



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Report on follow-up to the concluding observations of the Human Rights Committee\*

#### Addendum

### Evaluation of the information on follow-up to the concluding observations on Tajikistan

*Concluding observations (126th session):* [CCPR/C/TJK/CO/3](#), 18 July 2019

*Follow-up paragraphs:* 42, 48 and 55

*Information received from State party:* [CCPR/C/TJK/FCO/3](#), 20 July 2021

*Committee's evaluation:* 42 [C], 48 [E][C] and 55 [E][C]

### Paragraph 42: Surveillance and interception of private communications<sup>1</sup>

#### Summary of the information received from the State party

(a) Article 23 of the Constitution guarantees the right to privacy of correspondence, telephone conversations and telegraphic and other personal communications, except as may be provided for by law. The collection, storage, use and dissemination of a person's private information without consent is prohibited. The legal and organizational framework for the collection, processing and protection of personal data is regulated by the Personal Data Protection Act. The Act does not apply to all situations.

(b) Pursuant to Presidential Decree No. 1537 of 16 May 2020, the Communication Service of the Government of Tajikistan was designated as the competent body for personal data protection. The Service drafts relevant laws and regulations to be approved by the President, implements State policy on personal data protection, approves the types of personal data deemed necessary and adequate and the procedure to implement protection measures, considers submissions on personal data protection issues and holds the persons responsible for compliance accountable. A certificate of compliance issued by the competent State body is required to collect and process personal data, and measures must be taken to safeguard against violations. Unauthorized access to personal data is not permitted.

(c) During preliminary investigations, the rights and interests of victims are protected in accordance with article 42 of the Code of Criminal Procedure, taking all measures pursuant to the Code to provide compensation for material damage.

\* Adopted by the Committee at its 137th session (27 February–24 March 2023).

<sup>1</sup> The paragraphs containing the Committee's recommendations are not reproduced in the present document owing to the word limit specified in General Assembly resolution [68/268](#), para. 15.



**Committee's evaluation**

[C]

While taking note of the information provided on the current legislative framework on data protection, the Committee regrets the lack of information on action taken to ensure that all legislation is in full conformity with the Covenant. It reiterates its recommendation and requests specific information on action taken to that end since the adoption of the concluding observations.

The Committee takes note of the information regarding the designation in 2020 of the Communication Service of the Government of Tajikistan as the competent body for personal data protection and the requirement for a certificate of compliance to collect and process personal data. Nevertheless, it regrets that all information and communications continue to flow through the single communications switching centre controlled by the government Communication Service and that no action has been taken to ensure that surveillance and interception is conducted subject to judicial authorization and to effective and independent oversight. It reiterates its recommendation.

The Committee takes note of the information concerning article 42 of the Code of Criminal Procedure and the compensation provided for material damage found to have been caused. Nevertheless, it regrets the lack of information on specific steps taken since the adoption of the concluding observations to ensure that the persons affected have proper access to effective remedies in cases of abuse. It reiterates its recommendations and requests statistical information on the number of cases of abuse and the remedies applied.

**Paragraph 48: Freedom of expression****Summary of the information received from the State party**

The Press and Other Mass Media Act provides State guarantees of media freedom and independence. It also provides for accountability, should access to information be obstructed. Government agencies and organizations are required to provide the media with necessary information and to respond to criticism within three working days. Urgent information of public interest must be disclosed without delay, unless it has been classified as a State secret or legally protected information.

The media are subject to restrictions only for the purposes of maintaining public order or national security, protecting the rights and freedoms of others or preserving the honour, dignity and reputation of individuals.

Information is provided to the media in a timely manner and no cases of obstruction of access to human rights information available to government agencies have been recorded. Official websites contain information on the activities of government agencies, the protection of citizens' rights and legitimate interests.

Pursuant to the new strategy for 2021–2025, the Commissioner for Human Rights monitors activity on government agency websites, facilitates access to information and considers individual concerns on the right of access to information.

Furthermore, government agencies hold well-attended press conferences every six months with representatives of the media, who report on the Government's activities and the measures taken to prevent violations of civil rights and freedoms. Moreover, round-table discussions and press conferences with media representatives are held periodically to analyse the current legislation.

Under article 30 of the Constitution, everyone is entitled to freedom of speech, freedom of the press and the right to use the media. Everyone has the right to seek, receive and impart information and ideas, which is also enshrined in the Information Act, the Protection of Information Act, the Press and Other Media Act, the Publishing Act and other sectoral laws. The laws in force are entirely consistent with the State's international obligations.

The State ensures respect for the rights and legitimate interests of the media. State support for the media is provided through earmarked allocations, financial assistance and other forms of State support in the manner prescribed by law.

