

**TAJIKISTAN 2016-2021**  
**UNIVERSAL PERIODIC REVIEW**  
**THIRD CYCLE**  
**SUBMISSION PREPARED BY**  
**CIVIL SOCIETY ORGANIZATIONS OF THE**  
**REPUBLIC OF TAJIKISTAN**  
**“Tajikistan NGOs Coalition for the UPR 3rd cycle”**

The review is prepared by civil society organizations of the Republic of Tajikistan, and covers 2016-2021 years.

In preparation of the review, the following organizations have contributed:

1. PO “Bureau of Human Rights and Rule of Law”
2. PO “Human Rights Center”
3. Public Foundation “Legal Initiative”
4. PO “Law and Prosperity”
5. PO “Office of civil freedoms”
6. Network of Public Organizations “Umed” for counter-trafficking in persons

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## I. INDEPENDENCE OF JUDGES AND ACCESS TO JUSTICE<sup>1</sup>

In Tajikistan, a few programs were adopted aimed at formation of an independent judicial system. In 2016, the Council of Justice of Tajikistan was abolished, with its powers delegated to the Supreme Court of RT and Supreme Economic Court of RT. In 2019, by order of the President of RT, another Judicial and Legal Reform Program for 2019-2021 years was approved.

Despite some positive aspects, the judicial system structure does not provide for independence of judicial authority from the executive branch. Conducive to the lack of independence are legislation, structures and procedures of judicial administration, as well as particular customs and practices that have no legal basis. Judge selection and appointment procedure does not ensure the sufficient level of judge independence. Executive authority exercises significant powers to select judges at different key stages of the process.

Chairpersons of courts have broad functions. Matter of concern is their informal functions that may come to interference with a decision making process on specific cases. Chairpersons of the Supreme Court of RT and Supreme Economic Court of RT play a key role in disciplinary procedure and, in fact, they wield administrative power over all judges. Judges depend on decisions of their superiors, as to issues of their judicial career and material benefits.

There are no developed clear and transparent procedures that would govern case distribution rules between judges.

Appointment, performance appraisal and re-appointment of judges in Tajikistan do not ensure principle of irremovability of judges, neither from procedural nor from practical point of view. Function of the Human Resources Committee – a key body in the process of appointment, performance appraisal and re-appointment of judges – is not governed by law, with the body's procedures and criteria remaining vague. Appointment of judges for a 10-year term is the weak point of judicial career.

Key judicial system administration bodies, including the Conference of Judges and Association of Judges, do not perform on a regular basis or do not perform at all.

The Military Court of Tajikistan may consider cases in relation to civilians.

Ungrounded difference in the retirement age for men and women is of a discriminatory nature on the grounds of gender identity.

Some judges in Tajikistan have fairly low salaries that make them vulnerable in the face of corruption.

Matter of concern is an extreme degree of intolerance of the judicial system to judgments of acquittal. The absence of acquitting judgments is not a personal choice of judges, and is rather a systemic issue that excludes the possibility of making independent decisions on criminal matters.

Constitutional law on prosecution authorities is envisaging the possibility of suspending the execution of judgments that have not yet become final and binding.

The Bar institution has also been encountering difficulties. Adopted in 2015, Law on Advocacy and the Bar contains some provisions that undermine the independence of the Bar in the country. It is the Qualification Commission under the Ministry of Justice of RT responsible for the award of bar status and disbarment.

### **Recommendations:**

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<sup>1</sup> Sources: Review of implementation of state programs of the Republic of Tajikistan in the field of judicial and legal reform, 2017. Without checks and balances: Judicial system of Tajikistan. Report of International Commission of Jurists, December of 2020. Alternative report of NGOs on the implementation of the International Covenant on Civil and Political Rights, 2019. Final review of the implementation of recommendations under the second period of Universal Periodic Review, 2020.

