

Shrinking Civic Space in the Central Asia And South Caucasus

This briefing reviews the shrinking civic space in Central Asia and South Caucasus. It has been prepared for the annual meeting of the European Bank for Reconstruction and Development (EBRD) in Samarkand on 16-18 May 2023.

Civic space in the Eastern Europe and Central Asia region continues to decline, as governments restrict already limited space for civil society, using harassment, defamation, online attacks and intimidation tactics against journalists and human rights defenders (HRDs), introducing new legislative restrictions. The authorities have been systematically preventing peaceful protests, detaining and arresting participants. According to the Civicus 2022 Monitor report, out of 54 countries of Europe and Central Asia, civic space is rated as open in 20, narrowed in 19, obstructed in 7, repressed in 2 and closed in 6.¹

These actions by the authorities are creating a climate of fear in which people are increasingly cautious and afraid to express views that contradict those in a position of authority. In such contexts, there is a serious risk of adverse impacts of EBRD-funded projects going unnoticed. The EBRD should use its leverage and proactively engage with countries of operations to address civic space issues to both align themselves with their mandate and to ensure voices on the ground can raise concerns about bank's activities in the country without fear of facing any reprisals.

Uzbekistan

Uzbekistan severely limits the foundation and operation of non-governmental organisations (NGOs) through laws, policies, and practices. These practices violate the government's obligations under the International Covenant on Civil and Political Rights ("ICCPR") and the Universal Declaration of Human Rights ("UDHR") – a pattern noted by multiple UN treaty bodies and human rights organizations. Uzbekistan has made little progress to lift restrictions on civic space which runs counter to Uzbekistan's rhetoric around its commitments to supporting an enabling civil society and the ability of NGOs to operate freely.

Individuals seeking to establish and register an NGO must overcome numerous bureaucratic hurdles, far more than those seeking to establish a commercial legal entity. The process for registering an NGO involves opaque procedures and discretionary decision-making by registration authorities. The grounds for denial of registration applications are likewise opaque and discretionary. Since 2006, only three independent human rights organizations have succeeded in registering. Although the government claims that thousands of NGOs operate in Uzbekistan, the overwhelming majority are governmental NGOs or GONGOs.

Even when NGOs manage to successfully register with the authorities, they still face significant challenges in undertaking their activities, particularly with regard to funding and access to resources. Contrary to public commitments to expand civic space and civil society participation

¹ <https://monitor.civicus.org/globalfindings/europeandcentralasia/>

in public life, Uzbekistan has done the opposite by creating onerous requirements and imposing heavy-handed and arbitrary oversight of NGO activities and funding, often with no legal basis.

The Ministry of Justice exerts excessive control and interference in the activities of NGOs and requires them to comply with a number of procedures in their day-to-day activities including informing the Ministry of Justice in advance of meetings, travel and events and providing full biographical information of all participants.

NGOs seeking funding must satisfy numerous burdensome requirements and are subject to a variety of bureaucratic procedures which often contradict each other and the law. These provisions contravene international standards on the right to freedom of association and the right of NGOs to access funding, an essential component of the freedom of association, as provided for in the ICCPR (Article 22). Restrictions on NGO funding can have an impact far beyond freedom of association.

Uzbekistan has increased the bureaucratic burdens and hurdles for organizations seeking or receiving foreign grant funds, as well as the government's discretionary authority in this area. Resolution 328 of the Cabinet of Ministers of the Republic of Uzbekistan of June 13, 2022 imposes heightened oversight by so-called national partners, i.e., employees of state agencies, designated by the Ministry of Justice, who are empowered to interfere in the design and implementation of the activities of NGOs that are supported by funding from foreign sources. The new government decree not only establishes expansive control over the implementation of NGO projects funded by foreign organizations or individuals, it forces NGOs to accept government officials looking over their shoulder and even interfering in their work from the day funds are received until the project is completed.

Tajikistan

In Recent years, Tajikistan saw a serious deterioration in the exercise of fundamental freedoms and civil liberties. Mass protests, when people took to the streets to demand justice for a young man killed during a police operation, was violently suppressed. Special security operations carried out in response to the protests were marked by allegations of excessive force, arbitrary detentions, torture and extrajudicial killings of detainees. Around 20 human rights activists and journalists critical of the government were detained and prosecuted, with others facing growing intimidation and harassment.²

The space for independent media remained limited in Tajikistan, and the operating environment for civil society organizations deteriorated further in 2022. The authorities continued to restrict citizens' right to freedom of expression both on and offline, by intimidating, harassing and criminally prosecuting journalists, civil society activists and other outspoken citizens.³ In ongoing

² Central Asia: Global report documents alarming civic space trends.

