



Submission to the Universal Periodic Review of Tajikistan by ARTICLE 19

39th Session of the Working Group

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Executive summary

1. ARTICLE 19 (A19) welcomes the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of Tajikistan. In this submission, we highlight concerns relating to the right to freedom of expression and information in several key areas:
 - Legal framework
 - Restrictions on freedom of expression online
 - Media freedom and safety of journalists
2. In 2016, Tajikistan received a total of 17 recommendations related to the right to freedom of expression, supporting ten and noting seven. Tajikistan received three recommendations to specifically ensure that legislation relevant to freedom of expression is in compliance with international human rights obligations, including through the decriminalisation of defamation, supporting one and noting two.¹ Tajikistan received a total of seven recommendations to remove online restrictions to freedom of expression, including restrictions to the internet and website blocking, supporting three and noting four.² Tajikistan received eight recommendations to ensure media freedom and the safety of journalists, supporting four and noting four.³
3. The implementation of these recommendations has been limited, with legislative provisions routinely used to target journalists and independent media, against Tajikistan's international human rights obligations. Paralyzing restrictions on registration of independent media continue to exist and blocking and online censorship is increasing

Legal framework for freedom of expression

Defamation and insult

4. In 2012, Tajikistan's Parliament partially decriminalised defamation with the repeal of Articles 135 and 136 of the Criminal Code, relating to defamation and insult respectively.⁴ However, provisions that provide public officials with additional protection from criticism were retained. The retention of defamation and insult provisions is directly out of line with Tajikistan's acceptance of previous recommendations to decriminalise defamation.⁵

¹ 118.60 (Lithuania); 118.56 (noted – United States); 118.57 (Czech Republic - noted).

² 118.50 (Colombia); 118.52 (Lithuania); 118.59 (Netherlands); 118.54 (Austria - noted); 118.55 (Japan - noted); 118.56 (United States - noted); 118.58 (Czech Republic - noted).

³ 118.52 (Lithuania); 118.53 (France); 118.59 (Netherlands); 118.65 (Belgium); 118.51 (Republic of Korea - noted); 118.54 (Austria - noted); 118.55 (Japan - noted); 118.57 (Czech Republic – noted).

⁴ Criminal Code of the Republic of Tajikistan. (2018). [Online]. Available in Russian and Tajik here: http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=23

⁵ 118.60 (Lithuania).

5. Article 330 criminalises the 'insult of a public official',⁶ and Article 137 criminalises 'public insult or defamation of the President of Tajikistan'.⁷ These offences are punishable by fines or imprisonment of up to two years or five years, respectively. In addition, Article 346 criminalises 'knowingly false denunciation', providing for up to seven years' imprisonment.⁸
6. In October 2016, amendments to the Criminal Code created a new offence seeking to shield current and former Presidents from criticism.⁹ Article 137(1) criminalises 'insulting the Leader of the Nation through the media through print, online or other media', punishable by up to five years' imprisonment.¹⁰ The title of 'Leader of the Nation' is conferred on Presidents upon taking office, and is a life-long title.
7. Over the past four years, the total number of civil defamation cases has abruptly declined in Tajikistan with an almost complete cessation in the claims of moral damages filed against journalists and media organisations. We submit this is a result of editorial self-censorship to avoid lawsuits and liability for damages, which would threaten the continued operation of many media outlets.

Dissemination of false information

8. In June 2020, Tajikistan adopted amendments to the Code of Administrative Offences and introduced Article 374(1) which vaguely proscribes dissemination of false information.¹¹ This legislative amendment, adopted in the context of the COVID-19 pandemic, was reportedly adopted in response to publications of journalists, bloggers and civic activists about COVID-19 infection cases and unfair distribution of humanitarian assistance in the country. It raised several concerns within civil society and media organisations who feared possible abuse of the law targeting independent media and dissenting voices.¹² The provisions in question were adopted without open and accessible public consultations. Concerns

⁶ Article 330. Insulting a representative of the authorities: 1) A public insult of a representative of the authorities in the performance of his official duties or in connection with their performance is punishable by compulsory work for a period of one hundred eighty to two hundred and forty hours or a fine of from five hundred to one thousand indicators for calculations or arrest for up to six months or correctional labor for a period of two months to one year; 2) Insults contained in a public speech, a publicly demonstrated work, the media or the Internet, are punished with a fine of from one thousand to one thousand five hundred indicators for calculations or arrest for a term of two to six months or imprisonment for up to two years .