1. Carry out an in-depth revision of the legislation, and exclude regulation at the level of orders of executive or legislative authority, or other by-laws, except for laws adopted by the Parliament as per voting procedure.
2. Provide for financial independence of judicial authorities.
3. Reform the judge selection and appointment procedure, preventing participation of representatives of law-enforcement bodies or other bodies of executive authority.
4. Reform the function of chairpersons of courts, and reduce their official and unofficial functions in the court administration process. Delegate relevant functions to various judicial entities.
5. Introduce lifetime appointment or fixed long-term appointment of judges, without possibility of re-appointment.
6. Develop a system and culture of making judicial decisions to increase the number of acquitting judgments. Provide for protection of judges from any negative consequences in case of passing a judgment of acquittal.
7. Provide for full transparency of the legal framework in relation to judicial authorities.
8. Ensure accessibility of judicial decisions for public in courts, as well as through the available online platforms.
9. Review the Law on Advocacy and the Bar, and ensure the Bar's independence.

## II. JUVENILE JUSTICE

Child wellbeing and juvenile justice issues are mentioned in the National Development Strategy of the Republic of Tajikistan for up to 2030<sup>2</sup>. There has been adopted a separate national Program to reform juvenile justice for 2017-2021. In 2020, there has been adopted a Program for rehabilitation and social re-integration of minor offenders, who served their sentences in detention facilities, for 2020-2024. There has been adopted a series of legislative amendments aimed at protection of minor child<sup>3</sup>. Secured in legislation are provisions that ensure separate custodial detention of children and adults, and partially secured is the prohibition on placing suspected, accused juvenile offender in punishment cell or separate cell<sup>4</sup>.

In 2020, Law of RT “Concerning the prevention of juvenile delinquencies” has been adopted.

At the same time, there remain systemic and institutional gaps. In the country, there are no separate courts and departments in courts for administration of juvenile justice.

There is a limited number of state centers for rehabilitation of children who are in trouble with the law.

There is no adequately maintained system of measures in relation to minors, alternative to deprivation of freedom, and there is no probation agency.

Code for the execution of punishments under criminal law contains a provision for placing a minor offender in disciplinary cell as a disciplinary punishment.

Program to reform the juvenile justice system for 2017-2021 does not take into account a category of minor offenders who committed administrative infractions, although the law envisages administrative detention of minor offenders.

There is no systemic approach and clear legislative regulation in the area of rehabilitation of children / teenagers who are or were in trouble with the law.

Legislation of Tajikistan does not provide for efficient measures to assist and protect children-victims and eyewitnesses of crimes and their family members: there is no access to continuous ancillary services (material, legal, medical, social, etc.), as well as access to services that facilitate child rehabilitation and

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<sup>2</sup> Approved by Resolution of the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan, as of December 1, 2016, №636.

<sup>3</sup> The Criminal Procedure Code of RT, the Criminal Code of RT, the Law of RT “Concerning the detention conditions and procedure for custodial detention of suspected, accused offenders”, Law “On the legal assistance”.

<sup>4</sup> Article 38 of the Law of RT “Concerning the detention conditions and procedure for custodial detention of suspected, accused offenders”.

re-integration.

Criminal procedure legislation has no timelines for interrogation of affected minor children and eyewitnesses. Obligatory participation of defender is not stipulated for children who suffered from crime. Categories of grounds to consider a case in hearing behind closed doors do not envisage case categories implying the participation of minor persons affected.

### **Recommendations:**

1. Add momentum to the process of establishing child-friendly departments in all district courts and urgently develop specialized procedures for administration of juvenile justice.
2. Encourage the use of diversion measures in relation to children accused of committing criminal offences.
3. Expand the pilot project for provision of ancillary services to minor offenders<sup>5</sup>.
4. Exclude from legislation<sup>6</sup> the provision for placing minor offenders in disciplinary cells.
5. Adopt a Program for protection and rehabilitation of children-victims and eyewitnesses of crimes.
6. Establish complaint mechanisms, to handle cases of physical punishment in all settings, and ensure immediate and systematic investigation of all cases of violence against children, as well as collection of disaggregated data on relevant cases and decisions taken.

