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**TAJIKISTAN**

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## I. LAND AND PEOPLE

1. Over the past 11 years of independent development, the Republic of Tajikistan has proclaimed its commitment to fundamental democratic values and the establishment of a market economy, which create conditions that allow every citizen of Tajikistan to realize his or her potential.

2. Over the past century, the territorial, economic and social make-up of Tajikistan has been transformed. The country's population structure has changed. In 1897, the first universal census conducted by the Russian Empire indicated that 1 million people lived in the territory of present-day Tajikistan; according to the 2000 census, the population of Tajikistan was 6.1 million. During this period, the urban population increased 24 times, and the rural population 6 times.<sup>1</sup>

As at 1 January 2003, the population of Tajikistan was 6.5 million, of which 1.7 million people (26.4 per cent) lived in urban areas and 4.8 million (73.6 per cent) in rural areas. The population comprises 3,262,100 males (50.1 per cent) and 3,244,400 females (49.9 per cent).<sup>1</sup>

As at 1 January 2003, there were 3.1 million children and teenagers under the age of 18 in Tajikistan, or 46.7 of the total population. The able-bodied population (men between the ages of 15 and 62 and women between the ages of 15 and 57) accounts for 54.9 per cent of the population. There are 343,000 persons of retirement age, or 5.3 per cent of the population. According to the results of demographic studies conducted in 1997, average life expectancy was 64 years for men and 69.6 for women.<sup>1</sup>

3. According to the national census, as at 20 January 2000 the ethnic composition of Tajikistan was: Tajiks (79.9 per cent), Uzbeks (15.3 per cent), Russians (1.1 per cent) and Turkmens (0.3 per cent).<sup>1</sup>

Some 75 ethnic groups, including Kyrgyz, Tatars, Kazakhs and Koreans, live in Tajikistan. The official language of Tajikistan is Tajik; Russian is the language of international communication. All ethnic groups and nationalities living in Tajikistan have the right to use their native languages freely and have equal rights and freedoms.

4. Tajikistan is situated in the south-eastern part of Central Asia. It extends 700 kilometres from west to east and more than 350 kilometres from north to south. To the west and north, Tajikistan borders on Uzbekistan (1,337 km)<sup>2</sup> and Kyrgyzstan (630 km);<sup>1</sup> to the south, it borders on Afghanistan (1,030 km)<sup>1</sup> and to the east on China (459 km).<sup>2</sup> Tajikistan is a typical mountainous country with absolute altitudes ranging from 300 to 7,495 metres; 93 per cent of its territory is covered by mountains, which are among the highest mountain systems in the world. In the north is the Fergana valley; in the north-west and central part of the country are the Turkestan, Zerafshan, Gissar and Alai ranges; the Pamir is in the south-east. Many of the highest points of the globe are situated here: Somoni peak (7,495 metres), Lenin peak (7,134 metres), Korzhenevskaya peak (7,105 metres) and others. The south-western part of the country, where the Vaksh, Gissar and other valleys are situated, is lower.

5. Tajikistan's principal natural wealth is its rivers and lakes, which are fed by glaciers. The total length of rivers longer than 10 kilometres is over 28,500 kilometres. The country's main water arteries are the Amu Darya and Syr Darya and their tributaries. The Pamir is the largest glacier geosystem; the total area of ice cover is 8,041 km<sup>2</sup>. Of the 1,085 registered glaciers of the Pamir, the largest is Fedchenko glacier (71-77 km).

Tajikistan is rich in lakes and reservoirs. Lakes of glacial or rockfall origin are the most common. Sarez, Chapdara, Karakul and Zorkul are among the highest mountain lakes. Tajikistan has built and operates nine reservoirs, the largest of which are Kairakum and Nurek reservoirs.

6. Tajikistan has an area of 143,100 km<sup>2</sup>. As at 1 January 2003, it comprised the Gorny Badakhshan Autonomous Oblast, Sogd and Khatlon oblasts, 62 districts, 23 cities, 47 settlements and 360 *jamoat-dekhot* (rural self-governing bodies). Its capital is Dushanbe. According to the 2000 census, the population of Dushanbe was 561,900; as at 1 January 2003, its population was 604,000.<sup>1</sup>

7. Tajikistan has a high birth rate and a low mortality rate; consequently, the natural growth of the population is high. In recent years, the average annual growth rate of the population has exceeded 2 per cent. In 2001, there were 171,600 births: 88,400 boys, or 51.6 per cent, and 83,200 girls, or 48.5 per cent. In 2002, there were 175,600 births, or 27.3 per 1,000 inhabitants.<sup>1</sup>

8. The decline in the quality of life during the period of transition has led to an increase in certain diseases and in the overall mortality rate. In 2002, the mortality rate was 4.8 per 1,000 inhabitants, or 31,100 persons (in 2001, that figure was 5.1 per 1,000 inhabitants).