⁷ Article 137. Public insult of the President of the Republic of Tajikistan or slander of him: 1) Public insult of the President of the Republic of Tajikistan or slander against him is punishable by a fine in the amount of one hundred to five hundred indicators for payment or correctional labor for up to one year; 2) The same actions committed using the press, other mass media or the Internet are punishable by correctional labor for up to two years or by imprisonment for a term of two to five years.

⁸ Article 346. Knowingly false denunciation. 1) knowingly false reporting of a crime - is punishable by a fine in the amount of from five hundred to one thousand indicators for calculations or restriction of freedom for up to two years (ZRT of 05/17/2004 No. 35, of 6/10/2008 No. 422). 2) The same act committed: a) with a charge of a grave or especially grave crime; b) with the artificial creation of evidence of the prosecution; c) for mercenary motives; d) in the interests of an organized group - shall be punished with correctional labor for a term of up to two years or imprisonment for a term of up to five years (ZRT of June 13, 2013 No. 966). 3) The actions provided for in the first or second part of this article: a) committed against a judge, prosecutor, investigator, or inquirer (LRT dated March 15, 2016 No. 1274); b) resulting in serious consequences - shall be punished with imprisonment for a term of five to seven years (ZRT of 17.05.2004 N35).

⁹ Law of the Republic of Tajikistan 14 November 2016, No. 1358 "On the introduction of amendments to the Criminal Code of the Republic of Tajikistan". 920160. [Online]. Available in Russian and Tajik here: http://www.adlia.tj/show_doc.fwx?Rgn=128054

¹⁰ Article 137 (1): 1) Public insult of the Founder of Peace and National Unity - Leader of the Nation or slander against him, is punishable by a fine in the amount of one hundred to five hundred indicators for payment or correctional labor for up to one year; 2) The same actions committed using the press, other media or the Internet are punished with correctional labor for up to two years or imprisonment for a term of two to five years.

¹¹ More specifically, this Article penalises two conducts: a) Dissemination of deliberately false information via means of mass information, Internet or other means of electric communication when dangerous diseases are emerging and spreading or when quarantine-associated limitation measures are being imposed; and b) Dissemination of untrue statements regarding techniques and methods of protection and other measures adopted to ensure public safety under aforesaid conditions. Penalties include fines for natural and legal persons and administrative arrest of up to 15 days for natural persons.

¹² See, e.g. CPJ, [Tajikistan parliament approves amendments imposing fines, detentions for 'false news' amid COVID-19 pandemic](#), 30 June 2020; or IPI, [Tajikistan passes coronavirus 'fake news' law](#), 7 July 2020.

raised by local civil society about potential negative consequences for freedom of expression and media freedom were ignored by the authorities.¹³

Recommendations

- Fully decriminalise defamation by repealing Articles 137, 137 (1) and 330 of the Criminal Code.
- Bring civil defamation legislation into compliance with Article 19 of the ICCPR, including by placing a cap on “moral” damages.
- Repeal Article 374(1) of the Code of Administrative Offences.