### **III. HUMAN TRAFFICKING**

During the last fifteen years, the Republic of Tajikistan has taken a lot of measures to control human trafficking. Trafficking was criminalized; there had been adopted and implemented several National Plans of Actions to control human trafficking; there has been established the Inter-Agency Commission for action against human trafficking at national level, as well local commissions. In 2019, there was adopted a National Plan for action against human trafficking, for 2019-2021, with civil society representatives who contributed to its development. There was observed active cooperation of directly involved counteraction parties with the civil society.

Labor migration and labor exploitation are among the main types of the modern slavery. Labor migrants sometimes become targets of exploitation abroad. After coming back home, they are tangled in various challenging situations. Many vulnerable labor migrants most often become potential<sup>7</sup> victims of human trafficking. Illegal employment, recruitment with the aim of economic exploitation, abroad and within the country, are observed in relation to some categories of persons.

Past research shows<sup>8</sup> that the majority of respondents are aware of human trafficking within the country, with many respondents who mentioned that human traffickers apply the same pressure and deception mechanisms that are used in transnational trafficking: false promises (as to job, payment or relationship), deception, pressure, blackmail, threats, violence, abuse of vulnerable status of victim – such as poverty, lack of support, stigmatization by community, lack of possibility of decent employment.

Many cases of domestic human trafficking relate to sexual exploitation of women and girls and/or their state of domestic servitude or slave labor conditions. Presented cases of labor exploitation revealed that in the construction sector of economics workers were frequently hired unofficially, without signing a labor contract and maintaining accident insurance while performing employment duties; occasionally, they did

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<sup>5</sup> In order to provide psychosocial rehabilitation services in the country to all children, who are in trouble with the law, regardless whether they were diverted from the criminal justice system or served sentence, be it custodial or non-custodial.

<sup>6</sup> Code for the execution of punishments under criminal law.

<sup>7</sup> Potential victims of human trafficking – persons living a vagabond life or subsisting by begging, orphan children and children who remained uncared for, street children, alcohol-, drug-, or psychotropic substance-addicted persons, as well as other persons being at social risk or in vulnerable position that make them prone to crimes and other breaches of law, committed against or by them, in the area of human trafficking.

<sup>8</sup> Research is conducted by the Network of Public Organizations “Umed” for action against human trafficking, civil society representatives, government and international community.

not receive payment for their work or received less than was promised; they worked 10-12 hours/day, without days-off, for scanty earnest (paid on a daily or monthly basis) that often would not make them able to maintain their families and lead dignified life.

COVID-19 pandemic also shows that many labor migrants are not insured by the employer, while, in particular, host countries do not guarantee the observance of health protection measures.

Domestic human trafficking, as such, is not explicitly mentioned as a phenomenon or notion in national laws or policy documents. Law on the control of human trafficking of 2014 has indirect reference to this phenomenon.

#### **Recommendations:**

1. Develop and adopt (improve) an efficient re-referral mechanism for provision of assistance to victims of human trafficking (VHT).
2. Establish an assistance fund for VHTs from the republican budget and extra-budgetary sources, and develop an assistance mechanism.
3. Define a mechanism for the activity of territorial commission at the local level.
4. Expand assistance and services to victims of human trafficking, including shelters for victims of crimes related to human trafficking (domestic and transnational), exploitation and violence.
5. Facilitate the provision of access to justice for VHTs, including the right to rehabilitation and compensation. Ensure provision of free legal assistance.

#### **IV. RIGHTS OF MIGRANT WORKERS<sup>9</sup>**

Needs and requirements of migrant workers and aspects of regulation of labor migration from Tajikistan are provided for in a range of national policy documents. National Development Strategy of RT for up to 2030 offers measures for diversification of labor migration, taking into account a gender factor and toughened state regulation of migrant return process. National program for action against the HIV epidemic for 2017-2020 gives weight to the vulnerability of migrants to HIV. State program to assist the employment of population of RT for 2020-2022 includes a separate Paragraph “Social Support to Returnees”<sup>10</sup>. Also, the interests of migrant workers are included in the National Strategy to adapt to climate change of RT for up to 2030<sup>11</sup> and National plan of actions to counteract human trafficking for 2019-2021<sup>12</sup>. Nevertheless, the status of migrant workers from Tajikistan has not appreciably changed. Before the closure of boundaries due to COVID-19, labor migration from RT to the Russian Federation (RF) remained high. In 2019, 1 179 423 citizens of RT entered RF looking for job. In 2020, migration reduced, and as many as 507,255 citizens of RT<sup>13</sup> entered RF.

