

NARRATIVE PROJECT REPORT

UNITED NATIONS DEVELOPMENT PROGRAMME

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Support to the Government of Tajikistan in its efforts to establish a National Human Rights Institution [01/10-31/12, 2007]



Picture from the Roundtable discussion of the Draft Law On Human Rights Commissioner in the Republic of Tajikistan (December, 2007)

Project ID: 00052986

Duration: 3 months

Component (MYFF): Crisis prevention and recovery

Total Budget: 55,794.00 USD

Unfunded:

Implementing Partners/Responsible parties:

**Executive Office of the President of the RT, OHCHR,
UNDP**

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I. Background and Project Goals

Unlike a number of CIS countries, Tajikistan does not yet have an independent national human rights institution (NHRI) that would act in accordance with the internationally accepted standards, the so-called “Paris Principles”. Instead, several national bodies are dealing with human rights in Tajikistan, entrusted with the promotion and protection of human rights in the implementation of both domestic legislation and international human rights instruments ratified by Tajikistan (such as the Upper and Lower Chambers of Parliament, the Department for Constitutional Guarantees of Citizens’ Rights under the Executive Apparatus of the President of Tajikistan, the Commission on the Rights of the Child, and the Commission on Implementing the International Obligations of Tajikistan in the Field of Human Rights).

Tajikistan has already taken the necessary steps by establishing the relevant government mechanisms in the field of treaty reporting and has submitted several reports under the major HR treaties. But these measures are not sufficient for ordinary people to implement and protect their human rights guaranteed by the State. The independent institution in the country whose prerogative would be the consideration of complaints on human rights violations is vital for the country.

The objective of the Project is the establishment of an informed and participatory process regarding the drafting of the law, with opportunities for consultation, feedback and revision of the law based on this. The ultimate goal is the establishment of an NHRI in full compliance with the “Paris Principles”.

The project aims in particular to ensure that the governmental Working Group entrusted with the elaboration of draft law:

- receives samples of the best available legislations of existing national human rights institutions;
- gains practical insight in the functioning of national human rights institutions through visits to selected NHRIs; and
- enjoys high-quality support by an international consultant throughout the period;
- benefits from an international expert roundtable to discuss article by article the draft law; and
- benefits from a wide participatory process.

II. Performance Review

The Project contributed to capacity building in the field of human rights. Within the scope of the Programme, the draft law “On the Human Rights Commissioner in Tajikistan” was revised and amended in accordance with international standards (“Paris Principles”).

The Project was developed through assessment and a consultative process led by UNTOP and UNDP, involving the Government of Tajikistan, and potential implementing partners (OSCE, DHRI, SDC, EC).

To achieve better results and reach the highest quality of activity implementation, the national and international stakeholders were involved financially or provided substantial support (consultative and expertise) to any activities organized.

Sustainability of the components is essential part of the successful implementation and performance of the Project. The establishment of the National Human Rights Institution will ensure ownership and a sustained investment in human rights issues from the side of the Government. UNOHCHR and other donors are interested in supporting this initiative in the long-term period.

III. Project Results Summary

- On November 6-19, 2007 the first visit of the International expert on NHRI, Mrs, Pearl Eliadis was organised to assist the Government Working Group in developing the draft law on Ombudsman Institution in Tajikistan. During her visit on November 15 Mrs. Eliadis met with the Head of the Working group on the Establishment of a Human Rights Institution, Mr. Zarif Alizoda. On the meeting the following issues were discussed:
 - 1) Status of the draft law and proposed timelines for next steps (confirming draft law that expert will be providing comments on; planning consultations with international expert (if required, in December); preferred ways of working to provide comments on draft, how the expert can best support the WG's work; planning of roundtable (timing, invitees, key agenda items);
 - 2) Briefing re. NI basic roles, minimum standards, best practices; documents to be distributed to Mr. Aliev for distribution to working group;
 - 3) Key issues to consider during the study tour (linking basic standards covered in Item 2 with national institutions that WG will be visiting in the study tour.)

