IN THE LINE OF DUTY

HARASSMENT, PROSECUTION AND IMPRISONMENT OF LAWYERS IN TAJIKISTAN

AMNESTY INTERNATIONAL

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CONTENTS

1. SUMMARY

"I am not an extremist, I am a lawyer"

Lawyer Burzugmekhr Yorov's closing statement at his trial in Dushanbe on 3 October 2016

Tajikistan will celebrate the 'Professional Day of the Lawyer' on 26 May, the day when the first Bar Association was established in Tajikistan 95 years ago this year. For lawyers, though, there will be little to celebrate: this anniversary comes at a time when the country is increasingly turning its back on human rights and the rule of law, and when lawyers in Tajikistan are confronted with significant obstacles in the exercise of their professional duty. To be a lawyer, and particularly a human rights lawyer, comes with unprecedented risks in present-day Tajikistan.

In the last few years the authorities' stated need to protect stability and traditional values has been given priority in all spheres of public life over the respect for fundamental human rights on a near-daily basis, and the authorities invoke national security and the fight against terrorism to justify increasingly harsh restrictions on freedoms of expression and association. There is an ongoing clampdown in Tajikistan on virtually any form of dissent, including persecution of those associated or perceived to be associated with various banned opposition groups and political parties, such as the Islamic Renaissance Party (IRPT) and Group 24.[1]

Many of the lawyers who took up the defence of members of the political opposition have either found themselves charged with national security-related offences, imprisoned, or have had to flee the country for fear of reprisals against them and members of their families. Those who have been prosecuted have faced closed unfair trials resulting in harsh prison sentences. For other members of the legal profession, the arbitrary arrests of these lawyers, their politically-motivated prosecutions in connection with the legitimate exercise of their professional duties, and the harassment of their defence lawyers and of their families have served as a warning and a deterrent.

In the context of the wider clampdown on dissent, lawyers have become increasingly wary of taking up any cases of an overtly political, or potentially political, nature, or cases that involve complaints against security services or other agents of the state, even when there are compelling allegations of torture or other ill-treatment.

Furthermore, legal amendments introduced in November 2015 to the law on the legal profession (Law on Advokatura) have increased the control over the licensing of lawyers by the executive branch of government and cut the number of lawyers licensed to practice (*advokaty)* drastically. Ironically, these amendments came just nine months after the adoption of the new law in March 2015, which originally guaranteed in law the independence of lawyers in line with international standards.

[1] The IRPT was a legally registered political party, and the only Islamist political party in the whole of Central Asia. From the late 1990s and until 2015, it had participated in elections, winning seats in the country's parliament. However, following the widely disputed 1 March 2015 parliamentary elections in Tajikistan, the party lost its two remaining parliamentary seats. On 28 August 2015, the IRPT received an order from the Ministry of Justice to cease its activities by 7 September on the basis that it "lacked sufficient popular support" to qualify as a registered party.
Group 24 was a secular opposition movement co-founded by businessman and opposition politician Umarali Kuvvatov , Group 24 was banned by the Supreme Court as "extremist" in October 2014. Umarali Kuvvatov was assassinated in Turkey on 5 March 2015.

The International Covenant on Civil and Political Rights (ICCPR) provides for a raft of fair trial rights and guarantees. These guarantees include among others the rights to liberty and to competent and effective legal counsel before trial, the rights of detainees to have access to the outside world and to challenge the lawfulness of detention; the rights to humane detention conditions and freedom from torture and ill-treatment; the right to equality before the law and courts and the presumption of innocence until proven guilty according to the law; the right to defend oneself and the right to legal assistance of one's own choosing; the right to communicate with counsel in conditions that fully respect the confidentiality of their communications, and the right not to be compelled to testify against oneself or to confess guilt.[2] A lawyer's role is central to the realization of these rights.

The effect of the harassment and persecution of lawyers in Tajikistan, combined with the recent, drastic reduction in the number of registered lawyers (advokaty), is crippling for the respect for rights in the country, given the essential role lawyers play in the protection of human rights and in facilitating access to justice for all.

[2] Amnesty International Fair Trials Manual Second Edition https://www.amnesty.org/en/documents/POL30/002/2014/en/.