Money remittances of migrant workers mitigated to a great extent the poverty in Tajikistan. In 2019, the volume of money remittances of migrants still remained significant making 30% of the country’s GDP<sup>14</sup>. In the first quarter of 2020, money remittances of labor migrants decreased by 28.2% that affected the poverty rate in RT, informal employment and child labor in migrant workers’ households<sup>15</sup>.

Issues related to regulation of labor migration are fragmentarily included in different policy documents. No separate labor migration strategy or program was adopted after 2015. Tajikistan has not also adopted a law on labor migration, although the UN human rights treaty bodies repeatedly recommended the country to adopt immediately a law on labor migration and integrated migration policy that would take into

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<sup>9</sup> Information is provided by PO “Human Rights Center”

<sup>10</sup> Approved by Resolution of the Government of the Republic of Tajikistan, as of December 30, 2019, №644

<sup>11</sup> Resolution of the Government of the Republic of Tajikistan, as of October 2, 2019, №482

<sup>12</sup> Resolution of the Government of the Republic of Tajikistan, as of March 1, 2019, №80

<sup>13</sup> Statistical data of the Ministry of Interior of RT, < <https://xn--b1aew.xn--p1ai/Deljatelnost/statistics/migracionnaya>>

<sup>14</sup> Ryazantsev and Khromova, “The Impact of the COVID-19 Pandemic on the State of Migrants and Remittances in Central Asia” (IOM 2020)

<sup>15</sup> UNDP, “The impact of the COVID-19 on the life, wellbeing of citizens, micro-, small and medium businesses in the Republic of Tajikistan”

account a gender component and be based on human rights<sup>16</sup>. Tajikistan failed to fulfill these recommendations.

Labor migration has a negative impact on the status of women. Women-migrants also encounter an increased risk of sexual and gender violence.

In Tajikistan, there is no adequate system for pre-departure preparation of migrant workers. Although there are various state organizations tasked with provision of support to labor migrants at the stage of preparation and departure to destination country, these institutions and organizations interact weakly with each other<sup>17</sup>.

Services of private employment agencies (PEA) are not popular among migrants, with only 0.4% of them using their services. Legal framework for activity of PEAs is undeveloped. Often, PEAs were conducive to entering of labor migrants into human trafficking or forced labor<sup>18</sup>.

Legislation does not criminalize slavery and forced labor, and criminal liability will come into effect only for trafficking in persons<sup>19</sup>. Evidence of forced labor or slavery, beyond the scope of human trafficking, is subject to persecution according to adjacent articles. This contradicts international commitments of the country under the ILO Protocol of 2014 to the Convention №29.

Situation regarding the observance and protection of migrant workers from RT to RF has been further deteriorated during COVID-19, as there became more frequent cases of illegal dismissal from work, with many migrants who lost means for living, housing, and were not able to return home<sup>20</sup>. Around 3000 migrants were stuck at borders, and had to live in extreme conditions<sup>21</sup>. Although the Government took measures to support migrant workers in the context of the pandemic, it is not possible to assess the efficiency of these measures due to the lack of information on the outcomes of implementation of anti-crisis measures to support migrant workers<sup>22</sup>.

### **Recommendations:**

1. Develop and adopt an integrated strategy or a program on labor migration, as well as adopt a law on labor migration with participation of civil society organizations.
2. Take steps to create an adequate, gender-sensitive system for pre-migration preparation according to labor market needs and requirements of host countries and those of labor migrants' family members.
3. Enhance mechanisms of consular protection of migrant workers and their family members in destination countries.
4. Improve a mechanism for collection of reliable data on labor migration, disaggregated by gender, age, family status, sectors of employment in a destination country, destination countries, etc.
5. Allocate funds for implementation of programs to reintegrate migrant workers who returned home, as well as create enabling business environment in the country to encourage labor migrants make investment into own business and self-employment.