Counter-extremism and counter-terrorism provisions

9. Article 3 of the Law on Fighting against Extremism (2003) emulates Russian Federation 2002 legislation by defining “extremism” broadly as “the manifestation by legal entities and physical persons of expression of extreme forms of the actions calling for destabilization, change of the constitutional system in the country, seizure of power and assignment of its powers, incitement of racial, race, social and religious strife.”¹⁴
10. The broad and imprecise wording of what constitutes “terrorism”, “terrorist action”, “extremism”, “extremist activities” and “extremist materials” grants too wide a discretion in its interpretation and application, leading to arbitrariness. As framed, the laws criminalise behaviours that would not otherwise constitute terrorism and result in disproportionate restrictions on the exercise of freedom of expression. As a result, the government of Tajikistan has abusively applied these provisions to suppress independent voices, including journalists, opposition figures, and representatives of peaceful religious groups.¹⁵ The laws further grant broad discretion to the Prosecutor General and leave the judiciary with limited tools to constrain the misuse of these laws against parties and associations.¹⁶
11. On 2 January 2020 a new Law on Counteracting Extremism came into force.¹⁷ Article 17 of the new law effectively legitimises blocking or restriction of information resources considered to be propagandising extremism.¹⁸ This new legislation has had a chilling effect on freedom of expression both offline and online in Tajikistan as independent media self-censors, avoiding the publication of materials critical of the government, in order to avoid prosecution under this article.

“Incitement to hatred”

12. Article 189 of the Criminal Code prohibits “arousing national, racial, local or religious hostility”, punishable by a maximum sentence of 12 years’ imprisonment, and is routinely used against journalists and political

¹³ <https://www.article19.org/resources/tajikistan-false-information-legislation-incompatible-with-freedom-of-expression-standards/>

¹⁴ Legislation of the Republic of Tajikistan (2014) Law on Fighting Extremism. [Online]. Available in Russian from: http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=112

¹⁵ Preliminary observations of the Special Rapporteur on freedom of opinion and expression, op. cit.

¹⁶ Ibid.

¹⁷ <http://ncz.tj/content/закон-республики-таджикистан-о-противодействии-экстремизму>

¹⁸ Article 17. Prohibiting or restricting access to information of an extremist nature

1) If propaganda of extremism, including information calling for mass disorder, participation in mass events leading to a breakdown of public order or other extremist activities, is discovered on the Internet and other telecommunication networks, access to such information shall be immediately prohibited or restricted. 2) Termination or restriction of access to information to prevent extremist propaganda on the Internet and other telecommunications networks shall be ensured by the Communications Service under the Government of the Republic of Tajikistan in cooperation with law enforcement agencies.

Translated with www.DeepL.com/Translator (free version)

opposition members, as well as the lawyers who defend them, often in conjunction with ‘extremism’ charges.¹⁹

13. On 8 December 2017, Khayrullo Mirsaidov, a freelance journalist and former correspondent for independent Tajik media organisation Asia Plus and Deutsche Welle, was charged variously with ‘misappropriation of state funds’ (Article 245(4)(b)), ‘incitement to hatred’ (Article 189(2)(g)), ‘forgery’ (Article 340(1)), and ‘false denunciation’ (Article 346(2)(a)).²⁰ The charges against Mirsaidov are believed to have been in retaliation for his public criticism of corruption by local government officials in the Sughd region. The Prosecutor’s Office of the Sughd Region brought the charges after he wrote a public letter in November 2017 to President Emomali Rahmon, calling upon him to address government corruption.
14. Mirsaidov was held in pre-trial detention for seven months following his arrest in December 2017, although he posed neither a flight risk, nor a credible threat to public safety. He was ultimately convicted of embezzlement and misuse of state funds, and false denunciation, and sentenced in July 2018 to 12 years in jail. His family was ordered to pay the local government 124,000 Tajik Somoni (approximately 11,350 EUR or 13,000 USD) in financial damages, more than 10 times the average yearly salary in Tajikistan.²¹ On 22 August 2018, by the decision of the Khujand City Court, Mirsaidov was released. The Regional Court amended the recommended punishment and his sentence was reduced to community service and a fine of 80,000 TJS (approximately 8,500 USD).²² However, on 22 January 2019, the Khujand City court found Mirsaidov guilty in absentia of breaching the court order to pay the fine and leaving Tajikistan illegally.²³ Mirsaidov was jailed in absentia and on 11 February 2019 a warrant was issued for his arrest.²⁴
15. On 28 January 2020, journalist Daler Sharifov, a former writer for the independent news website, Ozodagon, was detained by security services on suspicion of distributing extremism materials.²⁵ On the same day, law enforcement officials raided his home and confiscated his books and computer. On 30 January 2020, Sharifov was detained for two months by the Ismoili Somoni District court under Article 189, part 1²⁶ and sentenced to a year in a penal colony on 16 April 2020²⁷ on the grounds of “inciting religious hatred”. It is believed that Sharifov, who was known to be critical of the authorities, was arrested in advance of the 2020 parliamentary and presidential elections to prevent him covering these events.²⁸ He was released on 29 January 2021.²⁹