2. STIFLING LEGITIMATE DISSENT IN THE NAME OF NATIONAL SECURITY

> **"I have found that a climate of fear has descended upon key sectors of civil society, stifling free expression in ways that will only lead to resentment and insecurity."**
>
> The UN Special Rapporteur on the right to freedom of opinion and expression, David Kaye, in his Preliminary Statement following his visit to Tajikistan in March 2016

Over the last three years, the space for free expression and particularly for peaceful dissent has shrunk dramatically in Tajikistan, and fear of reprisals for any form of criticism, or apparent criticism, of the authorities has permeated Tajikistani society. National security and counter terrorism concerns – real and perceived – dominate the political agenda and official discourse to the clear detriment of respect for human rights. The authorities relentlessly invoke national security concerns to justify ever harsher restrictions on the freedoms of expression and association, arguing that these measures are necessary to ensure stability.

Following his visit to Tajikistan in March 2016, the UN Special Rapporteur on the right to freedom of opinion and expression, David Kaye, noted that "the pressures on the political environment of Tajikistan extend across the spectrum of activities, from independent media, the internet and mobile communication to civil society, lawyers and religious people…new laws and practices have permitted a crackdown on political alternatives as part of a process of intimidation, detention and closed criminal proceedings."[3]

A year on from his visit, there have been no visible improvements with regard to the human rights situation in Tajikistan.

[3] Preliminary observations by the United Nations Special Rapporteur on the right to freedom of opinion and expression, Mr. David Kaye at the end of his visit to Tajikistan, 9 March 2016, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17193&LangID=E#sthash.8eOyCO8U.dpuf (last accessed 17 May 2017).

3. POLITICAL OPPOSITION AS A THREAT TO NATIONAL SECURITY

Violent clashes in and around the capital Dushanbe in September 2015, and their aftermath, marked a watershed for Tajikistan with the authorities unleashing new waves of repression against all manifestations of dissent, including legitimate peaceful ones.

The President and other Tajikistani officials accused the leaders of the opposition Islamic Renaissance Party of Tajikistan (IRPT) of having funded and supported attacks on police by armed groups in September 2015. Prior to these violent events, the IRPT had been a legally registered political party with representation in the executive and legislative branches of government. The authorities described the attacks as an attempt to seize power by a former deputy defence minister, Abdukhalim Nazarzoda. They alleged that during the violent unrest, Abdukhalim Nazarzoda had acted on the orders of Mukhiddin Kabiri, the exiled IRPT leader. Mukhiddin Kabiri has denied any links to the violent events, and has accused the authorities of fabricating evidence against him and other IRPT members.

Due to the authorities' near-total control of news reporting there was little independent public scrutiny of the official account.[4]

On 29 September 2015, following the arrest of the party's leadership, the Prosecutor General petitioned the Supreme Court to designate the IRPT a "terrorist organization" on the grounds that several of its members had long been involved in groups promoting "extremism", and that it had used the media, including its newspaper Salvation, to spread "extremist ideas" and promote religious hatred. The Supreme Court later confirmed the designation and banned all future activities by the party.

At least 170 individuals have since been prosecuted, convicted and sentenced to prison for their alleged involvement in the events of September 2015[5]. President Emomali Rahmon has since repeatedly called for increased measures and resources to counter threats to national and regional security. In May 2016, a constitutional referendum was held in Tajikistan which, among other things, approved a ban on religious and ethnicity-based political parties.

On 2 June 2016, the Supreme Court of Tajikistan sentenced 14 high-ranking members of IRPT to long prison terms following a secret trial, where even the charges against the defendants were a matter of official secrecy. The defence lawyers were compelled to sign non-disclosure agreements regarding any information on the case and the legal proceedings against their clients.

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[4]Amnesty International, Public Statement "Tajikistan: A year of secrecy, growing fears and deepening injustice", AI Index Number: EUR 60/4855/2016, 19 September 2016 https://www.amnesty.org/en/documents/eur60/4855/2016/en/

[5] The range of charges brought against these individuals, supporters and relatives of Abdukhalim Nazarzoda and others, not all of them members of the IRPT, included murder, illegal possession of weapons, and participation in a criminal group, and their prison terms ranged from one year to 30 years. (See Reuters, «Таджикистан осудил 170 человек за причастность к попытке военного переворота» [Tajikistan convicted 170 people for involvement in the military coup attempt], 4 August 2016, available at http://ru.reuters.com/article/topNews/idRUKCN10F1DE (last accessed 17 May 2017).

