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Permanent Mission of the Republic of Tajikistan to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the letters of the Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association (REFERENCE: AL TJK 1/2024 dated 16 February 2024), has the honour to provide relevant information regarding the latter from Special Rapporteurs.

Permanent Mission of the Republic of Tajikistan to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurance of its highest consideration.

Enclosere: 8 pages

Geneva, 06 May 2024

Office of the High Commissioner for Human Rights
Geneva



(Translated from Russian)

Information related to the appeal by the Special Rapporteurs

Having considered the joint appeal of Ms. Mary Lawlor, Special Rapporteur on the situation of human rights defenders, Ms. Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Mr. Clement Nyaletossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and association, we wish to report the following.

The country is working continuously to strengthen democratic institutions for the protection of citizens' rights and freedoms, which is one of the priorities of State policy.

Under the Constitution, citizens have the right to form associations and participate in the work of political parties, trade unions and other public associations, and to join and withdraw from them voluntarily.

The Government is working actively to build the capacity of civil society.

The necessary mechanisms have been established in the country to protect the rights and legitimate interests of public associations and, as a member of many international and regional organizations, Tajikistan takes an active part in activities aimed at protecting human rights and democratizing society.

The authorized body carries out inspections of the activities of public associations in accordance with established procedure. The inspections are aimed at conducting awareness-raising activities related to compliance with legislation. Pursuant with the legislation, if an association is found to have committed violations and failed to comply with the requirements for addressing them, the authorized body has the right to submit a statement of claim to the courts.

The activities of public associations are monitored strictly in accordance with the law and the associations may be closed down only as an extreme measure and pursuant to a court decision. A statement of claim may be filed with the court only if a public association, despite the above measures, fails to address shortcomings or, after a certain period of time, commits other violations established by law.

It should be noted that, before filing a statement of claim in court, the Ministry of Justice carries out preventive measures and awareness-raising work with representatives of public associations in whose activities violations have been found.

The organizations are given a period of one month to address those shortcomings, the legislative provisions are explained and their staff are invited to attend seminars, round tables and other educational activities.

1. Free exercise of activities by human rights defenders and civil society organizations

In Tajikistan, public organizations reflect practically the whole range of important social areas, from human rights to charitable causes. A large proportion of civil society organizations are engaged in human rights protection, health care, education, culture, art, science and charitable activities.

Public organizations are free to present themselves as human rights organizations, insofar as the protection of the rights and interests of their members and other individuals and legal entities is one of the areas of their activities, in line with their statutes.

In the country, there are currently 51 organizations operating freely and without hindrance, whose activities are aimed at protecting the rights and legitimate interests of both their members and other natural and legal persons.

Under the Public Associations Act, the State or its officials may not interfere in the affairs of public associations, nor may public associations interfere in the affairs of the State or its officials.

The State ensures that the rights and legitimate interests of public associations are upheld and regulates by law the granting of tax and other benefits to them. State support is provided, at the request of the associations, in the form of targeted financing (State grants) for certain socially useful programmes run by public associations; the signing of agreements with them, including for work and services; and the awarding, on a competitive basis, to an unlimited number of public associations of social contracts for the implementation of various State programmes.

Issues affecting the interests of public associations, in cases provided for in law, are addressed by the State administration and other bodies with the participation of or in coordination with the relevant public associations.

Civil society organizations working to protect the rights and legitimate interests of individuals and legal entities are actively included in the development of standards and law enforcement practice.

Civil society organizations are currently involved in the drafting of a bill on non-profit organizations on the basis of the Civil Code. The bill will regulate social relations connected with non-profit organizations in respect of their establishment, the reorganization of their activities, the establishment of their rights and duties and their dissolution.

A national forum on the rule of law is held each year for Constitution Day.

The forum provides a platform for dialogue and legal discussions between representatives of the State authorities, academia, international organizations and civil society.

As a rule, the forum addresses topical issues related to constitutional law, criminal law, civil law, commercial law, family law, judicial and legal reform, international arbitration, provision of free legal aid to the public, the fulfilment of international human rights obligations and the Sustainable Development Goals.

The Ministry of Justice cooperates closely with civil society to explain the provisions of the legislation governing public associations.

Each year, the Ministry and its offices in the provinces hold round tables, seminars and other events with the participation of representatives of public associations.

The participants at these events discuss human and civil rights and freedoms, the progress made during the period since State independence in developing the civil society system and raising the level of public legal literacy, cooperation between State bodies and civil society, the realization of the Sustainable Development Goals and public awareness-raising activities.

Representatives of civil society organizations are actively involved in the implementation of the country's Development Strategy to 2030, as well as the Sustainable Development Goals.

Pursuant to a Presidential Decree of 30 December 2023, 2024 was declared the "Year of Legal Education".

The purpose of the Decree is to raise the public's level of legal education, promote democratic values, strengthen human rights as an institution, improve the legal literacy of the population, coordinate the activities of all those involved in legal protection and the promotion of legal behaviour, and organize an effective mechanism for cooperation between the State and civil society institutions in the area of legal education for the public.

Under a Presidential Order of 18 March 2024, a plan of events was approved for the declaration of 2024 as the "Year of Legal Education".

The plan includes the organization of television and radio programmes to disseminate legal knowledge, the organization and conduct of mobile court hearings, including in the form of training sessions, the organization of free legal aid to vulnerable sectors of society, including women, the organization of legal forums and seminars, the publication of scientific and social science articles and other activities to be carried out jointly with development partners and with the assistance of civil society organizations.