Recommendations

¹⁹ Article 189. Incitement of national racial, regional or religious hatred: 1) Actions aimed at inciting national, racial, local or religious hatred or enmity, humiliation of national dignity, as well as propaganda of the exclusivity of citizens based on their attitude to religion, national, racial or local affiliation, if these actions were performed publicly or with the use of mass media, shall be punished by restriction of liberty for a term of up to five years, or imprisonment for the same term. 2) The same actions committed: a) repeatedly; b) with the use of violence or the threat of its use; c) using official position; d) by a group of persons or by a group of persons by prior agreement - shall be punished with imprisonment for a term of five to ten years with the deprivation of the right to occupy certain posts or engage in certain activities for a period of up to five years or without it. 3) The actions provided for in the first or second part of this article, if they: a) are committed by an organized group; b) due to negligence caused the death of a person or other serious consequences; c) resulted in the forcible expulsion of a citizen from his permanent place of residence; d) committed in case of a dangerous or especially dangerous relapse - shall be punished with imprisonment for a term of eight to twelve years with deprivation of the right to hold certain posts or engage in certain activities for up to five years or without it.

²⁰ See, for example: <https://www.article19.org/resources/tajikistan-pre-trial-detention-journalist-extended/>

²¹ See, for example: <https://www.article19.org/resources/tajikistan-us-eu-must-press-to-free-journalist/>

²² See, for example: <https://rus.ozodi.org/a/29763397.html>

²³ <https://www.rferl.org/a/tajik-journalist-jailed-in-absentia-for-breaching-court-order-/29706416.html>

²⁴ <https://www.rferl.org/a/tajik-authorities-issue-arrest-warrant-in-absentia-for-prominent-journalist/29765348.html>

²⁵ <https://rus.ozodi.org/a/30448951.html>

²⁶ <https://www.centralasian.org/a/30518332.html?lflags=mailer>

²⁷ <https://www.rferl.org/a/tajikistan-journalist-sharifov-prosecutor-seeks-two-year-prison-term/30558855.html>

²⁸ <https://rus.ozodi.org/a/30414799.html>

²⁹ <https://www.rferl.org/a/tajik-journalist-convicted-in-absurd-extremism-case-released-from-prison/31075882.html>

- Ensure an enabling environment for freedom of expression, including by repealing the Law on Fighting against Extremism in its entirety and repealing Article 17 of the Law on Counteracting Extremism.
- Cease the judicial harassment of journalists, media workers, human rights defenders, media outlets and civil society groups, including by ensuring the immediate and unconditional release of all those arbitrarily detained for the exercise of their rights.
- Amend Article 189 of the Criminal Code on incitement to bring it into compliance with Articles 19(3) and 20(2) of the ICCPR, in particular to ensure it only prohibits expression that specifically intends and is likely to incite hostility, discrimination or violence against persons on the basis of a protected characteristic.

