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| **TAJIKISTAN** |
| **Civil Society Report on the Implementation of the ICCPR****(Replies to the List of Issues CCPR/C/TJK/Q/3)** For the Review of the third State Report of Tajikistan (CCPR/C/TJK/3)At the 126th session of the Human Rights Committee (Geneva, 1 – 26 July 2019) |
| Submitted by: Bureau of human rights and rule of lawIndependent Center for human rights protectionRight and prosperityOffice of civil freedomsYour choiceKhomaLegal initiative |
| *Dushanbe, June 2019* |
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## List of Abbreviations

*CAO – Code on administrative offences*

*CAPO – Code of Procedure on administrative offences*

*CAT – UN Convention against torture and other cruel, inhuman, degrading treatment or punishment against human dignity*

*CC – Criminal Code of the Republic of Tajikistan*

*CEDAW – UN Committee on the elimination of all forms of discrimination against women*

*CECS – the Code on execution of criminal sanctions*

*CPC – Criminal procedure code of the Republic of Tajikistan*

*CSF – Civil society Foundation*

*CSO – Civil Society Organization*

*CWD – children with disabilities*

*FATF – the Federal Service for Financial Monitoring*

*HIV – Human immunodeficiency virus*

*HR Committee – UN Human Rights Committee*

*HRO – Ombudsperson for human rights*

*HRW – Human Rights Watch*

*ICCPR – International Covenant on Civil and Political Rights*

*ICRC – International Committee of the Red Cross*

*LGBT – lesbian, gay, bisexual, transgender*

*MES – Ministry of Education and Science*

*MIA – Ministry of Internal Affairs*

*NGO – non-governmental organization*

*NPM – national preventive mechanism*

*OHCHR – Office of the United Nations High Commissioner for Human Rights*

*OP – Optional Protocol*

*PWC – persons without citizenship*

*PWD – persons with disabilities*

*SDG – Sustainable Development Goals*

*SIZO – detention facility*

*UCC – Unified communication (switching) center*

*UN – Organization of United Nations*

*UNDP – United Nations Development Programme*

*UNHCR – Office of the United Nations High Commissioner for Refugees*

*UPR – Universal Periodic Review*

*USSR – Union of Soviet Socialist Republics*

*WTO – World Trade Organization*

*ZAGS – Civil registration office*

## Introduction

The Republic of Tajikistan is a party to almost all major human rights treaties (except for the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the rights of persons with disabilities), on which it regularly reports to the UN Treaty bodies.

The Convention on the rights of persons with disabilities was signed by Tajikistan in March 2018, but has not yet been ratified.

However, the texts of the recommendations of the Treaty bodies are not published officially, the system of their distribution among the state bodies is not established, and they are not translated into the state language.[[1]](#footnote-1)

A Draft Strategy of the Republic of Tajikistan was developed in the sphere of human rights protection until 2030. The adoption of the Strategy is scheduled for 2019 and serves to implement the recommendations from Treaty Bodies and the UPR.

On 9 and 10 July 2013, the UN Human Rights Committee (HR Committee) reviewed the Second Periodic Report of Tajikistan (CCPR/C/TJK/2). In July 2017, Tajikistan sent the Third Periodic Report on the implementation of the International Covenant on Civil and Political Rights (ICCPR) to the HR Committee. The National Report contains the main legislative norms adopted in compliance with the ICCPR norms, as well as challenges and difficulties.

At the same time, the report does not cover some problematic aspects of the implementation of civil and political rights in Tajikistan. In this regard, an Alternative Report on the implementation of the ICCPR has been prepared by several civil society organizations. The Alternative Report covers the period from 2013 to 2019 and addresses a number of articles of the Covenant and the situation with respect to the implementation of basic civil and political rights.

Coordination of the preparation of the report was carried out by the NGO « Bureau for human rights and rule of law». Various studies, reports and sources of state institutions, international and national non-governmental organizations were used during the preparation of the report.

The following civil society organizations of Tajikistan participated in the preparation of the given Report:

1. CSO « Bureau of human rights and rule of law»;

2. CSO « Independent Center for human rights protection»;

3. CSO « Right and prosperity»;

4. CSO « Office of civil freedoms»;

5. CSF « Your choice»;

6. CSО «Homa»;

7. CSF «Legal initiative»

## Civil Society Replies to the Issues identified in the LOI

#### Constitutional, legal and institutional framework for the implementation of international obligations (Article 2 ICCPR)

On 18 November 2013, the Plenum of the Supreme Court adopted a Resolution «On the application of international legal acts recognized by the Republic of Tajikistan by courts» , which, in particular, clarifies that international legal acts recognized by Tajikistan have direct and immediate effect and are applied by courts in resolving civil, family, criminal and administrative cases. [[2]](#footnote-2)

However, there are no statistics on the number of norms of international legal acts, recognized by Tajikistan, which have been applied by the courts accordingly. This was also mentioned during Tajikistan’s UPR: “article 10 of the Constitution provides a possibility for the direct application of international treaties by national courts. However, such practice is not common. No statistics are kept on the application of the norms of international treaties by courts.”[[3]](#footnote-3)

 With regard to the Committee's Views and the lack of implementation in the state party, it should be noted that the decision of an international body on the violation of human rights does not give the victim a legitimate right to request review of the decisions taken and/or reparation, since there is no relevant law. Tajikistan has not established a mechanism to implement the Views of the Human Rights Committee under the Optional Protocol to the ICCPR. The issue of the lack of official publication of the Committee's decisions has not been resolved».[[4]](#footnote-4)

 To date, representatives of civil society institutions do not officially participate in the work of the *Commission on ensuring the implementation of international human rights obligations under the Government of the Republic of Tajikistan*, which is a permanent Advisory inter-Agency body established to coordinate the activities of ministries and agencies to implement international human rights obligations of Tajikistan in the field of human rights. There is no information about the meetings of the Commission, action plans and decisions taken on the results of the working meetings of the Commission.[[5]](#footnote-5)

Despite the legislative improvements in the work of the HR Ombudsman (who is part of the Commission), in practice, this institution is still not an independent one. The Ombudsman is appointed by the President of Tajikistan with the consent of the Majlisi Namoyandagon Majlisi Oli (Parliament of Tajikistan).[[6]](#footnote-6)

In March 2012, the Institute of the Commissioner for Human Rights (CPR, or Ombudsman) in Tajikistan was given the status « B» by the UN Sub-committee on coordination of activities of national human rights institutions. In order to implement the recommendations of the Sub-committee, a working group was established under the CHR and a package of proposals to the legislation of Tajikistan was prepared. With the purpose to ensure compliance of the national legislation with the Paris Principles[[7]](#footnote-7), the law « On amendments» and amendments to the law « On the Commissioner for Human Rights, the Ombudsman in the Republic of Tajikistan» of March 15, 2016 was adopted. According to the amendments, the CHR now has the function of promoting the ratification of or accession to international human rights instruments, which corresponds to the paragraph 3 of sub-paragraph « C» of the Chapter « Powers and Functions» of the Paris Principles. The CHR has the right to freely visit and inspect the activities of temporary detention centers, remand centers, accommodation centers for foreign migrants or asylum-seekers, institutions providing social, medical or psychological assistance and other places of restriction of freedom, other military formations and institutions located on the territory of Tajikistan. Also, according to the amendments, in order to coordinate the activities of state power institutions and civil society structures in the field of protection of human rights and freedoms and provision of consultative assistance, a Coordination and expert Council[[8]](#footnote-8), is created under the CHR, which also complies with the Paris Principles.

Since 2016, the Tajik Ombudsman was not included in the government delegations participating in the review of Tajikistan's national reports in UN Treaty bodies.

Amendments to the law « on the Commissioner for human rights in the Republic of Tajikistan» [[9]](#footnote-9) also envisaged the establishment of the position of the Commissioner for the rights of the child (CCR) in Tajikistan, who is also appointed by the President of Tajikistan with the consent of the Parliament (Majlisi Namoyandagon Majlisi Oli) for a period of 5 years.

Meanwhile, many Tajik lawyers and representatives of civil society organizations make statements about the weakness and dependence of the Ombudsman institution. In their opinion, the human rights Ombudsman tries to avoid interference in high-profile cases and to avoid confrontation with state bodies. Since the establishment of the Ombudsman institution, there has been no progress in the protection of human rights in the country. Moreover, up to now, he/she has not yet met with any representatives of civil society and has not held a kind of introductory briefing, press conference or meeting. Human rights defenders believe that the children's Ombudsman, being part of the office of the Ombudsman, will also not be able to make independent decisions.

On March 4, 2019, the Head of the state signed a Decree on the appointment of a new Commissioner for human rights. It was Mr. Umed Bobozoda, who previously served as an Adviser to the Office of the Assistant to the President for Legal Affairs. Mr. Zarif Alizoda, who was the Commissioner for Human Rights in Tajikistan for 10 years, was appointed as Assistant to the President of Tajikistan on Legal Affairs - Plenipotentiary Representative of the President of Tajikistan to the Parliament.[[10]](#footnote-10) According to expert human right defenders, such a change of personnel seems not to be an efficient one, and the new Commissioner will not change the human rights situation. Human Rights Defenders believe that a representative of civil society should have been appointed for this position and not an employee from the Government.

Lastly, the process of elaboration and development of legislation in the field of human rights does not comply with the principles of transparency. Civil society is not sufficiently involved in the processes of law-making and subsequent discussions/consultations on draft legislation. Public hearings or participation in working groups on the development/discussion of draft reforms, programs or regulations are possible only if such kind working groups are supported by international donor organizations, or when the representatives of civil society have learned by themselves about the process of drafting legislation. The National Center for legislation under the President of Tajikistan ([www.mmk.tj](http://www.mmk.tj)) does not publish any information on the draft laws being developed. Domestic legislation does not envisage any obligation to publish draft legal acts for public awareness.

**Recommendations:**

1. *To ensure that courts apply in practice the Resolution of Plenum of the Supreme Court of Tajikistan « On application by courts of the international legal acts recognized by the Republic of Tajikistan».*
2. *To keep records and statistics on the application of international legal acts by courts.*
3. *To create a mechanism for implementing the views of the HR Committee .*
4. *To include in the legislation a provision providing that the « decision of an international body on the violation of human rights may be the basis to revise such decisions taken and/or for compensation of any losses\harm».*[[11]](#footnote-11)
5. *To ensure that the Tajik Commissioner for human rights and the Commissioner for the rights of the child are empowered with authorities which guarantee their independent activity by amending the legislation (in particular, that CHR is not appointed, but elected by Parliament).*
6. *To ensure that sufficient funding is provided for the operation of the office of CHR.*
7. *To ensure that domestic funds are provided for the translation of the Concluding Observations into the state language and their dissemination.*

#### Equality before the law and non-discrimination. Equal rights of men and women (Articles 3 and 26 ICCPR)

The prohibition of discrimination is enshrined in the Constitution and is mentioned in various normative legal acts of the country. The definition of discrimination at the legislative level is given only in the Law « Оn State guarantees of equality of men and women and equal opportunities for their implementation». Tajikistan has established a government Working Group that is developing a separate Anti-Discrimination Law.

In Tajikistan, there is no comprehensive legislation prohibiting discrimination as such. There is no separate law prohibiting discrimination, and national legislation does not provide any notions or definitions such as direct and indirect discrimination, in the public and private sectors, discrimination on the basis of disability, age and sexual orientation/gender identity. There is no proposed national Action Plan to combat discrimination[[12]](#footnote-12). Very little use was made of the Temporary Special Measures[[13]](#footnote-13) to accelerate the achievement of the actual equality for women. These measures were not included into the law « On State guarantees of equality of men and women». The practice of the courts in cases of discrimination is extremely limited. There is no specific training course for practicing judges on discrimination issues, and there are no lawyers specializing in the field of discrimination.

Article 143 of the Criminal Code of Tajikistan is devoted to the violation of equality of citizens; however, it is formulated in such a way that the burden of proof is shifted to the victim of discrimination, and the list of grounds for discrimination is not exhaustive. The Committee on the Elimination of all forms of Discrimination Against Women (CEDAW), in its Concluding Observations to Tajikistan of November 2018, noted the absence of complaints by women under Article 143 of the Criminal Code concerning violations of equality during the period 2015-2017. CEDAW had also expressed its concern that the definition of discrimination contained in the legislation does not include direct and indirect discrimination; that there is a lack of information on whether the provisions of the Convention are directly applied or referred to in the judicial proceedings; that Tajikistan's legislation, policies and programmes do not adequately address the special needs of women and girls; and the lack of awareness of public officials on women's rights and gender equality.

Furthermore, the Labour Code of Tajikistan prohibits the use of women's labour in heavy, underground work and in work with harmful working conditions. In its Concluding Observations of 2013 and 2018, CEDAW had noted that such provisions limited women's economic opportunities in a number of areas and had recommended the abolition of the list of occupations for which women's employment was restricted or prohibited. Furthermore, the Labour Code does not contain the Concept of «harassment at workplace».

Additionally, labour legislation does not provide any differentiation of benefits for men and women who combine work and study. Such a formally equal approach creates conditions for indirect discrimination against women and young girls, both at workplace and in the education sphere.[[14]](#footnote-14)

Legislation and policies of Tajikistan do not envisage any anti-discrimination norms and measures in the field of access to work and employment of persons with disabilities. Women with disabilities are subject to multiple discrimination on the basis of gender, disability and, often, poverty. Women with disabilities tend to have lower literacy rates, and consequently constitute a higher percentage of unemployed persons with disabilities than men.