9. In 2002, maternal mortality was 50.6 per 100,000 live births. The leading causes of maternal mortality are post-partum haemorrhage (30.4 per cent), pre-eclampsia (30.4 per cent), extragenital diseases (13.9 per cent) and septic complications (10.1 per cent).<sup>3</sup>

10. In 2002, 13,500 persons emigrated from Tajikistan (in both 2000 and 2001, there were 14,400 emigrants).

11. As at 1 January 2003, the number of officially registered unemployed persons was 46,700, of whom 25,700 were women (55 per cent). The number of unemployed persons in the 15-24 age group was 18,400. As at 1 January 2003, the registered unemployment rate was 2.5 per cent.<sup>1</sup>

12. According to the 2000 census, 981 out of every 1,000 persons in the population group over the age of 15 had a higher or secondary education; of that number, 76 persons had completed higher education, 13 had not completed higher education, 66 had completed secondary special education, 575 had completed general secondary education, 192 had not completed secondary education, and 59 had completed only primary school.<sup>1</sup>

13. Of the many problems facing Tajikistan, poverty continues to be one of the most serious. Over 80 per cent of the population lives in poverty. In order to overcome poverty, the Government of Tajikistan has prepared a poverty reduction strategy paper, which was approved by a decision of the Majlis-i-Namoyandagon (Assembly of Representatives, or lower chamber of

Parliament) of the Majlis-i-Oli (Supreme Assembly, or Parliament) of Tajikistan in 2002, in accordance with which practical steps are being taken to raise the population's standard of living and to find a way out of poverty. In the context of its economic reform programme, Tajikistan is continuing to implement measures to restructure its economy, improve the monetary and credit, tax and budget systems and strengthen State administration and social protection.

As at 1 April 2003, the minimum wage was 5 somoni. The average monthly wage of one worker in 2002 was 32.55 somoni, and the average monthly pension was 10.06 somoni. Since 1 June 2002, the minimum old-age pension has been 5 somoni. Unemployment and temporary disability benefits are paid in accordance with Tajikistan's social insurance regulations.

14. In accordance with the law, State health-care institutions provide both free and private medical care. In order to implement Tajikistan's health protection strategy for the period up to 2010, the State medium-term programme for guaranteed medical and health services for the period 2004-2005 is being drawn up.

15. The economic transformations have not yet had a major impact on the solution of social problems. Some health services and higher education are no longer within the reach of certain categories of the population.

16. In 2001, Tajikistan's gross domestic product (GDP) registered the highest growth rate - 10.2 per cent - for all the years of its independent development (1997, 1.7 per cent; 1998, 5.3 per cent; 1999, 3.7 per cent; 2000, 8.3 per cent). In 2002, Tajikistan's GDP increased by 9.5 per cent as compared with the previous year.

Economic growth has been accompanied by relatively low inflation. In 2002, the average monthly inflation rate in the consumer sector was 1.14 per cent (in 2001, it was 1 per cent).<sup>1</sup>

17. In 2002, as compared with the previous year, the cost of goods and services as a whole increased by 10.2 per cent. Prices of foodstuffs increased by 10.4 per cent; the price of rice rose by 60 per cent, potatoes by 38.1 per cent, meat and meat products by 28.2 per cent, vegetable oil by 18.7 per cent, milk by 13.2 per cent and granulated sugar by 6.7 per cent.<sup>1</sup>

18. In 2002, the cost of non-foodstuffs increased by 7.2 per cent as compared with 2001: the price of fabrics rose by 25.1 per cent, shoes by 11.7 per cent, building materials by 7.7 per cent and tobacco products by 3.2 per cent.<sup>1</sup>

19. In 2002, paid services provided to the population increased by 14.8 per cent as compared with 2001: communications rose by 27 per cent, public transport, health homes and resorts and health-treatment establishments by 21 per cent, everyday services by 19 per cent, health services by 14 per cent and housing and utilities by 4 per cent.<sup>1</sup>

20. In recent years, the Government of Tajikistan has devoted greater attention to the organization of summer health holidays for children from low-income families, orphans and schoolchildren. Trade unions and voluntary funds provide passes for health holidays for children. However, owing to economic difficulties, most of the population can no longer afford health homes and resorts or tourist and sports facilities.

21. One of Tajikistan's most serious environmental problems is the formation and accumulation of industrial and consumer waste, which pose a real threat to the environment. Industrial wastes at enterprises are generally not recycled and are stored in tailing ponds, sludge tanks, rubbish heaps, dumping grounds for solid household waste and often in places that are not designated for storage. Assessments of tailing ponds carried out by environmental protection bodies, the Ministry for Emergencies and sanitation and epidemiological stations indicated that of the 22 tailing ponds, 14 are in satisfactory condition and 8 are in urgent need of repair. This pertains first and foremost to mining and ore-enriching combines. The main reason for this state of affairs is the economic difficulties that enterprises are experiencing.