Zarafo Khujaeva (Zarafo Rakhmoni), the only woman among the co-defendants in the case, was sentenced to two years in prison. She was released from prison on 5 September 2016 under presidential pardon. Other sentences ranged from 14 to 28 years in prison. Allegations of torture and other ill-treatment, used to obtain "confessions", were not effectively investigated.

Meanwhile, dozens of members and associates of banned opposition groups, such as IRPT and Group 24, and their families have fled the country and sought international protection abroad. The authorities have targeted their family members in Tajikistan for reprisals, including in an attempt to force them to return. Exiled IRPT and Group 24 activists reported that in retaliation for their actions abroad, such as protest demonstrations at an international gathering in Warsaw in September 2016, police and security services threatened, detained, questioned and in some cases beat family members, including elderly relatives and young children, in Tajikistan.[6]

[6] The Organization for Security and Cooperation in Europe (OSCE) posted a statement by the IRPT in relation to retaliatory actions against families following protest actions at OSCE's annual Human Dimension Implementation Meeting (HDIM) in Warsaw in September 2016 on its website http://www.osce.org/odihr/265746?download=true. The OSCE also posted the official statement by the Tajikistani delegation to the HDIM http://www.osce.org/odihr/267206?download=true, (last accessed 17 May 2017).

4. RESTRICTING FREEDOM OF EXPRESSION

Since the September 2015 events, the authorities have imposed further sweeping restrictions on freedom of expression and the media, and currently control virtually all access to information. This has affected not only media freedom and freedom of expression in Tajikistan, but also matters relating to access to justice and fair trial.

Independent media outlets and individual journalists who were critical of the authorities or covered issues considered by the authorities as sensitive and pertaining to national security have faced intimidation and harassment by police and the security services. This has included coverage of the persecution of IRPT members and their defence lawyers. Many journalists have been forced to leave the country. In November 2016 Tojnews and Nigoh, an independent website and newspaper respectively, announced that they had been forced to close their operations because "conditions no longer exist for independent media and free journalism"[7]. Up until then, Nigoh was one of the few media outlets that had provided independent reporting on the trial of human rights lawyer Burzurgmerkh Yorov, who had been a defence lawyer of the accused IRPT members during the June 2016 trials and later was charged with complicity in his clients' alleged crimes (case details below).

Amendments to legislation on counteracting terrorism adopted at the end of 2015 granted the security services wide-ranging powers to block access to internet and cellphone services in connection with counter terrorism operations. The authorities repeatedly ordered internet service providers to block access to certain news or social media sites and search platforms, such as Facebook, Vkontakte, YouTube, Twitter, BBC, CNN, and Al-Jazeera, all of which they claimed were promoting "extremism".

In November 2016, 'insulting the leader of the nation' (the president's new official title since December 2015) was made a criminal offence.[8] In March 2017 the presidential administration issued directives to media and local authorities to ensure that the full title of 'founder of peace and national unity – leader of the nation' was to be used whenever reference was made to President Emomali Rahmon.[9]

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[7]Radio Free Europe/Radio Liberty, "Tajikistan: Independent Tajik Newspaper Suspends Operations", 5 November 2016, https://www.rferl.org/a/independent-tajik-newspaper-suspends-operations/28098259.html (last accessed 17 May 2017)
Eurasianet "Tajikistan: Another News Outlet Bites the Dust", 14 November 2016, http://www.eurasianet.org/node/81286 (last accessed 17 May 2017)

[8] The Constitutional Law of the Republic of Tajikistan "On founder of peace and national unity - Leader of the Nation" was adopted in November 2016. Upon adoption of the law amendments to the Criminal Code were introduced. In particular Article 137-1 part 1 which punishes insulting or defaming the leader of the nation by either a fine or corrective labour for a period of up to one year and Article 137-1 part 2 which foresees punishment by up to two years or two to five years imprisonment if the offence was committed by the press or other mass media or internet.