<https://www.iphronline.org/central-asia-global-report-documents-alarming-civic-space-trends.html>

³ Escalating Tensions & Crackdown on Human Rights Defenders and Journalists

<https://monitor.civicus.org/explore/escalating-tensions-crackdown-human-rights-defenders-journalists/>

trends of concern, independent media websites and social media networks have been temporarily or permanently blocked without any right of appeal; journalists, bloggers and activists have been prosecuted for posting public comments on online articles; readers have been interrogated or arrested for 'liking' or 'reposting' information on social media; journalists, bloggers, activists and public figures have been targeted by trolling and cyberbullying, resulting in self-censorship.⁴ Charges applied have included “extremism,” “terrorism,” and “calls to violent change to constitutional order,” all of which come with extremely long prison sentences.

More than 2,500 public organizations are registered in Tajikistan. The relationship between the state and public associations is regulated by the Law "On Public Associations". In 2019, two amendments to the Law "On Public Associations" were adopted, which created a number of additional administrative tasks for public associations. The amendments, oblige NGOs to annually publish detailed information about the organization's income and expenditures; keep data on completed domestic and international operations for at least five years; and information on the identification data of persons controlling or managing the activities of the public association, including founders, members of governing and controlling bodies. The law also stipulates that, in accordance with the Law on Combating Money Laundering and Terrorism Financing, in case of doubt or if there are sufficient grounds for suspicion that a public association is a front for raising funds from terrorist or extremist organizations or acts as a channel for financing terrorism or extremism, the registering authority must report to the Financial Intelligence Agency. Non-governmental organizations are concerned that the wording "*in case of doubt*" is vague and may provide ample opportunity for it to be used by the state to restrict the activities of the organization.

On the other hand, tax structures continue to be hostile to organizations that are going through "zero periods", i.e. the period when there is no grant support, respectively no tax injections. In such cases, few organizations can assert their legal rights and continue their activities, many get liquidated.

Kyrgyzstan

Once hailed as an example of democracy in Central Asia, Kyrgyzstan is tightening government control over the media and civil society and sliding back in its rating in world press freedom (RSF). One of the major blows came with the reconsideration of the previously "foreign agents" draft law in February 2022. Initiator members of the parliament argued that foreign-funded NGOs are interfering with the work of the government. President of the Kyrgyz Republic Sadyr Japarov signed an order to form a working group to finalize a draft law of the Kyrgyz Republic "On non-profit non-governmental organizations," similar to the Law "On Foreign Agents of the Russian Federation". Both NGOs and independently funded media could be subjected to negative labeling that affects their legitimate activities. The NGO Human Rights Movement "Bir Duino - Kyrgyzstan" submitted a petition to the Constitutional Court of the Kyrgyz Republic on the unconstitutionality of the various articles of the proposed legislative amendments.

⁴ Civic Monitor 2022, Tajikistan
<https://monitor.civicus.org/explore/escalating-tensions-crackdown-human-rights-defenders-journalists/>

In a high-profile case, more than 20 activists, bloggers, human defenders and politicians were arrested and charged with organizing riots after publicly opposing a controversial government-negotiated border agreement with Uzbekistan.⁵ The authorities also detained people who peacefully gathered to protest against Russia's war on Ukraine in March 2023. According to the CIVICUS Monitor, these developments were part of a broader trend in which the environment for free speech and civic space continued to deteriorate in Kyrgyzstan in 2022.⁶

On November 03, 2022, the UN Human Rights Committee report on the implementation of the Covenant on Civil and Political Rights expressed the concern about reports of government pressure on human rights defenders, lawyers, politicians, journalists, and others for expressing their opinions, particularly those critical of the government.⁷

The persecution of independent media and bloggers is also on the rise, with the intensification of criminal prosecution and liquidation of media outlets. Human Rights Watch stated that Kyrgyz authorities have stepped up the harassment of journalists and independent media with a slew of criminal investigations into their work in recent months.⁸ Other worrying developments included the introduction of restrictive draft laws on media and NGOs and the blocking of news sites accused of disseminating "false" information.

Kazakhstan

Media monitoring annually shows around 1,500 cases of more than 80 different types of threats to human rights defenders and civil society activists in Kazakhstan. The most common were detentions and prosecutions. In January 2022, mass protests for social and political change were met with excessive force by the authorities and parts of the crowd resorted to violence. Dozens of civil society, human rights, trade union and political activists were among those detained, subjected to torture and ill-treatment. In several cities, police detained activists ahead of planned peaceful rallies convened by opposition groups on 13th February 2022 to call for justice for the victims of the January 2022 events, and several people were penalized after organizing a peaceful event to this end in Almaty. UN High Commissioner for Human Rights Michelle Bachelet deplored the excessive use of force, mass detentions, torture and

⁵ Kyrgyzstan: Mass arrests over opposition to Uzbekistan border deal.