Parents of children with disabilities, mostly mothers, are not able to work because of the disability of their child. The amounts of pensions and allowances paid by the state for adults and children with disabilities by the state are insufficient to cover even the minimum needs of people and children with disabilities (PWDs and CWDs). There are not enough day care centers for children, and early intervention and rehabilitation centers do not exist in all regions and districts of Tajikistan. [[15]](#footnote-15)

Women with disabilities and mothers with CWDs do not have equal access to health care and health services, especially in rural areas. Reproductive health programmes (including information campaigns) do not include women and girls with disabilities.[[16]](#footnote-16)

With regard to the education, there are many stereotypes that girls with disabilities, unlike boys with disabilities, have less access to education. One study found that about 70 % of girls and women with disabilities are dependent on other family members, mostly men.[[17]](#footnote-17)

 In 2015, the Law «On protection of the rights of the child» was adopted, in which a separate chapter is devoted to CWDs.

 Lastly, sex workers – women, men and transgender people – are highly stigmatized and systematically discriminated in Tajikistan. They suffer from high levels of violence from law enforcement officials, clients and an aggressive part of society operating under the cover of religious values.

 In recent years, law enforcement agencies have repeatedly stated the need to counter homosexuality, and LGBT people are increasingly becoming targets for police officers.[[18]](#footnote-18)

 The programmes which are aimed generally at eliminating violence against women take little account of violence against sex workers and LGBT people. In addition, programs aimed at eliminating domestic violence do not protect sex workers nor people from the LGBT community.

**Recommendations:**

1. *To adopt a unified anti-discrimination legislation that would include an open list of grounds that can be used as grounds for discrimination, as well as definitions of direct and indirect discrimination.*
2. *To introduce a notion and definition of the «Temporary Special Measures» into the law «On state guarantees of equality of men and women».*
3. *To ratify the UN Convention on the rights of persons with disabilities.*
4. *To prohibit discrimination on the basis of sexual orientation and gender identity in the legislation.*
5. *To exclude from the legislation of Tajikistan the provisions prohibiting women to work at some types of work.*
6. *To take legislative and practical measures to protect sex workers.*

#### Right to Life (Article 6 ICCPR)

Since Tajikistan's last report to the HR Committee in 2013, the situation regarding the death penalty has not changed.

A moratorium on the imposition and execution of death sentences was introduced in 2004. A Working Group was established to study the legal and social aspects of the existence of the death penalty in the legislation of Tajikistan. Up to the present time, the death penalty in Tajikistan has not been abolished: the Article 18 of the Constitution of Tajikistan and the Criminal Code still allow it.

On June 22, 2016, according to a nationwide Referendum held on May 22, 2016, a number of amendments have been introduced into the Constitution[[19]](#footnote-19), but these amendments have not touched the complete abolition of the death penalty in the country.

On June 7, 2017, the National Action Plan for the implementation of the recommendations of the UPR (second period) for 2017-2020 was approved by the Resolution of the President of Tajikistan. According to Paragraph 2 of the Action Plan, the recommendations of a number of countries to ratify the Second Optional Protocol to the ICCPR have been accepted by Tajikistan, but for the period of implementation of the National Plan it is envisaged only to complete the study of the ratification of the Second Optional Protocol to the ICCPR by the Working Group.[[20]](#footnote-20)

By now, the Working Group has elaborated an Action Plan, which includes exploration of global practice and legislation of the countries which have abolished the death penalty, conduction of social research among various layers of the population, as well as review of a possibility for ratification of the Second Optional Protocol to the Covenant. However, it is not clear how far the activities have been carried out.

In accordance with the information published by media, more than 10 000 people are held in special penitentiary facilities of Tajikistan, of which 80 are nationals convicted for life. In February 2019, the government has reviewed the question of employment of the persons convicted for life, for whom a special separated colony would be built. For that, authorities must introduce amendments to the legislation about the execution of criminal penalties. It is not clear yet what sort of job the convicted persons will be occupied with.[[21]](#footnote-21)

According to the information provided by the Deputy Minister of Justice of Tajikistan Mr. Hakim Mirsayzod, 27 people died in prisons of Tajikistan during these six months (from the beginning of 2017) and «All of them died due to natural reasons».

Civil society does not have access to the statistics of violent deaths in places of deprivation of liberty.

In December 2013, a Monitoring Group was established under the CHR to visit places of detention and restriction of liberty. The group consists of CHR employees and representatives of the NGO Coalition of Tajikistan against torture and impunity. Since February 2014, the Group has conducted more than 60 visits to places of deprivation and restriction of liberty. However, monitoring of correction institutions does not cover the identification of the causes of violent deaths in the penitentiary facilities.

In addition, due to the limited number of the CHR employees in the Monitoring Group, there is no comprehensive coverage of all the institutions in the country.

Moreover, convicted women with HIV are subject to stigma and discrimination not only among penitentiary staff, but also among women prisoners themselves. At present time, women with HIV are held together with other women in closed correction facilities, but no confidentiality about their status is maintained.[[22]](#footnote-22)

With regard to tuberculosis in Tajikistan, the overall statistics indicate a decrease of the incidences. Thus, according to the data of the Ministry of Health and social protection of the population of Tajikistan, in 2015 there were 60 tuberculosis cases per 100 000; in 2007, there were 85 tuberculosis cases per 10 000.[[23]](#footnote-23)

According to the data presented in the Compilation of the Agency for Statistics under the President of Tajikistan «Health care in the Republic of Tajikistan» for 2016, the incidences of tuberculosis per 100 000 decreased very slightly from 2014 to 2015: in 2014, there were 60.8 per 100 000, and in 2015 - 60.4. In 2012, this figure was 69.4 per 100 000. [[24]](#footnote-24)

Despite this progress, Tajikistan still has a very high level of prevalence of drug-resistant tuberculosis, which represents a serious challenge for the struggle against this disease.[[25]](#footnote-25)

**Recommendations:**

1. *To exclude the death penalty from the Constitution and the Criminal Code of Tajikistan.*
2. *To ratify the Second Optional Protocol to the ICCPR.*
3. *To allow the Monitoring Group under the CHR to cover issues related to mortality in penitentiary facilities, including forced deaths.*
4. *To strengthen measures to prevent tuberculosis, HIV and hepatitis among persons held in places of deprivation of liberty.*
5. *To strengthen control over the treatment of tuberculosis, HIV and hepatitis infected patients in places of detention.*
6. *To make accessible to the population statistics regarding violence and deaths in detention centers?*

#### Freedom from torture, right to humane treatment (Articles 7 and 10 ICCPR)

The prohibition of torture and ill-treatment in Tajikistan is guaranteed by Article 18 of the Constitution.

In 2012, the Article 143.1 « Torture» was added to the Criminal Code (CC).

In 2013, an Action Plan to combat torture was adopted to implement the recommendations of the Committee against Torture and the UN Special Rapporteur on Torture, Mr. Juan Mendez. Unfortunately, civil society organizations were not involved in the process of drawing up the Action Plan, and the comments and recommendations of the NGO Coalition against Torture in Tajikistan which were sent to the state bodies, were not reflected in the final document.[[26]](#footnote-26)

In February 2014, the Minister of Health and Social Protection of the population of Tajikistan signed the Action Plan of the Working Group on the implementation of the Istanbul Protocol Standards.[[27]](#footnote-27)

In 2016, a number of amendments recommended by international bodies and national human rights organizations were made to the Criminal Procedure Code (CPC) of Tajikistan. Under the article « Torture» persons can be prosecuted, including the administration of closed and semi-closed penitentiary facilities in which elderly, persons with disabilities, patients of drug clinics and children in conflict with the law are held, in the case of torture or ill-treatment towards them. The CPC also prohibits the subjection of participants in criminal proceedings to violence, torture and other cruel or degrading treatment.[[28]](#footnote-28)

The Criminal Penal Enforcement Code of Tajikistan contains a categorical prohibition of torture or cruel, inhuman or degrading treatment of a convicted person.

In May 2018, Tajikistan reported to the UN Committee against Torture. On 24 January 2019, the government of Tajikistan adopted a National Action Plan to implement their recommendations from 2019 to 2022.

Despite these positive aspects, the penalties imposed for crimes of torture are not commensurate with the gravity of the crime. Although article 143.1 of the CC includes several aggravating circumstances of torture for which a sentence of up to 15 years of imprisonment may be imposed, in practice the penalty is not more than 2 to 5 years of imprisonment, and even in this case, the penalty is often reduced or suspended. Moreover, amnesty laws can be applied to persons guilty of torture, which does not comply with the international norms.

There is no legislation on the rehabilitation of victims of torture, including medical care and psychological rehabilitation. In fact, there is no judicial practice to compensate victims of torture in the country, and there are no specialists assessing the psychological harm suffered by victims of torture. Victims of torture do not file claims to compensate the harm or damages due to the fear of being repeatedly prosecuted by the law enforcement agencies. Between 2012 and 2015, in five cases on charges of torture it was decided that the perpetrator should pay compensation for moral damage, one case reached an amicable agreement[[29]](#footnote-29). This includes the two famous cases in Tajikistan, where the courts decided that State bodies should pay compensation to the families of Safarali Sangov and Bakhromiddin Shodiev, who died as a result of torture during detention in 2011.

However, the amounts of the compensation payments are neither fair nor adequate in terms of international standards.

Furthermore, in Tajikistan, torture and other forms of ill-treatment and punishment by law enforcement officials, prison officials and military units is still a widespread practice.

The national legislation does not require judges to inquire at hearings about the extent to which detainees have complained of torture and other forms of ill-treatment, especially if there are indications that the detainee has been subjected to physical violence or other forms of ill-treatment. In practice, judges tend to ignore such complaints and forward the alleged victims and their lawyers to write a complaint to the Prosecution office instead of taking a decision to conduct an immediate, thorough investigation into such statements, including a medical examination.

«Hazing or bullying in the army continues to be a significant challenge. We are talking about the so-called non-statutory relations, when old soldiers or officers use physical violence, extort money, etc. Only in June-July, 2015 as a result of non-statutory relations 5 military servants were killed».[[30]](#footnote-30) Only from 2015 to 2018, the CSO «Office of Civil Freedoms» had documented 36 cases of torture and other ill-treatment in the army.

The legislation regarding torture in the military is not compliant with international human rights standards: military prosecutor’s offices investigate facts of torture and ill-treatment in the army under articles 373 and 391 of the Criminal Code, which provides for liability for non-statutory relations and abuse of authority, and not under ‘torture’ in article 143.1 of the Criminal Code.

In 2011, a coalition of civil society against torture and impunity was established in Tajikistan. The coalition brings together more than 80 people, representatives of human rights organizations, lawyers, journalists, psychologists and experts to eradicate torture in Tajikistan.[[31]](#footnote-31) Between 2014 and 2018, members of this coalition had recorded 238 cases of torture or other forms of ill-treatment of men, women and children in Tajikistan. Only in a few cases has a formal investigation been initiated, and in many cases where the use of torture or other ill-treatment has been confirmed at least in part, only disciplinary measures have been taken against the perpetrators. It is assumed that many victims of torture did not complain for fear of reprisals[[32]](#footnote-32). However, according to the official sources, since the introduction of the article in the CC in 2012, in total eleven criminal cases have been initiated. Most cases of allegations of torture or other forms of ill-treatment continue to be dealt with under other articles of the CC.

There are no prompt, thorough and impartial investigations into all allegations of torture and ill-treatment, regardless of whether formal complaints have been filed, which are often declined on through a speed up process, and investigations are terminated or suspended. There is no independent mechanism that investigates torture under the Istanbul Protocol. As a result, impunity is flourishing.

**Recommendations:**

1. *To ratify the Optional Protocol to the Convention Against Torture and establish an effective national preventive mechanism.*
2. *To strengthen the criminal punishment for torture in Article 143.1 of part 1 of the Criminal Code and eliminate non-custodial penalties.*
3. *To establish at the legislative level the rule that all detainees must be brought before court within 48 hours of their detention.*
4. *To establish independent mechanisms to investigate and prosecute cases of torture.*
5. *To adopt a law regarding the medical, social and psychological rehabilitation of victims of torture.*
6. *To determine a procedure for the payment of compensation to victims of torture.*
7. *To recognize the competence of the Committee against Torture to receive and consider individual complaints in accordance with Article 21 of the CAT.[[33]](#footnote-33)*
8. *To develop witness protection programmes.[[34]](#footnote-34)*
9. *To establish a unified system to register cases of torture or other forms of ill-treatment, so that comprehensive statistics can be collected, not only under article 143.1 CC, but also under other articles of the CC relating to allegations of torture or other forms of ill-treatment.*
10. *To bring into compliance with the international human rights standards the legislation regulating military service, in particular the issues of freedom from torture, detention, investigation of torture and ill-treatment in the army.*
11. *To conduct thorough, comprehensive and objective investigations into complaints on torture in the army and ensure the safety of victims and witnesses. Provide an adequate moral compensation to victims of torture in the army.*

#### Right to liberty and security of person (Article 9 ICCPR)

 In Tajikistan, the use of torture mainly takes place during the first hours of detention, when detainees are in many cases deprived of the right of correspondence and communication (i.e. are held *incommunicado*).[[35]](#footnote-35)

 In May 2016, pursuant to the recommendations of international bodies on the issues of torture[[36]](#footnote-36), the Code of Criminal Procedure was amended to significantly improve the rights of detainees. In particular, they clearly indicate the moment of actual detention, when a person is detained on suspicion of committing a crime. From that moment, an authorized officer of the criminal prosecution body or another competent person is obliged to explain orally at the place of actual detention to a person on suspicion of committing a crime, the right to a phone call or message to a lawyer or a close relative, the right to have a lawyer, to refuse to testify, and the fact that his testimony can be used as evidence in a criminal case against him. He should indicate in the record of the detention center the identity of the staff of the criminal prosecution body, of officials, witnesses, interpreters and other persons.