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<sup>16</sup> UNCESCR (2015), Final remarks on II and III periodic reports (E/C.12/TJK/2-3/22); CEDAW (2018), VI periodic report (CEDAW/C/TJK/6/44); UNLMC (2019). Final remarks on II periodic report (CMW/C/TJK/2 Paragraphs 11-15)

<sup>17</sup> Human Rights Center, "Situational analysis in the sphere of labor migration in RT: main results and recommendations" (2019).

<sup>18</sup> Detailed in II periodic report of RT to the UNLMC, May of 2017

<sup>19</sup> Article 130.1 of the CC of RT provides for the punishment under criminal law for human trafficking.

<sup>20</sup> Press-release of SOVA Center for April-May of 2020 <<https://www.sova-center.ru/en/xenophobia/news-releases/2020/04/d42282/>>; Catherine Ivaschenko, "I'm willing to do any job", (01.04.2020) <<https://fergana.news/articles/116636/>>

<sup>21</sup> Sputnik, "Hundreds of migrants live in atrocious conditions on the boundary with Uzbekistan" (02.06.2020) <https://ru.sputnik.kz/regions/20200602/14136329/Sotni-migrantov-zhivut-v-uzhasayuschikh-usloviyakh-na-granitse-Uzbekistanom.html/>.

<sup>22</sup> For example, Resolution of the Government of RT "Concerning the approval of rules for provision of consultation services and financial assistance to the unemployed and migrant workers, who returned home, willing to deal with business activity, on the part of public labor and employment authorities". Also, Order of the President of RT, as of June 5, 2020 "Concerning the prevention of the impact of COVID-19 on the socio-economic spheres of the Republic of Tajikistan" (№1544) and Resolution of the Government of RT, as of July 11, 2020, №401

6. Introduce changes to legislation in the sphere of regulating the activity of PEAs, as well as prevention, detection and termination of enforced labor, and ensuring the access of victims to justice.

## V. STATELESS PERSONS<sup>23</sup>

In RT, there was adopted the Law “Concerning the amnesty in relation to legalization of the legal status of foreign citizens and persons without citizenship illegally staying in the territory of the Republic of Tajikistan” (2019), which will allow those illegally staying in Tajikistan to formalize their legal status and obtain a residence permit, without bringing them to administrative and criminal responsibility.

The Law is valid only till December 25, 2022, but, due to the situation caused by the COVID-19 pandemic, not all persons falling under the Law will be able to timely formalize the legal status and obtain a residence permit.

In 2020, there were adopted amendments to administrative legislation<sup>24</sup>, which introduced a warning for administrative offences, in case of violation of rules for stay in the country by foreign citizens and persons without citizenship, decreased the amount of fines, excluded the deportation of refugees and established a set of other guarantees.

There is lack of reliable information on PWCs and persons with unidentified citizenship. Actual scale of absent nationality in the country still remains unknown.

Issue of absent nationality was included in national census and housing fund’s questionnaire<sup>25</sup>.

Constitutional Law of RT “On citizenship of the Republic of Tajikistan”<sup>26</sup> has a set of guarantees aimed at prevention and reduction of absent nationality in Tajikistan. At the same time, the Law requires that a foreign citizen, who puts in a claim for naturalization, should present a document confirming his application to surrender the current citizenship. In case of non-conferment of Tajik citizenship, this person will become stateless.

The Law omits a simplified procedure for acquisition of Tajik citizenship by refugees and foreign citizens whose husband/wife is the citizen of RT.

The law contains a provision that may prevent a child from being recognized as a citizen of RT: both parents of the child or one of them should permanently reside in RT, i.e. should possess a residence permit of RT for a stateless person, otherwise the child will not acquire the Tajik citizenship. A child, whose parents are unknown, born outside the boundaries of Tajikistan, has no immunity against absent nationality.

National legislation does not envisage the registration of the birth of children whose parents have no documents identifying personality, or have invalid documents, and with their legal status not identified.