[9] Eurasianet, Tajikistan: State Media Forced to Always Call President By Unwieldy Title, 24 April 2017, http://www.eurasianet.org/node/83331 and Radio Ozodi, **ГосСМИ обязали полностью указывать титул президента Таджикистана** (State Media forced to use Tajikistani President's Full Title), 23 April 2017 https://rus.ozodi.org/a/28446779.html.

5. LIMITING THE INDEPENDENCE OF LAWYERS

Under international standards, associations of lawyers must be independent from government and other executive and private interests (principle 24 of the UN Basic Principles on the Role of Lawyers).[10]

In March 2015 a new law on the legal profession (Law on Advokatura) came into force, with amendments introduced in November 2015.[11] This new law should have been a positive development, guaranteeing in law and practice the independence of lawyers (advokaty) from the executive branch of government in line with international standards. However, prominent lawyers and domestic and international experts and NGOs expressed concern that some of the provisions subsequently introduced in the amendments threatened the independence of the legal profession and jeopardized access to legal defence.[12]

The original law established a single national bar association – the Union of Lawyers - and provided for it to be an independent non-governmental, non-commercial organization, which would elect its own chair and governing body. However, the amendments introduced in November 2015 brought control over the licensing of lawyers firmly back into the hands of the executive branch of government by instituting the Qualifying Commission[13] (the body responsible for professional exams and awarding lawyers their licenses) under the Ministry of Justice, and not under the Union of Lawyers as required under international standards.[14]

The amended law also mandated that the Permanent Presidency of the Qualifying Commission – and ultimately the deciding vote on who has qualified as a lawyer - is held by a Deputy Minister of Justice.[15]

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[10] The UN Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, https://www.unodc.org/pdf/criminal_justice/UN_Basic_Principles_on_the_Role_of_Lawyers.pdf.

[11] The Law of the Republic of Tajikistan "On Advokatura and Advocates' Activities" signed into law on 18 March 2015. Amendments to the law were approved by parliament on 4 November 2015 and entered into legal force on 26 November 2015.

[12] See Independent Commission of Jurists (ICJ) report "Recommendations on the Independence of the Legal Profession in the Republic of Tajikistan", 23 February 2016, https://www.icj.org/wp-content/uploads/2016/02/Tajikistan-Independence-of-legal-profession-Publications-Reports-Thematic-reports-2016-ENG.pdf, (last accessed 17 May 2017). The Special Rapporteur on Torture, Juan E. Mendez, also wrote in his follow- up report on his second mission to Tajikistan, that he remained 'highly concerned about the lack of adequate access to independent legal counsel in Tajikistan', A/HRC/28/68/Add.2, points 17-19 Access to lawyers, http://antitorture.org/wp-content/uploads/2015/03/Follow_Up_Report_Tajikistan_Tunisia.pdf (last accessed 17 May 2017).

[13] The nine-member Commission is composed of two representatives of the Ministry of Justice, one judge, five lawyers elected by the Union's assembly, one academic. Law on Advokatura, Art. 13(2).

[14] In its final report on the proposed reforms to the Law on Advokatura, the ICJ noted in 2013 that "[t]he procedure would risk cleansing the profession of independent lawyers and leading to the de facto domination of the profession by the Ministry of Justice, contrary to UN Basic Principles on the Role of Lawyers." Their recommendations were not taken on board. ICJ, "Independence of the Legal Profession in Central Asia", p.16, September 2013, http://icj.wpengine.netda-cdn.com/wp-content/uploads/2013/09/Independence -of-the-Legal-Profession-in-CA-Eng.pdf, (last accessed 17 May 2017).

[15] For more information see ICJ 2016 report cited above.

The amendments also forced all lawyers, including those with more than 10 years' experience (who had been exempt under the new law as it was passed in March 2015), to pass the new qualification exams by the end of March 2016, or lose their licence to practice.[16]

These developments have been instrumental in cutting the numbers of licensed lawyers (advokaty) by more than half and consequently restricting further the already limited access to justice for all citizens in Tajikistan, not only for those individuals charged with national security-related offences. By May 2017, only around half of the previously licensed lawyers had successfully requalified under the new system. Tajikistan now has around 600 lawyers (advokaty) for a population of over eight million, a ratio of approximately one lawyer per 13,000 inhabitants. [17]

[16] Under the new law a lawyer has to be a member of the Union of Lawyers and must pass the re-qualification exam in order to be able to represent a client in criminal proceedings.
[17] Prior to the amended Law on Advokatura there were only between 1,200 and 2,000 lawyers (advokaty) licensed to practice.