The body of inquiry, the inquirer or the investigator are obliged to inform the relevant Prosecutor in writing about the detention of the suspect within 12 hours from the moment of the actual detention of the person, while previously this period was 24 hours.

The amendments also affected the period of notification of family members of the detainee: « From the moment of the actual detention and ***without any delay***, the body conducting criminal proceedings and which had conducted the detention is obliged to notify somebody from the adult members of the detainee's family or close relatives or to provide opportunity of such notification to the detainee about the detention of the person and ***the location*** of the detainee or in case of ***changing of the location of the detainee***» .[[37]](#footnote-37)

In practice, the police often detain people for administrative offences as a reason for police custody for a period of 5 to 15 days. Tajik legislation provides for more effective remedies for detainees suspected of having committed a criminal offence, and many of these remedies do not apply to detainees for administrative offences. Also, soldiers and warrant officers can be placed in military detention facilities for 10 days for a violation of military discipline. Placement in such military detention facilities is considered an administrative arrest measure, but the law does not establish any guarantees for military detainees – such as the provision of a lawyer, contact with relatives, the right to a phone call.[[38]](#footnote-38)

Another method of detention without legal protection represents the common practice of the police to call people as «witnesses» or simply to «conduct an interview». According to the available reported data, in many cases police officers use torture to obtain «information» or «confessions», on the basis of which criminal cases are then opened against these persons.[[39]](#footnote-39)

The national legislation prescribes that a hearing on a level of the pre-trial restriction must be held not later than 72 hours after the detention. After this period, the detainee must be released from custody or another restriction measure applied to him\her. Previously, in practice, the detainees were brought before the court later than 72 hours, since the time of detention was counted from the moment of drawing up the protocol of detention, and not from the moment of actual deprivation of liberty. In May 2016, the criminal procedure code was amended, according to which «*the beginning of the period of detention of a person is calculated from the moment of his\her actual detention*». However, article 111 CPC allows courts to extend the 72-hour limit an infinite number of times, giving the police additional time to provide justification grounds for further detention.

In 2013, the HR Committee recommended Tajikistan to «ensure that persons in police custody are brought to justice within a maximum of 48 hours». Additionally, the Committee urged Tajikistan to ensure «that the period of pre-trial detention could not be prolonged, when the investigating authorities are unable to present valid arguments to continue the individual's detention».[[40]](#footnote-40)

Pursuant to article 111 §1 of the CPC, judges may apply detention as a pre-trial restriction measure only on the basis of the seriousness of the offence: if the offence is punishable by imprisonment for more than two years. The law does not require them to take into account any other factors, such as whether the accused may pose a threat to public security, whether the suspect is at risk of absconding from the investigation, or interference with the justice process. In its Annual Report for 2013, the CHR reported that the judges have approved 99 percent of all petitions on the restriction measures on form of custody detention. In 2012, the Committee against Torture recommended Tajikistan to «amend the CPC in order to ensure that pre-trial detention is not authorized by the courts, based only on the gravity of the alleged crime».[[41]](#footnote-41)

§1 of article 112 of the CPC envisages that a suspect/accused shall not be detained for more than two months during the preliminary investigation. In practice, when deciding on the application of pre-trial detention, judges do not specify the period during which the person should be detained. Therefore, the court automatically applies the maximum period for the primary detention for two months provided for by said article.

The total period of a custody detention is 12 months, and in exceptional cases the period of custody may be extended to 18 months. These terms are defined for detention of the person during preliminary investigation and before forwarding the case to a court.

The CPC also envisages a time period of detention during a criminal trial. Thus, in accordance with article 289 CPC, the period of detention of a defendant, from the date of reception of the case to sentencing, shall not exceed six months, and in exceptional cases up to 12 months. Therefore, the national legislation provides for a maximum period of detention up to 30 month: 18 months during the preliminary investigation of a criminal case and 12 months during the trial.

The Tajik legislation guarantees access of the lawyer to citizens in pre-trial detention centers and temporary detention facilities on the basis of the presented certificate of the lawyer. However, in practice the administration of the facilities demands the written permission from the investigators and other law enforcement officers conducting investigation of the relevant case.

***Situation in places of detention and restriction of liberty***

In Tajikistan, the penitentiary system is not transparent. Tajikistan has not ratified the Optional Protocol to the Convention against Torture (OPCAT), with references to financial constraints, and no fully effective national preventive mechanism (NPM) have been established yet.

Since 2004, representatives of the International Committee of the Red Cross (ICRC) have not had access to pre-trial detention and other detention facilities. Also, the country's legislation does not envisage any mechanism of civil society\non-government control over the observance of human rights in closed penitentiary facilities.

According to the Ministry of Justice, a draft strategy for the reform of the system of execution of criminal punishment until 2025 has been developed and, following the instructions of the Executive Office of the President of Tajikistan, is currently in the process of being finalized and agreed upon.[[42]](#footnote-42)

A positive step was the establishment of a Monitoring Group under the Human Rights Ombudsman, which since February 2014 can conduct up to 16 visits per year to closed and semi-closed penitentiary facilities. With the exception of the joint monitoring with the CHR, local NGOs do not have access to the closed and semi-closed detention facilities to conduct independent monitoring. The Monitoring Group has permission to visit almost all detention facilities of the Ministry of Internal Affairs, pre-trial detention centers, correctional colonies, nursing homes, homes for persons with disabilities, psychiatric clinics, drug dispensaries and a juvenile colony. Starting from 2018, the Monitoring Group began its monitoring in the preliminary detention centers, which are subordinated to the Drug Control Agency. The biggest challenge for the Monitoring Group's activities remains the inability to carry out special visits when there is information reported or a complaint communicated from the places of detention about alleged acts of torture or other ill-treatment. Moreover, not all the facilities provide access for the Monitoring Group to their internal documentation, which are designated as «for official use». The types of institutions that can be visited by the Monitoring Group are still limited: at the moment the group does not have access to the pretrial detention center of the State National Security Committee of the Agency for State Financial Control and Fight against Organized Crime, although the CHR has repeatedly made statements during meetings and round tables declaring that these institutions will gradually be covered by the monitoring group.

Despite significant improvements during the reporting period, conditions of detention in closed and semi-closed penitentiary facilities are often below international minimum standards.

In many psychiatric institutions, there is a shortage of qualified doctors and essential medicines. Some of the places of deprivation of liberty do not have enough heating during winter. Despite the efforts to increase financial resources for food products for places of detention, food supply remains unsatisfactory. For example, mental health facilities allocate between 10 and 12 Tajik Somoni per person per day (approximately €1), which is insufficient to meet the nutritional needs of patients.

Another problem identified by the Monitoring Group is the lack of consent for hospitalization in a psychiatric institution. The staff at these facilities note that there has not been a single case of involuntary hospitalization by a court decision, but at the same time they also informed the group that almost all of the patients are brought to the facility by their relatives or the police. At the same time, no written consent for hospitalization is taken from the patients.

In addition to the monitoring group, civil society institutions have separate memorandums with the CHR to conduct joint monitoring. Thus, starting from 2014, the civil society organization «Office of Civil Freedoms», a member of the Coalition against Torture and Impunity, in collaboration with the CHR conducts monitoring of observation of human rights in military units, where they get information about the conditions of service, and about the methods of combating torture and other ill-treatment in military units. Between 2014 and 2018, 24 monitoring missions were carried out in 20 military units throughout the country. Despite the state's activities to prevent ill-treatment and to bring the perpetrators to justice, torture and ill-treatment are widely practiced in the army. Violence and ill-treatment is used to strengthen the discipline of soldiers, for strict obediance and to follow the orders and instructions from «older» soldiers, and as a punishment for misconduct, as well as a sort of ritual.[[43]](#footnote-43)

**Recommendations:**

1. *To create a mechanism for civil society to monitor human rights obligations in closed and semi-closed penitentiary facilities.*
2. *To ensure that the Monitoring Group under the CHR has a mandate to cover the issue of forced violent deaths in closed and semi-closed penitentiary facilities.*
3. *To provide access to internal rules and regulations of closed institutions.*
4. *To ensure judicial control over every case of forced placement in a closed and semi-closed institution.*
5. *To ensure access to penitentiary institutions for the ICRC and for the expert independent NGOs working in the field of prevention of torture in Tajikistan to assess the situation of prisoners' rights; such visits should be regular, without prior notice, with the possibility of interviewing prisoners and access to all required documents.*
6. *To establish at the legislative level a provision that all detainees must be brought before a court within 48 hours of their apprehension.*
7. *To amend the criminal procedural legislation, according to which the court's decision on pre-trial detention should be based not only on the severity of the alleged crime committed, but also on other individual characteristics of the person.*
8. *To bring the provisions of the CPC on the 18-month period of detention during pre-trial detention and the 12-month period of detention during trial into compliance with article 9 of the ICCPR.*
9. *To ensure unhindered access for lawyers to their clients in closed institutions in criminal cases, without the requirement for additional special permission, but only on the basis of a warrant.*

#### Freedom of movement (Article 12 ICCPR) and non-refoulement (Article 13 ICCPR)

***Refugees and asylum-seekers [[44]](#footnote-44)***

In the last periodic national report of Tajikistan on the implementation of the Convention on the Elimination of all forms of Racial Discrimination, it is indicated that Tajikistan is considering ratifying the 1954 Convention relating to the status of stateless persons and the 1961 Convention on reducing statelessness, and at present time, an analysis is being conducted on the social, economic and other consequences of joining these Treaties.

According to the official statistics, there are currently 603 stateless persons registered in Tajikistan who are allowed to reside permanently in the country. The government of Tajikistan has established an inter-agency Working Group that has drafted normative legal acts on amnesty and further legalization of the legal status of persons who illegally reside on the territory of Tajikistan. These documents are in the process of being approved.

On August 8, 2015, the Constitutional Law «On citizenship of the Republic of Tajikistan» was adopted. The Office of the UN High Commissioner for Refugees in Tajikistan took an active participation in the development of this law.[[45]](#footnote-45)

The law contains a number of provisions that are characterized as progressive. So for example, the article providing for the loss of citizenship due to the fact that within 5 years a citizen did not register for consular registration outside the country (Law of 1995), is absent in the new Law. This measure is aimed at preventing statelessness.

The concept of stateless persons corresponds to the concept contained in the 1954 Convention on stateless persons. If they are born in Tajikistan can apply for citizenship in a simplified manner, which excludes a qualification for the duration of residence for 5 years, and other stateless persons must live in the country for 2.5 years compared to 5 mandatory for other categories of citizens.

At the same time, it is important to say that the law does not provide for a simplified procedure for acquiring citizenship, which was provided for in the law of 1995 for the following categories of citizens: 1) refugees, 2) foreign citizens who are married to a citizen, what we consider as a restriction.

The law that regulates the procedures for the consideration of citizenship requires a foreign citizen applying for citizenship to provide a document confirming his withdrawal from his existing citizenship. At the same time, obtaining citizenship of Tajikistan upon granting such an appeal is not guaranteed, which may lead to statelessness of this person.

Article 13, p. 8 of the constitutional law “On citizenship of the Republic of Tajikistan” provides for the acquisition of citizenship of a child whose parents are not known, born only in the territory of Tajikistan, that is, the guarantee of granting citizenship by birth to those who are not fully consistent with the 1961 Convention. Acquisition of citizenship is not guaranteed.

The principle of non-refoulement is one of the fundamental principles of international protection of the rights of refugees. However, as the analysis of administrative cases demonstrates, compliance with the principle of non-refoulement is a «painful point» of the judicial practice. The generalization of judicial decisions on refugees proves that the principle of non-refoulement is not always respected in cases involving refugees, in particular persons deprived of refugee status for administrative offences.

The most common type of administrative offence for which administrative cases are brought against refugees and asylum seekers, is a violation of the rules of stay in Tajikistan under §3 of article 499 of the Administrative Code. When considering this category of administrative cases, the courts do not give a full and comprehensive legal assessment of the actual circumstances of the case, do not fully investigate the motives for committing an administrative offense, do not find out the reasons and conditions that contributed to the act, and as a result, their punishment does not adequately correspond to the nature of the offense. As a rule, a similar administrative offense is punishable by an administrative fine and expulsion from the territory.

Most often, the basis for initiating an administrative case against asylum seekers and refugees under §3 of article 499 of the Administrative Code, is a violation of the requirement of the government № 325 of 26.07.2000 «On the List of settlements of the Republic of Tajikistan, where temporary residence for asylum seekers and refugees is not allowed». This decision is interpreted in court decisions as a «violation of the rules of residence in the Republic of Tajikistan». Analysis of court decisions shows that the courts rarely specify the type of violation of the rules of residence, do not specify what exactly is expressed in the given violation, and generally refer to a violation of requirement № 325.

Another problematic issue is the timing of appeals against court decisions on expulsion from Tajikistan. According to the requirement article 150 §3 of the Code of Procedure on administrative offences, « a complaint and protest against a judge's decision on administrative punishment in the form of administrative expulsion of a foreign citizen and a stateless person from the territory of the Republic of Tajikistan may be filed within one day from the date of the announcement of the decision». Such a limited time period for an appeal does not contribute to the full and comprehensive exercise of the rights of asylum seekers and refugees.