22. In Tajikistan, the provision of clean drinking water to the population is at an unsatisfactory level: less than 57 per cent of the population uses piped water for household purposes and over 43 per cent obtains water directly from unprotected sources: rivers, canals, irrigation ditches and other sources that may be unsanitary. Some 30 per cent of the water supply system does not work for various reasons, including the lack of spare parts for equipment. The effectiveness of water purification facilities does not exceed 30-40 per cent.<sup>1</sup>

## **II. GENERAL POLITICAL STRUCTURE**

### **A. Brief historical overview**

23. The ancestors of the present-day Tajiks were eastern Iranian peoples who settled in the ancient States of Bactria and Sogd in the seventh and sixth centuries B.C. (the territory of modern Uzbekistan, Tajikistan, Turkmenistan, the eastern part of the Islamic Republic of Iran and the northern part of Afghanistan). These States, which at various times lost their independence, were part of the Achaemenid State, the empire of Alexander the Great, the Seleucid State, the Graeco-Bactrian kingdom and the Kushan and Hephthalite empires.

24. In the ninth century, after the long period of Arab conquest and conversion to Islam, the Sogdian and Bactrian languages evolved into the Farsi-Dari-Tajik languages. In the ninth and tenth centuries, the Tajik people became the nucleus of the Samanid State with its capital in Bukhara. After the Samanid dynasty was overthrown by the Karakhanid Turks, the Tajiks became part of the Ghaznavid empire, the Seljuk, Khorezm Shah and Ghurid states, the Mongolian empire and the state created by Tamerlane (Timur) and the Timurids.

25. In the sixteenth century, when the Turkic Shaybanids seized the territories settled by the Tajiks, the cultures of the Iranians and Tajiks began to diverge. Until the twentieth century, the Tajiks were part of various states governed by Turkic dynasties (the Emirate of Bukhara and the khanates of Khiva and Kokand). In the second half of the nineteenth century, following an agreement between Russia and England (1885-1895), Central Asia was divided. As a result, part of the territories traditionally inhabited by Tajiks went to Afghanistan, while another part went to the Emirate of Bukhara. The Khanate of Kokand and the city of Samarkand were annexed to the Russian Empire and became part of the newly formed Turkestan General Governorship.

26. As a result of the socialist revolution, Alim Khan, the Emir of Bukhara was overthrown in 1920, and the Bukharan People's Soviet Republic was formed. From 1918 to 1926, there was civil war. In 1924, the Tajik Autonomous Soviet Socialist Republic was created as part of the Uzbek Soviet Socialist Republic. In 1929, the Tajik Soviet Socialist Republic was established.

Industrial bases were laid and collectivization was introduced in the newly established republics, including the Tajik Soviet Socialist Republic. Campaigns were conducted to eradicate illiteracy and emancipate women. In Soviet times, Tajikistan was fully integrated into the Soviet Union's economic system and became heavily dependent on the Union centre.

27. On 9 September 1991, the Supreme Soviet of Tajikistan adopted a decision on the proclamation of State independence. The collapse of the USSR led to an intensification of internal contradictions, which took the form of an armed confrontation, beginning in Dushanbe and later spreading to almost all of the country's southern regions. After three years of negotiations held under United Nations auspices, on 27 June 1997 a peace agreement was signed between the Government of Tajikistan and the United Tajik Opposition. The practical implementation of the agreements, which led to the establishment of peace and national accord, created conditions for political, economic and social reforms.

### **B. State structure, political system and form of government**

28. The Constitution of Tajikistan was adopted by a national referendum held on 6 November 1994; on 26 September 1999 and 22 June 2003, amendments and additions were made to the Constitution through a national referendum. According to its Constitution, Tajikistan is a sovereign, democratic, secular and unitary State based on the rule of law.

29. Tajikistan is a social State whose policy is to create conditions that enable its citizens to live a dignified life and develop their potential.

30. Life, honour, dignity and other natural human rights are inviolable. Human and civil rights and freedoms are recognized, observed and protected by the State. In Tajikistan, the people is the bearer of sovereignty and is the only source of State power, which is exercised directly and also through its representatives. The State guarantees the sovereignty, independence and territorial integrity of Tajikistan.

31. Only the President and the Majlis-i Milli (National Assembly, or upper chamber of Parliament) and the Majlis-i Namoyandagon (Assembly of Representatives, or lower chamber of Parliament) of the Majlis-i Oli (Supreme Assembly, or Parliament) of Tajikistan meeting in joint session have the right to act on behalf of the entire population of Tajikistan.

32. In Tajikistan, public life is based on political and ideological pluralism. No ideology of a single party, public association, religious organization, movement or group may be recognized as the State ideology. Public associations and political parties are established and operate in conformity with the Constitution and the law. The State provides equal opportunities for their activities. Religious organizations are separate from the State and may not interfere in State affairs.

33. Tajikistan's economy is based on various forms of ownership. The State guarantees freedom of economic and entrepreneurial activity, and equal rights and legal protection for all forms of ownership, including private ownership.

34. State power is based on the principle of its division into the legislative, executive and judicial branches. Tajikistan has a republican form of government.

### **President of Tajikistan**

35. Under the Constitution, the President of Tajikistan is the head of State and executive power (Government). The President is the guarantor of the Constitution and the law, human and civil rights, and the independence, unity and territorial integrity, continuity and permanence of the State, the coordinated functioning and interaction of State bodies, and the observance of the international agreements to which Tajikistan is a party.

