalist Mirzo Salimpur from Prague, and exile media sites affiliated with the banned opposition IRPT movement such as *Payom.net* and *Tajinfo.org* are permanently blocked in Tajikistan and only accessible inside the country via VPN.

Up until the end of 2019, the State Communications Service, the official communications regulator, denied responsibility for blockages of websites, citing technical problems and stating that internet providers were to blame. However, the government admitted on several occasions to periodically implementing a law that allows for the interruption of internet content “in the interest of national security”. On 2 January 2020 the Law “On Countering Extremism” was adopted and authorized the State Communication Service to block websites when it detects alleged extremism propaganda, thus providing the service with a legal basis to initiate the blocking of websites without any need for court approval.

Internet providers have repeatedly reported receiving informal orders from the authorities to block sites, and, in 2014 and 2015, the European company TeliaSonera published several *statements* on its website in which it *reported* that it had been requested to block certain *websites*.

Blocking of media and social media sites often occurred shortly after developments on which the authorities sought to obstruct public discussion. In many cases, it was temporary, yet sometimes sites remained inaccessible for months without any court sanction of the measure. In some cases, restrictions are believed to have been lifted as a result of international pressure.

In August and September 2018 several social media sites and online platforms, including *Facebook*, *Instagram* and *Youtube* were blocked shortly after Mahmadali Rasulov, a representative of SCNS, uploaded a video to *Facebook* alleging that in February 2018 SCNS chief Saymumin Yatimov had been involved in a plot to assassinate opposition politician in exile Muhiddin Kabiri.

In addition, several news and social media sites were blocked after reports were published about the February 2019 abduction by Russian security forces and forcible return from Russia to Tajikistan of Sharofiddin Gadoev, political activist of the opposition Group 24.⁵

On 2 May 2019, the search engine Google and other Google services were blocked in Tajikistan including: Play market, Translator, Gmail, GoogleDocs, Google Forms, Google Drive, Google Maps and others. During the same period, VPNs were also blocked including: Browsec, Betternet, and Protonmail. There were allegations that these moves were connected to widespread criticism of the authorities on social media ahead of World Press Freedom Day on 3 May.

In August 2019, the web domain of *ASIA-Plus* was not only blocked but completely disabled, making it impossible to access the site.

5 Upon arrival in Tajikistan he was reportedly tortured and made to record statements saying he had returned voluntarily. After an international outcry, Gadoev was allowed to return to Europe on 2 March 2019.

The *ASIA-Plus* website has frequently been blocked over the last few years. After 28 November 2018, it was permanently blocked for users in Tajikistan. In July 2019, the Federal Service Supervising Communication, Information Technology and Mass Communication of the Russian Federation (Roskomnadzor -- Russian acronym) blocked access to the site of the *ASIA-Plus* news agency. In August, the web addresses of the portal that were located in Tajikistan's national domain, became inaccessible from anywhere in the world after unknown persons changed the technical settings in the systems of the internet provider.

In order to regain its audience *ASIA-Plus* opened a website using a domain located outside Tajikistan, and increased its social media activity. In November 2019, an *ASIA-Plus* representative told IPHR that the agency had two to three times fewer readers in Tajikistan than before the site had been destroyed and that the obstacles to access the agency's reporting had seriously impacted its advertising income. Media sources alleged that destruction of the *ASIA-Plus* website followed the media outlet's refusal to comply with SCNS demands to publish materials against opposition members and certain other people.

In 2020, after the Tajik and the Russian language websites of the news outlet Akhbor.com had already been arbitrarily blocked for users in Tajikistan since late 2017 and early 2019 respectively, the Supreme Court formalized the blocking.

The state news agency *Khovar* reported on 9 April 2020 that the Supreme Court of Tajikistan ruled on 18 February 2020 to block the website *Akhbor.com*. The Supreme Court concluded that the news outlet, which routinely quotes emigrants representing opposition groups such as the IRPT (banned in 2015) and Group-24, offers a platform to "terrorists and extremists". Mirzo Salimpur, the head of *Akhbor.com*, told IPHR on 15 April 2020 that *"Journalists who work for Akhbor could now face criminal charges and be equated to militants or members of a banned organization. And internet users might get into serious trouble for sharing or liking our reports."*

At other times, internet access was reportedly disabled altogether and no official explanation was given.

For example, on 6 November 2018, shortly after protests took place in Khorog, the administrative centre of GBAO, internet connection was blocked in the entire region. During the November 2018 prison riots in Khujand, in the northern Sughd region, people across the country were unable to access online content.

Criminal prosecutions against internet users

Harsh sentences which were imposed in recent years on several internet users, including minors, for accessing, liking and sharing materials on social media have scared many users in Tajikistan and made them more cautious online.

Based on Presidential Decree No. 765, the Unified Communications Centre began operating under the state-run Tajik Telecom company in November 2016. All internet providers and

mobile phone operators are required to channel internet and telecommunications services through this centre. While the stated purpose of the Centre is to improve informational security, there is concern that it has enabled the authorities to increase control over internet and mobile phone communications, thereby endangering freedom of expression and the right to privacy.