Additionally, judicial practice does not respect the principle of non-refoulement.

We have information on two cases in which refugees were expelled for violating the rules of residence in Decree No. 325 in 2018. On 17 February 2017, the Permanent Joint Commission for the Determination of Refugee Status at the Ministry of Internal Affairs deprived the heads of two families of their refugee status, for violating Resolution No. 325. In one case, the head of one family was expelled by the decision of the district court of Shokhmansur, while as in another case, all members of the family were expelled by the court ruling. The courts of second instance left the definition of expulsion courts in force.

Therefore, the lawmakers did not provide sufficient time for consideration of an administrative case leading to an administrative arrest or expulsion from Tajikistan (article 136 §4 of the Procedural code of administrative offenses), i.e. a case of this kind is considered on the day of reception of the Protocol on the administrative offense. During one day, it is not possible to find out in court the existence of a threat for national security and public order caused by the refugee or the asylum seeker, which may be a justification ground for the expulsion of the refugee or the asylum seeker.[[46]](#footnote-46)

The restrictions in the Resolution of the Government No. 325 of 26 July 2000 (the edited Resolution No. 328 of 2004) have a negative impact on the lives of refugees in Tajikistan, especially in terms of access to employment, health services, education and other services. This also creates difficulties in the case of registration of marriages between Tajik citizens and refugees or asylum seekers.

It is important to say that in Tajikistan there is still no mechanism for redirecting persons who seek asylum directly at the border. These persons are not redirected to the internal affairs authorities for asylum applications. Article 5 (h) §1 of the law “On Refugees” stipulates that the national security authorities must notify the internal affairs bodies not later than 72 hours about the asylum seekers who do not have permission to enter Tajikistan, but have declared their desire to be recognized as refugees at checkpoints. This article also emphasizes the importance of respecting the principle of non-refoulement when such persons cross the border of Tajikistan. But in reality, persons who illegally crossed the border and apply for refugee status, are held criminally liable for illegally crossing the border and, after serving the sentence, are expelled back to Afghanistan.

***Stateless persons [[47]](#footnote-47)***

 *Absence of reliable information on stateless persons and persons with undetermined citizenship.*

 There are no complete statistical records on stateless persons in Tajikistan. National statistics on the population living in Tajikistan and the statistics of the Ministry of Internal Affairs are unlike: the Statistics Agency provides data from the 2010 General Census, while the Ministry of Internal Affairs provides statistics on the officially registered persons who have been issued a residence permit for stateless persons. The available data are not disaggregated by sex, place of residence (village/city), material prosperity level and other indicators that would make it possible to assess the vulnerability of a given population group and, in general, to understand the extent of the problematic issue. Based on the experience of the UNHCR pilot project[[48]](#footnote-48), there is no systematic record of persons with undefined citizenship.

 The Tajik government expressed its commitment to achieving the sustainable development Goals (SDGs). SDG 16 on «Peace, justice and effective institutions», aims to promote peaceful and open societies for sustainable development, access to justice for all and effective, accountable institutions at all levels. One of the objectives to achieve this goal (16.9) is to ensure legal status for all, including birth registration, by 2030[[49]](#footnote-49). The achievement of this goal by Tajikistan requires, among other things, a significant improvement in statistical data in order to identify all persons living in Tajikistan who have problems with their legal status.

 Provisions on naturalization, provided by the law « On citizenship of the Republic of Tajikistan» , allow naturalization only for stateless persons who have an official status and residence permit in Tajikistan, with an exception for: children and disabled persons under the care or guardianship of a Tajik citizen; persons with outstanding achievements in science, technology, health and sports, merits in the economic, social and cultural development of Tajikistan and the implementation of universal values; and veterans of World War II who had citizenship of the former USSR, and are now living in Tajikistan. The requirement to have a residence permit in order to apply for naturalization in Tajikistan, does not apply to them (article 15 §1 of the abovementioned law).

 As for the holders of USSR passports, the naturalization provisions apply only to persons born in the Tajik SSR, who had Soviet citizenship, who lived in the states that were a part of the USSR. At the same time, the law «On citizenship of the Republic of Tajikistan» foresees a conditional term that such persons cannot have citizenship of another country and as a result of this be a stateless person. The status of stateless persons in Tajikistan is confirmed by a residence permit for stateless persons issued in another state. As a consequence, persons who lived in Tajikistan after the collapse of the USSR on Soviet passports and were born in the Tajik SSR (non-citizens of Tajikistan) in practice cannot receive a residence permit as a stateless person.

Civil society is lobbying the issue of introducing a procedure for determining the status of a stateless person to the law of the Republic of Tajikistan.

 Persons holding a USSR passport who have been living in Tajikistan for a long time, but were not born in the Tajik SSR (non-citizens of Tajikistan) do not have the right to naturalization in the law «On citizenship of the Republic of Tajikistan».

 Other categories of persons permanently residing in Tajikistan without identity documents, without residence permits or living on expired documents (residence permits issued in other states) are also not eligible for naturalization. For the purposes of reducing and preventing statelessness, the requirement of lawful residence in a country may be considered unfair and unenforceable, given that the very absence of citizenship deprives many of the stateless persons of the very documents required to enter a state or reside on its territory legally. Formally, such persons can be brought to criminal and administrative responsibility for illegal residence in the country and violation of the rules of stay in Tajikistan. The law on Amnesty for the purpose of their release from criminal and administrative responsibility has not been adopted, despite the discussion of its draft is going on for several years since 2015.

Therefore, due to the fact that there is no separate procedure for determining the status of stateless persons in Tajikistan and the fact that legal residence is a prerequisite for obtaining a residence permit, the legislation does not take into account the actual situation of persons with uncertain citizenship. Thus, these persons cannot enjoy the rights of stateless persons, nor the rights of a citizen of Tajikistan or another state, as they have an uncertain legal status, and the Tajik legislation has a gap regarding the legal status of these persons.

 *The lack of a comprehensive approach to resolve the problems of persons with undetermined citizenship.*

 Despite the actions taken to address the problems of persons with undefined citizenship, an integrated comprehensive approach to resolve their problems has not been developed yet. Such an integrated approach would make it possible to analyze the situation of the above-mentioned persons, to apply legislative and non-legislative measures to resolve their situation and to facilitate the receipt of documents proving their identity, for admission to citizenship of Tajikistan or another state, or to determine their legal status.

 *The law «On Civil registration» does not resolve the situation of stateless persons.*

 The law « On state registration of acts of civil status» (2006) does not contain a prohibition of discrimination during the state registration of civil status, which is especially important for birth registration. It also does not include special provisions on the registration of children born to parents of stateless persons in Tajikistan, or for children having difficulties with the provision of identity documents. Thus, this law has a number of gaps.

 The place for birth registration is the body for recording of acts of civil status (ZAGS) at the place of residence of the parents. Registration at the place of birth of the child, is possible only in exceptional cases (article 17). The law does not provide a specified list of such exceptional cases, but it does not apply when a parent wishing to register the birth of their child does not possess a valid residence permit. Thus, a child born inTajikistan to parents with undetermined citizenship, who do not have valid identity documents, is not able to obtain a birth certificate and, accordingly, automatic acquisition of Tajik citizenship. The same situation applies to adults who were not registered at birth due to the need to provide copies of documents proving the identity of their father and mother.

***Violation of the freedom of movement***

In 2018, the Ministry of Education and Science of Tajikistan (MES) adopted the *Regulation on participation in missions of civil servants, working in the field of education and science, students and professors-teaching staff of educational institutions of the Republic of Tajikistan going for business trips\study tours or for study in foreign countries* (the regulation).

In accordance with this regulation, all students, teachers, professors and rectors of educational institutions of Tajikistan must obtain a prior approval of the MES before traveling abroad. A request letter for travel to a foreign country must be submitted to the Ministry of Education not later than 15 working days before the trip. A written permission from the MES must be also obtained in the case of participation of students and\or professors-teachers’ staff in international conferences and other events related to education and science conducted outside the country.

Teachers and students traveling abroad must provide a wide range of documents for approval of the MES, including the justification for the mission, indicating the purposes and objectives, as well as the need for a foreign mission, the topics considered at the events and the expected results. A preliminary approval from the MES is also required for any scheduled speeches\reports or presentations to be made outside Tajikistan. Upon return, all participants of the missions abroad are obliged to submit a written report to the MES no later than five working days after the end of the trip.

Many CSOs in Tajikistan became very concerned, because such restrictions create additional problems for organizations that cooperate with foreign educational institutions and participate in academic\education exchanges.

Moreover, this regulation contradicts article 24 of the Tajik constitution, as well as article 12 of the ICCPR, as they impose excessive restrictions on free movement and free participation in educational activities outside the country for students and schoolchildren of educational institutions.[[50]](#footnote-50)

On 2 July 2018, representatives of civil society of Tajikistan sent a written appeal to the Prosecutor General to advocate for the abolition of the adopted legal norm, and in particular the cancellation of the regulation on missions abroad for schoolchildren, students, graduate students and doctors who do not have access to confidential information.

 On 19 October 2018, a written response was received from the Prosecutor General's office, which stated that he «had forwarded an objection and demanded the abolition of the given regulation due to the contradiction with a number of normative legal acts of Tajikistan ».

Earlier, in July 2018, representatives of civil society in parallel had sent an appeal to the MES on the abolition of the regulation. Later it became known that another order of the MES, №4554 of 18 September 2018 was adopted regarding the «Procedure for sending students to study abroad». The given procedure is only applicable to persons traveling abroad to study. It establishes a more simplified procedure to travel abroad, requiring a short list of documents: only the submission of a notification about the upcoming trip in accordance with the established questionnaire is required. However, the text of this questionnaire contains a requirement to provide information about all close relatives, including about their occupational positions and all contact details. Representatives of civil society have appealed to the MES with a request to exclude this item from the questionnaire, as it contradicts the provisions of the law «On personal data». At the moment, the outcome of this appeal is unknown.

On 15 January 2019, the MES separately approved the «Regulations of sending employees of the Central office of the Ministry of Education and Science and other subordinate structures to missions abroad». That regulation envisages a procedure of agreement to obtain the approval for trips and contains a provision of a list of documents, including a written decision of the Ministry of Foreign Affairs. This regulation is only applied for the employees of the Central office of the MES and its other subordinate structural institutions. The MES may not grant this permission to participate in events outside the country, and thus limits the freedom of movement of its citizens.[[51]](#footnote-51)

**Recommendations:**

1. *To cancel resolution No. 325. In the meantime, to amend the resolution in order to establish a transparent procedure to issue temporary permits for asylum seekers and refugees to reside in unauthorized settlements when necessary, and to specify a list of conditional terms that allow for a temporary residence permit.*
2. *To exclude §3 of article 499 of the Code on administrative offences, where deportation can be considered as an additional sanction.*
3. *To revise the time period stipulated by §3 of article 150 of the Procedural Code on administrative offences on the expulsion of refugees and asylum seekers, to ensure that it is sufficient enough to appeal against the decision on administrative expulsion.*
4. *To review the time period provided for in §4 of article 136 of the Procedural Code of Administrative Offenses regarding the expulsion of refugees and asylum seekers, so that it is sufficient enough for the court to consider the administrative expulsion case.*
5. *To bring the above-mentioned regulations into compliance with the constitutional right to freedom of movement.*
6. *To adopt a comprehensive programme and methodology on the reduction of statelessness in Tajikistan, in which an analysis of de jure and de facto statelessness in Tajikistan is provided, as well as the implementation of measures to address statelessness, monitoring and evaluation of this integrated programme with clear set up indicators for assessing progress and achievements at the end of the programme.*
7. *Adopt a comprehensive programme to conduct mapping of all the population groups having issues with their legal status: undocumented persons, persons living on invalid or expired identity documents, lost documents, persons with undetermined citizenship and other groups). According to the results of the mapping and analysis of the situation, gradually, within the framework of the comprehensive programme, adopt and apply legislative and non-legislative measures, including through accession and ratification of the 1954 and 1961 Conventions, amendments and additions to the legislation in the field of statelessness in order to comply with international human rights treaties; conduct targeted campaigns to identify the above-mentioned groups living in Tajikistan.*
8. *To adopt the Amnesty law regarding persons with undetermined citizenship, for the purpose of their release from administrative and criminal liability for illegal stay on the territory of Tajikistan and the violation of Rules of Stay, so that they will be able to finalize their legal status within the framework of the established procedures.*
9. *To amend the law «On state registration of acts of civil status», by introducing the following article: « the Right to registration of acts of civil status. The citizens of Tajikistan, foreign citizens, stateless persons residing temporarily or permanently in Tajikistan and refugees, are entitled to the registration of vital events in civil registration offices in Tajikistan in cases and on the grounds stipulated by the legislation on state registration of acts of civil status, regardless of nationality, race, sex, language, religion, political beliefs, education, social and property status and other features».*
10. *To amend article 17 of the law «On state registration of acts of civil status» in order to diversify the list of places of birth registration and include the location where the birth of the child occurred as well as the place of residence of the parents. In addition, to provide in this article for the right of the registry office to register births in remote villages by going to these places for this purpose.*
11. *To develop a more flexible regulation for the registration of children born to undocumented persons, persons with undetermined citizenship and persons with expired or invalid identity documents. For example, CSO «Right and prosperity» proposes to include in the list of identification documents to prove the identity of the parent(s), the following documents: birth certificate; passport of the former USSR; residence permit (or travel document) of a stateless person issued in a foreign country with a valid period of validity; a residence permit (or travel document) of a stateless person issued in a foreign country with expired validity. In case of absence of such documents, to make registration of births on copies of documents and so on. To cancel any kind of payment for timely birth registrations with the aim of improving the coverage of birth registration and of obtaining a more complete socio-demographic picture of the population of Tajikistan.*
12. *To exclude from the questionnaire to be filled in by persons traveling abroad, the requirement to provide information about all close relatives, including about their occupational position and all contact details. This questionnaire is an annex to the «Procedure for sending students to study abroad», adopted by Order of the MES №4554 from 18 September 2018.*

#### Right to a fair trial (Article 14 ICCPR)

Tajikistan has adopted a number of programmes to increase the independence of the judiciary. The Council of Justice was abolished in 2016, and its powers were transferred to the Supreme Court and the Supreme Economic Court. According to statistics, there are more than 400 judges in Tajikistan, which is about one judge per 20 000 persons[[52]](#footnote-52).