The Safina television channel and the local television channels in Gorno-Badakhshan autonomous region and the provinces of Sughd and Khatlon and radio stations broadcast analytical and critical reporting on shortcomings in various areas, including social protection and human rights. Programmes on a variety of topics have been broadcast and discussions, talks and round tables with the participation of sectoral experts have been held.

### **Committee's evaluation**

[E]: (a), (b), (c), (e) and (g)

The Committee regrets the absence of information on steps taken towards the decriminalization of insulting or libelling the President/leader of the nation and insulting other State officials. It also regrets that, according to information received by the Committee, individuals have been deprived of their liberty on a number of such charges, including for insulting State officials. The Committee reiterates its recommendation.

While taking note of the information on the existing legislation providing State guarantees of media freedom and independence, the Committee regrets that independent media reportedly continue to be scarce and that media outlets have been blocked or forced to cease covering the protests in Gorno-Badakhshan autonomous region after receiving threats of closure from the Prosecutor General's Office. It also regrets that State-owned media are reportedly increasingly engaging in State propaganda. It therefore reiterates its recommendation.

The Committee takes note of the State party's statement that the laws in force are entirely consistent with its international obligations. Nevertheless, the Committee regrets that no steps have been taken during the reporting period to repeal or amend the laws and regulations providing for the restrictions referred to by the Committee in its concluding observations, with a view to bringing them into full compliance with the Covenant, and that the State party has shown no intention of doing so. It reiterates its recommendation.

While taking note of the measures in place to provide access to information, the Committee regrets that it has reportedly become more challenging for journalists to receive information from State bodies, frequently having to wait two to three months to receive a response to their information requests to the authorities, and that 37 out of 58 written information requests submitted in July and August 2021 remain unanswered. It is particularly concerned at reports of the continuous Internet shutdowns and blocking of websites between August 2021 and April 2022, including the short-term blocking of the Asia Plus and Radio Ozodi news outlets and of Facebook, and at the reports that the Internet and mobile phone network were shut down in the Gorno-Badakhshan autonomous region until the end of June 2022 following the violent dispersal of protestors in Khorog in May 2022, which left one person dead and several wounded. The Committee reiterates its recommendation.

The Committee regrets the absence of information on action taken by the State party to ensure that journalists and media workers are effectively protected against intimidation. Furthermore, it particularly regrets that a number of independent journalists and bloggers were reportedly arrested on extremism or terrorism charges and accused of having ties with the banned opposition parties following the protests in Gorno-Badakhshan autonomous region in May 2022. It also particularly regrets that no one has reportedly been held accountable for the violent attack against four journalists by unidentified men in plain clothes in May 2022 after they interviewed another journalist and all of their equipment containing the recorded interviews was confiscated. The Committee reiterates its recommendation and requests information on specific measures taken to investigate and prosecute those responsible for any intimidation of or threats or violence against independent journalists and media workers, including the above-mentioned attack in May 2022.

[C]: (d) and (f)

The Committee takes note of the information that the media are subject to restrictions only for the purposes of maintaining public order or national security, protecting the rights and freedoms of others or preserving the honour, dignity and reputation of individuals. Nevertheless, it regrets the lack of information provided on steps taken by the State party to lift undue restrictions on the exercise of freedom of expression. It also regrets that, according to information received by the Committee, freedom of expression continues to be severely restricted, both online and offline, and reiterates its recommendation.

While taking note of the information that, under article 30 of the Constitution, everyone is entitled to freedom of speech, freedom of the press and the right to use the media, the Committee regrets the lack of information on measures taken to ensure the independence of the broadcasting and licensing authority. It also regrets that, according to information received by the Committee, the authorities continue to put pressure on foreign media outlets by refusing, withdrawing or restricting journalists' accreditations. It further regrets that, while under article 14 of the Television and Radio Broadcasting Act, both State and independent broadcasters are required to have a licence in order to broadcast, in practice, only private, non-State-owned media outlets are reportedly required to obtain one. It reiterates its recommendation.

## **Paragraph 55: Participation in public affairs**

### **Summary of the information received from the State party**

Analysis of the legislation has shown that it fully meets the requirements of the Covenant, including the limitations on the right to stand for election set forth in the Constitution adopted by national referendum and in the Constitutional Act on the Election of the President and the Constitutional Act on Elections to the Majlisi Oli (Supreme Council). Under the Constitution and election laws, citizens are fully entitled to take part in political life and State governance. The most recent elections to the Supreme Council and to the presidency, held in March and October 2020, demonstrated the genuine exercise of electoral rights by citizens. The Central Commission for Elections and Referendums has regularly published articles in newspapers and magazines to explain the content of election laws. For the elections to the Supreme Council, campaign videos and information materials in the Tajik, Russian and Uzbek languages were produced and broadcast on television channels and Radio Tajikistan and were published in local newspapers. A mobile application on the 2020 legislative elections was developed and made available, and workshops were held for young people, persons with disabilities, women and the Public Council of Tajikistan.

