

# OSCE/ODIHR Submission of Information about an OSCE Participating State or Partner for Co-operation under Consideration in the Universal Periodic Review Process

**Participating State:** Tajikistan

**UPR Working Group Session and Date of Review:** 39<sup>th</sup> Session, 1-12 November 2021

## Background

1. Tajikistan has been a participating State in Organization for Security and Co-operation in Europe (OSCE) since 1992 and has thus undertaken and recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE Documents.<sup>1</sup>
2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Tajikistan, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE-Area.
3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Tajikistan and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Tajikistan.

## Election-related activities

4. ODIHR has observed two elections during the reporting period, most recently the 2020 presidential and parliamentary elections.

*Presidential election, 11 October 2020*

5. Following an invitation from the Ministry of Foreign Affairs of the Republic of Tajikistan, (MFA) to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 11 October 2020 presidential election, and in accordance with its mandate, ODIHR deployed an Election Assessment Mission (EAM) on 26 September.
6. According to the 2020 ODIHR Final Report “the presidential election took place within an environment tightly controlled by state authorities and characterized by long-standing restrictions on fundamental rights and freedoms, including of association, assembly, expression, media, and harassment and intimidation of dissenting voices. The law places the incumbent president in an unduly advantageous position compared to other candidates. There was no genuine political alternative offered to voters, with only contrived debate between formal candidates and lack of independent media covering the

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<sup>1</sup> OSCE Office for Democratic Institutions and Human Rights, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (third edition)*, <http://www.osce.org/odihr/elections/76894> and *Compendium of OSCE Human Dimension Commitments: Volume 2, Chronological Compilation (third edition)*, 2011, <http://www.osce.org/odihr/76895>; OSCE Summit Meeting, Astana 2010, *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010, <http://www.osce.org/cio/74985?download=true>

campaign. The electoral process lacked credibility and transparency, including on Election Day. Comprehensive reforms are required in order to align the electoral process with Tajikistan's OSCE commitments and other international obligations and standards for democratic elections.”<sup>2</sup>

7. ODIHR, within its mandate, offered only 12 priority recommendations:<sup>3</sup>

- Provisions that confer special status and electoral privileges to the incumbent president, including the individualized right to serve unlimited presidential terms, should be reviewed in order to ensure equality of all citizens before the law and to create a level playing field.
- A comprehensive reform of the electoral legal framework should be undertaken to eliminate undue and discriminatory restrictions on fundamental rights and freedoms and to rectify other significant shortcomings as identified in this and previous ODIHR reports.
- The formation process of the election commissions at all levels should be transparent and based on clear selection criteria providing for independence of election administration. Continued efforts are required to ensure impartiality and professional capacity of the commissions.
- The accuracy of voter lists should be improved, with consideration given to the introduction of a permanent, centralized voter register. The voter register should be comprehensively updated ahead of each election and be centrally checked for errors and multiple registrations.
- The Election Law should be amended to allow for the right of self-nominated candidates to stand for election. The number of supporting signatures should be reduced to bring candidate nomination procedure in line with good electoral practice.
- The Election Law should be amended so as to substantially reduce the role of electoral bodies and local authorities in defining campaign modalities and organising campaign events. The Law on Assemblies should be amended to require a simple notification procedure rather than an authorisation of public events.
- The electoral legislation should be amended to include detailed regulations to ensure a clear separation between the state and political parties and candidates, so as to prevent contestants from using the advantage of their office for electoral purposes.
- The legal framework should comprehensively regulate campaign incomes and expenditures, reporting and oversight mechanisms as well as provide for dissuasive sanctions for non-compliance to ensure transparency and accountability of campaign finances.
- Freedom of expression should be guaranteed in practice; journalists and bloggers should be allowed, without excessive administrative burden, to critically cover political and societal issues free of intimidation and fear of retribution. All provisions

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<sup>2</sup> The full EAM report is available at <https://www.osce.org/files/f/documents/c/6/477019.pdf>

<sup>3</sup> In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

that envisage criminal prosecution for defamation, insult and slander should be repealed in favour of civil sanctions.

- Clear deadlines related to post-election disputes should be established to ensure the right to effective legal redress.
- The Election Law should be amended to provide for non-partisan citizen and international election observation of all stages of the electoral process.
- The Central Commission on Elections and Referendums (CCER) should publish full preliminary and final results in a timely manner, disaggregated by districts and polling stations.