Despite a number of positive aspects, the judicial system of Tajikistan is still controlled by the executive and legislative branches of power. The criteria for the selection of judges are not transparent, the courts do not have financial independence and the judiciary system is financed at the discretion of the executive power.

The presidents of the Supreme Court, the Supreme Economic Court and the lower courts have key powers in terms of bringing judges to disciplinary responsibility, distributing cases and providing material and technical support. The Constitutional law «On courts of the Republic of Tajikistan» authorized the presidents of the courts to distribute and assign cases among the judges in the prescribed procedural order. However, there are no clear and transparent procedures that regulate the rules of distribution of cases between judges, taking into account the complexity of the case, the load of judges and their specialization.

The Constitutional law «On the prosecution bodies of the Republic of Tajikistan» provides for the possibility to suspend the execution of court sentences that have not entered into legal force[[53]](#footnote-53), as well as appeals by the Prosecutor's office against the court's decision as a way of exercising oversight, which is an interference in the activities of the judiciary.

Military tribunals have jurisdiction over criminal cases involving both military and civilian persons.

Getting access to judicial information, which, according to international law should be open in most cases, is complicated. The websites of the courts are not complete and a number of the websites are unavailable.

There have been significant positive changes in reforming process of the courts’ executive proceedings. Nevertheless, the problem of enforcing court decisions still remains unresolved, the material and technical support for enforcement proceedings is insufficient and there are no effective mechanisms to implement some provisions of the legislation.[[54]](#footnote-54)

The law “On the bar and legal defense practice” adopted in March 2015 and the amendments to it adopted in November 2015, contain a number of provisions that threaten the independence of lawyers in the country. The qualification Commission under the Ministry of Justice of Tajikistan is responsible for assigning and terminating the status of a lawyer. The Commission includes four representatives of the state structures and five representatives of the Union of Attorneys, and the Chairman of the Commission is the Deputy Minister of Justice of Tajikistan. Persons with a criminal record, as well as persons dismissed from the bar or from the judicial system, or other state bodies for violation of the «Professional Oath», are not entitled to work as attorneys. As shown by the anti-corruption examination of the law conducted by the CSO Network on the Rule of Law and Access to Justice, the established requirements are exagerated, since there is no mechanism to remove the criminal records of candidate-lawyers. Moreover, such requirements are usually not imposed on persons holding official state positions. This demonstrates the unreasonably high demands of the law to obtain the status of lawyer. The number of lawyers in the country has decreased significantly since the adoption of that new law , showing a deterrent effect, which has worsened the population's access to attorneys. In 2018, about 700 lawyers received the status. With a total population of about 9 million people, one lawyer accounts for approximately 13 000 people. In some remote areas, there is only one, or no lawyer at all. CEDAW[[55]](#footnote-55) also expressed its concern to Tajikistan in 2018 about the critical decline in the number of lawyers after the amendments to the law and remarked that this could negatively affect women's access to justice.

Another issue of concern for the bar community is the varying taxation of bar legal entities. Some entities are taxed as individual entrepreneurs, although law firms, according to the law, are not considered as an entrepreneurial activity.

In many cases, attorneys have been subjected to threats and reprisals, including threats against relatives of the lawyer, to convince the lawyer to refuse to participate in the case or to stop defending the victim so diligently. Lawyers involved in the cases on charges of terrorism or extremism systematically receive threats from the law enforcement bodies after the submission of complaints of torture on behalf of their clients.[[56]](#footnote-56) Human Rights Watch (HRW) published its «Global Report 2017: Populist demagoguery threatens human rights»[[57]](#footnote-57) on January 12, recalling that at least six lawyers have been arrested or imprisoned since 2014.

Cases of arrest, detention, trial and subsequent sentencing are common towards attorneys involved in political or human rights cases. For example, in 2014, lawyers Shuhrat Kudratov[[58]](#footnote-58), Fakhriddin Zokirov, in 2015 lawyers Buzurgmekhr Yorov, Nuriddin Mahkamov, and in 2016, the lawyer Jamshed Yorov[[59]](#footnote-59) have been prosecuted for bribery, fraud and extremism in connection with the exercise of their professional obligations as a lawyer. Buzurgmehr Yorov and Nuriddin Makhkamov were arrested after publishing information about the torture of their clients.[[60]](#footnote-60)

In March 2014, the Agency for State Financial Control and fight against Corruption of Tajikistan arrested lawyer Fahriddin Zokirov on suspicion of fraud. Fahriddin Zokirov jointly with other lawyers, Shukhrat Kudratov and Iskhok Tabarov participated as defenders in the case on charges against Zayd Saidov.

Previously, the lawyers involved in the case of Saidov had reported that during the investigation process, the court proceedings, as well as after the verdict was announced, they were subjected to intimidation, pressure, threats and persecution by the representatives of the authorities. The lawyers repeatedly published statements in connection with threats against them and their family members in the media.

In an official statement of the Agency for State Financial Control and fight against Corruption of Tajikistan, which was distributed on 23 July 2014, it was said that Shukhrat Kudratov was detained on July 21 at the moment of receiving a bribe from his client, who was accused of fraud, allegedly for a subsequent transfer to one of the court judges in the capital district named after I. Somoni «with the purpose to have an acquittal verdict». Kudratov was convicted, he spent 4 years in prison and was released in 2018.

Pressure on lawyers is also exerted through family members of lawyers. In the case of lawyer Iskhok Tabarov, who also participated in the case of Zayed Saidov, his two sons were accused of extremism and terrorism. According to the lawyer himself, this was because of his active work for the protection of human rights and political prisoners. **[[61]](#footnote-61)**

### The United Nations Special Rapporteur on the Independence of Judges and Lawyers, in her report on the role of lawyers in the administration of justice, noted that lawyers should not be associated with their clients or their clients' cases; lawyers should not be prosecuted for any legal acts they commit in the performance of their duties.

### In connection with these events, civil society organizations of Tajikistan, representatives of bar legal entities, as well as members of the NGO Coalition against Torture in Tajikistan expressed their serious concern about the increasing number of cases of detention of lawyers working on criminal cases which are of wide public interest**.**[[62]](#footnote-62)

The two lawyers defending the rights of the detained members of the political party PIRT, Buzurgmehr Yorov[[63]](#footnote-63) and Nuriddin Makhkamov, were arrested on charges of fraud in September and October 2015, respectively.

**In relation to Buzurgmehr Yorov, who was already a convicted and sentenced lawyer, the fourth criminal case on charges of insulting the Leader of the Nation, the President of Tajikistan, was opened under article 137 of note 1 (Public insult to the Founder of Peace and National unity - the Leader of the Nation or slander against him, committed with the use of the press, other media or the Internet). The total term for Yorov in the two previous criminal cases in which the lawyer was found guilty is 25 years. The fourth criminal case was initiated on the basis of the statement he had made at the trial of the first criminal case. Earlier, the Supreme Court of Tajikistan had sentenced him to two years imprisonment for «contempt of court» and one year of correctional labor for «insulting a representative of the authorities. » The total sentence imposed on Yorov now is 25 years of imprisonment**.[[64]](#footnote-64)

International NGOs and representatives of the international community expressed concern about the measures taken against lawyers. In a recent statement by the European Union, it is stated that the detention of lawyers defending the rights of members of the PIRT «causes serious concern» in connection with the prohibition of arbitrary detention, and also with the right to a fair trial.

On 2 July 2015, the government approved the concept of providing free legal assistance to the population. According to the plan of implementation of the concept, the state will gradually finance independently the system of free legal assistance until 2023, including payment for the services of lawyers providing free assistance. However, this concept is still being implemented at the expense of international donor organizations, while the budget of Tajikistan has not yet allocated funds for the implementation of this concept.

In October 2018, a Working Group was established in order to prepare a draft law «On state-guaranteed legal assistance», headed by the First Deputy Minister of Justice. The Working Group, in addition to representatives of the state structures, included representatives of the Union of Attorney Lawyers and human rights organizations. In April 2019, the Ministry of Justice sent the bill to the ministries and agencies for comments. At the present time, the received conclusions from the Ministries and agencies are under consideration by the Ministry of Justice.[[65]](#footnote-65)

Low income citizens whose total income for each family member is less than one indicator for calculations, are covered by article 32 of the law «On the bar and legal defense activity » and the concept of free legal assistance in the category of persons entitled to legal assistance which is free of charge. Currently, one indicator for the calculations is 55 somoni (about $6), which is extremely low for determining the property status of a person or a family. Another problem in the context of providing free legal assistance to the population is the insufficient number of lawyers in Tajikistan. There is an imperfection of the civil procedural legislation on the appointment of a legal defender to persons who need the legal assistance: according to the Civil Procedure Code “The court appoints the lawyer as a representative in the following cases: (1) the absence of a representative of the defendant, whose place of residence is unknown; (2) in other cases provided by law.” Criteria such as the lack of funds to pay for a representative’s services, as well as the presence of a representative from the other party, are absent in the Code of Civil Procedure.

**Recommendations:**

1. *To exclude from the Constitutional law «On bodies of Prosecutor's office» the authority to suspend the execution of court sentences.*
2. *To develop transparent procedures, based on objective criteria, for the distribution of cases among judges.*
3. *To introduce into the legislation the provision that the decision of an international body on the violation of human rights may be the basis for the revision of the decision and/or compensation for harm.*
4. *To bring the law «On the bar and legal defense activity in compliance with international standards of independence of the profession of defending lawyers.*
5. *To guarantee lawyers unhindered access to clients, the ability to represent their clients without threat from government agencies or other entities.*
6. *To adopt the law «On free legal assistance».*

#### Marriage and family and non-interference in private and family life (Articles 17, 23 and 24 ICCPR)

In Tajikistan, there is a decline in the indicators for registration of marriages. In 2015, compared to 2014, the number of registered marriages fell by 20 percent (from 95 478 to 77 020). The downward trend continues - for 9 months of 2016, compared to the same period of 2015, the number of registered marriages fell by 7 percent (from 53 005 to 49 389). Not all persons who have entered into a religious marriage register their marriage with the state civil registration authorities, creating a risk for the weaker parties (women and children) in case of divorce, but the exact extent of this problem is unknown and needs to be analyzed[[66]](#footnote-66).

Articles 14 and 15 of the Family Code have been amended to provide for compulsory medical examinations for persons entering into marriage. Without the results of such an examination, the registration office has no right to register a marriage. These amendments also violate the rights of people living with HIV/AIDS to voluntary and confidential HIV testing. AIDS and health centers do not issue medical reports to people living with HIV/AIDS for marriage until they have reduced their level of viral load. The introduction of the mandatory pre-marriage testing has a number of negative effects, especially in terms of respect for the fundamental human rights to privacy and the right to establish a family. Moreover, the violation of the rights of people affected by HIV to privacy and confidentiality is contradictory to Tajikistan's international obligations. One of the negative consequences of the compulsory medical examination of persons entering into marriage is the refusal to register marriage and the increase in the number of unregistered marriages.[[67]](#footnote-67) At present time, there is no evidence to prove the effectiveness of mandatory testing, including before marriage, to restrict the spreading of HIV.[[68]](#footnote-68)

According to the discriminatory amendments which have been introduced to the Family Code in 2011, the mandatory conditions for marriage of a Tajik citizen with a foreign citizen or a stateless person, are a residence period on the territory of Tajikistan for at least one year for a foreign citizen and the mandatory conclusion of a marriage contract, which is concluded before the registration of marriage. The obligations of the parties to provide the spouse and children with their own housing must be included in the marriage contract. At the same time, according to the legislation, a foreign citizen does not have the right to acquire housing as his/her property. Such a legal provision may lead to the non-registration of marriages and further vulnerability of spouses and children born in such informal marriages.

The UN Committee on the Elimination of Racial Discrimination highlighted in its Concluding Observations to Tajikistan in 2017 that «protective measures should never lead to violations of fundamental rights and freedoms, including the right to marry and the right to choose a spouse...»

Based on the data of the Agency for Statistics under the President of Tajikistan, it can be concluded that the demographic tendency in the country as a whole over the past 15 years remains quite constant — from 26 to 28 births per 1000 people[[69]](#footnote-69). Data on birth registration is not available on the website of the Ministry of Justice, nor on the website of the Agency for Statistics. In practice, the difference between births and registration is up to 25 per cent.

According to the results of Medical and Demographic research conducted in 2012[[70]](#footnote-70), 18% of children under the age of 5 did not have a birth certificate. At the same time, the number of girls without a certificate was 2% higher than boys. The highest percentages of absence of birth certificates were noted in the districts of Republican Subordination (DRS) – 23,1% and in Khatlon region – 21,9%. Unfortunately, it is impossible to find accurate data on birth registration of children. In the Medical and Demographic research of 2017, data on birth registration also was not provided.