<https://eurasianet.org/kyrgyzstan-mass-arrests-over-opposition-to-uzbekistan-border-deal>

⁶ Central Asia: Global report documents alarming civic space trends.

<https://www.iphronline.org/central-asia-global-report-documents-alarming-civic-space-trends.html>

⁷ UN Human Rights Committee issues findings on Ethiopia, Japan, Kyrgyzstan, Nicaragua, Philippines and Russia.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2575&Lang=en

⁸ Kyrgyzstan: Spate of Criminal Cases Against Journalists,

<https://www.hrw.org/news/2022/04/01/kyrgyzstan-spate-criminal-cases-against-journalists>

ill-treatment in detention and other violations of Kazakhstan's international human rights obligations in relation to those events.⁹

From the spring of 2023 the detention of activists, journalists, and pressure on lawyers resumed. In the aftermath of the January 2022 events, the President announced a series of political reforms which did not change the essence of the human rights situation in the country.

Georgia

Georgia's civil society sector is what the international documents casually refer to as "vibrant." Larger CSO groups are well-established, they are present in the media and influence policy making and public discussions. Smaller, grassroots groups are gaining momentum in regions and municipalities. Establishing a civil society group is simple, they are exempt from most taxes, and paying income tax from their staff salaries is easy.

Yet, the trend has been reversing since around 2018. As a result of multiple verbal attacks on civil society organizations, their leaders, and human rights defenders by public officials, excessive use of force against peaceful protestors, concerns over the functioning of the court system, changes in the law on broadcasting Georgia's Freedom House democracy score and country ranking has been declining during 2018-2022. According to the RSF 2022 country report, Georgia's press freedom dropped from 60 to 89, making this the worst performance year since 2013, when Georgia was ranked 100th out of 180 countries.¹⁰

The ruling party has been sponsoring systematic attacks on civil society groups, human rights defenders, environmental activists, scholars and opponents in social media and its controlled TV channels. In March 2023, it drafted a bill which would impose a Russia-like "foreign agent" label on CSOs that are funded from abroad. Even if the ruling party had to drop the bill amidst mass protests and international criticism, there is a clear tendency of shrinking civic space in Georgia.

Armenia

After the 2018 revolution in Armenia, many CSO representatives formed the government and the cooperation with the civil society seemed to be going in the right direction. According to the Civicus Civic Space Monitoring report, civic space in Armenia has shown improvements, resulting in a positive rating change from obstructed to narrowed, with indications of enhanced collaboration between the state and CSOs in policy-making processes and increased transparency of allocation of state funds to CSOs. In June 2022, amendments to the Criminal Code saw the decriminalization of the offense of grave insult.

⁹ Kazakhstan unrest: Bachelet urges peaceful resolution of grievances. <https://www.ohchr.org/en/press-releases/2022/01/kazakhstan-unrest-bachelet-urges-peaceful-resolution-grievances>

¹⁰ Georgia Ranks 77th in RSF Press Freedom Ranking, <https://civil.ge/archives/540318>.

However, after the war with Azerbaijan in 2020, the former government heads (which are now in opposition) scaled up the rhetoric that the war was lost in part due to the western values imported by NGOs, including through "preaching peace". This has to a certain degree led to loss within the society of trust towards the CSOs.

In turn, the Armenian government sides with businesses violating human and environmental rights. For example, two mining companies have sued an environmentalist Tehmine Yenokyan, trying to silence her.

Recommendations to EBRD

- The EBRD should spell out what the "less for less" principle means in cases when the country has or is attempting to introduce laws that restrict the space for civil society. There should be clear consequences for legislative attempts to harass civil society.
- Ensuring the free and safe operation of the civil society sector in the EBRD countries of operation should be a precondition for an increase in investments.
- EBRD should support civil society development in countries of operation and promote it through policy dialogue with the governments.
- EBRD should take responsibility for assessing and mitigating retaliation risks in the projects and countries of high human rights risk.
- EBRD should ensure meaningful engagement with civil society organizations as part of its ongoing human rights due diligence.
- Risks and impacts caused by the restrictions to civic space, including freedom of speech and assembly, should be mandatory in the EBRD project appraisal and decision-making.
- EBRD should report on how its operations contribute to the country's civil society development.

Authors

Tolekan Ismailova, NGO Bir Duino, Kyrgyzstan

Anara Ibrayeva, NGO Dignity, Kazakhstan

Mirzo Subkhanov, NGO Ezgulik, Uzbekistan

Medea Turashvili, Defenders in Development campaign