36. The President is elected by the citizens of Tajikistan by universal, equal and direct suffrage by secret ballot for a seven-year term. The same person may not be President for more than two terms in a row. Any citizen of Tajikistan over the age of 35, who speaks the State language and has been a permanent resident in Tajikistan for not less than 10 consecutive years may be elected President.

37. The President defines the State's basic domestic and foreign policy, represents Tajikistan within the country and in international relations, establishes and abolishes ministries and State committees, repeals or suspends acts of State administrative bodies when such acts are not in conformity with the Constitution and the law, and exercises other powers provided for in the Constitution and the law.

### **The legislative branch**

38. In accordance with the Constitution of Tajikistan and the Constitutional Act on the Majlis-i Oli of the Republic of Tajikistan, the supreme representative and legislative organ of State power is the Majlis-i Oli, the Supreme Assembly, or Parliament, of Tajikistan. The Parliament carries out its activities on behalf of the people in accordance with the powers vested in it and within the limits established by the Constitution, constitutional acts and other laws of Tajikistan.

39. The Parliament of Tajikistan consists of two chambers: the Majlis-i Milli (National Assembly) and the Majlis-i Namoyandagon (Assembly of Representatives). The National Assembly and the Assembly of Representatives are elected for five-year terms. The National Assembly consists of 33 members, 25 of whom are elected indirectly by secret ballot at joint meetings of people's deputies of Gorny Badakhshan Autonomous Oblast and its cities and districts, oblasts and their cities and districts, the city of Dushanbe and its districts, and cities and districts of the Republic (jointly). Eight members of the National Assembly are appointed by the President. Every former President of Tajikistan is a member of the National Assembly for life, unless he abrogates this right. The members of the Government, judges, officials of law enforcement bodies, military personnel and other persons specified by constitutional law may not be members of the National Assembly. The National Assembly functions by convocation.

The Assembly of Representatives consists of 63 deputies elected by universal, equal and direct suffrage by secret ballot. The Assembly of Representatives is a standing, professional body.

The National Assembly and the Assembly of Representatives carry out their activities in separate sessions and joint meetings.



40. The National Assembly is responsible for the following: education; dissolution and modification of administrative and territorial units; election and recall of chairmen, vice-chairmen and judges of the Constitutional Court, the Supreme Court and the Higher Economic Court of Tajikistan at the request of the President, and decisions on the revocation of their immunity; appointment and dismissal of the Procurator General of Tajikistan and of his deputies; and other powers as defined by the Constitution and the law of Tajikistan.

41. The Assembly of Representatives has the authority to establish the Central Commission on Elections and Referendums, elect and recall the chairman, vice-chairman and members of the Commission at the recommendation of the President, submit bills and other important State and social issues for public discussion, approve social and economic programmes, approve the issue and receipt of State credit, ratify and denounce international agreements, establish courts, and exercise other powers as defined by the Constitution and the law of Tajikistan.

### **The executive branch**

42. In accordance with the Constitution, constitutional acts and other laws of Tajikistan, the organs of executive power are the Government of Tajikistan and the ministries, State committees, departments and local authorities (*khukumats*) subordinate to it. Local authority is exercised by a representative of the President - the chairman of the oblast, city and district. In settlements and villages, the local self-governing bodies are the *jamoats*.

43. The Government of Tajikistan is guided in its actions by the principles of the supremacy of law, government by the people, the division of powers, openness, collegiality and the observance of human and civil rights. The head of the Government of Tajikistan is the President of the Republic. He directs the activities of the Government of Tajikistan and takes measures to ensure that the Government exercises its authority effectively.

44. The government structure of Tajikistan consists of ministries and State committees. The Government of Tajikistan comprises the Prime Minister, his first deputy, and the deputies, ministers, and chairmen of State committees. The Prime Minister and other members of the Government are appointed and dismissed by the President and their appointment is approved at a joint meeting of the National Assembly and the Assembly of Representatives. The Government of Tajikistan functions for the duration of the President's term of office.

45. The Government of Tajikistan, in accordance with the Constitution, constitutional acts and the law of Tajikistan, issues decisions and orders the implementation of which is compulsory throughout the territory of Tajikistan. The Government of Tajikistan participates in the implementation of domestic and foreign policy, provides effective guidance in the social, economic and cultural spheres, provides guidance within the system of government bodies, prepares and implements State targeted programmes, has the right to introduce legislation and carries out other functions as defined by the Constitution, constitutional acts and the law of Tajikistan.

## **The judiciary**

46. The judiciary in Tajikistan is independent; judicial authority is exercised by judges on behalf of the States. The judiciary defends human and civil rights, the interests of the State, organizations and institutions, legality and justice.

47. In Tajikistan, judicial authority is exercised by the Constitutional Court, the Supreme Court, the Higher Economic Court, military tribunals, the court of Gorny Badakhshan Autonomous Oblast, oblast courts, the Dushanbe municipal court, city and district courts, the economic court of Gorny Badakhshan Autonomous Oblast and the economic courts of the oblasts and of the city of Dushanbe.