In order to mobilize the electorate for the 2020 presidential election, articles, television and radio spots and information materials were prepared and disseminated through the media, the website of the Central Commission for Elections and Referendums, and a Facebook page created for the election. Direct electronic communication was established with district election commissions for information-sharing. Awareness-raising activities on election laws were conducted for the general public and 170,000 information leaflets and booklets were distributed to voters.

Regarding the revision of legislation that provides for a blanket denial of the right to vote for all convicted prisoners, the State party notes that some convicted persons are not deprived of the right to vote. Under the Constitution, citizens who have been declared legally incompetent by a court or are being held in places of deprivation of liberty under sentence by a court are deprived of voting rights.

The laws of Tajikistan provide for equal electoral campaigning conditions for all candidates. They stipulate that all candidates, from the time of their registration by the Central Commission, are to participate in election campaigns on an equal basis and have equal rights to make use of media opportunities, including on the radio and television. In accordance with election laws, during pre-election campaigning, political parties presented their election platforms and campaign videos to voters using between 32 and 40 minutes of free broadcast time. In addition, political party-endorsed candidates for election to the House of

Representatives (Majlisi namoyandagon) and self-nominated candidates from single-member constituencies used free broadcast time to present their election platforms. All candidates in single-member districts are allowed up to 20 minutes of free broadcast time on State television and radio, and political parties are allowed up to 40 minutes. In the presidential election, to create equal conditions for all registered candidates, the Central Commission approved and promptly implemented a procedure on campaigning, as well as uniform information posters with photos and biographical data of the candidates. Over 75,000 copies were distributed in 68 districts and 3,375 polling stations.

### **Committee's evaluation**

[E]: (a) and (b)

While taking note of the information provided that, under the Constitution and election laws, citizens are fully entitled to take part in political life and State governance, the Committee regrets that the elections in March 2020 reportedly took place in a tightly controlled environment, leaving no space for pluralistic political debate and that no genuine political opposition was represented. Furthermore, it regrets that opposition parties and movements reportedly continue to be labelled as extremist and terrorist organizations and were banned from participation in the March 2020 elections. The Committee reiterates its recommendation.

The Committee regrets the absence of information provided by the State party with regard to the harassment and exclusion of opposition members from meaningful participation in public life and electoral processes, as well as the investigation into the alleged enforced disappearance of Ehson Odinaev. It also regrets that, according to information received by the Committee, persecution and imprisonment of human rights defenders, opponents of the Government and members of their families for supporting banned opposition parties are ongoing. The Committee reiterates its recommendation and requests specific information on the progress of the investigation into the alleged enforced disappearance of Ehson Odinaev and any results or convictions of those responsible.

[C]: (c), (d), (e) and (f)

While taking note of the information received on the election laws in force and the State party's statement that they are compatible with the Covenant, the Committee regrets the lack of information on the specific steps taken since the adoption of the concluding observations to revise the limitations on the right to stand for election. It also regrets that the restrictive requirements for participation in elections, including those related to residence, language and education, have reportedly not been revised. It reiterates its recommendation.

While taking note of the information provided that some convicted persons are not deprived of the right to vote, the Committee regrets that no action has been taken to revise legislation that provides for a blanket denial of the right to vote for all convicted prisoners and any person declared incompetent by a court. It reiterates its recommendation.

While taking note of the information regarding the activities and information-sharing of the Central Commission for Elections and Referendums relating to its work, the Committee regrets the absence of information provided by the State party on efforts made to ensure the full independence of the Commission. It also regrets that, according to information received by the Committee, the Commission has not achieved transparency, given that information on important decisions, disaggregated data on voter and candidate registration and data on the distribution of ballots and detailed voting results were not published. Furthermore, the Committee regrets that members of the Commission were reportedly nominated by the President and approved by the parliament without a debate, and that the nomination process lacked transparency, particularly in that the nomination criteria were not public. It reiterates its recommendation.

While welcoming the information provided regarding the access to free public broadcasting for political parties and candidates and the corresponding airtime made available to the various political parties, the Committee is concerned that no evidence has reportedly been provided by relevant State bodies or independent observers that the electoral contestants made use of the airtime or print media space guaranteed under the election laws. It regrets that, according to information received by the Committee, in Dushanbe the posters of the

President's Peoples Democratic Party of Tajikistan visible to the public outnumbered the posters of other parties participating in the election. The Committee reiterates its recommendation.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

**Next periodic report due:** 2028 (country review in 2029, in accordance with the predictable review cycle).

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