In 2015, the reform of the registration system (ZAGS) was initiated with the support of UNDP. Recommendations were presented regarding digitalization of the system for registration of acts of civil status, proposals for amendments to the law « On registration of acts of civil status » and draft Guidelines were elaborated. However, by present time, the documents are not adopted. One of the main problems of the system of state registration of civil status in Tajikistan is the incomplete and insufficient coverage of registration, including births and marriages. The state does not have data on the registration of civil status of citizens living abroad who have registered acts of civil status in the registry office of the country of residence. There is no unified database existing (both electronic and on paper) for civil registration. As a result, it is not possible to effectively verify the status of the applicants' civil status, and the burden of proof falls on the applicants themselves[[71]](#footnote-71). The law « On state registration of acts of civil status » does not contain provisions guaranteeing the rights and equal access to state registration of acts of civil status for Tajik citizens, foreign citizens, stateless persons and refugees. The law also does not emphasize the obligation and urgency of state registration of life events.

At the moment, birth registration in Tajikistan is not free of charge. The applicant must pay for the application form and for the services of the registration office. In many cases, the registry office provides an additional service of filling in the application form, which is paid by the applicant. In addition, in practice, there are cases of informal illegal payments for birth registration. This creates an additional significant obstacle to achieving the goal of universal birth registration.

**Recommendations:**

1. *To amend article 15 of the Family Code in order to replace the mandatory HIV medical examination of persons entering into marriage with a voluntary one.*
2. *To exclude from the Family Code the discriminatory provision against foreign citizens and individuals without citizenship upon marriage to a citizen of Tajikistan.*
3. *To create a single unified electronic database on civil registration.*
4. *To allow birth registration by the civil registration office directly in the building of the medical institution where the child was born.*
5. *To allow sending a notification of the birth of a child by a medical institution to the civil registry office for the timely registration of birth.*

#### Freedom of expression (Article 19 ICCPR)

The situation of freedom of expression in Tajikistan has deteriorated dramatically in recent years. Printed media are being closed, websites are blocked, editors and journalists are under pressure, censorship and self-censorship are common. Tajik journalists complain that it is very difficult for them to work. Agencies refuse to cooperate with them, the press almost always loses trials in courts, and journalists themselves are increasingly afraid to write about the internal problems of Tajikistan. Regularly, internet and/or social networks are being blocked. In recent years, about twenty Tajik journalists have left the country for various reasons, including pressure from the authorities.

In 2017, amendments to the legislation were initiated to allow law enforcement agencies to obtain information about what specific online pages are visited by the citizens of the country. For visiting some «undesirable» sites you can even be imprisoned. Even comments or likes on social networks can be used to initiate a criminal case against the user.[[72]](#footnote-72)

According to human rights activists, « in the suppressing fight against freedom of speech and information, hacking of e-mail and accounts of journalists, as well as civil society activists in the social network, wiretapping and other types of cybercrime are becoming traditional. The danger is also manifested in the form of theft of personal data of users of digital technologies (personal data, documents) and physical detection of a person (geolocation, IP addresses, etc.) ».[[73]](#footnote-73)

The authorities deny any pressure on journalists and declare that independent media continue their activities, and that no one has left the country because of persecution.[[74]](#footnote-74)

The requirement for registration of independent media as a legal entity differs from the requirements for registration of other legal entities. In the list of required documents, the registering body demands the conclusion of the Ministry of Culture, which burdens the passage of the procedure and can lead to corruption.

According to the Procedure of state registration of publishing activities, printing enterprises and record keeping of the State Unified Register[[75]](#footnote-75) of subjects of publishing and printing activities, as well as accounting for periodicals is carried out upon submission of the documents, the list of which includes a written confirmation reference from the State Committee for National Security.

Regulations on the accreditation of correspondents of mass media of foreign States in Tajikistan is contradicting the law «On periodical print and other mass media». That provision refers to the norms of the old law “On the Press and Other Mass Media”, which has lost its legal force.

Only the state-owned media receive financial and other kind of state support, whilst independent (private) media are deprived of such a support.

On 15 January 2016, the Government approved the resolution «On the unified switching center of electric communication» (ECC). This center is created «for the purpose of supervision and regulation of incoming and outgoing traffic of international electric communication services and the Internet». International journalistic and human rights organizations criticize the Tajik authorities for establishing the ECC. According to experts, it puts pressure on the media and allows government agencies to selectively disable communication and the Internet at their own discretion.[[76]](#footnote-76)

From 3 to 9 March 2016, at the invitation of the Tajik authorities, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of opinion and expression, Mr. David Kaye visited Tajikistan.[[77]](#footnote-77) According to his statements, the Constitution and the legislation of the country guarantee full protection of the rights of citizens, but during the last six months the human rights situation had deteriorated significantly: there is pressure on civil society, the media, and practically no political opposition exists. [[78]](#footnote-78)

Due to these reasons, journalists are not able to cover issues related to corruption, cronyism, protectionism, nepotism, abuse of official authority, etc. After the publication of materials on such kind of topics, journalists can be prosecuted both informally and within the framework of the criminal law. It is difficult to write critical material about high level officials and shortcomings in their work, about large companies, rich people, about everything that may not please the «elite class» of Tajik society. The criticism of this layer of society is perceived nearly as the criticism of the Motherland itself.[[79]](#footnote-79)

In 2015, with the participation of representatives of the media and other independent journalists, several trials have taken place: the claim of a female entrepreneur N. Muzafarova against «Nigoh», the claim of the entrepreneur Rakhmatullo Saydullaev against the newspaper «Samak» and management of the market «Inom», a claim from the Deputy Head of the KKVD «Dushanbenaklietkhadamotrason» in respect of the newspaper «Evening Dushanbe» and journalist Jamila Huseynova, the claim of the Head of «Umed-88» Co against a journalist of the newspaper «Pike» Sharifhon Tagoymuradov and the claim of the former Head of «Tojik Air» Hokimsho Tilloev against the newspaper «Imruz News» .

In 2016 and 2017, another three court cases of Ratushenko against «Palatai savdoy sanoati Tojikiston», the co-parties defendant was the publishing house of «Imruz News», and two more entrepreneurs appealed to the court against the TV «Tannin» , which is currently pending before the court.[[80]](#footnote-80) The amount of the claim to TV «Tanin» was 800 000 Tajik Somoni. The court recovered from the TV 23 000 Tajik Somoni.

In 2012, the defamation related articles 135 (libel) and 136 (insult) were removed from the Criminal code. However, the Criminal Code still contains provisions that seriously restrict the freedom of expression: slander and insult to the President and insult to the authorities (articles 137 and §2 of article 330 of the Criminal Code). In November 2016, a new article 137.1 was included into the Criminal Code: insult to the Founder of peace and national unity - the Leader of the nation or slander against him in public.

State bodies and officials violate the requirements of the law “On print and other mass media”, and do not respond to the requests of mass media and journalists in a timely manner.

In Tajikistan, the production of audiovisual products is still being licensed, despite the fact that Tajikistan had joined the WTO seven years ago and pledged to cancel the license for the production of audiovisual products. Audiovisual production is subject to copyright and may not be restricted by an authorization document. Moreover, the process of obtaining a license is corrupted. The activities of the Committee on Television and Radio under the Government in the process of issuing permits are not transparent.[[81]](#footnote-81)

There are a number of problems in the transition of Tajikistan to digital broadcasting. The legal status for independent TV channels is not stipulated and defined by law and it is not known on the basis of what mechanisms they will be included into the multiplex. According to the chiefs of independent TV channels, the process of obtaining permission for the test mode is time consuming and can be delayed. Despite the fact that Tajikistan started broadcasting in digital format a few years ago, a limited number of people are aware of this process and the public awareness campaign is being implemented very poorly. The population has absolutely no idea that in a year their television receivers will not be able to receive a television signal because they work only in analog mode. The population does not possess or is not provided with special decoders. There is a National Programme, which was initiated to donate such special decoders capable to receive digital broadcast signals to socially vulnerable groups. This is a positive development, but neither the national program itself, nor the concept has elaborated any mechanisms to provide this assistance appropriately: criteria, form and methods of support.

All of this might lead to a «digital inequality» or to a «digital disparity» between those who can afford the new digital services and those who are unable to afford them.

In accordance with the Order of the Antimonopoly Service № 31, from 4 March 2019, to increase tariffs for mobile Internet connection, as well as to increase the prices for communication via Next Generation Network NGN in 10 times, had come into force on 18 April 2019. After a storm of criticism and discontent of the citizens, on April 23, the President of Tajikistan, Emomali Rakhmon, had abolished this Order. However, many readers of online media believe that this scenario was just another trick planned by the authorities and was played through in order to improve the image and rating on the eve of the presidential elections. Despite the cancellation of the Order, many websites and social networks are still blocked, pages are not opening for Google, Play Market and various other applications and there are failures in the mail service Gmail. After a period of 9 months, the website of the News Agency «Asia Plus» remains blocked.

**Recommendations:**

1. *To exclude the remaining articles related to defamation from the Criminal Code.*
2. *To stipulate in the law «On periodicals and other media» eligible support for the media from the state budget, including for independent (private) media.*
3. *To facilitate the process of registration of mass media.*
4. *To bring the regulation on accreditation of foreign media correspondents on the territory of Tajikistan in accordance with the law «On periodicals and other media».*
5. *To stop prosecution of journalists for critical publications.*
6. *To stop illegal blocking of Internet resources being done by the state regulator.*
7. *To improve legislation in the field of TV and radio broadcasting regarding to the transition to digital broadcasting.*
8. *To abolish the need for licensing for audiovisual products.*

#### Children's rights and juvenile justice [[82]](#footnote-82) (Articles 2 (3), 7, 9, 10, 14 (4), 23 and 24 ICCPR)

In March 2015, the law «On Protection of the Rights of the Child» was adopted, which, however, does not reflect the protection of the child from violence and exploitation and there is no direct ban on the use of physical punishment.[[83]](#footnote-83)

In 2011, Tajikistan adopted the law «On the Responsibility of parents for the education and upbringing of the children», which contradicts the principles of ensuring the best interests of the child. A serious concern is the punitive approach to the possible failure of parents to fulfil their responsibilities for the education and upbringing of their children. In some cases, socio-economic problems may be the cause of violations of the law. For example, some parents do not have the means to provide children with school supplies and in this case the state could help the family to resolve this problem, instead of penalizing, thereby causing even more damage to the family.[[84]](#footnote-84)

The difficult economic situation in the country, labour migration and the weakening of the main sectors to sustain life of the population are the main reasons for the increasing child neglect. Such neglected children, left unattended, are influenced by adults who incite and sometimes compel them to commit offences. Street children often become victims of violence, exploitation and other crimes. The reasons why children live and work on the street may be various; there has not been much research on this topic in Tajikistan. According to the Center for Strategic Research under the President of Tajikistan, «almost all of the neglected street children are of school age», and 52.4% of them were not enrolled in schools in Dushanbe, Khujand, Kurgan-tube (now-Bokhtar) and Kulyab cities. According to the survey, the majority of street children in these cities are boys (86.2 per cent). Out of 9 600 street children in these four main cities, 5 030 do not attend school. There is insufficient information on how children are surviving and working on the street and about those who officially attend schools, how they were enrolled and how they manage to maintain their education. From this survey it is not clear. According to “Save the children” (2008), the majority of urban children surveyed (68%) were employed in the commercial sector. The figures on street children in cities are the following: Dushanbe – 6 000, Khujand – 2 000, Kurgan-tube (Bokhtar) – 1 000, Kulyab - 500-600 (Statistics Source: Center for Strategic Research, 2007, Comprehensive situation analysis of street children in Dushanbe, Kurgan-tube and Khujand).[[85]](#footnote-85)

On 6 October 2016, by Government resolution No. 419, the Procedure for identification and registration of the children without parental care was approved. Registration of children left without parental care is carried out by the bodies of social protection and guardianship. Other individuals and legal entities are not allowed to carry out the identification and placement of children left without parental care. However, there are no publicly available statistics on the number of the neglected street children.

In Tajikistan, institutionalization (placement of children in boarding schools and orphanages) is still a key method of addressing the problems of orphans and other children left without parental care. Residential care is still considered as one of the priority alternative forms of accommodation for vulnerable children, including children with disabilities.

According to the Family Code, it is prohibited for foreign citizens to adopt children, even when they are close relatives of the child.

The juvenile justice system has gradually been developed in Tajikistan for several years. The Code of Criminal Procedure (CPC) contains a separate Chapter (44) establishing the regulation for the treatment of minors and the procedure for cases of crimes committed by minors, and the Code of Procedure on Administrative offences also contains a special Chapter (16) on the Order and Procedure for proceedings in cases of administrative offences of juveniles. In 2017, a National Program to reform the juvenile justice system during 2017-2021 was adopted, as well as the Action Plan for the Program. However, the Program does not take into account the category of those juveniles who have committed administrative offences, although the administrative proceedings envisage a possibility for the administrative detention of juveniles. The Criminal Procedure Code does not specifically prohibit the use of torture and other violence against juveniles.

The legislation of Tajikistan regarding the separate custody detention of adults and juveniles has a conflicting and contradictory nature.

