

Restrictions on Freedom of Association in Uzbekistan  
Briefing to EBRD Annual Meeting  
Samarkand, May 2023

This briefing is based on a joint submission by Uzbek Forum for Human Rights, Freedom Now, and Ezgulik to the Office of the High Commissioner for Human Rights for the 44<sup>th</sup> session of the Universal Periodic Review of Uzbekistan on May 5, 2023.

Introduction

Uzbekistan severely limits the foundation and operation of 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.

These restrictions seriously undermine human adequate rights due diligence that can ensure compliance with EBRD’s performance standards and places significant constraints on collective bargaining, the formation and membership of independent trade unions, as well as the ability to verify relevant information pertaining to development projects by independent civil society groups.

Foundation of NGOs

1. Uzbekistan continues to require the registration of NGOs, prohibit those operating without registration, harshly penalize individuals allegedly involved in unregistered NGOs, and require that those seeking to register an NGO satisfy numerous arbitrary and burdensome requirements which, for many, are insurmountable.
2. Registration is mandatory for NGOs in Uzbekistan. NGOs operating without state registration and individuals organizing or participating in such activities, can be fined

under Article 239 of the Administrative Code, or imprisoned for up to five years under Article 216 of the Criminal Code.

3. 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. For example, the Ministry of Justice or its territorial units responsible for NGO registration can forward registration applications to unnamed entities for their “expertise<sup>1</sup>”. The organizations capable of providing expertise and any details of that process are unclear and not stipulated by law. The grounds for denial of registration applications are likewise opaque and discretionary.
4. Recent experience demonstrates how these obstacles can severely limit enjoyment of the freedom of association and other human rights. According to individuals seeking to register an NGO,<sup>2</sup> registration can take up to 10 months despite the legal requirement to review and decide on registration applications within one month<sup>3</sup>. Individuals trying to register NGOs report receiving on average at least four rejections before gaining approval, though many registration efforts are refused under vague justification or for extremely minor reasons.
5. For individuals seeking to register an NGO with stated objectives to work on certain issues, such as human rights documentation and advocacy, the NGO registration process can be especially frustrating. For this reason, since Uzbekistan’s independence in 1991, only four independent NGOs explicitly aiming to address human rights issues have received government registration.<sup>4</sup>
6. Efforts by the would-be founders of Human Rights House (“Inson Khukuklari Uyi” in Uzbek) to register an NGO to work on issues related to former political prisoners are illustrative of the challenges experienced by some. Agzam Turgunov, a former prisoner of conscience in Uzbekistan,<sup>5</sup> has sought to register an NGO to address the numerous challenges experienced by former political prisoners in Uzbekistan after they are released. On February 7, 2023, Mr. Turgunov received the 10th refusal to register the NGO due to the supposed absence in the organization's charter of provisions specifying “the competence and order of forming governing bodies, the duration of their powers, and the location of the permanent body” and information on the creation of the “executive office” of the organization.

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<sup>1</sup> <https://www.icnl.org/resources/civic-freedom-monitor/uzbekistan#analysis>

<sup>2</sup> <https://cabar.asia/en/why-is-it-difficult-to-open-an-ngo-in-uzbekistan>

<sup>3</sup> Art. 23, Law “On NGOs.” See <https://lex.uz/ru/docs/10863>

<sup>4</sup> They are: the Committee for the Protection of Individual Rights (KPPL), the Human Rights Society of Uzbekistan (HRSU), the human rights society “Ezgulik” (“Mercy”), and “Khukukiy Tayanch” (“Legal Support”).

<sup>5</sup> The UN Working Group on Arbitrary Detention determined in November 2011 that Turgunov’s detention was a violation of international law. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/WGAD/2011/53](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/WGAD/2011/53)

7. In some cases, those seeking to register an NGO experience intimidation in connection with their registration application. For example, shortly after one rejection of a registration application by Mr. Turgunov, State Security Service officials visited<sup>6</sup> all eleven founding members of Human Rights House, ostensibly to verify their identities, even though the registration documents included the relevant information.
8. The bureaucratic hurdles and other barriers to registering an NGO can lead to individuals giving up on the effort altogether. One such case is that of Azimbay Ataniyazov, a human rights activist in Karakalpakstan who tried to register an NGO (at first named “Chiroq,” later named “Akbasur”) for 18 months without success.
9. Mr. Ataniyazov and the other founders eventually submitted their NGO registration documents in January 2020, though they received a rejection due to a few grammatical errors. In their second registration attempt the founders did not submit the confirmations by local officials of the NGO’s founders’ addresses. This application too was rejected due to new mistakes in the application, which the founders contest, and the absence of the confirmations of the founders’ addresses. Mr. Ataniyazov was again forced to seek the confirmations of the founders’ addresses from local officials, and was again rejected, including on the basis that confirming a founder’s address would damage a local official’s career. Unfortunately, at this point Mr. Ataniyazov believed that his effort to register the human rights NGO would ever be successful, and he and the other founders gave up.
10. Uzbek government officials often tout the supposed large number of registered NGOs in the country to refute claims that registering an NGO is difficult and burdensome, or that the government raises arbitrary barriers to their registration. Indeed, since 2009, the number of registered civil society organizations in Uzbekistan has nearly doubled.<sup>7</sup> Yet at least 66 percent of the country’s 10,500 registered NGOs are government organized NGOs,<sup>8</sup> frequently called GONGOS, or their regional branches. Such GONGOS coordinate closely with the authorities, receive significant government support, and, because they are able to register, draw significant funding from abroad, limiting funding opportunities for truly independent organizations. This data gives the false impression that Uzbekistan fosters a civic space in which numerous and various NGOs are able to register and operate without discrimination and undue government interference and influence.