2. The activities of public associations in Kūhistoni Badakhshon Autonomous Province

In 2022–2023 and the first three months of 2024, a total of 816 public organizations and 51 branches and representative offices were closed down. Of this number, only 134 public associations and 16 branches and representative offices were closed down by court decision, while 682 public associations and 35 branches were closed down by decision of the organizations themselves.

Of the organizations closed down, 257 were in Kūhistoni Badakhshon Autonomous Province, 109 of them closed by court decision and 148 by decision of the governing bodies of the organizations themselves.

The reasons for the closures by court decision were: conducting activities not stipulated in their constituent documents, conducting activities in another place without State re-registration, failing to provide notification of grants won and the use of those funds, failing to report on the continuation of activities, failing to post financial reports on their website or the website of the registering authority, and non-compliance with legislation on education, labour, the State language and fire safety standards.

The public organizations [REDACTED] were closed down by court decision in accordance with the requirements of article 14 of the Public Associations Act, due to their failure to comply with the legislation governing public associations, late submission of their reports on statutory activities, failure to provide notification of receipt of financial assistance, arbitrary changes of legal address, violations of their constitutional provisions and links to criminal groups in Kūhistoni Badakhshon Autonomous Province.

Under article 14 of the Public Associations Act, the promotion of war and the establishment or activities of public associations or political parties that spread racial, ethnic, social or religious hatred or call for the violent overthrow of the constitutional order or the formation of armed groups are prohibited.

The reasons for the voluntary dissolution of 148 public associations in Kūhistoni Badakhshon Autonomous Province were lack of projects, inability to attract grant funds within the country and from abroad, inability to hire appropriate specialists to implement statutory goals, the establishment of organizations for individual projects and other factors of an objective nature and independent of the Ministry of Justice.

3. Ending the practice of harassment of public associations by tax and security authorities and refraining from inspections of their statutory activities

The security agencies do not inspect or prosecute public associations. If founders or members of public associations commit offences or crimes, the security agencies and other law enforcement bodies are required, within the framework of their legal powers, to take the measures provided for in law in respect of such persons.

Pursuant to the Public Associations Act, the registering authority monitors the compliance of the activities of public associations with their statutory objectives.

The tax authorities monitor the sources of income of public associations, the amount of funds they receive and the payment of taxes in accordance with the Tax Code.

Authorized State bodies monitor and control the compliance by public associations with existing environmental, fire, epidemiological control norms and standards in accordance with the law.

Neither the Ministry of Justice nor other bodies prosecute public associations; they carry out inspections solely for the purpose of taking note of the lawful activities of the associations.

During 2023, inspection of the statutory activities of 41 public associations resulted in written warnings to eliminate the offences.

4. Registration and closure of public organizations over the past five years

As of 1 April 2024, there were 1,813 public associations and 408 branches and representative offices operating in the country.

Over the past five years, the Ministry of Justice has registered 954 public associations, 431 of which have undergone re-registration.

The Ministry of Justice monitors the compliance of the activities of public associations with their statutory objectives on the basis of article 34 of the Public Associations Act.

According to legislation, the registering authority has the right to:

- Request from the governing bodies of public associations their administrative documents, decisions and information;
- Send its representatives to participate in public events organized by public associations;
- If public associations are found to be violating the law or committing acts contrary to their statutory objectives, issue a written warning to the governing body of such associations, indicating the specific grounds.

Inspections may be conducted of the statutory activities of a public association no more frequently than once every two years. If complaints or statements are made by individuals or legal entities about the actions of a public association or its governing bodies, or an application is filed by State authorities indicating violations committed by the public association or its governing bodies or an application is filed by the public association itself or its governing bodies, the registering authority has the right to conduct an inspection.

In addition, inspections may be carried out if there is any suspicion of public associations being involved in activities related to money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction.

Over the past five years, the Ministry of Justice has audited 460 social organizations (147 in 2019, 75 in 2020, 115 in 2021, 80 in 2022, 41 in 2023 and 2 in the first three months of 2024).

Over the past three years, there has been a falling trend in the number of inspections of statutory activities of public associations, as is confirmed by the above-mentioned figures.

Based on the results of the inspections, the Ministry of Justice issues a written warning, a statement of claim to the courts for the suspension of activities or, in cases of gross violation and non-remedy of violations of legal provisions, a statement of claim to the courts for the termination of the association's statutory activities.

Over the past five years (2019–2023) and the first three months of 2024, 1,074 public associations and 78 branches and representative offices have gone into voluntary dissolution.

The reasons for the voluntary dissolution, as stated earlier, included a lack of projects for the implementation of activities, the inability to attract grant funds within the country and from abroad, the inability to hire appropriate specialists for the implementation of statutory objectives and the creation of organizations for individual projects. These circumstances are beyond the control of the Ministry of Justice, as voluntary dissolution is a right of public associations.

Over the past five years (2019–2023) and the first three months of 2024, 143 public associations and 17 branches and representative offices were closed down by decision of the courts.

The above figures indicate that the voluntary dissolution of public associations and their closure by court order decreased noticeably in 2023 compared to previous years. This is the result of close cooperation between the Ministry of Justice and civil society organizations, and the organization of awareness-raising activities and round tables to discuss existing problems in this area.

A total of six joint activities aimed at improving the legal literacy of civil society representatives were carried out in 2023, followed by two in the first three months of 2024.

The Ministry of Justice, as the registering authority, provides support to all public organizations, regardless of their type of activity, during the registration process, and, in the organizations' activities, offers consultations on legal issues and assists in solving legal and other issues within the scope of its authority.