Judges of military tribunals, judges of the court of Gorny Badakhshan Autonomous Oblast, of oblast courts, of Dushanbe municipal court, of city and district courts, of the economic court of Gorny Badakhshan Autonomous Oblast and of the economic courts of the oblasts and of the city of Dushanbe are appointed and dismissed by the President at the recommendation of the Council of Justice of Tajikistan. Judges are appointed for a 10-year term. The establishment of extraordinary courts is prohibited.

48. Judges are independent, enjoy the right of immunity and are subject only to the Constitution and the law of Tajikistan. Interference in judges' activities is prohibited.

49. Judges consider cases collectively and individually. The judicial process is based on the adversarial principle and equality of the parties. Legal assistance is guaranteed at all stages of the investigation and the trial.

50. The Constitutional Court of Tajikistan consists of seven judges, one of whom is a representative of Gorny Badakhshan Autonomous Oblast. The Constitutional Court has the authority to determine whether the laws and legal acts of the National Assembly and the Assembly of Representatives, of the President or Government of Tajikistan, or of the Supreme Court, the Higher Economic Court or other State or public organizations, as well as treaties signed by Tajikistan that have not entered into force, are in conformity with Constitution; to settle disputes between State bodies concerning their jurisdiction; and to exercise other powers specified in the Constitution and the law of Tajikistan. Decisions of the Constitutional Court are final.

51. The Supreme Court of Tajikistan is the highest judicial body in the area of civil, criminal and administrative proceedings. The Supreme Court oversees the activities of oblast, city and district courts.

52. The system of economic courts comprises the Higher Economic Court of Tajikistan, and the economic courts of the oblasts and the city of Dushanbe. Economic courts have the authority to settle economic and administrative disputes between business entities. The Higher Economic Court of Tajikistan oversees the activities of the economic courts of Gorny Badakhshan Autonomous Oblast and the economic courts of the oblast and the city of Dushanbe.

53. Court acts that have entered into force are binding on all State bodies, business entities, public associations, officials and citizens and are enforceable throughout the territory of Tajikistan.

### **III. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS**

54. The legal framework for protecting human rights is based on the Constitution and the law of Tajikistan and on international legal instruments accepted by Tajikistan.

Human and civil rights and freedoms are exercised directly. They determine the goals, content and application of laws, the activities of the legislative and executive branches and of local authorities and local self-governing bodies. Human and civil rights and freedoms are guaranteed by the judiciary.

55. Issues relating to the protection of human rights fall within the jurisdiction of the Constitutional Court, the Supreme Court, the military tribunal, oblast, city and district courts, the Higher Economic Court of Tajikistan, the economic courts of the oblasts and of the city of Dushanbe, organs of the Procurator's Office, the Ministry of Internal Affairs, the Ministry of Security, the Ministry of Justice and the Bar.

The Constitutional Court of Tajikistan was established in order to guarantee the supremacy and direct application of the provisions of the Constitution throughout the territory of Tajikistan, and to defend the Constitution and human and civil rights and freedoms. Everyone has the right to apply to the Constitutional Court when his or her constitutional rights and freedoms under applicable laws have been violated in a specific case, after the case has been examined by the appropriate bodies.

The Supreme Court of Tajikistan, the military tribunal, the oblast, city and district courts are courts of general jurisdiction where everyone has the right to have his or her case examined by a competent and impartial court and where everyone is guaranteed judicial protection.

The Higher Economic Court of Tajikistan and the economic courts of the oblasts and of the city of Dushanbe consider economic disputes arising from civil, administrative and other legal relations between citizens engaged in entrepreneurial activities who do not constitute a legal entity and who have been granted the status of individual entrepreneur in accordance with the procedure established by law.

56. The Procurator's Office of Tajikistan is the only centralized system of organs that oversee, within the scope of their competence, the correct and uniform application of the law in the territory of Tajikistan by ministries, State committees and other departments, local representative and executive bodies, local self-governing bodies, military administrative bodies, public associations, officials and business entities irrespective of their form of ownership. The Procurator's office also monitors the observance of human and civil rights and freedoms.

57. The Ministry of Internal Affairs is the executive responsible for combating crime; it also performs other tasks within the scope of its competence and protects the rights, freedoms and security of all persons.

58. The Ministry of Justice is the executive body responsible for the legal policy of Tajikistan and implements State policy in this area. It protects the rights and legitimate interests of all persons by drafting legislation and is also responsible for the execution of criminal penalties.

59. The Ministry of Security is the executive body responsible for preventing and halting infringements of Tajikistan's security and, within the scope of its competence, for ensuring the security and rights and freedoms of individuals guaranteed by the Constitution and the law of Tajikistan and the universally recognized norms of international law.

60. The Bar of Tajikistan is an independent professional association which, in conformity with the Constitution of Tajikistan, provides legal assistance to natural and legal persons, and protects their rights and interests. In addition, over 60 lawyers currently provide alternative legal assistance as attorneys on the basis of a licence granted under the Bar Act of the Republic of Tajikistan.