Law of RT “Concerning the civil registration of births, deaths and marriages” (2006) has a number of gaps, does not contain the prohibition of discrimination with civil registration, and does not envisage special provisions for registration of children born in RT from parents – persons without citizenship, or from parents experiencing difficulties with production of documents that identify personality.

The Law does not define a list of exceptional cases when registration of the birth of a child is made at the place of the child’s birth.

### **Recommendations:**

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<sup>23</sup> Information is provided by PO “Law and Prosperity”, 2021.

<sup>24</sup> Code of Administrative Offences of RT and Procedural Code of RT on administrative offences

<sup>25</sup> Representative Office of the UNHCR in Tajikistan advocated this matter with the Government of RT. National census questionnaire included the issue of citizenship, with the possibility for person to identify his legal status, including as a “person without citizenship”, and state the reason for absent nationality. Also, Instruction to conduct a national census included recommendations for correct identification of persons with unidentified citizenship.

<sup>26</sup> Adopted on 8.08.2015



1. Accession of Tajikistan to Conventions Relating to the Status of Stateless Persons of 1954 and on Reduction of Statelessness of 1961.
2. Extend the validity term of the Law “Concerning the amnesty in relation to legalization of the legal status of foreign citizens and persons without citizenship illegally staying in the territory of the Republic of Tajikistan”.
3. Bring the Constitutional Law of RT “On citizenship of the Republic of Tajikistan” (2015) in compliance with international standards.
4. Introduce amendments to legislation of RT ensuring the universal registration of children that is: registration of the birth of children born in RT from parents without citizenship in fact, or from parents experiencing difficulties with production of documents that identify personality.

## **VI. REFUGEES AND ASYLUM SEEKERS<sup>27</sup>**

Among the countries of the Central Asia, Tajikistan is leading as to the number of refugees. Refugees and asylum seekers are primarily from the neighboring Afghanistan. In 2020, due to COVID-19, the number of asylum seekers registered in Tajikistan has decreased.

Before 2020, in Tajikistan, asylum seekers and refugees were expelled from the country where there was a real threat of persecution on the grounds of race, religious beliefs, and affiliation with a certain social group, or political beliefs.

In 2020, amendments were introduced to legislation, according to which exclusion from the country, as an administrative punishment, was abolished. At the present time, asylum seekers and refugees, when they violate the rules of stay in the country, are punished only through fines.

In Tajikistan there is restricted access to selection options of the place of residence by asylum seekers and refugees, including the prohibition for refugees to live in many populated areas of Tajikistan including its capital – Dushanbe, the second city in size – Khujand, and in the most of the border districts of the country<sup>28</sup>. Restrictions in the selection of the place of residence will impede the access of refugees and asylum seekers to labor market, public healthcare, education and other social services.

Despite the fact of being captured in legislation, in Tajikistan, there is no adopted mechanism for re-referral<sup>29</sup> of asylum seekers from the border to interior departments.

The Law<sup>30</sup> envisages that a person forced to cross the state border of the Republic of Tajikistan, and claiming his intention to be granted refugee status in Tajikistan, shall be apprehended by border troop units of the national security authorities, without imposing any sanctions on him for illegal entry or illegal stay in Tajikistan. In practice, in such cases, asylum seekers are not allowed to enter the country, and in case of crossing the border outside the official ports of entry, such persons will be brought to criminal responsibility for illegal crossing the border, or will be expelled from the country.

In Tajikistan, there was reconstructed<sup>31</sup> a building in Gissar to establish a Temporary Accommodation Center for asylum seekers, but, up to date, the Center does not function.

### **Recommendations:**

1. Abolish the Resolution of the Government of RT №325 that prohibits asylum seekers and refugees from living in certain cities and districts of Tajikistan.

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<sup>27</sup> Information is provided by PO “Law and Prosperity”, 2021.

<sup>28</sup> Resolution of the Government of RT №325 of 2000: “List of populated areas of the Republic of Tajikistan, where temporary living of asylum seekers and refugees is not allowed” (as reworded by Resolution of the Government of RT №328 of 2004).