*Parliamentary elections, 4 October 2020*

8. Following an invitation from the MFA of the Republic of Tajikistan to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 4 October 2020 parliamentary elections, and in accordance with its mandate, ODIHR undertook a NAM to Tajikistan from 9 to 12 December 2019.<sup>4</sup>
9. The ODIHR NAM report concluded that “an overwhelming majority of ODIHR NAM interlocutors confirmed a lack of progress in bringing the electoral legal framework and its implementation closer in line with OSCE commitments and other international obligations and standards for democratic elections. None of the latest legal amendments appear to address previous ODIHR recommendations. The level of respect of fundamental freedoms has further deteriorated since the last elections and the choice between political alternatives is limited in the absence of independent media and a functioning opposition. Under these circumstances, the ODIHR NAM does not consider the deployment of an election observation mission, including long-term and short-term observers, to be of an added value. However, mindful of the interest of interlocutors in the potential ODIHR election observation activity for these elections and the declared interest of the authorities to maintain a dialogue on electoral issues, the ODIHR NAM recommends the deployment of an EAM for the upcoming parliamentary elections. The EAM would focus on practical implementation of the legal and administrative framework for elections, performance of the election administration, as well as the exercise of fundamental freedoms during the campaign.”
10. According to the 2020 ODIHR Final Report “the parliamentary elections took place in a tightly controlled environment. Systemic infringements on fundamental political rights and freedoms have left no space for a pluralistic political debate, and genuine opposition has been removed from the political landscape. Consequently, voters were not presented with genuine political alternatives. Operational aspects of the elections appeared to be efficiently administered, yet this did not offset the long-standing transparency and accountability challenges within the election administration, which undermined the integrity and credibility of the process. Significant efforts are needed to align the electoral process with Tajikistan’s OSCE commitments and other international obligations and standards for democratic elections”.<sup>5</sup>

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<sup>4</sup> The full report is available at: <https://www.osce.org/files/f/documents/c/9/443983.pdf>

<sup>5</sup> The full report EAM is available at <https://www.osce.org/odihr/elections/tajikistan/443986>

11. ODIHR, within its mandate, offered 23 recommendations including the following 7 priority recommendations. Several are similar to the recommendations above, due to the short time period between the elections. They are still reported as they the elections are different (presidential and parliamentary):

- A comprehensive review of the electoral legal framework should be undertaken in an open and inclusive manner to eliminate the significant shortcomings identified in this and prior ODIHR reports.
- State authorities should refrain from interfering into journalist and media work to enable them to carry out their professional duties freely while covering political issues, including party and candidate activities during the campaign.
- The CCER members' selection process should include adequate transparency and accountability measures to ensure the CCER is independent from both government institutions and parliament in the execution of its mandate. Security of tenure for CCER commissioners should be strengthened.
- The accuracy of voter lists should be improved, with consideration given to the introduction of a permanent, centralized voter register. The voter register should be comprehensively updated ahead of each election and be centrally checked for errors and multiple registrations.
- The electoral law should provide for independent, non-partisan citizen election observation, in line with the 1990 OSCE Copenhagen Document. All observers should be afforded the same rights by law and in practice, explicitly allowing observation of all stages of the electoral process.
- Robust procedures for counting and tabulating results and storage of sensitive materials should be developed and adhered to at all levels of election administration in order to enhance integrity, accountability and transparency in the result management.
- In line with basic principles for transparency and accountability, the CCER should publish full preliminary and final results for all races in a timely manner, disaggregated by polling stations.

### **Freedom of expression and media freedom related issues**

The OSCE Representative on Freedom of the Media (RFoM) has been mandated by OSCE participating States, including Tajikistan, to observe media developments as part of an early warning function and to help participating States abide by their commitments to freedom of expression and free media.

The present submission provides *publicly available* country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Tajikistan and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of freedom of the media and freedom of expression in Tajikistan.

In the past years, the RFoM published several statements and wrote to the authorities on issues related to the media situation in Tajikistan. In particular, safety and security of journalists remains problematic, as well as their freedom to report on issues of public interest. The RFoM reacted to cases of physical violence against journalists, *i.e.* Abdulloh Ghurbati,<sup>6</sup> a reporter with Asia Plus, who was assaulted twice in May 2020.