6. HARASSMENT, PROSECUTION AND IMPRISONMENT OF DEFENCE LAWYERS

The UN Basic Principles on the Role of Lawyers state that: "governments shall ensure that lawyers ... are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference" (principle 16), and "lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions" (principle 18).

The Principles also state that any person arrested, detained, imprisoned has a right to have adequate opportunities, time and facilities to communicate and consult with a lawyer without delay (principle 8).[18] The right to assistance by a lawyer is also essential in upholding the rights to liberty, freedom from torture and the right to an effective remedy for human rights violations.[19]

Over the last three years defence lawyers who have taken up politically sensitive cases or cases related to national security and counter terrorism, have faced increasing harassment, intimidation and pressure in connection with their legitimate professional activities. In some cases, lawyers have been subjected to punitive arrest, criminal prosecution on national security-related or politically-motivated charges, and sentenced to long prison terms following unfair trials. Some lawyers have chosen to flee the country rather than face persecution. Meanwhile, security forces and local authorities have also targeted their families for harassment, threatening relatives with reprisals.

Arbitrary arrests of human rights lawyers, their prosecutions on politically-motivated charges, harsh prison sentences and the harassment of their families have served as a deterrent to anyone daring to defend the fundamental rights of those willing to or perceived to challenge the authority of the president and the government. Notably, defending the arrested lawyers has, in turn, become risky for other lawyers. Few have been prepared to take up this role because of the associated risks, and some of those who did have faced harassment and threats.

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[18]A person's right to the assistance of a lawyer in pre-trial proceedings is set out in a range of treaty and non-treaty standards, such as Article 17(2)(d) of the Convention on Enforced Disappearance, Article 37(d) of the Convention on the Rights of the Child, Principle 1 of the Basic Principles on the Role of Lawyers, *Principle 17 of the Body of Principles, Principle 3 and *Guideline 4 of the Principles on Legal Aid, Articles 55(2)(c) and 67(1)(d) of the ICC Statute, Rules 117(2), 121(2)(a) of the ICC Rules of Procedure and Evidence. See Amnesty International Fair Trials Manual Second Edition, p 43, https://www.amnesty.org/en/documents/POL30/002/2014/en/.

[19] UN Human Rights Committee General Comment 20, http://www.refworld.org/docid/453883fb0.html, (last accessed 17 May 2017), UN Special Rapporteur on torture, UN Doc. E/CN.4/1992/17 (1991) §284, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G91/142/75/PDF/G9114275.pdf?OpenElement, (last accessed 17 May 2017).

This appalling situation is exemplified by the cases of human rights lawyers Buzurgmekhr Yorov and Nuriddin Makhkamov, Jamshed Yorov, Muazzamakhon Kadirova and Shukhrat Kudratov, described below. They are stark reminders of the risks faced by lawyers in Tajikistan when performing their professional duties in politically sensitive cases – particularly where the client is accused by the authorities of being a threat to national security.

Buzurgmekhr Yorov and Nuriddin Makhkamov have languished in prison with little access to their families and their own defence lawyers for over two years, prosecuted, and then convicted, of trumped-up national security-related charges and each sentenced to terms of more than 20 years. They were all representing detained senior IRPT members.

Human rights lawyer Shukhrat Kudratov has by now spent three years behind bars. Muazzamakhon Kadirova was forced to flee the country, as was Jamshed Yorov following his release from pre-trial detention.

THE CASE OF SHUKHRAT KUDRATOV

Human rights lawyer Shukhrat Kudratov worked on a number of politically "sensitive" cases in the years preceding the September 2015 events. Amongst others, he represented the independent news agency Asia-Plus in defamation cases brought against it by the government.

Shukhrat Kudratov was the defence lawyer for opposition activist and former Minister of Energy and Industry, Zaid Saidov (sentenced in 2013 to 26 years in prison convicted of a number of charges, including large-scale fraud and corruption).