Restrictions on freedom of expression online

Website blocking

16. Tajikistan regularly blocks access to online resources and social media including YouTube, Facebook, Media Holding Asia Plus and RFE/RL's Radio Ozodi. Messaging services are also blocked in response to criticism of the President and his family online. In addition, websites of both international and domestic media are regularly blocked following incidents which the government of Tajikistan considers may result in critical reporting. For example, in Khudjand in November 2018, a number of independent news websites were blocked for reporting on prison riots. Asia Plus is frequently targeted.³⁰ These blockings are often explained by the government and providers as the network being 'down for repair,' however access to such websites is still available through proxies and other applications which can circumnavigate these restrictions.
17. In July 2019, Russia's Roskomnadzor blocked access to online news platform, Asia-Plus, Tajikistan's leading independent information resource.³¹ Later in August 2019, the Asia-Plus' web Tajik domains were also blocked after unidentified individuals amended ISP settings, forcing it to host its website out of Tajikistan.³² It is believed that access to the site was blocked for political reasons following pressure on the site's journalists for reporting critical of the authorities. Since February 2020, the Tajik authorities have blocked independent online media outlets Asia-Plus, Avesta and Ozodi. These resources remain inaccessible without the use of a VPN.
18. Article 17 of the Law on Combating Extremism, brought into force on 2 January 2020, provides for blocking of online news media considered to be 'propagandising extremism'. This legislation was applied in the case of independent online news websites *akhbor.com* and *nahzat.ru*, blocked by the decision of the Supreme Court of Tajikistan on 18 February 2020³³ which entered into force on 19 March 2020.³⁴ The Supreme Court ruled that the decision had been made to prevent terrorist and extremist activities as the sites were found to be linked to the Islamic Renaissance Party of Tajikistan, considered by the government of Tajikistan to be an extremism organisation.

Recommendation

³⁰ <https://www.ozodi.org/a/29588271.html>

³¹ <https://www.rferl.org/a/popular-tajik-news-website-blocked-in-russia-barely-accessible-in-tajikistan/30088739.html>

³² <https://www.rferl.org/a/independent-tajik-news-agency-facing-apparently-targeted-disruption-/30158428.html>

³³ <https://khover.tj/rus/2020/04/na-territorii-tadzhikistana-zablokirovany-internet-sajty-www-akhbor-com-i-nahzat-ru-kotorye-obslyuzhivayut-terroristicheskie-i-ekstremistskie-organizatsii/>

³⁴ <https://asiaplustj.info/ru/news/tajikistan/laworder/20200409/v-tadzhikistane-zablokirovali-sait-ahbor-za-obslyuzhivanie-terroristicheskoe-ekstremistskih-organizatsii?fbclid=IwAR06r4pflSr3-hhu2VzWPZl51N0KjIAG1FsSOdrRta5ofAJHvYUQtISLYwI>

- Ensure the full enjoyment of the freedom of expression and access to information online, including by ceasing politically motivated blocking of access to online media and news websites and renewing free access without further delay.

Media freedom and safety of journalists

Harassment and threats against journalists and media workers

19. The State Committee for National Security frequently “invites” journalists and media workers for questioning and seek to influence their reporting or to make direct threats related to their work. Many have left the country to continue their work from exile.³⁵ In response, the Tajik authorities have sought to target family members, through threats and physical attacks, in order to intimidate those reporting from outside the country.
20. A total of six cases of physical attacks against media workers in Tajikistan were reported between 2017 and 2019, one of which was fatal.³⁶ In 2020, there were further cases of journalists being attacked while covering sensitive topics in the region. On 11 May 2020, Asia-Plus correspondent, Abdulo Gurbati was assaulted by unknown individuals after having purportedly been the target of an online smear campaign.³⁷ He was again attacked three weeks later while reporting on mudslides in the Khuroson district.³⁸ It is believed the attacks were linked to his reporting on the COVID-19 pandemic.
21. Despite the fact that Article 162 of the Criminal Code makes “Hindering the lawful professional activities of a journalist” a criminal offence, punishable by up to five years’ imprisonment, it has rarely been applied.³⁹ Instead of facing criminal prosecution, individuals who intimidate or interfere in journalists’ work are merely removed from their official posts and replaced. In the absence of significant consequences, such abuses of power continue largely unchecked.