Tajikistan's legislation does not envisage any kind of effective measures to assist and protect child victims and witnesses of crime and their families. In particular, there is a lack of access to permanent support services (material, legal, medical, social, etc.), as well as to services that facilitate the rehabilitation and reintegration of the child. Tajikistan has a law aimed at protecting victims and witnesses involved in criminal proceedings, but the protection measures provided by this law are more directed at adult participants in criminal proceedings and are not adapted to the protection of juvenile victims and witnesses of crimes.

The guarantees provided by the state for free legal assistance, according to the law «On protection of the rights of the child», only apply to orphans and children left without parental care. This law also does not reflect the protection and measures to support child victims and witnesses of crimes.

In the CPC there are no terms and definitions for interrogation of juvenile victims and witnesses. The compulsory participation of a defense lawyer is provided only in cases when the juveniles are accused, suspected or are the defendants, and not when the juvenile is the victim.

The inclusion of the special provisions related to justice for children in the legislation and the adoption of separate legal instruments do not have a holistic and systematic approach to the establishment of a well-functioning juvenile justice system in the country.

The system of rehabilitation of juveniles who are in conflict with the law is underdeveloped both at the legislative and at the practical level.

In September 2017, Tajikistan reported to the UN Committee on the Rights of the Child. In the Concluding Observations, the Committee[[86]](#footnote-86), expressed its concern about the limited understanding about available effective prevention for children to enter in conflict with the law. The Committee also noted that the capacity-building of judges, prosecutors and police on issues of the rights of the child and juvenile justice does not have sustainable financial support; there is an absence of extrajudicial measures applied to children in conflict with the law; there is no systematic collection and publication of disaggregated data on children in contact with the criminal justice system, and the children deprived of their liberty are not always separated from adults both in pre-trial custodial detention and after the conviction.

The Committee also appealed on Tajikistan to provide psychosocial rehabilitation services to all children in conflict with the law; and in cases where detention is unavoidable, to ensure that children are not detained and held together with adults and that conditions of detention are compliant with international standards. The Committee also recommended that the state should supplement the Code of Criminal Procedure, taking into consideration the provisions of the Judicial Guidelines on child victims and witnesses of crime.

**Recommendations:**

1. *To establish an appropriately-functioning juvenile justice system in Tajikistan, within the framework of which to establish permanent special courts for minors.*
2. *To apply alternatives to detention as a preventive measures for juveniles.*
3. *To legislatively ensure the development of an individual rehabilitation programme for each child/adolescent in conflict with the law.*
4. *To include in the Program of reforming the justice system for children for 2017-2021 the children who have committed administrative offenses.*
5. *To include in the CPC a provision concerning the separation in detention of juveniles and adults, and to put it in practice.*
6. *To introduce into the Code of Criminal Procedure a regulation related to the nature and duration of an interrogation of a juvenile victim and witness;*
7. *To ban the use of physical force and firearms against minors. To provide for a direct and clear prohibition of child abuse in the laws such as «On the protection of the Rights of the Child» and «On the responsibility of parents for the education and upbringing of the children».*
8. *To guarantee by law to child victims and witnesses of crimes any measures of protection and support aimed at their rehabilitation and to provide children victims of crimes with compensation for the harm caused by the crime.*
9. *To keep statistical records on the situation of street and neglected children.*
10. *To introduce into the Family Code a provision granting the right to close relatives with foreign citizenship to adopt Tajik children who are left without parental care or became orphans.*

#### Right to peaceful Assembly and Association (Articles 21 and 22 ICCPR)

According to the data provided in the State report, more than 2 400 civil society associations were registered and were implementing their activities in the country in 2017.[[87]](#footnote-87) On the website of the Ministry of justice, in the section of the Register of civil society associations, one can see that 1 805 CSOs have been registered. [[88]](#footnote-88)

At one of the meetings[[89]](#footnote-89), the Deputy Minister of Justice had stated that among the registered organizations only about 800 do submit their annual reports on their activities to the Ministry of Justice. At official meetings with CSOs, representatives of the Ministry of justice pointed out that in recent years about 300 CSOs all over the country have been liquidated, mainly those that were not implementing their declared activities and were not fulfilling their responsibilities to submit their annual information to the registration authority on the continuation of their activities. Only in one of the 5 regions of Tajikistan for 8 months in 2017, more than 20 organizations were liquidated[[90]](#footnote-90).

The legislation of the country establishes a fairly wide range of bodies to which non-сommercial organizations must provide reports and information about their activities. Various inspections and verification, registration and reporting procedures are in fact legally correct as legitimate practices, but the application of such legal procedures is usually used selectively against active human rights organizations, as a punitive and deterrent measure. Inspections of some human rights NGOs are carried out at the request of State National Security Committee (SCNS) to the Ministry of Justice and tax authorities.

The legislation stipulates that in case of change of the legal address by a CSO, it must go through a re-registration process with the registration authority. Taking into consideration that CSOs, in their annual reports to the Ministry of Justice, do indicate their actual location, some CSOs do not undergo the process of re-registration, as it is a time-consuming and costly procedure. This provision gives the representatives of the registration authority the opportunity to start trials in order to liquidate civil society associations only for the reason that the organization, having changed the address, has not passed through a process of re-registration.

On 10 December 2015, an Order of the Minister of Justice approved the Procedure of inspection of statutory activities of civil society associations in Tajikistan, expanding the powers of the registering body in conducting inspections of the CSO activities. According to this document, organizations are entitled to be notified of the audit at least three days in advance; and to receive a copy of the audit decision setting out the objectives and scope of the inspection. In addition, upon completion of the audit, NGOs receive a written report on the results of the audit. It is a matter of concern that NGOs can be subject to these inspections, with as a result, liquidation due to various technical and\or administrative incompliances. According to the Order of the inspections, the inspecting body after completion of the visit is obliged to issue the results of the inspection. However, in practice, the results are not always issued. The Order does not stipulate any terms in which the results should be issued. Also, this regulatory document does not contain a sequence of measures that can be taken in relation to the CSO after the inspection.

At present time, CSOs have become subject to constant inspections by various state bodies: the Tax Committee, the Ministry of Justice, the Prosecutor's Office, the State service for supervision of labor, employment and social protection. There are cases of non-compliance with the requirements of the law by the inspection bodies: request for information beyond the competence of the state body, violation of the terms of warning about the inspection, failure to publish the results of inspections, etc.

Various legal difficulties are faced by Civil Society Funds\Foundations, which are not subject to the law «On civil society associations» and are registered by the tax authorities».[[91]](#footnote-91)

On 2 January 2019, the law «On civil society associations» was amended, according to which the responsibilities of the CSO were supplemented by the following: «Тo publish annually the СSO's financial reports containing detailed information on income and expenses; to store data on domestic and international operations performed for at least five years after the end of the business relationship on its website or the website of the registering body; to keep and provide to the registering body the information on identification data on persons controlling or managing the activities of the CSO, including founders, members of management and controlling bodies. » The amendments obliged the Ministry of Justice, as a registering body, in accordance with the requirements of the law «On combating legalization (laundering) of proceeds from crime, financing of terrorism and financing of proliferation of weapons of mass destruction» to provide information to the authorized body to combat money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction, if there is a suspicion or sufficient reason to suspect that a CSO is a shield for the collection of funds by a terrorist and\or extremist organization or is used as a channel to finance terrorism, extremism and the financing of weapons of mass destruction in order to avoid measures to freeze assets or to conceal or disguise the secret withdrawal of funds intended for legitimate purposes but diverted for the benefit of terrorists\extremists or terrorist\extremist organizations.

According to information published in the media, «the adopted amendments are aimed at strengthening the fight against money laundering, as well as at preventing the financing of terrorist and extremist organizations. » Experts do not exclude that the reason for the preparation of these changes was the implementation of the recommendations of the Financial Action Task Force on Money Laundering, specified in the report of Mutual Evaluation of Tajikistan, published in 2018.[[92]](#footnote-92)

In March 2019, a Working Group was established under the Ministry of Justice to discuss and develop a financial reporting form, according to which CSOs should provide reports. The Working Group also included representatives of the international organization and civil society organizations of Tajikistan.

**Recommendations:**

1. *To ensure the rule of law during the conduct of inspections of civil society organizations.*
2. *To ensure that the registration procedure for grants does not interfere with the implementation by CSOs of their activities.*
3. *To determine at the legislative level the place of civil society funds\foundations in the system of non-commercial civil society associations.*
4. *To bring the procedure for the audit of statutory activities, adopted by the Ministry of Justice, in accordance with the law «On civil society associations» in terms of the powers of the registering body to conduct inspections of the CSOs.*

#### Rights of national minorities (Article 27 ICCPR)[[93]](#footnote-93)

According to the Population Census conducted in 2010, the population of Tajikistan was 7 564 502 people, of which 84.3% Tajiks and 15.7% other ethnic identities.[[94]](#footnote-94) However, the representation of national minorities in the state national authorities at different levels is significantly lower than the share of national minorities in the total population.

As of 1 April 2017, the total number of civil servants was 18 969. By the ethnic identity, civil servants are represented as follows: Tajiks – 17 485 (92.1 per cent), Russians – 33 (0.1 per cent), Uzbeks – 1 258 (6.6 per cent), Kyrgyz – 162 (0.8 per cent), other ethnic identities – 31 (0.1 per cent). For all national minorities, with the exception of the Kyrgyz, the representation in the executive power bodies of different levels is two or more times lower than their share in the total population. The higher the level of power, the fewer citizens of other ethnic identities (non-Tajiks) have positions in the bodies of authorities. While the share of ethnic minorities in the self-governing bodies of settlements and villages is 15.5 per cent, and 6.8 per cent in the local executive bodies, only 5.8 per cent work on the central level of authorities and their subdivisions.

The representation of national minorities in decision-making positions among civil servants is even lower. The proportion of ethnic minorities in the self-governing bodies of villages and towns is 13.2 per cent, 6.5 per cent in the local executive bodies, and 4.0 per cent in the central authorities and their subordinate divisions (See Table 2).

An analysis of the representation of national minorities in the legislature at all levels is not possible to be conducted due to the absence of open-source statistics.

According to available data, in 2015, the number of judges of Tajikistan (with the exception of judges of the Supreme Court, the Supreme Economic Court and the Constitutional Court) was 377, of which 7 - Uzbeks (1.8 %) and 1 - Kyrgyz (0.2 %).[[95]](#footnote-95)

Therefore, according to the official statistics, the national minorities have very limited access to state government positions, especially at the decision-making level. Since 2012, no effective strategies have been developed or measures taken to increase the representation of citizens of different nationalities in the Parliament, the executive branch of power or the judiciary system.

National minorities in Tajikistan are predominantly concentrated in certain areas or localities. However, the official statistics on the representation of national minorities in places of compact residence in specific areas or cities is not available (for example, in Khukumats (local authorities), local councils and the judiciary bodies of the Murghab district, Lyaksh district, Dusti district, the cities of Dushanbe, Khujand, Buston and others.)