Law enforcement officers arrested Shukhrat Kudratov on 21 July 2014 on charges of bribery just six days after he sent a public appeal to nongovernmental groups, the news media, and diplomatic missions in Tajikistan highlighting procedural violations in Zaid Saidov's prosecution and trial. In the appeal he also gave details of ongoing harassment against himself, his family and the legal team defending Zaid Saidov, including threats of imprisonment and death. Shukhrat Kudratov believed that his client was being prosecuted in retaliation for his attempt to set up an opposition party and run in the November 2013 presidential election.

On 13 January 2015, Shukhrat Kudratov was sentenced to nine years in prison and confiscation of property on charges of fraud and bribery. He claimed the charges were politically motivated and linked to his work for the defence of Zaid Saidov. The Supreme Court reduced Shukhrat Kudratov's sentence on appeal to five years and four months.[20]

Shukhrat Kudratov should have qualified for early release under two Articles of a presidential amnesty law issued in August 2016 and should have been released from prison in November 2016. According to Shukhrat Kudratov's lawyer the relevant Articles in his client's case – Articles 5 and 7 – stipulate that prisoners who have less than two years of their sentence to serve qualify for release under the amnesty (Article 5) and that those prisoners who do not qualify for release should have their sentences reduced (Article 7). However, Shukhrat Kudratov was not released and the Human Rights Ombudsman told journalists that the Articles of the criminal code he had been convicted of did not fall under the amnesty and consequently he could not be released.

[20] The authorities also persecuted other lawyers on Zaid Saidov's defence team. Fakhriddin Zokirov was detained twice in 2014 and 2015 while representing Zaid Saidov, and spent several months in pre-trial detention charged with criminal offences. He believed the charges to have been politically motivated. Following his release in 2015 he withdrew as defence counsel for Zaid Saidov. Iskhok Tabarov was repeatedly threatened by the authorities, in an attempt to force him to stop working on Zaid Saidov's defence team. In 2015, his son, Firuz, was arrested, charged with 'extremism', and subsequently sentenced to 13 years in prison in 2016. Iskhok Tabarov alleged that Firuz was tortured to force him to "confess". He believed that his son's prosecution was in retaliation for his participation in Zaid Saidov's defence. A month after Firuz's conviction, his brother Dalet was arrested on charges of failing to report a crime and sentenced to three years in prison. Iskhok Tabarov died of a heart attack in June 2016, ten days after his second son's conviction, which he believed also to be politically motivated.

6.1 PERSECUTION OF BUZURGMEKHR YOROV AND OTHER LAWYERS ASSOCIATED WITH HIM

BUZURGMEKHR YOROV

Defence lawyer Buzurgmekhr Yorov, who had been representing several co-defendants in the case against the IRPT leadership, was arrested by police on 28 September 2015 on charges of fraud and forgery, unrelated to the IRPT case. However, during his arrest, police seized documents relating to the case against his IRPT clients in violation of lawyer-client privilege. Shortly before his arrest, Buzurgmegkhr Yorov had told the media that one of his IRPT clients arrested on 13 September 2015, Umarali Khisainov (also known as Saidumur Khusaini), had complained about beatings and other ill-treatment while in the custody of the Police Unit for Combating Organized Crime, the very same police unit that later detained the lawyer himself. In October 2015, his legal counsel, Nuriddin Makhkamov, was also arrested. In December 2015, additional extremism-related charges were brought against both Buzurgmekhr Yorov and Nuriddin Makhkamov – by this point, his co-defendant.

On 6 October 2016, Dushanbe City Court sentenced Buzurgmekhr Yorov and Nuriddin Makhkamov, to 23 and 21 years in prison respectively following an unfair trial. Representatives of the media and international monitors were allowed access to the courtroom only at the first hearing on 3 May. All other hearings were closed to the public. The court found both lawyers guilty of "arousing national, racial, local or religious hostility" under Article 189 of the Criminal Code, "fraud" (Article 247), "public calls for violent change of the constitutional order of the Republic of Tajikistan" (Article 307), "public calls for undertaking extremist activities" (Article 307-1), and in Burgzurgmekhr Yorov's case, of forgery (Article 340). The evidence on which they were convicted has never been made public.