Arbitrarily applied charges of extremism pose a threat to the free exercise of professional activities by journalists and bloggers in the country. The current pandemic has had a negative effect on media freedom in the country. In June 2020, amendments to the criminal and administrative codes were adopted by the parliament, making it illegal to “[disseminate] false information about the pandemic in media, internet and social networks”. Those convicted could face fines and up to 15 days in administrative detention. The RFoM wrote to the authorities on 25 June, asking to repeal the amendments as they could lead to the prosecution of media outlets, journalists or civil society actors for disseminating information that could be interpreted as deliberately false.

Accreditation remains a means of restricting freedom of the media. In particular, Tajik journalists, who work for the foreign media, have been arbitrarily denied accreditation or when granted, it was withdrawn as a means of retaliation for critical reporting. In particular, the Tajik-language service Ozodi of the international broadcaster RFE/RL has been targeted in that regard. The RFoM intervened in January 2020 and in June, October and November 2019 on behalf of the Ozodi staff.<sup>7</sup>

Tajik citizens have experienced recurring problems with access to social media and applications for online search and communications (such as Google). Occasionally, the mobile network and Internet have been switched off in case of a civic disturbance or a governmental security operation, that is, in situations when citizens most urgently need access to timely and reliable information. In May 2019 and September 2018, the RFoM called upon the authorities to restore access to web resources, including social media and search engines.<sup>8</sup>

Moreover, several news media online, reporting from within and outside of the country, have been blocked. The RFoM wrote to the authorities on the matter in February 2021 concerning blocking of the site of Asia Plus news agency for the last two years despite assurances of the authorities to the contrary. Similarly, in May 2020, the RFoM wrote to the authorities and issued a public statement about the Tajikistan’s Supreme Court ruling to block access to the Akhbor.com news site in the country on the grounds of providing a platform to “terrorist and extremist organizations”<sup>9</sup>.

Several well-known journalists and editors have left the country in recent years. A disturbing tendency has been brought to the attention of the RFoM that relatives of *émigré* journalists have sustained pressure from the law enforcement agencies in Tajikistan, so that they should persuade journalists to return. Some of the relatives were threatened with retaliation, such as the loss of a job. RFoM wrote to the authorities and issued a public statement referring to one

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<sup>6</sup> [https://twitter.com/OSCE\\_RFoM/status/1266350404243202054](https://twitter.com/OSCE_RFoM/status/1266350404243202054);

[https://twitter.com/OSCE\\_RFoM/status/1260155808165376000](https://twitter.com/OSCE_RFoM/status/1260155808165376000)

<sup>7</sup> [https://twitter.com/OSCE\\_RFoM/status/1220352935420473344](https://twitter.com/OSCE_RFoM/status/1220352935420473344);

[https://twitter.com/OSCE\\_RFoM/status/1190254687909531649](https://twitter.com/OSCE_RFoM/status/1190254687909531649);

[https://twitter.com/OSCE\\_RFoM/status/1187027887788044290](https://twitter.com/OSCE_RFoM/status/1187027887788044290); <https://www.osce.org/representative-on-freedom-of-media/424226>

<sup>8</sup> [https://twitter.com/OSCE\\_RFoM/status/1125797580489801728](https://twitter.com/OSCE_RFoM/status/1125797580489801728); <https://www.osce.org/representative-on-freedom-of-media/418964>;

[https://twitter.com/OSCE\\_RFoM/status/1036974099673833472](https://twitter.com/OSCE_RFoM/status/1036974099673833472)

<sup>9</sup> <https://www.osce.org/representative-on-freedom-of-media/453357>

of such cases in 2019<sup>10</sup>.

Recommendations from the RFoM:

- All restrictions on freedom of expression should pursue a legitimate purpose, narrowly defined and proportionate. In particular, broad application of charges of extremism against journalists and bloggers and often disproportionate charges against them should cease.
- Legislation which could lead to the prosecution for disseminating false information should be repealed.
- The government should ensure free and secure access to the internet and other sources of communication and information to its citizens, including unimpeded access to media outlets operating online within or outside of the country.
- The government should ensure timely access to governmental information by journalists and citizens alike.
- The government should revoke all arbitrary restrictions to the freedom of the media and journalists, including arbitrary restriction on accreditation.

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<sup>10</sup> <https://www.osce.org/representative-on-freedom-of-media/424226>;  
[https://twitter.com/OSCE\\_RFoM/status/1144508979894206465](https://twitter.com/OSCE_RFoM/status/1144508979894206465)