Media regulation

22. The registration of new periodicals and printing houses has become extremely complicated since new regulations were introduced, most recently in January 2019.⁴⁰ According to Article 11 of the amended Law On State Registration Of Legal Entities And Individual Entrepreneurs, new registrations now need to obtain a ‘no-objection certificate’ from the State Committee for National Security (SCNS) in order to continue their official registration process.⁴¹ This enables the government of Tajikistan to use the

³⁵ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17193&LangID=E>

³⁶ <https://jfi.fund/central-asia-azerbaijan-report-eng/>

³⁷ <https://asiaplustj.info/en/news/tajikistan/incidents/20200513/correspondent-abdullo-gurbati-has-been-attacked-by-unknown-people>

³⁸ <https://thediplomat.com/2020/10/tajikistan-why-authoritarian-elections-also-matter/>

³⁹ Article 162. Hindering the lawful professional activities of a journalist 1) Hindering any kind of lawful professional activity of a journalist, as well as forcing him to spread or refuse to disseminate information, combined with the threat of violence, destruction or damage to property, spread of slanderous fabrications or disclosure other information that the victim wishes to keep secret, as well as by threatening the infringement of the rights and legitimate interests of the journalist - you punish tsya a fine in the amount of from five hundred to eight hundred indicators for calculations or correctional work for a period of up to two years (ZRT from 17.05.2004 N35, dated 06.10.2008 №422). 2) The same acts involving: a) violence; b) destruction or damage to property; c) using his official position - shall be punished with restriction of freedom for up to three years or imprisonment for up to five years with deprivation of the right to hold certain posts or engage in certain activities for up to three years or without it.

⁴⁰ Law of the Republic of Tajikistan On State Registration of Legal Entities and Individual Entrepreneurs http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=202

⁴¹ 1. Law of the Republic of Tajikistan On state registration of legal entities and individual entrepreneurs (as amended by the Law of the Republic of Tajikistan of December 29, 2010 No. 669 of December 28, 2012 No. 912, of November 23, 2015 No. 1251, of May 14, 2016 No. 1319, of 02.01.2019 number 1586). Article 11. Documents submitted for state registration of the establishment of a legal entity: 7) the conclusion of the relevant body in the case of registration of mass media; 2. The procedure for state registration of publishing, printing

withdrawal or refusal of permission as a way to control which media are free to establish and operate. In addition, applicants are required to pay USD150 for the registration process and an additional USD10 to receive the document of 'permission'.

23. The registration regulations and procedure described above effectively prevents media outlets critical of the Government from establishing or continuing operations, either through refusal of permissions from the State Committee for National Security, the inability of media outlets to pay both formal fees and bribes for the process, or through indefinite procedural delays. The legislation regarding registration sets out that the registration takes up to three days, however, in some cases registration has taken entities up to six months, and some have been delayed indefinitely.
24. Accreditation of individual journalists is also used to control the media and censor reporters critical of the government.⁴² These restrictions extend to international journalists, with provisions for accreditation of foreign media in Tajikistan continue to fall short of international standards. In particular there is no formal provision for foreign media to appeal against the Ministry of Foreign Affairs' decision on refusal to provide accreditations.⁴³ In October 2019, the Ministry of Foreign Affairs refused to extend the accreditation to 18 journalists and staff of RFE/RL's Radio Ozodi and only agreed to grant "partial" accreditation for seven journalists following a meeting with Jamie Fly, Head of RFE/RL in November 2019.⁴⁴
25. In addition, on 28 September 2020 the Central Commission on Elections and Referenda denied accreditation to Asia-Plus journalists to cover the presidential elections.⁴⁵ The Commission required that media outlets presented a certificate of registration, however Asia-Plus' certificate had not been renewed since early August 2020 pending a 'no-objection' certificate from the State National Security Committee. As Asia Plus' editorial board formally applied for accreditation on 13 August 2020 the 28 September decision is in violation of the Procedure for State Registration of Publishing Activities, Printing Enterprises and Maintenance of the State Unified register, which requires decisions on registration to be made within 30 days of application. It is believed this accreditation refusal is linked to the Tajikistan's government ongoing campaign to pressurise and obstruct Asia Plus' journalists and reporting.