61. Article 31 of the Constitution of Tajikistan provides that citizens have the right, to apply, individually or collectively, to State bodies. The procedure and time limit for the consideration of citizens' complaints and claims by State bodies, public organizations, enterprises, institutions and organizations, irrespective of their form of ownership, is set out in the Citizens' Appeals Act. Legislation (article 163 of the Criminal Code) provides for the criminal liability of officials who unlawfully refuse to consider citizens' appeals, or who violate legislation concerning citizens' appeals or who harass citizens who make appeals.

Under article 19 of the Constitution, everyone is guaranteed judicial protection and everyone has the right to demand that his or her case be considered by a competent, independent and impartial court. No one may be subjected to detention or arrest without legitimate grounds. Persons have the right to the services of a lawyer from the moment of their detention.

Since Tajikistan is a party to the Optional Protocol to the International Covenant on Civil and Political Rights, every person under the jurisdiction of Tajikistan has the right to submit complaints in writing to the United Nations Human Rights Committee if he or she believes that one of his or her rights under the Covenant has been violated, and all domestic remedies have been exhausted.

The system of compensation and rehabilitation in Tajikistan is established by law and provides for compensation of material and moral damage to a person whose rights have been violated, including compensation through public denials in the media.

62. The basic law of Tajikistan is the Constitution. The Constitution contains a separate chapter entitled "Rights, freedoms and basic duties of persons and citizens", which recognizes and guarantees fundamental human rights and freedoms in accordance with the universally recognized principles and norms of international law, and international human rights treaties and agreements recognized by Tajikistan. Everyone has the right to life (art. 18), judicial protection (arts. 19-21), inviolability of domicile (art. 22), the secrecy of correspondence and telephone and telegraph communications (art. 23), freedom of movement and choice of place of residence (art. 24), freedom of religion (art. 26), the right to participate in political life (art. 27), the right to form associations and participate in the work of political parties, trade unions and other public

associations (art. 28), to participate in meetings, rallies, demonstrations and peaceful marches (art. 29), freedom of speech, the press and information (art. 30) and the right to own and dispose of property, to economic freedom, to free labour and choice of profession, to receive an education, to participate in cultural life, the right to housing, to found a family under the protection of the State, to protection of motherhood and childhood, to health protection, to social security for the elderly and to protection of honour and dignity (arts. 31-42).

Under article 17 of the Constitution, everyone is equal before the law and the courts. The State guarantees the rights and freedoms of everyone, regardless of nationality, race, sex, language, religion, political beliefs, education, or social and property status. Men and women have equal rights.

Articles 46 and 47 of the Constitution provide for the possibility of introducing a state of emergency as a temporary measure for up to three months when there is a real threat to citizens' rights and freedoms, the independence of the State or its territorial integrity, or of natural disasters that impede the normal functioning of Tajikistan's constitutional bodies.

The Constitution of Tajikistan guarantees that, even during a state of emergency, the rights and freedoms guaranteed in articles 16 to 20, 22, 25 and 28 of the Constitution cannot be restricted. In accordance with article 69 of the Constitution of Tajikistan, the proclamation of a state of emergency falls within the competence of the President, and the relevant decree is immediately submitted for approval to a joint meeting of the National Assembly and the Assembly of Representatives, and the United Nations is notified accordingly.

Article 63 of the Constitution provides that, during a state of emergency or martial law, the National Assembly and the Assembly of Representatives shall not be dissolved.

The enumeration of rights and freedoms in the Constitution of Tajikistan should not be interpreted as a rejection or disparagement of other universally recognized human rights and freedoms.

63. Tajikistan has recognized the principles and norms of international law and international human rights treaties and agreements, all of which are taken into account in its domestic legislation. The Constitution of Tajikistan provides that international legal instruments accepted by Tajikistan are an integral part of Tajikistan's legal system. When new legislation is drafted, account is taken of international human rights requirements, and representatives of international and national NGOs are invited to provide assistance as experts. International human rights standards have served as the basis for the drafting and adoption of the following: the Civil Code (parts 1 and 2), the Criminal Code, the Family Code, the Labour Code, the Penal Correction Code, the Consumers' Rights Protection Act and others. Criminal legislation in Tajikistan is currently in the process of humanization, as is evident from the reduction of the number of elements of crimes (from 16 to 5) that carry the exceptional form of punishment - the death penalty. As a result of recent changes and additions, only five articles of the Criminal Code allow for the imposition of the death penalty; it is prohibited to subject women and persons under the age of 18 to this form of punishment. The penalties provided under many articles of the Criminal Code of Tajikistan have been reduced.

64. Persons who bring human rights cases before the courts and State bodies may directly invoke international agreements, since article 10, paragraphs 3 and 4, of the Constitution of Tajikistan provides that international legal instruments accepted by Tajikistan are an integral part of its legal system. When the laws of Tajikistan are not in conformity with international legal instruments, the provisions of the international legal instruments prevail.

The laws and international legal instruments accepted by Tajikistan enter into force after their official publication.