Buzurgmekhr Yorov pleaded not guilty and denied any wrongdoing, insisting in his closing statement on 3 October that he was "not an extremist, but a lawyer". State media reports had portrayed Buzurgmekhr Yorov as a "terrorist" since only a "terrorist" would defend "terrorists".[21] The Supreme Court turned down his appeal against his sentence in February 2017.

On 12 December 2016, a second closed trial against Buzurgmekhr Yorov opened, at the pre-trial detention centre (SIZO) number 1 in Dushanbe. He now stood accused of "disrespecting" the court and insulting government officials, on account of quoting the celebrated 11th century poet Omar Khayyam in his closing statement to Dushanbe City Court in his original closed trial.[22] On 16 March 2017 the Supreme Court found him guilty and sentenced him to an additional two years in prison.

In February 2017, Firdavs district court in Dushanbe started hearings into a third case brought by the authorities against Buzurgmekhr Yorov on further charges of fraud allegedly in relation to new complaints made against him by members of the public This crime carries a sentence of up to 12 years in prison. To punish him even further a fourth criminal case against him was pending in May 2017. This new charge of insulting 'the leader of the Nation' apparently results from statements he made in court in response to the fraud charges brought against him. His wife Zarina Nabieva explained to reporters that Buzurgmekhr Yorov had told the court that as a lawyer, he had always operated within the legal framework of the country, which was signed by the president. Therefore, if he was guilty of fraud, then everyone in the country was. The subsequent publication of this statement on the independent website Payom.net apparently formed the basis of the new criminal charge.

Buzurgmekhr Yorov's family have been unable to find an independent lawyer willing to represent him in court. Zarina Nabieva has therefore taken on the legal defence of her husband.[23]

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[21] Jumhuriyat ,"Mo Agar Nomus Dorem", 9 October 2015, №: 202, http://jumhuriyat.tj/index.php?art_id=21261, as cited in Eurasianet, "Tajikistan Extends Lawyer's long Prison Sentence for Quoting Poet",16 March 2017, http://www.eurasianet.org/node/82876.

[22] Approximate translation as cited in Eurasianet article above: "Society is spoiled by a few ignorant people who believe themselves the wisest; those that would make infidels of all who do not abide by their wishes. See also RFE/RL, "Reading of 11th Century Poet Could Earn More Time For Imprisoned Tajiki Lawyer", 14 December 2016, https://www.rferl.org/a/tajikistan-lawyer-rights-poem-yorov/28176119.html (last accessed 17 May 2017).

[23] See also Radio Ozodi ,"Никто из коллег Бузургмехра не хочет взяться за его защиту в суде" ("Not one of Buzurgmekhr's colleagues is willing to defend him in court"), 13 April 2017, https://rus.ozodi.org/a/28428186.html (last accessed 17 May 2017).

JAMSHED YOROV

On 22 August 2016, Jamshed Yorov, Buzurgmekhr Yorov's brother and also one of the defence lawyers in the case against IRPT members, was detained on charges of "divulging state secrets" under Article 311 of the Criminal Code. He was accused of leaking the text of the Supreme Court's decision in the case against the senior IRPT members, which had been classified as a secret document. On 26 August, the Firdavsi District Court of Dushanbe ordered his remand in pre-trial detention. On 30 September, he was amnestied and released from detention. Jamshed Yorov continued with the defence of his IRPT clients, and continued to face harassment by security forces. Eventually, fearing re-arrest, he was forced to leave Tajikistan and seek international protection abroad.

MUAZZAMAKHON KADYROVA

In October 2015 and again in September 2016, human rights lawyer Muazzamakhon Kadyrova agreed, at great risk to herself and her family, to take up the case of her colleagues Buzurgmekhr Yorov and Nuriddin Makhkamov, as their defence counsel. Most of the other lawyers that Buzurgmekhr Yorov's family had approached to represent him had refused to take up the case, fearing reprisals from the authorities.