**Recommendations:**

1. *To improve the collection, analysis and dissemination of statistical information on the representation of national minorities in national authority bodies at all levels.*
2. *To monitor and evaluate regularly the representation of national minorities in the executive, legislative and judicial branches of government at all levels.*
3. *To develop a National Action Plan for the empowerment of national minorities.*
1. Universal Periodic Review of Human Rights prepared by civil society organizations of the Republic of Tajikistan, Report No. 1, civil and political rights, 2015. [↑](#footnote-ref-1)
2. Third Periodic National Report of the Republic of Tajikistan on the implementation of the International Covenant on civil and political rights, 2017 [↑](#footnote-ref-2)
3. Universal Periodic Review of Human Rights prepared by civil society organizations of the Republic of Tajikistan, report No. 1, civil and political rights, 2015. [↑](#footnote-ref-3)
4. Universal Periodic Review of Human Rights prepared by civil society organizations of the Republic of Tajikistan, report No. 1, civil and political rights, 2015 [↑](#footnote-ref-4)
5. CCF «Notabene», Implementation of international human rights obligations by the Republic of Tajikistan: legal framework and procedures. [↑](#footnote-ref-5)
6. Article 4 of the Law «on the Commissioner for Human Rights» [↑](#footnote-ref-6)
7. Principles relating to the status of national institutions for the promotion and protection of human rights, Amendment to the [Resolution 48/134](http://www.un.org/ru/documents/ods.asp?m=A/RES/48/134) of the General Assembly from 20 December, 1993 [↑](#footnote-ref-7)
8. Articles 11, 12, 36 of the Law «On the Commissioner for Human Rights in the Republic of Tajikistan». [↑](#footnote-ref-8)
9. Dated March 20, 2008, latest revision as of March 15, 2016. [↑](#footnote-ref-9)
10. <http://www.prezident.tj/ru/node/19524>, <http://www.prezident.tj/ru/node/19526> [↑](#footnote-ref-10)
11. Recommendations No. 3 and 4 are contained in the Universal Periodic Review on Human Rights prepared by civil society organizations of the Republic of Tajikistan, Report No. 1, civil and political rights, 2015. [↑](#footnote-ref-11)
12. The Universal Periodic Review on Human Rights prepared by civil society organizations of the Republic of Tajikistan, Report No. 1, civil and political rights, 2015. [↑](#footnote-ref-12)
13. For example, in the competitive selection regarding government service, women get 3 extra points, and there are quota for for girls and boys from rural areas. [↑](#footnote-ref-13)
14. Universal Periodic Review of Human Rights prepared by civil society organizations of the Republic of Tajikistan, Report No. 2, social and economic rights, 2015 [↑](#footnote-ref-14)
15. Alternative NGO Report on the implementation by the Republic of Tajikistan of the International Covenant on economic, social and cultural rights (in respect of the rights of persons with disabilities), 2015. [↑](#footnote-ref-15)
16. Information provided by the League of Disabled Women «Ishtirok», 2014. [↑](#footnote-ref-16)
17. The study was conducted by «Safoi Kanibadam» NGO in Kanibadam, Sughd region, 2014. 50 women with disabilities participated in the survey. [↑](#footnote-ref-17)
18. Source: Joint NGO Report to the Committee against Torture before consideration of Tajikistan's Third Periodic Report on the implementation of the Convention against Torture, 2018 [↑](#footnote-ref-18)
19. The Constitution was adopted on 6 November 1994 by the wide nation Referendum. In the same way it was amended and supplemented on 26 September, 22nd of June, 2003 and 22 May, 2016. [↑](#footnote-ref-19)
20. An Intermediate Analysis of the implementation of the Recommendations of the UN Human Rights Council member States in the framework of the Second period of the Universal Periodic Review. [↑](#footnote-ref-20)
21. <https://rus.ozodi.org/a/29762124.html> [↑](#footnote-ref-21)
22. Source: Alternative Thematic Report on the implementation of the Convention on the Elimination of all forms of Discrimination Against Women and against women living with HIV, as well as women from affected groups (women - former prisoners, women - injection drug users, women - sex workers), Tajikistan Network of Women living with HIV, 2018. [↑](#footnote-ref-22)
23. <https://www.news.tj/ru/news/tajikistan/society/20160823/tuberkulez-v-tadzhikistane-infografika> [↑](#footnote-ref-23)
24. Source: <http://www.stat.tj/ru/img/958885d5dec55ce6eba4ebdeac71c911_1470381040.pdf> [↑](#footnote-ref-24)
25. Source: <http://avesta.tj/2017/04/15/v-tadzhikistane-prohodit-kampaniya-soobshha-likvidiruem-tuberkulez/> [↑](#footnote-ref-25)
26. Source: Civil society coalition against torture and impunity in Tajikistan [↑](#footnote-ref-26)
27. <http://www.notorturetj.org/sites/default/files/articles/2015/files/issledovanie_sistemy_okazaniya_reabilitacionnyh_uslug_zhertvam_pytok.pdf> [↑](#footnote-ref-27)
28. The information provided by the CSO «Bureau for human rights and rule of law» [↑](#footnote-ref-28)
29. Source: <http://www.notabene.tj/news/1/> [↑](#footnote-ref-29)
30. <http://notorture.tj/news/pyataya-smert-v-tadzhikskih-pogranvoyskah> [↑](#footnote-ref-30)
31. Source: <http://www.notorturetj.org/about/o-koalicii-grazhdanskogo-obshchestva-tadzhikistana-protiv-pytok> [↑](#footnote-ref-31)
32. Source: <http://www.notorturetj.org/reports/tadzhikistanu-trebuetsya-bolshe-usiliy-dlya-iskoreneniya-pytok-obzor-tekushchih-problem> [↑](#footnote-ref-32)
33. From the Recommendations of the NGO Coalition against torture of Tajikistan, [↑](#footnote-ref-33)
34. Recommendations No. 9-13 are given from the Report «Study of the system of rehabilitation services for victims of torture», CSF «Legal Initiative» - member of the NGO Coalition of Tajikistan against torture, 2015. [↑](#footnote-ref-34)
35. «Tajikistan must put more efforts to eradicate torture. Overview of the current issues», - the Document compiled by coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan, Helaunk Foundation for Human Rights (Poland) and International Partnership for Human Rights (Belgium) – the initiators – together with the Amnesty International and World Organization against Torture, February 2015. [↑](#footnote-ref-35)
36. In November, 2012, the Recommendation No 8 (a) of the UN Committee against Torture of November 2012, the Recommendation No99 of the Special Rapporteur on Torture of January, 2013. [↑](#footnote-ref-36)
37. The Article 100 of the Сode of Criminal Procedure, amended in May, 2016. [↑](#footnote-ref-37)
38. The information is provided by the CSO “Office of Civil Freedoms”. [↑](#footnote-ref-38)
39. «Tajikistan must put more efforts to eradicate torture. Overview of the current issues», - the Document compiled by coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan, Helaunk Foundation for Human Rights (Poland) and International Partnership for Human Rights (Belgium) – the initiators – together with the Amnesty International and World Organization against Torture, February 2015. [↑](#footnote-ref-39)
40. Concluding Observations of the HR Committee, 2013, §8 (h). [↑](#footnote-ref-40)
41. «Tajikistan must put more efforts to eradicate torture. Overview of the current issues», - the Document compiled by coalitions against torture in Kazakhstan, Kyrgyzstan and Tajikistan, Helaunk Foundation for Human Rights (Poland) and International Partnership for Human Rights (Belgium) – the initiators – together with the Amnesty International and World Organization against Torture, February 2015. [↑](#footnote-ref-41)
42. Source: An intermediate Analysis of the implementation of the Recommendations of the member States of the UN Human Rights Council during the Second period of the UN Universal Periodic Review (2016-2017), 2019. [↑](#footnote-ref-42)
43. The information is provided by the CSO «Office of Civil Freedoms». [↑](#footnote-ref-43)
44. The information is provided by the CSO «Right and prosperity»« [↑](#footnote-ref-44)
45. Source: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/056/93/PDF/G1605693.pdf?OpenElement> [↑](#footnote-ref-45)
46. Article 32 §1 of the 1951 Convention relating to the Status of Refugees [↑](#footnote-ref-46)
47. The information is provided by the CSO «Right and prosperity» [↑](#footnote-ref-47)
48. Since 2014, UNHCR has been implementing a project aimed at identifying the reduction and prevention of statelessness in some regions of the country. The work goes through NGO partners and provides for the identification and provision of legal assistance to persons obtaining identity documents such as birth certificates and passports. Work is also being done on lobbying for the adoption of a law on the legalization of persons who have been living illegally in Tajikistan for a long time (citizens of the former USSR) and on the two UN Conventions of 1954 and 1961. [↑](#footnote-ref-48)
49. [http://www.un.org/sustainable development/ru/issues/policy/peace-justice/](http://www.un.org/sustainabledevelopment/ru/issues/policy/peace-justice/) [↑](#footnote-ref-49)
50. International Center for non-commercial Law (ICNCL), 23rd edition of the Regional Newsletter in the field of legislation governing the activities of non-commercial organizations (NGOs) in Central Asia, Eurasia and other countries. [↑](#footnote-ref-50)
51. The information is provided by the CSO «Independent Center for Human Rights Protection» [↑](#footnote-ref-51)
52. <http://hrc.tj/pravosudiya/232-vybor-dlya-sudi-malenkaya-zarplata-chestnoe-sudeystvo-ili.html> [↑](#footnote-ref-52)
53. Article 41 of the Constitutional law «On bodies of Prosecutor's office» [↑](#footnote-ref-53)
54. Source: <http://hrc.tj/pravosudiya/234-sudebnaya-reforma-v-tadzhikistane-zakrytye-sudy-nedostupnye-sayty.html>, Analysis of the implementation of state programs of the Republic of Tajikistan in the field of judicial and legal reform, 2017. [↑](#footnote-ref-54)
55. <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTJK%2fCO%2f6&Lang=ru> [↑](#footnote-ref-55)
56. Joint NGO Report to the Committee against Torture before the review of the Third Periodic Report of Tajikistan on the progress of implementation of the Convention against Torture, 2018. [↑](#footnote-ref-56)
57. <https://www.hrw.org/world-report/2017> [↑](#footnote-ref-57)
58. <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=81C26E2D-821D-4036-B261-3BC978A8AA65> [↑](#footnote-ref-58)
59. <https://lawyersforlawyers.org/en/tajikistan-concerns-about-arrest-lawyer-jamshed-yorov/> [↑](#footnote-ref-59)
60. Source: <http://www.advocatenvooradvocaten.nl/countries/tajikistan/>

<https://www.amnesty.org/en/latest/news/2017/05/tajikistani-lawyers-harassed-intimidated-and-imprisoned/> [↑](#footnote-ref-60)
61. Source: <https://rus.ozodi.org/a/27794617.html> <https://rus.ozodi.org/a/27608669.html>

<https://rus.ozodi.org/a/27776583.html> [↑](#footnote-ref-61)
62. <http://www.notorturetj.org/statements/zayavlenie-grazhdanskogo-obshchestva-tadzhikistana-v-svyazi-s-zaderzhaniem-advokata> [↑](#footnote-ref-62)
63. <https://lawyersforlawyers.org/en/petition-to-un-wgad-on-behalf-of-lawyer-yorov/>  [↑](#footnote-ref-63)
64. <https://news.tj/ru/news/tajikistan/laworder/20170414/v-otnoshenii-advokata-yorova-vozbuzhdeno-ugolovnoe-delo-za-oskorblenie-lidera-natsii> [↑](#footnote-ref-64)
65. The information about the Draft law is provided by the CSO «Independent Center for the protection of human rights» [↑](#footnote-ref-65)
66. Thomas Baranovas. «Support to the reform of the civil registration system in the Republic of Tajikistan» Review of the legislation, coordination mechanisms and institutional structure of the civil registration system of the Republic of Tajikistan. Dushanbe, October 2016. [↑](#footnote-ref-66)
67. Albikov, I. R. Legal aspects of medical examination of persons entering into marriage //Family and housing law. 2013. No. 5. p. 2-4. [↑](#footnote-ref-67)
68. UNAIDS reference on the application of mandatory testing of newly-weds. [↑](#footnote-ref-68)
69. More details on: <https://news.tj/news/tajikistan/society/20170923/rozhdaemost-v-tadzhikistane-rost-vs-kontrol> [↑](#footnote-ref-69)
70. Tajikistan Medical and demographic research//Agency for Statistics under the President of the RT, Ministry of Health of the RT and ICF International, Dushanbe, Tajikistan, Calverton, Maryland, USA - 2013, p. 134. [↑](#footnote-ref-70)
71. Thomas Baranovas. “Support of the reform of the system of registration of acts of civil status in the Republic of Tajikistan” Review of legislation, coordination mechanisms and the institutional structure of the system of registration of acts of civil status of the Republic of Tajikistan. Dushanbe, October 2016. [↑](#footnote-ref-71)
72. <https://news.tj/ru/news/tajikistan/security/20170728/kommentiruite-ostorozhno-za-eto-mogut-i-posadit> [↑](#footnote-ref-72)
73. Universal Periodic Review of Human Rights prepared by civil society organizations of the Republic of Tajikistan, Report No. 1, civil and political rights, 2015 [↑](#footnote-ref-73)
74. <http://rus.ozodi.org/content/article/27709633.html> [↑](#footnote-ref-74)
75. Is approved by the government of the Republic of Tajikistan on February 25, 2017, № 97 [↑](#footnote-ref-75)
76. <http://rus.ozodi.org/a/28374005.html> [↑](#footnote-ref-76)
77. <http://www.un.org/russian/news/story.asp?newsID=25531#.VyH4s1aLTIU> [↑](#footnote-ref-77)
78. <http://news.tj/ru/node/222966>, for more details, see this link: <http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=17197&LangID=R> [↑](#footnote-ref-78)
79. Source: <https://news.tj/ru/news/tajikistan/politics/20161229/bez-tsenzuri-horosho-a-pri-nei-bilo-luchshe> [↑](#footnote-ref-79)
80. 03 May 2017, from the speech of the Head of NANSMIT – N. Karshibaev at the Conference dedicated to the Independence Day of the Press. [↑](#footnote-ref-80)
81. <https://rus.ozodi.org/a/28913325.html> [↑](#footnote-ref-81)
82. The information is provided by the civil society Fund «Legal Initiative» [↑](#footnote-ref-82)
83. Alternative NGO Report on the implementation by the RT of the Convention on the Rights of the Child, 2016. [↑](#footnote-ref-83)
84. Alternative NGO Report on the implementation by the RT of the Convention on the Rights of the Child, 2016. [↑](#footnote-ref-84)
85. Source: <https://www.unicef.org/tajikistan/UNICEF-OOSCStudy-Rus.web.pdf> [↑](#footnote-ref-85)
86. Thе given Review provides an unofficial translation of the Final Recommendations of the UN Committee on the Rights of the Child, as by the time of preparation of this Review there was no official translation of the Final Recommendations into Russian yet. [↑](#footnote-ref-86)
87. Paragraph 96 of the Report. [↑](#footnote-ref-87)
88. <http://minjust.tj/ru/fehristi-hizbhoi-siyosi-jt> [↑](#footnote-ref-88)
89. A preliminary Meeting of the OSCE on the Human Dimension, May 2016. [↑](#footnote-ref-89)
90. https://rus.ozodi.org/a/28835295.html [↑](#footnote-ref-90)
91. Universal Periodic Review of human rights prepared by civil society organizations of the Republic of Tajikistan, Report No. 1, civil and political rights, 2015. [↑](#footnote-ref-91)
92. Source: International Center for Non-profit Law (ICNL) [↑](#footnote-ref-92)
93. Source: Analysis of Tajikistan's implementation of the Final Recommendations of the UN Human Rights Committee made following the consideration of the National Report on the implementation of the ICCPR, 2017. [↑](#footnote-ref-93)
94. Source: <http://www.stat.tj/ru/img/526b8592e834fcaaccec26a22965ea2b_1355501132.pdf> [↑](#footnote-ref-94)
95. Source: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/056/93/PDF/G1605693.pdf?OpenElement> [↑](#footnote-ref-95)