In July 2017, Parliament adopted legislation granting law enforcement authorities new powers to obtain information about the internet sites visited by citizens, thus enabling them to trace internet users who visit “undesirable” websites. This legislation was initiated after a member of Parliament claimed that “80 per cent” of the country’s internet users visit “undesirable” websites containing “extremist” and “terrorist” content, although he did not provide any data to back up this claim.

In paragraph 41 of its Concluding Observations of August 2019 the UN Human Rights Committee expressed concern about “[in]sufficient safeguards against arbitrary interference with the privacy of individuals, owing, inter alia, to the wide powers granted to security and law enforcement agencies to monitor the entire Internet traffic, to access all users’ information and to intercept communications and retrieve data without a court order.”

A series of legislative amendments adopted in recent years extended the definition of “terrorism” and “extremism” to explicitly include online activities and in June 2018, Parliament amended Article 179 of the Criminal Code, adding criminal responsibility and long terms of imprisonment as punishment for calls for “terrorism” expressed online. As the crime of “terrorism” itself is vaguely defined in domestic legislation there is a significant risk that this article is used to curtail the legitimate exercise of the right to freedom of expression.

In 2018, two citizens were convicted of “liking” materials containing what the authorities regarded as extremist content on social media and sentenced to six and nine-and-a-half years’ imprisonment for “public incitement to extremist activity”. As reported by *Radio Qzodi*, one of the men had “liked” a presentation by Mukhiddin Kabiri, the leader of the banned IRPT movement.

Refer to the chapter “Defamation and insult” for another case example.



Recommendations to the authorities of Tajikistan

Access of journalists to information

- Bring the constitutional guarantees for access to information into line with international standards.
- Review and amend the State Secrets Act in line with international standards.
- Put in place an independent complaint mechanism to receive and investigate complaints about violations of the right to access to information.
- Hold to account those officials who do not comply with the legal requirements regarding the provision of information of public interest to journalists and publish comprehensive statistics on these cases.
- Ensure that the right to access to information held by government authorities can be effectively exercised in practice, in line with Recommendation 48(e) of the UN Human Rights Committee's 2019 Concluding Observations.
- Ensure that journalists are not excluded from press briefings based on their or their media outlet's reporting.

Journalists, bloggers and media outlets

- Ensure that the media and media workers can operate free from undue State interference (Recommendation 48(b) of the UN Human Rights Committee's 2019 Concluding Observations).
- Ensure the effective protection of independent journalists and media workers against any form of harassment and intimidation and refrain from using civil and criminal provisions and threats thereof, as a tool to suppress critical reporting on matters of public interest (Recommendation 48(g) of the UN Human Rights Committee's 2019 Concluding Observations).
- Decriminalize insulting or libel of the President, the Leader of the Nation and other government officials by abolishing Articles 137 and 330 of the Criminal Code, in line with Recommendation 48(a) of the UN Human Rights Committee's 2019 Concluding Observations.
- Ensure that the provisions on defamation and insult contained in the Civil Code are not used to silence journalists who are critical, or perceived as critical, of the authorities or state policies.
- Ensure that licencing and accreditation requirements for media outlets are not misused to punish media outlets for reporting that is critical or perceived as critical of the authorities or governmental policies.
- Take all measures necessary to ensure the independence of the broadcasting and licensing authority (Recommendation 48(f) of the UN Human Rights Committee's 2019 Concluding Observations).

- Ensure that decisions about licensing and accreditation are made on specific, non-discriminatory and reasonable criteria published in advance; that the decisions are issued within the time frame set out in the law and can be appealed in court.
- Clarify and make publicly accessible licensing and accreditation procedures.
- Abolish the requirement for print-media to obtain permission from the State Committee for National Security in order to register with the Ministry of Culture.
- Tajikistan should bring its current counter-terrorism and counter-extremism legislation and practices into full compliance with the International Covenant on Civil and Political Rights, including with the requirements of Article 4. Inter alia, it should clarify and narrow the broad definitions of terrorism, the public justification of terrorist and extremist activity, and extremism (including by adding a requirement of violence or advocacy of hatred), and ensure that they comply with the principles of legal certainty and predictability and with relevant international standards, and that any limitations of human rights for national security purposes ensuing from the application of such regulations serve legitimate aims, are necessary and proportionate and are subject to appropriate safeguards. The State party should also ensure that any newly adopted counter-terrorism and counter-extremism regulations fully comply with the above principles. (Recommendation 24 of the UN Human Rights Committee's 2019 Concluding Observations).

Citizens' access to media output

- Stop unduly limiting access to media reporting including by imposing arbitrary restrictions on access to the internet as a whole or individual websites, social media or online platforms.
- Ensure that domestic legislation governing online surveillance, interception of communications and communications data and retrieval of data as well as its implementation conform to Tajikistan's obligations under the International Covenant on Civil and Political Rights, including with the principles of legality, proportionality and necessity, in line with Para. 42(a) of the UN Human Rights Committee's 2019 Concluding Observations).
- Ensure that surveillance and interception is conducted strictly subject to judicial authorization and to effective oversight mechanisms and that individuals whose rights have been violated have access to effective remedies, in line with Para. 42(b,c) of the UN Human Rights Committee's 2019 Concluding Observations.