The Working group was provided with the materials prepared by International Expert, adapted to the Tajik context and translated into Russian as well as with the first draft of the comparative analysis of the NHRIs, also translated into Russian.

- In accordance with the Project Document it was initially planned to organize the study tour for 9 members of the Government Working Group to Russia, Denmark and Poland to get familiar with work and experience of Ombudsman offices of that countries. However the international community's offer to the WG regarding financing the Study Tour was conditional. The WG was asked to involve the representatives of the civil society in the study tour, to improving the gender balance, thus addressing the pluralism concern. There was no response from the WG on this regard. The Danish Institute for Human Rights financially supported the study tour. The Project organized additional meeting of the WG with a representative of the NHRI of Northern Ireland in Poland.
- The second visit of the International Expert, Ms. Pearl Eliadis (Canada) was conducted from December 9 to 24, 2007. (The detailed information is contained in the Mission Report of International Expert, Ms. Pearl Eliadis).
- On 18 December 2007 the roundtable discussion of the draft law "On the Commissioner for Human Rights in Tajikistan" was held. The main purpose of the roundtable was to bring the new draft law, developed by the Government working group, to attention of the public, and to discuss recommendations and proposals of participants for further possible inclusion of amendments into the draft law. The consultative assistance of an international expert on national human rights institutions, Ms. Pearl Eliadis, was provided by OHCHR.



36 participants took part in the roundtable discussion including members of the Government Working Group that developed the draft law and representatives of civil

society. Proposals and recommendations made during the roundtable concerned the structure of the law itself (article on definitions), the status of the ombudsman institution and the conditions of its independence, the modus of appointment of the Human Rights Commissioner, and his competences. The roundtable results were summarized and included in the analysis prepared by the expert. The government working group was provided with the analysis of the draft law.

However the Working group accepted only some of the recommendations proposed. The source of contention were the issues regarding the appointment process, grounds for dismissal, the importance of specifying the roles of promotion and monitoring in the NHRI law, creating a limit to renewals of term, and giving discretion to the Human Rights Commissioner to initiate complaints. The right of access of the Human Rights Commissioner to prisoners was also disputable.

The main achievement of the project at this stage was that the draft law has been submitted to the parliament for consideration.



- On February 14, 2008 the Roundtable discussion of the Draft Law of the Republic of Tajikistan on the Human Rights Commissioner in the Republic of Tajikistan was conducted. The event was not planned within the Project, but after consultations with OHCHR CAR Project and negotiations with OSCE it was decided to organize joint event to accumulate ideas of the civil society re. the draft law together with the recommendations of international

consultant and offer them to the members of Parliament.

Despite the roundtable was unfortunately sabotaged by many invited MPs, it was managed to bring the new draft law to attention of the public, provide a dialogue between representatives of local NGOs and MPs and to let civil society to participate in the law making process for reaching the final main goal of the whole Project - to make the draft law improved. 30 participants took part in the Round table.

Finally the Law “On Human Rights Commissioner in the Republic of Tajikistan” was adopted in March, 2008.

IV. Implementation Challenges and Lessons Learnt

The Governmental Working group on drafting the law “On Human Rights Commissioner in Tajikistan” was not very collaborative and open to the inclusion of the representatives of the civil society in the drafting process although UNOHCHR and other donors and international organizations interested in supporting this initiative were pushing for some changes in the Governments approach.

Despite the fact that the whole drafting process was not enough transparent the Programme with financial and substantial support of the UNOHCHR managed to expertise the draft law about its conformity to international standards and provide valuable recommendations, as it was initially planned.

V. Current Situation

Since the Law was passed in March 2008 the interested members of international community, including the OHCHR/UNDP Project are in a stand-by position, waiting the establishment of the Human Rights Institution itself and appointment of the Human Rights Commissioner. The international organizations' strategy in this direction and extent of support of the Institution will basically depend on the personality of Ombudsman assigned, i.e. its openness to cooperation, readiness and commitment to protect an individual, and his/her attitude to the respect and promotion of human rights in general.