In the context of closed court hearings against Buzurgmekhr Yorov and Nuriddin Makhkamov, Muazzamakhon Kadirova was effectively the only link between them and their families, and the wider public. She told journalists and other activists that the courts had not been able to present any compelling evidence against her clients and that the case was clearly politically motivated. She became increasingly aware of the risks associated with working on this case, and by November 2016 she was concerned about her safety and possible reprisals from the authorities. On 27 December 2016, Muazzamakhon Kadirova was summoned to the Prosecutor General's Office and questioned about her professional activities for several hours. She noticed that she was under surveillance in the following days.

In January 2017, Muazzamakhon Kadirova learnt confidentially that a criminal case was being prepared against her allegedly on corruption charges. Fearing for her safety and concerned that she could be arrested at any time, Muazzamakhon Kadirova left Tajikistan and sought international protection abroad. In March 2017 she told journalists that the authorities in Tajikistan had accused her of leaking confidential information about Buzurgmekhr Yorov's case to international media and were threatening to open a criminal case against her[24]. Buzurgmekhr Yorov was allocated a state appointed lawyer. His family have had no contact with this lawyer.

[24]RFERL, "Lawyer for Jailed Tajikistan Human Rights Attorney Flees to Germany", 30 March 2017, https://www.rferl.org/a/lawyer-jailed-tajikistan-human-rights-attorney-flees-germany/28399757.html (last accessed 17 May 2017).

7. RECOMMENDATIONS

7.1 TO THE AUTHORITIES IN TAJIKISTAN

- Fully respect and protect the human rights of lawyers and implement in law, policy and practice protections provided for by international law and standards, in particular by the UN Basic Principles on the Role of Lawyers;
- Investigate promptly, independently and effectively any credible allegations of lawyers being threatened, intimidated and/or subjected to prosecution under trumped-up charges;
- In consultations with the professional legal community, review the existing legislation, and in particular the amendments to the Law on Advokatura, with a view to repealing or replacing those provisions that limit the independence of lawyers;
- Release immediately human rights lawyers Buzurgmekhr Yorov, Nuriddin Makhamov and Shukhrat Kudratov. If they are guilty of any recognisable criminal offences, these must be established in fair trial proceedings, which include, amongst other, public hearing, equality of arms, and being represented by a lawyer of one's choice;
- Respect freedom of expression and association for all, and in particular end harassment and persecution of government critics, including political activists and other dissenting voices.

7.1.1 TO THE UNION OF LAWYERS OF TAJIKISTAN

- Systematically monitor, collate and report violations of lawyers' rights;
- Engage with the relevant authorities to seek a revision of the existing legislation to ensure effective independence of the legal profession in Tajikistan.

7.2 TO THE INTERNATIONAL COMMUNITY

7.2.1 TO TAJIKISTAN'S INTERNATIONAL PARTNERS

- In bilateral and multilateral meetings with the Tajikistani authorities, raise the individual cases documented in this briefing, and send a clear message that the conduct of the authorities in relation to these cases contravenes Tajikistan's international obligations;
- Insist that Tajikistan fully upholds its international human rights obligations, including freedom of expression and association, and the right to a fair trial and all standards and principles associated with it;
- Commit to monitoring and reporting human rights violations in the country, and ensure that concerns about Tajikistan's human rights record are considered at every opportunity where the Tajikistani authorities are represented in bilateral and multilateral fora.

7.2.2 TO PROFESSIONAL LAWYERS' ASSOCIATIONS

- Publicly support measures to ensure the independence and protection of lawyers in Tajikistan;
- Advocate with international lawyers' associations, national governments, relevant international and regional organizations and human rights mechanisms to urge them to raise, in their communications with the Tajikistani government, the issue of harassment and persecution of lawyers in Tajikistan;
- Raise the individual cases of imprisoned lawyers in Tajikistan, documented in this briefing and by others.

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IN THE LINE OF DUTY

HARASSMENT, PROSECUTION AND IMPRISONMENT OF LAWYERS IN TAJIKISTAN

Tajikistan will celebrate the 'Professional Day of the Lawyer' on 26 May, the day when the first Bar Association was established in Tajikistan 95 years ago this year. For lawyers, though, there will be little to celebrate: this anniversary comes at a time when the country is increasingly turning its back on human rights and the rule of law, and when lawyers in Tajikistan are confronted with significant obstacles in the exercise of their professional duty. To be a lawyer, and particularly a human rights lawyer, comes with unprecedented risks in present-day Tajikistan.

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