Following the official publication of international legal instruments to which Tajikistan is a party, their compulsory incorporation into domestic law or departmental instructions for use by competent State bodies is not required. International legal instruments accepted by Tajikistan take precedence over domestic legislation and are applicable immediately after publication. Tajikistan's laws are subsequently brought into conformity with these international legal instruments.

65. Since it gained sovereignty, Tajikistan has been a party to the following international human rights instruments:

1. 1951 Convention relating to the Status of Refugees (ratified on 21 July 1994);
2. 1967 Protocol relating to the Status of Refugees (ratified on 21 July 1994);
3. Convention on the Rights of the Child of 20 November 1989 (ratified on 26 June 1993);
4. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 26 June 2000 (ratified on 19 June 2002);
5. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 26 June 2000 (ratified on 19 June 2002);
6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (ratified on 21 July 1994);
7. Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 (ratified on 26 June 1993);
8. International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 (ratified on 21 July 1994);
9. International Covenant on Civil and Political Rights of 16 December 1966 (date of accession - 13 November 1998);
10. Optional Protocol to the International Covenant on Civil and Political Rights of 16 December 1966 (date of accession - 13 November 1998);

11. International Covenant on Economic, Social and Cultural Rights of 16 December 1966 (date of accession - 13 November 1998);
  12. Convention on the Political Rights of Women of 20 December 1952 (date of accession - 14 May 1999);
  13. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949 (date of accession - 13 April 2001);
  14. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 18 December 1990 (ratified on 28 November 2001);
  15. United Nations Conventions against Transnational Organized Crime of December 2000 (ratified on 29 May 2002);
  16. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of December 2000 (ratified on 29 May 2002);
  17. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of December 2000 (ratified on 29 May 2002);
  18. Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (ratified on 9 June 2001);
  19. International Labour Organization (ILO) Convention No. 29 concerning Forced or Compulsory Labour of 28 June 1930 (date of acceptance - 26 November 1993);
  20. ILO Convention No. 105 concerning the Abolition of Forced Labour of 25 June 1957 (ratified on 13 November 1998);
  21. ILO Convention No. 103 concerning Maternity Protection of 28 June 1952 (date of acceptance - 26 November 1993);
  22. ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1 June 1999 (ratified on 13 December 2000);
  23. Other ILO conventions.
66. Tajikistan is also a party to the human rights instruments of the Commonwealth of Independent States.

67. The following State bodies, whose tasks include monitoring the observance of human rights, have been established and are in operation in Tajikistan:

- Committee of the National Assembly for safeguarding constitutional principles, human and civil rights and freedoms, and legality;
- Committee of the Assembly of Representatives on constitutional legality, legislation and human rights;
- Commission of the Government of Tajikistan on the rights of the child (established on 7 September 2001);
- Commission of the Government of Tajikistan for ensuring the fulfilment of international human rights obligations (established on 4 March 2002);
- Constitutional guarantees department of the Executive Office of the President of Tajikistan to ensure that the President and Government of Tajikistan monitor constitutional guarantees of human civil rights and freedoms.

68. There are currently six political parties in Tajikistan, and 1,923 NGOs provide legal information and legal education, including in the area of human rights protection.<sup>4</sup>

#### **IV. INFORMATION AND PUBLICITY**

69. The following measures have been taken to provide information about and promote human rights in Tajikistan:

(a) Presidential Decree No. 691 of 9 April 1997 on legal policy and the legal education of citizens of Tajikistan was adopted;

(b) In its decision of 22 August 1997 on certain measures to improve legal education and legal work in the Republic of Tajikistan, the Government of Tajikistan approved the Programme on Legal Training and Education for Citizens of Tajikistan;

(c) Presidential Decree No. 5 of 3 December 1999 on enhancing the role of women in society was adopted;

(d) In its Decision No. 272 of 12 June 2001, the Government of Tajikistan approved the State system of human rights education in the Republic of Tajikistan, which provides human rights information and education to all categories of the population;

(e) In its Decision No. 391 of 8 August 2001, the Government of Tajikistan approved the State programme entitled “Guidelines for a State policy to ensure equal rights for men and women of the Republic of Tajikistan for the period 2001-2010”;

(f) In its Decision No. 309 of 4 July 2003, the Government of Tajikistan approved the National Plan of Action to Protect Children’s Rights;



(g) The following activities have been conducted jointly with international organizations:

- A round table on the topic “National human rights institutes in the States of Central Asia: experience, problems, prospects” (25 and 26 November 1998, held jointly with the voluntary association Tajik Human Rights Information and Analysis Centre);
- An international round table with the participation of foreign human rights organizations on the topic “Further development of human rights in Tajikistan. The role and activities of the Ombudsman” (21 and 22 June 1999, held jointly with the Organization for Security and Cooperation in Europe (OSCE) and the Open Society Institute, with the participation of ombudsmen from Kyrgyzstan, Norway, Pakistan, Poland, Slovenia and Uzbekistan);
- A national conference on the protection of children’s rights and interests (10-12 June 2001, held jointly with the United Nations Children’s Fund (UNICEF));
- A seminar on the topic “International human rights instruments and workers in correctional labour establishments” (Dushanbe, October-November 1999, with the support of the Swiss Agency for Cooperation and Development);
- A seminar on the topic “Problems of the death penalty” (Dushanbe, April 2000, held jointly with the Open Society Institute);
- A seminar on the topic “Procedure for the preparation of national human rights reports” (Dushanbe, May 2000, held jointly with the Swiss Agency for Cooperation and Development);
- A seminar on the topic “International human rights instruments and staff of correctional labour establishments” (Sogd oblast, February 2001, with the support of the OSCE Office for Democratic Institutions and Human Rights);
- A round table on the topic “Juvenile justice in Tajikistan: prospects and priorities” (25 February 2002);
- A round table on the topic “Children deprived of parental care, children from disadvantaged families and changes for the future” (8 May 2002, held jointly with UNICEF);
- A conference on the topic “Criminal proceedings: relationship between national standards and Tajikistan’s international human rights obligations” (June 2002, with the support of OSCE);

- Training for the implementation of the programme “State system of human rights education in the Republic of Tajikistan” (17-21 June 2002, held jointly with the United Nations Tajikistan Office of Peace-building (UNTOP));
  - A seminar entitled “Human rights monitoring and reporting” (September and November 2002, held jointly with OSCE);
  - International conference on the development of human rights (Dushanbe, 2-4 July 2002, with the support of UNTOP);
  - A seminar on the procedure for preparing and submitting Tajikistan’s national report on the implementation in Tajikistan of the Convention on the Elimination of All Forms of Discrimination against Women to the relevant United Nations treaty bodies (11-14 November 2002, held jointly with UNTOP);
  - A seminar on the procedure for preparing and submitting Tajikistan’s national report on the implementation in Tajikistan of the International Covenant on Civil and Political Rights to the relevant United Nations treaty bodies (21-23 November 2002, held jointly with UNTOP);
  - As part of the activities of the Government Commission on Children’s Rights, a reception centre for children and parents was opened and is currently operational (2002, with the support of UNICEF);
- (h) The following works were published:
- The brochure entitled “International human rights standards for law enforcement agencies” (July 1999, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR));
  - The brochure entitled “International Bill of Rights” (September 1999, with the support of the Swiss Agency for Cooperation and Development);
  - Posters with quotations from the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights (February 2000, with the support of the United Nations Development Programme (UNDP));
  - The brochure entitled “Legislation concerning citizens’ appeals” (February 2000, with support from UNDP));
  - The brochure entitled “Materials of the international round table on the further development of human rights in Tajikistan. The role and activities of the Ombudsman” (March 2000, with the support of the Open Society Institute);

- The brochure entitled “Society and the death penalty” (April 2000, with the support of the Open Society Institute);
- A compendium of international human rights instruments (2001, with the support of OSCE);
- The brochure entitled “The programme ‘State system of human rights education in the Republic of Tajikistan’” (September 2001, with the support of the Swiss Agency for Cooperation and Development);
- The brochure entitled “1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” (October 2001, with the support of OSCE);
- The brochure entitled “1979 Convention on the Elimination of All Forms of Discrimination against Women” (June 2002, with the support of the Swiss Agency for Cooperation and Development);
- The brochure entitled “1965 International Convention on the Elimination of All Forms of Racial Discrimination” (June 2002, with the support of the Swiss Agency for Cooperation and Development);
- The brochure entitled “International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 18 December 1990” (June 2002, with the support of the Swiss Agency for Cooperation and Development);
- The brochure entitled “United Nations Convention against Transnational Organized Crime” (November 2002, with the support of the International Organization for Migration);
- The brochure entitled “International instruments for the protection of women’s rights” (December 2002, with the support of the Swiss Agency for Cooperation and Development);
- The brochure entitled “Human rights and refugees” (December 2002, with the support of UNHCR).

The above-mentioned international human rights instruments have been translated into the Tajik language, with the assistance of international organizations. The brochures are distributed to the population free of charge.

70. Human rights issues are often discussed in the national magazines *Hayot va qonun* (Life and the Law) and *Davlat va huquq* (The State and the Law) and the newspapers *Sadoi mardum* (The People’s Voice), *Jumnhuriyat* (Republic), *Omuzgor* (Teacher), *Tojikiston*, *Azia-Plus* and *Krim-Info* and a number of departmental publications.

71. The Government Commission for Ensuring the Implementation of Tajikistan's International Human Rights Obligations and the Government Commission on Children's Rights, which are headed by deputies of the Prime Minister of Tajikistan, are responsible for preparing national reports on the human rights situation in Tajikistan. The national reports are based on information from ministries, departments and local authorities and other official sources, which are made available for public discussion.

#### **Notes**

<sup>1</sup> Information provided by the State Statistical Committee of Tajikistan.

<sup>2</sup> Information provided by the Central Geodesy and Cartography Office.

<sup>3</sup> Information provided by the Ministry of Health of Tajikistan.

<sup>4</sup> Information provided by the Ministry of Justice of Tajikistan.

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