<sup>29</sup> A draft Re-referral Procedure was developed by interdepartmental Working Group, supported by experts of the UNHCR Representative Office in Tajikistan, but, up to now, it is not adopted.

<sup>30</sup> Part 4 of Article 6 of the Law “On refugees”

<sup>31</sup> Assisted by the Danish Refugee Council

2. Establish a mechanism for re-referral of asylum seekers from the border to interior departments, to register their claims for granting refugee status.
3. Introduce amendments to criminal legislation<sup>32</sup> and relieve from criminal responsibility asylum seekers for illegal crossing of the state border of RT. Introduce in national legislation procedural guarantees to provide information to apprehended asylum seekers on their right to apply for asylum, ask for interpreter and lawyer's services.
4. Provide for practical functioning of the Temporary Accommodation Center for asylum seekers.

## **VII. RIGHTS OF PERSONS RELEASED FROM PLACES OF DETENTION**

In 2020, there was adopted the Strategy for reformation of the penal justice system of the Republic of Tajikistan for up to 2030<sup>33</sup>, but, the Strategy stipulates for social adaptation of persons released from places of detention. National legislation of the Republic of Tajikistan<sup>34</sup> contains basic provisions, as envisaged by international standards in the sphere of rendering social assistance and support to released persons, but, these provisions are not always implemented in practice.

Legislation does not contain exact and clear procedures and scope of social assistance to be provided to this category of people.

Persons released from places of detention often face stigma and discrimination. Particular examples suggest that those released and their relatives may be subjected to discrimination when being employed and admitted to education institutions<sup>35</sup>.

Prohibition of discrimination is captured in the country's Constitution and other laws and statutory instruments of Tajikistan, but, criminal record status is considered in none of them as a discriminatory feature.

For this group of population, searching for job is impeded due to the bias against them on the part of employers and social environment, in general. As a rule, job offered to them is low-wage and unpopular. Besides, unemployment and poverty will force some of them to commit again offences<sup>36</sup>.

Released persons face the issue of absence of housing, absence of documents identifying their personality, their recovery due to the lack of financial means, with the society and relatives glaring down upon them with caution and contempt. According to expert opinion, ex-prisoners need documentation, medical assistance, education programs and employment. Many of them do not have a permanent place of residence. If no efforts made to create better conditions for reintegration of ex-prisoners, they may again return to crime due to an inescapable situation and failure to be settled in life<sup>37</sup>.

Excessive pressure on ex-prisoners, arising from domestic problems, will have a negative impact on them<sup>38</sup>.

Law-enforcement bodies are also reported to have been stigmatizing ex-prisoners, because in case of perpetrating a crime in a certain locality, these persons would be the first to be checked and suspected.

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<sup>32</sup> Part 1 of Article 335 of the Criminal Code of the Republic of Tajikistan

<sup>33</sup> Approved by Resolution of the Government of the Republic of Tajikistan, as of June 25, 2020, №385

<sup>34</sup> Code of Execution of Punishment under Criminal Law of RT

<sup>35</sup> "Availability of opportunities for education – basic human right in the penitentiary system of the Republic of Tajikistan", PO "Jahon", 2014; source: <http://www.ngojahon.org/>

<sup>36</sup> Source: <https://news.tj/ru/news/tajikistan/society/20161210/problemi-trudoustroistva-bivshih-zaklyuchennih-v-hatlone>

<sup>37</sup> Source: <https://news.tj/ru/news/tajikistan/society/20161210/problemi-trudoustroistva-bivshih-zaklyuchennih-v-hatlone>

<sup>38</sup> Source: <https://news.tj/ru/news/tajikistan/society/20161210/problemi-trudoustroistva-bivshih-zaklyuchennih-v-hatlone>

Legislation of Tajikistan, including the Law of RT “Concerning the state guarantees for equality between men and women, and their equal implementation opportunity”, does not take into account double discrimination of such categories as women – ex-prisoners.