Recommendations

- Ensure a safe and enabling environment for journalists and the media by ending impunity for attacks against journalists and media workers, including by bringing perpetrators to justice and enforcing Article 162 of the Criminal Code.
- Refrain from imposing accreditation schemes and procedures that undermine independent media and the work of journalists and media workers.

enterprises and maintaining the State Unified Register. Approved by the Government of the Republic of Tajikistan on February 25, 2017, No. 97; 3. Accounting Procedure - b. Accounting subjects of publishing and printing activities is carried out in the presence of the following documents: - certificate of the State Committee on National Security of the Republic of Tajikistan

⁴² Article 30 [of the Law on Press and other Mass Media]. Accreditation of mass media journalists: 1) The mass media, in coordination with state bodies and organizations, regardless of their organizational-legal and property form, may accredit their representatives in them as a journalist; 2) The authorized journalist has the right to participate in meetings and other events of these state bodies and organizations, in accordance with the procedure established by the legislation of the Republic of Tajikistan, familiarized with the transcript, protocol and other documentation and, as necessary, copy them.

⁴³ <https://mfa.tj/ru/main/view/68/polozhenie-ob-akkreditatsii-korrespondentov-sredstv-massovoi-informatsii-inostrannykh-gosudarstv-na-territorii-respubliki-tadjikistan>

⁴⁴ <https://www.rferl.org/a/rferl-president-calls-on-tajik-leader-to-ensure-media-freedom-accreditation/30258577.html>

⁴⁵ <https://asiaplustj.info/ru/news/tajikistan/society/20200929/tskvr-tadjikistana-otkazala-zhurnalistam-aziya-plyus-v-akkreditatsii-na-prezidentskih-viborah>

Access to Information

26. The right to access information, while given limited Constitutional protection, is further set out in Tajikistan's 2008 Law on the Right to Access Information,⁴⁶ with a separate right for the media established in Article 23 of Tajikistan's Media Law.⁴⁷ However there are inadequate mechanisms for enforcement of this crucial democratic right. Similarly, the State Secrets Act includes overly-broad provisions for restriction of the right to information, such as information on the state budget and "the health and personal life of the President of the Republic of Tajikistan and his family members."⁴⁸
27. Legislation providing for access to information for the media provides for a response within three working days with applicants notified of an extension to this period in case further time is needed. However, there is insufficient oversight over this right to information with no specific individual assigned within government departments to deal with access to information requests or complaints following refusals to respond to requests. Journalists and media outlets in Tajikistan find that their requests for information are frequently rejected by government agencies with the justification that the information requested is a state secret. Periods within which government representatives are required to respond to requests are also violated.

Recommendation

- Adopt a comprehensive freedom of information law in line with international human rights standards, and reform other laws, including the State Secrets Act, so that information requests are only refused on grounds consistent with Article 19(3) of the ICCPR.

⁴⁶ http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=195

⁴⁷ Article 23. Right to receive information. 1) Any person has the right to receive reliable information through the media about the activities of state bodies, organizations and their officials; 2) Mass media have the right to receive information from state bodies, organizations and their officials in the manner established by the legislation of the Republic of Tajikistan. State bodies, organizations and their officials, passing the necessary information to the mass media, provide favorable conditions for familiarizing themselves with documents; 3) State bodies, organizations and their officials are obliged to respond to the necessary official information, critical and analytical materials of the media that do not require additional study within up to three working days after contacting or publishing (broadcasting) the relevant information. State bodies, organizations and their officials promptly provide urgent information of public importance, not included in the list of information constituting state secrets and other information protected by law and not requiring additional study; 4) Heads of state bodies and organizations are obliged information to respond to critical and analytical material related to their activities and requiring additional study, within a period not more than two weeks after their publication (broadcast); 5) In the event that the heads of state bodies and organizations refuse to provide information, a representative of the mass media may file a complaint with higher authorities or in accordance with the procedure established by the legislation of the Republic of Tajikistan, to the court.

⁴⁸ http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=308