### Restrictions on NGO Activities

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<sup>6</sup> The visit took place on November 23, 2021. See: <https://thediplomat.com/2021/11/where-are-new-uzbekistans-promised-reforms>.

<sup>7</sup> <https://fpc.org.uk/challenges-ngos-in-uzbekistan-are-still-facing>

<sup>8</sup> <https://www.iphronline.org/wp-content/uploads/2021/06/EU-UZB-HR-DIalogue.pdf>

11. 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 in public life,<sup>9</sup> 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.
12. The Ministry of Justice exerts excessive control and interference in the activities of NGOs. Registered NGOs are obliged to comply with a number of procedures imposed by the Ministry of Justice in their day-to-day activities. For example, they are required to inform the authorities in advance of events, conferences, meetings, and travel. Full biographical information of all participants and a description of activities must be provided to the Ministry of Justice 20 days before an event if foreign guests are in attendance or if the event will be held outside Uzbekistan. The same information regarding events to be held in Uzbekistan without foreign participants must be submitted 10 days in advance. In addition, information must be provided in advance about the content of the event or activity, and the time and location of the event, and include related materials, as well as the personal data of participating foreign citizens. The Ministry of Justice has the right to review and reject these notifications. NGOs must also notify the authorities of any visits abroad or of visits from foreign guests.

### Restrictions on NGO Funding

13. 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. A government decree issued on June 16, 2022, further compounded these challenges<sup>10</sup>. 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. According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, “undue restrictions on resources available to associations impact the enjoyment of the right to freedom of association and also undermine civil, cultural, economic, political, and social rights as a whole”<sup>11</sup>.
14. The laws “On NGOs”<sup>12</sup> and “On Public Associations”<sup>13</sup> entitle NGOs to receive funding from foreign donors, but in practice these funds are subject to significant restrictions, many not provided for in the law. Moreover, the procedure for receiving foreign

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<sup>9</sup> <https://www.gazeta.uz/ru/2020/06/27/human-rights>

<sup>10</sup> <https://lex.uz/docs/6063166>

<sup>11</sup> <http://freeassembly.net/wp-content/uploads/2016/04/UNSR-FOAA-info-note-India.pdf>

<sup>12</sup> <https://lex.uz/ru/docs/-11360>

<sup>13</sup> <https://lex.uz/ru/docs/-111825>

funding represents a significant hurdle for NGOs to access even a relatively small amount of funding.

15. 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. On October 9, 2019, Cabinet of Ministers' Resolution 858<sup>14</sup> approved new rules limiting the total value of grants or donations to NGOs from foreign sources to 4,460,000 UZS (approximately \$390 USD) unless they are approved by the Ministry of Justice, which retains the right to reject them.
16. Some of the grounds for rejection of foreign funding provide officials with broad discretion, in particular rejection on the basis of "encroachment on the morality of citizens." Given that the concept is not defined in law and is inherently subjective, it is open to arbitrary interpretation.
17. Additional restrictions on foreign funding were introduced by Resolution 328 of the Cabinet of Ministers of the Republic of Uzbekistan of June 13, 2022<sup>15</sup>. The Resolution imposes 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. Such interference by government representatives essentially prevents NGOs working on sensitive issues, such as corruption or torture where government officials may be implicated, from receiving foreign funding.
18. Under Resolution 328, receipt of foreign funding by NGOs must be reported to the Ministry of Justice, which then must request an opinion from the Ministry of Foreign Affairs. If the Ministry of Justice approves the funding, it then appoints a national partner, which develops a project implementation roadmap with the NGO. If the project funding exceeds approximately \$55,000, the roadmap must be approved by the Ministry of Justice and the Cabinet of Ministers, who can put forward suggestions or objections.
19. The roadmap must present all the project activities, the timeline and mechanism of their implementation, as well as the geographic territory of the project implementation. National partners are responsible for the implementation of activities identified in the roadmap and are to hold regular meetings to monitor the project, as needed. The participation of a national partner in an NGO project is mandatory and refusal to participate is not stipulated by Resolution 328.

## Recommendations to EBRD

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<sup>14</sup> <https://lex.uz/ru/docs/4546599>

<sup>15</sup> <https://lex.uz/docs/6063166>

Compliance with EBRD's performance requirements cannot be assured without independent monitoring and reporting on rights violations. In addition, corporate due diligence and liability laws in Europe and the U.S. including the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, require brands and retailers to identify, prevent, and mitigate the risks of forced labor and exploitative working conditions in their Uzbek supply chains. Independent human and labor rights NGOs, independent trade unions, workers' organizations, and independent farmers' associations are essential to ensure these risks are minimized and can be addressed through meaningful consultation with affected stakeholders.

We therefore recommend that EBRD:

- Urges the Uzbek government to adopt a comprehensive NGO code that respects and enables the legitimate role of civil society groups to freely conduct their work without interference by government officials, places unreasonable limitations on access to funding, and removes contradictions among decrees, resolutions, and laws pertaining to NGOs.
- Advocates for the removal of administrative and criminal penalties for founding or otherwise participating in an unregistered NGO.
- Promotes freedom of association and an enabling environment for civil society with the Uzbek government as essential components for ensuring compliance with EBRD's performance standards and international human rights obligations.
- Ensures the assessment of project risks, such as restriction of civic space as well as lack of freedom of speech and assembly, and that the assessment is carried out in a participatory manner.
- Assesses retaliation risks posed by high-risk projects such as Indorama Agro in Uzbekistan by focusing particularly on the potential for clients and authorities to perpetrate reprisals.