#### **Recommendations:**

1. Develop and adopt a program for re-socialization of ex-convicts and ex-prisoners.
2. Establish a Probation Service in Tajikistan.
3. Include in a draft law on the equality and protection from discrimination such a discriminatory feature as “criminal record status”.
4. Adopt a new Housing Code that will envisage the provision of social housing to vulnerable segments of population, including ex-convicts.
5. Create opportunities for temporary residential registration of ex-convicts, in order to process ID documents, and capture in legislation benefits for this category of people.

### **VIII. RIGHT TO FREEDOM OF ASSOCIATION<sup>39</sup>**

In 2020, there are registered 80 new public organizations (PO), and dissolved 103 PO. Range of NCOs keeps narrowing, and it is getting more difficult for civil society representatives to work on certain human rights issues.

Despite the fact that earlier in the country there were several dozens of Non-Commercial Organizations (NCO), dealing with promotion of democratic reforms and free elections, at the present time, just few NCOs address these issues and/or actually neither of them deals with monitoring of the process of elections in the country. NCOs, in general, refrain from working in the area of religious liberties as well, as the promotion of such issues in the country is often associated with encouraging “terrorism” and “violent extremism”. Organizations, activists or lawyers, who deal with cases of persons related to the political opposition, including cases with regard to torture claims, are associated with “supporters of extremists” and come under meaningful pressure. NCOs and activists, who defend the rights and interests of sexual minorities or sexual workers, also expose themselves to a particular risk and ungrounded checkups.

There are well-known cases of non-observance of legal requirements on the part of inspection authorities: request for the provision of information that goes beyond a frame of reference of the state authority, failure to comply with the due inspection notification date, failure to provide an inspection completion certificate, etc. In some cases, inspection outcomes did guide the application of sanctions for alleged violations of law, with a number of organizations that suspended their activities and/or were forced to shut down<sup>40</sup>.

Herewith, commercial enterprises and other types of non-commercial organizations are registered without any territorial status, and may carry out activity throughout the country and beyond its boundaries.

Law of RT “On the Public Associations” sets for public associations, their branches and representative offices other rules and procedures of the state registration, as distinct from other commercial and non-commercial organizations.

On January 2, 2019, amendments were introduced to the Law of RT “On the Public Associations”, according to which public associations are obliged to place every year, on their website or a website of registration authority, financial statements with detailed information on incomes and expenditures; as well as store data on domestic and international operations carried out, at least, during five years after

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<sup>39</sup> Adapted from the Joint report of NGOs to the Committee against Torture, prior to consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018, and Alternative report of NGOs of Tajikistan on the implementation of the International Covenant on Civil and Political Rights, 2019.

<sup>40</sup> Source: Joint report of NGOs to the Committee against Torture, prior to consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018.

completion of business relations; store and provide to registration authority information on ID data of persons who govern or supervise the activity of a public association, including founders, members of governing and supervisory bodies. According to information published in mass media, “adopted amendments aimed at enhanced control of money laundering, as well as at prevention of financing terrorist and extremist organizations”. Experts do not exclude that a reason for preparation of these amendments was implementation of recommendations of the Financial Action Task Force on Money Laundering (FATF), specified in the Mutual Evaluation Report of the Republic of Tajikistan published in 2018<sup>41</sup>. These amendments oblige the Ministry of Justice of the Republic of Tajikistan to tighten control over public associations in comparison with other incorporate persons.

**Recommendations:**<sup>42</sup>

1. Ensure that human rights activist NCOs, human rights defenders and lawyers would not come under pressure from government agencies or officials resulting from their activity, and that they would be able to perform their work without fear of being persecuted.
2. Immediately, thoroughly and impartially investigate full information on intimidation, persecution and other violations of the rights of representatives of NCOs and persons they work with, and bring to justice the perpetrators.
3. Bring legislation regarding the non-commercial, including (public) organizations, into compliance with international standards and engage NCOs in discussions of a draft law affecting their activity, before adoption of amendments or law.
4. Ensure that inspections of NCOs conducted by government agencies would not result in excessive interference with the activity of organizations.

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<sup>41</sup><http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Russian-Mutual-Evaluation-Report-Republic-Tajikistan-2018.pdf>

<sup>42</sup> Source: Joint report of NGOs to the Committee against Torture, prior to consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018.